



TRANSNET FREIGHT RAIL
a Division of
TRANSNET LIMITED
(Registration No. 1990/000900/06)

REQUEST FOR PROPOSAL (“RFP”)

RFP NUMBER HOAC-HO-5734

**SUPPLY OF VARIOUS TYPES OF TRACK SWITCHES TO LANGLAAGTE
FOR A PERIOD OF 2 YEARS**

ISSUE DATE : 02 NOVEMBER 2009
CLOSING DATE : 24 NOVEMBER 2009
CLOSING TIME : 10H00

**Please note that late responses and those delivered or posted
to the wrong address will be disqualified.**

Respondent's signature

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Date and company stamp



RFP NUMBER HOAC-HO-5734

**SUPPLY OF VARIOUS TYPES OF TRACK SWITCHES
FOR A PERIOD OF 2 YEARS**

SCHEDULE OF DOCUMENTS

Section

- 1. Notice to Bidders**
- 2. Scope of Requirements ,Pricing and Delivery Schedule**
- 3. Proposal Form**
- 4. Resolution of Board of Directors (Respondent's Representative)**
- 5. Certificate of Acquaintance with RFP Documents**
- 6. General Tender Conditions**
- 7. Standard Terms and Conditions of Contract (US7)**
- 8. Non- Disclosure Agreement**
- 9. Supplier Declaration Form**
- 10. Suppliers Code of Conduct**

Respondent's signature

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Date and company stamp



SECTION 1

RFP NO : HOAC-HO-5734

**SUPPLY OF VARIOUS TYPES OF TRACK SWITCHES
FOR A PERIOD OF 2 YEARS**

NOTICE TO BIDDERS

Refer Document attached hereto

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Respondent's signature

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NOTICE TO BIDDERS

1. Proposals are requested from interested Respondents to supply the above-mentioned requirement to TRANSNET.

On or after 02/11/2009 the RFP documents may be inspected at, and are obtainable from the office of TRANSNET Freight Rail Tender Advice Centre, Level 100, Carlton Centre, 150 Commissioner Street, Johannesburg, on payment of an amount of R500,00 (Bank guaranteed cheques or cash only) per set.

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

NOTE 1.1 This amount is not refundable.

2. A formal briefing session will not be held but should Respondents have specific queries they should email these to the TRANSNET employee(s) indicated below:

Name : Beverley Ramaru
Division : Supply Chain Services
Email : beverley.ramaru@transnet.net

In the interest of fairness and transparency the said information will then be made available to the other Respondents who have collected RFP documents. For this purpose all Respondents need to indicate their intention to respond by informing the above-mentioned TRANSNET employee (per email only) of their contact numbers as soon as possible but before 13/11/2009.

3. Tenders in triplicate plus a copy on a CD must reach the Chairperson, TRANSNET Freight Rail Acquisition Council, P.O. Box 7784, Johannesburg 2000 before the closing hour on the date shown below, and must be enclosed in a sealed envelope which must have inscribed on the outside:

Tender No	: HOAC-HO-5734
Description	: Supply of various types of track switches
Closing date and time	: 24 November 2009 at 10h00
Closing address (refer options paragraph 4 below)	

Respondent's signature

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Date and company stamp



4. **DELIVERY INSTRUCTIONS FOR THIS RFP:**

- 4.1 **If posted,** the envelope must be addressed to the Chairperson, TRANSNET Freight Rail Acquisition Council, P.O. Box 7784, Johannesburg 2000 and must be dispatched in time for sorting by the Post Office to reach the Chairperson before the closing time of the RFP. In the event of the late receipt of a Proposal, the Respondent's franking machine impression will not be accepted as proof that the response was posted in time.
- 4.2 **If delivered by hand,** the envelope is to be deposited in the TRANSNET tender box which is located at the main entrance, Inyanda House, 21 Wellington road, Parktown, Johannesburg and should be addressed as follows:

THE CHAIRPERSON
TRANSNET FREIGHT RAIL ACQUISITION COUNCIL
INYANDA HOUSE
21 WELLINGTON ROAD
PARKTOWN
JOHANNESBURG
2001

The measurements of the "tender slot" are 500mm wide x 100mm high, and Respondents must please ensure that response documents or files are not larger than the above dimensions. Responses which are too bulky (i.e. more than 100mm thick) must be split into two or more files, and placed in separate envelopes.

It should also be noted that the above tender box is located at the main entrance and is accessible to the public 24 hours per day, 7 days a week.

- 4.3 **If dispatched by courier,** the envelope must be addressed as follows and delivered to the Office of The Chairperson, TRANSNET Freight Rail Acquisition Council and a signature obtained from that Office.

Respondent's signature

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Date and company stamp



**THE CHAIRPERSON
TRANSNET FREIGHT RAIL ACQUISITION COUNCIL
INYANDA HOUSE
21 WELLINGTON ROAD
PARKTOWN
JOHANNESBURG
2001**

5. Please note that this RFP closes punctually at 10:00 on Tuesday 24 November 2009.
6. If responses are not posted or delivered as stipulated herein, such responses will not be considered and will be treated as "UNRESPONSIVE".
7. NO EMAIL OR FACSIMILE RESPONSES WILL BE CONSIDERED
8. The responses to this RFP will be opened as soon as practicable after the expiry of the time advertised for receiving them.
9. TRANSNET shall not, at the opening of responses, disclose to any other company any confidential details pertaining to the Proposals / information received, i.e. pricing, delivery, etc. The names and location of the Respondents will, however, be divulged to other Respondents upon request.
10. Envelopes must not contain documents relating to any RFP other than that shown on the envelope.
11. No slips are to be attached to the response documents. Any additional conditions must be embodied in an accompanying letter. Alterations, additions or deletions must not be made by the Respondent to the actual RFP documents.

12. BROAD-BASED BLACK ECONOMIC EMPOWERMENT ("BBBEE")

TRANSNET fully endorses and supports the South African Government's Broad-Based Black Economic Empowerment Programme and it is strongly of the opinion that all business enterprises have an equal obligation to redress the imbalances of the past. TRANSNET would therefore prefer to do business with business enterprises who share these same values and who are prepared to contribute to meaningful BBBEE initiatives (including and not limited to enterprise development, subcontracting and Joint Ventures) as part of their tender response.

Transnet would 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 BBBEE accreditation Certificate. All procurement and disposal transactions in excess of R30000 will be evaluated accordingly. All transactions below R30000 will as far as possible be earmarked for EME's.

Respondent's signature

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Date and company stamp



TRANSNET consequently urges Respondents (Large enterprises and QSE's – see below) to have themselves duly accredited by any one of the Accreditation Agencies [approved](#) by SANAS (South African National Accreditation System, under the auspices of the DTI).

In terms of Government Gazette No. 32094, Notice No. 354 dated 23 March 2009, as from 1 August 2009, only BBBEE accreditation Certificates issued by SANAS approved verification agencies will be valid.

However accreditation certificates issued before 23 March 2009 and which are still within their one (1) year validity period will still be acceptable, until their expiry date provided that the accreditation was done in accordance **with the latest codes (i.e. those promulgated on 9 February 2007)**.

BBBEE Accreditation Certificates issued after the published date i.e. 23 March 2009, by a Verification Agency not approved by SANAS, will **NOT** be acceptable as from 23 March 2009.

12.1 Enterprises will be rated by such Accreditation Agencies based on the following:

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

- Rating level based on all 7 (seven) elements of the BBBEE scorecard
- Enterprises to provide BBBEE certificate and detailed scorecard (to be renewed annually)

(b) **Qualifying Small Enterprises – QSE (i.e. annual turnover >R5 million but <R35 million):**

- Rating based on any 4 (four) of the elements of the BBBEE scorecard
- Enterprises to provide BBBEE certificate and detailed scorecard (to be renewed annually)

(c) **Exempted Micro Enterprises – EME (i.e. annual turnover <R5m are exempted from being rated or verified):**

- Automatic BBBEE Level 4 rating, irrespective of race ownership, i.e. 100% BBBEE recognition
- Black ownership >50% or Black Women ownership >30% automatically qualify as Level 3 BBBEE rating, i.e. 110% BBBEE recognition
- EME's should provide documentary proof of annual turnover (i.e. audited financials) plus proof of Black ownership if Black ownership >50% or Black Women ownership >30% (to be renewed annually) from their Auditors / Accounting Officers

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

Respondent's signature

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Date and company stamp



12.3 **Each Respondent is required to furnish proof of its BBEE status (Certificate and Detailed Scorecard) as stipulated above to TRANSNET.**

Failure to submit your BBEE Certificate and Detailed Scorecard will result in a score of zero being allocated for BBEE evaluation.

Turnover: Indicate your company's most recent annual turnover:
R.....

- If annual turnover <R5m, please attach auditors / accounting officers letter confirming annual turnover and percentage black ownership as well as Black Women ownership
- If annual turnover >R5m please attach BBEE certificate and detailed scorecard from an accredited rating agency.

12.4 The DTI has created an online **B-BBEE Registry** (<http://www.dti.gov.za>) in order to provide a central and standardized source of the B-BBEE status of all entities, and to facilitate the flow of this information amongst entities by providing a Unique Profile Number (UPN) per each listing. Existing and prospective suppliers are therefore urged to list their B-BBEE status on the DTI Registry. Hence, entities verified by DTI, will receive the following benefits:

- Their BBEE status will be verified and confirmed by the DTI, before listing on the Registry
- Listing on the Registry will provide suppliers the option to market themselves on the DTI B-BBEE Opportunities Network. This is a search engine that is designed to help businesses find B-BBEE compliant entities who match specific requirements in terms of the nature of services/goods provided, region, B-BBEE status or other search criteria.

Transnet supports this DTI initiative and will use the DTI Registry to verify prospective and existing suppliers' BBEE credentials.

12.5 Kindly provide Transnet with your DTI B-BBEE UNIQUE PROFILE NUMBER with all tender submissions

DTI BBEE UNIQUE PROFILE NUMBER:
.....

Failure to submit your UPN will result in a score of zero being allocated for BBEE evaluation.

12.6 Failure to submit your BBEE information in terms of 14.3 and/or 14.5 (above) will result in a score of zero being allocated for BBEE evaluation.

13. COMMUNICATION

Respondent's signature

Date and company stamp



Respondents are warned that a response will be liable to 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 an RFP between the closing date and the date of the award of the business.

A respondent may, however, BEFORE THE CLOSING DATE AND TIME, direct any enquiries relating to the RFP to the TRANSNET employee as indicated in (2) above.

12. RFP SCHEDULE

Respondents will be contacted as soon as practicable with a status update. At this time short-listed Respondents may be asked to meet with TRANSNET representatives. Respondents are to provide a list of persons who are mandated to negotiate on behalf of their company, together with their contact details.

13. INSTRUCTIONS FOR COMPLETING THE RFP

- (i) Sign one set of documents (sign and date the bottom of each page). This set will serve as the legal and binding copy. A duplicate set of documents is required. This second set can be a copy of the original signed Proposal.
- (ii) Both sets of documents to be submitted to the address specified above.
- (iii) The following returnable documents must accompany all Proposals:
 - the Respondent's latest audited financial statements;
 - the Respondent's valid Tax Clearance Certificate.
 - a CD copy where applicable

14. COMPLIANCE

The Respondent shall be in full and complete compliance with any and all applicable State and Local Laws and Regulations.

15. ADDITIONAL NOTES:

- All returnable documents as indicated in the Proposal Form (Section 3) must be returned with the response
- Changes by the Respondent to its submission will not be considered after the closing date
- The person or persons signing the Proposal must be legally authorised by the Respondent to do so (Refer Section 4). A list of those person(s) authorised to negotiate on your behalf must be submitted along with the Proposal
- All prices must be quoted in South African Rands
- TRANSNET reserves the right to undertake post-tender negotiations with the preferred Respondent or any number of short-listed Respondents

Respondent's signature

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Date and company stamp



NB: Unless otherwise expressly stated, all Proposals furnished pursuant to this Request shall be deemed to be offers. Any exceptions to this statement must be clearly and specifically indicated. TRANSNET reserves the right to reject any or all offers.

**FAILURE TO OBSERVE ANY OF THE ABOVE-MENTIONED REQUIREMENTS
MAY RESULT IN THE PROPOSAL BEING REJECTED.**

16. DISCLAIMERS

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

- modify the RFP's Goods or Services and request Respondents to re-bid on any changes
- reject any Proposal which does not conform to instructions and specifications which are detailed herein
- disqualify Proposals submitted after the stated submission deadline
- not necessarily accept the lowest priced Proposal
- reject all Proposals, if it so decides
- award a contract in connection with this Proposal at any time after the RFP's closing date
- award only a portion of the proposed Goods or Services which are reflected in the scope of this RFP
- split the award of the contract between more than one Supplier
- make no award of a contract

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

17. Any PROPOSAL submitted by a Respondent is subject to negotiation and review of the proposed contract by TRANSNET's Legal Counsel.

NAME OF RESPONDENT : _____

PHYSICAL ADDRESS : _____

Respondent's contact person:	Name: _____
	Designation: _____
	Telephone: _____

Respondent's signature

Date and company stamp



Cellphone: _____
Facsimile: _____
Email: _____

**TRANSNET urges its clients and suppliers to report any fraud or corruption on the part of TRANSNET's employees to
TIP-OFFS ANONYMOUS : 0800 003 056**

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Respondent's signature

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Date and company stamp



SECTION 2

RFP NO : HOAC-HO-5734

SUPPLY OF VARIOUS TYPES OF TRACK WIRE
FOR A PERIOD OF 2 YEARS

SCOPE OF REQUIREMENTS, PRICING AND DELIVERY SCHEDULE

Refer Document attached hereto.

Respondent's signature

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Date and company stamp



SECTION 3

RFP NO :HOAC-HO-5734

**SUPPLY OF VARIOUS TYPES OF TRACK SWITCHES
FOR A PERIOD OF 2 YEARS**

PROPOSAL FORM

Refer Document attached hereto

PREVIEW COPY ONLY

Respondent's signature

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Date and company stamp



PROPOSAL FORM

I/We _____
(name of company, close corporation or partnership)

_____ of (full address)

_____ carrying on business under style or title of

represented by _____

in my capacity as _____

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

Respondent's signature

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Date and company stamp



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

- (i) Conditions of Contract, Form No. US7 (revised June 2008);
- (ii) General Tender Conditions, Form CSS5 (revised July 2008); and
- (iii) any other standard or special conditions mentioned and/or embodied in the Request for Proposal form; and;-

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

Should TRANSNET decide that a formal contract should be signed and so inform me/us in the facsimile or letter of acceptance, this Proposal (and, if any, its covering letter and any subsequent exchange of correspondence) together with TRANSNET's letter of acceptance, shall constitute a binding contract between TRANSNET and me/us until the formal contract is signed.

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

I/We accept that any contract resulting from this offer will be for a period ofonly; and agree to a penalty clause to be negotiated with TRANSNET, which will allow TRANSNET to invoke a penalty (details to be negotiated) against us should the delivery of the GOODS be delayed due to non-performance by us.

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

Respondent to indicate *domicillium citandi et executandi* hereunder:

NOTIFICATION OF AWARD OF RFP

As soon as possible after approval to award the contract/s, the successful Respondent will be informed of the acceptance of its Proposal. Unsuccessful Respondents will be advised in writing of the name of the successful

Respondent's signature

Date and company stamp



Supplier and the reason as to why their Proposals have been unsuccessful, for example, in the category of price, delivery period, quality, BBBEE or any other reason.

VALIDITY PERIOD

TRANSNET desires a validity period of 3 (three) months (from closing date) against this RFP. It should be noted that Respondents may offer an earlier validity period, but that their Proposals may be disregarded for that reason. Should Respondents be unable to comply with this validity period, an alternative validity period must be stated hereunder:

This tender is valid until _____ (State alternative validity period/date).

TAX (VAT) REGISTRATION NUMBER

The Respondent must state hereunder the tax registration number which is applicable to value added tax:

TAX CLEARANCE CERTIFICATE

Respondents are required to forward a valid copy of their company's Tax Clearance Certificate with their Proposal.

Indicate tax clearance certificate expiry date: _____

BANKING DETAILS

BANK: _____

BRANCH NAME / CODE: _____

ACCOUNT HOLDER: _____

ACCOUNT NUMBER: _____

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

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

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

Respondent's signature

Date and company stamp



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Respondent's signature

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Date and company stamp



REGISTRATION CERTIFICATE

Respondents must submit a certified copy of their company's Registration Certificate with their Proposal.

NAME AND ADDRESS OF ACCREDITED AGENT

Provide hereunder, if applicable, details of the accredited agent in the Republic of South Africa appointed as local representative by foreign Respondents and whose address shall be regarded as the Respondent's domicilium citandi et executandi in terms of the Standard Terms and Conditions of Contract, US7 – Goods (revised July 2007).

Name:

Address:

.....

CONFIDENTIALITY

All information related to a subsequent contract, both during and after completion, is to be treated with strict confidence. Should the need however arise to divulge any information gleaned from provision of the Goods or service, which is either directly or indirectly related to TRANSNET's business, written approval to divulge such information will have to be obtained from TRANSNET.

DISCLOSURE OF PRICES TENDERED

Respondents must indicate here **whether TRANSNET may disclose** their tendered prices and conditions to other Respondents:

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

DECLARATION

Respondents to declare hereunder whether any family and/or direct relationship exists between any of the owners / members / directors / partners / shareholders (unlisted companies) of the responding company and any employee or board member of the TRANSNET Group:

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

Respondent's signature

Date and company stamp



If YES, please indicate below:

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

ADDRESS

Indicate nature of relationship (if any):

(Failure to furnish complete and accurate information in this regard may lead to the disqualification of a response and may preclude a Respondent from future business with TRANSNET)

PRICE REVIEW

The successful Respondent(s) will be obliged to submit to an annual price review. TRANSNET will be benchmarking this price offering(s) against the lowest price received as per the benchmarking exercise. If the Respondent's price(s) is/are found to be higher than the benchmarked price(s), then the Respondent shall match or better such price(s) within 30 days - failing which the Contract may be terminated at TRANSNET's discretion of the particular item(s) or service(s) purchased outside the contract.

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Respondent's signature

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Date and company stamp



RETURNABLE DOCUMENTS

Respondents are required to submit the following returnable documents with their responses

(tick)

Notice to Bidders	
Scope of Requirements, Pricing and Delivery Schedule	
Proposal Form	
Resolution of Board of Directors (Respondent's Representative)	
Certificate of Acquaintance with RFP Document	
General Tender Conditions - Form CSS5	
Standard Terms & Conditions of Contract - Form US7	
Non Disclosure Agreement	
Supplier Declaration Form	
Audited Financials for past 3 years	
Quality Systems, SANS accreditation	
Valid Tax Clearance Certificate	
VAT Registration Certificate	
BBBEE Accreditation Certificate	
Value add services provided, ie consignment stock	
SHEQ/ Environmental Plan	

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

Respondent's signature

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Date and company stamp



SIGNED at _____ this _____ day of _____ 2009.

SIGNATURE OF WITNESSES:

ADDRESS OF WITNESSES:

1. _____

1. _____

2. _____

2. _____

SIGNATURE OF RESPONDENT'S AUTHORISED REPRESENTATIVE

NAME: _____

DESIGNATION: _____

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Respondent's signature

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Date and company stamp



SECTION 4

RFP NO HOAC-HO-5734

SUPPLY OF VARIOUS TYPES OF TRACK SWITCHES
FOR A PERIOD OF 2 YEARS

SIGNING POWER : RESOLUTION OF BOARD OF DIRECTORS

Refer Document attached hereto

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Respondent's signature

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Date and company stamp



SIGNING POWER : RESOLUTION OF BOARD OF DIRECTORS

Name of Company _____

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

FULL NAME(S)	CAPACITY	SIGNATURE
--------------	----------	-----------

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

in his/her capacity as indicated above is/are hereby authorised to enter into, sign, execute and complete any documents relating to Tenders, Proposals and/or Contracts for the supply of Goods and Services.

FULL NAME _____	_____
	SIGNATURE CHAIRMAN

FULL NAME _____	_____
	SIGNATURE SECRETARY

Respondent's signature

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Date and company stamp



SECTION 5

RFP NO RFP NO HOAC-HO-5734

SUPPLY OF VARIOUS TYPES OF TRACK SWITCHES
FOR A PERIOD OF 2 YEARS

CERTIFICATE OF ACQUAINTANCE WITH RFP DOCUMENTS

Refer Document attached hereto

PREVIEW COPY ONLY

Respondent's signature

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Date and company stamp



CERTIFICATE OF ACQUAINTANCE WITH RFP DOCUMENTS

NAME OF COMPANY: _____

I/We _____ do

hereby certify that I/we acquainted myself/ourselves with all the documentation comprising this RFP and all conditions contained therein, as laid down by Transnet Limited for the carrying out of the proposed supply/service/works for which I/we submitted my/our response.

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

SIGNED at _____ on this _____ day of _____ 2009.

WITNESS : _____

SIGNATURE OF RESPONDENT

Respondent's signature

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Date and company stamp



SECTION 6

RFP NO HOAC-HO-5734

SUPPLY OF VARIOUS TYPES OF TRACK SWITCHES
FOR A PERIOD OF 2 YEARS

GENERAL TENDER CONDITIONS

(Revised July 2008)

Refer Form CSS5 attached hereto.

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Respondent's signature

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Date and company stamp



SECTION 7

RFP NO HOAC-HO-5734

SUPPLY OF VARIOUS TYPES OF TRACK SWITCHES
FOR A PERIOD OF 2 YEARS

STANDARD TERMS AND CONDITIONS OF CONTRACT

FOR THE SUPPLY OF GOODS TO TRANSNET

Refer Document attached hereto

PRIEVIEW COPY ONLY

Respondent's signature

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Date and company stamp



SECTION 8

RFP NO HOAC-HO-5734

**SUPPLY OF VARIOUS TYPES OF TRACK SWITCHES
FOR A PERIOD OF 2 YEARS**

NON-DISCLOSURE AGREEMENT (NDA)

Complete and sign NDA attached hereto.

PREVIEW COPY ONLY

Respondent's signature

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Date and company stamp



NON-DISCLOSURE AGREEMENT

THIS AGREEMENT is made the day of 2009

BETWEEN:

- (1) **Transnet Limited** ("Transnet") (Registration Number 1990/000900/06) whose registered office is at 49th Floor, Carlton Centre, 150 Commissioner Street, Johannesburg 2001, and
- (2) [.....] ("the Company") (Registration Number) whose registered office is at [.....]

WHEREAS

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

IT IS HEREBY AGREED

1. Interpretation

1.1 In this Agreement:-

"**Agents**" means directors, officers, employees, agents, professional advisers, contractors or sub-contractors, or any Group member;

"**Confidential Information**" means Information relating to one party (the "Disclosing Party") and/or the business carried on or proposed or intended to be carried on by that party and which is made available for the purposes of the Proposal to the other party (the "Receiving Party") or its Agents by the Disclosing Party or its Agents or recorded in agreed minutes following oral disclosure and any other information otherwise made available by the Disclosing Party or its Agents to the Receiving Party or its Agents, whether before, on or after the date of this Agreement, and whether in writing or otherwise, including any information, analysis or specifications derived from, containing or reflecting such information but excluding information which:-

Respondent's signature

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Date and company stamp



- (i) is publicly available at the time of its disclosure or becomes publicly available (other than as result of disclosure by the Receiving Party or any of its Agents contrary to the terms of this letter); or
- (ii) was lawfully in the possession of the Receiving Party or its Agents (as can be demonstrated by its written records or other reasonable evidence) free of any restriction as to its use or disclosure prior to its being so disclosed; or
- (iii) following such disclosure, becomes available to the Receiving Party or its Agents (as can be demonstrated by its written records or other reasonable evidence) from a source other than the Disclosing Party or its Agents, which source is not bound by any duty of confidentiality owed, directly or indirectly, to the Disclosing Party in relation to such information;

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

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

"Proposal" means the aggregation of Transnet's Request for Information (RFI) and Request for Proposal (RFP).

2. Confidential Information

- 2.1 The Receiving Party will treat and keep all Confidential Information as secret and confidential and will not, without the Disclosing Party's written consent, directly or indirectly communicate or disclose (whether in writing or orally or in any other manner) Confidential Information to any other person other than in accordance with the terms of this Agreement.
- 2.2 The Receiving Party will only use the Confidential Information for the sole purpose of technical and commercial discussions between the parties in relation to the Proposal or for the subsequent performance of any contract between the parties in relation to the Proposal.
- 2.3 Notwithstanding clause 2.1, the Receiving Party may disclose Confidential Information:
 - (i) To those of its Agents who strictly need to know the Confidential Information for the sole purpose set out in clause 2.2 provided that the Receiving Party shall ensure that such Agents are made aware prior to the disclosure of any part of the Confidential Information that the same is confidential and that they owe a duty of confidence to the Disclosing Party. The Receiving Party shall at all times remain liable for any actions of such Agents that would constitute a breach of this Agreement; or
 - (ii) to the extent required by law or the rules of any applicable regulatory authority, subject to clause 2.4 below.

Respondent's signature

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Date and company stamp



- 2.4 In the event that the Receiving Party is required to disclose any Confidential Information in accordance with clause 2.3 (ii) above, it shall promptly notify the Disclosing Party and co-operate with the Disclosing Party regarding the form, nature, content and purpose of such disclosure or any action which the Disclosing Party may reasonably take to challenge the validity of such requirement.
- 2.5 In the event that any Confidential Information shall be copied, disclosed or used otherwise than as permitted under this Agreement then, upon becoming aware of the same, without prejudice to any rights or remedies of the Disclosing Party, the Receiving Party shall as soon as practicable notify the Disclosing Party of such event and if requested take such steps (including the institution of legal proceedings) as shall be necessary to remedy (if capable of remedy) the default and/or to prevent further unauthorised copying, disclosure or use.
- 2.6 All Confidential Information shall remain the property of the Disclosing Party and its disclosure shall not confer on the Receiving Party any rights, including intellectual property rights, over the Confidential Information whatsoever beyond those contained in this Agreement.

PRIEVIEW COPY ONLY

Respondent's signature

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Date and company stamp



3. Records and return of Information

- 3.1 The Receiving Party agrees to ensure proper and secure storage of all Information and any copies thereof to at least the same standard as the Receiving Party keeps its own Confidential Information. The Receiving Party shall not make any copies or reproduce in any form any Confidential Information except for the purpose of disclosure as permitted in accordance with this Agreement.
- 3.2 The Receiving Party shall keep a written record, to be supplied to the Disclosing Party upon request, of the Confidential Information provided and any copies made thereof and, so far as is reasonably practicable, of the location of such Confidential Information and any copies thereof.
- 3.3 The Receiving Party shall, within seven days of receipt of a written demand from the Disclosing Party or of its ceasing to be interested in the Proposal:
- (i) Return all written Confidential Information (including all copies); and
 - (ii) expunge or destroy any Confidential Information from any computer, word processor or other device whatsoever into which it was copied, read or programmed by the Receiving Party or on its behalf (including by any person to whom disclosure has been made as permitted under clause 2.3(i) above).

The obligations in this clause 3.3 shall not apply to the extent that (but only for so long as) it is necessary to retain copies for the purpose of providing information to any regulatory authority in accordance with clause 2.3 (ii) above.

- 3.4 The Receiving Party shall on request supply a certificate signed by a director as to its full compliance with the requirements of clause 3.3 (ii) above.

4. Announcements

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

5. Duration

The obligations of each party and its Agents under this Agreement shall [be continuing and shall survive the termination of any discussions or negotiations between the parties regarding the Proposal continue for a period of 3 (three) years.

Respondent's signature

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Date and company stamp



6. Principal

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

7. Representations

7.1 Each party agrees that any Information made available to the Receiving Party or its Agents for the purpose of negotiations or discussions in relation to the Proposal will not form the basis of, or any representation in relation to, any contract, nor constitute an offer or invitation by the Disclosing Party.

7.2 Except in the case of fraudulent misrepresentation, the Disclosing Party accepts no responsibility for nor makes any representation or warranty, express or implied, with respect to the accuracy, reliability or completeness of any Information made available to the Receiving Party or its Agents.

8. Adequacy of damages

8.1 Without prejudice to any other rights or remedies of the Disclosing Party, the Receiving Party acknowledges and agrees that damages would not be an adequate remedy for any breach by it of the provisions of this Agreement and that the Disclosing Party shall be entitled to seek the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach of any such provision by the Receiving Party or its Agents, and no proof of special damages shall be necessary for the enforcement of the rights under this Agreement.

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

9. Data Protection

The Receiving Party warrants that it and its Agents have the appropriate technical and organisational measures in place against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data held or processed by them.

10. General

10.1 Neither party may assign the benefit of this Agreement or any interest hereunder except with the prior written consent of the other, save that Transnet may assign this Agreement at any time to any member of the Transnet Group.

Respondent's signature

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Date and company stamp



- 10.2 No failure or delay in exercising any right, power or privilege under this Agreement will operate as a waiver of it, nor will any single or partial exercise of it preclude any further exercise or the exercise of any right, power or privilege under this Agreement or otherwise.
- 10.3 The provisions of this Agreement shall be severable in the event that any of its provisions are held by a court of competent jurisdiction or other applicable authority to be invalid, void or otherwise unenforceable, and the remaining provisions shall remain enforceable to the fullest extent permitted by law.
- 10.4 This Agreement may only be modified by a written agreement duly signed by persons authorised on behalf of each party.
- 10.5 Nothing in this Agreement shall constitute the creation of a partnership, joint venture or agency between the parties.
- 10.6 This Agreement will be governed by, and construed in accordance with South African law and the parties irrevocably submit to the exclusive jurisdiction of the South African courts.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorised representatives.

TRANSNET LIMITED:

By:
(Signature)

Print name: _____

Title: _____

Date: _____

Respondent's signature

Date and company stamp



[*Insert company name*]:

By:
(Signature)

Print name: _____

Title: _____

Date: _____

PRIEVIEW COPY ONLY

Respondent's signature

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Date and company stamp



SECTION 9

RFP NO HOAC- HO- 5734

SUPPLY OF VARIOUS TYPES OF OVERHEAD TRACK WIRE/CONDUCTOR
FOR A PERIOD OF 2 YEARS

SUPPLIER DECLARATION FORM

Refer Document attached hereto

PRIEVIEW COPY ONLY

Respondent's signature

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Date and company stamp



SECTION 10

RFP NO HOAC-HO-5734

SUPPLY OF VARIOUS TYPES OF TRACK SWITCHES
FOR A PERIOD OF 2 YEARS

SUPPLIERS CODE OF CONDUCT

Refer Document attached hereto.

PRIEVIEW COPY ONLY

Respondent's signature

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Date and company stamp



PRIEVIEW COPY ONLY

Respondent's signature

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Date and company stamp