



**TRANSNET FREIGHT RAIL**, a division of

**TRANSNET SOC LTD**

Registration Number 1990/000900/30

(Herein after referred to as **Transnet**)

**REQUEST FOR QUOTATION. [RFQ No. CRAC\_DNR\_12832**

**FOR THE SUPPLY OF: HYGIENE AND SANITATION SERVICES IN HARRYSMITH.  
(REF WK 86/2013)**

**FOR DELIVERY TO: VARIOUS BUILDINGS IN HARRYSMITH AREAS**

**TENDER DOCUMENTS MUST BE SENT TO JOHANNESBURG ACQUISITION COUNCIL  
IN DUPLICATE.**

**PLEASE NOTE ALL CONTRACTORS ARE TO WEAR APPROPRIATE SAFETY  
CLOTHING FOR SITE MEETINGS.**

**ISSUE DATE: 24 JANUARY 2014**  
**CLOSING DATE: 27 FEBRUARY 2014**  
**CLOSING TIME: 10:00 JOHANNESBURG**  
**SITE BRIEFING: ESTCOURT STATION.**  
**DATE: 11<sup>th</sup> till 14<sup>th</sup> FEBRUARY 2014**  
**TIME: 10 AM**  
**VALIDITY: 31 MARCH 2014**

**CONTACT: GONNIE NADASEN**

**CONTACT NUMBER: 073-212-8488**

Briefing session dates for Cleaning, hygiene & pest control. (Inland Areas)			
Day	Area	Starting point	Date
Monday	Estcourt	10h00	10-Feb-14
	Colenso		10-Feb-14
	Harrismith		10-Feb-14
Tuesday	Ladysmith	09H00	11-Feb-14
	Danskraal		11-Feb-14
Wednesday	Glencoe	10H00	12-Feb-14
	Dundee		12-Feb-14
	Majuba		12-Feb-14
Thursday	Newcastle	10h00	13-Feb-14
Friday	Lions River	09H00	14-Feb-14
	PMB		14-Feb-14

**"PREVIEW COPY ONLY"**

**Section 1**  
**NOTICE TO BIDDERS**

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

**METHOD:** Post or Courier

**CLOSING VENUE:** Chairman Transnet Freight Rail Acquisition Council  
Ground Floor Inyanda House 1  
21 Wellington Road  
Park town  
Johannesburg 2001  
Tender Box

**1 Responses to RFQ**

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

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

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

**2.1 B-BBEE Scorecard and Rating**

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

- Proposals will be evaluated on price which will be allocated 80 points and preference which will be allocated 20 points, dependent on the value of the Services
- The 80/20 preference point system applies where the acquisition of the Services will be less than R1 000 000.00.
- If the 80/20 preference point system is stipulated and all Bids received exceed R1 000 000.00, the RFP will be cancelled

In compliance with the Government Gazette No 34612, Notice No. 754 dated 23 September 2011, as from 1 October 2011 valid B-BBEE Verification Certificates must be issued by:

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

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

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

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

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

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

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

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

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

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

**3 COMMUNICATION;  
R F Q DOCUMENTS ARE AVAILABLE FROM. RECEPTION, TENDER ADVISES CENTRE,  
INTAIDASA HOUSE 1, GROUND FLOOR, 21 WELLINGTON ROAD, PARK TOWN JOHANNESBURG  
OR 110 EEL ROAD BAYHEAD DURBAN. DOCUMENTS TO BE COLLECTED DURING OFFICE  
HOURS FROM 08H00-15H00.**

**4**

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

Name:	MR I.M POTGIETER	MR GONNIE NADASEN
Email:	Isaac.potgieter@transnet.net	<a href="mailto:gonnie.nadasen@transnet.net">gonnie.nadasen@transnet.net</a>

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

Telephone 011 544 9486 Fax 011 774 9760

Email tac.secretariat@transnet.net

## 5 Tax Clearance

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

## 6 VAT Registration

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

## 7 Legal Compliance

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

## 8 Changes to Quotations

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

## 9 Pricing

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

## 10 Prices Subject to Confirmation

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

## 11 Negotiations

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

## 12 Binding Offer

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

## 13 Disclaimers

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

- modify the RFQ's goods / service(s) and request Respondents to re-bid on any changes;
- reject any Quotation which does not conform to instructions and specifications which are detailed herein;
- disqualify Quotations submitted after the stated submission deadline;
- not necessarily accept the lowest priced Quotation;
- reject all Quotations, if it so decides;
- place an order in connection with this Quotation at any time after the RFQ's closing date;

- award only a portion of the proposed goods / service/s which are reflected in the scope of this RFQ;
- split the award of the order/s between more than one Supplier/Service Provider; or
- make no award at all.

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

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

Where found guilty of such a serious breach, please disclose

NATURE OF BREACH:

\_\_\_\_\_

DATE OF BREACH: \_\_\_\_\_

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

**14 EVALUATION CRITERIA**

**15 TRANSNET WILL UTILISE THE FOLLOWING CRITERIA [NOT NECESSARILY IN THIS ORDER] IN CHOOSING A SUPPLIER/SERVICE PROVIDER, IF SO REQUIRED:**

Administrative responsiveness - Completeness of response and returnable documents

Substantive responsiveness – Prequalification criteria, if any, must be met

- Weighted evaluation based on 80/20 preference point system:
  - Pricing and price basis [firm] - whilst not the sole factor for consideration, competitive pricing and overall level of unconditional discounts<sup>1</sup> will be critical

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

$$PS = 80 \left( 1 - \frac{Pc - Pmin}{Pmin} \right)$$

Where:

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

- P<sub>s</sub>* = Score for the Bid under consideration
- P<sub>t</sub>* = Price of Bid under consideration
- P<sub>min</sub>* = Price of lowest acceptable Bid

- B-BBEE status of company

Preference points will be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below: *[Delete column that is not applicable]*

B-BBEE Status Level of Contributor	Number of points (80/20 system)
1	20
2	18
3	16
4	12
5	10
6	6
7	4
8	2
Non-compliant contributor	0

**16 Validity Period**

Transnet desires a validity period of 56 days from the closing date of this RFQ.  
 This RFQ is valid until \_\_\_\_\_.

**17 Banking Details**

BANK: \_\_\_\_\_  
 BRANCH NAME / CODE: \_\_\_\_\_  
 ACCOUNT HOLDER: \_\_\_\_\_  
 ACCOUNT NUMBER: \_\_\_\_\_

**18 Company Registration**

Registration number of company / C.C. \_\_\_\_\_  
 Registered name of company / C.C. \_\_\_\_\_

**19 Disclosure of Prices Quoted**

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

YES  NO

**20 Returnable Documents**

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

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

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

All Sections, as indicated in the footer of each page, must be signed, stamped and dated by the Respondent. Please confirm submission of these mandatory Returnable Documents by so indicating [Yes or No] in the table below:  <b>Returnable Documents</b>	<b>Submitted [Yes or No]</b>
SECTION 1 : Notice to Bidders	
- Valid B-BBEE Certificate from auditor, accounting officer or SANAS accredited Verification Agency [RSA/EMEA] Note: failure to provide a valid B-BBEE Verification Certificate at the closing date and time of the tender will result in an automatic score of zero being allocated for B-BBEE scorecard	
Valid Tax Clearance certificate	
Letter of Good Standing Dept. of Labour	
Valid (Sanitation) Certificate of Disposal	
Certificate of accreditation sanitary bins. (e.g. which laws are abided).	
Certificate of Audits in terms of Health and Safety regulation.	
SECTION 2: QUOTATION FORM	

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

***Failure to provide all these Returnable Documents may result in a Respondent's disqualification. Respondents are therefore urged to ensure that all these documents are returned with their Quotations.*** All Sections, as indicated in the footer of each page, must be signed, stamped and dated by the Respondent. Please confirm submission of these essential Returnable Documents by so indicating [Yes or No] in the table below:



Returnable Documents	Submitted [Yes or No]
SECTION 3 : Standard Terms and Conditions of Contract for the Supply of Goods or Services to Transnet	
SECTION 4 : Vendor Application Form	
- Original cancelled cheque or bank verification of banking details	
- Certified copies of IDs of shareholder/directors/members [as applicable]	
- Certified copy of Certificate of Incorporation [CM2/CM9 name change]	
- Certified copy of share certificates [CK1/CK2 - C.C.]	
- Entity's letterhead	
- Certified copy of VAT Registration Certificate [RSA entities only]	
- Certified copy of valid Company Registration Certificate [if applicable]	
- A signed letter from Respondent's auditor or accountant confirming most recent annual turnover figures	
SECTION 5: Certificate of Attendance	

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Respondent's Signature

Date & Company Stamp

## Section 2 QUOTATION FORM

I/We \_\_\_\_\_  
 Hereby offer to supply the goods/services at the prices quoted in the Price Schedule below, in accordance with the conditions related thereto.

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

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

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

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

### Price Schedule

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

Item No	Description of Goods	Unit of Measure	Quantity	PRICE PER MONTH	Total Price (ZAR)
1	PROVIDE HYGIENE AND SANITATION SERVICE TO VARIOUS BUILDINGS IN HARRISMITH AREAS.	MONTHLY	24	R	R

Delivery Lead-Time from date of purchase order: \_\_\_\_\_ [days/weeks]

**COMPLETION TIMES NO CALNDAR DAYS MONTHLY-BASIS (days/week)**

#### Notes to Pricing:

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

Respondent's Signature

Date & Company Stamp

### Section 3

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

**A Supplier/Service Provider shall be obliged to adhere to the Standard Terms and Conditions for the Supply of Goods and Services to Transnet as expressed hereunder. Should the Respondent find any condition(s) unacceptable, it should indicate which condition(s) is/are unacceptable and offer an alternative(s). A Quotation submitted by a Respondent will be subjected to review and acceptance or rejection of its proposed contractual terms and conditions by Transnet's Legal Counsel, prior to consideration for an award of business.**

#### 1 SOLE AGREEMENT

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

#### 21 CONFORMITY WITH ORDER

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

#### 22 DELIVERY AND TITLE

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

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

#### 23 PRICE AND PAYMENT

23.1 Prices specified in an Order cannot be increased. Payment for the Products/Services shall be made by Transnet against an original undisputed invoice(s) [a Tax Invoice], supporting documentation and month-end statement from the Supplier/Service Provider. Tax Invoices plus supporting documentation shall be posted to the address shown in the Order.

23.2 Payment of the Supplier's/Service Provider's valid Tax Invoice(s) will be made by Transnet in the South African currency and on the terms stated in the Order, the standard payment terms being 21 [twenty one ] days from date of receipt by Transnet, unless otherwise agreed to in writing. Transnet shall arrange for payment of such Tax Invoices and any pre-authorised additional expenses incurred, provided that the authorised expenses are supported by acceptable

documentary proof of expenditure incurred [where this is available]. Any amounts due in terms of these Terms shall be paid to the Supplier/Service Provider, taking into account any deduction or set-off and bank charges.

#### **24 PROPRIETARY RIGHTS LIABILITY**

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

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

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

#### **25 PROPRIETARY INFORMATION**

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

#### **26 PUBLICITY**

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

#### **27 TERMINATION OF ORDER**

- 27.1 Transnet may cancel an Order in whole or in part at any time upon at least 7 [seven] days' written notice to the Supplier/Service Provider, or when there is a change in control of the Supplier/Service Provider or the Supplier/Service Provider commits any serious breach or any repeated or continued

material breach of its obligations under these Terms and/or Order or shall have been guilty of conduct tending to bring itself into disrepute, on written notice to the Supplier/Service Provider when such work on the Order shall stop.

- 27.2 Transnet shall pay the Supplier/Service Provider a fair and reasonable price for justified work in progress, where such price reflects only those costs not otherwise recoverable by the Supplier/Service Provider, at the time of termination, and the Supplier/Service Provider shall give Transnet full assistance to check the extent of such work in progress. Payment of such price shall be in full and final satisfaction of any claims arising out of such termination and upon such payment the Supplier/Service Provider shall deliver to Transnet all work, including any materials, completed or in progress. The sum payable to the Supplier/Service Provider under this clause will not in any event exceed the total amount that would have been payable to the Supplier/Service Provider had the Order not been terminated.
- 27.3 In the event of termination the Supplier/Service Provider must submit all claims within 2 [two] months of termination after which time claims will only be met in what Transnet considers exceptional circumstances.
- 27.4 If the Products are not provided in accordance with an Order, the Order shall be deemed terminated and the Supplier/Service Provider shall compensate Transnet for any costs incurred in obtaining substitute Products or any damage caused due to the failure or delay in the delivery.

## **28 ACCESS**

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

## **29 INSOLVENCY**

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

## **30 ASSIGNMENT**

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

## **31 NOTICES**

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

**32 LAW**

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

**33 GENERAL**

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

**34 COUNTERPARTS**

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

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

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

.....  
SIGNATURE OF RESPONDENT'S AUTHORISED REPRESENTATIVE

NAME: \_\_\_\_\_

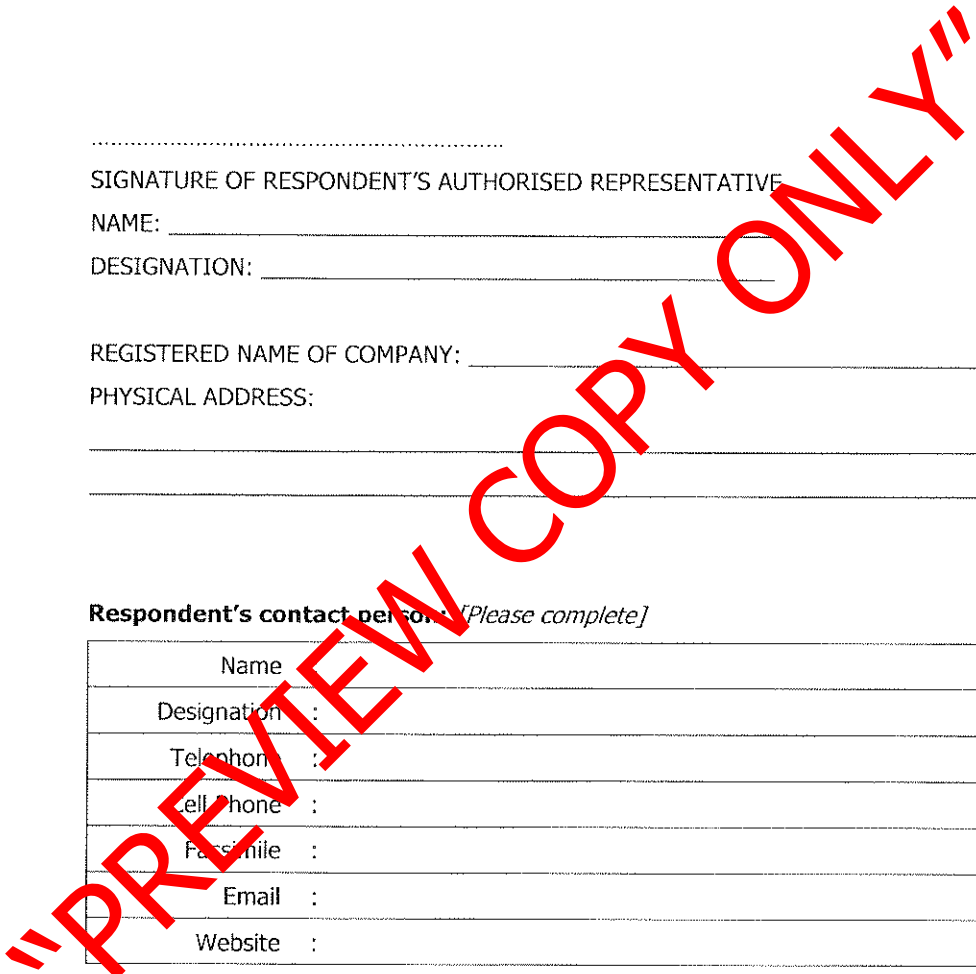
DESIGNATION: \_\_\_\_\_

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

PHYSICAL ADDRESS:  
\_\_\_\_\_  
\_\_\_\_\_

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

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



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

# Transnet Supplier Declaration/Application

TRANSNET



The Financial Director or Company Secretary

Transnet Vendor Management has received a request to load your company on to the Transnet vendor database. Please furnish us with the following to enable us to process this request:

1. Complete the "Supplier Declaration Form" (SDF) on page 2 of this letter
2. **Original** 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 addresses
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** BBBEE certificate and detailed scorecard from an accredited rating agency (SANAS member).

NB: • **Failure to submit the above documentation will delay the vendor registration process.**  
 • Where applicable, the respective Transnet 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 and black female ownership in the company **AND/OR** BBBEE certificate and detailed scorecard from an accredited rating agency (e.g. permanent SANAS Member), should you feel you will be able to attain a better BBBEE score.
- b) **If your annual turnover is between R5 million and R35million**, then in terms of the DTI codes, you are classified as a Qualifying Small Enterprise (QSE) and you claim a specific BBBEE level based on any 4 of the 7 elements of the BBBEE score-card, please include your BEE certificate in your submission as confirmation of your status.  
 NB: BBBEE certificate and detailed scorecard should be obtained from an accredited rating agency (e.g. permanent SANAS Member).
- c) **If your annual turnover is in excess of R35million**, then in terms of the DTI codes, you are classified as a Large Enterprise and you claim a specific BEE level based on all seven elements of the BBBEE generic score card. Please include your BEE certificate in your submission as confirmation of your status.  
 NB: BBBEE certificate and detailed scorecard should be obtained from an accredited rating agency (permanent SANAS Member).
- d) **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.
- e) 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.
- f) Please return the completed Supplier Declaration Form (SDF) together with the required supporting documents mentioned above to the Transnet Official who is intending to procure your company's services/products in order that he/she should complete and Internal Transnet Departmental Questionnaire before referring the matter to the appropriate Transnet Vendor Master Office.

Regards,

Transnet Vendor/Supplier Management [please substitute this with your relevant Transnet department before sending this document out]





# 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							
Bank Name					Bank Account Number		
Postal Address						Code	
Physical Address						Code	
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 Director Or IRP30 Certificate	Yes		No				
Main Product Or Service Supplied (E.g. Stationery/Consulting)							
<b>BEE Ownership Details</b>							
% 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 9 / Unknown)							
How many personnel does the firm employ	Permanent		Part time				
Transnet Contact Person							
Contact number							
Transnet operating division							
<b>Duly Authorised To Sign For And On Behalf Of Firm / Organisation</b>							
Name		Designation					
Signature		Date					
<b>Stamp And Signature Of Commissioner Of Oath</b>							
Name		Date					
Signature		Telephone No.					

**NB:** Please return the completed Supplier Declaration Form (SDF) together with the required supporting documents mentioned above to the Transnet Official who is intending to procure your company's services/products.

**Section 5**

**CERTIFICATE OF ATTENDANCE OF INFORMATION BRIEFING SESSION**

It is hereby certified that -

1. ....

2. ....

Representative(s) of .....  
(name of company)

attended the information briefing session in respect of the proposed Service to be rendered in terms of this RFQ on .....2014.

.....  
TRANSNET'S REPRESENTATIVE

.....  
RESPONDENT'S REPRESENTATIVE

DATE.....

DATE.....

**"PREVIEW COPY ONLY"**

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Building Asset	Description	Station	Department	Address	No. of Male	No. of Individuals	No. of Female	No. of Fresheners	Hand Paper Towel Rolls	Soap Dispensers	SHE Bin	Total No. of Basins	Lift Foyer & Staircase	Office with Carpets	Office with Floor Tiles	Showers	Kitchen	Entrance	Days per week required	Number of staff	COMMENTS	GPS Co-ordinates North	GPS Co-ordinates East	Area M2
02AB168B	Double Gargages @ Offices	Harrismith	Security	Station Area				1							2			1	7	5	24 Hr Operation	-28.27	29.123	44
02AB169B	Store Signals	Harrismith	Security	Station Area	1	1		2	1	1	1	2				2	1	1	7	20	25 Hr Operation	-28.2748	29.1231	59
Total					1	1	0	3	1	1	1	2	0	0	2	2	1	2		25				103

## SPECIFICATIONS APPLICABLE FOR HYGIENE AND SANITATION SERVICE CONTRACTS

- |     |  |         |
|-----|--|---------|
| 1.  | <b>DEEP CLEAN OF ALL TOILETS, ABLUTIONS AND SHOWERS</b><br>(A certificate stating that the work has been completed to be submitted).   | Monthly |
| 2.  | <b>SCOPE OF WORK FOR DEEP CLEANING</b>   |         |
| 2.1 | Removal of all bacteria and uric acid encrustation from all areas toilet bowls and urinals.  | Monthly |
| 2.2 | Eradication of all scale deposits and algae from wash-hand basins, showers, tiles and sinks etc.   | Monthly |
| 2.3 | Clean and disinfect all surfaces and remove all deposits from soiled water pipes.  | Monthly |
| 2.4 | Disinfect all walls, mirrors, floors and doors etc.  | Monthly |
| 3.  | <b>URINALS and TOILET BOWLS</b> must have <b>SANITISER UNITS</b> fitted and serviced. The service provider shall ensure that the units are functional on a full time basis and they are serviced regularly, taking into consideration the number of personnel occupying each building, as stipulated in the attached Schedule. |         |
|     | <ul style="list-style-type: none"> <li>• Treat against staining, fungal and bacterial growth</li> </ul>  | Weekly  |
| 4.  | Urinals to be fitted with odour reducing mats – replace when required.   | Monthly |
| 5.  | All <b>LADIES TOILETS</b> must have <b>SHE BINS</b> and be serviced.<br>Require disposal certificate.  | Weekly  |
| 6.  | All <b>WASH HAND BASINS</b> must have <b>WALL MOUNTED HAND SANITISERS</b> with foam soap of high standard. The Service Provider shall ensure that the units are serviced regularly taking into consideration the total number of personnel that occupies the building, as stipulated in the attached Schedule.                 | Monthly |
| 7.  | Every enclosed area with <b>toilets</b> must have <b>wall mounted automated AIR SANITISERS / FRESHENERS</b> and serviced in accordance with the lifespan of each air freshener. The Service Provider shall ensure that the units are fully functional on a permanent basis.  | Monthly |
| 8.  | Supply toilet seat wipes and service.  | Weekly  |

**THE FOLLOWING TERMS AND CONDITIONS TO THE CONTRACT SHALL ALSO APPLY:-**

**BREACH OF CONTRACT**

The client, Transnet Freight Rail, will be allowed to terminate the contract by giving 30 (thirty) days notice should the service rendered, not be according to the laid-down specifications, and the client's full satisfaction.

**PAYMENT**

All suppliers shall be paid within 30 days from date of receipt of invoice by the Transnet Freight Rail Accounting, Johannesburg office, following acceptance of service by Transnet Freight Rail.

An original invoice, must be submitted with a signed **"ORIGINAL SERVICE / TREATMENT REPORT"** quoting the **Station Name, Building Asset Number, Purchase Order, and Contact Number**.

**SAFETY REGULATIONS**

The contractor is required to form part of Transnet's program for health and safety according to Act 85 of 1993.

While Transnet Freight Rail will encourage and enforce safe labour practices where possible, the contractor remains fully responsible and liable for injuries that might be sustained by the contractor's personnel as a result of or during the performance of their duties.

**EQUIPMENT**

The contractor shall provide and maintain his/her own equipment throughout the duration of the contract.

**CHEMICALS AND MATERIALS**

The contractor shall provide chemicals and materials needed to satisfy the conditions of the contract.

Cleaning materials/chemicals shall be of a standard and quality acceptable to Transnet Freight Rail and by agreement with Real Estate Management, shall not pose a health risk to personnel or clients, and shall be cost-effective.

The manager responsible for each area may specify products that have been found to be effective for the purpose, in which case details will be provided and prices should be adjusted accordingly.

All materials/chemicals supplied in the catering areas must meet with the necessary food and safety and health laws, regulations and standards.

The contractor must be HACCP (hazard analysis and critical control points) compliant and certified.



## **HYGIENE AND SANITATION**

**PLEASE ENSURE THAT FOLLOWING RETURNABLE DOCUMENTS ARE CERTIFIED AND ARE SUBMITTED**

- *Provide a Sanitation certificate of disposal*
- *( where the deposits are disposed )*
- *Certificate of accreditation to supply you with bins e.g. which laws does he abide by and who audits his business in terms of health and safety.*
- *Get a plan for the removal of bins as in some areas bins should be removed weekly due to the number of ladies there.*



**GENERAL BID CONDITIONS - SERVICES**

[March 2012]

**"PREVIEW COPY ONLY"**

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## 1 DEFINITIONS

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

- 1.1 **Bid or Bid Document(s)** shall mean a reference to a Request for Proposal or Request for Quotation;
- 1.2 **Respondent(s)** shall mean a respondent/bidder to a Transnet Bid;
- 1.3 **RFP** shall mean Request for Proposal;
- 1.4 **RFQ** shall mean Request for Quotation;
- 1.5 **RFX** shall mean RFP and/or RFQ, as the case may be;
- 1.6 **Services** shall mean the services required by Transnet as specified in its Bid Document;
- 1.7 **Service Provider** shall mean the successful Respondent;
- 1.8 **Tax Invoice** shall mean the document as required by Section 10 of the Value-Added Tax Act, 89 of 1991, as may be amended from time to time;
- 1.9 **Transnet** shall mean Transnet SOC Ltd, a State Owned Company; and
- 1.10 **VAT** shall mean Value-Added Tax chargeable in terms of the Value-Added Tax Act, 89 of 1991, as may be amended from time to time.

## 2 GENERAL

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

## 3 LODGING OF BID DOCUMENTS

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

## 4 USE OF BID FORMS

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

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

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

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

## 6 DEFAULTS BY RESPONDENTS

- 6.1 If the Respondent, after it has been notified of the acceptance of its Bid fails to:
  - a) enter into a formal contract when called upon to do so in terms of clause 14 [*Contract Documents*], within such period as Transnet may specify; or
  - b) accept an order in terms of the Bid; or
  - c) when called upon to do so, furnish satisfactory security of the fulfilment of the contract in terms of clause 15 [*Securities*].Transnet may, in any such case, without prejudice to any other legal remedy which it may have, proceed to accept any other Bid or, if it is necessary to do so, call for Bids afresh, and may recover from the defaulting Respondent any additional expense incurred by it in calling for new offers or in accepting a higher offer.
- 6.2 If any Respondent, who has submitted a Bid and/or concluded a contract with Transnet [hereinafter referred to as the **Service Provider**], or in the capacity of agent or subcontractor who has been associated with such Bid or contract:
  - a) has withdrawn such Bid after the advertised date and hour for the receipt of Bids; or
  - b) has, after having been notified of the acceptance of its Bid, failed or refused to sign a contract when called upon to do so in terms of any condition forming part of the Bid Documents; or
  - c) has carried out any contract resulting from such Bid in an unsatisfactory manner or has breached any condition of such contract; or
  - d) has offered, promised or given a bribe in relation to the obtaining or the execution of such contract; or
  - e) has acted in a fraudulent or improper manner or in bad faith towards Transnet or any government department or towards any public body, company or person; or
  - f) has made any incorrect statement in the affidavit or certificate referred to in clause 12 [*Formal Notification Regarding Name of Successful Respondent*] and is unable to prove to the satisfaction of Transnet that
    - (i) it made the statement in good faith honestly believing it to be correct; and

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

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

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

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

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

## 7 CURRENCY

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

## 8 EXCHANGE AND REMITTANCE

The Respondent should note that where the whole or a portion of the contract or order value is to be remitted overseas Transnet shall, if requested to do so by the Service Provider, effect payment overseas directly to the foreign principal or manufacturer of such percentage of the contract or order value as may be stipulated by the Respondent in its Bid Documents and any variation in the amount to be so paid, which may arise as a result of fluctuations in the rate of exchange involved, will be for the account of the Service Provider.

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

8.2 The Service Provider shall at its own cost obtain forward exchange cover on foreign currency to protect itself against any currency rate fluctuation risks for the duration of any resulting contract or order. Transnet will NOT accept any fluctuations in the rate of exchange at the time when payments are made.

Transnet will not recognise any claim for adjustment of the order and/or contract price under clause 8.2 above, if the increase in price arises after the date on which the Services were to be completed, as set out in the order and/or contract, or any subsequent agreement between the parties.

## 9 ACCEPTANCE OF BID

9.1 Transnet does not bind itself to accept the lowest or any Bid.

- 9.2 Transnet reserves the right to accept any Bid in whole or in part.
- 9.3 Upon the acceptance of a Bid by Transnet, the parties shall be bound by these General Bid Conditions and the Standard Terms and Conditions of Contract [Form ST&C – Services] and any schedule of “Special Conditions” or otherwise which form part of the Bid Documents.
- 9.4 Where the Respondent has been informed by Transnet per facsimile message or email of the acceptance of its Bid, the acknowledgement of the receipt transmitted shall be regarded as proof of delivery to the Respondent.

## 10 LAW GOVERNING CONTRACT

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

## 11 IDENTIFICATION

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

## 12 FORMAL NOTIFICATION REGARDING NAME OF SUCCESSFUL RESPONDENT

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

## 13 UNAUTHORISED COMMUNICATION ABOUT BIDS

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

## 14 CONTRACT DOCUMENTS

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

14.2 These contract documents will constitute the contract between the parties upon receipt by the Respondent of Transnet's letter of acceptance / intent, subject to all additional amendments and/or special conditions thereto as agreed to by the parties.

## 15 SECURITIES

15.1 The successful Respondent, when called upon to do so, shall provide security to the satisfaction of Transnet for the due fulfilment of a contract or order. Such security shall be in the form of a deed of suretyship [**Deed of Suretyship**] furnished by an approved bank, building society, insurance or guarantee corporation carrying on business in South Africa.

15.2 The security may be applied in whole or part at the discretion of Transnet to make good any loss or damage which Transnet may incur in consequence of a breach of the contract or any part thereof.

15.3 Such security, if required, shall be an amount which will be stipulated in the Bid Documents.

15.4 For the purpose of clause 15.1 above, Transnet will supply a Deed of Suretyship form to the successful Respondent for completion and no guarantee in any other form will be accepted. A copy of such form will be supplied to Respondents on request. For this purpose a Deed of Suretyship form will be provided which shall be completed and returned to Transnet or a designated official by the successful Respondent within 30 [thirty] days from the date of the letter of acceptance. No payment will be made until the form, duly completed, is delivered to Transnet. Failure to return the Deed of Suretyship within the prescribed time shall, save where prior extension has been granted, entitle Transnet without notice to the Service Provider to cancel the contract with immediate effect.

15.5 Additional costs incurred by Transnet necessitated by reason of default on the part of the Service Provider in relation to the conditions of this clause 15 will be for the account of the Service Provider.

## 16 PRICES SUBJECT TO CONFIRMATION

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

16.2 Bids where firm prices are quoted for the duration of any resulting order and or contract will receive precedence over prices which are subject to adjustment.

## 17 DELETION OF SERVICES EXCLUDED FROM BID

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

## 18 ALTERATIONS MADE BY THE RESPONDENT TO BID PRICES

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

## 19 VALUE-ADDED TAX

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

## 20 TERMS AND CONDITIONS OF BID

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

## 21 IMPORTANT NOTICE TO RESPONDENTS REGARDING PAYMENT

### 21.1 Method of Payment

- a) The attention of the Respondent is directed to clause 10 [*Invoices and Payment*] of Form ST&C – Services, which sets out the conditions of payment on which Bid price(s) shall be based.
- b) However, in addition to the foregoing the Respondent is invited to submit offers based on alternative methods of payment and/or financing proposals.
- c) The Respondent is required to give full particulars of the terms that will be applicable to its alternative offer(s) and the financial merits thereof will be evaluated and taken into consideration when the Bid is adjudicated.
- d) The Respondent must, therefore, in the first instance, tender strictly in accordance with clause 21.1a) above. Failure to comply with clause 21.1a) above may preclude a Bid from further consideration.

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

### 21.2 Conditional Discount

Respondents offering prices which are subject to a conditional discount applicable for payment within a specific period are to note that the conditional period will be calculated as from the date of receipt by Transnet of the Service Provider's month-end statement reflecting the relevant Tax Invoice(s) for payment purposes, provided the conditions of the order or contract have been fulfilled and the Tax

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

## **22 PLANS, DRAWINGS, DIAGRAMS, SPECIFICATIONS AND DOCUMENT**

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

## **23 VISITS TO FOREIGN COUNTRIES**

23.1 Respondents must furnish details in a covering letter if it is considered necessary that employees of Transnet should carry out inspection and/or review any operational services at the premises of the preferred Respondent or its subcontractors overseas for the purpose of a product demonstration and/or final acceptance or for any other reason.

23.2 If the Respondent considers overseas visits to be necessary it must provide the following information in a covering letter in respect of each proposed visit:

- a) countries and places to be visited;
- b) number of employees and disciplines involved;
- c) number of man-days involved; and
- d) motivation for the visit.

23.3 Transnet will make all arrangements with regard to booking of air journeys, hotel reservations, transport to and from airports, places of inspection or demonstration, etc. and all expenses will be for the account of Transnet.

23.4 Before a visit is undertaken, such as envisaged in this clause 23, Transnet and the Respondent will agree in writing on the number of employees of Transnet that should undertake the visit and the number of man-days involved in the visit.

## **24 BIDS BY OR ON BEHALF OF FOREIGN RESPONDENTS**

24.1 Bids submitted by foreign principals may be forwarded direct by the principals to the Secretary of the Acquisition Council or to a designated official of Transnet according to whichever officer is specified in the Bid Documents, or may be so forwarded on the principal's behalf by its South African representative or agent provided that written proof is submitted that such representative or agent has been duly authorised to act in that capacity by the principal. Failure to submit such authorisation by the representative or agent shall disqualify the Bid.

24.2 When legally authorised to prepare and submit Bids on behalf of their principals not domiciled in the Republic of South Africa, representatives or agents must compile the Bids in the names of such principals and sign them on behalf of the latter.

24.3 South African representatives or agents of a successful foreign Respondent must when so required enter into a formal contract in the name of their principals and must sign such contract on behalf of

the latter. In every such case a legal Power of Attorney from their principals must be furnished to Transnet by the South African representative or agents authorising them to enter into and sign such contract.

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

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

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

24.5 The attention of the Respondent is directed to clause 15 above [Securities] regarding the provision of security for the fulfilment of contracts and orders and the manner and form in which such security is to be furnished.

oooOOOooo





**NON-DISCLOSURE AGREEMENT**

Entered into by and between

**TRANSNET SOC LTD**

Registration Number 1990/000900/30

And

\_\_\_\_\_  
Registration Number \_\_\_\_\_

HYGIENE AND SANITATION SERVICE REQUIRED IN HARRYSMITH (Ref-WK-86/2013)

**RFP Number CPAC\_DNR\_12832**

**"PREVIEW COPY ONLY"**

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**"PREVIEW COPY ONLY"**

**THIS AGREEMENT is made between**

**Transnet SOC Ltd [Transnet]** [Registration No. 1990/000900/30]

whose registered office is at 49<sup>th</sup> Floor, Carlton Centre, 150 Commissioner Street, Johannesburg 2001,

**and**

\_\_\_\_\_ **[the Company]** [Registration No. \_\_\_\_\_]

whose registered office is at \_\_\_\_\_

**WHEREAS**

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

**IT IS HEREBY AGREED**

**1 INTERPRETATION**

In this Agreement:

- 1.1 **Agents** mean directors, officers, employees, agents, professional advisers, contractors or sub-contractors, or any Group member;
- 1.2 **Bid or Bid Document** means Transnet's Request for Information [**RFI**] Request for Proposal [**RFP**] or Request for Quotation [**RFQ**], as the case may be;
- 1.3 **Confidential Information** means any information or other data relating to one party (the **Disclosing Party**) and/or the business carried on or proposed or intended to be carried on by that party and which is made available for the purposes of the Bid to the other party (the **Receiving Party**) or its Agents by the Disclosing Party or its Agents or recorded in agreed minutes following oral disclosure and any other information otherwise made available by the Disclosing Party or its Agents to the Receiving Party or its Agents, whether before, on or after the date of this Agreement, and whether in writing or otherwise, including any information, analysis or specifications derived from, containing or reflecting such information but excluding information which:
  - a) is publicly available at the time of its disclosure or becomes publicly available (other than as a result of disclosure by the Receiving Party or any of its Agents contrary to the terms of this Agreement); or

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

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

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

## 2 CONFIDENTIAL INFORMATION

2.1 All Confidential Information given by one party to this Agreement (the **Disclosing Party**) to the other party (the **Receiving Party**) will be treated by the Receiving Party as secret and confidential and will not, without the Disclosing Party's written consent, directly or indirectly communicate or disclose (whether in writing or orally or in any other manner) Confidential Information to any other person other than in accordance with the terms of this Agreement.

2.2 The Receiving Party will only use the Confidential Information for the sole purpose of technical and commercial discussions between the parties in relation to the Bid or for the subsequent performance of any contract between the parties in relation to the Bid.

2.3 Notwithstanding clause 2.1 above, the Receiving Party may disclose Confidential Information:

to those of its Agents who strictly need to know the Confidential Information for the sole purpose set out in clause 2.2 above, provided that the Receiving Party shall ensure that such Agents are made aware prior to the disclosure of any part of the Confidential Information that the same is confidential and that they owe a duty of confidence to the Disclosing Party. The Receiving Party shall at all times remain liable for any actions of such Agents that would constitute a breach of this Agreement; or

- b) to the extent required by law or the rules of any applicable regulatory authority, subject to clause 2.4 below.

2.4 In the event that the Receiving Party is required to disclose any Confidential Information in accordance with clause 2.3b) above, it shall promptly notify the Disclosing Party and cooperate with the Disclosing Party regarding the form, nature, content and purpose of such disclosure or any action which the Disclosing Party may reasonably take to challenge the validity of such requirement.

2.5 In the event that any Confidential Information shall be copied, disclosed or used otherwise than as permitted under this Agreement then, upon becoming aware of the same, without prejudice to

any rights or remedies of the Disclosing Party, the Receiving Party shall as soon as practicable notify the Disclosing Party of such event and if requested take such steps (including the institution of legal proceedings) as shall be necessary to remedy (if capable of remedy) the default and/or to prevent further unauthorised copying, disclosure or use.

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

### **3 RECORDS AND RETURN OF INFORMATION**

- 3.1 The Receiving Party agrees to ensure proper and secure storage of all Information and any copies thereof.
- 3.2 The Receiving Party shall keep a written record, to be supplied to the Disclosing Party upon request, of the Confidential Information provided and any copies made thereof and, so far as is reasonably practicable, of the location of such Confidential Information and any copies thereof.
- 3.3 The Company shall, within 7 (seven) days of receipt of a written demand from Transnet:
- a) return all written Confidential Information (including all copies); and
  - b) expunge or destroy any Confidential Information from any computer, word processor or other device whatsoever into which it was copied, read or programmed by the Company or on its behalf.
- 3.4 The Company shall on request supply a certificate signed by a director as to its full compliance with the requirements of clause 3.3b) above.

### **4 ANNOUNCEMENTS**

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

### **5 DURATION**

The obligations of each party and its Agents under this Agreement shall survive the termination of any discussions or negotiations between the parties regarding the Bid and continue thereafter for a period of 5 (five) years.

### **6 PRINCIPAL**

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

## 7 ADEQUACY OF DAMAGES

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

## 8 PRIVACY AND DATA PROTECTION

8.1 The Receiving Party undertakes to comply with South Africa's general privacy protection in terms of the Bill of Rights (Section 14) in connection with this Bid and shall procure that its personnel shall observe the provisions of such Act (as applicable) or any amendments and re-enactments thereof and any regulations made pursuant thereto.

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

## 9 GENERAL

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

9.2 No failure or delay in exercising any right, power or privilege under this Agreement will operate as a waiver of it, nor will any single or partial exercise of it preclude any further exercise or the exercise of any right, power or privilege under this Agreement or otherwise.

9.3 The provisions of this Agreement shall be severable in the event that any of its provisions are held by a court of competent jurisdiction or other applicable authority to be invalid, void or otherwise unenforceable, and the remaining provisions shall remain enforceable to the fullest extent permitted by law.

9.4 This Agreement may only be modified by a written agreement duly signed by persons authorised on behalf of each party.

9.5 Nothing in this Agreement shall constitute the creation of a partnership, joint venture or agency between the parties.

9.6 This Agreement will be governed by and construed in accordance with South African law and the parties irrevocably submit to the exclusive jurisdiction of the South African courts.

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