



## NEC3 Short Supply Contract

entered into by and between

### Transnet SOC Ltd

Registration Number 1990/000900/30  
(hereinafter referred to as the "Employer")

and

### Pending

Registration Number  
(hereinafter referred to as the "Contractor")

**Description of the Works**      **SUPPLY AND DELIVERY OF VARIOUS SIZES OF BOULDERS AND  
DUMP ROCK TO THE PORT OF RICHARDS BAY**

**Contract Number**              **RBY4113684.001SC**

**Start Date**                      **25.06.2012**

**Completion Date**              **25.09.2012**



TRANSNET SOC LTD

ENQUIRY/CONTRACT NUMBER: RBY4113684.0015C

DESCRIPTION OF WORKS: SUPPLY AND DELIVERY OF VARIOUS SIZES OF BOULDERS AND DUMP ROCK TO THE PORT OF RICHARDS BAY

## T1.1 Tender Notice and Invitation to Tender

Transnet SOC Ltd invites tenders for the Supply and Delivery of various sizes of Boulders and Dump Rock to the Port of Richards Bay.

Potentially emerging enterprises who satisfy criteria stated in the Tender Data may submit tender offers.

Preferences are offered to tenderers whose BBBEE credentials have been rated by a SANAS accredited BBBEE accreditation agency.

Transnet fully endorses and supports the Governments Broad-Based Black Economic Empowerment Programme and it is strongly of the opinion that all South African Business Enterprises have an equal obligation to redress the imbalances of the past. Transnet will therefore prefer to do business with local business enterprises who share these same values.

Tenderers who have already been accredited in terms of the Governments DTI (Department of Trade and Industry) BBBEE (Broad Base Black Economic Empowerment) scorecard are requested to submit their rating certificates with their applications. Tenderers who have not yet or who are in the process of being accredited must furnish proof from the Accreditation Agency who was requested to do their accreditation that they are busy with the accreditation process.

Tenderers are required to sign a Mutual Nondisclosure Agreement (attached hereto) and to return it within 3 days of receipt of this invitation of Tender.

The physical address for collection of tender documents is **Transnet Freight Rail RME, Old Naval Base, Commodores Close, Meerensee, Richards Bay.**

Documents may be collected during working hours between **08h00 and 15h00 on Monday the 4<sup>th</sup> June 2012, from Sue Groenewald at the Procurement Office.**

Queries relating to the issue of these documents may be addressed to

Mr Lizelle Smith  
Tel No +27 35 905 4609  
Fax No. 086 679 3175  
Email Lizelle.smith@transnet.net

The closing time for receipt of tenders is **12h00, Monday 11<sup>th</sup> June 2012.** Telegraphic, telephonic, facsimile, e-mail and late tenders will not be accepted.



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The purchaser's details and address for delivery of tender offers and identification details that are to be shown on each tender offer package are:

**Location of tender box:** Transnet Freight Rail, Main Reception, Richards Bay

**Physical address:** Old Naval Base, Commodores Close, Meerensee, Richards Bay

**Identification details:** Supply and Delivery of various sizes of Boulders and Dump Rock to the Port of Richards Bay.

Tenders may only be submitted on the tender documentation that is issued.

Requirements for sealing, addressing, delivery, opening and assessment of tenders are stated in the Tender Data.



TRANSNET SOC LTD  
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**ACKNOWLEDGMENT OF RECEIPT OF DOCUMENTS  
 AND INTENTION TO TENDER**

(To be returned within 3 days after receipt)

<b>Transnet Freight Rail</b>	<b>Enquiry No.: RBY4113684.001SC</b>
<b>FAX TO: Lizelle Smith</b>	<b>Closing Date: 11<sup>th</sup> June 2012</b>
<b>086 679 3175</b>	
<b>or</b>	
<b>EMAIL: Lizelle.smith@transnet.net</b>	

**For: THE SUPPLY AND DELIVERY OF VARIOUS SIZES OF BOULDERS AND DUMP ROCK TO  
 THE PORT OF RICHARDS BAY**

**On the Transnet Freight Rail – RBY4113684.001SC**

<b>We: Do wish to tender</b> for the work and shall return our tender by the due date above	<b>Check</b>
	<b>Yes</b> <input type="checkbox"/>
<b>Do not wish to tender</b> on this occasion and herewith return all your documents received	<b>No</b> <input type="checkbox"/>

REASON FOR NOT TENDERING:

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COMPANY'S NAME, ADDRESS, CONTACT, PHONE AND TELEFAX NUMBERS

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SIGNATURE : \_\_\_\_\_

TITLE: \_\_\_\_\_



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## T1.2 Tender Data

The conditions of tender are the Standard Conditions of Tender as contained in Annex F of the CIDB Standard for Uniformity in Construction Procurement (January 2009) as published in Government Gazette No 31823, Board Notice 12 of 2009 of 30 January 2009, subsequently amended (May 2010), Board Notice 86 of 2010. (See [www.cidb.org.za](http://www.cidb.org.za))

The Standard Conditions of Tender make several references to Tender Data for details that apply specifically to this tender. This Tender Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the Standard Conditions of Tender.

Each item of data given below is cross-referenced in the left hand column to the clause in the Standard Conditions of Tender to which it mainly applies.

Clause	Data
F.1.1	The <i>Purchaser</i> is <b>Transnet SOC Ltd (Reg No. 1990/000900/30)</b>
F.1.2	The tender documents issued by the <i>Purchaser</i> comprise:  <b>Part T1: Tendering procedures</b> T1.1 Tender notice and invitation to tender T1.2 Tender data  <b>Part T2: Returnable documents</b> T2.1 List of returnable documents T2.2 Returnable schedules  <b>Part C: The contract</b>  <b>Part C1: Agreements and contract data</b> C1.1 Form of offer and acceptance C1.2 Contract data (parts 1 & 2)  <b>Part C2: Pricing data</b> C2.1 Pricing instructions C2.2 Pricing Schedule  <b>Part C3: Scope of work</b> C3 Goods Information
F.1.4	The <i>Purchaser's</i> agent is:  Name: <b>Lizelle Smith</b>  Address: <b>Old Naval Base, Commodores Close, Meerensee, Richards Bay</b>  Tel No. <b>+27 35 905 4609</b>  Fax No. <b>086 679 3175</b>  E – mail <b>Lizelle.smith@transnet.net</b>



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F.2.1 Only those tenderers who satisfy the following eligibility criteria are eligible to submit tenders:  
Tenderers must submit a Quarry Material Test Report from a SANAS Accredited Testing Laboratory.

F.2.7 There are no compulsory clarification meetings.

F.2.12 No alternative tender offers will be considered

**Tenders are to quote only on the materials as specified in the Pricing Data**

F.2.13.3 Parts of each tender offer communicated on paper shall be as an original, plus 2 (two) copies.

F.2.13.5 The Purchaser's details and address for delivery of tender offers and identification details that  
F2.15.1 are to be shown on each tender offer package are:

Location of tender box **Transnet Freight Rail RME.  
Main Reception,  
Richards Bay**

Physical address: **Old Naval Base, Commodores Close,  
Meerensee, Richards Bay**

Identification details: The tender documents must be submitted in a sealed envelope labelled with:

The Tender Number: **RBY4113684.001SC**  
The Tender Description: **Supply and Delivery  
of various sizes of Boulders and Dump  
Rock to the Port of Richards Bay.**

Documents must be marked for the attention  
of: The Supply Chain Manager: Mrs L Smith

F.2.13.9 Telephonic, telegraphic, facsimile or e-mailed tender offers will not be accepted.

F.2.15 The closing time for submission of tender offers is as stated in the Tender Notice and Invitation to Tender.

F.2.16 The tender offer validity period is 12 weeks

F.2.22 Return all retained tender documents within 28 day after the expiry of the validity period

F.2.23 The tenderer is required to submit with his tender:

1. an **original** or a **certified copy** of a **valid** Tax Clearance Certificate issued by the South African Revenue Services;
2. A valid SANAS B-BBEE accreditation certificate,

Note: Refer to Section T2.1 for List of Returnable Documents

F.3.4 The time and location for opening of the tender offers are:  
Time **12h01 on Monday the 11<sup>th</sup> June 2012**  
Location: **Transnet Freight Rail RME Main Reception, Old Naval Base, Commodores Close, Meerensee, Richards Bay**



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F.3.11.1 The financial offer will be reduced to a comparative basis using the Tender Assessment Schedule.

F.3.11.5 The procedure for the evaluation of responsive tenders is Method 2

The financial offer will be scored using Formula 2 (option 1) where the value of  $W_1$  is:

1. 90 where the financial value inclusive of VAT of all responsive tenders received have a value in excess of R1 000 000 or
2. 80 where the financial value inclusive of VAT of one or more responsive tender offers have a value that equals or is less than R1 000 000

Up to 100 minus  $W_1$  tender evaluation points will be awarded to tenderers who complete the preferencing schedule and who are found to be eligible for the preference claimed.

Should the BBBEE rating not be provided, Transnet reserves the right to award no points and/or declare the tender void. Transnet also reserves the right to carry out an independent audit of the tenderers scorecard components at any stage from the date of close of the tenders until completion of the contract.

Tenderers with no accreditation will score zero points for preferencing.

F.3.13.1 Tender offers will only be accepted if:

- a) the tenderer submits **an original valid** Tax Clearance Certificate issued by the South African Revenue Services or has made arrangements to meet outstanding tax obligations;
- b) the tenderer or any of its directors/shareholders is not listed on the Register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector;
- c) the tenderer has not:
  - i) abused the Employer's Supply Chain Management System; or
  - ii) failed to perform on any previous contract and has been given a written notice to this effect;
- d) the supplier has completed the Compulsory Enterprise Questionnaire and there are no conflicts of interest which may impact on the supplier's ability to perform the contract in the best interests of the purchaser or potentially compromise the tender process and persons in the employ of the state are permitted to submit tenders or participate in the contract;
- e) the supplier is registered and in good standing with the compensation fund or with a licensed compensation insurer;
- f) the purchaser is reasonably satisfied that the supplier has in terms of the Construction Regulations, 2003, issued in terms of the Occupational Health and Safety Act, 1993, the necessary competencies and resources to carry out the work safely.

F.3.18 The number of paper copies of the signed contract to be provided by the *Purchaser* is 1 (one).



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## SUPPLIER DEVELOPMENT PLAN

The upswing in growth in the last decade, followed by the global recession in 2008, as well as persistently high unemployment and social inequality, forced the South African government to re-evaluate its growth strategy. This led to the development of a revised growth framework, the New Growth Path (NGP). The NGP aims to enhance growth, employment creation and equity, through the identification of strategies that will enable South Africa to grow in a more equitable and inclusive manner and promote the development of new industry to attain South Africa's developmental agenda.

In order to achieve this, the NGP focuses on:

- Increasing employment intensity of the economy
- Increasing the responsiveness of infrastructure and addressing competitiveness
- Balancing spatial development of rural areas and poorer provinces
- Reducing the carbon intensity of the economy
- Creating opportunities in changing regional and global environments
- Enabling transformation that benefits a wider range of social actors in society e.g. workers, rural communities, women etc.

Tenderers must submit a Supplier Development Plan (SDP) which clearly indicates the following benefits:

- Acceleration of localisation and transformation of local business by promoting technology transfer, skill development and job creation
- Focused regional development
- Increase in local content – security of supply, reduced cycle times, reduced exposure to foreign currency and reduction of supply chain costs (over time)
- Transformation of supplier dominance from large international or traditionally white owned business to locally owned and black owned suppliers

The SDP will be incorporated in the eventual Contract and will be managed as part of the Suppliers deliverables in terms of the contract. The final SDP will be submitted and agreed to by Transnet and Tenderers must clearly indicate in their Pricing Schedule the cost of implementation hereof. Financial penalties will be included in the contract and be imposed based on the Pricing Schedule for non compliance with the SDP.



## T2.1 List of Returnable Documents

### 1. Returnable Schedules

- T2.2-9 Insurance provided by the Contractor
- T2.2-14 Authority to submit tender
- T2.2-17 Compulsory Enterprise Questionnaire
- T2.2-27 Broad-Based Black Economic Empowerment (BBBEE)
- T2.2-31 Supplier Code of Conduct
- T2.2-33 Mutual Non-Disclosure Agreement
- T2.2-36 RFP Declaration Form
- T2.2-38 Declaration of Understanding (Environmental and Health & Safety)

**This schedule is required for payment purposes only:**

- T2.2-34 Supplier Declaration Form

### 2. C1.1 Offer portion of Form of Offer & Acceptance

### 3. C1.2 Contract Data Part 2: Data by *Contractor*

### 4. C2.2 Bill of Quantities / Price Schedule



## Insurance provided by the Contractor

Clause 84.1 in NEC3 Engineering & Construction Contract (June 2005)(amended June 2006) requires that the *Contractor* provides the insurance stated in the insurance table except any insurance which the *Employer* is to provide as stated in the Contract Data.

Please provide the following details for insurance which the *Contractor* is still to provide. Notwithstanding this information all costs related to insurance are deemed included in the tenderer's rates and prices.

Insurance against (See clause 84.2 of the ECC)	Name of Insurance Company	Cover	Premium
Loss of or damage to the <i>works</i> , Plant and Materials			
Loss of or damage to Equipment			
Liability for loss of or damage to property (except the <i>works</i> , Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Contractor</i> ) caused by activity in connection with this contract.			
Liability for death of or bodily injury to employees of the <i>Contractor</i> arising out of and in the course of their employment in connection with this contract			
(Other)			

Signed

Date

Name

Position

Tenderer

## Authority to submit a Tender

Indicate the status of the tenderer by ticking the appropriate box hereunder. The tenderer must complete the certificate set out below for his category of organisation or alternatively attach a certified copy of a company / organisation document which provides the same information for the relevant category as requested here.

A - COMPANY	B - PARTNERSHIP	C - JOINT VENTURE	D - SOLE PROPRIETOR
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### A. Certificate for Company

I, \_\_\_\_\_, chairperson of the board of directors of \_\_\_\_\_, hereby confirm that by resolution of the board taken on \_\_\_\_\_ (date), Mr/Ms \_\_\_\_\_, acting in the capacity of \_\_\_\_\_ was authorised to sign all documents in connection with this tender offer and any contract resulting from it on behalf of the company.

Signed

Date

Name

Position

Chairman of the Board of Directors

## B. Certificate for Partnership

We, the undersigned, being the **key partners** in the business trading as \_\_\_\_\_  
\_\_\_\_\_ hereby authorise Mr/Ms \_\_\_\_\_, acting in the  
capacity of \_\_\_\_\_, to sign all documents in connection with the tender  
offer for Contract \_\_\_\_\_ and any contract resulting from it on our behalf.

Name	Address	Signature	Date

NOTE: This certificate is to be completed and signed by the full number of Partners necessary to commit the Partnership. Attach additional pages if more space is required.

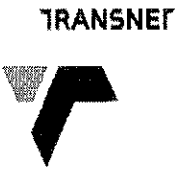
### C. Certificate for Joint Venture

We, the undersigned, are submitting this tender offer in Joint Venture and hereby authorise Mr/Ms \_\_\_\_\_, an authorised signatory of the company \_\_\_\_\_, acting in the capacity of lead partner, to sign all documents in connection with the tender offer for Contract \_\_\_\_\_ and any contract resulting from it on our behalf.

This authorisation is evidenced by the attached power of attorney signed by legally authorised signatories of all the partners to the Joint Venture.

Furthermore we attach to this Schedule a copy of the joint venture agreement which incorporates a statement that all partners are liable jointly and severally for the execution of the contract and that the lead partner is authorised to incur liabilities, receive instructions and payments and be responsible for the entire execution of the contract for and on behalf of any and all the partners.

Name of firm	Address	Authorising signature, name (in caps) and capacity



### D. Certificate for Sole Proprietor

I, \_\_\_\_\_, hereby confirm that I am the sole owner of the business  
trading as \_\_\_\_\_.

Signed	_____	Date	_____
Name	_____	Position	Sole Proprietor

"Preview Copy Only"

## Compulsory Enterprise Questionnaire

The following particulars must be furnished. In the case of a joint venture, separate enterprise questionnaires in respect of each partner must be completed and submitted.

**Section 1: Name of enterprise:** .....

**Section 2: VAT registration number, if any:** .....

**Section 3: CIDB registration number, if any:** .....

### Section 4: Particulars of sole proprietors and partners in partnerships

Name	Identity number	Personal income tax number

\* Complete only if sole proprietor or partnership and attach separate page if more than 3 partners

### Section 5: Particulars of companies and close corporations

Company registration number .....

Close corporation number .....

Tax reference number .....



**Section 6: Record in the service of the state**

Indicate by marking the relevant boxes with a cross, if any sole proprietor, partner in a partnership or director, manager, principal shareholder or stakeholder in a company or close corporation is currently or has been within the last 12 months in the service of any of the following:

- a member of any municipal council
- a member of any provincial legislature
- a member of the National Assembly or the National Council of Province
- a member of the board of directors of any municipal entity
- an official of any municipality or municipal entity
- an employee of any provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999)
- a member of an accounting authority of any national or provincial public entity
- an employee of Parliament or a provincial legislature

If any of the above boxes are marked, disclose the following:

Name of sole proprietor, partner, director, manager, principal shareholder or stakeholder	Name of institution, public office, board or organ of state and position held	Status of service (tick appropriate column)	
		Current	Within last 12 months

\*insert separate page if necessary



**Section 7: Record of spouses, children and parents in the service of the state**

Indicate by marking the relevant boxes with a cross, if any spouse, child or parent of a sole proprietor, partner in a partnership or director, manager, principal shareholder or stakeholder in a company or close corporation is currently or has been within the last 12 months been in the service of any of the following:

- a member of any municipal council
- a member of any provincial legislature
- a member of the National Assembly or the National Council of Province
- a member of the board of directors of any municipal entity
- an official of any municipality or municipal entity
- an employee of any provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999)
- a member of an accounting authority of any national or provincial public entity
- an employee of Parliament or a provincial legislature

Name of spouse, child or parent	Name of institution, public office, board or organ of state and position held	Status of service (tick appropriate column)	
		Current	Within last 12 months

\*insert separate page if necessary

The undersigned, who warrants that he / she is duly authorised to do so on behalf of the enterprise:

- i) authorizes the Employer to obtain a tax clearance certificate from the South African Revenue Services that my / our tax matters are in order;
- ii) confirms that the neither the name of the enterprise or the name of any partner, manager, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears on the Register of Tender Defaulters established in terms of the Prevention and Combating of Corrupt Activities Act of 2004;
- iii) confirms that no partner, member, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears, has within the last five years been convicted of fraud or corruption;
- iv) confirms that I / we are not associated, linked or involved with any other tendering entities submitting tender offers and have no other relationship with any of the tenderers or those responsible for compiling the scope of work that could cause or be interpreted as a conflict of interest; and
- v) confirms that the contents of this questionnaire are within my personal knowledge and are to the best of my belief both true and correct.

Signed	_____	Date	_____
Name	_____	Position	_____
Enterprise name	_____		



## **Broad-Based Black Economic Empowerment (B-BBEE)**

### **B-BBEE and preferencing scheme:**

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

Transnet would therefore prefer to do business with local business enterprises who share these same values and who are prepared to contribute to meaningful B-BBEE initiatives (including, but not limited to subcontracting and Joint Ventures) as part of their tender responses. Transnet will accordingly allow a "preference" in accordance with the 10% preference system, as per the Preferential Procurement Policy Framework Act 5 of 2000 (as amended), to companies who provide a B-BBEE Accreditation Certificate. All procurement and disposal transactions will be evaluated accordingly.

Consequently, when Transnet invites prospective suppliers to submit tenders for its various capital expenditure programmes, it urges tenderers (Large Enterprises and QSE's - see below) to have themselves accredited by any one of the various Accreditation Agencies approved by SANAS (the South African National Accreditation Systems, under the auspices of the Department of Trade and Industry)

In terms of Government Gazette No 32467, Notice No. 810 dated 31 July 2009, as from 1 February 2010 only B-BBEE Accreditation Certificates issued by SANAS approved Verification Agencies will be valid. However Accreditation Certificates issued before 1 February 2010, which are still within their 1 year validity period, will still be acceptable until their expiry date, provided that the accreditation has been undertaken in accordance with the latest Codes (i.e. those promulgated on 9 February 2007).

No certificate issued on or after 1 February 2010 by a Verification Agency which has not been approved by SANAS will be acceptable.

### **1. Enterprises will be rated by such agencies based on the following:**

#### **a) Large Enterprises (i.e. annual turnover >R35 million):**

- Rating level based on all seven elements of the B-BBEE scorecard

#### **b) Qualifying Small Enterprises – QSE (i.e. annual turnover between R5 million and R35 million):**

- Rating based on any four of the elements of the B-BBEE scorecard

#### **c) Exempted Micro Enterprises – EME (i.e. annual turnover <R5 million):**

- EMEs are exempted from B-BBEE accreditation



- Automatic rating of Level 4 B-BBEE irrespective of race of ownership, i.e. 100% B-BBEE recognition
- Black ownership >50% or Black Women ownership >30% automatically qualify as Level 3 B-BBEE, i.e. 110% B-BBEE recognition
- EME's should only provide documentary proof of annual turnover (i.e. audited financials) plus proof of Black ownership if Black ownership >50% or Black Women ownership >30%

In addition to the above, tenderers who wish to enter into a Joint Venture or subcontract portions of the contract to B-BBEE companies, must state in their tenders the percentage, of the total contract value that will be allocated to such B-BBEE companies, should they be successful in being awarded any business. A rating certificate in respect of such B-BBEE JV-partners and / or subcontractor(s), as well as a breakdown of the distribution of the aforementioned percentage must also be furnished with the tender response to enable Transnet to evaluate / adjudicate all tenders received on a fair basis.

Respondents will be 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 proof of turnover in respect of EMEs). Failure to do so will result in a score of zero being allocated for B-BBEE.

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

ZAR.....

- If annual turnover <R5m, please attach audited financials.
- If annual turnover >R5m, please attach an accreditation certificate issued by an Accreditation Agency, together with all the relevant score sheets pertaining thereto.

In addition to the accreditation certificate, Transnet also requires that tenderers register their B-BBEE compliance and supporting documentation on the Department of Trade and Industry's ("DTI") National B-BBEE IT Portal and Opportunities Network and **provide Transnet with proof of registration in the form of an official B-BBEE Profile issued by the DTI.**

Transnet will use the DTI B-BBEE IT Portal as a single data source for its B-BBEE supplier selection criteria and procurement improvement programme by tracking compliance, understanding spend and by sourcing future procurement opportunities.

## 2. Instructions for registration and obtaining a DTI B-BBEE Profile:

1. Go to <http://bee.thedti.gov.za>
2. Click on B-BBEERegistry
3. Click on *Register or Login*
4. Click on *Click Here to Register*

5. Complete the registration page
6. Once registered, click on *List on Registry*
7. Follow all 'on-screen' and e-mailed instructions to submit your documentation and obtain your Profile

### **Socio-Economic Obligations for Foreign Tenderers:**

Foreign tenderers, who do not have local agencies or other corporate representation in South Africa, will not be evaluated in terms of the B-BBEE requirements but will fall under the associated South African Government's initiative, namely, the Competitive Supplier Development Programme ("CSDP") as developed by the Department of Public Enterprises, details of which can be viewed at the Railways and Harbours Supply Chain Association's website, [www.rhsupplychain.com](http://www.rhsupplychain.com)

A 10% preference system (i.e. equivalent to the B-BBEE preference points above) will be allocated for the evaluation of a tenderer's offer under its socio-economic obligations in relation to the CSDP.

Signed	_____	Date	_____
Name	_____	Position	_____
Tenderer	_____		

## Supplier Code of Conduct

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

- The Transnet Procurement Policy – A guide for Tenderers.
- Section 217 of the Constitution - the five pillars of Public PSCM (Procurement and Supply Chain Management): fair, equitable, transparent, competitive and cost effective;
- The Public Finance Management Act (PFMA);
- The Broad Based Black Economic Empowerment Act (BBBEE)
- The Prevention and Combating of Corrupt Activities Act (PRECCA); and
- The Construction Industry Development Board Act (CIDB Act).

This code of conduct has been included in this contract to formally appraise Transnet Suppliers of Transnet's expectations regarding behaviour and conduct of its Suppliers.

### ***Prohibition of Bribes, Kickbacks, Unlawful Payments, and Other Corrupt Practices***

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

#### ***1. Transnet Limited will not participate in corrupt practices. Therefore, it expects its suppliers to act in a similar manner.***

- Transnet and its employees will follow the laws of this country and keep accurate business records that reflect actual transactions with, and payments to, our suppliers.
- Employees must not accept or request money or anything of value, directly or indirectly, from suppliers.
- Employees may not receive anything that is calculated to:
  - Illegally influence their judgement or conduct or to ensure the desired outcome of a sourcing activity;
  - Win or retain business or to influence any act or decision of any person involved in sourcing decisions; or
  - Gain an improper advantage.
- There may be times when a supplier is confronted with fraudulent or corrupt behaviour of Transnet employees. We expect our Suppliers to use our "Tip-offs Anonymous" Hot line to report these acts. (0800 003 056).



**2. *Transnet Limited is firmly committed to the ideas of free and competitive enterprise.***

- Suppliers are expected to comply with all applicable laws and regulations regarding fair competition and antitrust practices.
- Transnet does not engage with non-value adding agents or representatives solely for the purpose of increasing BBBEE spend (fronting).

**3. *Transnet's relationship with suppliers requires us to clearly define requirements, to exchange information and share mutual benefits.***

- Generally, suppliers have their own business standards and regulations. Although Transnet cannot control the actions of our suppliers, we will not tolerate any illegal activities. These include, but are not limited to:
  - Misrepresentation of their product (origin of manufacture, specifications, intellectual property rights, etc);
  - Collusion;
  - Failure to disclose accurate information required during the sourcing activity (ownership, financial situation, BBBEE status, etc.);
  - Corrupt activities listed above; and
  - Harassment, intimidation or other aggressive actions towards Transnet employees.
- Suppliers must be evaluated and approved before any materials, components, products or services are purchased from them. Rigorous due diligence is conducted and the supplier is expected to participate in an honest and straight forward manner.
- Suppliers must record and report facts accurately, honestly and objectively. Financial records must be accurate in all material respects.

**Conflicts of Interest**

A conflict of interest arises when personal interests or activities influence (or appear to influence) the ability to act in the best interests of Transnet Limited.

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

Where possible, contracts will be negotiated to include the above in the terms of such contracts. To the extent such terms are not included in contractual obligations and any of the above code is breached, then Transnet reserves its right to review doing business with these suppliers.

I, \_\_\_\_\_ of \_\_\_\_\_  
*(insert name of Director or as per Authority Resolution from Board of Directors)* *(insert name of Company)*

hereby acknowledge having read, understood and agree to the terms and conditions set out in the "Transnet Supplier Code of Conduct."

Signed this on day \_\_\_\_\_ at \_\_\_\_\_

\_\_\_\_\_  
Signature



## Mutual Non-Disclosure Agreement

**Note to tenderers: This Non-Disclosure Agreement is to be completed and signed by an authorised signatory:**

**THIS AGREEMENT** is made effective as of ..... day of ..... 20..... by and between:

**Transnet SOC Ltd** (Registration No. 1990/000900/06), a company incorporated and existing under the laws of South Africa, having its principal place of business at Carlton Centre, 150 Commissioner Street, Johannesburg, 2001, South Africa,

and

..... (Registration No. ....), a private company incorporated and existing under the laws of South Africa having its principal place of business at .....

### 1. Purpose

The parties to this Agreement have a business relationship under which each party may disclose its Confidential Information to the other for the purpose of planning, for the supply and delivery of various sizes of Boulders and Dump rock material. Each party ("the receiving party") shall treat as confidential all information and know-how which it may receive from the other party ("the disclosing party") in terms of this Agreement (hereinafter referred to as "confidential information"), and shall not divulge to any other party in any circumstances any such confidential information, and, in particular, any such confidential information as is covered by the National Key Points Act (Act No. 102 of 1980), whether during the currency of this Agreement or at any time thereafter, without the prior written consent of the disclosing party.

### 2. Definition

"**Confidential Information**" means any information, technical data, or know-how, including, but not limited to, that which relates to research, product plans, products, services, customers, markets, software, developments, inventions, processes, designs, drawings, engineering, hardware configuration information, marketing or finances.

### 3. Exclusions

Confidential Information does not include information, technical data or know-how which:

- 3.1. is in the possession of the receiving party at the time of disclosure as shown by the receiving party's files and records immediately prior to the time of disclosure;



- 3.2. prior or after the time of disclosure becomes part of the public knowledge or literature, not as a result of any inaction or action of the receiving party;
- 3.3. is developed by the receiving party through its independent resources without reference to the disclosing party's Confidential Information;
- 3.4. is disclosed to the receiving party by a third party without restriction and, to the knowledge of the receiving party, without violation of any obligation of confidentiality; or
- 3.5. is approved for release by the disclosing party in writing.

#### **4. Non-Disclosure of Confidential Information**

- 4.1. The parties to this Agreement agree not to use the Confidential Information disclosed to it by the other party for its own use or for any purpose except to carry out the Purpose as contained in this Agreement. Neither party will disclose any Confidential Information of the other party to third parties except those directors, officers, employees, consultants and agents who are required to have the information in order to carry out the discussions of the contemplated Purpose. Each party will notify those directors, officers, employees, consultants and agents to whom Confidential Information of the other party is disclosed or who have access to Confidential Information of the other party that they are bound by the obligations of this Non-Disclosure Agreement.
- 4.2. Each party agrees that it will take all reasonable measures to protect the secrecy of and avoid disclosure or use of Confidential Information of the other party in order to prevent it from falling into the public domain or the possession of persons other than those persons authorised hereunder to have any such information, which measures shall include the highest degree of care that either party utilises to protect its own Confidential Information of a similar nature. Each party agrees to notify the other party in writing of any misuse or misappropriation of such Confidential Information of the other party which may come to its attention.

#### **5. Promotion of Access to Information Act, No.2 of 2000**

- 5.1. All information relating to the disclosing party and which the disclosing party has indicated to the receiving party in writing to be confidential information, shall be deemed to be confidential information.
- 5.2. No provision of this Agreement shall be construed in such a way that the disclosing party is deemed to have granted its consent to the receiving party to disclose the whole or any part of the confidential information in the event that the receiving party receives a request for the whole or any part of the confidential information in terms of the provisions of the Promotion of Access to Information Act, No.2 of 2000, as may be amended from time to time ("the Act").
- 5.3. Subject to the provisions of sub-clause 5.3 below, the disclosure of confidential information by the receiving party otherwise than in accordance with the provisions of this Agreement will

entitle the disclosing party to institute action for breach of confidence against the receiving party, as envisaged by Section 65 of Act No.2 of 2000.

5.4. The receiving party acknowledges that the provisions of sub-clause 5.2 above shall not be construed in such a manner as to exclude the applicability of any other grounds of refusal contained in Act No.2 of 2000 which may be applicable in the event that the receiving party receives a request for the whole or any part of the confidential information in terms of Act No.2 of 2000.

#### **6. Non-Solicitation**

During the two-year period following the execution of this Agreement, neither party will solicit for employment, on its own behalf or that of any other person, any officer, director or employee of the other party at the level of director, vice-president or higher with whom the soliciting party became acquainted during the course of the discussions contemplated by this Agreement; provided, that the foregoing shall not be deemed to prohibit either party or a subsidiary of such party from making a general, public solicitation of employment in the ordinary course of such party or subsidiary's business, provided that such solicitation is not directed specifically to employees of the other party.

#### **7. Mandatory Disclosure**

In the event that either party or their respective directors, officers, employees, consultants or agents are requested or required by legal process to disclose any of the Confidential Information of the other party, the party required to make such disclosure shall give prompt notice so that the other party may seek a protective order or other appropriate relief. In the event that such protective order is not obtained, the party required to make such disclosure shall disclose only that portion of the Confidential Information, which its counsel advises that it is legally required to disclose.

#### **8. Variation, Addition or Cancellation**

No variation of, addition to, cancellation or novation of this Agreement in its entirety or of any term or condition thereof shall be of any force or effect unless such amendment or cancellation is reduced to writing and signed by both parties.

#### **9. No License Granted**

Nothing in this Agreement is intended to grant any rights to either party under any patent, copyright, trade secret or other intellectual property right nor shall this Agreement grant either party any rights in or to the other party's Confidential Information, except the limited right to review such Confidential Information solely for the purposes of the contemplated business relationship between the parties.

## 10. No Representations

No party makes any representation or warranty as to the accurateness or completeness of any Confidential Information provided hereunder. Neither party shall have any liability to the other arising from, or related to, the other party's use of Confidential Information provided hereunder.

## 11. Term

The foregoing commitments of either party in this Agreement shall survive any termination of the business relationship under the contemplated Purpose between the parties, and shall continue relative to any Confidential Information disclosed hereunder for a period of 10 (ten) years following the disclosure of such Confidential Information.

## 12. Miscellaneous

This Agreement shall be binding upon and for the benefit of the undersigned parties, their successors and assigns, provided that Confidential Information of either party may not be assigned without the prior written consent of the disclosing party. Failure to enforce any provision of this Agreement shall not constitute a waiver of any term hereof.

## 13. Governing Law and Jurisdiction

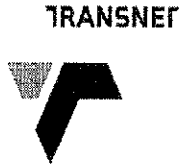
This Agreement shall be governed by and construed and enforced in accordance with the laws of the Republic of South Africa, and shall be binding upon the parties hereto in South Africa and worldwide.

## 14. Disputes

Any dispute or difference arising out of or relating to this Confidentiality Agreement shall be referred to arbitration and settled by arbitration according to the rules then in effect of the Arbitration Foundation of Southern Africa. Such arbitration shall be held in Johannesburg, and conducted in the English language before 1 (one) arbitrator appointed in accordance with the said rules. The arbitrator shall apply the law chosen by the parties elsewhere in this Agreement to the merits of the dispute. This Agreement to arbitrate shall be enforceable in, and judgement upon any award may be entered in any court of any country having appropriate jurisdiction.

## 15. Remedies

Each party agrees that its obligations hereunder are necessary and reasonable in order to protect the other party and the other party's business, and expressly agrees that monetary damages may be inadequate to compensate the other party for any breach by either party of any covenants and agreements set forth herein. Accordingly, each party agrees and acknowledges that any such violation or threatened violation may cause irreparable injury to the other party and that, in addition



to any other remedies that may be available, in law, in equity or otherwise, the other party shall be entitled to obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages.

Signed

Date

Name

Position

Tenderer

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

"Preview Copy Only"

## RFP DECLARATION FORM

NAME OF COMPANY: \_\_\_\_\_

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

1. Transnet has supplied and we have received appropriate responses to any/all questions (as applicable) which were submitted by ourselves for bid clarification purposes;
2. we have received all information we deemed necessary for the completion of this Request for Proposal (RFP);
3. at no stage have we received additional information relating to the subject matter of this RFP from Transnet sources, other than information formally received from the designated Transnet contact(s) as nominated in the RFP documents;
4. we are satisfied, insofar as our company is concerned, that the processes and procedures adopted by Transnet in issuing this RFP and the requirements requested from bidders in responding to this RFP have been conducted in a fair and transparent manner; and
5. furthermore, we acknowledge that a direct relationship exists between a family member and/or an owner / member / director / partner / shareholder (unlisted companies) of our company and an employee or board member of the Transnet Group as indicated below: *[Respondent to indicate if this section is not applicable]*

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

ADDRESS:

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

Indicate nature of relationship with Transnet:

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

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



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

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

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

For and on behalf of ..... duly authorised thereto	AS WITNESS:
Name:	Name:
Position:	Position:
Signature:	Signature:
Date:	
Place:	



TRANSNET SOC LTD  
 ENQUIRY/CONTRACT NUMBER: RBY4113684.001SC  
 DESCRIPTION OF WORKS: SUPPLY AND DELIVERY OF VARIOUS SIZES OF BOULDERS AND DUMP  
 ROCK TO THE PORT OF RICHARDS BAY

**DECLARATION OF UNDERSTANDING**

<b>PROJECT NAME:</b>		<b>DOCUMENT NO:</b>	
<b>PROJECT NO:</b>		<b>DATE:</b>	
<b>CONTRACTOR:</b>		<b>CONTRACT NO:</b>	

I,

\_\_\_\_\_

(Name) (Designation)

\_\_\_\_\_

(Representing)

Declare that I have read and understood the contents of the Standard Environmental Specification (TCP-EM-STD-001, the Construction Environmental Management Plan (TCP-EM-STD-002) and the Occupational Health & Safety Act and Regulations.

I also declare that I understand my responsibilities in terms of enforcing and implementing the Environmental Specifications for the aforementioned Contract.

<b>Signed</b>	Signature	Date
<b>Place</b>		
<b>Witness 1:</b>	Signature	Date
<b>Witness 2:</b>		



## Supplier Declaration Form

### For Attention: The Financial Director or Company Secretary

Transnet Vendor Management has received a request to load your company as a Transnet SOC Ltd vendor. We would like to take this opportunity to welcome you as a potential vendor and request that you assist with the following to enable us to process this request:

1. Complete the "Supplier Declaration Form" (**SDF**) on page 3 of this letter
2. Copy of cancelled cheque **OR** letter from the bank verifying banking details (**with bank stamp**)
3. Certified copy of Identity document of Shareholders/Directors/Members (where applicable)
4. Certified copy of certificate of incorporation, CM29 / CM9 (name change)
5. Certified copy of share Certificates of Shareholders, CK1 / CK2 (if CC)
6. A letter with the company's letterhead confirming physical and postal address
7. Original or certified copy of SARS Tax Clearance certificate and Vat registration certificate
8. A signed letter from the Auditor / Accountant confirming most recent annual turnover and percentage black ownership in the company **AND/OR** B-BBEE certificate and detailed scorecard from a SANAS Accredited Verification Agency.

**NB: Failure to submit the above documentation will delay the vendor creation process.**

*Where applicable, the respective Transnet SOC Ltd business unit processing your application may request further information from you, e.g. proof of an existence of a Service/Business contract between your business and the respective Transnet business unit etc.*

### **IMPORTANT NOTES:**

- a) **If your annual turnover is less than R5 million**, then in terms of the DTI codes, you are classified as an Exempted Micro Enterprise (EME). If your company is classified as an EME, please include in your submission, a signed letter from your Auditor / Accountant confirming your company's most recent annual turnover is less than R5 million and percentage of black ownership in the company **AND/OR** B-BBEE certificate and detailed scorecard from a SANAS Accredited Verification Agency.
- b) **If your annual turnover exceeds R5 million**, and you claim a specific BEE level, please include your BEE certificate in your submission as confirmation of your status.
- c) **To avoid PAYE tax being automatically deducted from any invoices received from you**, you must also contact the Transnet person who lodged this request on your behalf, so as to be correctly classified in terms of Tax legislation.



- 
- d) Unfortunately, **no payments can be made to a vendor** until the vendor has been registered, and no vendor can be registered until the vendor application form, together with its supporting documentation, has been received and processed.

Regards,

Transnet Supplier Management

*(please substitute this with your relevant Transnet department)*

"Preview Copy Only"



### SUPPLIER DECLARATION FORM

Company Trading Name							
Company Registered Name							
Company Registration Number Or ID Number If A Sole Proprietor							
Form of entity	CC	Trust	Pty Ltd	Limited	Partnership	Sole Proprietor	
VAT number (if registered)							
Company Telephone Number							
Company Fax Number							
Company E-Mail Address							
Company Website Address							
Postal Address							
Physical Address							
Contact Person							
Designation							
Telephone							
Email							
Annual Turnover Range (Last Financial Year)		< R5 Million		R5-35 million		> R35 million	
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 Service Supplied (E.G.: Stationery/Consulting)							



BEE Ownership Details				
% Black Ownership		% Black women ownership		% Disabled person/s ownership
Does your company have a BEE certificate		Yes		No
What is your broad based BEE status (Level 1 to 8 / Unknown)				
How many personnel does the firm employ		Permanent		Part time

Name of person procuring your services/products	
Contact number	
Transnet operating division	

Duly Authorised To Sign For And On Behalf Of Firm / Organisation			
Name		Designation	
Signature		Date	

Stamp And Signature Of Commissioner Of Oath			
Name		Date	
Signature		Telephone No.	

**NB: Please return the completed form, with all the supporting documentation to the person procuring your services/material/goods**



# NEC3 Supply Short Contract (SSC)

A contract between Transnet SOC Ltd

and

for **Supply and Delivery of various sizes of Boulders and Dump Rock to the Port of Richards Bay.**

<b>Contents:</b>	Compiled in accordance with CIDB Standard for Uniformity in Construction Procurement (amendments May 2010)	<b>Page No.</b>
<b>Part C1 Agreements &amp; Contract Data</b>		
C1.1 Form of Offer and Acceptance		3
C1.2 Contract Data provided by the <i>Purchaser</i>		3
C1.2 Contract Data provided by the <i>Supplier</i>		1
<b>Part C2 Pricing Data</b>		
C2.1 Pricing assumptions		1
C2.2 Price Schedule		
<b>Part C3 Scope of Work</b>		
C3.1 Goods Information		6

Documentation prepared by: Lizelle Smith



## C1 Agreements & Contract Data

### C1.1 Form of Offer and Acceptance

#### Offer

The Purchaser, identified in the Acceptance page signature block on the next page, has solicited offers to enter into a contract for the procurement of:

#### Supply and Delivery of various sizes of Boulders and Dump Rock to the Port of Richards Bay

The tenderer, identified in the signature block below, has

<i>either</i>	examined the documents listed in the Tender Data and addenda thereto as listed in the Returnable Schedules, and by submitting this Offer has accepted the Conditions of Tender.
<i>or</i>	examined the draft contract as listed in the Acceptance section and agreed to provide this Offer.

By the representative of the tenderer, deemed to be duly authorised, signing this part of this Form of Offer and Acceptance the tenderer offers to perform all of the obligations and liabilities of the *Supplier* under the Contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the conditions of contract identified in the Contract Data.

The offered total of the Prices exclusive of VAT is	R
Value Added Tax @ 14% is	R
The offered total of the Prices inclusive of VAT is	R
(in words)	

This Offer may be accepted by the *Purchaser* by signing the form of Acceptance overleaf and returning one copy of this document including the Schedule of Deviations (if any) to the tenderer before the end of the period of validity stated in the Tender Data, or other period as agreed, whereupon the tenderer becomes the party named as the *Supplier* in the conditions of contract identified in the Contract Data.

Signature(s)

Name(s)

Capacity

For the  
tenderer:

(Insert name and address of organisation)

Name &  
signature of  
witness

Date



TRANSNET SOC LTD  
 ENQUIRY/CONTRACT NUMBER: RBY4113684.001SC  
 DESCRIPTION OF WORKS: SUPPLY AND DELIVERY OF VARIOUS SIZES OF BOULDERS AND DUMP  
 ROCK TO THE PORT OF RICHARDS BAY

**Acceptance**

By signing this part of this Form of Offer and Acceptance, the *Purchaser* identified below accepts the tenderer's Offer. In consideration thereof, the *Purchaser* shall pay the Supplier the amount due in accordance with the conditions of contract identified in the Contract Data. Acceptance of the tenderer's Offer shall form an Agreement between the *Purchaser* and the tenderer upon the terms and conditions contained in this Agreement and in the Contract that is the subject of this Agreement.

The terms of the Contract, are contained in:

- Part 1 Agreements and Contract Data, (which includes this Form of Offer and Acceptance)
- Part 2 Pricing Data
- Part 3 Scope of Work: Goods Information

and drawings and documents (or parts thereof), which may be incorporated by reference into the above listed Parts.

Deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Tender Schedules as well as any changes to the terms of the Offer agreed by the tenderer and the *Purchaser* during this process of Offer and Acceptance, are contained in the Schedule of Deviations attached to and forming part of this Form of Offer and Acceptance. No amendments to or deviations from said documents are valid unless contained in this Schedule, which must be signed by the duly authorised representative(s) for both parties.

The tenderer shall within one week of receiving a completed copy of this Agreement, including the Schedule of Deviations (if any), contact the *Purchaser's Supply Manager* (whose details are given in the Contract Data) to arrange the delivery of any securities, bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the conditions of contract identified in the Contract Data at, or just after, the date this Agreement comes into effect. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this Agreement.

Notwithstanding anything contained herein, this Agreement comes into effect on the date when the tenderer receives one fully completed copy of this document, including the Schedule of Deviations (if any) together with all the terms of the contract as listed above.

Unless the tenderer (now *Supplier*) within five working days of the date of such receipt notifies the *Purchaser* in writing of any reason why he cannot accept the contents of this agreement, this agreement shall constitute a binding contract between the Parties.

Signature(s) \_\_\_\_\_  
 Name(s) \_\_\_\_\_  
 Capacity \_\_\_\_\_  
**for the Purchaser** Transnet SOC Ltd  
 Transnet Freight Rail RME  
 Old Naval Base, Commodores Close  
 Meerensee, Richardsbay

Name & signature of witness \_\_\_\_\_ Date \_\_\_\_\_



TRANSNET SOC LTD  
 ENQUIRY/CONTRACT NUMBER: RBY4113684.001SC  
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 ROCK TO THE PORT OF RICHARDS BAY

**Schedule of Deviations**

Note:

1. To be completed by the Purchaser prior to award of contract. This part of the Offer & Acceptance would not be required if the contract has been developed by negotiation between the Parties and is not the result of a process of competitive tendering.
2. The extent of deviations from the tender documents issued by the Purchaser prior to the tender closing date is limited to those permitted in terms of the Conditions of Tender.
3. A tenderer's covering letter must not be included in the final contract document. Should any matter in such letter, which constitutes a deviation as aforesaid be the subject of agreement reached during the process of Offer and Acceptance, the outcome of such agreement shall be recorded here and the final draft of the contract documents shall be revised to incorporate the effect of it.

No.	Subject	Details
1		
2		
3		
4		
5		
6		
7		

By the duly authorised representatives signing this Schedule of Deviations below, the *Purchaser* and the tenderer agree to and accept this Schedule of Deviations as the only deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Tender Schedules, as well as any confirmation, clarification or changes to the terms of the Offer agreed by the tenderer and the *Purchaser* during this process of Offer and Acceptance.

It is expressly agreed that no other matter whether in writing, oral communication or implied during the period between the issue of the tender documents and the receipt by the tenderer of a completed signed copy of this Form shall have any meaning or effect in the contract between the parties arising from this Agreement.

**For the tenderer:**

**For the Purchaser**

Signature \_\_\_\_\_

\_\_\_\_\_

Name \_\_\_\_\_

\_\_\_\_\_

Capacity \_\_\_\_\_

\_\_\_\_\_

On behalf of \_\_\_\_\_  
*(Insert name and address of organisation)*

Transnet SOC Ltd  
 Transnet Freight Rail RME  
 Old Naval Base, Commodores Close  
 Meerensee, Richardsbay

Name & signature of witness \_\_\_\_\_

\_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_



TRANSNET SOC LTD  
 ENQUIRY/CONTRACT NUMBER: RBY4113684.001SC  
 DESCRIPTION OF WORKS: SUPPLY AND DELIVERY OF VARIOUS SIZES OF BOULDERS AND DUMP  
 ROCK TO THE PORT OF RICHARDS BAY



## C1.2 Contract Data

### Data provided by the *Purchaser*

Clause	Statement	Data
<b>General</b>		
10.1	The <i>Purchaser</i> is (Name):	Transnet SOC Ltd (Registration No. 1990/000900/30)
	Address	Carlton Centre, 150 Commissioner Street, Johannesburg, 2001.
	Tel No.	011 308-3001
	Fax No.	011 308-2638
	Having elected its Contractual Address for the purpose of this contract as:	Transnet Freight Rail RME Old Naval Base, Commodores Close, Meerensee, Richards Bay 3900
11.2(4)	The <i>delivery date</i> is	As per the SAP Purchase Order
11.2(5)	The Goods Information is in	the document called 'Goods Information' in Part 3 of this contract.
11.2(8)	The <i>goods</i> are	The Supply and delivery of various sizes of Boulders and Dump Rock
12.2	The <i>law of the contract</i> is	The Republic of South Africa subject to the jurisdiction of the Courts of South Africa
13.2	The <i>period for reply</i> is	1 week
23.1	The <i>Purchaser</i> requires the <i>Supplier</i> to Provide the Goods when instructed by Batch Order.	No
30.1	The <i>starting date</i> is.	25 June 2012
50.1	The <i>assessment day</i> is the	On the 31 <sup>st</sup> day of each month.
50.5	The <i>delay damages</i> are	R1000.00 per day.
84.1	The <i>Purchaser</i> provides this insurance	None

TRANSNET SOC LTD

ENQUIRY/CONTRACT NUMBER: RBY4113684.0015C

DESCRIPTION OF WORKS: SUPPLY AND DELIVERY OF VARIOUS SIZES OF BOULDERS AND DUMP  
ROCK TO THE PORT OF RICHARDS BAY

- 86.1 The *Supplier's* liability to the *Purchaser* for indirect or consequential loss, including loss of profit, revenue and goodwill is limited to
1. Where the Contract involves manufacture and/or fabrication of Plant and Materials, components or other goods to be incorporated into the works, at premises other than the Site, the *Supplier* shall satisfy the *Purchaser* that such Plant and Materials, components or other goods are adequately insured during manufacture and/or fabrication and transportation.
  2. Should the *Purchaser* have an insurable interest in such items during manufacture or fabrication, such interest shall be noted by an endorsement made on the *Supplier's* policies of insurance.
  3. The insurance coverage referred to in 1 and 2 above shall be obtained from an insurer in terms of an insurance policy approved by the *Purchaser*. The *Supplier* shall arrange with the insurer to submit to the *Supply Manager* the original and duplicate original of the policy or policies of insurance and the receipts for payment of current premiums, together with a certificate from the insurer or insurance broker concerned, confirming that the policy or policies provide the full coverage as required. The original policy will be returned to the *Supplier*.

Motor Vehicle Liability Insurance comprising (as a Minimum) "Balance of Third Party" Risks including Passenger and Unauthorised Passenger Liability indemnity with a minimum indemnity limit of R10,000,000 (to be determined by risk assessment of the potential risk exposure).

93.1	The <i>Adjudicator</i> is (Name)	the person selected from the <i>Purchaser's</i> panel of <i>Adjudicators</i> listed in Annexure A to this Contract Data by the Party intending to refer a dispute to him.
93.2(2)	The <i>Adjudicator nominating body</i> is:	the Chairman of The Association of Arbitrators (South Africa)
93.4	The <i>tribunal</i> is:	Arbitration.

TRANSNET SOC LTD  
ENQUIRY/CONTRACT NUMBER: RBY4113684.001SC  
DESCRIPTION OF WORKS: SUPPLY AND DELIVERY OF VARIOUS SIZES OF BOULDERS AND DUMP  
ROCK TO THE PORT OF RICHARDS BAY



If the *tribunal* is arbitration, the arbitration procedure is

the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa)

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11.1      **The conditions of contract are the  
NEC3 Supply Short Contract  
(December 2009)**

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"Preview Copy Only"

TRANSNET SOC LTD

ENQUIRY/CONTRACT NUMBER: RBY4113684.001SC

DESCRIPTION OF WORKS: SUPPLY AND DELIVERY OF VARIOUS SIZES OF BOULDERS AND DUMP  
ROCK TO THE PORT OF RICHARDS BAY

### Data provided by the *Supplier* (the *Supplier's Offer*)

The tendering Supplier is advised to read both the NEC3 Supply Short Contract (December 2009) and the relevant parts of its Guidance Notes (SSC-GN)<sup>1</sup> in order to understand the implications of this Data which the tenderer is required to complete. An example of the completed Data is provided on page 26 of the SSC Guidance Notes and Flow Charts.

Completion of the data in full is essential to create a complete contract.

10.1	The <i>Supplier</i> is (Name): Address Tel No. Fax No. E-mail address	
11.2(7)	The Price Schedule is in	the document called 'Price Schedule' in Part 2 of this contract.
11.2(7)	The offered total of the Prices	See C1.1 Form of Offer and Acceptance
63.2	The percentage for overheads and profit added to the Defined Cost is	%

<sup>1</sup> Available from Engineering Contract Strategies on [www.ecs.co.za](http://www.ecs.co.za) Tel 011 803 3008, Fax 011 803 3009.



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## C2 Pricing Data

### 1. The conditions of contract

#### 1.1 How goods and services are priced and assessed for payment

Clause 11 in NEC3 Supply Contract, December 2009 (SC3) core clauses states:

<b>Identified and defined terms</b>	11 11.2	<p>(11) The Prices are the amounts stated in the price column of the Price Schedule. Where a quantity is stated for an item in the Price Schedule, the Price is calculated by multiplying the quantity by the rate.</p> <p>(12) The Price Schedule is the <i>price schedule</i> unless later changed in accordance with this contract.</p>
<b>Assessing the amount due</b>	50.2	<p>The amount due is</p> <ul style="list-style-type: none"> <li>• the Price for each lump sum item in the Price Schedule which the <i>Supplier</i> has completed,</li> <li>• where a quantity is stated for an item in the Price Schedule, an amount calculated by multiplying the quantity which the <i>Supplier</i> has completed by the rate,</li> <li>• plus other amounts to be paid to the <i>Supplier</i>,</li> <li>• less amounts to be paid by or retained from the <i>Supplier</i>.</li> </ul> <p>Any tax which the law and/or royalty fees require the <i>Purchaser</i> to pay to the <i>Supplier</i> is included in the amount due.</p>

This confirms that the Supply Contract is a priced contract where the Prices are derived from a list of items of *goods* and *services* which can be priced as lump sums or as expected quantities of *goods* and *services* multiplied by a rate, or a mix of both.

#### 1.2 Format of the price schedule

Tenderers are to ensure that prices quoted per item are inclusive of Transport to the Delivery points as per Pricing Schedule.



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**C2.2 Price Schedule**

The rates and Prices entered for each item includes for all work and other things necessary to supply the item.

Item no.	Description	Unit	Quantity	Rate	Price
30003074	Boulders (dump rock) 50kg – 200kg	TON	20 000		
30003076	Boulders (dump rock) 200kg – 2.0ton	TON	18 000		
TBA	Boulders (dump rock) 2.0ton – 4.0ton	TON	8 000		

Total of the Prices

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## C3: Scope of Work

### 3.1 Overview of the goods

This contract is for the supply of various sizes of Boulders for construction of additional groynes in the entrance channel in the Port of Richards Bay.

The supplier must be able to deliver at least 800 tons of requested material per day, as of the 25th of June 2012, or earlier as agreed on date of award. The quantities of the various sizes required per day will be confirmed on date of award.

The material will be off loaded as indicated on site and or stockpiled if so decided by the RME Site representative.

### 3.2 Specifications of the goods

- 2.1. Granite boulders (dump rock) 50kg – 200kg = 20 000 ton
- 2.2. Granite boulders (dump rock) 200kg – 2.0ton = 18 000 ton
- 2.3. Granite boulders (dump rock) 2.0ton – 4.0ton = 8 000 ton

### 3.3 Delay damages for delivery

Refer to NEC3 SC part C1.2 - Contract Data, Data provided by the Purchaser, Clauses 50.5 for Delay damages. Delay damages will be charged R1000.00 per day for delay in delivery and if the *Supplier* cannot meet the quantity of 800 ton per day.

### 3.4 Insurance

Refer to NEC3 SC part C1.2 - Contract Data, Data provided by the Purchaser. Clauses 8 – Risks, liabilities, indemnities and insurance.

### 3.5 Price structure and payment

The fees payable by Transnet to the *Supplier* for the delivery of material shall be in accordance with the schedule of prices agreed to.



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The invoiced amount payable to the *Supplier* shall be the sum of the charges as set out in the clause above, which shall be determined in accordance with the records, approved delivery notes and such other documents kept by the parties, and which shall be invoiced monthly.

The *Supplier* shall, after the end of each month, submit to Transnet invoices, certified as correct, specifying the services rendered during the proceeding month and detailing the amount due.

Transnet shall effect payment thirty (30)-days after receipt of a valid TAX-invoice from the *Supplier*.

The *Supplier* shall correct any error in the invoiced amount per credit note.

### 3.6 Access to site

Access to the Port of Richards Bay will be subjected to the Transnet Port Terminal security requirements and regulations. The *Supplier* will be responsible for obtaining the access permits for himself, his staff and delivery vehicles.

The trucks and truck drivers need to comply with the site Safety and must at all times wear correct PPE and the trucks must also have orange construction flashing lights and reversing sirens.

### 3.7 Procurement

#### Code of Conduct

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

- The Transnet Procurement Procedures Manual (PPM);
- Section 217 of the Constitution - the five pillars of Public PSCM (Procurement and Supply Chain Management): fair, equitable, transparent, competitive and cost effective;
- The Public Finance Management Act (PFMA);
- The Broad Based Black Economic Empowerment Act (B-BBEE); and
- The Anti Corruption Act.

This code of conduct has been included in this contract to formally apprise Transnet Suppliers of Transnet's expectations regarding behaviour and conduct of its Suppliers.





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***Prohibition of Bribes, Kickbacks, Unlawful Payments, and Other Corrupt Practices***

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

1. *Transnet will not participate in corrupt practices and therefore expects its suppliers to act in a similar manner.*
  - Transnet and its employees will follow the laws of this country and keep accurate business records that reflect actual transactions with and payments to our suppliers.
  - Employees must not accept or request money or anything of value, directly or indirectly, to:
    - Illegally influence their judgement or conduct or to ensure the desired outcome of a sourcing activity;
    - Win or retain business or to influence any act or decision of any decision stakeholders involved in sourcing decisions; or
    - Gain an improper advantage.
  - There may be times when a *supplier* is confronted with fraudulent or corrupt behaviour of Transnet employees. We expect our Suppliers to use our "Tip-offs Anonymous" Hot line to report these acts. (0800 003 056).
2. *Transnet is firmly committed to the ideas of free and competitive enterprise.*
  - Suppliers are expected to comply with all applicable laws and regulations regarding fair competition and antitrust.
  - Transnet does not engage with non-value adding agents or representatives solely for the purpose of increasing B-BBEE spend (fronting)
3. *Transnet's relationship with suppliers requires us to clearly define requirements, exchange information and share mutual benefits.*
  - Generally, Suppliers have their own business standards and regulations. Although Transnet cannot control the actions of our suppliers, we will not tolerate any illegal activities. These include, but are not limited to:
    - Misrepresentation of their product (origin of manufacture, specifications, intellectual property rights, etc);
    - Collusion;
    - Failure to disclose accurate information required during the sourcing activity (ownership, financial situation, B-BBEE status, etc.);
    - Corrupt activities listed above; and
    - Harassment, intimidation or other aggressive actions towards Transnet employees.



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- Suppliers must be evaluated and approved before any materials, components, products or services are purchased from them. Rigorous due diligence is conducted and the supplier is expected to participate in an honest and straight forward manner.
- *Suppliers* must record and report facts accurately, honestly and objectively. Financial records must be accurate in all material respects.

#### **Conflicts of Interest**

1. *A conflict of interest arises when personal interests or activities influence (or appear to influence) the ability to act in the best interests of Transnet.*
  - Doing business with family members
  - Having a financial interest in another company in our industry

#### **The Supplier's Invoices**

- When the responsible person as per each SAP Purchase Order certifies payment following an assessment date, the *Supplier* complies with the *Employer's* procedure for invoice submission.
- The invoice states the following:
  - Invoice addressed to Transnet SOC Ltd;
  - Transnet Limited's VAT No: 4720103177;
  - Invoice number;
  - The *Supplier's* VAT Number; and
  - The Contract number
  - Purchase order number
  - The invoice contains the supporting detail
- The invoice is presented either by post or by hand delivery.
  - Invoices submitted by post are addressed to:  
 Transnet Freight Rail RME  
 PO Box 425  
 Richards Bay  
 3900
  - Invoices submitted by hand are presented to:  
 Transnet Capital Projects  
 Main office building, Old Naval Base, Commodores Close, Meerensee, Richards Bay



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- The invoice is presented as an original.
- B-BBEE and preferencing scheme

Points will be awarded to tenderers based on preferencing using the balanced Department of Trade and Industry (DTI) scorecard. The application of the Broad-Based Black Economic Empowerment recognition levels and score preferencing points are as follows:

Contribution Level	Qualification Points on the generic scorecard	Broad-Based BEE Recognition Level	Preferencing Points Scored
Level 1	Greater than or equal to 100 points	135%	10
Level 2	Greater than or equal to 85 points but less than 100 points	125%	9
Level 3	Greater than or equal to 75 points but less than 85 points	110%	8
Level 4	Greater than or equal to 65 points but less than 75 points	100%	7
Level 5	Greater than or equal to 55 points but less than 65 points	80%	6
Level 6	Greater than or equal to 45 points but less than 55 points	60%	5
Level 7	Greater than or equal to 40 points but less than 55 points	50%	4
Level 8	Greater than or equal to 30 points but less than 40 points	10%	2
Level 9	Less than 30 points	0%	0

On the basis the tenderer with a B-BBEE recognition level of 135% will achieve 10 points, and the points will be allocated accordingly on a pro-rata basis as per the table above.

In addition to the above, provision is made for the case where a tenderer has greater than 50% black ownership. In this instance, provided the requisite documentary evidence is supplied, the tenderer will then be awarded preference points one level above that awarded based on the DTI scorecard. For example, a tenderer with > 50% black ownership obtaining a Level 6 contribution equating to 5 points will be awarded 6 preferencing points (Level 5).

Tenderers claiming Preference Points must submit together with the tender document their generic scorecard, evaluated by an independent accreditation agency. Transnet therefore requires tenderers to have been accredited by one of the various Accreditation Agencies in accordance with the latest relevant Codes of Practice applicable not more than 3 months prior to the date of tender. Should the



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B-BBEE rating not be provided, Transnet reserves the right to award no points and/or declare the tender void. Transnet also reserves the right to carry out an independent audit of the tenderers scorecard components at any stage from the date of close of the tenders until completion of the contract.

Tenderers with no accreditation will score zero points for preferencing.

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