

TRANSNET FREIGHT RAIL

an Operating Division of **TRANSNET SOC LTD**

[Registration No. 1990/000900/30]

REQUEST FOR PROPOSAL [RFP]

[GOODS]

**FOR THE SUPPLY AND DELIVERY OF
TRANSNET SECURITY UNIFORM CLOTHING
FOR A PERIOD OF FIVE (5) YEARS**

RFP NUMBER: HOAC/HO/9726
ISSUE DATE: 02nd April 2013
COMPULSORY BRIEFING SESSION: 11th April 2013 (refer to clause 2 page 5)
CLOSING DATE: 07th May 2013
CLOSING TIME: 10:00
BID VALIDITY PERIOD: 90 days from Closing Date

SCHEDULE OF BID DOCUMENTS

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“PREVIEW COPY ONLY”

LIST OF ACRONYMS

B-BBEE	Broad-Based Black Economic Empowerment
CD	Compact/computer disc
DAC	Divisional Acquisition Council
EME	Exempted Micro Enterprise
GBC	General Bid Conditions
ID	Identity Document
JV	Joint Venture
LOI	Letter of Intent
NDA	Non-Disclosure Agreement
OD	Transnet Operating Division
PPPFA	Preferential Procurement Policy Framework Act
PTN	Post-Tender Negotiations
QSE	Qualifying Small Enterprise
RFP	Request for Proposal
SME	Small Medium Enterprise
SOC	State Owned Company
TCO	Total Cost of Ownership
VAT	Value-Added Tax
ZAR	South African Rand

**RFP FOR THE SUPPLY AND DELIVERY OF
TRANSNET SECURITY UNIFORM CLOTHING
FOR A PERIOD OF FIVE (5) 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 supply of Security Uniform Clothing [**the Goods**] to Transnet.

On or after 2nd April 2013 the RFP documents may be inspected at, and are obtainable from the Transnet Tender Advice Centre, Ground Floor, Inyanda House 1, 21 Wellington Road, Parktown, on payment of an amount of R 500.00 (inclusive of VAT) per set. Payment is to be made as follows:

Bank:	Standard Bank
Account Number:	00203158598
Branch:	Braamfontein
Branch code:	004805
Account Name:	Transnet Limited Head Office
Reference:	HOAC/HO/9726

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 for collection between 08H00 until 15H00 until 10th April 2013. Therefore payment must be effected and the RFP collected, prior to the above deadline.

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 FORMAL BRIEFING

A compulsory briefing session will be conducted at Transnet Freight Rail School of Rail Campus, Esselenpark, Kempton Park, Gauteng, Road P91/1 off the R25 on the **11th April 2013, at 12h00** for a period of ± 2 hours. [Respondents to provide own transportation and accommodation]. The venue for the briefing is: Auditorium Room 201, Railwayman's Inn, Esselenpark. (contact Evan 083 366 5292)

- 2.1 A Certificate of Attendance in the form set out in Section 15 hereto must be completed and submitted with your Proposal as proof of attendance is required for a compulsory briefing session.
- 2.2 Respondents failing to attend the compulsory briefing session will be disqualified.

- 2.3 Respondents without a valid RFP document in their possession will not be allowed to attend the briefing session.
- 2.4 The briefing session will **start punctually at 12h00** and information will not be repeated for the benefit of Respondents arriving late.
- 2.5 The briefing session will provide an opportunity for interested bidders to pose questions and hence it is expected that attendees have **already read and are familiar** with the content of this RFP.

3 PROPOSAL SUBMISSION

Proposals **in duplicate [1 original and 1 copy] plus a CD copy** (in PDF format) must reach the Secretary, Transnet 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:	HOAC/HO/9726
Description	SUPPLY AND DELIVERY OF TRANSNET SECURITY UNIFORM CLOTHING
Closing date and time:	07 th May 2013 at 10h00
Closing address	<i>[Refer to options in paragraph 4 below]</i>

All envelopes must reflect the return address of the Respondent on the reverse side.

4. Delivery by hand

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

THE SECRETARY
TRANSNET ACQUISITION COUNCIL
INYANDA HOUSE 1
21 WELLINGTON ROAD
PARKTOWN
JOHANNESBURG 2001

- 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 2.5 above.
- b) It should also be noted that the above tender box is located in the foyer at the main entrance of Inyanda House 1, 21 Wellington Road, Parktown and is accessible to the public 24 hours a day, 7 days a week.

4.1 Dispatch by courier

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

THE SECRETARY
TRANSNET ACQUISITION COUNCIL
GROUND FLOOR
INYANDA HOUSE 1
21 WELLINGTON ROAD
PARKTOWN
JOHANNESBURG

- 4.2 Please note that this RFP closes punctually at **10:00 on Tuesday 7th May 2013.**
- 4.3 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.
- 4.4 No email or facsimile responses will be considered, unless otherwise stated herein.
- 4.5 The responses to this RFP will be opened as soon as practicable after the expiry of the time advertised for receiving them.
- 4.6 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.
- 4.7 Envelopes must not contain documents relating to any RFP other than that shown on the envelope.
- 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 procurement transactions will be evaluated accordingly.

The Department of Trade and Industry [DTI] is currently in the process of reviewing the B-BBEE Codes of Good Practice [Code Series 000]. Transnet reserves the right to amend this RFP in line with such reviews and/or amendments once they have come into effect. Transnet furthermore reserves the right to adjust the thresholds and evaluation processes to be aligned with such changes which may be issued by the DTI after the issue date of this RFP.

5.1 B-BBEE Scorecard and Rating

As prescribed in terms of the Preferential Procurement Policy Framework Act (PPPFA), Act 5 of 2000 and its Regulations, Respondents are to note the following:

- Functionality is included at a pre-qualification stage with a prescribed percentage threshold of 100%.
- Proposals will be evaluated on price which will be allocated 90 points and preference which will be allocated 10 points, dependent on the value of the Goods.
- The 80/20 preference point system applies where the acquisition of the Goods will be less than R1 000 000.00.
- If the 80/20 preference point system is stipulated and all Bids received exceed R1 000 000.00, the RFP will be cancelled.
- The 90/10 preference point system applies where acquisition of the Goods will exceed R1 000 000.00.
- If the 90/10 preference point system is stipulated and all Bids received are equal to or below R1 000 000.00, the RFP will be cancelled.

The **90/10** preference point system is applicable to this RFP.

When Transnet invites prospective suppliers to submit Proposals for its various expenditure 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 an 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].

In this tender, Transnet will accordingly allocate a maximum of **10 [ten] points** in accordance with the **90/10** preference point system prescribed in the Preferential Procurement Policy Framework Act (PPPFA), Act 5 of 2000 and its Regulations to the Respondent's final score based on an entity's B-BBEE scorecard rating. [Refer **Section 14** 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 **Section 14**.*

5.2 B-BBEE Joint Ventures, Consortiums and/or Subcontractors

In addition to the above, Respondents who would wish to enter into a Joint Venture [JV] or consortium 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 or consortium 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 Section 14.

a) JVs or Consortiums

If contemplating a JV or consortium, Respondents should also submit a signed JV or consortium agreement between the parties clearly stating the percentage [%] split of business and the associated responsibilities of each party. If such a JV or consortium agreement is unavailable, the partners must submit confirmation in writing of their intention to enter into a JV or consortium agreement should they be awarded business by Transnet through this RFP process. This written confirmation must clearly indicate the percentage [%] split of business and the responsibilities of each party. In such cases, award of business will only take place once a signed copy of a JV or consortium agreement is submitted to Transnet.

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

(i) Incorporated JVs/Consortiums

As part of an incorporated JV/consortium's Bid response, the incorporated JV/consortium must submit a valid B-BBEE Verification Certificate in its registered name.

(ii) Unincorporated JVs/Consortiums

As part of an unincorporated JV/consortium's tendered response, the unincorporated JV/consortium must submit a consolidated B-BBEE certificate as if it was a group structure and such scorecard must have been prepared for this RFP in particular.

b) **Subcontracting**

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>

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 1st May 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 **12th April 2013** to prudence.nkabinde@transnet.net and willem.maritz@transnet.net

6.2 **After the closing date** of the RFP, a Respondent may only communicate with the Secretary of the Transnet Acquisition Council, at telephone number 011 544-9486, email prudence.nkabinde@transnet.net 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 PDF format, noting that the signed original set will be legally binding. This scanned copy must be a **full set of all documents** submitted in the proposal.
- 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 **Supplier**] 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 Bidders who fail to submit a duly completed and signed RFP Declaration Form [Section 10] will not be considered.
- 9.4 Transnet will not do business with companies involved in B-BBEE fronting practices.
- 9.5 Transnet may wish to visit the Respondent's place of manufacture and/or workshop and/or office premises during this RFP process.
- 9.6 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.
- 9.7 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 RFP's Goods 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 lowest 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 Goods which are reflected in the scope of this RFP;
- 10.9 split the award of the contract between more than one Supplier; or
- 10.10 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 award the business to the highest scoring bidder/s unless objective criteria justify the award to another bidder.

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 SUPPLY AND DELIVERY OF
TRANSNET SECURITY UNIFORM CLOTHING
FOR A PERIOD OF FIVE (5) YEARS**

Section 2: BACKGROUND, OVERVIEW AND SCOPE OF REQUIREMENTS

1 BACKGROUND

Transnet has recently decided to in-source most security services and has recruited security personnel. These security personnel will be issued with uniform clothing, on a cyclical basis, which will be regular work wear.

2 EXECUTIVE OVERVIEW

Transnet is seeking a partner(s) to provide solutions for its clothing requirement nationally; it also seeks to improve its current processes for providing these Goods to its end user community throughout its locations.

The selected Supplier(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 Supplier(s) will study the current ways they do business to enhance current practices and support processes and systems. Such a partnership will allow Transnet to reach higher levels of quality, service and profitability.

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

- 2.1 Transnet must receive reduced cost of acquisition and improved service benefits resulting from the Supplier's economies of scale and streamlined service processes.
- 2.2 Transnet must achieve appropriate availability that meets user needs while reducing costs for both Transnet and the chosen Supplier(s).
- 2.3 Transnet must receive proactive improvements from the Supplier with respect to supply of Goods and related processes.
- 2.4 Transnet's overall competitive advantage must be strengthened by the chosen Supplier's leading edge technology and service delivery systems.
- 2.5 Transnet end users must be able to rely on the chosen Supplier's personnel for service enquiries, recommendations and substitutions.
- 2.6 Transnet must reduce costs by streamlining its acquisition of Goods, including managed service processes Group basis.

3 SCOPE OF REQUIREMENTS

The scope of this RFP is to source and secure the supply of security uniform clothing and kit for the next 5 years in order to embed the security and Transnet branding.

4 GREEN ECONOMY / CARBON FOOTPRINT

Whereas Transnet cannot prescribe a Respondent's commitment to environmental issues, 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 SUPPLIER OBLIGATIONS

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

6 "AS AND WHEN REQUIRED" CONTRACTS

- 6.1 Purchase orders will be placed on the Supplier(s) from time to time as and when Goods are required.
- 6.2 Transnet reserves the right to place purchase orders until the last day of the contract for deliveries to be effected, within the delivery period / lead time specified, beyond the expiry date of the contract under the same terms and conditions as agreed upon.
- 6.3 Delivery requirements may be stipulated in purchase orders and scheduled deliveries may be called for. However, delivery periods and maximum monthly rates of delivery offered by the Respondents will be used as guidelines in establishing lead times and monthly delivery requirements with the Supplier.
- 6.4 Where scheduled deliveries are required, the delivery period(s) specified must be strictly complied with, unless otherwise requested by Transnet. Material supplied earlier than specified may not be paid for or may be returned by Transnet, with the Supplier being held liable for all expenses so incurred, e.g. handling and transport charges.
- 6.5 If the delivery period offered by the Respondents is subject to a maximum monthly production capacity, full particulars must be indicated in Section 3 [*Pricing and Delivery Schedule*]
- 6.6 The Respondent must state hereunder its annual holiday closedown period [if applicable] and whether this period has been included in the delivery lead time offered:

- _____
- _____
- 6.7 Respondents are required to indicate below the action that the Respondent proposes to take to ensure continuity of supply during non-working days or holidays and periods occupied in stocktaking or in effecting repairs to plant or in overhaul of plant which would ordinarily occur within the stated delivery lead time/s:
- _____

7 PRE-PRODUCTION SAMPLES/PROTOTYPES

- 7.1 Only in cases when a pre-production sample(s) or prototype(s) is/are called for, the Respondent should state here the date required to deliver the necessary pre-production samples(s) or prototype(s) calculated as from the date of notification of acceptance of its Proposal by Transnet:

- 7.2 NB: Purchase Orders will be placed on the Supplier(s) only after the date of approval of the pre-production sample(s).

- 7.3 State the number of days/weeks/months after which delivery would commence subject to Transnet's approval of the pre-production sample(s) or prototype(s), calculated as from the date of such approval:

Refer to pricing/delivery schedule in Section 3 "Annexure A" of this RFP.

Insert delivery lead times on the schedule.

8 MANUFACTURERS

The Respondents must state hereunder the actual manufacturer(s) of the Goods tendered for:

- 8.1 Local Manufacturer(s):

RFP ITEM NO.	NAME	BUSINESS ADDRESS

The above table is an example of information required.

9 INSPECTION DETAILS

The Respondents must state the actual name(s) and address/addresses of the suppliers of the Goods for inspection purposes only:

- 9.1 Local Manufacturer(s)

RFP ITEM NO.	NAME	BUSINESS ADDRESS

The above table is an example of information required.

10 ACTUAL CLOTH / FABRIC SUPPLIER

The Respondents must state hereunder the actual cloth / fabric supplier:

Name of Company	Contact Person	Telephone number

The above table is an example of information required.

11 PENALTY FOR DELAYS IN DELIVERY

If the Service Provider fails to effect delivery of any portion of the deliverables within the period(s) stipulated in the contract ("Delivery Schedule"), the Client shall have the right to retain as a penalty one-fourteenth per cent of the actual amount due in respect of the deliverable delayed for each day of the period of delay. Any amount recoverable from the Service Provider in terms of this clause may, without prejudice to any other legal remedies available to the Client, be deducted in whole or in part from any monies in the hands of the Client due for payment to the Service Provider.

12 LOCAL CONTENT DIRECTIVE

On 16th July 2012 the National Treasury issued an instruction regarding the local content with regards to the clothing and textile industry. (Refer to annexure F). In non-verbatim extract, the instruction states that bids in respect of Textiles, Clothing, Leather and Footwear must contain a specific bidding condition that:

- (1) Only locally produced or locally manufactured Textiles, Clothing, Leather and Footwear from local raw material or input will be considered
- (2) If the raw material or input to be used for a specific item is not available locally, bidders should obtain written authorization from the DTI should there be a need to import such raw material or input; and
- (3) A copy of the authorization letter must be submitted together with the bid document at the closing date and time of the bid.
- (4) As per the instruction note by the National Treasury the Department of Trade and Industry (DTI) has designated and determined the stipulated minimum threshold for the Textiles, Clothing, Leather and Footwear sector for local production and content.
- (5) The stipulated minimum threshold percentages for local production and content for the Textiles, Clothing, Leather and Footwear sector is 100%. (refer to the attached directive ~ Annexure F)
- (6) On the pricing and delivery schedule contained in Section 3, Annexure A of this RFP, bidders must clearly state whether the products being offered are 100% local content or not. If not, the bidders must indicate which % is local and attach a summary detailing the imported portion per item.
- (7) Such statements in the Pricing and Delivery Schedule will be legally binding and no deviation(s) will be accepted at time of delivery and hence the onus to confirm local content lies entirely with the bidder, prior to submitting the bid.
- (8) It is a prerequisite of the Preferential Procurement Policy Framework Regulations 2011 that all procurement activities undertaken by Transnet which involve "designated sectors" [i.e. the purchase of textile, clothing, leather and footwear, power pylons, rolling stock [locomotives and wagons], canned/processed vegetables

and/or buses [bus bodies]] shall be subject to the requirements of Regulation 9(1) thereof. Since this RFP falls within these designated sectors, "local content" is a pre-qualification for this acquisition of Security Uniform Clothing. The stipulated minimum threshold for Textiles, Clothing, Leather and Footwear sector is 100%. Only locally produced or locally manufactured Textiles, Clothing, Leather and Footwear with this stipulated minimum threshold for local production will be considered.

- (9) Transnet reserves the right to evaluate bids in accordance with any instructions issued by National Treasury. Transnet also reserves the right to approach the Minister of Finance for exemption from the Regulations or instructions and to evaluate the bids in accordance with such exemption if granted.
- (10) Respondents must complete and return the Declaration Certificate for Local Production and Content appended hereto as Annexure A, C, D & E Only the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:2011 must be used to calculate local content.

13 PRE / POST COMPLIANCE REQUIREMENTS, TECHNICALITIES AND REMARKS:

13.1 CAPABILITY REPORT

- a. It is a condition of bid that a capability report (all pages) issued by an organization accredited or recognized by SANAS, which proves that the bidder / manufacturer is capable to manufacture the product(s) in accordance with the relevant specification(s), be submitted with the tender document.
- b. The capability report must refer to the specific item(s) tendered for. If the report does not refer to the specific item(s) the tender will automatically be disqualified.
- c. In the event of the bidder not being the actual manufacturer and will be sourcing the products from another company a valid capability report from the manufacturer who manufactures the product(s) must be submitted with the tender.
- d. The capability report must not be older than 12 months
- e. Failure to submit a capability report will result in your bid being disqualified

13.2 COMPLIANCE TO BASIC CONDITIONS OF EMPLOYMENT ACT (BCEA)

In terms of the BCEA a minimum wage must be paid to all employees. Kindly indicate the minimum hourly wage being paid to your employees, in the table below.

Current actual minimum hourly wage being paid to employees	R _____ / hour
--	----------------

Furthermore, any bidder who is a member of the National Bargaining Council for the Clothing Workers Industry may attach the Bargaining Council certificate to the submission. However and regardless, the above table must also be completed.

13.3 COMPLIANCE TO SPECIFICATION

Full compliance to the specification / catalogue is required and non-compliance will result in the bid not progressing to the next stage of the evaluation.

14 NATIONAL REPRESENTATION / FOOTPRINT

Respondents must state if they have any branches/factories country wide

Yes _____ No _____ (if yes, below, kindly indicate the locations where such premises are situated)

15 SERVICE LEVELS

- 15.1 An experienced account representative(s) is required to work with Transnet's procurement department. [No sales representatives are needed for individual department or locations]. Additionally, there shall be a minimal number of people, fully informed and accountable for this agreement.
- 15.2 Transnet will have monthly reviews with the Supplier's account representative on an on-going basis.
- 15.3 Transnet reserves the right to request that any member of the Supplier's team involved on the Transnet account be replaced if deemed not to be adding value for Transnet.
- 15.4 The Supplier will be measures on the following:
- a) Random checks on compliance with quality/quantity/specifications
 - b) On-time delivery
- 15.5 The Supplier must provide a telephone number for customer service calls.
- 15.6 Failure of the Supplier to comply with stated service level requirements will give Transnet the right to cancel the contract in whole, without penalty to Transnet, giving 30 [thirty] days' notice to the Supplier of its intention to do so.

Acceptance of Service Levels:

YES		NO	
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16 TOTAL COST OF OWNERSHIP AND CONTINUOUS IMPROVEMENT INITIATIVES

- 16.1 Respondents shall indicate whether they would be committed, for the duration of any contract which may be awarded through this RFP process, to participate with Transnet in its continuous improvement initiatives to reduce the total cost of ownership [TCO].

Accepted:

YES		NO	
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If "yes", please specify details in paragraph 16.2 below.

- 16.2 Respondents must briefly describe their commitment to TCO and continuous improvement initiatives and give examples of specific areas and strategies where cost reduction initiatives can be introduced.

Specific areas and proposed potential savings percentages should be included. Additional information can be appended to the Respondent’s Proposal if there is insufficient space available below.

17 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 Supplier, in relation to:

17.1 Quality and specification of Goods delivered:

17.2 Continuity of supply:

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

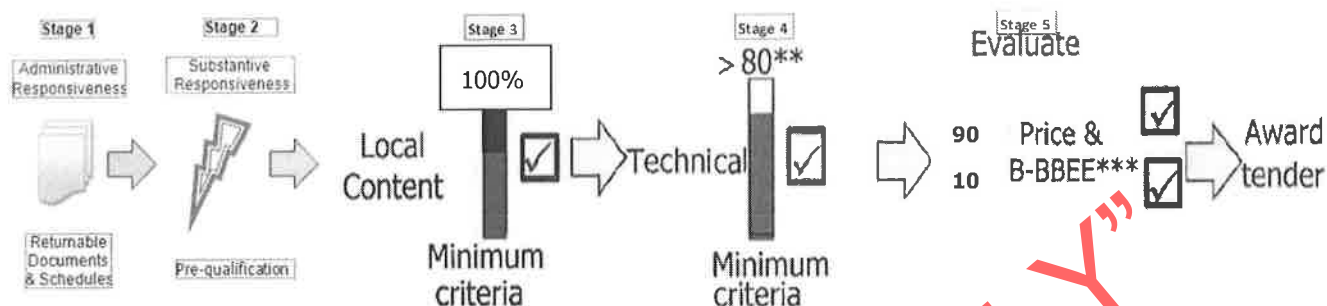
18 REFERENCES

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:

NAME OF COMPANY	CONTRACT VALUE	SCOPE OF BUSINESS	CONTACT PERSON	TELEPHONE

19 PRE-QUALIFICATION AND EVALUATION METHODOLOGY AND CRITERIA

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



a. STAGE ONE: Test for Administrative Responsiveness

The test for administrative responsiveness will include the following:

Administrative responsiveness check	RFP Reference
• Whether the Bid has been lodged on time	<i>Section 1 paragraph 3</i>
• Whether all Returnable Documents and/or schedules [where applicable] were completed and returned by the closing date and time	<i>Section 4</i>
• Verify the validity of all returnable documents	<i>Section 4, page 27 and 28</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

19.2 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
• Whether any pre-qualification criteria set by Transnet, have been met	<i>Section 1 paragraphs 2.2, 6, 9.4, 10.3</i> <i>Section 4 – validity period</i> <i>Section 8, General Bid Conditions clause 19</i> <i>Sections 6,10, 11</i>
• Whether the Bid contains a priced offer	<i>Section 3</i>
• Whether the Bid materially complies with the scope and/or specification given	<i>All Sections</i>

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

19.3 STAGE THREE: Test Minimum Threshold of 100% for Local Content

The test for the Local Content threshold will consist of the following:

Pre-Qualification Criteria	% Weightings	RFP Reference
100% Local content	100%	Section 2, paragraph 12

The test for Local Content Compliance [Stage Three] must be passed for a Respondent's Proposal to progress to Stage Four for further pre-qualification

19.4 STAGE FOUR: Test Minimum Thresholds for Technical Criteria and Functional Requirements

a) The test for the Technical and Functional thresholds will include the following:

Evaluation Criteria	RFP Reference
• CAPABILITY Report from Manufacturer (100%)	Section 2 [Scope of Requirements]
• Compliance to catalogue / spec (Declaration) (100%)	Clause 13.3
• Minimum wage compliance (BCEA) [see clause 13.2 on page 17] (100%)	
• Delivery lead times (4 – 6 weeks ARO is the norm) (80%)	Section 2 paragraph 6.3 & Section 3 Annexure "A"

The test for Technical and Functional compliance [Stage Four] must be passed for a Respondent's Proposal to progress to Stage Five for further pre-qualification

19.5 **STAGE FIVE: Final Evaluated Weightings**

Evaluation Criteria	Final Weighted Scores
Price	90
B-BBEE - Scorecard	10
TOTAL SCORE:	100

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

Broad-Based Black Economic Empowerment criteria

- B-BBEE - current scorecard
- Preference points will 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 (90/10 system)
1	10
2	9
3	8
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

**RFP FOR THE SUPPLY AND DELIVERY OF
TRANSNET SECURITY UNIFORM CLOTHING
FOR A PERIOD OF FIVE (5) YEARS**

Section 3: PRICING AND DELIVERY SCHEDULE

Respondents are required to complete the attached table: ANNEXURE A

Notes to Pricing:

- a) All Prices must be quoted in South African Rand, exclusive of VAT
- b) Prices to be quoted on a delivered basis to Warehouse 762, Langlaagte
- c) Transnet requires that pricing be fixed for 12 month periods. Confirm same below.

Prices fixed for 12 month periods: (YES / NO) _____ (insert whichever is applicable)

If "NO" for what period will the price be firm _____

PROPOSED ESCALATION FORMULA:

Prices will be subject to review and escalation annually in terms of the Production Price Index (PPI). Base pricing will be adjusted in terms of Table 1 – PPI for final manufactured goods and the applicable increase will apply. Price adjustments are to include all cost variations through the 12 month periods between reviews. Requests for price adjustments must be submitted annually, 2 months prior to the intended effective date and will need to be agreed between the parties.

PRICING, BRAND AND DELIVERY SCHEDULE. (Annexure A, Section 3)
RFP 9726 for the supply of Security Uniform Clothing.

Catalogue #	Description	UOM	Size	TFR Item #	100% Local (Y / N)	Price (per unit)	Delivery Time (weeks)
1	Jacket, Utility, Trainer	Each	XXS	35164436			
			XS	35164448			
			S	35164461			
			M	35164473			
			L	35164485			
			XL	35164497			
			2XL	35164501			
			3XL	35164513			
			4XL	35164525			
			SPECIAL	35164537			

2	Trouser, Utility, Trainer	Pair	XXS	35164550			
			XS	35164562			
			S	35164566			
			M	35164574			
			L	35164586			
			XL	35164598			
			2XL	35164602			
			3XL	35164614			
			4XL	35164626			
			SPECIAL	35164638			

3	Shorts, Unisex, Trainer	Pair	XXS	35164663			
			XS	35164675			
			S	35164687			
			M	35164699			
			L	35164703			
			XL	35164715			
			2XL	35164727			
			3XL	35164739			
			4XL	35164740			
			SPECIAL	35164752			

PRICING, BRAND AND DELIVERY SCHEDULE.
RFP 9726 for the supply of Security Uniform Clothing.

Catalogue #	Description	UOM	Size	TFR Item #	100% Local (Y / N)	Price (per unit)	Delivery Time (weeks)
4	Shirt, Utility, T-shirt	Each	62-67 (XXS)	35164776			
			72-77 (XS)	35164788			
			82-87 (S)	35164804			
			92-97 (M)	35164816			
			102-107 (L)	35164828			
			112-117 (XL)	35164841			
			122-127 (2XL)	35164853			
			132-137 (3XL)	35164865			
			142-147 (4XL)	35164877			
			SPECIAL	35164889			
5	Shirt, Utility, T-shirt	Each	62-67 (XXS)	35164905			
			72-77 (XS)	35164817			
			82-87 (S)	35164929			
			92-97 (M)	35164930			
			102-107 (L)	35164942			
			112-117 (XL)	35164954			
			122-127 (2XL)	35164966			
			132-137 (3XL)	35164978			
			142-147 (4XL)	35164991			
			SPECIAL	35165001			
6	Shirt, Utility, Thermal Shirt	Each	62-67 (XXS)	35165025			
			72-77 (XS)	35165037			
			82-87 (S)	35165049			
			92-97 (M)	35165050			
			102-107 (L)	35165062			
			112-117 (XL)	35165074			
			122-127 (2XL)	35165086			
			132-137 (3XL)	35165098			
			142-147 (4XL)	35165102			
			SPECIAL	35165114			

PRICING, BRAND AND DELIVERY SCHEDULE.
RFP 9726 for the supply of Security Uniform Clothing.

Catalogue #	Description	UOM	Size	TFR Item #	100% Local (Y / N)	Price (per unit)	Delivery Time (weeks)
7	Shirt, Utility, Thermal Shirt	Each	62-67 (XXS)	35165136			
			72-77 (XS)	35165151			
			82-87 (S)	35165163			
			92-97 (M)	35165175			
			102-107 (L)	35165187			
			112-117 (XL)	35165199			
			122-127 (2XL)	35165203			
			132-137 (3XL)	35165215			
			142-147 (4XL)	35165227			
			SPECIAL	35165239			
8	Trousers, Utility, thermal Underwear	Pair	XXS	35165252			
			XS	35165264			
			S	35165276			
			M	35165288			
			L	35165304			
			XL	35165316			
			2XL	35165328			
			3XL	35165341			
			4XL	35165353			
			SPECIAL	35165365			

PRICING, BRAND AND DELIVERY SCHEDULE.
RFP 9726 for the supply of Security Uniform Clothing.

Catalogue #	Description	UOM	Size	TFR Item #	100% Local (Y / N)	Price (per unit)	Delivery Time (weeks)
9	Shoes, Utility, Trainer	Pair	3	35165389			
			4	35165390			
			5	35165405			
			6	35165417			
			7	35165429			
			8	35165430			
			9	35165442			
			10	35165454			
			11	35165466			
			12	35165476			
			13	35165491			
			14	35165492			

Brand offered: _____

10	Rubberised Epaulettes	Each	1	35165518			
			2	35165531			
			3	35165543			
			4	35165555			
			5	35165567			
			6	35165579			
			7	35165580			
			8	35165592			
			9	35165607			
			10	35165619			
			11	35165620			

PRICING, BRAND AND DELIVERY SCHEDULE.
RFP 9726 for the supply of Security Uniform Clothing.

Catalogue #	Description	UOM	Size	TFR Item #	100% Local (Y / N)	Price (per unit)	Delivery Time (weeks)
11	Jacket, Mens	Each	32 / 81	35165644			
			34 / 87	35165656			
			36 / 92	35165668			
			38 / 97	35165681			
			40 / 102	35165693			
			42 / 107	35165708			
			44 / 112	35165721			
			46 / 117	35165733			
			48 / 122	35165745			
			50 / 127	35165757			
			52 / 132	35165769			
			54 / 137	35165770			
			SPECIAL	35165782			
12	Jacket, Womens	Each	32 / 81	35165809			
			34 / 87	35165810			
			36 / 92	35165822			
			38 / 97	35165834			
			40 / 102	35165846			
			42 / 107	35165858			
			44 / 112	35165871			
			46 / 117	35165883			
			48 / 122	35165895			
			50 / 127	35165911			
			52 / 132	35165923			
			54 / 137	35165935			
			SPECIAL	35165947			

PRICING, BRAND AND DELIVERY SCHEDULE.
RFP 9726 for the supply of Security Uniform Clothing.

Catalogue #	Description	UOM	Size	TFR Item #	100% Local (Y / N)	Price (per unit)	Delivery Time (weeks)
13	Jacket, Mens	Each	32 / 81	35169630			
			34 / 87	35169642			
			36 / 92	35169654			
			38 / 97	35169666			
			40 / 102	35169678			
			42 / 107	35169691			
			44 / 112	35169706			
			46 / 117	35169718			
			48 / 122	35169731			
			50 / 127	35169743			
			52 / 132	35169755			
			54 / 137	35169767			
			SPECIAL	35169779			
14	Jacket, Womens	Each	32 / 81	35169792			
			34 / 87	35169807			
			36 / 92	35169819			
			38 / 97	35169820			
			40 / 102	35169832			
			42 / 107	35169844			
			44 / 112	35169856			
			46 / 117	35169868			
			48 / 122	35169881			
			50 / 127	35169893			
			52 / 132	35169908			
			54 / 137	35169921			
			SPECIAL	35169933			

PRICING, BRAND AND DELIVERY SCHEDULE.
RFP 9726 for the supply of Security Uniform Clothing.

Catalogue #	Description	UOM	Size	TFR Item #	100% Local (Y / N)	Price (per unit)	Delivery Time (weeks)
15	Trouser, Mens, Combat	Pair	24 / 61	35165960			
			26 / 66	35165972			
			28 / 71	35165984			
			30 / 76	35165996			
			32 / 82	35166006			
			34 / 87	35166018			
			36 / 92	35166031			
			38 / 97	35166043			
			40 / 102	35166055			
			42 / 107	35166067			
			44 / 112	35166079			
			46 / 117	35166080			
			48 / 122	35166092			
			50 / 127	35166107			
			52 / 132	35166119			
			54 / 137	35166120			
			SPECIAL	35166132			

PRICING, BRAND AND DELIVERY SCHEDULE.
RFP 9726 for the supply of Security Uniform Clothing.

Catalogue #	Description	UOM	Size	TFR Item #	100% Local (Y / N)	Price (per unit)	Delivery Time (weeks)
16	Trouser, Womens, Combat	Pair	24 / 61	35166156			
			26 / 66	35166168			
			28 / 71	35166181			
			30 / 76	35166193			
			32 / 81	35166208			
			34 / 87	35166221			
			36 / 92	35166233			
			38 / 97	35166245			
			40 / 102	35166257			
			42 / 107	35166269			
			44 / 112	35166270			
			46 / 117	35166282			
			48 / 122	35166294			
			50 / 127	35166309			
			52 / 132	35166310			
			54 / 137	35166322			
			SPECIAL	35166334			
17	Mens Combat Shirts Short Sleeves	Each	XXS	35166358			
			XS	35166371			
			S	35166383			
			M	35166395			
			L	35166411			
			XL	35166423			
			2XL	35166435			
			3XL	35166447			
			4XL	35166459			
			SPECIAL	35166460			

PRICING, BRAND AND DELIVERY SCHEDULE.
RFP 9726 for the supply of Security Uniform Clothing.

Catalogue #	Description	UOM	Size	TFR Item #	100% Local (Y / N)	Price (per unit)	Delivery Time (weeks)
18	Mens Combat Shirts Long Sleeves	Each	XXS	35166484			
			XS	35166496			
			S	35166500			
			M	35166512			
			L	35166524			
			XL	35166536			
			2XL	35166548			
			3XL	35166561			
			4XL	35166573			
			SPECIAL	35166585			

19	Womens Combat Shirts Short Sleeves	Each	XXS	35166601			
			XS	35166613			
			S	35166625			
			M	35166637			
			L	35166649			
			XL	35166650			
			2XL	35166662			
			3XL	35166674			
			4XL	35166686			
			SPECIAL	35166698			

20	Womens Combat Shirts Long Sleeves	Each	XXS	35166714			
			XS	35166726			
			S	35166738			
			M	35166751			
			L	35166763			
			XL	35166775			
			2XL	35166787			
			3XL	35166799			
			4XL	35166803			
			SPECIAL	35166815			

PRICING, BRAND AND DELIVERY SCHEDULE.
RFP 9726 for the supply of Security Uniform Clothing.

Catalogue #	Description	UOM	Size	TFR Item #	100% Local (Y / N)	Price (per unit)	Delivery Time (weeks)
21	Sweater, Jersey	Each	66-71 (XS)	35166836			
			82-87 (S)	35166840			
			92-97 (M)	35166852			
			102-107 (L)	35166864			
			112-117 (XL)	35166876			
			122-127 (2XL)	35166888			
			132-137 (3XL)	35166904			
			142-147 (4XL)	35166916			
			(SPECIAL)	35166928			
22	Sweater, Pullover	Each	66-71 (XS)	35166953			
			82-87 (S)	35166965			
			92-97 (M)	35166977			
			102-107 (L)	35166989			
			112-117 (XL)	35166990			
			122-127 (2XL)	35166700			
			132-137 (3XL)	35166712			
			142-147 (4XL)	35166724			
			(SPECIAL)	35166736			
23	Jacket, Utility, Unisex	Each	62-72 (XS)	35167061			
			82-87 (S)	35167073			
			92-97 (M)	35167085			
			102-107 (L)	35167097			
			112-117 (XL)	35167101			
			122-127 (2XL)	35167113			
			132-137 (3XL)	35167125			
			142-147 (4XL)	35167137			
			(SPECIAL)	35167149			
24	Cap, Cold Weather	Each	One size	35167162			

PRICING, BRAND AND DELIVERY SCHEDULE.
RFP 9726 for the supply of Security Uniform Clothing.

Catalogue #	Description	UOM	Size	TFR Item #	100% Local (Y / N)	Price (per unit)	Delivery Time (weeks)
25	Cap, Utility, Base ball	Each	One size	35167174			
26	Head dress, Beret	Each	53	35167202			
			54	35167214			
			55	35167226			
			56	35167238			
			57	35167251			
			58	35167263			
			59	35167275			
			60	35167287			
			61	35167299			
			62	35167303			
			63	35167315			
			64	35167327			
			SPECIAL	35167339			
27	Gloves, Unisex	Pair	One size	35167352			
28	Necktie, Mens	Each	One size	35167376			
29	Scarf, Neckwear, Womens	Each	One size	35167404			
30	Badge, Name, Nickel Plated	Each	One type	35167428			
31	Badge, Cap, Hat & Beret	Each	One type	35167453			
32	Ring, Scarf	Each	One type	35167477			
33	Badge, Security	Each	One type	35167490			
34	Rubberised Name Badges	Each	One type	35167517			

PRICING, BRAND AND DELIVERY SCHEDULE.
RFP 9726 for the supply of Security Uniform Clothing.

Catalogue #	Description	UOM	Size	TFR Item #	100% Local (Y /N)	Price (per unit)	Delivery Time (weeks)
35	Scarf, Neckwear, Unisex	Each	One size	35167530			
36	Ladies Felt Hat	Each	S	35167554			
			M	35167566			
			L	35167578			
			XL	35167591			
			2XL	35167606			
			SPECIAL SIZES	35167618			
37	Lanyards, Single Cord	Each	One size	35167643			
38	Whistle	Each	One type	35167667			
39	Boots, Combat	Pair	247	35107271			
			255	35107283			
			262	35107295			
			270	35107311			
			277	35107323			
			285	35107335			
			292	35107347			
			SPECIAL	35107396			

Brand offered: _____

PRICING, BRAND AND DELIVERY SCHEDULE.
RFP 9726 for the supply of Security Uniform Clothing.

Catalogue #	Description	UOM	Size	TFR Item #	100% Local (Y / N)	Price (per unit)	Delivery Time (weeks)
40	Belt, Trousers	Each	75 / 26	35170120			
			80 / 28	35170132			
			85 / 30	35170144			
			90 / 32	35170156			
			95 / 34	35170168			
			100 / 36	35161521			
			105 / 38	35161533			
			110 / 40	35161545			
			115 / 42	35170221			
			120 / 44	35170233			
			125 / 46	35170245			
			130 / 48	35170257			
			135 / 50	35170265			
			140 / 52	35170270			
			SPECIAL	35170282			
41	Belt, Trousers	Each	75 / 26	35169957			
			80 / 28	35169969			
			85 / 30	35169970			
			90 / 32	35169982			
			95 / 34	35169994			
			100 / 36	35170006			
			105 / 38	35170018			
			110 / 40	35170031			
			115 / 42	35170043			
			120 / 44	35170055			
			125 / 46	35170067			
			130 / 48	35170079			
			135 / 50	35170080			
			140 / 52	35170092			
			SPECIAL	35170107			

PRICING, BRAND AND DELIVERY SCHEDULE.
RFP 9726 for the supply of Security Uniform Clothing.

Catalogue #	Description	UOM	Size	TFR Item #	100% Local (Y / N)	Price (per unit)	Delivery Time (weeks)
42	Trousers, Utility, Stepout, Navy, Mens	Pair	72 / 28	35167680			
			77 / 30	35167692			
			82 / 32	35167707			
			87 / 34	35167719			
			92 / 36	35167720			
			97 / 38	35167732			
			102 / 40	35167744			
			107 / 42	35167756			
			112 / 44	35167768			
			117 / 46	35167781			
			122 / 48	35167793			
			127 / 50	35167808			
			132 / 52	35167821			
			137 / 54	35167833			
			SPECIAL	35167845			

43	Trousers, Utility, Stepout, Grey, Mens	Pair	72 / 28	35167869			
			77 / 30	35167870			
			82 / 32	35167882			
			87 / 34	35167894			
			92 / 36	35167909			
			97 / 38	35167910			
			102 / 40	35167922			
			107 / 42	35167934			
			112 / 44	35167946			
			117 / 46	35167958			
			122 / 48	35167971			
			127 / 50	35167983			
			132 / 52	35167995			
			137 / 54	35168005			
			SPECIAL	35168017			

PRICING, BRAND AND DELIVERY SCHEDULE.
RFP 9726 for the supply of Security Uniform Clothing.

Catalogue #	Description	UOM	Size	TFR Item #	100% Local (Y / N)	Price (per unit)	Delivery Time (weeks)
-------------	-------------	-----	------	------------	--------------------	------------------	-----------------------

44	Slacks, Womens	Pair	28/72	35168030			
			30/77	35168042			
			32/82	35168054			
			34/87	35168066			
			36/92	35168078			
			38/97	35168091			
			40/102	35168106			
			42/107	35168118			
			44/112	35168131			
			46/117	35168143			
			48/122	35168155			
			50/127	35168167			
			52/132	35168179			
			137 / 54	35168180			
			Special	35168192			

45	Slacks, Womens, Frontline	Pair	28/71	35168194			
			30/76	35168409			
			32/81	35168410			
			34/87	35168422			
			36/92	35168434			
			38/97	35168446			
			40/102	35168458			
			42/107	35168471			
			44/112	35168483			
			46/117	35168495			
			48/122	35168511			
			50/127	35168523			
			52/132	35168535			
			137 / 54	35168547			
			Special	35168559			

PRICING, BRAND AND DELIVERY SCHEDULE.

RFP 9726 for the supply of Security Uniform Clothing.

Catalogue #	Description	UOM	Size	TFR Item #	100% Local (Y / N)	Price (per unit)	Delivery Time (weeks)
46	Skirt, Womens, Pencil, Navy	Each	28/71	35170309			
			30/76	35170310			
			32/81	35170322			
			34/87	35170334			
			36/92	35168434			
			38/97	35170358			
			40/102	35170371			
			42/107	35170383			
			44/112	35170395			
			46/117	35170411			
			48/122	35170423			
			50/127	35170435			
			52/132	35168535			
			Special	35170459			
47	Skirt, Womens, Pencil, Grey	Each	28/71	35168560			
			30/76	35168572			
			32/81	35168584			
			34/87	35168596			
			36/92	35168600			
			38/97	35168612			
			40/102	35168624			
			42/107	35168636			
			44/112	35168648			
			46/117	35168661			
			48/122	35168673			
			50/127	35168685			
			52/132	35168697			
			Special	35168701			

PRICING, BRAND AND DELIVERY SCHEDULE.
RFP 9726 for the supply of Security Uniform Clothing.

Catalogue #	Description	UOM	Size	TFR Item #	100% Local (Y / N)	Price (per unit)	Delivery Time (weeks)
48	Shirt, Utility, Button Up Neck, Male	Each	62-67(XXS)	35168725			
			72-77 (XS)	35168737			
			82-87 (S)	35168749			
			92-97 (M)	35168750			
			102-107 (L)	35168762			
			112-117 (XL)	35168774			
			122-127 (2XL)	35168786			
			132-137 (3XL)	35168798			
			142-147 (4XL)	35168802			
			SPECIAL	35168814			
49	Shirt, Utility, Open / Glad Neck, Male	Each	62-67(XXS)	35168952			
			72-77 (XS)	35168964			
			82-87 (S)	35168976			
			92-97 (M)	35168988			
			102-107 (L)	35169011			
			112-117 (XL)	35169023			
			122-127 (2XL)	35169035			
			132-137 (3XL)	35169047			
			142-147 (4XL)	35169059			
			SPECIAL	35169060			
50	Shirt, Utility, Button Up Neck, Female	Each	62-67(XXS)	35169084			
			72-77 (XS)	35169096			
			82-87 (S)	35169100			
			92-97 (M)	35169112			
			102-107 (L)	35169124			
			112-117 (XL)	35169136			
			122-127 (2XL)	35169148			
			132-137 (3XL)	35169161			
			142-147 (4XL)	35169173			
			SPECIAL	35169185			

PRICING, BRAND AND DELIVERY SCHEDULE.
RFP 9726 for the supply of Security Uniform Clothing.

Catalogue #	Description	UOM	Size	TFR Item #	100% Local (Y / N)	Price (per unit)	Delivery Time (weeks)
51	Shirt, Utility, Button Up Neck, Female	Each	62-67 (XXS)	35169201			
			72-77 (XS)	35169213			
			82-87 (S)	35169225			
			92-97 (M)	35169237			
			102-107 (L)	35169249			
			112-117 (XL)	35169250			
			122-127 (2XL)	35169262			
			132-137 (3XL)	35169274			
			142-147 (4XL)	35169286			
			SPECIAL	35169298			

52	Shoe, Utility, Male	Pair	225 (3)	35169314			
			232 (4)	35169326			
			240 (5)	35169338			
			247 (6)	35169351			
			255 (7)	35169363			
			262 (8)	35169375			
			270 (9)	35169387			
			277 (10)	35169399			
			285 (11)	35169403			
			292 (12)	35169415			
			300 (13)	35169427			
			315 (14)	35169439			
			322 (15)	35169440			
			SPECIAL	35169452			

Brand offered: _____

PRICING, BRAND AND DELIVERY SCHEDULE.
RFP 9726 for the supply of Security Uniform Clothing.

Catalogue #	Description	UOM	Size	TFR Item #	100% Local (Y / N)	Price (per unit)	Delivery Time (weeks)
53	Shoes, Women, Low Heel Nurse Style	Pair	220 (3)	35169476			
			225 (3.5)	35169488			
			230 (4)	35169504			
			323 (4.5)	35169508			
			235 (5)	35169516			
			240 (5.5)	35169528			
			245 (6)	35169541			
			250 (6.5)	35169553			
			255 (7)	35169565			
			260 (7.5)	35169577			
			265 (8)	35169589			
			270 (9)	35169590			
			SPECIAL	35169605			

Brand offered: _____

54	Vest, High Visibility, Reflective	Each	S	35204605			
			M	35204617			
			L	35204629			
			XL	35204630			
			2XL	35204642			
			3XL	35204654			
			4XL	35204666			

PRICING, BRAND AND DELIVERY SCHEDULE.
RFP 9726 for the supply of Security Uniform Clothing.

Catalogue #	Description	UOM	Size	TFR Item #	100% Local (Y /N)	Price (per unit)	Delivery Time (weeks)
Grouping	Multiple suppliers but one supplier per bucket						
1	1,2,3						
2	4,5,6,7,8						
3	9						
4	10						
5	11,12,13,14,42,43,44,45,46,47						
6	15,16,17,18,19,20,23,25,48,49,50,57						
7	21,22,24						
8	26						
9	27,35						
10	28,29						
11	30,31						
12	32						
13	33						
14	34						
15	36						
16	37,38						
17	39						
18	40,41						
19	52						
20	53						
21	54						

**RFP FOR THE SUPPLY AND DELIVERY OF
TRANSNET SECURITY UNIFORM CLOTHING
FOR A PERIOD OF FIVE (5) YEARS**

Section 4: PROPOSAL FORM

I/We _____

[name of entity, company, close corporation or partnership]

of [full address]

carrying on business trading/operating as _____

represented by _____

in my capacity as _____

being duly authorised thereto by a Resolution of the Board of Directors or Members or Certificate of Partners, as the case may be, dated _____ a certified copy of which is annexed hereto, hereby offer to supply the above-mentioned Goods at the prices quoted in the schedule of prices in accordance with the terms set forth in the accompanying letter(s) reference _____ and dated _____ [if any] and the documents listed in the accompanying schedule of RFP documents.

I/We agree to be bound by those conditions in Transnet's:

- (i) Terms and Conditions of Contract - Goods;
- (ii) General Bid Conditions – Goods; and
- (iii) any other standard or special conditions mentioned and/or embodied in this Request for Proposal.

I/We accept that unless Transnet should otherwise decide and so inform me/us in the letter of award/intent, this Proposal [and, if any, its covering letter and any subsequent exchange of correspondence], together with Transnet's acceptance thereof shall constitute a binding contract between Transnet and me/us.

Should Transnet decide that a formal contract should be signed and so inform me/us in a letter of intent [the **Letter of Intent**], this Proposal [and, if any, its covering letter and any subsequent exchange of correspondence] together with Transnet's Letter of Intent, shall constitute a binding contract between Transnet and me/us until the formal contract is signed.

I/We further agree that if, after I/we have been notified of the acceptance of my/our Proposal, I/we fail to enter into a formal contract if called upon to do so, or fail to commence the supply of Goods within 4 [four] weeks thereafter, Transnet may, without prejudice to any other legal remedy which it may have, recover from me/us any expense to which it may have been put in calling for Proposals afresh and/or having to accept any less favourable Proposal.

I/We accept that any contract resulting from this offer will be for a period of 5 years only; and agree to a penalty clause to be negotiated with Transnet, which will allow Transnet to invoke a penalty against us should the delivery of the Goods be delayed due to non-performance by ourselves.

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 Supplier] will be informed of the acceptance of its Proposal. Unsuccessful Respondents will be advised in writing of the name of the successful Supplier and the reason as to why their Proposals have been unsuccessful, for example, in the category of price, delivery period, quality, B-BBEE status or for any other reason.

VALIDITY PERIOD

Transnet requires a validity period of 90 [ninety] 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)

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 **Section 17**. 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 Goods, which is either directly

or indirectly related to Transnet's business, written approval to divulge such information must be obtained from Transnet.

DISCLOSURE OF PRICES TENDERED

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

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

RETURABLE DOCUMENTS

All Sections, as indicated in the footer of each page, must be signed, stamped and dated by the Respondent.

Returnable 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 mandatory Returnable Documents at the closing date and time of this tender will result in a Respondent's disqualification. Bidders are therefore urged to ensure that all these Documents are returned with their Proposals.

Please confirm submission of these mandatory Returnable Documents by so indicating [Yes or No] in the table below:

Mandatory Returnable Documents	Submitted [Yes/No]
SECTION 2 : Background, Overview and Scope of Requirements	
- Audited Financial Statements for previous 3 years [Large Enterprises and QSEs]	
SECTION 3 : Pricing and Delivery Schedule	
SECTION 5 : Original valid Tax Clearance Certificate [Consortia / Joint Ventures / Sub-contractors must submit a separate Tax Clearance Certificate for each party]	

- 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 essential Returnable Documents may result in a Respondent's disqualification at Transnet's sole discretion. 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 [Yes or No] in the table below:

ESSENTIAL RETURNABLE DOCUMENTS & SCHEDULES	Submitted [Yes / No]
SECTION 1 : Notice to Bidders	
Receipt for payment of RFP documents [paragraph 1]	
SECTION 2: Background, Overview and Scope of Requirements	
SECTION 3 : Pricing and Delivery Schedule	
SECTION 4 : Proposal Form	
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 CC]	
- Entity's letterhead	
- Certified copy of valid VAT Registration Certificate	
- Valid B-BBEE Verification Certificate [Large Enterprises and QSEs] Note: failure to provide a valid B-BBEE Verification Certificate at the closing date and time of the tender will result in an automatic score of zero being allocated for B-BBEE scorecard	
- Valid B-BBEE certificate from auditor, accounting officer or SANAS accredited Verification Agency [EMEs] Note: failure to provide a valid B-BBEE Verification Certificate at the closing date and time of the tender will result in an automatic score of zero being allocated for B-BBEE scorecard	
- In the case of Joint Ventures, a copy of the Joint Venture Agreement or written confirmation of the intention to enter into a Joint Venture Agreement	
- Certified copy of valid VAT Registration Certificate	
- Audited Financial Statements for previous 3 years	
SECTION 6 : Signing Power - Resolution of Board of Directors	
SECTION 7 : Certificate of Acquaintance with RFP Documents	
SECTION 8 : Certificate of Acquaintance with General Bid Conditions – Goods	
SECTION 9 : Certificate of Acquaintance with Terms and Conditions of Contract	
SECTION 10 : RFP Declaration Form	
SECTION 11 : Breach of Law Form	
SECTION 12: RFP Clarification Request form	
SECTION 13 : Supplier Code of Conduct	
SECTION 14 : B-BBEE Preference Points Claim Form	
SECTION 15 : Certificate of attendance of compulsory Site Meeting / RFP Briefing	
SECTION 16 : Certificate of Acquaintance with Specifications and Drawings	
SECTION 17 : Non-Disclosure Agreement	
ANNEXURE A: Pricing and delivery schedule	
ANNEXURE B: SDB 6.2 Declaration certificate for Local product in and Content for Designated Sectors	
ANNEXURE C: Local Content Declaration: Summary Schedule	
ANNEXURE D: Imported Content Declaration: Supporting Schedule to Annexure C	
ANNEXURE E: Local Content Declaration: Supporting Schedule to Annexure C	
ANNEXURE F: Local Content Directive from National Treasury	
The South African Bureau of Standards (SABS) approved technical specification number SATS 1286:2011 (Edition 1)	
The Guidance on the calculation of Local Content	

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.

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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 SUPPLY AND DELIVERY OF
TRANSNET SECURITY UNIFORM CLOTHING
FOR A PERIOD OF FIVE (5) 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]	CC	Trust	Pty Ltd	Limited	Partnership	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				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	Products		Services		Both
Area of delivery	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. Stationery/Consulting]					

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 SUPPLY AND DELIVERY OF
TRANSNET SECURITY UNIFORM CLOTHING
FOR A PERIOD OF FIVE (5) 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 supply of Goods.

FULL NAME _____

SIGNATURE CHAIRMAN

FULL NAME _____

SIGNATURE SECRETARY

**RFP FOR THE SUPPLY AND DELIVERY OF
TRANSNET SECURITY UNIFORM CLOTHING
FOR A PERIOD OF FIVE (5) 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 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 Goods and 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 Goods or Services will be rendered [market allocation]
- c) methods, factors or formulas used to calculate prices;
- d) the intention or decision to submit or not to submit, a Bid;

- e) the submission of a Bid which does not meet the specifications and conditions of the RFP;
or
 - f) bidding with the intention not winning the Bid.
7. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the Goods or Services to which 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

**RFP FOR THE SUPPLY AND DELIVERY OF
TRANSNET SECURITY UNIFORM CLOTHING
FOR A PERIOD OF FIVE (5) YEARS**

**Section 8: CERTIFICATE OF ACQUAINTANCE WITH THE GENERAL BID CONDITIONS -
GOODS**

NAME OF ENTITY:

I/We

_____ do

hereby certify that I/we acquainted myself/ourselves with all the documentation comprising the General Bid Conditions - Goods as received on _____ [insert date] from Transnet SOC Ltd for the carrying out of the proposed supply 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



GENERAL BID CONDITIONS - GOODS

[March 2012]

“PREVIEW COPY ONLY”

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1 DEFINITIONS

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

- 1.1 **Bid or Bid Document(s)** shall mean a reference to a Request for Proposal or Request for Quotation;
- 1.2 **Goods** shall mean the goods required by Transnet as specified in its Bid Document;
- 1.3 **Respondent(s)** shall mean a respondent/bidder to a Transnet Bid;
- 1.4 **RFP** shall mean Request for Proposal;
- 1.5 **RFQ** shall mean Request for Quotation;
- 1.6 **RFX** shall mean RFP and/or RFQ, as the case may be;
- 1.7 **Supplier** shall mean the successful Respondent;
- 1.8 **Tax Invoice** shall mean the document as required by Section 20 of the Value-Added Tax Act, 89 of 1991, as may be amended from time to time;
- 1.9 **Transnet** shall mean Transnet SOC Ltd, a State Owned Company; and
- 1.10 **VAT** shall mean Value-Added Tax chargeable in terms of the Value-Added Tax Act, 89 of 1991, as may be amended from time to time.

2 GENERAL

All Bid Documents and subsequent contracts and orders shall be subject to the following procedures as laid down by Transnet and are to be strictly adhered to by any person or enterprise or company responding to this RFX.

3 LODGING OF BID DOCUMENTS

- 3.1 A Bid, which shall hereinafter include reference to an RFP or RFQ, shall be lodged with Transnet no later than the closing date and time specified for the receipt thereof, in accordance with the directions issued with Bid Documents.
- 3.2 Bids shall be transmitted in a sealed envelope and placed in the tender box at a venue stipulated in the Bid Documents with the Bid number and subject endorsed on the left hand bottom corner of the envelope.
- 3.3 The Respondent's return address must be stated on the reverse side of the sealed envelope.

4 USE OF BID FORMS

- 4.1 Where special forms are issued by Transnet for the submission of Bids, Respondents are required to submit their Bids by completion of the appropriate sections on such official forms and not on office stationery bearing their own terms and conditions of contract; non-compliance with this conditions may result in the rejection of a Bid.
- 4.2 Respondents must note that the original bid forms must be completed for submission and not a reprocessed facsimile thereof. Only if insufficient space has been allocated to a particular response

may a Respondent submit additional information under separate cover using the Company's letterhead and duly cross-referenced in the RFX.

5 RAISING OF A CHARGE FOR PLANS, SPECIFICATIONS AND BID FORMS

- 5.1 A non-refundable charge may be raised for Bid Documents, depending on the administrative cost of preparing and issuing the Bid Document.
- 5.2 If any of the drawings or specifications referred to in Bid Documents is the official publication of a recognised standardising body, copies of such drawings and specifications shall be acquired by Respondents at their own expense.

6 DEFAULTS BY RESPONDENTS

- 6.1 If the Respondent, after it has been notified of the acceptance of its Bid fails to:
- a) enter into a formal contract when called upon to do so in terms of clause 15 [*Contract Documents*], within such period as Transnet may specify; or
 - b) accept an order in terms of the Bid; or
 - c) when called upon to do so, furnish satisfactory security of the fulfilment of the contract in terms of clause 16 [*Securities*],

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

- 6.2 If any Respondent, who has submitted a Bid and/or concluded a contract with Transnet [hereinafter referred to as **the Supplier**], or in the capacity of agent or subcontractor who has been associated with such Bid or contract:
- a) has withdrawn such Bid after the advertised date and hour for the receipt of Bids; or
 - b) has, after having been notified of the acceptance of its Bid, failed or refused to sign a contract when called upon to do so in terms of any condition forming part of the Bid Documents; or
 - c) has carried out any contract resulting from such Bid in an unsatisfactory manner or has breached any condition of such contract; or
 - d) has offered, promised or given a bribe in relation to the obtaining or the execution of such contract; or
 - e) has acted in a fraudulent or improper manner or in bad faith towards Transnet or any government department or towards any public body, company or person; or
 - f) has made any incorrect statement in the affidavit or certificate referred to in clause 12 [*Formal Notification Regarding Name of Successful Respondent*] and is unable to prove to the satisfaction of Transnet that
 - (i) it made the statement in good faith honestly believing it to be correct; and

(ii) before making such statement, it took all reasonable steps to satisfy itself of its correctness; or

g) caused Transnet damage, or to incur costs in order to meet the Supplier's requirements which could not be recovered from the Supplier;

then a Bid from any such Respondent shall be disqualified and the person, enterprise or company [including any directors] shall, subject to clause 6.3 below, be disqualified from bidding for any Transnet business through its "blacklisting" process.

6.3 Any person or enterprise or company against whom a decision has been given under the provisions of clauses 6.2b), 6.2d) or 6.2e) above, may make representations to the Chief Operating Officer of Transnet Group, whose decision shall be final.

6.4 Any disqualification [**Blacklisting**] imposed upon any person or enterprise or company, may also apply to any other enterprise under the same or different names of disqualified persons or enterprise or company [or associates thereof] and shall for avoidance of doubt also be applied to any agent or employee of the person or enterprise or company concerned.

7 CURRENCY

Prices must be quoted in the currency of the Republic of South Africa [**ZAR**] in respect of local Goods. Prices in any other currency may be rejected by Transnet save where such price is quoted by a foreign Respondent.

8 EXCHANGE AND REMITTANCE

The Respondent should note that where the whole or a portion of the contract or order value is to be remitted overseas, Transnet SOC Ltd shall, if requested to do so by the Supplier, effect payment overseas directly to the foreign principal or manufacturer of such percentage of the contract or order value as may be stipulated by the Respondent in its Bid Documents. In instances where an overall Rand agreement cannot be concluded Transnet's preference is to enter into Rand based agreements and would therefore request the Respondent to give favourable consideration to:

8.1 Obtaining forward exchange cover on the foreign currency portion of the Agreement at a cost that is acceptable to Transnet SOC Ltd to protect itself against any currency rate fluctuation risks for the duration of any resulting contract or order. Transnet will NOT accept any fluctuations in the rate of exchange at the time when payments are made if a Rand agreement is concluded.

8.2 The Respondent who desires to avail itself of the aforementioned facility must at the time of bidding furnish the information called for in the clause "*Exchange and Remittance*" of the Bid Documents and also furnish full details of the principals or manufacturer to whom payment is to be made.

8.3 The South African Reserve Bank's approval is required before any foreign currency payments can be made to or on behalf of Respondents.

Transnet will not recognise any claim for adjustment of the order and/or contract price under clause **Error! Reference source not found.** above, if the increase in price arises after the date on which the Goods were to be delivered, as set out in the order and/or contract, or any subsequent agreement between the parties.

9 ACCEPTANCE OF BID

- 9.1 Transnet does not bind itself to accept the lowest or any Bid.
- 9.2 Transnet reserves the right to accept any Bid in whole or in part.
- 9.3 Upon the acceptance of a Bid by Transnet, the parties shall be bound by these General Bid Conditions and the Standard Terms and Conditions of Contract [Form ST&C – Goods] and any schedule of “Special Conditions” or otherwise which form part of the Bid Documents.
- 9.4 Where the Respondent has been informed by Transnet per facsimile message or email of the acceptance of its Bid, the acknowledgement of the receipt transmitted shall be regarded as proof of delivery to the Respondent.

10 LAW GOVERNING CONTRACT

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

11 IDENTIFICATION

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

12 FORMAL NOTIFICATION REGARDING NAME OF SUCCESSFUL RESPONDENT

In the case of Bids submitted to the Secretary of an Acquisition Council, unsuccessful Respondents will be formally notified of the names of successful Respondent(s) as soon as possible after the closing date for receipt of the Bid in question.

13 UNAUTHORISED COMMUNICATION ABOUT BIDS

Where Bids are submitted to the Secretary of an Acquisition Council, Respondents may at any time communicate with the Secretary on any matter relating to its Bid but, in the absence of written authority from the Secretary, no communication on a question affecting the subject of a Bid shall take place between Respondents or other potential suppliers or any member of the Acquisition Council or official of Transnet during the period between the closing date for the receipt of the Bid and the date of the notification of the successful Respondent(s). A Bid, in respect of which any such unauthorised communication has occurred, may be disqualified.

14 RESPONDENT'S SAMPLES

- 14.1 If samples are required from Respondents, such samples shall be suitably marked with the Respondent's name and address, the Bid number and the Bid item number and must be despatched in time to reach the addressee as stipulated in the Bid Documents on or before the closing date of the Bid. Failure to submit samples by the due date may result in the rejection of a Bid.
- 14.2 Transnet reserves the right to retain samples furnished by Respondents in compliance with Bid conditions.
- 14.3 Payment will not be made for a successful Respondent's samples that may be retained by Transnet for the purpose of checking the quality and workmanship of Goods delivered in execution of a contract.
- 14.4 If unsuccessful Respondent's samples are retained and Respondents require payment therefor, Transnet will make payment at the tendered price of the Goods. If it is not desired to retain such samples and Respondents require their return, Transnet will accept responsibility for their return to the Respondent's nearest station or siding in South Africa.
- 14.5 Transnet will not accept liability for samples furnished by Respondents on their own initiative. If Respondents desire such samples returned it will be at their own risk and cost.
- 14.6 Should it be necessary to submit a pre-production sample for approval by Transnet prior to the commencement of delivery of the Goods against any resulting contract, Respondents are to note that for the purpose of calculating penalties for late delivery [if applicable] in terms of a contractual provision, the actual contractual delivery date will be considered to be -
- a) the period offered by the successful Respondent to submit the pre-production sample calculated as from the 7th [seventh] day after the date of the letter of acceptance;
PLUS
 - b) the period required by Transnet to approve the pre-production sample calculated as from the date of receipt thereof;
PLUS
 - c) the period offered to effect delivery of the Goods calculated as from the date of approval of the pre-production sample by Transnet.

Suppliers will not be held responsible for late delivery of the Goods resulting from delays on the part of Transnet to approve the pre-production sample.

15 CONTRACT DOCUMENTS

- 15.1 The contract documents will comprise these General Bid Conditions, the Standard Terms and Conditions of Contract [Form ST&C – Goods] and any schedule of "Special Conditions" or otherwise which form part of the Bid Documents.
- 15.2 These contract documents will constitute the contract between the parties upon receipt by the Respondent of Transnet's letter of acceptance / intent, subject to all additional amendments and/or special conditions thereto as agreed to by the parties.

16 SECURITIES

- 16.1 The successful Respondent, when called upon to do so, shall provide security to the satisfaction of Transnet for the due fulfilment of a contract or order. Such security shall be in the form of a deed of suretyship [**Deed of Suretyship**] furnished by an approved bank, building society, insurance or guarantee corporation carrying on business in South Africa.
- 16.2 The security may be applied in whole or part at the discretion of Transnet to make good any loss or damage which Transnet may incur in consequence of a breach of the contract or any part thereof.
- 16.3 Such security, if required, shall be an amount which will be stipulated in the Bid Documents.
- 16.4 For the purpose of clause 16.1 above, Transnet will supply a Deed of Suretyship form to the successful Respondent for completion and no guarantee in any other form will be accepted. A copy of such form will be supplied to Respondents on request. For this purpose a Deed of Suretyship form will be provided which shall be completed and returned to Transnet or a designated official by the successful Respondent within 30 [thirty] days from the date of the letter of acceptance. No payment will be made until the form, duly completed, is delivered to Transnet. Failure to return the Deed of Suretyship within the prescribed time shall, save where prior extension has been granted, entitles Transnet without notice to the Supplier to cancel the contract with immediate effect.
- 16.5 Additional costs incurred by Transnet necessitated by reason of default on the part of the Supplier in relation to the conditions of this clause 16 will be for the account of the Supplier.

17 PRICE AND DELIVERY BASIS FOR GOODS

- 17.1 Unless otherwise specified in the Bid Documents, the prices quoted for Goods must be on a delivered price basis in accordance with the terms and at the delivery point or points specified in Transnet's Bid Documents. Bids for supply on any other basis of delivery are liable to disqualification. The lead time for delivery stated by the Respondent must be inclusive of all non-working days or holidays, and of periods occupied in stocktaking or in effecting repairs to or overhauling plant, which would ordinarily occur within the delivery period given by the Respondent.
- 17.2 Respondents must furnish their Bid prices in the Price Schedule of the Bid Documents on the following basis:
- a) Local Supplies - Prices for Goods to be manufactured, produced or assembled in the Republic of South Africa, or imported supplies held in South Africa, to be quoted on a Delivered RSA named destination basis.
 - b) Imported Supplies - Prices for Goods to be imported from all sources to be quoted on a DDP, delivered end destination RSA basis [Delivered, Duty Paid to named destination, ICC Incoterms 2010], unless otherwise specified in the Bid Price Schedule.
- 17.3 The Respondent must indicate that the quoted prices for imported supplies include costs for, *inter alia*, the following:
- handling and transport to port of export
 - forwarding charges
 - ocean freight

- marine insurance
- landing charges
- dock dues
- surcharges
- customs clearance including duties, agency and finance charges
- railage, where possible, otherwise road transportation from RSA port of discharge to final destination

Such rates are to be based on weights and dimensions calculated by the Respondent. In the event of such rates being exceeded by an increase in the actual weights and dimensions, Transnet shall not be liable to pay the Supplier the associated increase in costs.

- 17.4 The attention of Respondents is drawn to the fact that should Transnet's departmental railage account numbers be used in respect of "Delivered Prices", Transnet reserves the right to cancel such contract/order with immediate effect and enforce the conditions of clause 15 *[Rights on Cancellation]* of Form ST&C - Goods.

18 SHIPMENT OF IMPORTED GOODS BY TRANSNET

- 18.1 Where the Bid's stipulated purchase terms indicate that shipping is to be arranged by the forwarding agent appointed by Transnet, shipping arrangements by Transnet's nominated forwarding agent shall be made direct with a shipping company to allow the Ocean Bill of Lading to be drawn in favour of Transnet, as consignee, or its designated official at a port of entry -

- a) it will be a condition that all Goods collected by or delivered to Transnet's nominated forwarding agent against any resulting contract/order must be accompanied by the foreign manufacturer's / supplier's commercial invoices [which must clearly reflect Transnet's contract / order number] and packing lists/specifications which are to be handed to Transnet's forwarding agent not later than 3 [three] days prior to the vessel's scheduled date of departure.

It is imperative that the above be strictly adhered to as Goods cannot be cleared by Transnet at a port of entry in South Africa without the required documentation. Any demurrage charges applicable to the Goods which may become payable due to late or non-submission of the aforementioned documentation will be for the Supplier's account.

19 EXPORT LICENCE

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

20 QUALITY OF MATERIAL

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

21 PRICES SUBJECT TO CONFIRMATION

- 21.1 A Bid with prices which are subject to confirmation will not be considered.
- 21.2 Bids where firm prices are quoted for the duration of any resulting order and or contract will receive precedence over prices which are subject to adjustment.

22 DELETION OF ITEMS EXCLUDED FROM BID

The Respondent must delete items for which it has not tendered or for which the price has been included elsewhere in its Bid.

23 ALTERATIONS MADE BY THE RESPONDENT TO BID PRICES

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

24 VALUE-ADDED TAX

- 24.1 In respect of local supplies, i.e. Goods to be manufactured, produced or assembled in the Republic of South Africa, or imported supplies held or already in transit to South Africa, the prices quoted by the Respondent are to be exclusive of VAT which must be shown separately at the standard rate on the Tax Invoice.
- 24.2 In respect of imported supplies, i.e. Goods to be imported from all sources where Transnet is responsible for the clearance of the supplies at the port of entry, VAT will be paid by Transnet upon arrival of the Goods in the Republic of South Africa.
 - a) The Invoicing by the Supplier on behalf of its foreign principal represents a supply made by the principal.
 - b) The Supplier's Tax Invoice(s) for the local portion only [i.e. the "commission" for the services rendered locally] must show the VAT separately.

25 TERMS AND CONDITIONS OF BID

- 25.1 The Supplier shall adhere to the Standard Terms and Conditions of Contract as set out in Form ST&C - Goods, a copy of which is issued with the Bid Documents, together with any schedule of "Special Conditions" or otherwise which form part of the Bid Documents.
- 25.2 Should the Respondent find any conditions unacceptable, it should indicate which conditions are unacceptable and offer alternatives by written submission on a company letterhead. Any such submission shall be subject to review by Transnet's Legal Counsel who shall determine whether the proposed alternative(s) are acceptable or otherwise, as the case may be.

26 IMPORTANT NOTICE TO RESPONDENTS REGARDING PAYMENT

26.1 Method of Payment

- a) The attention of the Respondent is directed to clause 8 *[Invoices and Payment]* of Form ST&C – Goods, which sets out the conditions of payment on which Bid price(s) shall be based.
- b) However, in addition to the foregoing the Respondent is invited to submit offers based on alternative methods of payment and/or financing proposals.
- c) The Respondent is required to give full particulars of the terms that will be applicable to its alternative offer(s) and the financial merits thereof will be evaluated and taken into consideration when the Bid is adjudicated.
- d) The Respondent must, therefore, in the first instance, tender strictly in accordance with clause 26.1a) above. Failure to comply with clause 26.1a) above may preclude a Bid from further consideration.

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

26.2 Conditional Discount

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

27 CONTRACT QUANTITIES AND DELIVERY REQUIREMENTS

27.1 Contract Quantities

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

27.2 Delivery Period

a) Period Contracts and Fixed Quantity Requirements

It will be a condition of any resulting contract/order that the delivery period embodied therein will be governed by the provisions of clause 13 *[Defective Goods]*, 14 *[Total or Partial Failure to Perform the Scope of Supply]* and 15 *[Rights on Cancellation]* of Form ST&C – Goods.

b) Progress Reports

The Supplier may be required to submit periodical progress reports in regard to the delivery of the Goods.

c) Emergency Demands as and when required

If, due to breakdowns, derailments, storm damage or similar unforeseen circumstances, supplies of the material covered by the Bid are required at short notice for immediate delivery, the Supplier will be given first right of refusal of such business. If it is unable to meet the desired critical delivery period, Transnet reserves the right to purchase such supplies as may be required to meet the emergency outside the contract if immediate delivery can be offered from any other source. Clause 14 of Form ST&C – Goods *[Total or Partial Failure to Perform the Scope of Supply]* will not be applicable in these circumstances.

28 PACKING AND MARKING

28.1 Timber used for crating, packing and dunnage

Attention is directed to the Forest Act, 1968 [Act 72 of 1968], or any amendments thereto, or regulations promulgated in terms thereof.

28.2 Printing on container and packaging

Printing ["marks"] appearing on all containers and packaging of Goods shall be in English.

29 PLANS, DRAWINGS, DIAGRAMS, SPECIFICATIONS AND DOCUMENTS

29.1 Copyright

Copyright in plans, drawings, diagrams, specifications and documents compiled by the Supplier for the purpose of contract work shall be governed by the terms and conditions detailed in clause 22 of Form ST&T - Goods *[Intellectual Property Rights]*.

29.2 Drawings and specifications

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

29.3 Respondent's drawings

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

29.4 Foreign specifications

The Respondent quoting for Goods in accordance with foreign specifications, other than British and American standards, is to submit translated copies of such specifications with the Bid. In the event of any departures or variations between the foreign specification(s) quoted in the Bid Documents, full details regarding such departures or variations must be furnished by the Respondent in a covering letter attached to the Bid. If this condition is not complied with by the Respondent, the Bid may be disqualified.

30 VISITS TO FOREIGN COUNTRIES

- 30.1 Respondents must furnish details in a covering letter if it is considered necessary that employees of Transnet should carry out inspection and/or witness any tests on Goods at the premises of the preferred Respondent or its subcontractors overseas for the purpose of a product demonstration and/or final acceptance or for any other reason.
- 30.2 If the Respondent considers overseas visits to be necessary it must provide the following information in a covering letter in respect of each proposed visit:
- a) countries and places to be visited;
 - b) number of employees and disciplines involved;
 - c) number of man-days involved; and
 - d) motivation for the visit.
- 30.3 Transnet will make all arrangements with regard to booking of air journeys, hotel reservations, transport to and from airports, places of inspection or demonstration, etc. and all expenses will be for the account of Transnet.
- 30.4 Before a visit is undertaken, such as envisage in this clause 30, Transnet and the Respondent will agree in writing on the number of employees of Transnet that should undertake the visit and the number of man-days involved in the visit.

31 BIDS BY OR ON BEHALF OF FOREIGN RESPONDENTS

- 31.1 Bids submitted by foreign principals may be forwarded direct by the principals to the Secretary of the Acquisition Council or to a designated official of Transnet according to whichever officer is specified in the Bid Documents, or may be so forwarded on the principal's behalf by its South African representative or agent provided that written proof is submitted that such representative or agent has been duly authorised to act in that capacity by the principal. Failure to submit such authorisation by the representative or agent shall disqualify the Bid.
- 31.2 When legally authorised to prepare and submit Bids on behalf of their principals not domiciled in the Republic of South Africa, representatives or agents must compile the Bids in the names of such principals and sign them on behalf of the latter.
- 31.3 South African representatives or agents of a successful foreign Respondent must when so required enter into a formal contract in the name of their principals and must sign such contract on behalf of the latter. In every such case a legal Power of Attorney from their principals must be furnished to

Transnet by the South African representative or agents authorising them to enter into and sign such contract.

- a) Such Power of Attorney must comply with Government Notice No. 1160 of 27 June 1930 [and any amendments thereto] - "Rules of the Supreme Court of South Africa for the authentication of documents executed outside the Republic for use within the Republic."
- b) The Power of Attorney must be signed by the principal under the same title as used in the Bid Documents.
- c) On arrival within the Republic of South Africa this Power of Attorney is to be completed in terms of Section 8(2) of the Stamp Duties Act No. 77 of 1968, or any amendment thereof.
- d) If a Power of Attorney held by the South African representative or agent includes matters of a general nature besides provision for the entering into and signing of a contract with Transnet, a certified copy thereof should be furnished.
- e) The Power of Attorney must authorise the South African representative or agent to choose the *domicilium citandi et executandi* as provided for in clause 26 [Addresses for Notices] of the Standard Conditions of Contract, Form ST&C - Goods.

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

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

31.5 The attention of the Respondent is directed to clause 16 above [Securities] regarding the provision of security for the fulfilment of contracts and orders and the manner and form in which such security is to be furnished.

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**RFP FOR THE SUPPLY AND DELIVERY OF
TRANSNET SECURITY UNIFORM CLOTHING
FOR A PERIOD OF FIVE (5) YEARS**

**Section 9: CERTIFICATE OF ACQUAINTANCE WITH THE TERMS AND CONDITIONS OF
CONTRACT FOR THE SUPPLY OF GOODS TO TRANSNET**

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 supply 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



**STANDARD TERMS AND CONDITIONS OF CONTRACT
FOR THE SUPPLY OF GOODS TO TRANSNET**

FORM ST&C - GOODS [March 2012]

“PREVIEW COPY ONLY”

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1 INTRODUCTION

When an Agreement is entered into between Transnet SOC Ltd [**Transnet**] and the appointed supplier of Goods to Transnet [**the Supplier**], these Standard Terms and Conditions of Contract, the technical specifications for the Goods, the General Bid Conditions, a Schedule of Requirements including such special conditions as may be applicable, and any terms in the associated Bid Documents, exclusively govern the supply of Goods and provision of ancillary Services by the Supplier to Transnet.

2 DEFINITIONS

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

- 2.1 **AFSA** means the Arbitration Foundation of South Africa;
- 2.2 **Agreement** means the Agreement and its associated schedules and/or annexures and/or appendices, and/or schedules, including the Schedule of Requirements, the technical specifications for the Goods and such special conditions as shall apply to the Agreement, together with the General Bid Conditions and any additional provisions in the associated bid documents tendered by the Supplier [as agreed, in writing, between the Parties], which collectively and exclusively govern the supply of Goods and provision of ancillary Services by the Supplier to Transnet;
- 2.3 **Background Intellectual Property** means all Intellectual Property introduced and required by either Party to give effect to their obligations under the Agreement owned in whole or in part by or licensed to either Party or their affiliates prior to the Commencement Date or developed after the Commencement Date otherwise pursuant to the Agreement;
- 2.4 **Business Day(s)** means Mondays to Fridays between 07:30 and 16:00, excluding public holidays as proclaimed in South Africa;
- 2.5 **Commencement Date** means [●], notwithstanding the signature date of the Agreement;
- 2.6 **Confidential Information** means any information or other data, whether in written, oral, graphic or in any other form such as in documents, papers, memoranda, correspondence, notebooks, reports, drawings, diagrams, discs, articles, samples, test results, prototypes, designs, plans, formulae, patents, or inventor's certificates, which a Party discloses or provides to the other Party [intentionally or unintentionally, or as a result of one Party permitting the representative of the other Party to visit any of its premises], or which otherwise becomes known to a Party, and which is not in the public domain and includes, without limiting the generality of the term:
 - a) information relating to methods of operation, data and plans of the disclosing Party;
 - b) the contents of the Agreement;
 - c) private and personal details of employees or clients of the disclosing Party or any other person where an onus rests on the disclosing Party to maintain the confidentiality of such information;
 - d) any information disclosed by either Party and which is clearly marked as being confidential or secret;
 - e) information relating to the strategic objectives and planning of the disclosing Party relating to its existing and planned future business activities;

- f) information relating to the past, present and future research and development of the disclosing Party;
 - g) information relating to the business activities, business relationships, products, services, customers, clients and Subcontractors of the disclosing Party where an onus rests on the disclosing Party to maintain the confidentiality of such information;
 - h) information contained in the software and associated material and documentation belonging to the disclosing Party;
 - i) technical and scientific information, Know-How and trade secrets of a disclosing Party including inventions, applications and processes;
 - j) Copyright works;
 - k) commercial, financial and marketing information;
 - l) data concerning architecture, demonstrations, tools and techniques, processes, machinery and equipment of the disclosing Party;
 - m) plans, designs, concepts, drawings, functional and technical requirements and specifications of the disclosing Party;
 - n) information concerning faults or defects in Goods, equipment, hardware or software or the incidence of such faults or defects; and
 - o) information concerning the charges, fees and/or costs of the disclosing Party or its authorised Subcontractors, or their methods, practices or service performance levels actually achieved;
- 2.7 **Copyright** means the right in expressions, procedures, methods of operations or mathematical concepts, computer program codes, compilations of data or other material, literary works, musical works, artistic works, sound recordings, broadcasts, program carrying signals, published editions, photographic works, or cinematographic works of the copyright owner to do or to authorise the doing of certain acts specified in respect of the different categories of works;
- 2.8 **Designs** mean registered Designs and/or Design applications and will include the monopoly right granted for the protection of an independently created industrial design including designs dictated essentially by technical or functional considerations as well as topographies of integrated circuits and integrated circuits;
- 2.9 **Foreground Intellectual Property** means all Intellectual Property developed by either Party pursuant to the Agreement;
- 2.10 **Goods** means [●], the material / products specified in the Schedule of Requirements appended as Schedule 1 hereto;
- 2.11 **ICC Incoterms 2010** means the set of commercial trade terms as published by the International Chamber of Commerce, Paris [ICC], which are otherwise referred to as purchase terms and which define precisely the responsibilities, costs and risks of the buyer [Transnet] and the seller [the Supplier]. Incoterms are only applicable to contracts involving the import or export of Goods from one country to another and for the purpose of the Agreement, if applicable, shall mean the designated Incoterm as stipulated in Schedule 1 hereto. Further details of the Incoterm [purchase

terms] for the Agreement, if applicable, can be viewed at the International Business Training website - <http://www.i-b-t.net/incoterms.html>;

- 2.12 **Intellectual Property** means Patents, Designs, Know-How, Copyright and Trade Marks and all rights having equivalent or similar effect which may exist anywhere in the world and includes all future additions and improvements to the Intellectual Property;
- 2.13 **Know-How** means all Confidential Information of whatever nature relating to the Intellectual Property and its exploitation as well as all other Confidential Information generally relating to Transnet's field of technology, including technical information, processing or manufacturing techniques, Designs, specifications, formulae, systems, processes, information concerning materials and marketing and business information in general;
- 2.14 **Parties** mean the Parties to the Agreement together with their subsidiaries, divisions, business units, successors-in-title and assigns;
- 2.15 **Party** means either one of these Parties;
- 2.16 **Patents** mean registered Patents and Patent applications, once the latter have proceeded to grant, and includes a right granted for any inventions, products or processes in all fields of technology;
- 2.17 **Permitted Purpose** means any activity or process to be undertaken or supervised by a Staff member of one Party during the term of the Agreement, for which purpose authorised disclosure of the other Party's Confidential Information or Intellectual Property is a prerequisite in order to enable such activity or process to be accomplished;
- 2.18 **Price(s)** means the agreed Price(s) for the Goods to be purchased from the Supplier by Transnet, as detailed in the Schedule of Requirements, issued in accordance with the Agreement, as amended by mutual agreement between the Parties and in accordance with the terms and conditions in the Agreement from time to time;
- 2.19 **Purchase Order(s)** means official orders issued by an operating division of Transnet to the Supplier for the supply of Goods or ancillary Services;
- 2.20 **Services** means Services provided to Transnet including activities such as consultation, advisory services, implementation services and day-to-day assistance provided by the Supplier, pursuant to the Schedule of Requirements in terms of the Agreement;
- 2.21 **Staff** means any partner, employee, agent, consultant, independent associate or contractor, Subcontractor and the staff of such Subcontractor, or other authorised representative of either Party;
- 2.22 **Schedule of Requirements** means Schedule 1 hereto;
- 2.23 **Subcontract** means any contract or agreement or proposed contract or agreement between the Supplier and any third party whereby that third party agrees to provide to the Supplier the Goods or related Services or any part thereof or material used in the manufacture of the Goods or any part thereof;
- 2.24 **Subcontractor** means the third party with whom the Supplier enters into a Subcontract;
- 2.25 **Tax Invoice** means the document as required by Section 20 of the Value-Added Tax Act, 89 of 1991, as may be amended from time to time;

- 2.26 **Trade Marks** mean registered Trade Marks and Trade Mark applications and include any sign or logo, or combination of signs and/or logos capable of distinguishing the goods or services of one undertaking from those of another undertaking; and
- 2.27 **VAT** means Value-Added Tax chargeable in terms of the Value-Added Tax Act, 89 of 1991, as may be amended from time to time.

3 INTERPRETATION

- 3.1 Clause headings in the Agreement are included for ease of reference only and do not form part of the Agreement for the purposes of interpretation or for any other purpose. No provision shall be construed against or interpreted to the disadvantage of either Party hereto by reason of such Party having or being deemed to have structured or drafted such provision.
- 3.2 Any term, word or phrase used in the Agreement, other than those defined under the clause heading "Definitions" shall be given its plain English meaning, and those terms, words, acronyms, and phrases used in the Agreement will be interpreted in accordance with the generally accepted meanings accorded thereto.
- 3.3 A reference to the singular incorporates a reference to the plural and *vice versa*.
- 3.4 A reference to natural persons incorporates a reference to legal persons and *vice versa*.
- 3.5 A reference to a particular gender incorporates a reference to the other gender.

4 NATURE AND SCOPE

- 4.1 The Agreement is an agreement under the terms and conditions of which the Supplier will arrange for the supply to Transnet of the Goods which meet the requirements and specifications of Transnet, the delivery of which is controlled by means of Purchase Orders to be issued by Transnet and executed by the Supplier in accordance with the Agreement.
- 4.2 Such Purchase Orders and deliveries to Transnet shall be agreed between the Parties from time to time, subject to the terms of the Schedule of Requirements.
- 4.3 Each properly executed Purchase Order forms an inseparable part of the Agreement as if it were fully incorporated into the body of the Agreement.
- 4.4 During the period of the Agreement, both Parties can make written suggestions for amendments to the Schedule of Requirements in accordance with procedures set out in clause 28 [*Amendment and Change Control*]. A Party will advise the other Party within 14 [fourteen] Business Days, or such other period as mutually agreed, whether the amendment is acceptable.
- 4.5 Insofar as any term, provision or condition in the Schedule of Requirements conflicts with a like term, provision or condition in the Agreement and/or a Purchase Order, the term or provision or condition in this Master Agreement shall prevail, unless such term or provision or condition in this Master Agreement has been specifically revoked or amended by mutual written agreement between the Parties.

5 AUTHORITY OF PARTIES

- 5.1 Nothing in the Agreement will constitute or be deemed to constitute a partnership between the Parties, or constitute or be deemed to constitute the Parties as agents or employees of one another for any purpose or in any form whatsoever.
- 5.2 Neither Party shall be entitled to, or have the power or authority to:
- a) enter into an agreement in the name of the other; or
 - b) give any warranty, representation or undertaking on the other's behalf; or
 - c) create any liability against the other or bind the other's credit in any way or for any purpose whatsoever.

6 DURATION AND CANCELLATION

- 6.1 Notwithstanding the date of signature hereof, the Commencement Date of the Agreement is [●] and the duration shall be for a [●] [[●]] year period, expiring on [●], unless:
- a) the Agreement is terminated by either Party in accordance with the provisions incorporated herein or in any schedules or annexures appended hereto, or otherwise in accordance with law or equity; or
 - b) the Agreement is extended at Transnet's option for a further period to be agreed by the Parties.
- 6.2 Notwithstanding clause 16 [*Breach and Termination*], either Party may cancel the Agreement without cause by giving 30 [thirty] days prior written notice thereof to the other Party, provided that in such instance, the Agreement will nevertheless be applicable in respect of all Purchase Orders which have been placed prior to the date of such cancellation.

7 GENERAL OBLIGATIONS OF THE SUPPLIER

- 7.1 The Supplier shall:
- a) respond promptly to all complaints and enquiries from Transnet;
 - b) inform Transnet immediately of any dispute or complaint arising in relation to the storage or delivery of the Goods;
 - c) conduct its business in a professional manner which will reflect positively upon the Supplier and the Supplier's products;
 - d) keep full records clearly indicating all transactions concluded by the Supplier relating to the delivery of the Goods and keep such records for at least 5 [five] years from the date of each such transaction;
 - e) obtain, and at all times maintain in full force and effect, any and all licences, permits and the like required under applicable laws for the provision of the Goods and ancillary Services and the conduct of the business and activities of the Supplier;
 - f) observe and ensure compliance with all requirements and obligations as set out in the labour and related legislation of South Africa, including the Occupational Health and Safety Act, 85 of 1993, as may be amended from time to time;

- g) comply with all applicable environmental legislation and regulations, demonstrate sound environmental performance and have an environmental management policy which ensures that its products, including the Goods or ancillary Services are procured, produced, packaged, delivered and are capable of being used and ultimately disposed of in a way that is environmentally appropriate; and
- h) ensure the validity of all renewable certifications, including but not limited to its Tax Clearance Certificate and B-BBEE Accreditation Certificate, throughout the entire term of the Agreement. Should the Supplier fail to present Transnet with such renewals as they become due, Transnet shall be entitled, in addition to any other rights and remedies that it may have in terms of the Agreement, to terminate the Agreement forthwith without any liability and without prejudice to any claims which Transnet may have for damages against the Supplier.

7.2 The Supplier acknowledges and agrees that it shall at all times:

- a) render the supply of the Goods and ancillary Services and perform all its duties with honesty and integrity;
- b) communicate openly and honestly with Transnet regarding the supply and performance of the Goods and demonstrate a commitment to effecting the supply and performing ancillary Services timeously, efficiently and at least to the required standards;
- c) endeavour to provide the highest possible standards of service and workmanship, with a reasonable degree of care and diligence;
- d) use its best endeavours and make every diligent effort to meet agreed deadlines;
- e) treat its own Staff, as well as all Transnet's Staff, with fairness and courtesy and respect for their human rights;
- f) practice and promote its own internal policies aimed at prohibiting and preventing unfair discrimination;
- g) treat all enquiries from Transnet in connection with the supply of the Goods and/or ancillary Services with courtesy and respond to all enquiries promptly and efficiently. Where the Supplier is unable to comply with the provisions of this clause, the Supplier will advise Transnet of the delay and the reasons therefor and will keep Transnet informed of progress made regarding the enquiry;
- h) when requested by Transnet, provide clear and accurate information regarding the Supplier's own policies and procedures, excluding Know-How and other Confidential Information, except where a non-disclosure undertaking has been entered into between the Parties;
- i) not allow a conflict of interest to develop between its own interests [or the interests of any of its other customers] and the interests of Transnet;
- j) not accept or offer, nor allow, induce or promote the acceptance or offering of any gratuity, enticement, incentive or gift that could reasonably be regarded as bribery or an attempt to otherwise exert undue influence over the recipient;

- k) not mislead Transnet or its officers, employees and stakeholders, whether by act or omission;
- l) not otherwise act in an unethical manner or do anything which could reasonably be expected to damage or tarnish Transnet's reputation or business image; and
- m) immediately report to Transnet any unethical, fraudulent or otherwise unlawful conduct of which it becomes aware in connection with Transnet or the supply of Goods or ancillary Services to Transnet.

7.3 In compliance with the National Railway Safety Regulator Act, 16 of 2002, as may be amended from time to time, the Supplier shall ensure that the Goods and ancillary Services, to be supplied to Transnet under the terms and conditions of the Agreement, comply fully with the Specifications as set forth in Schedule 1 hereto, and shall thereby adhere [as applicable] to railway safety requirements and/or regulations. Permission for the engagement of a Subcontractor by the Supplier, as applicable, shall be subject to a review of the capability of the proposed Subcontractor to comply with the specified railway safety requirements and/or regulations. The Supplier and/or its Subcontractor shall grant Transnet access, during the term of the Agreement, to review any safety-related activities, including the coordination of such activities across all parts of its organisation.

8 INVOICES AND PAYMENT

- 8.1 Transnet shall pay the Supplier the amounts stipulated in each Purchase Order, subject to the terms and conditions of the Agreement.
- 8.2 Transnet shall pay such amounts to the Supplier upon receipt of a valid and undisputed Tax Invoice together with the supporting documentation, as specified in the Schedule of Requirements appended hereto, once the undisputed Tax Invoices or such portions of the Tax Invoices which are undisputed become due and payable to the Supplier for the delivery of the Goods ordered, in terms of clause 8.4 below.
- 8.3 All Prices set out in the Agreement and the Schedule of Requirements hereto are exclusive of VAT.
- 8.4 Unless otherwise provided for in the Schedule of Requirements appended to the Agreement, Tax Invoices shall be submitted together with a month-end statement. Payment against such month-end statement shall be made by Transnet within 30 [thirty] days after date of receipt by Transnet of the Supplier's statement together with the relevant undisputed Tax Invoice(s) and supporting documentation.
- 8.5 Where the payment of any Tax Invoice, or any part of a Tax Invoice which is not in dispute, is not made in accordance with this clause 8, the Supplier shall be entitled to charge interest on the outstanding amount, at The Standard Bank of South Africa's prime rate of interest in force, for the period from the due date of payment until the outstanding amount is paid.
- 8.6 The Supplier shall remain the owner of all plant, material, machinery, equipment and the like [collectively, **the Supplier's Goods**] provided to Transnet until Transnet has paid in full for the Supplier's Goods, it being specifically agreed that Transnet shall acquire no rights [including liens and rights of use] of whatsoever nature in such Supplier's Goods until date of final payment by

Transnet. Subject to the foregoing, all risk and benefit to the Supplier's Goods shall pass from the Supplier to Transnet on delivery of the Supplier's Goods by the Supplier to Transnet.

9 PRICE ADJUSTMENTS

- 9.1 Prices for Goods supplied in terms of the Agreement shall be subject to review as indicated in the Schedule of Requirements annexed hereto.
- 9.2 No less than 2 [two] months prior to any proposed Price adjustment, the Parties shall commence negotiations for Prices for the next period or as otherwise indicated in Schedule 1 hereto. The Parties shall have regard for market-related pricing of equivalent goods, continuous improvement initiatives, costs [including labour, raw materials and transport/delivery], order size and frequency and changes to the specification of the Goods.
- 9.3 Pursuant to clause 9.2 above, the Supplier shall keep full and accurate records of all costs associated with the supply of the Goods to Transnet, in a form to be approved in writing by Transnet. The Supplier shall produce such records to Transnet for inspection at all reasonable times on request and such records may, at Transnet's option, be audited by Transnet or its designated representatives.
- 9.4 Should Transnet and the Supplier fail to reach an agreement on Price for the successive period, either Party shall be entitled to submit this matter to dispute resolution in accordance with clause 25 of the Master Agreement *[Dispute Resolution]*.
- 9.5 If during the period of the Agreement Transnet can purchase similar Goods of a like quality from another supplier at a total delivered cost to a Transnet facility that is lower than the total delivered cost of the Goods purchased hereunder from the Supplier, Transnet may notify the Supplier of such total delivered cost and the Supplier shall have an opportunity to adjust the Price of the Goods purchased hereunder, on such a basis as to result in the same total delivered cost to Transnet, within 30 [thirty] calendar days of such notice. If the Supplier fails to do so or cannot legally do so, Transnet may (i) purchase the Goods from such other supplier in which case the obligations, including, but not limited to, any purchase and sale requirements and/or commitments, if any, of Transnet and the Supplier hereunder shall be reduced accordingly; (ii) terminate the Agreement without any penalty, liability or further obligation; or (iii) continue purchases under the Agreement.
- 9.6 If during the period of the Agreement the Supplier sells any materials which are the same as, equivalent to, or substantially similar to the Goods herein, at a total delivered cost to a third party lower than the total delivered cost to a Transnet facility, then the Supplier has an opportunity to adjust its Price for the Goods purchased hereunder within 30 [thirty] calendar days so that the Price is the same or lower than the total delivered cost of such third party. If the Supplier fails to do so or cannot legally do so, Transnet may (i) purchase the Goods from any other such supplier, in which case the obligations, including, but not limited to, any purchase and sale requirements and/or commitments, if any, of Transnet and the Supplier hereunder shall be reduced accordingly; or (ii) terminate the Agreement without any penalty, liability or further obligation. Within 30 [thirty] calendar days of the Commencement Date of the Agreement or at any time Transnet so requests, the Supplier shall certify in writing to Transnet that it is in compliance with this clause

and shall provide all information that Transnet reasonably requests in order to verify such compliance.

10 WARRANTIES

The Supplier warrants that:

- 10.1 pursuant to clause 7.3 [*General Obligations of the Supplier*], the Goods will be manufactured in accordance with the specifications appended hereto at Schedule 1, or the manufacturer's specifications, as agreed in writing by both Parties;
- 10.2 the execution and performance of the Agreement by the Supplier does not infringe any rights of a third party or breach any obligation of the Supplier to any third party; and
- 10.3 it has taken all reasonable precautions to ensure that, in the event of a disaster, the impact of such disaster on the ability of the Supplier to comply with its obligations under the Agreement will be reduced to the greatest extent possible, and that the Supplier shall ensure that it has appropriate, tested and documented recovery arrangements in place.

11 THIRD PARTY INDEMNITY

The Supplier hereby indemnifies and shall hold Transnet harmless against any direct damages suffered by or claims arising against Transnet in respect of clause 10.2 above.

12 INSPECTION

- 12.1 Transnet reserves the right to arrange for the inspection of all Goods forming the subject of any Purchase Order, at any stage before final acceptance and by any means it may think fit, and when such inspection is to be carried out, the relevant Purchase Order(s) shall be endorsed accordingly.
- 12.2 When inspection at the Supplier's works or warehouse is specified, Transnet's authorised inspector shall have free access to the premises of the Supplier at all times during working hours on a Business Day; shall have liberty to inspect work which is the subject of the Purchase Order at any stage of manufacture, and may reject any Goods which are found to be incomplete, defective or in any way not in conformity with the terms and specifications of the Agreement; and the Supplier shall afford all reasonable facilities for such access and inspection.
- 12.3 The Supplier shall provide inspection gauges, measuring and test equipment to ensure that the requirements of the Agreement are satisfied. All gauges, templates, tools and other equipment required to check the accuracy of the work shall be calibrated at regular and reasonable intervals by a laboratory which has been approved in writing by Transnet. This certificate shall not be more than 12 [twelve] months old.
- 12.4 The Supplier shall prepare and supply, without charge to Transnet, all test pieces, samples and specimens; shall provide all labour and apparatus for carrying out tests and analyses in accordance with the terms of the Agreement or Purchase Order, and render all reasonable assistance in making such tests and analyses.
- 12.5 All special rules governing gauging, testing, analysis and other inspection procedures shall be adhered to strictly in accordance with the terms of the Agreement or Purchase Order and the conditions of any specifications and drawings quoted therein.
- 12.6 Inspection will be arranged by the Staff of Transnet, as indicated in the Purchase Order(s).

- 12.7 When Goods are ready for inspection, the Supplier shall apply promptly to the appropriate authority for instructions regarding such inspection. All applications for inspection shall quote Transnet's Agreement or Purchase Order number. 7 [seven] Business Days' notice of readiness from the Supplier shall be given to the authorised inspector appointed by Transnet to carry out such inspection.
- 12.8 Transnet shall have the right to recover from the Supplier the cost of inspection of any Goods that have been rejected by its authorised inspector in terms of this clause 12.

13 DEFECTIVE GOODS

- 13.1 Notwithstanding any certificate and/or receipt that may have been issued by or on behalf of Transnet either in South Africa or overseas, Goods will be accepted at the place of delivery or at the port of shipment, as specified in the Agreement, only as regards outward condition of packages and Transnet retains the right to reject the Goods supplied, on or after arrival at the place to which they are consigned, or after they have been placed in use in South Africa, should they be found defective.
- 13.2 If Goods are rejected owing to latent defects becoming apparent during machining operations or other preparation necessary on the part of Transnet before they can be put into use, the Supplier shall bear all expenses incurred by Transnet in carrying out such necessary operations.
- 13.3 If such Goods are rejected, the Supplier will pay the following costs:
- a) for Goods purchased in South Africa on an ex works basis, the cost of transport from the Supplier's works in South Africa to the named destination where the Goods have been rejected by Transnet, plus handling charges and storage, if leviable; or
 - b) for Goods manufactured overseas, the Supplier shall pay all replacement costs including the overseas inland transport cost, freight and insurance charges incurred plus railage or other inland transport costs from the South African port to the place where the Goods have been rejected by Transnet, including handling charges, storage, landing charges, customs duty and surcharges, if leviable.
- 13.4 If Transnet requires rejected Goods to be replaced, the Supplier shall, when called upon to do so, arrange prompt replacement of the Goods within the prescribed manufacturing lead times for such Goods, as indicated in Schedule 1.
- 13.5 If Goods are found to be defective but the defects are, in the opinion of Transnet, not of so serious a nature as to warrant total rejection of the Goods, the Supplier shall, when called upon to do so, remedy or make good such defects at its own cost, or Transnet may remedy or make good such defects at the request of the Supplier and recover from the Supplier all costs or expenses reasonably incurred by it in doing so.
- 13.6 Should the Supplier fail, when called upon to remedy or make good such defects within a reasonable time or to request Transnet to do so, Transnet may proceed to remedy or make good such defects and thereafter recover from the Supplier all such costs and expenses as aforementioned.

- 13.7 Any amount recoverable from the Supplier in terms of this clause may, without prejudice to any other legal remedies available to Transnet, be deducted in whole or in part from any monies in the hands of Transnet which are due for payment to the Supplier.

14 TOTAL OR PARTIAL FAILURE TO PERFORM THE SCOPE OF SUPPLY

- 14.1 In the case of Goods to be specially manufactured for it, if Transnet at any time ascertains that:

- a) no manufacturing of the Goods specified in a Purchase Order has commenced and there is little or no prospect, in Transnet's opinion, that manufacturing will commence within a reasonable time; or
- b) delivery of any of the Goods is being or is likely to be delayed beyond the promised delivery date(s), and there is little or no prospect of the Purchase Order(s) being carried out within reasonable adherence to the promised delivery rate(s) or time(s),

then Transnet may, irrespective of the cause of the delay, by notice to the Supplier, cancel as from a future date specified in such notice the whole or any part of the Agreement or Purchase Order in respect of which the Goods to be supplied have not been completed by that date, without incurring any liability by reason of such cancellation except as provided in this clause.

- 14.2 The Supplier shall thereupon, as soon as possible after such date, deliver to Transnet the Goods [if any] already completed, and payment for the part performance shall be made on a *pro rata* basis, provided the uncompleted part is not an integral or essential part of the completed Goods. Where an integral or essential part of the work has not been completed, the amount to be paid to the Supplier will be calculated on the basis of Transnet's enrichment. The Supplier shall, wherever practicable, supply Transnet with the necessary drawings and/or specifications to enable it to complete the work.

- 14.3 Whenever, in any case not covered by clause 14.1 above, the Supplier fails or neglects to execute the work or to deliver any portion of the Goods as required by the terms of the Agreement or Purchase Order, or if any Goods are rejected on any of the grounds mentioned in clause 13 [Defective Goods], Transnet may cancel the Agreement or Purchase Order in so far as it relates to the unexecuted work or the undelivered or rejected portion of the Goods, and in such event, the supply of the remaining portion shall remain subject in all respects to these conditions.

15 RIGHTS ON CANCELLATION

- 15.1 If the Agreement or Purchase Order is cancelled in whole or in part in terms of clause 14 [Total or Partial Failure to Perform the Scope of Supply], Transnet may execute or complete the Agreement with any other entity and do so on such terms as it may deem proper, or may procure other comparable Goods in substitution for those neglected to be manufactured or supplied or rejected as aforesaid, and may recover from the Supplier the difference between the cost of such Goods and the Price [if the latter was lower] as well as any costs and expenses [including any additional transport costs] which Transnet may have had to incur in consequence of the Supplier's default.
- 15.2 Any amount which may be recoverable from the Supplier in terms of clause 15.1 above, without prejudice to any other legal remedies available to Transnet, may be deducted in whole or in part from any monies in the hands of Transnet and due for payment to the Supplier.

16 BREACH AND TERMINATION

- 16.1 If either Party [**the Defaulting Party**] commits a material breach of the Agreement and fails to remedy such breach within 10 [ten] Business Days of written notice thereof, the other Party [hereinafter **the Aggrieved Party**], shall be entitled, in addition to any other rights and remedies that it may have in terms of the Agreement, to terminate the Agreement forthwith without any liability and without prejudice to any claims which the Aggrieved Party may have for damages against the Defaulting Party.
- 16.2 Either Party may terminate the Agreement forthwith by notice in writing to the other Party when the other Party is unable to pay its debts as they fall due or commits any act or omission which would be an act of insolvency in terms of the Insolvency Act, 24 of 1936 [as amended from time to time], or if any action, application or proceeding is made with regard to it for:
- a) a voluntary arrangement or composition or reconstruction of its debts;
 - b) its winding-up or dissolution;
 - c) the appointment of a liquidator, trustee, receiver, administrative receiver or similar officer; or
 - d) any similar action, application or proceeding in any jurisdiction to which it is subject.
- 16.3 Transnet may terminate the Agreement at any time within 2 [two] months of becoming aware of a change of control of the Supplier by notice in writing to the Supplier. For the purposes of this clause, **control** means the right to direct the affairs of a company whether by ownership of shares, membership of the board of directors, agreement or otherwise.
- 16.4 The provisions of clauses 0 [Definitions], 10 [Warranties], 15 [Rights on Cancellation], 19 [Confidentiality], 21 [Limitation of Liability], 22 [Intellectual Property Rights], 25 [Dispute Resolution] and 29.1 [Governing Law] shall survive termination or expiry of the Agreement.

17 CESSION

- 17.1 Upon written notice to the Supplier, Transnet shall be entitled:
- a) to appoint Transnet's financier of the Goods as first payer under the Agreement, without transferring the ultimate responsibility for payment which will remain with Transnet; and
 - b) to cede, assign and transfer its right, title and interest in the Goods to such financier as part of the funding consideration for the Goods.
- 17.2 The Supplier is not entitled to cede, delegate, assign, Subcontract or in any other manner dispose of any of its rights or obligations in terms of the Agreement without the prior written consent of Transnet, which consent shall not be withheld or delayed unreasonably.

18 FORCE MAJEURE

- 18.1 Neither Party shall have any claim against the other Party arising from any failure or delay in the performance of any obligation of either Party under the Agreement caused by an act of *force majeure* such as acts of God, fire, flood, war, strike, lockout, industrial dispute, government action, laws or regulations, riots, terrorism or civil disturbance, defaults, delays or discontinuance on the part of independent contractors, or other circumstances or factors beyond the reasonable control of either Party, and to the extent that the performance of obligations of either Party

hereunder is delayed by virtue of the foregoing, any period stipulated for any such performance shall be reasonably extended.

- 18.2 Each Party will take all reasonable steps by whatever lawful means that are available to resume full performance as soon as practicable and will seek agreement to modification of the relevant provisions of the Agreement in order to accommodate the new circumstances caused by the act of *force majeure*. If a Party fails to agree with such modifications proposed by the other Party within 90 [ninety] days of the act of *force majeure* first occurring, either Party may thereafter terminate the Agreement with immediate notice.

19 CONFIDENTIALITY

- 19.1 The Parties hereby undertake the following with regard to Confidential Information:

- a) not to divulge or disclose to any person whomsoever in any form or manner whatsoever, either directly or indirectly, any Confidential Information of the other without the prior written consent of such other Party, other than when called upon to do so in accordance with a statute, or by a court having jurisdiction, or by any other duly authorised and empowered authority or official, in which event the Party concerned shall do what is reasonably possible to inform the other of such a demand and each shall assist the other in seeking appropriate relief or the instituting of a defensive action to protect the Confidential Information concerned;
- b) not to use, exploit, permit the use of, directly or indirectly, or in any other manner whatsoever apply the Confidential Information disclosed to it as a result of the Agreement, for any purpose whatsoever other than for the purpose for which it is disclosed or otherwise than in strict compliance with the provisions in the Agreement;
- c) not to make any notes, sketches, drawings, photographs or copies of any kind of any part of the disclosed Confidential Information without the prior written consent of such other Party, except when reasonably necessary for the purpose of the Agreement, in which case such copies shall be regarded as Confidential Information;
- d) not to de-compile, disassemble or reverse engineer any composition, compilation, concept application, item, component de-compilation, including software or hardware disclosed and shall not analyse any sample provided by Transnet, or otherwise determine the composition or structure or cause to permit these tasks to be carried out except in the performance of its obligations pursuant to the Agreement;
- e) not to exercise less care to safeguard Transnet Confidential Information than the Party exercises in safeguarding its own competitive, sensitive or Confidential Information;
- f) Confidential Information disclosed by either Party to the other or by either Party to any other party used by such party in the performance of the Agreement, shall be dealt with as "restricted" or shall be dealt with according to any other appropriate level of confidentiality relevant to the nature of the information concerned, agreed between the Parties concerned and stipulated in writing for such information in such cases;
- g) the Parties shall not make or permit to be made by any other person subject to their control, any public statements or issue press releases or disclose Confidential Information

with regard to any matter related to the Agreement, unless written authorisation to do so has first been obtained from the Party first disclosing such information;

- h) each Party shall be entitled to disclose such aspects of Confidential Information as may be relevant to one or more technically qualified employees or consultants of the Party who are required in the course of their duties to receive the Confidential Information for the Permitted Purpose provided that the employee or consultant concerned has a legitimate interest therein, and then only to the extent necessary for the Permitted Purpose, and is informed by the Party of the confidential nature of the Confidential Information and the obligations of the confidentiality to which such disclosure is subject and the Party shall ensure such employees or consultants honour such obligations;
- i) each Party shall notify the other Party of the name of each person or entity to whom any Confidential Information has been disclosed as soon as practicable after such disclosure;
- j) each Party shall ensure that any person or entity to which it discloses Confidential Information shall observe and perform all of the covenants the Party has accepted in the Agreement as if such person or entity has signed the Agreement. The Party disclosing the Confidential Information shall be responsible for any breach of the provisions of the Agreement by such person or entity; and
- k) each Party may by written notice to the other Party specify which of the Party's employees, officers or agents are required to sign a non-disclosure undertaking.

19.2 The duties and obligations with regard to Confidential Information in this clause 19 shall not apply where:

- a) a Party can demonstrate that such information is already in the public domain or becomes available to the public through no breach of the Agreement by that Party, or its Staff; or
- b) was rightfully in a Party's possession prior to receipt from the other Party, as proven by the first-mentioned Party's written records, without an infringement of an obligation or duty of confidentiality; or
- c) can be proved to have been rightfully received by a Party from a third party without a breach of a duty or obligation of confidentiality; or
- d) is independently developed by a Party as proven by its written records.

19.3 This clause 19 shall survive termination for any reason of the Agreement and shall remain in force and effect from the Commencement Date of the Agreement and 5 [five] years after the termination of the Agreement. Upon termination of the Agreement, all documentation furnished to the Supplier by Transnet pursuant to the Agreement shall be returned to Transnet including, without limitation, all corporate identity equipment including dies, blocks, labels, advertising matter, printing matter and the like.

20 INSURANCES

20.1 Without limiting the liability of the Supplier under the Agreement, the Supplier shall take out insurance in respect of all risks for which it is prudent for the Supplier to insure against including any liability it may have as a result of its activities under the Agreement for theft, destruction, loss of or damage to Goods, death or injury to any person and damage to property. The level of

insurance will be kept under review by Transnet, on an annual basis, to ensure its adequacy, provided that any variation to the level of such insurance shall be entirely at the discretion of the Supplier.

20.2 The Supplier shall arrange insurance with reputable insurers and will produce to Transnet evidence of the existence of the policies on request.

20.3 Notwithstanding clause 20.1 above, should Transnet require specific insurance cover(s) in respect of the Goods purchased, such further requirements shall be set out in the Schedule of Requirements, appended hereto as Schedule 1.

21 LIMITATION OF LIABILITY

21.1 The Supplier's liability under this clause 21 shall be in addition to any warranty or condition of any kind, express or implied by law or otherwise, relating to the Goods or ancillary Services, including the quality of the Goods or ancillary Services or any materials delivered pursuant to the Agreement.

21.2 Neither Party excludes or limits liability to the other Party for:

- a) death or personal injury caused by its negligence, [including its employees', agents' or Subcontractors' negligence]; or
- b) fraud.

21.3 Neither Party accepts liability for damages and claims of a special, indirect or consequential nature arising as a result of the performance or non-performance of the Agreement, provided that such loss, damages or claims are not the direct result of the wilful acts or omissions and/or negligence or of any event which could reasonably have been foreseen and avoided on the part of the other Party. The phrase, "special, indirect or consequential" is deemed to include economic loss, loss of opportunity, loss of profit or revenue, and loss or damage in connection with claims against the principal by third parties.

21.4 Nothing in this clause 21 shall be taken as limiting the liability of the Parties in respect of clauses 19 [Confidentiality] and 22 [Intellectual Property Rights].

22 INTELLECTUAL PROPERTY RIGHTS

22.1 Title to Confidential Information

- a) Transnet will retain all right, title and interest in and to its Confidential Information and Background Intellectual Property and the Supplier acknowledges that it has no claim of any nature in and to the Confidential Information and Background Intellectual Property that is proprietary to Transnet. For the avoidance of doubt, all the Supplier's Background Intellectual Property shall remain vested in the Supplier.
- b) Transnet shall grant to the Supplier an irrevocable, royalty free, non-exclusive licence to use Transnet's Background Intellectual Property only for the Permitted Purpose. This licence shall not permit the Supplier to sub-license to other parties.
- c) The Supplier shall grant to Transnet an irrevocable, royalty free, non-exclusive licence to use the Supplier's Background Intellectual Property for the Permitted Purpose. This licence shall not permit Transnet to sub-license to other parties.

- d) The Supplier shall grant Transnet access to the Supplier's Background Intellectual Property on terms which shall be *bona fide* negotiated between the Parties for the purpose of commercially exploiting the Foreground Intellectual Property, to the extent that such access is required.

22.2 Title to Intellectual Property

- a) All right, title and interest in and to Foreground Intellectual Property prepared, conceived or developed by the Supplier, its researchers, agents and employees shall vest in Transnet and the Supplier acknowledges that it has no claim of any nature in and to the Foreground Intellectual Property. The Supplier shall not at any time during or after the termination or cancellation of the Agreement dispute the validity or enforceability of such Foreground Intellectual Property, or cause to be done any act or anything contesting or in any way impairing or tending to impair any part of that right, title and interest to any of the Foreground Intellectual Property and shall not counsel or assist any person to do so.
- b) Transnet shall be entitled to seek protection in respect of the Foreground Intellectual Property anywhere in the world as it shall decide in its own absolute discretion and the Supplier shall reasonably assist Transnet in attaining and maintaining protection of the Foreground Intellectual Property.
- c) Where the Foreground Intellectual Property was created by the Supplier or its researchers, agents and employees and where Transnet elects not to exercise its option to seek protection or decides to discontinue the financial support of the prosecution or maintenance of any such protection, Transnet shall notify the Supplier who shall have the right of first refusal to file or continue prosecution or maintain any such applications and to maintain any protection issuing on the Foreground Intellectual Property.
- d) No consideration shall be paid by Transnet to the Supplier for the assignment of any Foreground Intellectual Property from the Supplier to Transnet, over and above the sums payable in terms of the Agreement. The Supplier undertakes to sign all documents and do all things as may be necessary to effect, record and perfect the assignment of the Foreground Intellectual Property to Transnet.
- e) Subject to anything contrary contained in the Agreement and/or the prior written consent of Transnet [which consent shall not be unreasonably withheld], the Supplier shall under no circumstances be entitled as of right, or to claim the right, to use Transnet's Background Intellectual Property and/or Foreground Intellectual Property.

22.3 Title to Improvements

Any improvements, developments, adaptations and/or modifications to the Foreground Intellectual Property, and any and all new inventions or discoveries, based on or resulting from the use of Transnet's Background Intellectual Property and/or Confidential Information shall be exclusively owned by Transnet. The Supplier shall disclose promptly to Transnet all such improvements, developments, adaptations and/or modifications, inventions or discoveries. The Supplier hereby undertakes to sign all documents and do all things as may be necessary to effect, record and perfect the assignment of such improvements, developments, adaptations and/or modifications, inventions or discoveries to Transnet and the Supplier shall reasonably assist Transnet in

attaining, maintaining or documenting ownership and/or protection of the improved Foreground Intellectual Property.

22.4 Unauthorised Use of Confidential Information

The Supplier shall not authorise any party to act on or use in any way any Confidential Information belonging to Transnet whether or not such party is aware of such Confidential Information, and shall promptly notify Transnet of the information if it becomes aware of any party so acting, and shall provide Transnet the information with such assistance as Transnet reasonably requires, at Transnet's cost and expense, to prevent such third party from so acting.

22.5 Unauthorised Use of Intellectual Property

- a) The Supplier agrees to notify Transnet in writing of any conflicting uses of, and applications of registrations of Patents, Designs and Trade Marks or any act of infringement, unfair competition or passing off involving the Intellectual Property of Transnet of which the Supplier acquires knowledge and Transnet shall have the right, as its own option, to proceed against any party infringing its Intellectual Property.
- b) It shall be within the sole and absolute discretion of Transnet to determine what steps shall be taken against the infringer and the Supplier shall co-operate fully with Transnet, at Transnet's cost, in whatever measure including legal action to bring any infringement of illegal use to an end.
- c) The Supplier shall cooperate to provide Transnet promptly with all relevant ascertainable facts.
- d) If proceedings are commenced by Transnet alone, Transnet shall be responsible for all expenses but shall be entitled to all damages or other award arising out of such proceedings. If proceedings are commenced by both Parties, both Parties will be responsible for the expenses and both Parties shall be entitled to damages or other award arising out of proceedings.

23 NON-WAIVER

23.1 Failure or neglect by either Party, at any time, to enforce any of the provisions of the Agreement, shall not in any manner be construed to be a waiver of any of that Party's rights in that regard and in terms of the Agreement.

23.2 Such failure or neglect shall not in any manner affect the continued, unaltered validity of the Agreement, or prejudice the right of that Party to institute subsequent action.

24 PARTIAL INVALIDITY

If any provision of the Agreement shall be held to be invalid, illegal or unenforceable, or shall be required to be modified, the validity, legality and enforceability of the remaining provisions shall not be affected thereby.

25 DISPUTE RESOLUTION

25.1 Should any dispute of whatsoever nature arise between the Parties concerning the Agreement, the Parties shall try to resolve the dispute by negotiation within 10 [ten] Business Days of such dispute arising.

- 25.2 If the dispute has not been resolved by such negotiation, either of the Parties may refer the dispute to AFSA and notify the other Party accordingly, which proceedings shall be held in Johannesburg.
- 25.3 Such dispute shall be finally resolved in accordance with the rules of AFSA by an arbitrator or arbitrators appointed by AFSA.
- 25.4 This clause constitutes an irrevocable consent by the Parties to any proceedings in terms hereof, and neither of the Parties shall be entitled to withdraw from the provisions of this clause or claim at any such proceedings that it is not bound by this clause 25.
- 25.5 This clause 25 is severable from the rest of the Agreement and shall remain in effect even if the Agreement is terminated for any reason.
- 25.6 This clause 25 shall not preclude either Party from seeking urgent relief in a court of appropriate jurisdiction, where grounds for urgency exist.

26 ADDRESSES FOR NOTICES

- 26.1 The Parties to the Agreement select the physical addresses and facsimile numbers, as detailed hereafter, as their respective addresses for giving or sending any notice provided for or required in terms of the Agreement, provided that either Party shall be entitled to substitute such other address or facsimile number, as may be, by written notice to the other:

a) **Transnet**

- (i) For legal notices: [●]

Fax No. [●]

Attention: Legal Department

- (ii) For commercial notices: [●]

Fax No. [●]

Attention: [●]

b) **The Supplier**

- (i) For legal notices: [●]

Fax No. [●]

Attention: [●]

- (ii) For commercial notices: [●]

Fax No. [●]

Attention: [●]

- 26.2 Any notice shall be addressed to a Party at its physical address, or delivered by hand, or sent by facsimile.

- 26.3 Any notice shall be deemed to have been given:

- a) if hand delivered, on the day of delivery; or
- b) if sent by facsimile, on the date and time of sending of such facsimile, as evidenced by a facsimile confirmation printout, provided that such notice shall be confirmed by prepaid

registered post on the date of dispatch of such facsimile, or, should no postal facilities be available on that date, on the next Business Day.

27 WHOLE AND ONLY AGREEMENT

- 27.1 The Parties hereby confirm that the Agreement constitutes the whole and only agreement between them with regard to the subject matter of the Agreement.
- 27.2 The Parties hereby confirm that the Agreement replaces all other agreements which exist or may have existed in any form whatsoever between them, with regard to the subject matter dealt with in the Agreement, any annexures appended hereto and the Schedule of Requirements.

28 AMENDMENT AND CHANGE CONTROL

Any amendment or change of any nature made to the Agreement and the Schedule of Requirements thereof shall only be valid if it is in writing, signed by both Parties and added to the Agreement as an addendum hereto.

29 GENERAL

29.1 Governing Law

The Agreement is exclusively governed by and construed in accordance with the laws of the Republic of South Africa and is subject to the jurisdiction of the courts of the Republic of South Africa.

29.2 Change of Law

In the Agreement, unless the context otherwise requires, references to a statutory provision include references to that statutory provision as from time to time amended, extended or re-enacted and any regulations made under it, provided that in the event that the amendment, extension or re-enactment of any statutory provision or introduction of any new statutory provision has a material impact on the obligations of either Party, the Parties will negotiate in good faith to agree such amendments to the Agreement as may be appropriate in the circumstances. If, within a reasonable period of time, the Supplier and Transnet cannot reach agreement on the nature of the changes required or on modification of Prices, delivery schedules, warranties, or other terms and conditions, either Party may seek to have the matter determined in accordance with clause 25 [*Dispute Resolution*] above.

29.3 Counterparts

The Agreement may be signed in any number of counterparts, all of which taken together shall constitute one and the same instrument. Either Party may enter into the Agreement by signing any such counterpart.

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**Respondents should also note the obligations as set out in
clause 19 [Terms and Conditions of Contract]
of the General Bid Conditions [Appendix (i)] which reads as follows:**

- 19.1 *The Supplier shall adhere to the Terms and Conditions of Contract issued with the Bid Documents, together with any schedule of "Special Conditions" or otherwise which form part of the Bid Documents.*
- 19.2 *Should the Respondent find any conditions unacceptable, it should indicate which conditions are unacceptable and offer 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.*

“PREVIEW COPY ONLY”