



TRANSNET FREIGHT RAIL, a division of

TRANSNET SOC LTD

Registration Number 1990/000900/30

[hereinafter referred to as **Transnet**]

REQUEST FOR QUOTATION [RFQ]

RFQ CRAC-JHB-10042

**PROVISION FOR CLEANING, GARDEN SERVICES AND PEST CONTROL
SANNIESHOF, SCHWEIZER REINECKE & VRYBURG**

ISSUE DATE : 18 FEBRUARY 2013

BRIEFING SESSION : 22 FEBRUARY 2013

VENUE : SANNIESHOF STATION

TIME : 10:00

CLOSING DATE : 05 MARCH 2013

CLOSING TIME : 10:00

VALIDITY DATE : 31 MAY 2013

FOR DIRECTION / SITE CONTACT: FRANS NXUMALO 083 703 4110



Section 1

REQUEST FOR QUOTATION [RFQ]

RFQ CRAC-JHB-10042

**PROVISION FOR CLEANING, GARDEN SERVICES AND PEST CONTROL SANNIESHOF,
SCHWEITZER REINECKE & VRYBURG**

NOTICE TO BIDDERS

Quotations which must be completed as indicated in Section 2 of this RFQ are to be submitted as follows:

METHOD: Hand delivered

CLOSING VENUE: The Secretary Transnet Freight Rail, Acquisition Council, Ground Floor, Inyanda House 1, 21 Wellington Road, Parktown.

1 Responses to RFQ

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

2 Broad-Based Black Economic Empowerment [B-BBEE]

Transnet fully endorses and supports the Government's Broad-Based Black Economic Empowerment Programme and it would therefore prefer to do business with local business enterprises who share these same values. Transnet will accordingly allow a "preference" to companies who provide a B-BBEE Verification Certificate. All procurement transactions will be evaluated accordingly.

2.1 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
- Proposals will be evaluated on price which will be allocated 80 or 90 points and preference which will be allocated 20 or 10 points, dependent on the value of the Goods or Services

- The 80/20 preference point system applies where the acquisition of the Goods or Services 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.

In compliance with the Government Gazette No 34612, Notice No. 754 dated 23 September 2011, as from 1 October 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.

Enterprises will be rated by such agencies based on the following:

- c) **Large Enterprises** [i.e. annual turnover greater than R35 million]:
 - Rating level based on all seven elements of the B-BBEE scorecard
- d) **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
- e) **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
- Black 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 or accounting officer or a certificate from a Verification Agency accredited by SANAS. The certificate must confirm the company's turnover, black ownership / black female ownership and B-BBEE status level.

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

Transnet will accordingly allocate a maximum of **10/20 [ten/twenty] points** in accordance with the **80/20 / 90/10** preference point system prescribed in the Preferential Procurement Policy Framework Act (PPFPA), Act 5 of 2000 and its Regulations to the Respondent's final score based on an entity's B-BBEE scorecard rating. [Refer **Annexure A** for further details].

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

[Refer Section 4, Vendor Application Form, for Returnable Documents required]

3 Communication

- a) Respondents are warned that a response will be liable for disqualification should any attempt be made by a Respondent either directly or indirectly to canvass any officer(s) or employee of Transnet in respect of this RFQ between the closing date and the date of the award of the business.
- b) A Respondent may, however, before the closing date and time, direct any written enquiries relating to the RFQ to the following Transnet employee:

Name: Esther Tyam

Email: Esther.tyam@transnet.net

Quotations are requested from interested Respondents to supply the above-mentioned requirement to TRANSNET FREIGHT RAIL.

On or after 18/02/2013 the RFQ documents may be inspected at, and are obtainable from the office of TRANSNET Freight Rail Tender Advice Centre, Ground Floor, Inyanda House 1, 21 Wellington Road, Parktown

A COMPULSORY INFORMATION MEETING WILL BE HELD AT THE FOLLOWING

VENUE : SANNIESHOF STATION

Time : 10:00

Date : 22 FEBRUARY 2013

The site meeting is compulsory and companies not attending **will be overlooked** during the tender awarding process.

PLEASE BRING THE VALID DOCUMENT ON THE DAY OF BRIEFING AND ALSO MAKE SURE THAT YOU BRING YOUR SAFETY SHOES AND REFLECTIVE VEST ON SITE

A non-refundable tender fee of R150.00 (inclusive of Vat) is applicable per tender (listed below).

Payment is to be made to Transnet Freight Rail, Standard Bank Account number 203158598, Branch code 004805. The deposit slip must reflect the tender number RFQ CRAC-JHB-10042 and the Company Name. Receipt/s to be presented prior to collection of the tender/s.

NOTE: This amount is not refundable.

- c) Respondents may also, at any time after the closing date of the RFQ, communicate with the Secretariat of the Transnet Acquisition Council on any matter relating to its RFQ response:

Prudence Nkabinde

Telephone 011 544 9486

Fax 011 774 9760

Email TAC.SECRETARIAT@transnet.net

4 Tax Clearance

The Respondent's original valid Tax Clearance Certificate must accompany the Quotation. Failure to provide this document with the RFQ submission will result in disqualification.

5 VAT Registration

The valid VAT registration number must be stated here: _____ [if applicable].

6 Legal Compliance

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

7 Changes to Quotations

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

8 Pricing

All prices must be quoted in South African Rand on a fixed price basis, excluding VAT.

9 Prices Subject to Confirmation

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

10 Negotiations

Transnet reserves the right to undertake post-tender negotiations with selected Respondents or any number of short-listed Respondents.

11 Binding Offer

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

12 Disclaimers

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

- modify the RFQ's goods / service(s) and request Respondents to re-bid on any changes;
- reject any Quotation which does not conform to instructions and specifications which are detailed herein;
- disqualify Quotations submitted after the stated submission deadline;
- not necessarily accept the lowest priced Quotation;
- reject all Quotations, if it so decides;
- place an order in connection with this Quotation at any time after the RFQ's closing date;
- award only a portion of the proposed goods / service/s which are reflected in the scope of this RFQ;
- split the award of the order/s between more than one Supplier/Service Provider; or

- make no award at all.

Transnet reserves the right to lower the threshold for Technical by % [..... percent] if no Bidders pass the predetermined minimum threshold or if only one bidder passes the threshold. This right will be exercised in Transnet's sole discretion.

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 below whether or not they have been found guilty of a serious breach of law during the past 5 [five] years:

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

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

NATURE OF BREACH:

DATE OF BREACH: _____

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

13 Respondent's

Only in cases when the Respondent submits a sample(s) of the goods / products / material quoted for, the sample(s) must be endorsed with the RFQ (CRAC- JHB-) to the above description and forwarded on or before (05-03-2013) the deadline date to the following addresses: TRANSNET Freight Rail Tender Advice Centre, Ground Floor, Inyanda 1, 21 Wellington Road, and Parktown.

14 Evaluation Criteria

Transnet will utilise the following criteria in choosing a Supplier/Service Provider, if so required:

1. Administrative responsiveness - Completeness of response and returnable documents

2. Substantive responsiveness – Prequalification criteria, must be met

- Fit for purpose
- Resources (Certificate and CVs)
- Safety File in order

She rep/ Safety Representative

PPE Clothing
 Standard 217
 Hazardous Chemicals
 Substances control
 Inventory Control/ List of equipment
 Number of people to be deployed per area

- Letter of Good standing

3. Commercial

- Competitive price
- Reference / previous performance record (Experience in related projects)
- Delivery schedule / lead-time

4. B-BBEE Status of the Company

- Provide BBBEE level certification and Score Card
- Weighted evaluation based on 80/20 or 90/10 preference point system:

- Pricing and price basis [firm] - whilst not the sole factor for consideration, and overall level of unconditional discounts¹ will be critical

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

$$PS = 80 \left(1 - \frac{Pt - Pmin}{Pmin} \right) \text{ OR } PS = 90 \left(1 - \frac{Pt - Pmin}{Pmin} \right)$$

Where:

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

- B-BBEE status of company

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)	Number of points (80/20 system)
1	10	20
2	9	18
3	8	16
4	7	12
5	6	10
6	5	8

¹ Only unconditional discounts will be taken into account during evaluation. A discount which has been offered conditionally will, despite not being taken into account for evaluation purposes, be implemented when payment is effected.

7	2	4
8	1	2
Non-compliant contributor	0	0

14.1 Further Recognition Criteria

a) Further Recognition Criteria (Current)

As a pre-qualification criterion, certain minimum requirements with regard to the Respondent's CURRENT B-BBEE status at the time of submission of their bid must be met. These minimum requirements will be measured based on the extent to which the Respondent's current black ownership, management control and employment equity meets or exceeds certain minimum targets. Please note that a Respondent's ownership, management control and employment equity at the time of the submission of the bid, may differ from that which is reflected in the B-BBEE scorecard. When claiming that the minimum targets for FRC (Current) has been met, the Respondent must reflect his B-BBEE status at the time of submitting the bid. Supporting documentation may be requested in this regard. The minimum requirements for this RFP for FRC (Current) are stipulated in the table below:

PREQUALIFICATION CRITERIA	MINIMUM COMPLIANCE TARGET (%) AS A PERCENTAGE OF THE ORGANISATION
Further Recognition Criteria (Current):	
Black Ownership	50%
Black People in Rural Areas	50%

N.B. Failure to achieve the minimum prequalification targets allocated for FRC (Current) for any one of the criteria listed above at the closing date of this tender will result in disqualification.

Respondents are required to complete and submit their FRC Claim Form for FRC (Current) attached hereto as Annexure..... with their Proposals. [Refer Section for further instructions]

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

15 Validity Period

Transnet desires a validity period of 90 [ninety] days from the closing date of this RFQ.

This RFQ is valid until _____.

16 Banking Details

BANK: _____

BRANCH NAME / CODE: _____

ACCOUNT HOLDER: _____

ACCOUNT NUMBER: _____

Respondent's Signature

Date & Company Stamp

17 Company Registration

Registration number of company / C.C. _____

Registered name of company / C.C. _____

18 Disclosure of Prices Quoted

Respondents must indicate here whether Transnet may disclose their quoted prices and conditions to other Respondents:

YES ☐ NO ☐

19 Returnable Documents

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

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

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

All Sections, as indicated in the footer of each page, must be signed, stamped and dated by the Respondent. Please confirm submission of these mandatory Returnable Documents by so indicating [Yes or No] in the table below:

Returnable Documents	Submitted [Yes or No]
SECTION 2 : Quotation Form	
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 Quotations the following **essential Returnable Documents** as detailed below.

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

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:

Returnable Documents	Submitted [Yes or No]
SECTION 1 : Notice to Bidders	
- Valid B-BBEE Verification Certificate [RSA 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 [RSA 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	
- SECTION 3 : Standard Terms and Conditions of Contract for the Supply of Goods or Services to Transnet	
SECTION 5 : Vendor Application Form	
- Original cancelled cheque or bank verification of banking details	
- Certified copies of IDs of shareholder/directors/members [as applicable]	
- Certified copy of Certificate of Incorporation [CM29/CM9 name change]	
- Certified copy of share certificates [CK1/CK2 if C.C.]	
- Entity's letterhead	
- Certified copy of VAT Registration Certificate [RSA entities only]	
- Certified copy of valid Company Registration Certificate [if applicable]	
- A signed letter from Respondent's auditor or accountant confirming most recent annual turnover figures	

REQUEST FOR QUOTATION [RFQ]

REQUEST FOR QUOTATION [RFQ]

RFQ CRAC-JHB-10042

PROVISION FOR CLEANING, GARDENS SERVICES AND PEST CONTROL SANNIESHOF, SCHWEITZER REINECKE AND VRYBURG

Information Session

RFQ SITE MEETING

A COMPULSORY INFORMATION MEETING WILL BE HELD AT THE FOLLOWING VENUE:

Venue : SANNIESHOF STATION

Time : 10 H00

Date : 22 February 2013

The site meeting is compulsory and companies not attending will be overlooked during the tender awarding process.

5.1 **ATTENDANCE CERTIFICATE**

This is to certify that.....

Representative/s of

Has/have today attended the Tender briefing in respect of the proposed:

• *

TRANSNET'S REPRESENTATIVE

TENDERER'S REPRESENTATIVE

DATE:.....

• **VERY IMPORTANT**

ANY TENDERER NOT ATTENDING THE INFORMATION MEETING WILL AUTOMATICALLY BE EXCLUDED FROM THE BUSINESS AWARDING PROCESS

Section 2**REQUEST FOR QUOTATION [RFQ]****RFQ CRAC-JHB-10042****PROVISION FOR CLEANING AND GARDENS SERVICES SANNIESHOF, SCHWEITZER REINECKE AND VRYBURG****QUOTATION FORM**

I/We _____

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

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

- the Standard Terms and Conditions for the Supply of Goods and Services to Transnet [Section 3 hereof]; and
- any other standard or special conditions mentioned and/or embodied in this Request for Quotation.

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

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

Price Schedule

I/We quote as follows for the goods required, on a "delivered nominated destination" basis, excluding VAT:

Item No	Description of Goods/services	Unit of Measure	Quantity	Unit Price (ZAR)	Total Price (ZAR)
1	Cleaning and garden Service				

Delivery Lead-Time from date of purchase order : _____ **[days/weeks]**

Notes to Pricing:

- a) All Prices must be quoted in South African Rand, exclusive of VAT

Respondent's Signature

Date & Company Stamp

- b) To facilitate like-for-like comparison bidders must submit pricing strictly in accordance with this price schedule and not utilise a different format. Deviation from this pricing schedule could result in a bid being disqualified.
- c) Please note that should you have offered a discounted price(s), Transnet will only consider such price discount(s) in the final evaluation stage if offered on an unconditional basis.

- COMPANY INFORMATION

- 8. STATEMENT OF WORK (S) SUCCESSFULLY CARRIED OUT BY THE TENDERER:

- Tenderers are to advise which other companies have they successfully provided or are currently providing similar services.

Service Description	For whom done	Period	Contact person and Telephone or Cell number

Respondent's Signature

Date & Company Stamp

REQUEST FOR QUOTATION [RFQ]

RFQ CRAC-JHB-10042

**PROVISION FOR CLEANING AND GARDEN SERVICES SANNIESHOF, SCHWEITZER
REINECKE AND VRYBURG**

SCOPE OF WORK

PREVIEW COPY ONLY

Respondent's Signature

Date & Company Stamp

PREVIEW COPY ONLY

Respondent's Signature

Date & Company Stamp

PREVIEW COPY ONLY

Respondent's Signature

Date & Company Stamp

Section 3

STANDARD TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS OR SERVICES TO TRANSNET

A Supplier/Service Provider shall be obliged to adhere to the Standard Terms and Conditions for the Supply of Goods and Services to Transnet as expressed hereunder. Should the Respondent find any condition(s) unacceptable, it should indicate which condition(s) is/are unacceptable and offer an alternative(s). A Quotation 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.

1 SOLE AGREEMENT

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

20 CONFORMITY WITH ORDER

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

21 DELIVERY AND TITLE

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

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

21.3 Risk of loss or damage to Products shall pass to Transnet on delivery, and title shall pass to Transnet when payment to the Supplier/Service Provider for the Products has been effected.

21.4 If on delivery, the Products/Services do not conform to the Order, Transnet may reject the Products/Services and the Supplier/Service Provider shall promptly rectify any defects or in Transnet's opinion, supply appropriate replacement Products/Services at the Supplier's/Service Provider's expense within the specified delivery times, without any liability due by Transnet. Products shall be subject to such testing and/or inspection as Transnet may consider necessary.

22 PRICE AND PAYMENT

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

23 PROPRIETARY RIGHTS LIABILITY

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

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

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

24 PROPRIETARY INFORMATION

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

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

25 DEVELOPMENT WORK IN THE PRODUCTION OF PRODUCTS

If the production or provision of any Products involves research and/or development which is wholly or partly funded by Transnet, then all intellectual property or other rights as a result thereof shall be the property of Transnet on creation.

26 PUBLICITY

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

27 AFTER SALES SERVICE

The Supplier shall provide replacement parts necessary to ensure the uninterrupted operation of the Products supplied for the duration of the warranty period, from delivery of any particular item of the Products and if requested by Transnet shall make these parts available to a third party maintainer of Transnet's choice at the same price as if the parts had been supplied to Transnet. The Supplier undertakes to provide a maintenance service for Products, should Transnet so request, on terms to be agreed. If the Order so indicates, the Supplier will provide a warranty service for the Products at a level to be agreed with Transnet.

28 TERMINATION OF ORDER

- 28.1 Transnet may cancel an Order in whole or in part at any time upon at least 7 [seven] days' written notice to the Supplier/Service Provider, or when there is a change in control of the Supplier/Service Provider or the Supplier/Service Provider commits any serious breach or any repeated or continued material breach of its obligations under these Terms and/or Order or shall have been guilty of conduct tending to bring itself into disrepute, on written notice to the Supplier/Service Provider when such work on the Order shall stop.
- 28.2 Transnet shall pay the Supplier/Service Provider a fair and reasonable price for justified work in progress, where such price reflects only those costs not otherwise recoverable by the Supplier/Service Provider, at the time of termination, and the Supplier/Service Provider shall give Transnet full assistance to check the extent of such work in progress. Payment of such price shall be in full and final satisfaction of any claims arising out of such termination and upon such payment the Supplier/Service Provider shall deliver to Transnet all work, including any materials, completed or in progress. The sum payable to the Supplier/Service Provider under this clause will not in any event exceed the total amount that would have been payable to the Supplier/Service Provider had the Order not been terminated.
- 28.3 In the event of termination the Supplier/Service Provider must submit all claims within 2 [two] months of termination after which time claims will only be met in what Transnet considers exceptional circumstances.
- 28.4 If the Products are not provided in accordance with an Order, the Order shall be deemed terminated and the Supplier/Service Provider shall compensate Transnet for any costs incurred in obtaining substitute Products or any damage caused due to the failure or delay in the delivery.

29 ACCESS

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

30 WARRANTY

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

31 INSOLVENCY

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

32 ASSIGNMENT

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

33 NOTICES

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

34 LAW

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

office in the South Africa it will at all times maintain an agent for service of process in South Africa and shall give Transnet the name and address of such agent as such may be amended, in writing, from time to time.

35 GENERAL

Completion or termination of an Order shall be without prejudice to any Term herein which by its nature would be deemed to continue after completion or termination, including but not limited to clauses 23, 24, 25, 26 and 30. Headings are included herein for convenience only. If any Term herein be held illegal or unenforceable, the validity or enforceability of the remaining Terms shall not be affected. No failure or delay by Transnet to enforce any rights under these Terms will operate as a waiver thereof by Transnet. All rights and remedies available to either party under these Terms shall be in addition to, not to the exclusion of, rights otherwise available at law.

36 COUNTERPARTS

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

PREVIEW COPY ONLY

Respondent's Signature

Date & Company Stamp

By signing this RFQ document, the Respondent is deemed to acknowledge that he/she has made himself/herself thoroughly familiar with all the conditions governing this RFQ, 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 to properly take it into account for the purpose of calculating quoted prices or otherwise.

SIGNED at _____ on this _____ day of _____ 20____

SIGNATURE OF RESPONDENT'S AUTHORISED REPRESENTATIVE

NAME: _____

DESIGNATION: _____

REGISTERED NAME OF COMPANY: _____

PHYSICAL ADDRESS: _____

Respondent's contact person: *[Please complete]*

Name	:	
Designation	:	
Telephone	:	
Cell Phone	:	
Facsimile	:	
Email	:	
Website	:	

**Transnet urges its clients, suppliers and the general public
to report any fraud or corruption to
TIP-OFFS ANONYMOUS : 0800 003 056**

Respondent's Signature

Date & Company Stamp

SECTION 4

ANNEXURE A : B-BBEE PREFERENCE POINTS CLAIM FORM

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

1. INTRODUCTION

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

POINTS

B-BBEE STATUS LEVEL OF CONTRIBUTION

FURTHER RECOGNITION CRITERIA [FRC]

Total points for B-BBEE and FRC shall not exceed

- 1.2 Failure on the part of a bidder to fill in and/or to sign this form and submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System [SANAS] or a Registered Auditor approved by the Independent Regulatory Board of Auditors [IRBA] or an Accounting Officer as contemplated in the Close Corporation Act [CCA] together with the bid will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.
- 1.3 Transnet reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by Transnet.

2. GENERAL DEFINITIONS

- 2.1 "all applicable taxes" include value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- 2.2 "B-BBEE" means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- 2.3 "B-BBEE status of contributor" means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- 2.4 "bid" means a written offer in a prescribed or stipulated form in response to an invitation by Transnet for the provision of goods, works or services;
- 2.5 "Broad-Based Black Economic Empowerment Act" means the Broad-Based Black Economic Empowerment Act, 2003 [Act No. 53 of 2003];
- 2.6 "consortium or joint venture" means an association of persons for the purpose of combining their expertise, property, capital, efforts, skills and knowledge in an activity for the execution of a contract;
- 2.7 "contract" means the agreement that results from the acceptance of a bid by Transnet;

Respondent's Signature

Date & Company Stamp



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

3. ADJUDICATION USING A POINT SYSTEM

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



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

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

B-BBEE Status Level of Contributor	Number of Points [Maximum 10]	Number of Points [Maximum 20]	Number of Points [Maximum 30]
1	10	20	30
2	9	18	27
3	8	16	24
4	5	10	15
5	4	8	12
6	3	6	9
7	2	4	6
8	1	2	3
Non-compliant contributor	0	0	0

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

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



5. B-BBEE STATUS AND SUBCONTRACTING

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

B-BBEE Status Level of Contributor _____ = _____ [maximum of 10, 20 or 30 points]

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

5.2 Subcontracting:

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

If YES, indicate:

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

**BID DECLARATION**

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

- (i) The information furnished is true and correct.
- (ii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 6 above, the contractor may be required to furnish documentary proof to the satisfaction of Transnet that the claims are correct.
- (iii) If the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, Transnet may, in addition to any other remedy it may have:
 - (a) disqualify the person from the bidding process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) restrict the bidder or contractor, its shareholders and directors, and/or associated entities, or only the shareholders and directors who acted in a fraudulent manner, from obtaining business from Transnet for a period not exceeding 10 years, after the *audi alteram partem* [hear the other side] rule has been applied; and/or
 - (e) forward the matter for criminal prosecution.

WITNESSES:

1.

.....

SIGNATURE OF BIDDER

2.

.....

DATE:

.....
 COMPANY NAME:

ADDRESS:.....

BID REFERENCE NO:



SECTION 5

ANNEXURE C: FURTHER RECOGNITION CRITERIA [CURRENT STATUS]

Transnet encourages its suppliers to constantly strive to improve their B-BBEE rating. Whereas Respondents will be allocated points in terms of a preference point system based on its B-BBEE scorecard to be assessed as detailed in Section 1, paragraph 5.1, in addition to such scoring, further points will be allocated to Respondents score based on "Further Recognition Criteria" (Current) indicators.

Points will be allocated in respect of preference to measure the Respondent's current B-BBEE status at the time of submission of their Bid. These points are allocated based on the extent to which the Respondent's current ownership, management control and employment equity meets or exceeds certain minimum targets.

Please note that a Respondent's ownership, management control and employment equity at the time of the submission of the Bid, may differ from that which is reflected in the B-BBEE scorecard. When claiming points for FRC [Current Status] the Respondent must reflect its B-BBEE status at the time of submitting the Bid. Supporting documentation may be requested in this regard.

Respondents are to insert their current status (%) for the Further Recognition Criteria indicators in the table below:

Ownership Indicator	Required Responses	Compliance Target	Current Status (%)
1. The percentage of the business owned by Black ² persons.	<i>Indicate ownership in the hands of Black persons as a percentage of total ownership of the organisation.</i>	Points will be allocated for any score >25% to 100%, on a sliding scale	
2. The percentage of your business owned by Black women.	<i>Indicate ownership in the hands of Black women as a percentage of total ownership of the organisation.</i>	Points will be allocated for any score >10% to 100%, on a sliding scale	
3. The percentage of the business owned by Black youth ³	<i>Indicate ownership in the hands of Black youth as a percentage of total ownership of the organisation.</i>	Points will be allocated for any score >5% to 100%, on a sliding scale	
4. The percentage of the business owned by Black persons living with disabilities	<i>Indicate ownership in the hands of Black persons living with disabilities as a percentage of total ownership of the organisation.</i>	Points will be allocated for any score >3% to 100%, on a sliding scale	
5. The percentage of the business owned by	<i>Indicate ownership in the hands of Employment Schemes or Co-Operatives</i>	Points will be allocated for	

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

³ "Black youth" means Black persons from the age of 16 to 35



Employment Schemes or Co-Operatives	<i>as a percentage of total ownership of the organisation.</i>	any score >5% to 100%, on a sliding scale	
-------------------------------------	--	---	--

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

Employment Equity Indicator	Required Responses	Compliance Target	Current Status (%)
11. The percentage of Black employees as a percentage of the total number of employees in the organisation.	<i>Indicate the number of Black employees as a percentage of the organisation's total workforce.</i>	Points will be allocated for any score >65% to 100%, on a sliding scale	
12. The percentage of Black female employees as a percentage of the total workforce.	<i>Indicate the number of Black female employees as a percentage of the organisation's total workforce.</i>	Points will be allocated for any score >40% to 100%, on a sliding scale	
13. The percentage of Black youth in relation to the total number of employees in the organisation.	<i>Indicate the number of Black youth employed, as a percentage of the organisation's total workforce.</i>	Points will be allocated for any score >40% to 100%, on a sliding scale	
14. The percentage of Black disabled employees in relation to the total number of employees in the organisation.	<i>Indicate the number of Black disabled employees as a percentage of the organisation's total workforce.</i>	Points will be allocated for any score >2% to 10%, on a sliding scale	

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Section 6

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. A letter on the company's letterhead confirm physical and postal addresses
6. **Original** valid SARS Tax Clearance Certificate
7. **Certified copy** of VAT Registration Certificate
8. **Certified copy** of valid Company Registration Certificate [if applicable]
9. A signed letter from your auditor or accountant confirming most recent annual turnover figures

Vendor Application Form			
Company trading name			
Company registered name			
Company Registration Number or ID Number if a Sole Proprietor			
Form of entity [v]	CC	Trust	Pty Ltd
	Limited	Partnership	Sole Proprietor
VAT number [if registered]			
Company telephone number			
Company fax number			
Company email address			
Company website address			
Bank name		Branch & Branch code	
Account holder		Bank account number	
Postal address			
		Code	
Physical Address			

Respondent's Signature

Date & Company Stamp

			Code	
Contact person				
Designation				
Telephone				
Email				
Annual turnover range [last financial year]	< R5 m	R5 - 35 m	> R35 m	
Does your company provide	Products	Services	Both	
Area of delivery	National	Provincial	Local	
Is your company a public or private entity	Public	Private		
Does your company 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 company have a B-BBEE certificate		Yes	No		
What is your B-BBEE status [Level 1 to 9 / Unknown]					
How many personnel does the firm 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 Company / Organisation:

Name		Designation	
Signature		Date	

**GENERAL SPECIFICATION FOR THE CLEANING OF
BUILDINGS, GARDENING AND PEST CONTROL**



STATION: SANNIESHOF

DEPOT: INFRASTRUCTURE

ASSET	DESCRIPTION	SIZE
02AD231K	Office	±79m ²
02AD233K	Gas Store	±11m ²
02ND021K	Store	±31m ²
03ND021K	Fuel Cabin	±14m ²

CONTACT DETAILS: Betsie van Rooyen
011 950 1317

STATION: SCHWEIZER REINEKE

DEPOT: INFRASTRUCTURE

ASSET	DESCRIPTION	SIZE
02AE014K	OFFICE	±43m ²

CONTACT DETAILS: Betsie van Rooyen
011 950 1317

STATION: VRYBURG

DEPOT: INFRASTRUCTURE

ASSET	DESCRIPTION	SIZE
02AE097K	GARAGE	±151m ²
02AE098K	WORKSHOP	±519m ²
02AE099K	RESTROOM	±34m ²
02PE150K	STORE	±33m ²
03NE008K	GAS STORE	±3m ²

CONTACT DETAILS: Betsie van Rooyen
011 950 1317

STATION: VRYBURG

DEPOT: INFRASTRUCTURE TELECOMMS

ASSET	DESCRIPTION	SIZE
02ME007K	Hall	±27m ²
02YE019K	Garage	±42m ²
02YE020K	Test room	±61m ²

CONTACT DETAILS: Nick Coetzer
011 583 0297

Any queries concerning work, please contact above person

SCOPE OF WORK

AREAS TO BE CLEANED

- (A) Main Entrance / Security / Ablution / Reception Area and surrounding depot area
- (B) Stairs and Landings (service and main stairs)
- (C) Offices and passages (including boardrooms, store rooms, etc.)
- (D) Lift Foyers
- (E) Toilets: Ladies / Gents
- (F) Kitchens
- (G) Entertainment areas / bars
- (H) Lifts
- (I) Windows
- (J) Parking area
- (K) Surrounding area (at main entrance) and garden area
- (L) Lobby's on floors outside windows
- (M) Store rooms
- (N) Pest Control

DUTIES (all floors / areas where applicable)

1. DUSTING (OFFICES AND PASSAGES)

(A) CARPETS

- | | |
|---------------|--------------|
| ➡ Vacuum | Weekly |
| ➡ Spot Clean | As necessary |
| ➡ Steam clean | Quarterly |

(B) OFFICE FURNITURE

- | | |
|-------------------------|--------------|
| ➡ Vacuum (cloth chairs) | Weekly |
| ➡ Spot clean | As necessary |
| ➡ Steam clean | Quarterly |

(C) OTHER

- | | |
|--|--------|
| ➡ Clean all telephone and disinfect | Daily |
| ➡ Dust all high ledges and fittings | Weekly |
| ➡ Dust all horizontal surfaces (low level) | Daily |
| ➡ Dust all vertical surfaces (walls, cabinets, etc. to the height of 2 meters) | Weekly |
| ➡ Dust all windows / ledges / walls | Daily |

2. WASTE DISPOSAL (OFFICES, KITCHENS AND TOILET)

- | | |
|---|-------|
| ➡ Empty and clean all ashtrays | Daily |
| ➡ Empty and clean all waste baskets and receptacles | Daily |
| ➡ Remove all waste from premises | Daily |

3. WALLS / DOORS AND PAINTWORK / WALL PAPER

- | | |
|---|-----------|
| ➡ Spot clean all low surfaces (finger marks, etc) | Daily |
| ➡ Washing of walls (top to bottom) | Quarterly |

4. GLASS DOOR AND METAL WORK

- | | | |
|---|---|--------|
| ➡ | Spot clean main entrance glass door | Weekly |
| ➡ | Clean or polish all bright metal fittings to doors / frames | Weekly |

5. ENTRANCE FOYER / RECEPTION / RECEPTION OFFICE / LOBBY'S

- | | | |
|---|-----------------------------------|-------|
| ➡ | Sweep entrance foyer and entrance | Daily |
| ➡ | Clean door mats and dust blinds | Daily |
| ➡ | Damp clean counter tops | Daily |
| ➡ | Damp mop | Daily |
| ➡ | Machine buff | Daily |
| ➡ | Clean up Lobby's outside windows | Daily |

6. TOILETS

- | | | |
|---|--|-----------|
| ➡ | Empty and clean all waste receptacles | Daily |
| ➡ | Clean and sanitise all W.C. bowls, basins, Urinals /-outlets | Daily |
| ➡ | Clean all mirrors | Daily |
| ➡ | Damp mop floors with disinfectant | Daily |
| ➡ | Clean all metal fittings | Daily |
| ➡ | Spot clean wall tiles, doors W.C. partitions | Daily |
| ➡ | Treat against staining, fungal and bacterial growth | Quarterly |
| ➡ | Replenish toilet paper | Daily |
| ➡ | Wipe clean hand dryers and all other fixed services | Daily |

7. WINDOW CLEANING

- | | | |
|---|--|-----------|
| ➡ | Clean interior faces of all windows (low & high) | Quarterly |
| ➡ | Clean exterior faces of all windows (low & high) | Quarterly |
| ➡ | Clean main entrance foyer glass window internally & externally | Weekly |

8. VERTICAL BLINDS

- | | | |
|---|------|-----------|
| ➡ | Dust | Daily |
| ➡ | Wash | Quarterly |

9. MISCELLANEOUS

- | | | |
|---|--|-----------|
| ➡ | Polish desk and office furniture | Weekly |
| ➡ | Material covered furniture to be vacuumed | Weekly |
| ➡ | Material covered furniture to be steam cleaned | Quarterly |

10. KITCHENS

- | | | |
|---|--|-----------|
| ➡ | Floors to be damp mopped | Daily |
| ➡ | Sinks to be cleaned | Daily |
| ➡ | Cupboard to be damp wiped | Daily |
| ➡ | Cupboard to be washed (inside) | Quarterly |
| ➡ | Wipe clean all electrical equipment and or other | Daily |

11. Lifts

- | | | |
|---|---|--------|
| ➡ | Floors mats to be removed and cleaned | Weekly |
| ➡ | Walls and fittings to be cleaned | Daily |
| ➡ | Surface refuse from floors to be removed | Daily |
| ➡ | Door / door frames (internal & external to be damp cleaned) | Daily |

➡	Ceiling grids to be dusted	Daily
12. ALL PARKING AREAS / RAMP / GUARD HOUSE & OUT BUILDINGS		
➡	All surface refuse to be removed	Daily
➡	Sweep around buildings	Daily
13. EXTERNAL AREA AT MAIN ENTRANCE & VARIOUS ASSEMBLY POINTS		
➡	All surface refuse to be removed	Daily
➡	Area to be swept	Daily
➡	Garden area to be kept clean & neat where necessary	Daily
14. ENTERTAINMENT AREAS / BARS AND LAPAS (INSIDE & OUTSIDE)		
➡	Floor to be vacuumed / damp mopped	Weekly
➡	Surface refuse to be removed	Daily
➡	Sink's to be cleaned	Daily
➡	Counter tops / bar tops to be damp wiped	Daily
➡	Area to be swept	Daily
➡	Garden area to be cleaned and grass cut	Weekly
15. GARDEN SERVICE		
➡	Grass to be cut and trimmed in and around premises	Weekly
➡	Flower beds to be kept neat and clean	Weekly
➡	Trees to be pruned	As required
➡	Rough cutting	As required
➡	Contractor to supply lawn movers, weed-eater / brush cutter, garden tools and PPE	As required
➡	All garden refuse (leaves, etc.) to be removed by contractor	As required
16. STAIRS / LANDINGS / BALUSTRADES		
➡	Floors to be vacuumed / swept	Daily
➡	Ceramic Floors to be damp mopped	Daily
➡	Wall panels to be damp wiped	Daily
17. LIFT FOYER		
➡	Floors to be vacuumed	Daily
➡	Ceramic floors to be damp mopped	Daily
➡	Wall panels to be damp wiped	Daily
18. SUPERVISION		
➡	Full time supervision to be provided by Contract	Daily
➡	Quality Control will be done by client on site (sign job cards)	Weekly
➡	<u>Safety file to be on site and to consist of the following:</u>	
★	Risk Assessment and Safety Plan	
★	Written Safe Work Procedures and Job Observations	
★	Valid Appointment letters (First Aid / Pest Control / SHE Reps)	
★	Valid Certificates (First Aid / Pest Control / SHE Rep / Site Access)	
★	Recording of IOD Incidents	
★	Audit and Inspection of all machinery	
★	Minutes of Meetings	
★	Register of Personal Protective Equipment	

- ★ Training Certificates for all employees
- ★ General issues

19. EQUIPMENT / MATERIALS / CONSUMABLES

TO BE PROVIDED / SERVICED BY CONTRACTOR AND DELIVERED TIMEOUSLY

- ★ Vacuum cleaners
- ★ Polishers
- ★ Brooms
- ★ Mops
- ★ All Cleaning Chemicals (properly marked)
- ★ Consumables e.g. toilet paper of an acceptable standard
- ★ Toilet paper must be double ply
- ★ Buckets
- ★ Necessary sign boards (e.g. floor Wet / Slippery, etc.)
- ★ Contractor to conform with all Safety Requirements including Safety, Health, Environment (SHE) Induction for Contractors as specified by Transnet Freight Rail (copy enclosed)
- ★ Consumables e.g. cleaning chemicals be in an acceptable standard meaning SABS approved of equivalent.

NB: All cleaning chemicals and cleaning machinery to be supplied by the cleaning company and clearly marked by the contractor.

NB: All equipment to be kept in a good and safe condition at all times and to comply with all safety regulations including all extention cords, etc.

- ★ Toilet Area's are not be used as change rooms. Cleaning of equipment will not be allowed in toilet / kitchen areas
- ★ Disposal of dirty water to be deposited directly into toilet pans, toilet areas to be cleaned after work has been completed or minimum twice daily.

20. PEST CONTROL

- ★ Carry out inspections and treatments; bring under control of any infestation of cockraches, flies, rodents, etc.
- ★ Submit a program on when such service will be delivered

As-And-When

21. CLEANING OF DISHES

- ★ All dishes to be cleaned in all areas. Contractor to supply dish washing liquid and dish cloths

As-And-When

22. STAFF REQUIREMENTS / WORKING HOURS

- ★ Cleaning to commence from Monday to Friday 07:00 to 16:00 (times can be altered due to emergency requirements)
- ★ Areas to be cleaned Saturday & Sunday will be identified

23. UNIFORM CLOTHING

- ★ The Contractor shall at all times ensure that all cleaning staff has been provided with all necessary protective clothing, e.g. gloves, shoes, masks, etc.

- ★ All cleaning staff to be identifiable with (visible) identification at all times

24. TERMS OF CONTRACT

- ★ Two (2) year period

25. PAYMENT

ACCREDITED BEE SUPPLIERS

The following payment terms shall apply

- ★ All suppliers shall be paid within 30 days from date/receipt of invoice by accounting office, following acceptance of services by Transnet Freight Rail, provided normal procurement procedures have been followed. All suppliers must submit their BBBEE Certificate.
- ★ A month will be calculated from the 1st of the month to the 30/31st of the month.
- ★ In the event of full staff compliment not available, payment for that specific day will be withheld / decuted.
- ★ Signed register of worked performed to be submitted with the invoice. Noted that the invoice should indicate all buildings (per depot) by using the asset number of the serviced building.
- ★ Register to be signed by Supervisor of the specific area.
- ★ Invoice to be signed by the relevant Manager to indicate that the work was performed to satisfaction before submitting for payment.

26. OTHER TRADE SUPPLIERS

- ★ All suppliers are paid within 30 days from month end statement.
- ★ Early settlements are discouraged unless very special circumstances prevail
- ★ Early settlements will only be approved by the Chief Procurement Officer, or his delegate, based on the settlement discount being more advantageous than the financing cost incurred by Transnet Freight Rail.

27. BREACH OF CONTRACT

Transnet Freight Rail will be allowed to terminate the contract by giving 30 days notice should the cleaning service not be according to specification and to the client's full satisfaction. This will include non-conformance to all Health and Safety Standards as required by Transnet Freight Rail.

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COMPILED BY:	D. MOUTON	SIGNATURE:
APPROVED BY:	N.SKEEPERS	SIGNATURE:

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SECTION 1: PREMISES AND HOUSEKEEPING

1.11 - BUILDINGS, FLOORS AND STRUCTURES

1. PURPOSE

Structural integrity through appropriate maintenance of buildings and structures.

2. SCOPE

TFR Operations

3. LEGAL REFERENCES

OCCUPATIONAL HEALTH AND SAFETY ACT

- Section 8
- Construction Regulations 8, 9, 11, 12 and 25
- Facilities Regulation 9
- Electrical Machinery Regulations 5, 8 and 13
- Environmental Regulations for Workplaces 6 and 9
- General Machinery Regulation 3
- General Safety Regulations 4 and 9

NATIONAL BUILDING REGULATIONS AND BUILDING STANDARDS ACT

- Section 14
- National Building Regulations – All

INCLUDE APPLICABLE BYLAWS OF LOCAL GOVERNMENT

4. DEFINITIONS AND ABBREVIATIONS

- CPD Customise per depot
- OHS Occupational Health & Safety
- FR Facilities regulation
- SMS Safety Management System

5. RESPONSIBILITIES AND AUTHORITIES

- Area Managers
- Property Management

6. ACTIVITIES

NOSA STANDARD (CMB255)

6.1 PLANNED MAINTENANCE

Lease agreements are kept at Property Management;
Property Management does maintenance to buildings according to the lease agreement.
Property Management does unplanned and emergency maintenance on an "as & when required" basis.

6.2 CONDITION OF BUILDINGS / STRUCTURES

All items listed below are in sound condition:

- Roofing

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- Walls and support columns
- Doorways and window frames
- Gutters and down pipes (where applicable)
- Fixed ladders
- Concrete and steel structures
- Pipes
- Tanks (CPD)
- Vehicles, Train, & Pedestrian Bridge Failures: (see element 10.4 of SMS) (apply where applicable)
- Platforms:(see element 10.4 of SMS) (apply where applicable)
- Subways:(see element 10.4 of SMS) (apply where applicable)
- Buildings are maintained in a clean and good condition. Any damages are reported telephonically or per fax to Property Management and a reference number is allocated. Property Management (Technical) will affect the repairs as soon as possible.

6.3 CONDITION OF FLOORS

All items listed below are in sound condition:

- Floors
- Floor covering, including carpets, mats, tiles, etc.
- Roads and walkways
- Elevated platforms

7. RECORDS

- Repair register
- Copy of lease agreements (kept at Operations)
- Maintenance schedule of buildings (done by Property Management)

8. ATTACHMENT

- Repair register 1.11.1
- Building maintenance register 1.11.2

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ATTACHMENT 1.11. 2: BUILDING MAINTENANCE

CHECKLIST FOR BUILDINGS, FLOORS, WINDOWS

RISK AREA:					INSPECTOR:
CHECK	CONDITION				COMMENTS/ACTION
	Good	Average	Bad	Very bad	
Roof structure					
Roof plates					
Ceiling					
Fascia boards					
Gutters and down pipes					
FLOORS					
Floor in good condition					
Carpets in good condition					
Loose/Damage tiles					
WINDOWS					
Clean and undamaged					
Window hooks					
DOORS					
Doors undamaged					
Door handles, locks in order					
WALLS					
Walls clean and undamaged					
Concrete and steel construction					
Foundations					
Lintels					
Support columns					
DRAINAGE					
Storm water drains clean					
Sewerage drains unblock					
WATER RETICULATION					
Leaking pipes					
Taps, fittings					
ENVIRONMENT					
Aesthetic condition					
Environment clean					
Signage					
Action to be taken/recommendations:					
SIGNATURE:					DATE:
Comments Supervisor:					
SIGNATURE:					DATE:

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SECTION 1: PREMISES AND HOUSEKEEPING

1.12 - ILLUMINATION: NATURAL AND ARTIFICIAL

1. PURPOSE

Sufficient lighting levels and visibility provided and maintained under all operating circumstances.

2. SCOPE

TFR Operations

3. LEGAL REFERENCES

OCCUPATIONAL HEALTH AND SAFETY ACT

- Construction Regulation 12
- Electrical Machinery Regulation 5
- Environmental Regulations for Workplaces 3, 4 and 9
- Facilities Regulations 2 and 4
- General Safety Regulation 4
- SABS 0142 Code of Practice for the Wiring of Premises
- SABS 086 The Installation and Maintenance of Electrical Equipment used In Hazardous Locations
- SABS 072 Code of Practice for the Safe Handling of Pesticides

BASIC CONDITIONS OF EMPLOYMENT ACT

- Code of Practice on the Regulation of Working Time 9

NATIONAL BUILDING REGULATIONS AND BUILDING STANDARDS ACT

- National Building Regulations N1, O1, and O7

INCLUDE APPLICABLE BYLAWS OF LOCAL GOVERNMENT

4. DEFINITIONS AND ABBREVIATIONS

- CPD Customise per depot

5. RESPONSIBILITIES AND AUTHORITIES

1. Area Managers
2. Property Management

6. ACTIVITIES

NOSA STANDARD (CMB255)

6.1 LIGHTING PROVISION

- A Safety Professional conducts initial light surveys and updates as processes and conditions change or every two years. Property Management follows up and corrects any lighting deficiencies identified during the light survey.
- It is recommended that a formal survey done by a Safety Professional must include all emergency lights to confirm that lighting levels conform to the legally prescribed Lux levels required, e.g. when work is done after derailments.

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- Ensure that the light survey complies with legal requirements and applicable Codes of Practice.

6.2 PHYSICAL CONDITION OF LIGHTING

- All fittings and switches are in a good state of repair.
- All bulbs and tubes are in a good working order.
- Windows and skylights are kept clean.

6.3 LIGHTING MAINTENANCE

- A reporting/replacement system for defective lights is formulated by completing a Repair Register. Property Management arranges the replacing of defective lights within reasonable time from the date it has been reported as defective. (Link 2.10)

6.4 SAFETY GLASS

- Safety glass is installed, where required. (CPD)
- A summary of locations where safety glass is required will be compiled by the Safety Professional.
- Glass doorways will be marked with a visibility sticker.
- Locomotives, coaches, vehicles etc. (apply where applicable)

6.5 VISIBILITY

- All personnel must wear the prescribed Safety Reflective Vests in Yards
- Mirrors for Blind spots
- Where headlights and revolving lights are involved (apply where applicable)

7. RECORDS

- Reporting and replacing dead lights per Repair Register
- Electrical Engineering Instruction P.027 regarding maintenance of high mast lighting in Yards

8. ATTACHMENTS

- Safety glass checklist 1.12.1

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SECTION 1: PREMISES AND HOUSEKEEPING

1.13 - VENTILATION: NATURAL AND ARTIFICIAL

1. PURPOSE

To ensure air quality in the workplace meets accepted standards.

2. SCOPE

TFR Operations

3. LEGAL REFERENCES

OCCUPATIONAL HEALTH AND SAFETY ACT

- Construction Regulation 23
- Hazardous Chemical Substances Regulations 5,6 and 12
- Electrical Machinery Regulation 5
- Environmental Regulations for Workplaces 2 and 5
- Facilities Regulations 2, 4 and 5
- General Safety Regulations 1,2,4, 5, 9,10,11 and 12
- Lead Regulations 3,6,7,10 and 11
- Asbestos Regulations 4,7,10 and 11
- SABS 072 Code of Practice for the Safe Handling of Pesticides

BASIC CONDITIONS OF EMPLOYMENT ACT

- Code of Practice on the Regulation of Working Time 9

TOBACCO PRODUCTS CONTROL ACT

- Notice Relating to Smoking of Tobacco Products In Public Places

NATIONAL BUILDING REGULATIONS AND BUILDING STANDARDS ACT

- National Building Regulations O1, O3, O4, O5, O6 and O7

INCLUDE APPLICABLE BYLAWS OF LOCAL GOVERNMENT

4. DEFINITIONS AND ABBREVIATIONS

- WGBT Wet bulb globe temperature
- AIA Approved Inspection Authority
- CPD Customise per depot

5. RESPONSIBILITIES AND AUTHORITIES

- Area Managers
- Property Management

6. ACTIVITIES

NOSA STANDARD (CMB255)

6.1 VENTILATION SYSTEMS

- Property Technical's private contractor inspects and services all ventilation and air-conditioning systems on a regular basis. (Link 5.02)

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- Ventilation and air-conditioning systems are maintained by Property Technical (Emergency Execution). (Link 2.10) (CPD)
- Ventilation systems are included on the planned maintenance schedule of Property Management (Property Technical's Technical Advisor).
- As and when reported, a Safety Professional measures the WBGT index. If the WBGT index exceeds the factor of 30, action is initiated to reduce it to an acceptable level.
- Where necessary, air monitoring should take place as determined by the Health Risk Assessment. (Link 5.39) e.g. Ballast Dust.
- Locomotives, coaches, vehicles, etc. (apply where applicable)

7. RECORDS

- Air-conditioner maintenance schedule is available at Property Management (Technical Advisor)
- Ventilation survey is compiled / arranged by Safety department according to the risks identified in the Risk Assessment

8. ATTACHMENTS

- Air-conditioner checklist 1.13.1

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1.13.1 AIR CONDITIONER CHECKLIST

DEPARTMENT _____ YEAR _____

ID NO	LOCATION	1ST QUARTER		2ND QUARTER		3RD QUARTER		4TH QUARTER		LEGEND
		CHECK	ACTION	CHECK	ACTION	CHECK	ACTION	CHECK	ACTION	
										1. MECHANICAL 1.1 Cover missing or broken, use the number of the specific deviation given in the legend key on the left. CORRECTIVE ACTION (Indicate the action to be taken in the ACTION column by filling in the appropriate number from the table below. Specify the exact repairs to be done on a works requisition or job card.) 1. None - in good state of repair. 2. Fill up with gas. 3. Replace filter. 4. Clean filter. 5. Replace/fit guards. 6. Beyond repair /replace. 7. Other - specify.
DATE OF INSPECTION										
INSPECTOR'S INITIALS/SIGNATURE										
SPOT CHECK/AUDIT (Date and Initials)										

THE REGISTERED RECIPIENT IS RESPONSIBLE FOR DESTROYING ALL SUPERCEDED DOCUMENTS

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SECTION 1: PREMISES AND HOUSEKEEPING

1.14 - SANITATION, PLANT HYGIENE AMENITIES FOR PERSONAL HYGIENE

1. PURPOSE

Personal hygiene risks are identified and managed. Provide adequate and clean facilities.

2. SCOPE

TFR Operations

3. LEGAL REFERENCES

OCCUPATIONAL HEALTH AND SAFETY ACT

- Construction Regulations 28
- Facilities Regulations 2 – 9
- Lead Regulation 13
- Regulations For Hazardous Chemical Substances 4, 11, and 13
- SABS 072 Code of Practice for the Safe Handling of Pesticides
- SABS 0400 The Application of the National Building Regulations

BASIC CONDITIONS OF EMPLOYMENT ACT

- Code of Practice on the Regulation of Working Time 10
- Code of Practice on the Protection of Pregnant and Breast-feeding Employees 6

HEALTH ACT

- Regulations Relating to Communicable Diseases and the Notification of Notifiable Medical Conditions 12

NATIONAL BUILDING REGULATIONS AND BUILDING STANDARDS ACT

- National Building Regulations O1, P1, P2 and S2

INCLUDE APPLICABLE BYLAWS OF LOCAL GOVERNMENT

4. DEFINITIONS AND ABBREVIATIONS

- PPE Personal protective equipment
- FR Facilities Regulation

5. RESPONSIBILITIES AND AUTHORITIES

- Area Managers
- Property Management

6. ACTIVITIES

NOSA STANDARD (CMB255)

6.1 ADEQUATE FACILITIES PROVIDED

- Toilets and ablution facilities are provided and comply with the Facilities Regulations (Act 85), SABS Code 0400 of 1990 and the National Building Regulations.
- Kitchens and food storage facilities comply with the above.

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- Sufficient cleaning implements (brooms, buckets, etc.) are available.
- Sufficient waste bins are provided.
- The Contractor/Supervisor ensures that sufficient cleaning implements and material are available.

6.2 FACILITIES CLEAN AND HYGIENIC

- All facilities, e.g. tiles, floors, walls, fixtures and fittings are clean.
- Soap, toilet paper and paper towels/blowers are provided.
- Waste bins are clean and removed regularly. Sufficient waste bins and an effective removal program per depot are provided.
- Lockers and change-rooms are sufficient and tidy.
- Lockers for the safekeeping of clothing and personal items are in a good condition.
- Kitchens are clean and vermin free.
- Contractors are used, where applicable.
- Hand Hygiene equipment and supplies rated according to food or non-food processing guide. (apply where applicable)

6.3 NO FOOD IN UNAUTHORISED AREAS

- No food is stored in workplace.
- Provision has been made for food storage at depots.
- No food is kept, prepared or consumed outside the areas provided for this purpose.

6.4 REGULAR INSPECTIONS

- A formulated system to ensure that hygiene facilities, e.g. ablution blocks, change rooms, etc., are inspected and that the results of the inspections are recorded monthly on the Health and Safety Representative report 5.40 and relevant inspection checklist 1.14.

6.5 CONTAMINATION EXPOSURE MANAGEMENT

- Take food samples within formal food premises in accordance with pre-determined sample plan. (apply where applicable)
- Take domestic water samples in accordance with pre-determined sample plan. (apply where applicable)

7. RECORDS

- Appointment letters
- Ablution facility inspection
- Cleaning program
- Training Register

8. ATTACHMENTS

- Appointments and acceptance: Responsible person to inspect ablution facilities 1.14.1
- Appointments and acceptance: Responsible person to perform cleaning duties 1.14.2
- Inspection checklist for ablution facilities 1.14.3
- Cleaning program 1.14.4
- Cleaner training register 1.14.5

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Attachment 1.14.1: APPOINTMENT AND ACCEPTANCE: PERSON RESPONSIBLE TO INSPECT ABLUTION FACILITIES

APPOINTMENT AND ACCEPTANCE: PERSON RESPONSIBLE TO INSPECT ABLUTION FACILITIES	
<p>I, _____, having been appointed in terms of the Occupational Health and Safety Act (85 of 1993), hereby appoint you _____ in your capacity as _____ responsible for ensuring that personal hygiene risks are identified/managed and provide adequate and clean facilities.</p> <p>You are further instructed to keep proper records of all inspections and tests of all the ablution facilities on the premises.</p> <p>Please confirm your acceptance of this appointment by signing and returning the duplicate copy of this letter to the undersigned.</p>	
<p>_____ SHE. S 8</p>	<p>_____ DATE</p>
<p><u>ACCEPTANCE OF APPOINTMENT</u></p> <p>I, the undersigned, hereby acknowledge the above appointment and the associated duties and responsibilities.</p>	
<p>_____ SIGNATURE</p>	<p>_____ DATE</p>

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**Attachment 1.14.2: APPOINTMENT & ACCEPTANCE: PERSON RESPONSIBLE
TO PERFORM CLEANING DUTIES**

APPOINTMENT & ACCEPTANCE: PERSON RESPONSIBLE TO PERFORM CLEANING DUTIES	
<p>You, _____ are responsible for the cleaning of offices, buildings, etc., as laid down in the cleaning program.</p>	
<p><u>SHE. S. 6</u></p>	<p><u>DATE</u></p>
<p><u>ACCEPTANCE OF APPOINTMENT</u></p>	
<p>I, _____ accept the appointment at _____</p>	
<p>SIGNATURE: _____</p>	
<p>DESIGNATION: _____</p>	
<p>DATE: _____</p>	

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Attachment 1.14.3: INSPECTION CHECKLIST FOR ABLUTION FACILITIES

SUPERVISOR:			INSPECTION MONTH:		
LEGEND: 1-Clean/Correct/Yes. 2-Dirty. 3-Damaged. 4-Faulty. 5-Missing. 6-Sufficient. 7-Unauthorised storage. 8 - Insufficient					
Facility					
SANITATION	Finding	Comment	DINING-ROOMS	Finding	Comment
1.Are lights working			1.Are lights working		
2.Facilities accessible			2.Tables		
3.Doors			3.Chairs		
4.Walls & Floors			4.Area clean		
5.Toilet bowls & Seats			5.Housekeeping / Incorrect storage		
6.Toilet paper			6.Ventilated		
8.Paper towels			7.Utensils/equipment		
9.Hand soap					
10.Windows & ventilated			KITCHENS		
11.Hand was basins			1.Are lights working		
12.Running hot water			2.Area clean		
13.Running cold water			3.Are equipment clean		
14.SHE bins			4.Dust bin clean		
15.Refuse bins			5.Ventilated		
16.Gender sign in place			SHOWER FACILITIES		
17.Facilities deep cleaned			1.Are lights working		
SAFEKEEPING FACILITIES			2.Shower floors slip-free		
1.Lockers			3.Shower walls smooth		
2.Bathroom cupboards			4.Shower windows glazed		
3.Storage in lockers			5.Showers privacy (walls)		
CHANGING ROOMS			6.Running hot water		
1.Are lights working			7.Running cold water		
2.Seating adequate			8.Ventilated		
3.Housekeeping/Incorrect storage			9.Drainage effective		
4.Windows glazed			10.Gender sign in place		
5.Entrance screened			11.Showers deep cleaned		
6.Facilities to dry clothes (men only)					
7.Ventilated					
Actions on deviations:					
INSPECTOR			CHAIRPERSON		
Signature:			Signature:		
Date:			Date:		

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Attachment 1.14.4: CLEANING PROGRAM

CLEANING PROGRAM					
1. Every responsible person at the depot, as well as sub-depots must strictly adhere to the following program:					
2. CLEANING PROGRAM:					
ITEM	DUTIES	DAILY	WEEKLY	FORTH-NIGHTLY	MONTHLY
2.1	Windows				
2.2	Sweep floors				
2.3	Wash floors				
2.4	Wash tiles				
2.5	Urinals & toilets (Wash & replenish toilet paper, soap and detergent)				
2.6	Dust cupboards				
2.7	Wash cupboards				
2.8	Eradicate weeds in yard				
2.9	Empty garbage bins/dust bins in offices and workplace				
2.10	Water garden				
2.11	Cut grass				
2.12	Dust furniture in office/s				
2.13	Clean lights				
2.14	Keep eating facilities clean and hygienic				
3. CLEANING MATERIALS:					
3.1					
3.2					
3.3					
3.4					

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Attachment 1.14.5: CLEANER TRAINING REGISTER

CLEANER TRAINING REGISTER		
DEPOT: _____		
DATE: _____		
The following people have been sensitised in the use of cleaning materials according to the specifications of the manufacturers.		
NAME	EMPLOYEE NUMBER	SIGNATURE
TRAINING RECEIVED FROM: _____ <div style="text-align: right;">SUPERVISOR</div>		

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SECTION 1: PREMISES AND HOUSEKEEPING

1.15 – POLLUTION RISK CONTROL

1. PURPOSE

To manage risks associated with pollution.

2. SCOPE

TFR Operations

3. LEGAL REFERENCES

OCCUPATIONAL HEALTH AND SAFETY ACT

- Section 9 and 10
- Regulations for Hazardous Chemical Substances 10 and 15
- Asbestos Regulations 10, 11 and 14
- General Safety Regulation 4
- SABS 072 Code of Practice for the Safe Handling of Pesticides

NATIONAL BUILDING REGULATIONS AND BUILDING STANDARDS ACT

- National Building Regulations P3

ATMOSPHERIC POLLUTION PREVENTION ACT

- Sections 12 and 28

NATIONAL ENVIRONMENTAL MANAGEMENT ACT

- Section 28

NATIONAL WATER ACT

- Sections 19, 20 and 151

INCLUDE APPLICABLE BYLAWS OF LOCAL GOVERNMENT

4. DEFINITIONS AND ABBREVIATIONS

- CPD Customise per depot

5. RESPONSIBILITIES AND AUTHORITIES

Area Managers

Property Management

6. ACTIVITIES

NOSA STANDARD (CMB255)

6.1 POLLUTION MANAGEMENT

- The SHE 8's are appointed responsible for pollution control.
- Employees identify opportunities, e.g. reporting of pollution incidents that are categorised in minor, major and catastrophic status for investigation that contributes to the prevention of pollution, taking into consideration all interested and effected parties.
- Derailments, Hazardous chemicals, Oils spillages, Sewer, etc. (apply where applicable)

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6.2 Ad hoc - When a pollution problem occurs the following will come into effect:-

- Realistic measurable objectives and targets, based on the identified risks, to promote pollution reduction are set. (Link 5.05)
- A written pollution management plan to reach objectives and targets is established. (Link 5.06)
- Monitoring programmes are established to track progress on objectives, targets and compliance. (Link 5.05)
- Warning systems to alert when non-conformance to legislation, standards, objectives and targets are approached/implemented as per depot.
- Pollution control instrumentation and equipment are included on the planned maintenance system for plant and equipment. (Link 2.10 & 5.39)
- Appropriate spill containment material and equipment are maintained by private contractors and the Hazmat, Fire & Emergency Department. (Link 2.17 & 3.09)
- Employees are informed and sensitised on pollution hazards and environmental awareness in general. (Link Form 4.12, 5.21 & 5.30)

6.3 REHABILITATION

- Areas that require rehabilitation are identified per incident form and self-audits.
- The rehabilitation strategy is included into the overall environmental management plan. All previous polluted areas are adequately rehabilitated. (Integrated pollution plan: air, ground, water conservation, to reach objectives and targets) (Link 5.06)
- Rehabilitation programmes are authorised by management and authorities as per legal requirements.

7. RECORDS

- Appointments. SHE 8's are responsible for pollution control
- Pollution management program (List dangers involved, precaution rules, etc.)
- Pollution survey
- SHE Plan
- Pollution Management Plan (Ad hoc)
- Incident report system

8. ATTACHMENTS

- Pollution survey 1.15.1

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POLLUTION SURVEY 1.15.1

RISK AREA:			DATE:		
NAME:			SIGNATURE:		
<p>Pollution of air, ground and water are one of the major problems facing industry and the country as a whole. Environmental disasters are costly and must be prevented: Prevention is better than cure. Environmental legislation is becoming very strict and high penalties are imposed if it is not adhered to.</p>					
ITEM OBSERVED	OBSERVATION/COMMENT	RECOMMENDATION	ACTION BY	DATE COMPLETED	
AIR POLLUTION					
1. Smoke					
2. Gas					
3. Fumes					
4. Dusts					
5. Vapours					
6. Other, specify					
GROUND POLLUTION					
1. Spillage					
2. Oil pollution					
3. Acid					
4. Alkaline					
5. Other, specify					
WATER POLLUTION					
1. Municipal drains					
2. Storm water drains					
3. Bore holes					
4. Other, specify					
POLLUTION PREVENTION / CONTROL PROGRAMME					
CONTROL MEASURE	YES	NO			
Pollution controller appointed					
Regular (At least annual) pollution survey					
Is there a list of hazardous waste					
Are handlers of hazardous waste trained					
Is adequate PPE provided					
Are off site disposal sites approved					
Are employees aware of pollution problems					
Is there liaison with neighbouring companies					

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SECTION 1: PREMISES AND HOUSEKEEPING

1.21 – AISLES, STORAGE AND KEEP ACCESSIBLE AREAS DEMARCATED / SIGN POSTED

1. PURPOSE

To manage risks associated with pollution.

2. SCOPE

TFR Operations

3. LEGAL REFERENCES

OCCUPATIONAL HEALTH AND SAFETY ACT

- Construction Regulation 25 and 26
- Facility Regulation 5
- General Safety Regulation 4 and 8
- Environmental Regulations for Workplaces 6,7 and 9
- Regulations for Hazardous Chemical Substances 4

NATIONAL BUILDING REGULATIONS AND BUILDING STANDARDS ACT

- National Building Regulation D2

BASIC CONDITIONS OF EMPLOYMENT ACT

- Code of Practice on the Protection of Pregnant and Breast-Feeding Employees 6

INCLUDE APPLICABLE BYLAWS OF LOCAL GOVERNMENT

4. DEFINITIONS AND ABBREVIATIONS

5. RESPONSIBILITIES AND AUTHORITIES

Area Managers
Property Management

6. ACTIVITIES

NOSA STANDARD (CMB255)

FLOORS DEMARCATED / SIGN POSTED

- Where the risk necessitates, demarcation will be implemented according to the Demarcation Code and dimensions. (*Workshops, yards, etc.*) (apply where applicable)

DEMARCATION ADHERED TO

- See page 2 (Colour coding standard).
- Walkways and Bridges are kept unobstructed.
- No stacking / materials to protrude beyond demarcation, e.g. walkways, work areas, etc.
- All employees are sensitised to be aware of the purpose and meaning of demarcation, where applicable.

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- Clearance markers. (apply where applicable)

DEMARCATION UNDER ELECTRICAL SWITCHGEAR

- No stacking areas in front of electrical switch gear and fire fighting equipment are demarcated with a solid yellow block except in offices.
- Demarcations are maintained in a good condition.

AISLES AND STORAGE DEMARCATED DEMARCATION CODE AND DIMENSIONS

1. GENERAL

Clear demarcation of isles can prevent unnecessary distance being traveled and assists with an even flow of the production process. Aisles must be wide enough to accommodate traffic moving in both directions. The volume of the traffic should be the prime consideration in determining the width of an aisle. Unplanned storage of equipment and material is hazardous and counter-productive.

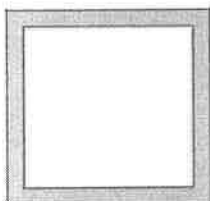
2. IMPLEMENTATION

- All demarcation lines on the premises are uniform in colour and width.
- Demarcation lines are maintained.
- Aisles, walkways and storage areas are indicated with yellow lines (Only in workshops).
- No stacking or storage is permissible outside demarcated stacking areas.
- Stacking in aisles and non-storage areas is strictly prohibited.
- If, for any reason, it is impossible to demarcate a specific area, the highest degree of good housekeeping must be exercised.

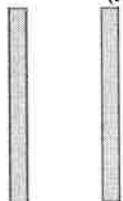
3. DIMENSIONS

- Aisles and walkways: A solid **yellow** line 10cm wide on either side.
- Storage, equipment and stacks: A solid **yellow** line 10cm wide around the stack.
- Non-storage areas: A solid **yellow** square.
- Hazards e.g. dangerous steps and low doorways: 10cm wide diagonal **black & yellow** lines.

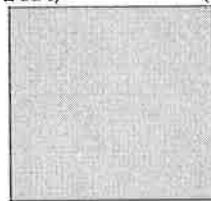
STORAGE



AISLES



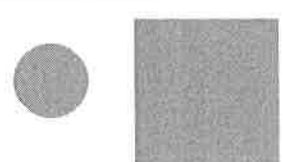
NO STORAGE
(FIRE EXT. & DB's)



HAZARDS
(STEPS & DOORWAYS)



ELECTRICAL
(PLUGS & MACHINE GUARDS)



7. RECORDS

- Demarcation code and dimensions

8. ATTACHMENTS

- Demarcation code and dimensions to be displayed

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PREMISES AND HOUSEKEEPING

1.22– STACKING AND STORAGE PRACTICES

1. PURPOSE

Prevent hazardous arrangement in the workplace and minimise the risk to employees and products associated with stacking and storage.

2. SCOPE

TFR Operations

3. LEGAL REFERENCES

OCCUPATIONAL HEALTH AND SAFETY ACT

- Construction Regulation 26
- Construction Regulation 26
- Facility Regulation 4(2)(c) and 5(2)(c)
- General Safety Regulation 4 and 8
- Environmental Regulation 6(2)(b,c,d)
- Asbestos Regulation 11
- Lead Regulation 11

INCLUDE APPLICABLE BYLAWS OF LOCAL GOVERNMENT

4. DEFINITIONS AND ABBREVIATIONS

Toxic substances: Includes any solid liquid, vapour, gas, aerosol or combustives that could cause irreversible health effect / harm to the human body.

CPD Customise per depot
GSR General Safety Regulation
FR Facilities Regulation
ERW Environmental Regulations

5. RESPONSIBILITIES AND AUTHORITIES

Area Managers
Property Management

6. ACTIVITIES

NOSA STANDARD (CMB255)

ASSIGNMENT OF RESPONSIBLE PEOPLE

Persons are appointed responsible for stacking. (Link 5.11)

STACKS NEAT, STABLE AND CONTROLLED

Stacks are correctly erected and broken down under supervision and as per standards on form 1.22.

Shelves are strong enough to handle weight of items stored.

Loading within vehicles. (apply where applicable)

Staging of rolling stock – Motor trolleys staged from time-to-time according stipulations in the General Appendix No. 6, Part 1.

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STORAGE: CUPBOARDS, SHELVES, AND OPEN SURFACES NEAT AND TIDY

Hazardous stacking of items on windowsills and on top of cupboards is discouraged.

It is ensured that the placement of articles does not create a hazard, e.g. no storage of poison in food areas, items not protruding from Shelves.

Ensure that articles at elevated heights are stable

7. RECORDS

- Stacking checklist and study

9. ATTACHMENTS

- Stacking checklist and study 1.22.1

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Attachment 1.22.1: STACKING CHECKLIST AND STUDY

STACKING: CHECKLIST AND STUDY			
STATUTORY STANDARD: R8 GENERAL SAFETY REGULATION.			
NO EMPLOYEE MAY STACK IN LAYERS UNLESS INSTRUCTED BY A COMPETENT PERSON, EXPERIENCED IN THIS TYPE OF WORK.			
DEPOT:	DATE OF STUDY:		
STANDARD	OBSERVATION	ACTION TAKEN TO RECTIFY DEVIATIONS	
Stacking under the supervision of a qualified person.			
The base must be level and capable of handling the weight of the stack, according to Safety Guidelines (Green Book)			
Articles in the layer underneath must be able to handle the weight of the layers above.			
All articles must be of the same weight, form and size.			
Pallets and containers must be in good condition.			
Support structure must be solid enough to hold stacking.			
Only remove articles from the top layer.			
No climbing on stacks unless it is stable and provided with a ladder or another safety mechanism.			
Stacking may not be near machines.			
Unstable stacks must be safely broken down.			
Moving machines must not jeopardise the stability of stacks.			
Maximum height of a stack = 3 x the shortest base of equipment to be stacked.			
6-monthly			
STUDY DONE BY:			
(Appointed person)		SIGNATURE	

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SECTION 1: PREMISES AND HOUSEKEEPING

1.23– FACTORY AND YARD

1. PURPOSE

Every article has a place and everything in its place

2. SCOPE

TFR Operations

3. LEGAL REFERENCES

OCCUPATIONAL HEALTH AND SAFETY ACT

- Construction Regulation 25
- Environmental Regulations for Workplaces 6
- General Safety Regulation 4 and 11
- Facilities Regulations 9
- Lead Regulations 11
- Asbestos Regulation 11
- Regulations For Hazardous Chemical Substances 4

BASIC CONDITIONS OF EMPLOYMENT ACT

- Code of Practice on the Protection of Pregnant and Breast-Feeding Employees 6

INCLUDE APPLICABLE BYLAWS OF LOCAL GOVERNMENT

4. DEFINITIONS AND ABBREVIATIONS

Superfluous Surplus

5. RESPONSIBILITIES AND AUTHORITIES

- Area Managers
- Property Management

6. ACTIVITIES

NOSA STANDARD (CMB255)

6.1 DEPOT, WORKSHOPS AND YARDS FREE OF SUPERFLUOUS MATERIAL

- It is ensured that all superfluous and redundant material is properly stored/removed
- It is ensured that all storage areas (racks, shelves, cupboards and containers) are tidy.
- Storage racks, cupboards, shelving, bins, pallets and material handling are planned, provided and installed to cope with the applicable storage process.
- Re-usable items are salvaged and the remainder disposed of through a refuse and scrap system. (PM order/SAP 3; Link 1.24)
- Usable items are kept separate from stock items and sent to Supply Chain Services.
- Work areas are properly cleaned and all loose objects removed.

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- All salvaged materials are, after completion of work, removed and stored in the designated storage areas or bins that are provided.
- Work areas and yards are clean, tidy and free of weeds and other overgrowth that could serve as a fire hazard.

6.2 CONTROL BY SUPERVISION / SHE REPRESENTATIVES

- The Health and Safety Representatives inspect their areas of responsibility on a monthly basis.
- The deviations are actioned and followed up.

7. RECORDS

- Health and Safety Representatives monthly report 5.40
- Annual self-audit reports (See 5.41)
- Internal audit done by Supply Chain Services per annual census
- Non-ferrous and valuable metals Policy

8. ATTACHMENTS

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SECTION 1: PREMISES AND HOUSEKEEPING

1.24– WASTE MANAGEMENT

1. PURPOSE

To manage risks associated with waste

2. SCOPE

TFR Operations

3. LEGAL REFERENCES

OCCUPATIONAL HEALTH AND SAFETY ACT

- Construction Regulations 12 and 27
- General Safety Regulation 4
- General Administrative Regulations 16 and 17
- Regulations For Hazardous Chemical Substances 11 and 15
- SABS 072 Code of Practice for the Safe Handling of Pesticides

NATIONAL BUILDING REGULATIONS AND BUILDING STANDARDS ACT

- National Building Regulations U1, U2, and U3

ENVIRONMENT CONSERVATION ACT

- Sections 19, 19A and 20

NATIONAL WATER ACT

- Section 22

WATER SERVICES ACT

- Section 7

INCLUDE APPLICABLE BYLAWS OF LOCAL GOVERNMENT

4. DEFINITIONS AND ABBREVIATIONS

CPD Customise per depot

5. RESPONSIBILITIES AND AUTHORITIES

Area Managers

Property Management

6. ACTIVITIES

NOSA STANDARD (CMB255)

6.1 WASTE MANAGEMENT PROGRAMME

- A waste management program is formulated in writing i.e. objectives and targets, waste management plan, recycling, and monitoring of objectives and targets. (Link 5.02, 5.05 & 5.06)
- Supply Chain Services keeps invoices and records of recycling.
- Supply Chain Services establishes a programme to monitor the progress of objectives and targets.
- Transnet Freight Rail Waste Register to be used – form 1.24.

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6.2 SCRAP AND REFUSE CONTAINER REMOVAL

- Suitable waste containers for the various classes of waste generated and lids, where necessary, are provided.
- A formal waste removal schedule to ensure that no containers overflow is compiled.
- Locations marked appropriately (pictogram).

6.3 ON-SITE WASTE HANDLING

- Written procedures for on-site waste handling, i.e. on-site waste recycling, spillage procedures during handling, etc., are compiled. (Link 1.15, 3.09, 5.03, 5.04, 5.06, 5.32, & 5.15)

6.4 HAZARDOUS WASTE LABELLING (Where applicable) (CPD)

- Waste containers are labelled according to contents, where necessary.
- Employees are informed / trained to be familiar with the meaning of the labels. (Link 5.30)
- The date of first accumulation is included on the label.
- Labels are clear and complete.

6.5 HAZARDOUS WASTE STORAGE (Where applicable) (CPD)

- Hazardous waste is stored in indicated storage areas and access controlled, if necessary.
- Containers suitable for the contents are in good condition.
- Hazardous waste is not stored for longer than three months.
- Hazardous waste and non-hazardous waste are stored separately.
- Appropriate clean-up or spill containment material is stored at Hazmat, Fire & Emergency Services. (Link 3.09 & 1.15)
- Damaged containers are safely disposed of.

6.6 HAZARDOUS WASTE TRANSPORTATION (Where applicable) (CPD)

- The contract with the hazardous waste removal company specifies in writing the duties, nature and properties of the waste, the emergency procedures and loading procedures, etc. (Link 3.09, 5.43 & 5.50)
- Is the vehicle suitable for the transport of the Hazardous Material?

7. RECORDS

- Waste removal program
- Contractors waste removal certificates
- Waste Register and form

8. ATTACHMENTS

- List of waste generated 1.24.1

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SECTION 1: PREMISES AND HOUSEKEEPING

1.25– COLOUR CODING

1. PURPOSE

Effective hazard communication

2. SCOPE

TFR Operations

3. LEGAL REFERENCES

OCCUPATIONAL HEALTH AND SAFETY ACT

- Facilities Regulation 7
- SABS 019 Portable Metal Containers for Compressed Gases: Basic Design Criteria, Use And Maintenance
- SABS 0142 Code of Practice for the Wiring of Premises
- SABS 085 The Design, Erection, Use and Inspection of Access Scaffolding

INCLUDE APPLICABLE BYLAWS OF LOCAL GOVERNMENT

4. DEFINITIONS AND ABBREVIATIONS

- FR Facilities Regulation

5. RESPONSIBILITIES AND AUTHORITIES

- Area Managers
- Property Management

6. ACTIVITIES

NOSA STANDARD (CMB255)

6.1 UNIFORM COLOUR CODE APPLIED THROUGHOUT

- A formal colour coding standard is compiled by using the SANS guidelines as reference.
- It is ensured that all pipelines, machines, electrical switchgear and emergency stop buttons / trip switches are coded in terms of the colour coding standards.
- It is ensured that portable gas containers are coded according to their contents.
- It is ensured that low doorways, structures, etc. are coded.

6.2 COLOUR CODE KEY BOARDS

- It is ensured that colour code boards are conspicuously displayed where colour coding is practiced.
- It is ensured that colours in plant and on compressed air pipelines conform to colours on the keyboard.

6.3 KNOWLEDGE OF COLOURS

- See colour explanation on individual notice boards. (Link 5.30)

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7. RECORDS

- Colour code: Standards

8. ATTACHMENTS (colour coding explanation to be displayed)

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SECTION 1: PREMISES AND HOUSEKEEPING

1.26– RESOURCE CONSERVATION

1. PURPOSE

Consumption of natural resources optimized

2. SCOPE

TFR Operations

3. LEGAL REFERENCES

NATIONAL BUILDING REGULATIONS AND BUILDING STANDARDS ACT

- National Building Regulations P3 and R1

NATIONAL WATER ACT

- Section 22 and 151

CONSERVATION OF AGRICULTURAL RESOURCES ACT

- Sections 5, 12 and 19
- Conservation of Agricultural Resources Regulations 15, 15A, 15B, 15C, 15E and 16

NEMA 4(2)

NWA 12(1)

NATIONAL ENERGY POLICY

INCLUDE APPLICABLE BYLAWS OF LOCAL GOVERNMENT

4. DEFINITIONS AND ABBREVIATIONS

5. RESPONSIBILITIES AND AUTHORITIES

- Area Managers
- Property Management

6. ACTIVITIES

NOSA STANDARD (CMB255)

6.1 RESOURCE CONSERVATION

- Significant consumption is identified e.g. monthly consumption of resources e.g., fuel, telephones, etc. (Water and electricity has a combined Transnet account.)
- Where significant use of resources is identified, objectives and targets are set to promote and monitor conservation in order to improve the usage.
- Objectives and targets to conserve resources must be quantifiable. (Link 5.05)
- It is ensured that employees are aware of the resource conservation targets and objectives. (Link 5.21)
- The Finance Manager reviews the results and set targets with the Depot Manager.


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7. RECORDS

Statistics, e.g. Loss Control, IMMM

8. ATTACHMENTS

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SECTION 2	SAFEGUARDING : MECHANICAL, ELECTRICAL AND PERSONAL
MBO 2.17	HAZARDOUS CHEMICAL SUBSTANCES CONTROL

INTENT: *THE FULL SCOPE OF ACCOUNTABILITY ASSOCIATED WITH HAZARDOUS CHEMICALS CONSIDERED AND RELATED SHE RISKS MANAGED.*

STANDARDS

- ♦ **RESPONSIBLE PERSON**
Designated Person, SHE Administrator and SHE Co-ordinator
- ♦ **INVENTORY CONTROL**
 - A basic Hazardous Chemical Substances (HCS) Risk Assessment must be carried out every two years to determine the risk control factors on the premises.
 - Material Safety Data Sheets (MSDS) of all HCS must be available to all employees
 - All employees must be trained in the identification of the Hazardous Chemical Substances transported and be made aware of the risks associated with the HCS's. All employees must undergo HAZMAT training.
 - Reporting procedure must be in place in the event of spillages or leaks on tankers/containers. Link 4.11
- ♦ **PERSON DESIGNATED TO CO-ORDINATE HAZARDOUS CHEMICAL SUBSTANCE**

- A competent person must be appointed in writing to co-ordinate Hazardous Chemical Substances.
- Person must be trained.
- The designated person must revise the alphabetical list of Hazardous Chemical Substance annually and update it if necessary.

♦ **MATERIAL SAFETY DATA SHEETS (MSDS) AVAILABLE**

- Obtain MSDS for all Hazardous Chemical Substances on list.
- All MSDS must be written in compliance with legislation/international standards.
- MSDS information must be accessible and applied in all user departments and first-aid post.
- MSDS kept up to date with the latest information on the product/substance
- MSDS must include emergency, spill containment and clean-up procedures.

♦ **RADIO-ACTIVE SOURCES**

- The containers must be clearly marked when radioactive material is transported.
- If the containers are stationed in Marshalling yards it must be guarded.
- Responsible persons to ensure that prescribed procedures are followed.



GENERAL BID CONDITIONS - SERVICES

[March 2012]

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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 **Respondent(s)** shall mean a respondent/bidder to a Transnet Bid;
- 1.3 **RFP** shall mean Request for Proposal;
- 1.4 **RFQ** shall mean Request for Quotation;
- 1.5 **RFX** shall mean RFP and/or RFQ, as the case may be;
- 1.6 **Services** shall mean the services required by Transnet as specified in its Bid Document;
- 1.7 **Service Provider** 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 are the official publications of recognised standardising bodies, 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 14 [*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 15 [*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 Service Provider**], 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 Service Provider's requirements which could not be recovered from the Service Provider;

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 or fees must be quoted in the currency of the Republic of South Africa [ZAR] in respect of local Services. Prices or fees 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 shall, if requested to do so by the Service Provider, effect payment overseas directly to the foreign principal or manufacturer of such percentage of the contract or order value as may be stipulated by the Respondent in its Bid Documents and any variation in the amount to be so paid, which may arise as a result of fluctuations in the rate of exchange involved, will be for the account of the Service Provider.

8.1 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 service providers to whom payment is to be made.

8.2 The Service Provider shall at its own cost obtain forward exchange cover on foreign currency 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.

Transnet will not recognise any claim for adjustment of the order and/or contract price under clause 8.2 above, if the increase in price arises after the date on which the Services were to be completed, 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 – Services] 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 CONTRACT DOCUMENTS

- 14.1 The contract documents will comprise these General Bid Conditions and the Standard Terms and Conditions of Contract [Form ST&C – Services] and any schedule of "Special Conditions" or otherwise which form part of the Bid Documents.

- 14.2 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.

15 SECURITIES

- 15.1 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.
- 15.2 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.
- 15.3 Such security, if required, shall be an amount which will be stipulated in the Bid Documents.
- 15.4 For the purpose of clause 15.1 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 Service Provider to cancel the contract with immediate effect.
- 15.5 Additional costs incurred by Transnet necessitated by reason of default on the part of the Service Provider in relation to the conditions of this clause 15 will be for the account of the Service Provider.

16 PRICES SUBJECT TO CONFIRMATION

- 16.1 A Bid with prices which are subject to confirmation will not be considered.
- 16.2 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.

17 DELETION OF SERVICES EXCLUDED FROM BID

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

18 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/Services 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) or Services concerned being excluded in the matter of the award of the business.

19 VALUE-ADDED TAX

- 19.1 In respect of local Services, i.e. Services to be provided by a South African company, the prices or fees quoted by the Respondent are to be exclusive of VAT which must be shown separately at the standard rate on the Service Provider's Tax Invoice.
- 19.2 In respect of Services to be provided by a foreign principal:
- a) the invoicing by the Service Provider on behalf of its foreign principal represents a service rendered by the principal;
 - b) the Service Provider's Tax Invoice(s) for the local portion only [i.e. the "commission" for the services rendered locally] must show the VAT separately

20 TERMS AND CONDITIONS OF BID

- 20.1 The Service Provider shall adhere to the Standard Terms and Conditions of Contract as set out in Form ST&C - Services, 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.
- 20.2 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.

21 IMPORTANT NOTICE TO RESPONDENTS REGARDING PAYMENT

21.1 Method of Payment

- a) The attention of the Respondent is directed to clause 10 [*Invoices and Payment*] of Form ST&C – Services, 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 21.1a) above. Failure to comply with clause 21.1a) above may preclude a Bid from further consideration.

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

21.2 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 Service Provider's month-end statement reflecting the relevant Tax Invoice(s) for payment purposes, provided the conditions of the order or contract have been fulfilled and the Tax

Invoice is correct in all respects as referred to in the contract or order. Incomplete and/or incorrect Tax Invoices shall be returned and the conditional period will be recalculated from the date of receipt of the correct documentation.

22 PLANS, DRAWINGS, DIAGRAMS, SPECIFICATIONS AND DOCUMENTS

Copyright in plans, drawings, diagrams, specifications and documents compiled by the Service Provider for the purpose of contract work shall be governed by the terms and conditions detailed in clause 12 of Form ST&T - Services (*Intellectual Property Rights*).

23 VISITS TO FOREIGN COUNTRIES

- 23.1 Respondents must furnish details in a covering letter if it is considered necessary that employees of Transnet should carry out inspection and/or review any operational Services 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.
- 23.2 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.
- 23.3 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.
- 23.4 Before a visit is undertaken, such as envisaged in this clause 23, 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.

24 BIDS BY OR ON BEHALF OF FOREIGN RESPONDENTS

- 24.1 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.
- 24.2 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.
- 24.3 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 - Services.

24.4 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.

24.5 The attention of the Respondent is directed to clause 15 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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**STANDARD TERMS AND CONDITIONS OF CONTRACT
FOR THE PROVISION OF SERVICES TO TRANSNET**

FORM ST&C - SERVICES [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 Services to Transnet [**the Service Provider**], these Standard Terms and Conditions of Contract, the technical specifications for the Services, the General Bid Conditions, a Schedule of Requirements or Work Order including such special conditions as may be applicable, and any terms in the associated Bid Documents, exclusively govern the provision of Services by the Service Provider 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, including the Work Order(s), specifications for the Services and such special conditions as shall apply to the Agreement, together with the General Tender Conditions and any additional provisions in the associated bid documents tendered by the Service Provider [as agreed in writing between the Parties], which collectively and exclusively govern the provision of Services by the Service Provider 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 **Default** means any breach of the obligations of either Party [including but not limited to fundamental breach or breach of a fundamental term] or any Default, act, omission, negligence or statement of either Party, its employees, agents or Subcontractors in connection with or in relation to the subject of the Agreement and in respect of which such Party is liable to the other;
- 2.9 **Deliverable(s)** means any and all works of authorship, products and materials developed, written, prepared, assembled, integrated, modified or provided by the Service Provider in relation to the Services;
- 2.10 **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;
- 2.11 **Fee(s)** shall mean the agreed Fees for the Services to be purchased from the Service Provider by Transnet, as detailed in the Work Order(s), issued in accordance with the Agreement, as amended by mutual agreement between the Parties and in accordance with the provisions of the Agreement from time to time;

- 2.12 **Foreground Intellectual Property** means all Intellectual Property developed by either Party pursuant to the Agreement;
- 2.13 **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;
- 2.14 **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;
- 2.15 **Materials** means the Deliverables, the Service Provider Materials and the Third Party Materials;
- 2.16 **Parties** mean the Parties to the Agreement together with their subsidiaries, divisions, business units, successors-in-title and their assigns;
- 2.17 **Party** means either one of these Parties;
- 2.18 **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;
- 2.19 **Permitted Purpose** means any activity or process to be undertaken or supervised by Personnel or employees 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;
- 2.20 **Personnel** means any partner, employee, agent, consultant, independent associate or supplier, Subcontractor and the staff of such Subcontractor, or other authorised representative of either Party;
- 2.21 **Purchase Order(s)** means official orders issued by an operating division of Transnet to the Service Provider for the provision of Services;
- 2.22 **Service(s)** means [●], the Service(s) provided to Transnet by the Service Provider, pursuant to the Work Order(s) in terms of the Agreement;
- 2.23 **Service Level Agreement or SLA** means the processes, deliverables, key performance indicators and performance standards relating to the Services to be provided by the Service Provider;
- 2.24 **Subcontract** means any contract or agreement or proposed contract or agreement between the Service Provider and any third party whereby that third party agrees to provide to the Service Provider the Services or any part thereof;
- 2.25 **Subcontractor** means the third party with whom the Service Provider enters into a Subcontract;
- 2.26 **Service Provider Materials** means all works of authorship, products and materials [including, but not limited to, data, diagrams, charts, reports, specifications, studies, inventions, software, software development tools, methodologies, ideas, methods, processes, concepts and techniques] owned by, or licensed to, the Service Provider prior to the Commencement Date or independently developed by the Service Provider outside the scope of the Agreement at no expense to Transnet, and used by the Service Provider in the performance of the Services;

- 2.27 **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;
- 2.28 **Third Party Material** means software, software development tools, methodologies, ideas, methods, processes, concepts and techniques owned by, or licensed to a third party and used by the Service Provider in the performance of the Services;
- 2.29 **Trade Marks** mean registered Trade Marks and trade mark applications and includes 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;
- 2.30 **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; and
- 2.31 **Work Order(s)** means a detailed scope of work for a Service required by Transnet, including timeframes, Deliverable, Fees and costs for the supply of the Service to Transnet, which may be appended to the Agreement 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, acronym 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 Service Provider will arrange for the provision to Transnet of the Services which meet the requirements of Transnet, the delivery of which Services is controlled by means of Purchase Orders to be issued by Transnet and executed by the Service Provider, in accordance with the Agreement.
- 4.2 Such Purchase Orders shall be agreed between the Parties from time to time, subject to the terms of the relevant Work Order(s).
- 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 Work Order(s), in accordance with procedures set out in clause 28 [Amendment and Change Control] below. 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 Work Order(s) conflicts with a like term, provision or condition in the Agreement and/or a Purchase Order, or where the Agreement is

silent on the matter, the term, 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.

- 4.6 Time will be of the essence and the Service Provider will perform its obligations under the Agreement in accordance with the timeframe(s) [if any] set out in the relevant schedule, save that the Service Provider will not be liable under this clause if it is unable to meet such obligation within the time required as a direct result of any act or omission by Transnet and it has used its best endeavours to advise Transnet of such act or omission. In the event of such delay, any time deadlines detailed in the relevant schedule shall be extended by a period equal to the period of that delay.

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 enter into an agreement in the name of the other; or give any warranty, representation or undertaking on the other's behalf; or create any liability against the other or bind the other's credit in any way or for any purpose whatsoever.

6 WARRANTIES

- 6.1 The Service Provider warrants to Transnet that:
- a) it has full capacity and authority to enter into and to perform the Agreement and that the Agreement is executed by a duly authorised representatives of the Service Provider;
 - b) it will discharge its obligations under the Agreement and any annexure, appendix or schedule hereto with all due skill, care and diligence;
 - c) it will be solely responsible for the payment of remuneration and associated benefits, if any, of its Personnel and for withholding and remitting income tax for its Personnel in conformance with any applicable laws and regulations;
 - d) it will procure licences for Transnet in respect of all Third Party Material detailed in the Work Order(s), and will procure the right for Transnet to take such copies [in whole or in part] of such Third Party Materials as it may reasonably require for the purposes of back-up for archiving and disaster recovery; and
 - e) the use or possession by Transnet of any Materials will not subject Transnet to any claim for infringement of any Intellectual Property Rights of any third party.
- 6.2 The Service Provider warrants that it will perform its obligations under the Agreement in accordance with the Service Levels as defined in the relevant schedule. Transnet may at its discretion audit compliance with the Service Levels, provided that any such audit is carried out with reasonable prior notice and in a reasonable way so as not to have an adverse effect on the performance of the Services. Without prejudice to clause 6.3 below, in the event that the Service Provider fails to meet the Service Levels, Transnet may claim appropriate service credits or invoke a retention of Fees as detailed in the relevant schedule and/or Work Order.

- 6.3 The Service Provider warrants that for a period of 90 [ninety] days from Acceptance of the Deliverables they will, if properly used, conform in all material respects with the requirements set out in the relevant schedule. The Service Provider will at its expense remedy any such non-conformance as soon as possible but in any event within 30 [thirty] days of notification by Transnet. In the event that the Service Provider fails or is unable to remedy such non-conformance within such time-scale, Transnet will be entitled to employ a third party to do so in place of the Service Provider and any excess charges or costs incurred by Transnet as a result shall be paid by the Service Provider.
- 6.4 The Service Provider will remedy any defect within 30 [thirty] days of being notified of that defect by Transnet in writing.
- 6.5 The Service Provider will not be liable to remedy any problem arising from or caused by any modification made by Transnet to the Deliverables, or any part thereof, without the prior approval of the Service Provider.
- 6.6 The Service Provider shall advise Transnet of the effects of any steps proposed by Transnet pursuant to clause 6.5 above, including but not limited to any cost implications or any disruption or delay in the performance of the Services. The Parties agree that any changes to the Services, including the charges for the Services or any timetables for delivery of the Services, will be agreed in accordance with the change control procedure, as set out in clause 28 *[Amendment and Change Control]*.
- 6.7 The Service Provider warrants that:
- it has, using the most up-to-date software available, tested for [and deleted] all commonly known viruses in the Materials and for all viruses known by the Service Provider at the date of the relevant Work Order; and
 - at the time of delivery to Transnet, the Materials do not contain any trojan horse, worm, logic bomb, time bomb, back door, trap door, keys or other harmful components.
- The Service Provider agrees that, in the event that a virus is found, it will at its own expense use its best endeavours to assist Transnet in reducing the effect of the virus and, particularly in the event that a virus causes loss of operational efficiency or loss of data, to assist Transnet to the same extent to mitigate such losses and to restore Transnet to its original operating efficiency.
- 6.8 The Service Provider undertakes to comply with South Africa's general privacy protection in terms of the Bill of Rights [Section 14] in connection with the Agreement and shall procure that its Personnel shall observe the provisions of Section 14 [as applicable] or any amendments and re-enactments thereof and any regulations made pursuant thereto.
- 6.9 The Service Provider warrants that 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 Service Provider to comply with its obligations under the Agreement will be reduced to the greatest extent possible, and that the Service Provider shall ensure that it has appropriate, tested and documented recovery arrangements in place.
- 6.10 In compliance with the National Railway Safety Regulator Act, 16 of 2002, the Service Provider shall ensure that the 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 Service Provider [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 Service Provider 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.

7 TRANSNET'S OBLIGATIONS

- 7.1 Transnet undertakes to promptly comply with any reasonable request by the Service Provider for information, including information concerning Transnet's operations and activities, that relates to the Services as may be necessary for the Service Provider to perform the Services, but for no other purpose. However, Transnet's compliance with any request for information is subject to any internal security rules and requirements and subject to the observance by the Service Provider of its confidentiality obligations under the Agreement.
- 7.2 The Service Provider shall give Transnet reasonable notice of any information it requires in accordance with clause 7.1 above.
- 7.3 Subject to clause 13 [*Service Provider's Personnel*], Transnet agrees to provide the Service Provider or its Personnel such access to and use of its facilities as is necessary to allow the Service Provider to perform its obligations under the Agreement.

8 GENERAL OBLIGATIONS OF THE SERVICE PROVIDER

- 8.1 The Service Provider 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 provision of the Services;
 - c) conduct its business in a professional manner that will reflect positively upon the Service Provider and the Service Provider's Services;
 - d) keep full records clearly indicating all transactions concluded by the Service Provider relating to the performance of the Services 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 Services and the conduct of the business and activities of the Service Provider;
 - 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;
 - g) comply with all applicable environmental legislation and regulations, and demonstrate sound environmental policies, management and performance; and
 - h) ensure the validity of all renewable certifications, including but not limited to its Tax Clearance Certificate and B-BBEE Accreditation Certificate, for the duration of the Agreement. Should the Service Provider 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 Service Provider.

8.2 The Service Provider acknowledges and agrees that it shall at all times:

- a) render the Services and perform all its duties with honesty and integrity;
- b) communicate openly and honestly with Transnet and demonstrate a commitment to performing the Services timeously, efficiently and to the required standards;
- c) endeavour to provide the highest possible standards of service and professionalism, 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 Personnel, as well as all Transnet's officers, employees, agents and consultants, 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 [as further referred to in clause 22 – *Equality and Diversity*];
- g) treat all enquiries from Transnet in connection with the Services with courtesy and respond to all enquiries promptly and efficiently. Where the Service Provider is unable to comply with the provisions of this clause, the Service Provider 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 Service Provider'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 provision of Services.

9 FEES AND EXPENSES

- 9.1 In consideration of the provision of the Services, Transnet will pay to the Service Provider the Fees detailed in the relevant schedule or Work Order.
- 9.2 Transnet will not be invoiced for materials used in the provision of the Services save for those materials [if any] set out in the Work Order and accepted by Transnet or in any relevant Work Order [which will be invoiced to Transnet at cost].

- 9.3 Unless otherwise agreed in a schedule or Work Order, Transnet will reimburse to the Service Provider all reasonable and proper expenses incurred directly and solely in connection with the provision of the Services, provided that all such expenses:
- a) are agreed by Transnet in advance;
 - b) are incurred in accordance with Transnet's standard travel and expenses policies;
 - c) are passed on to Transnet at cost with no administration fee; and
 - d) will only be reimbursed if supported by relevant receipts.
- 9.4 All Tax Invoices relating to Fees, out of pocket expenses and, if applicable, travel and accommodation costs, will provide the detail for each of the Personnel carrying out the Services and incurring the expenses, and the Tax Invoice will, where appropriate, include VAT as a separate item.

10 INVOICING AND PAYMENT

- 10.1 Transnet shall pay the Service Provider the amounts stipulated in the relevant schedule or Work Order, subject to the terms and conditions of the Agreement.
- 10.2 Transnet shall pay such amounts to the Service Provider, upon receipt of a correct and undisputed Tax Invoice together with the supporting documentation as specified in the Work Order appended hereto, once the undisputed Tax Invoices, or such portion of the Tax Invoices which are undisputed become due and payable to the Service Provider for the provision of the Services, in terms of clause 10.4 below.
- 10.3 All Fees and other sums payable under the Agreement are exclusive of VAT, which will be payable at the applicable rate.
- 10.4 Unless otherwise provided for in the Work Order(s) 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 statement together with all undisputed Tax Invoices and supporting documentation.
- 10.5 Where the payment of any Tax Invoice, or any part thereof which is not in dispute, is not made in accordance with this clause 10, the Service Provider 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.

11 FEE ADJUSTMENTS

- 11.1 Fees for Services rendered in terms of the Agreement shall be subject to review as indicated in the Work Order(s) annexed hereto from time to time.
- 11.2 No less than 2 [two] months prior to any proposed Fee adjustment, the Parties shall commence negotiations for Fees for the next period or as otherwise indicated and appended hereto.
- 11.3 Should Transnet and the Service Provider fail to reach an agreement on Fees for the successive period, either Party shall be entitled to submit this matter to dispute resolution in accordance with clause 25 of this Master Agreement [*Dispute Resolution*].

12 INTELLECTUAL PROPERTY RIGHTS

12.1 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 Service Provider 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 Service Provider's Background Intellectual Property shall remain vested in the Service Provider.
- b) Transnet shall grant to the Service Provider an irrevocable, royalty free, non-exclusive licence to use Transnet's Background Intellectual Property only for the Permitted Purpose. This license shall not permit the Service Provider to sub-license to other parties.
- c) The Service Provider shall grant to Transnet an irrevocable, royalty free, non-exclusive licence to use the Service Provider's Background Intellectual Property for the Permitted Purpose. This licence shall not permit Transnet to sub-license to other parties.
- d) The Service Provider shall grant Transnet access to the Service Provider'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.

12.2 Title to Intellectual Property

- a) All right, title and interest in and to Foreground Intellectual Property prepared, conceived or developed by the Service Provider, its researchers, agents and employees shall vest in Transnet and the Service Provider acknowledges that it has no claim of any nature in and to the Foreground Intellectual Property. The Service Provider 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 Service Provider shall reasonably assist Transnet in attaining and maintaining protection of the Foreground Intellectual Property.
- c) Where the Foreground Intellectual Property was created by the Service Provider 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 Service Provider 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 Service Provider for the assignment of any Foreground Intellectual Property from the Service Provider to Transnet, over and above the sums payable in terms of the Agreement. The Service Provider 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 or delayed], the Service Provider 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.

12.3 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 Service Provider shall disclose promptly to Transnet all such improvements, developments, adaptations and/or modifications, inventions or discoveries. The Service Provider 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 Service Provider shall reasonably assist Transnet in attaining, maintaining or documenting ownership and/or protection of the improved Foreground Intellectual Property.

12.4 Unauthorised Use of Confidential Information

The Service Provider 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.

12.5 Unauthorised Use of Intellectual Property

- a) The Service Provider 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 Service Provider 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 Service Provider 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 Service Provider 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.

13 SERVICE PROVIDER'S PERSONNEL

- 13.1 The Service Provider's Personnel shall be regarded at all times as employees, agents or Subcontractors of the Service Provider and no relationship of employer and employee shall arise between Transnet and any Service Provider Personnel under any circumstances regardless of the degree of supervision that may be exercised over the Personnel by Transnet.
- 13.2 The Service Provider warrants that all its Personnel will be entitled to work in South Africa or any other country in which the Services are to be performed.
- 13.3 The Service Provider will ensure that its Personnel comply with all reasonable requirements made known to the Service Provider by Transnet concerning conduct at any Transnet premises or any other premises upon which the Services are to be performed [including but not limited to security regulations, policy standards and codes of practice and health and safety requirements]. The Service Provider will ensure that such Personnel at all times act in a lawful and proper manner in accordance with these requirements.
- 13.4 Transnet reserves the right to refuse to admit or to remove from any premises occupied by or on behalf of it, any Service Provider Personnel whose admission or presence would, in the reasonable opinion of Transnet, be undesirable or who represents a threat to confidentiality or security or whose presence would be in breach of any rules and regulations governing Transnet's Personnel, provided that Transnet notifies the Service Provider of any such refusal [with reasons why]. The reasonable exclusion of any such individual from such premises shall not relieve the Service Provider from the performance of its obligations under the Agreement.
- 13.5 The Service Provider agrees to use all reasonable endeavours to ensure the continuity of its Personnel assigned to perform the Services. If any re-assignment by the Service Provider of those Personnel is necessary, or if Transnet advises that any such Personnel assigned are in any respect unsatisfactory, including where any such Personnel are, or are expected to be or have been absent for any period, then the Service Provider will promptly supply a replacement of equivalent calibre and experience, and any such replacement shall be approved by Transnet prior to commencing provision of the Services, such approval not to be unreasonably withheld or delayed.

14 LIMITATION OF LIABILITY

- 14.1 Neither Party excludes or limits liability to the other Party for:
- a) death or personal injury due to negligence; or
 - b) fraud.
- 14.2 The Service Provider shall indemnify and keep Transnet indemnified from and against liability for damage to any Transnet property [whether tangible or intangible] or any other loss, costs or damage suffered by Transnet to the extent that it results from any act of or omission by the Service Provider or its Personnel in connection with the Agreement. The Service Provider's liability arising out of this clause 14.2 shall be limited to a maximum amount payable in respect of any one occurrence or a series of related occurrences in a single calendar year, such amount to be agreed in writing by the Parties.
- 14.3 Subject always to clauses 14.1 and 14.2 above, the liability of either the Service Provider or Transnet under or in connection with the Agreement, whether for negligence, misrepresentation, breach of contract or otherwise, for direct loss or damage arising out of each Default or series of

related Defaults shall not exceed 100% [one hundred per cent] of the Fees paid under the schedule or Work Order to which the Default(s) relates.

- 14.4 Subject to clause 14.1 above, and except as provided in clauses 14.2 and 14.3 above, in no event shall either Party be liable to the other for indirect or consequential loss or damage or including indirect or consequential loss of profits, business, revenue, goodwill or anticipated savings of an indirect nature or loss or damage incurred by the other Party as a result of third party claims.
- 14.5 If for any reason the exclusion of liability in clause 14.4 above is void or unenforceable, either Party's total liability for all loss or damage under the Agreement shall be as provided in clause 14.3 above.
- 14.6 Nothing in this clause 14 shall be taken as limiting the liability of the Service Provider in respect of clause 12 [*Intellectual Property Rights*] or clause 16 [*Confidentiality*].

15 INSURANCES

- 15.1 Without limiting the liability of the Service Provider under the Agreement, the Service Provider shall take out insurance in respect of all risks for which it is prudent for the Service Provider to insure against, including any liability it may have as a result of its activities under the Agreement for theft, destruction, 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 Service Provider.
- 15.2 The Service Provider shall arrange insurance with reputable insurers and will produce to Transnet evidence of the existence of the policies on an annual basis within 30 [thirty] days after date of policy renewals.

16 CONFIDENTIALITY

16.1 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 the 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.

16.2 The duties and obligations with regard to Confidential Information in this clause 16 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 Personnel; 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.

16.3 This clause 16 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 Service Provider 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.

17 TOTAL OR PARTIAL FAILURE TO PERFORM THE SCOPE OF SERVICES

Should the Service Provider fail or neglect to execute the work or to deliver any portion of the Service, as required by the terms of the Agreement or Work Order, Transnet may cancel the Agreement or Work Order in so far as it relates to the unexecuted work or rejected portion of the Service, and, in such event, the provision of any remaining commitment shall remain subject in all respects to these conditions.

18 TERM AND TERMINATION

18.1 Notwithstanding the date of signature hereof, the Commencement Date if the Agreement is [●] and the duration shall be for a 12 [twelve] month 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.

18.2 Either Party may terminate the Agreement forthwith by notice in writing to the other Party where the other Party has committed a material Default and, where such Default is capable of remedy, has failed to remedy such Default within 30 [thirty] days of receiving notice specifying the Default and requiring its remedy.

18.3 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 may be 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.

18.4 Transnet may terminate the Agreement at any time within 2 [two] months of becoming aware of a change of control of the Service Provider by notice in writing to the Service Provider. 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.

18.5 Transnet may cancel any schedule or Work Order hereto at any time on giving the Service Provider 30 [thirty] days' written notice.

18.6 Notwithstanding this clause 18, either Party may cancel the Agreement without cause by giving 30 [thirty] days prior written notice thereof to the other Party.

19 CONSEQUENCE OF TERMINATION

19.1 Termination in accordance with clause 18 [*Term and Termination*] shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to either Party and all provisions which are to survive the Agreement or impliedly do so shall remain in force and in effect.

19.2 On termination of the Agreement or a Work Order, the Service Provider will immediately deliver up, and procure that its Personnel will immediately deliver up to Transnet, all Deliverables and property belonging to Transnet [or, in the event of termination of a Work Order, such as is relevant to that Work Order] which may be in the possession of, or under the control of the Service Provider, and certify to Transnet in writing that this has been done.

19.3 To the extent that any of the Deliverables and property referred to in clause 19.2 above are in electronic form and contained on non-detachable storage devices, the Service Provider will provide Transnet with unencrypted copies of the same on magnetic media and will irretrievably destroy and delete copies so held.

19.4 In the event that the Agreement is terminated by the Service Provider under clause 18.2 [*Term and Termination*], or in the event that a Work Order is terminated by Transnet under clause 18.5 [*Term and Termination*], Transnet will pay to the Service Provider all outstanding Fees [apportioned on a *pro rata* basis] relating to the work undertaken by the Service Provider up until the date of such termination. Transnet will also pay the costs of any goods and materials ordered by the Service Provider in relation to the such work for which the Service Provider has paid or is legally obliged to pay, in which case, on delivery of such goods or materials, the Service Provider will promptly deliver such goods and materials to Transnet or as it may direct.

19.5 The provisions of clauses 0 [*Definitions*], 6 [*Warranties*], 12 [*Intellectual Property Rights*], 14 [*Limitation of Liability*], 16 [*Confidentiality*], 19 [*Consequence of Termination*], 25 [*Dispute Resolution*] and 29 [*Governing Law*] shall survive termination or expiry of the Agreement.

19.6 If either Party [**the Defaulting Party**] commits a material breach of the Agreement and fails to remedy such breach within 30 [thirty] 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.

19.7 Should:

- a) the Service Provider effect or attempt to effect a compromise or composition with its creditors; or
- b) either Party be provisionally or finally liquidated or placed under judicial management, whether provisionally or finally; or

- c) either Party cease or threaten to cease to carry on its normal line of business or default or threaten to default in the payment of its liabilities generally, or commit any act or omission which would be an act of insolvency in terms of the Insolvency Act, 24 of 1936 [as may be amended from time to time];

then the other Party shall be entitled, but not obliged, to terminate the Agreement on written notice, in which event such termination shall be without any liability and without prejudice to any claims which either Party may have for damages against the other.

20 ASSIGNMENT

Neither Party may assign the benefit of the Agreement or any interest hereunder except with the prior written consent of the other. Further, in the event that Transnet wishes to assign or novate the Agreement to any third party, the Service Provider agrees that it shall not unreasonably withhold or delay its consent to such assignment or novation and that it shall only be entitled to recover from Transnet any reasonable legal costs incurred by it as a direct result of such assignment or novation.

21 FORCE MAJEURE

- 21.1 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, suppliers, 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.
- 21.2 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 to 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.

22 EQUALITY AND DIVERSITY

- 22.1 The Service Provider will not victimise, harass or discriminate against any employee of either Party to the Agreement or any applicant for employment with either Party to the Agreement due to their gender, race, disability, age, religious belief, sexual orientation or part-time status. This provision applies, but is not limited to employment, upgrading, work environment, demotion, transfer, recruitment, recruitment advertising, termination of employment, rates of pay or other forms of compensation and selection for training.
- 22.2 Both Parties to the Agreement undertake that they will not, and shall procure that its employees, agents and Subcontractors will not breach any applicable discrimination legislation and any amendments and re-enactments thereof.

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 Service Provider**

- (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 posted by prepaid registered post, 10 [ten] days after the date of posting thereof; or
c) if faxed, on the date and time of sending of such fax, as evidenced by a fax confirmation printout, provided that such notice shall be confirmed by prepaid registered post on the date of dispatch of such fax, 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 whatever between them, with regard to the subject matter dealt with in the Agreement, including any annexures, appendices, schedules or Work Order(s) appended hereto.

28 AMENDMENT AND CHANGE CONTROL

28.1 Any requirement for an amendment or change to the Agreement or to a Work Order shall only be valid if it is in writing, signed by both Parties and added to the Agreement as an addendum hereto.

28.2 In the event the Parties cannot agree upon changes, the Parties shall in good faith seek to agree any proposed changes using the dispute resolution procedures in clause 25 [Dispute Resolution].

29 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.

29.1 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 Service Provider and Transnet cannot reach agreement on the nature of the changes required or on modification of Fees, Deliverables, warranties, or other terms and conditions, either Party may seek to have the matter determined in accordance with clause 25 *[Dispute Resolution]* above.

30 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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