

## **NEC3 Professional Services Contract**

**Transnet Group Capital a specialist unit of**

**Transnet SOC Ltd**

Registration Number 1990/000900/30

**Request for the Proposal for:**

**The Provision of a Topographical Survey for Ermelo CTC**

<b>Enquiry Number</b>	<b>3428187.002</b>
<b>Issue Date</b>	<b>04 August2020</b>
<b>Clarification meeting</b>	<b>Not applicable</b>
<b>Closing Date</b>	<b>28 August 2020 at 12:00 TGCTenders@transnet.net</b>
<b>Bid Validity Period</b>	<b>90 Business Working Days from Closing Date</b>

## **CONTRACT DOCUMENTS**

### **Form of Offer and Acceptance**

#### **Contract Data**

**Part One – Data provided by the *Employer***

**Part Two – Data provided by the *Consultant***

#### **Pricing Data**

#### **Scope of Services**

#### **Site information**


**TRANSNET GROUP CAPITAL**

Enquiry Number: 3428187.002

Description of the Service: The Provision of a Topographical Survey for Ermelo CTC

## T1.1 TENDER NOTICE AND INVITATION TO TENDER

### SECTION 1: NOTICE TO TENDERERS

#### 1. INVITATION TO TENDER

Responses to this Tender [hereinafter referred to as a **Tender**] are requested from persons, companies, close corporations or enterprises [hereinafter referred to as a Tenderer].

<b>DESCRIPTION</b>	<b>The Provision of a Topographical Survey for Ermelo CTC</b>
<b>TENDER FEE AND BANKING DETAILS</b>	Not applicable
<b>COLLECT DOCUMENTS FROM:</b>	This Tender may be downloaded directly from the National Treasury eTender Publication Portal at <a href="http://www.etenders.gov.za">www.etenders.gov.za</a> free of charge, as well as on TGC website
<b>COMPULSORY TENDER CLARIFICATION MEETING</b>	There will be NO briefing session for this tender.
<b>CLOSING DATE</b>	<b>12:00 PM on Friday, 28 August 2020</b> Tenderers must ensure that tenders are delivered timeously to the correct address, ( <a href="mailto:tcpquotes@transnet.net">tcpquotes@transnet.net</a> ). As a general rule, if a tender is late or delivered to the incorrect address, it will not be accepted for consideration.

#### 2. TENDER SUBMISSION

Tender Offers must be submitted to [TGCtenders@transnet.net](mailto:TGCtenders@transnet.net)

RFP No: **3428187.002**

Description: **The Provision of a Topographical Survey for Ermelo CTC**

Closing date and time: **Friday, 28 August 2020 at 12:00**

Closing address: [TGCtenders@transnet.net](mailto:TGCtenders@transnet.net)

#### 3. DELIVERY INSTRUCTIONS FOR TENDER

##### 3.1 Delivery by hand

Not applicable

##### 3.2 Dispatch by courier

Not applicable

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**4. CONFIDENTIALITY**

All information related to this RFP is to be treated with strict confidentiality. In this regard Tenderers are required to certify that they have acquainted themselves with the Non-Disclosure Agreement. All information related to a subsequent contract, both during and after completion thereof, will be treated with strict confidence. Should the need however arise to divulge any information gleaned from provision of the Works, which is either directly or indirectly related to Transnet's business, written approval to divulge such information must be obtained from Transnet.

**5. DISCLAIMERS**

Tenderers are hereby advised that Transnet is not committed to any course of action as a result of its issuance of this Tender and/or its receipt of a tender offer. In particular, please note that Transnet reserves the right to:

- 5.1. Award the business to the highest scoring Tenderer/s unless objective criteria justify the award to another tenderer.
- 5.2. Not necessarily accept the lowest priced tender or an alternative Tender;
- 5.3. Go to the open market if the quoted rates (for award of work) are deemed unreasonable;
- 5.4. Should the Tenderers be awarded business on strength of information furnished by the Tenderer, which after conclusion of the contract is proved to have been incorrect, Transnet reserves the right to terminate the contract;
- 5.5. Request audited financial statements or any other documentation for the purposes of a due diligence exercise;
- 5.6. Not accept any changes or purported changes by the Tenderer to the tender rates after the closing date;
- 5.7. Verify any information supplied by a Tenderer by submitting a tender, the Tenderer/s hereby irrevocably grant the necessary consent to the Transnet to do so;
- 5.8. Conduct the evaluation process in parallel. The evaluation of Tenderers at any given stage must therefore not be interpreted to mean that Tenderers have necessarily passed any previous stage(s);



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- 5.9. Unless otherwise expressly stated, each tender lodged in response to the invitation to tender shall be deemed to be an offer by the Tenderer. The Employer has the right in its sole and unfettered discretion not to accept any offer.
- 5.10. Not be held liable if tenderers do not provide the correct contact details during the clarification session and do not receive the latest information regarding this RFP with the possible consequence of being disadvantaged or disqualified as a result thereof.
- 5.11. Transnet reserves the right to exclude any Tenderers from the tender 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, as amended. Tenderers are required to indicate in tender returnable [clause 12 on T2.2-43, **[Breach of Law]**] whether or not they have been found guilty of a serious breach of law during the past 5 [five] years.
6. Transnet will not reimburse any Tenderer for any preparatory costs or other work performed in connection with this Tender, whether or not the Tenderer is awarded a contract.

## 7. NATIONAL TREASURY'S CENTRAL SUPPLIER DATABASE

Tenderer are required to self-register on National Treasury's Central Supplier Database (CSD) which has been established to centrally administer supplier information for all organs of state and facilitate the verification of certain key supplier information. The CSD can be accessed at <https://secure.csd.gov.za/>. Tenderer are required to provide the following to Transnet in order to enable it to verify information on the CSD:

Supplier Number..... and Unique registration reference number.....(Tender Data)



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**Transnet urges its clients, suppliers and the general public  
to report any fraud or corruption to  
TIP-OFFS ANONYMOUS: 0800 003 056 OR [Transnet@tip-offs.com](mailto:Transnet@tip-offs.com)**

**ACKNOWLEDGMENT OF RECEIPT OF DOCUMENTS  
AND INTENTION TO TENDER**

(To be returned within 5 days after receipt)

FAX TO: Transnet Group Capital	Project No.:	3428187
Attention: Nnemo Pyana		
Email: nnemo.pyana@transnet.net	Tender No.:	3428187.002
	Closing Date	28 August 2020

**For: The Provision of a Topographical Survey for Ermelo CTC**

<b>We: Do wish to tender</b> for the work and shall return our tender by the due date above	<b>Check Yes</b> <input type="checkbox"/>
<b>Do not wish to tender</b> on this occasion and herewith return all your documents received.	<b>Yes</b> <input type="checkbox"/>

REASON FOR NOT TENDERING:

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

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

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



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	Part C4: Site information	C4.1 Site information
C.1.4	The Employer's agent is:	Regional Procurement Manager
	Name:	Matsietsi Ramalitsi
	Address:	9 Country Estate Drive Waterfall Business Estate Midrand 1662
	Tel No.	011 308 1237
	E – mail	matsietsi.ramalitsi@transnet.net
C.2.1	Only those tenderers who satisfy the following eligibility criteria are eligible to submit tenders:	
	<p><b>1. Stage One - Pre-qualification criteria for preferential procurement in terms of the Preferential Procurement Regulations, 2017:</b></p> <p>a) A tenderer having a stipulated minimum B-BBEE status level 1, 2 or 3;</p> <p>b) Must be an EME or QSE.</p> <p><i>Any tenderer that fails to meet the stipulated pre-qualifying criteria will be regarded as an unacceptable tender.</i></p> <p><b>1. Stage Two - Functionality:</b></p> <p>Only those tenderers who obtain the minimum qualifying score for functionality will be evaluated further in terms of price and the applicable preference point system. The minimum qualifying for score for functionality is <b>80 points</b>.</p> <p>The evaluation criteria for measuring functionality and the points for each criteria and, if any, each sub-criterion are as stated in C.3.11.3 below.</p> <p><i>Any tenderer that fails to meet the stipulated pre-qualifying criteria will be regarded as an unacceptable tender.</i></p>	
C.2.7	Not applicable	
C.2.12	No alternative tender offers will be considered.	
C.2.13.3	Parts of each tender offer communicated shall be as an <b>original, one (1) copy electronic version</b> , which shall be in the <b>English Language</b> .	
C.2.13.5	The <i>Employer's</i> details and address for delivery of tender offers and identification	
C2.15.1	details that are to be shown on each tender offer package are:	
	Email address	<a href="mailto:TGCtenders@transnet.net">TGCtenders@transnet.net</a>



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- Identification details: The tender documents must be submitted labelled with:
- Name of Tenderer:
  - Contact person and details:
  - The Tender Number: 3428187.002

The Tender Description: The Provision of a Topographical Survey for Ermelo CTC

Documents must be marked for the attention of:

***Employer's Agent:***

C.2.13.9 Telephonic, telegraphic or facsimile tender offers will not be accepted.

C.2.15 The closing time for submission of tender offers is:  
Time: **12:00pm on Friday, the 28 August 2020**  
Email address: [TGCtenders@transnet.net](mailto:TGCtenders@transnet.net)  
**NO LATE TENDERS WILL BE ACCEPTED**

C.2.16 The tender offer validity period is **90 business working days** after the closing date. Tenderers are to note that they may be requested to extend the validity period of their tender, on the same terms and conditions, if Transnet's internal evaluation and governance approval processes has not been finalised within the validity period.

- C.2.23 The tenderer is required to submit with his tender:
1. A valid Tax Clearance Certificate issued by the South African Revenue Services.  
**Tenderers also to provide Transnet with a TCS PIN to verify Tenderers compliance status.**
  2. A **valid B-BBEE Certificate** from a Verification Agency accredited by the South African Accreditation System [**SANAS**], or a **sworn affidavit** confirming annual turnover and level of black ownership in case of all EMEs and QSEs with 51% black ownership or more together with the tender;
  3. Proof of registration on the Central Supplier Database;

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

C3.4 The time and location for opening of the offers are after the opening submissions at the venue as stated in C.2.15.

C3.11 The minimum number of evaluation points for functionality is: **80 points**

The procedure for the evaluation of responsive tenders is Functionality, Price and Preference:

**Only those tenderers who attain the minimum number of evaluation points for Functionality will be eligible for further evaluation, failure to meet the minimum threshold will result in the tender being disqualified and removed**

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**from any further consideration.**

**Functionality Criteria**

The functionality criteria and maximum score in respect of each of the criteria are as follows:

<b>Functionality criteria</b>	<b>Sub-criteria</b>	<b>Sub-criteria points</b>	<b>Maximum number of points</b>
<b>T2.2-7 Management and CVs of Key Persons</b>	<p>Bidders experience and qualifications – submit CV's of professional land surveyor with proof of qualification and registration with SAGC</p> <p>2-5 years Professional involvement with relevant qualification and experience – 3 points</p> <p>6-9 years Professional involvement with relevant qualification and experience – 5 points</p> <p>10 - above years Professional involvement with relevant qualification and experience - 10 points</p> <p>Max = 10 points</p> <p>NB: Attach proof of registration to obtain full points</p>	10	<b>33.3</b>
	<p><b>Registered with the South African Geomatics Council for Land Surveyors (SAGC)</b></p> <p>Professionally registered with SAGC - 10</p> <p>Not professionally registered with SAGC scores – 0</p> <p>NB: Attach proof of registration to obtain full points</p>	33.4	<b>33.4</b>
<b>T2.2-25 Previous Experience</b>	<p><b>Bidders previous experience – submit reference letters of institutions for whom similar services were rendered</b></p> <p>2 previously completed projects – 3</p> <p>3 previously completed projects – 5</p>		

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	5 + previously completed projects – 10 Max =10  Attach a letter of appointment / recommendation with contactable references for each project to obtain full points	33.3	<b>33.3</b>
<b>Maximum possible score for Functionality</b>		<b>100</b>	

Functionality shall be scored independently by not less than 3 (three) evaluators and averaged in accordance with the following schedules:

- T2.2-7 Management and CVs of Key Persons
- T2.2-25...Previous Experience

Each evaluation criteria will be assessed in terms of scores of 0, 20, 40, 60, 80 or 100 (linear scale, more suitable for NEC3, ECC (construction related procurement) or 0, 40, 70, 90 or 100.

The scores of each of the evaluators will be averaged, weighted and then totalled to obtain the final score for functionality, unless scored collectively. (See CIDB Inform Practice Note #9).

**Note: Any tender not complying with the above mentioned requirements, will be regarded as non-responsive and will therefore not be considered for further evaluation. This note must be read in conjunction with Clause C.2.1.**

C.3.11. Only tenders that achieve the minimum qualifying score for functionality will be evaluated further in accordance with the 80/20 preference points systems as described in Preferential Procurement Regulations 6 and 7.

80 where the financial value of one or more responsive tenders received have a value equal to or below R50 million, inclusive of all applicable taxes.

Up to 100 minus  $W_1$  tender evaluation points will be awarded to tenderers who complete the preferencing schedule and who are found to be eligible for the preference claimed. **Should the BBBEE rating not be provided, tenderers with no verification will score zero points for preferencing.**

**Note:** Transnet reserves the right to carry out an independent audit of the tenderers scorecard components at any stage from the date of close of the tenders until completion of the contract.

C.3.13 Tender offers will only be accepted if:

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1. The tenderer or any of its directors/shareholders is not listed on the Register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector;
  2. the tenderer does not appear on Transnet's list for restricted tenderers and National Treasury's list of Tender Defaulters;
  3. the tenderer has fully and properly completed the Compulsory Enterprise Questionnaire and there are no conflicts of interest which may impact on the tenderer's ability to perform the contract in the best interests of the Employer or potentially compromise the tender process and persons in the employ of the state.
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C.3.17 The number of paper copies of the signed contract to be provided by the Employer is 1 (one).

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  - 5.10. Not be held liable if tenderers do not provide the correct contact details during the clarification session and do not receive the latest information regarding this RFP with the possible consequence of being disadvantaged or disqualified as a result thereof.
  - 5.11. Transnet reserves the right to exclude any Tenderers from the tender 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, as amended. Tenderers are required to indicate in tender returnable [clause 12 on T2.2-43, **[Breach of Law]** whether or not they have been found guilty of a serious breach of law during the past 5 [five] years.
6. Transnet will not reimburse any Tenderer for any preparatory costs or other work performed in connection with this Tender, whether or not the Tenderer is awarded a contract.

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Supplier Number..... and Unique registration reference number.....(**Tender Data**)

**Transnet urges its clients, suppliers and the general public  
to report any fraud or corruption to  
TIP-OFFS ANONYMOUS: 0800 003 056 OR [Transnet@tip-offs.com](mailto:Transnet@tip-offs.com)**

## **T2.1 List of Returnable Documents**

### **2.1.1 These schedules are required for pre-qualification and eligibility purposes:**

#### **Stage One: Pre-qualification criteria for preferential procurement in terms of the Preferential Procurement Regulations, 2017:**

- A tenderer having a stipulated minimum B-BBEE status level 1, 2 or 3 contributor;
- Must be an EME or QSE.

### **2.1.2 Stage Two: these schedules will be utilised for evaluation purposes:**

T2.2-25 **Evaluation Schedule:** Previous experience

T2.2-7 **Evaluation Schedule:** Management and CVs of Key Persons

### **2.1.3 Returnable Schedules:**

#### **General:**

T2.2-14 Authority to submit tender

T2.2-16 Record of addenda to tender documents

T2.2-17 Compulsory Enterprise Questionnaire

T2.2-34 Supplier Declaration Form

T2.2-38 RFP Declaration of Understanding

T2.2-50 B-BBEE Preference Points Claim Form

### **2.1.4 Agreement and Commitment by Tenderer:**

T2.2-31 Service Provider Integrity Pact

T2.2-33 Non-Disclosure Agreement

T2.2-36 RFP Declaration Form

T2.2-43 RFP – Breach of Law

T2.2-51 Certificate of Acquaintance with Tender Document

### **2.1.5 Financial/Insurance:**

T2.2-9 Insurance provided by the *Consultant*

Three (3) years audited financial statements

### **2.1.6 Transnet Vendor Registration Form:**

T2.2-34 Supplier Declaration Form

**2.2 C1.1 Offer portion of Form of Offer & Acceptance**

**2.3 C1.2 Contract Data**

**2.5 C2 Pricing Data:**

**C2.1 Activity Schedule**

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### **T2.2-7: Evaluation Schedule - Management & CV's of Key Personnel**

The tender must be able to demonstrate that the project personnel have sufficient knowledge, experience and qualifications to provide the required services and submit the following documents as a minimum with the tender:

Tenderer's experience and qualifications – submit CV's of professional land surveyor with proof of qualification and registration with SAGC.

Key personnel including (Team Organogram.):

- 2-5 years Professional involvement with relevant qualification and experience
- 6-9 years Professional involvement with relevant qualification and experience
- 10 - above years Professional involvement with relevant qualification and experience

NB: Attach proof of registration to obtain full points

List of Key Persons assigned to the above disciplines

No.	Key Persons	Name and Surname	CV attached (Yes/No)
1			
2			
3			
4			
5			
6			

The scoring of the Management & CV's of Key Persons will be as follows:

<b>Score 0</b>	Failed to provide information No response.
<b>Score 20</b>	Key staffs do not have suitable levels of relevant experience and qualifications or equivalent specialised training. Inadequate organisation chart. No clear indication of roles and responsibilities and specific function of each team member.



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<b>Score 40</b>	Key staff has limited recommended levels of relevant experience and qualifications. Key staff has 1 to 3 years' experience. Inadequate indication of roles and responsibilities and specific function of each team member on the organogram.
<b>Score 60</b>	Key staff have acceptable levels of relevant experience and qualifications. Key staff has more than 2 years but up to 5 years' experience. Organisation chart showing reasonable indication of roles and responsibilities and specific function of each team member.
<b>Score 80</b>	Key staff have acceptable levels of relevant experience and qualifications. Keys staff has more than 6 years but up to 9 years' experience. Organisation chart showing adequate indication of roles and responsibilities and specific function of each team member.
<b>Score 100</b>	All Key staff have acceptable levels of relevant experience and qualifications with more than 10 years' experience. Organisation chart showing more than adequate indication of roles and responsibilities and specific function of each team member.

<p><b>Index of documentation attached to this schedule:</b></p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
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Description of the Service: The Provision of a Topographical Survey for Ermelo CTC

**T2.2-9: Insurance provided by the *Consultant***

Clause 81.1 in NEC3 Professional Services Contract (June 2005)(amended June 2006 and April 2013) requires that the *Consultant* provides the insurance stated in the insurance table except any insurance which the *Employer* is to provide as stated in the Contract Data.

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

<b>Insurance against (See clause 81.1 of the PSC)</b>	<b>Minimum amount stated in the Contract Data &amp; Name of Insurance Company</b>	<b>Cover</b>	<b>Premium</b>
Liability of the <i>Consultant</i> for claims made against him arising out of his failure to use the skill and care normally used by professionals providing services similar to the <i>services</i>	The amount stated in the Contract Data		
Liability for death of or bodily injury to a person (not an employee of the <i>Consultant</i> ) or loss of or damage to property resulting from an action or failure to take action by the <i>Consultant</i>	The amount stated in the Contract Data for any one event		
Liability for death of or bodily injury to employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with this contract	The greater of the amount required by the applicable law and the amount stated in the Contract Data for any one event		
(Other)			



**T2.2-14: Authority to submit a Tender**

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

<b>A - COMPANY</b>	<b>B - PARTNERSHIP</b>	<b>C - JOINT VENTURE</b>	<b>D - SOLE PROPRIETOR</b>

**A. Certificate for Company**

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

Signed

Date

Name

Position

Chairman of the Board of Directors

**B. Certificate for Partnership**

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

Name	Address	Signature	Date

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



**C. Certificate for Joint Venture**

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

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

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

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

**D. Certificate for Sole Proprietor**

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

Signed \_\_\_\_\_ Date \_\_\_\_\_

Name \_\_\_\_\_ Position Sole Proprietor

## T2.2-16: Record of Addenda to Tender Documents

The tenderer hereby confirms that the following communications were received from the *Employer* before the submission of this tender offer, amending the tender documents and have been taken all the Addenda into account in this tender offer:

	Date	Title or Details of Addenda
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

Attach additional pages if more space is required.



**T2.2-17: Compulsory Enterprise Questionnaire**

The following particulars hereunder must be furnished.

In the case of a Joint Venture, separate enterprise questionnaires in respect of each partner/member must be completed and submitted.

**Section 1: Name of enterprise:** \_\_\_\_\_

**Section 2: VAT registration number, if any:** \_\_\_\_\_

**Section 3: CIDB registration number, if any:** \_\_\_\_\_

**Section 4: CSD number:** \_\_\_\_\_

**Section 5: Particulars of sole proprietors and partners in partnerships**

Name	Identity number	Personal income tax number

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

**Section 6: Particulars of companies and close corporations**

Company registration number \_\_\_\_\_

Close corporation number \_\_\_\_\_

Tax reference number: \_\_\_\_\_

<p><b>Section 7: The attached SBD4 must be completed for each tender and be attached as a tender requirement.</b></p>
<p><b>Section 8: The attached SBD 6 must be completed for each tender and be attached as a requirement.</b></p>
<p><b>Section 9: The attached SBD8 must be completed for each tender and be attached as a requirement.</b></p>
<p><b>Section 10: The attached SBD9 must be completed for each tender and be attached as a requirement.</b></p>



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

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

Signed	_____	Date	_____
Name	_____	Position	_____
Enterprise name	_____		

**SBD 4**

**DECLARATION OF INTEREST**

1. Any legal person, including persons employed by the state<sup>1</sup>, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/ adjudicating authority where-

- the bidder is employed by the state; and/or

- the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

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<sup>1</sup> "State" means –

- a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999); any municipality or municipal entity;
- b) provincial legislature;
- c) national Assembly or the national Council of provinces; or
- d) Parliament.





**SBD 4**

**2. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

2.1 Full Name of bidder or his or her representative: \_\_\_\_\_  
\_\_\_\_\_

2.2 Identity Number: \_\_\_\_\_

2.3 Position occupied in the Company (director, trustee, shareholder<sup>2</sup>): \_\_\_\_\_  
\_\_\_\_\_

2.4 Company Registration Number: \_\_\_\_\_

2.5 Tax Reference Number: \_\_\_\_\_

2.6 VAT Registration Number: \_\_\_\_\_

2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / personnel numbers must be indicated in paragraph 3 below.

2.7 Are you or any person connected with the bidder presently employed by the state?  
**YES / NO**

2.7.1 If so, furnish the following particulars:

- Name of person / director / trustee / shareholder/ member:  
\_\_\_\_\_
- Name of state institution at which you or the person connected to the bidder is employed:  
\_\_\_\_\_
- Position occupied in the state institution:  
\_\_\_\_\_

Any other particulars:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SBD 4**

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector?

\_\_\_\_\_

<sup>2</sup> "Shareholder" means a person who owns shares in the company and is actively involved in the management of the enterprise or business and exercises control over the enterprise.



**YES / NO**

2.7.3 If yes, did you attached proof of such authority to the bid document?

**YES / NO**

Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.

2.7.3.1 If no, furnish reasons for non-submission of such proof:

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2.8 Did you or your spouse, or any of the company's directors / trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months?

**YES / NO**

2.8.1 If so, furnish particulars:

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2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid?

**YES / NO**

2.8.2 If so, furnish particulars.

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**SBD 4**

2.9 Are you, or any person connected with the bidder, aware of any relationship (family, friend, other) between any other bidder and any person employed by the state who may be involved with the evaluation and or adjudication of this bid?



**YES/NO**

2.9.1 If so, furnish particulars.

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2.10 Do you or any of the directors / trustees / shareholders / members of the company have any interest in any other related companies whether or not they are bidding for this contract?

**YES/NO**

2.10.1 If so, furnish particulars:

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**SBD 4**

**4 DECLARATION**

I, THE UNDERSIGNED (NAME) \_\_\_\_\_ CERTIFY  
THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH  
23 OF THE GENERAL CONDITIONS OF CONTRACT SHOULD THIS DECLARATION PROVE TO BE  
FALSE.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Position

\_\_\_\_\_  
Name of bidder

**SBD 6.1**

**PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL  
PROCUREMENT REGULATIONS 2017**

This preference form must form part of all bids invited. It contains general information and serves as a claim for preference points for Broad-Based Black Economic Empowerment [B-BBEE] Status Level of Contribution.

**NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.**

**1. GENERAL CONDITIONS**

- 1.1 The following preference point systems are applicable to all bids:
  - the 90/10 system for requirements with a Rand value of above R50 000 000 (all applicable taxes included)
- 1.2 The value of this bid is estimated to **exceed** R50 000 000 (all applicable taxes included) and therefore the **90/10** preference point system shall be applicable.
- 1.3 Preference points for this bid shall be awarded for:
  - (a) Price; and
  - (b) B-BBEE Status Level of Contribution.
- 1.4 The maximum points for this bid are allocated as follows:

	POINTS
<b>PRICE</b>	80/90
<b>B-BBEE STATUS LEVEL OF CONTRIBUTION</b>	20/10
<b>Total points for Price and B-BBEE must not exceed</b>	100

- 1.5 Failure on the part of a bidder to submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System [SANAS], or a sworn affidavit confirming annual turnover and level of black ownership in case of all EMEs and QSEs with 51% black ownership or more together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.
- 1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

**2. DEFINITIONS**

- (a) **“all applicable taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- (b) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;

- (c) **“B-BBEE status level of contributor”** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (d) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
- (e) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (f) **“CIPC”** means the Companies and Intellectual Property Commission, formerly known as CIPRO, the Companies and Intellectual Property Registration Office.
- (g) **“comparative price”** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
- (h) **“consortium or joint venture”** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;
- (i) **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;
- (j) **“EME”** means an Exempted Micro Enterprise as defines by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (k) **“firm price”** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- (l) **“functionality”** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- (m) **“non-firm prices”** means all prices other than “firm” prices;
- (n) **“person”** includes a juristic person;
- (o) **“QSE”** means a Qualifying Small Enterprise as defines by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 ( Act No. 53 of 2003);
- (p) **“rand value”** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;
- (q) **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
- (r) **“total revenue”** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the *Government Gazette* on 9 February 2007;







8	1	2
Non-compliant contributor	0	0

- 5.2 A bidder who qualifies as a EME in terms of the B-BBEE Act must submit a sworn affidavit confirming Annual Total Revenue and Level of Black Ownership. Furthermore EMEs may also obtain a sworn affidavit from CIPC (formerly CIPRO) Self Service Terminals when registering a business or filing annual returns. In these instances Transnet would require proof of turnover as well as proof of ownership. Sworn affidavits must substantially comply with the format that can be obtained on the DTI's website at [www.dti.gov.za/economic\\_empowerment/bee\\_codes.jsp](http://www.dti.gov.za/economic_empowerment/bee_codes.jsp).
- 5.3 QSEs that are at least 51% Black owned or higher are only required to obtain a sworn affidavit on an annual basis confirming that the entity has an Annual Total Revenue of R50 million or less and the entity's Level of Black ownership.
- 5.4 A Bidder other than EME or a QSE that is at least 51% Black owned must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Verification Agency accredited by SANAS.
- 5.5 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 5.6 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 5.7 Tertiary Institutions and Public Entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 5.8 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- 5.9 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.
- 5.10 Bidders are to note that the rules pertaining to B-BBEE verification and other B-BBEE requirements may be changed from time to time by regulatory bodies such as National Treasury or the DTI. It is the Bidder's responsibility to ensure that his/her bid complies fully with all B-BBEE requirements at the time of the submission of the bid.

**6. BID DECLARATION**

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

**7. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 5.1**

7.1 B-BBEE Status Level of Contribution: = .....(maximum of 10 or 20 points)



(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or a sworn affidavit.

8. SUB-CONTRACTING

8.1 Will any portion of the contract be sub-contracted?

(Tick applicable box)

YES [ ] NO [ ]

8.1.1 If yes, indicate:

- i) What percentage of the contract will be subcontracted.....%
ii) The name of the sub-contractor.....
iii) The B-BBEE status level of the sub-contractor.....
iv) Whether the sub-contractor is an EME.

(Tick applicable box)

YES [ ] NO [ ]

9. DECLARATION WITH REGARD TO COMPANY/FIRM

9.1 Name of company/firm: \_\_\_\_\_

9.2 VAT registration number: \_\_\_\_\_

9.3 Company registration number: \_\_\_\_\_

9.4 TYPE OF COMPANY/ FIRM

- [ ] Partnership/Joint Venture / Consortium
[ ] One person business/sole propriety
[ ] Close corporation
[ ] Company
[ ] (Pty) Limited

[TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

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

9.6 COMPANY CLASSIFICATION

- [ ] Manufacturer
[ ] Supplier
[ ] Professional service provider
[ ] Other service providers, e.g. transporter, etc.

[ TICK APPLICABLE BOX]

9.7 Total number of years the company/firm has been in business: \_\_\_\_\_

9.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contribution indicated in



paragraph 7 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 7, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
  - (a) disqualify the person from the bidding process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
  - (e) forward the matter for criminal prosecution.

WITNESSES

1. ....

2. ....

.....

SIGNATURE(S) OF TENDERER(S)

DATE: .....

ADDRESS .....

.....

### DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

1. This Standard Bidding Document must form part of all bids invited.
2. It serves as a declaration to be used by institutions in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
3. The bid of any bidder may be disregarded if that bidder, or any of its directors have-
  - a. abused the institution's supply chain management system;
  - b. committed fraud or any other improper conduct in relation to such system; or
  - c. failed to perform on any previous contract.
4. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

Item	Question	Yes	No
4.1	Is the bidder or any of its directors listed on the National Treasury's database as companies or persons prohibited from doing business with the public sector?  <b>(Companies or persons who are listed on this database were informed in writing of this restriction by the National Treasury after the <i>audi alteram partem</i> rule was applied).</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?  <b>To access this Register enter the National Treasury's website, <a href="http://www.treasury.gov.za">www.treasury.gov.za</a>, click on the icon "Register for Tender Defaulters" or submit your written request for a hard copy of the Register to facsimile number (012) 3265445.</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>



4.3.1	If so, furnish particulars:		
4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		



**SBD 8**

**CERTIFICATION**

**I, THE UNDERSIGNED (FULL NAME)..... CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS TRUE AND CORRECT.**

**I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Position

\_\_\_\_\_  
Name of Tenderer

**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

1. This Standard Bidding Document (SBD) must form part of all bids/quotes<sup>3</sup> invited.
2. Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).<sup>4</sup> Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
3. Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
  - (a) disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
  - (b) cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
4. This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
5. In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

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<sup>3</sup> Includes price quotations, advertised competitive bids, limited bids and proposals.

<sup>4</sup> Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.



**SBD 9**

**CERTIFICATE OF INDEPENDENT QUOTATION/PROPOSAL DETERMINATION**

I, the undersigned, in submitting the accompanying quote:

\_\_\_\_\_

(Quote Number and Description)

in response to the invitation for the quote made by:

\_\_\_\_\_

(Name of Institution)

do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: \_\_\_\_\_ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
  - (a) has been requested to submit a bid in response to this bid invitation;
  - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
  - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder.



6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium<sup>5</sup> will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:

SBD

9

- (a) prices;
  - (b) geographical area where product or service will be rendered (market allocation)
  - (c) methods, factors or formulas used to calculate prices;
  - (d) the intention or decision to submit or not to submit, a bid;
  - (e) the submission of a bid which does not meet the specifications and conditions of the bid;  
or
  - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
  9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
  10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

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<sup>5</sup> Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.



Signature

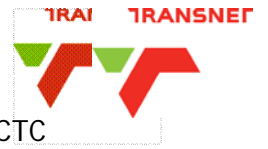
Date

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Position

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Name of bidder



Description of the Service: The Provision of a Topographical Survey for Ermelo CTC

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## T2.2-25: Evaluation Schedule: Previous Experience

Tenderers are required to demonstrate their experience in the delivery of similar Services, and to this end shall supply a sufficiently detailed reference list with contact details of existing customers and also indicate their previous experience of, inter alia, their engineering, design, installation and commissioning capability pertaining to the Scope of Services.

### Previous Experience

**Tenderer's previous experience – submit reference letters of institutions for whom similar Services were rendered**

1 previously completed Services – 2

2 previously completed Services – 3

3 previously completed Services –5

4 previously completed Services – 8

5 + previously completed Services – 10

Attach a letter of appointment / recommendation with contactable references for each project to obtain full points

**Index of documentation attached to this schedule:**

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Description of the Service: The Provision of a Topographical Survey for Ermelo CTC

<b>Score</b>	<b>Previous Experience</b>
<b>0</b>	The Tenderer failed to address the question / issue. Has not submitted the required information.
<b>20</b>	The Tenderer's previous experience presented has no relevance to the scope of this project and did not address any of the required categories. Tenderers generally have experience in one (1) project relating to the scope of services.  The tenderer has limited or poor evidence of previous experience.
<b>40</b>	The Tenderer's previous experience presented has some relevance to the project but lacks detail i.e. Description of previous projects, value and references. Tenderers generally have experience in three (2) projects relating to scope of services.  The tenderer lacks convincing evidence of knowledge of previous experience, specific to the services.
<b>60</b>	The Tenderer's previous experience presented demonstrates sufficient knowledge and experience to successfully execute this project scope. Tenderers generally have experience in four (3) projects relating to the scope of services. The tenderer has reasonable and relevant previous experience to the particular requirements of the services.
<b>80</b>	The Tenderer's previous experience presented demonstrates a real understanding and substantial evidence of the ability meet the stated project requirements. Tenderers generally have experience in five (4) projects relating to the scope of services. The tenderer has extensive previous experience in relation to the services.
<b>100</b>	The Tenderer's previous experience presented demonstrates real confidence extensive understanding in all of the categories as required. Tenderers generally have experience in more than five (5) projects relating to the scope of services. The tenderer has comprehensive previous experience in projects of a similar nature.

## **T2.2-31 Service Provider Integrity Pact**

**Important Note: All potential tenderers must read this document and certify in the RFX Declaration Form that that have acquainted themselves with, and agree with the content. The contract with the successful tenderer will automatically incorporate this Integrity Pact as part of the final concluded contract.**

### **INTEGRITY PACT**

Between

#### **TRANSNET SOC LTD**

Registration Number: 1990/000900/30

("Transnet")

and

The Contractor (hereinafter referred to as the "Tenderer / Professional Service Provider/Contractor")

### **PREAMBLE**

Transnet values full compliance with all relevant laws and regulations, ethical standards and the principles of economical use of resources, fairness and transparency in its relations with its Tenderers / Professional Service Providers/Contractors.

In order to achieve these goals, Transnet and the Tenderer / Professional Service Provider hereby enter into this agreement hereinafter referred to as the "Integrity Pact" which will form part of the Tenderer's / Professional Service Provider's / Contractor's application for registration with Transnet as a vendor.

The general purpose of this Integrity Pact is to agree on avoiding all forms of dishonesty, fraud and corruption by following a system that is fair, transparent and free from any undue influence prior to, during and subsequent to the currency of any procurement and / or reverse logistics event and any further contract to be entered into between the Parties, relating to such event.

All Tenderers / Professional Service Providers / Contractor's will be required to sign and comply with undertakings contained in this Integrity Pact, should they want to be registered as a Transnet vendor.

## **1 OBJECTIVES**

1.1 Transnet and the Tenderer / Professional Service Provider / Contractor agree to enter into this Integrity Pact, to avoid all forms of dishonesty, fraud and corruption including practices that are anti-competitive in nature, negotiations made in bad faith and under-pricing by following a system that is fair, transparent and free from any influence / unprejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:

- a) Enable Transnet to obtain the desired contract at a reasonable and competitive price in conformity to the defined specifications of the works, goods and services; and

- b) Enable Tenderers / Service Providers / Contractors to abstain from bribing or participating in any corrupt practice in order to secure the contract.

## **2 COMMITMENTS OF TRANSNET**

Transnet commits to take all measures necessary to prevent dishonesty, fraud and corruption and to observe the following principles:

- 2.1 Transnet hereby undertakes that no employee of Transnet connected directly or indirectly with the sourcing event and ensuing contract, will demand, take a promise for or accept directly or through intermediaries any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the Tenderer, either for themselves or for any person, organisation or third party related to the contract in exchange for an advantage in the tendering process, Tender evaluation, contracting or implementation process related to any contract.
- 2.2 Transnet will, during the registration and tendering process treat all Tenderers / Professional Service Providers with equity, transparency and fairness. Transnet will in particular, before and during the registration process, provide to all Tenderers / Professional Service Providers the same information and will not provide to any Tenderers / Professional Service Providers / Contractors confidential / additional information through which the Tenderers / Professional Service Providers / Contractors could obtain an advantage in relation to any tendering process.
- 2.3 Transnet further confirms that its employees will not favour any prospective Tenderer in any form that could afford an undue advantage to a particular Tenderer during the tendering stage, and will further treat all Tenderers / Professional Service Providers / Contractors participating in the tendering process.
- 2.4 Transnet will exclude from the tender process such employees who have any personal interest in the Tenderers / Professional Service Providers / Contractors participating in the tendering process.

## **3 OBLIGATIONS OF THE TENDERER / SERVICE PROVIDER**

- 3.1 The Tenderer / Professional Service Provider / Contractor commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its Tender or during any ensuing contract stage in order to secure the contract or in furtherance to secure it and in particular the Tenderer / Professional Service Provider / Contractor commits to the following:
  - a) The Tenderer / Professional Service Provider / Contractor will not, directly or through any other person or firm, offer, promise or give to Transnet or to any of Transnet's employees involved in the tendering process or to any third person any material or other benefit or payment, in order to obtain in exchange an advantage during the tendering process; and
  - b) The Tenderer / Professional Service Provider / Contractor will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any employee of Transnet, connected directly or indirectly with the

tendering process, or to any person, organisation or third party related to the contract in exchange for any advantage in the tendering, evaluation, contracting and implementation of the contract.

- 3.2 The acceptance and giving of gifts may be permitted provided that:
- a) the gift does not exceed R1 000 (one thousand Rand) in retail value;
  - b) many low retail value gifts do not exceed R 1 000 within a 12 month period;
  - c) hospitality packages do not exceed R5 000 in value or many low value hospitality packages do not cumulatively exceed R5 000;
  - d) a Tenderer / Professional Service Provider does not give a Transnet employee more than 2 (two) gifts within a 12 (twelve) month period, irrespective of value;
  - e) a Tenderer / Service Provider does not accept more than 1 (one) gift in excess of R750 (seven hundred and fifty Rand) from a Transnet employee within a 12 (twelve) month period, irrespective of value;
  - f) a Tenderer / Professional Service Provider may under no circumstances, accept from or give to, a Transnet employee any gift, business courtesy, including an invitation to a business meal and /or drinks, or hospitality package, irrespective of value, during any Tender evaluation process, including a period of 12 (twelve) months after such tender has been awarded, as it may be perceived as undue and improper influence on the evaluation process or reward for the contract that has been awarded; and
  - g) a Tenderer / Professional Service Provider may not offer gifts, goods or services to a Transnet employee at artificially low prices, which are not available to the public at those prices.
- 3.3 The Tenderer / Professional Service Provider / Contractor will not collude with other parties interested in the contract to preclude a competitive Tender price, impair the transparency, fairness and progress of the tendering process, Tender evaluation, contracting and implementation of the contract. The Tenderer / Professional Service Provider further commits itself to delivering against all agreed upon conditions as stipulated within the contract.
- 3.4 The Tenderer / Professional Service Provider / Contractor will not enter into any illegal or dishonest agreement or understanding, whether formal or informal with other Tenderers / Professional Service Providers / Contractors. This applies in particular to certifications, submissions or non-submission of documents or actions that are restrictive or to introduce cartels into the tendering process.
- 3.5 The Tenderer / Professional Service Provider / Contractor will not commit any criminal offence under the relevant anti-corruption laws of South Africa or any other country. Furthermore, the Tenderer /Service Provider will not use for illegitimate purposes or for restrictive purposes or personal gain, or pass on to others, any information provided by Transnet as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.

- 3.6 A Tenderer / Professional Service Provider / Contractor of foreign origin shall disclose the name and address of its agents or representatives in South Africa, if any, involved directly or indirectly in the registration or tendering process. Similarly, the Tenderer / Professional Service Provider / Contractor of South African nationality shall furnish the name and address of the foreign principals, if any, involved directly or indirectly in the registration or tendering process.
- 3.7 The Tenderer / Professional Service Provider / Contractor will not misrepresent facts or furnish false or forged documents or information in order to influence the tendering process to the advantage of the Tenderer / Service Provider or detriment of Transnet or other competitors.
- 3.8 The Tenderer / Professional Service Provider / Contractor shall furnish Transnet with a copy of its code of conduct, which code of conduct shall reject the use of bribes and other dishonest and unethical conduct, as well as compliance programme for the implementation of the code of conduct.
- 3.9 The Tenderer / Professional Service Provider / Contractor will not instigate third persons to commit offences outlined above or be an accessory to such offences.

#### **4 INDEPENDENT TENDERING**

- 4.1 For the purposes of that Certificate in relation to any submitted Tender, the Tenderer declares to fully understand that the word "competitor" shall include any individual or organisation, other than the Tenderer, whether or not affiliated with the Tenderer, who:
  - a) has been requested to submit a Tender in response to this Tender invitation;
  - b) could potentially submit a Tender in response to this Tender invitation, based on their qualifications, abilities or experience; and
  - c) provides the same Goods and Services as the Tenderer and/or is in the same line of business as the Tenderer.
- 4.2 The Tenderer has arrived at his submitted Tender independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium will not be construed as collusive tendering.
- 4.3 In particular, without limiting the generality of paragraph 5 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
  - a) prices;
  - b) geographical area where Goods or Services will be rendered [market allocation];
  - c) methods, factors or formulas used to calculate prices;
  - d) the intention or decision to submit or not to submit, a Tender;
  - e) the submission of a Tender which does not meet the specifications and conditions of the RFP; or
  - f) tendering with the intention of not winning the Tender.



- 4.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the Goods or Services to which his/her tender relates.
- 4.5 The terms of the Tender as submitted have not been, and will not be, disclosed by the Tenderer, directly or indirectly, to any competitor, prior to the date and time of the official Tender opening or of the awarding of the contract.
- 4.6 Tenderers are aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to Tenders and contracts, Tenders that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and/or may be reported to the National Prosecuting Authority [NPA] for criminal investigation and/or may be restricted from conducting business with the public sector for a period not exceeding 10 [ten] years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.
- 4.7 Should the Tenderer find any terms or conditions stipulated in any of the relevant documents quoted in the Tender unacceptable, it should indicate which conditions are unacceptable and offer alternatives by written submission on its company letterhead, attached to its submitted Tender. 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.

## **5 DISQUALIFICATION FROM TENDERING PROCESS**

- 5.1 If the Tenderer / Professional Service Provider / Contractor has committed a transgression through a violation of section 3 of this Integrity Pact or in any other form such as to put its reliability or credibility as a Tenderer / Service Provider into question, Transnet may reject the Tenderer's / Professional Service Provider's / Contractor's application from the registration or tendering process and remove the Tenderer / Professional Service Provider from its database, if already registered.
- 5.2 If the Tenderer / Professional Service Provider / Contractor has committed a transgression through a violation of section 3, or any material violation, such as to put its reliability or credibility into question. Transnet may after following due procedures and at its own discretion also exclude the Tenderer / Professional Service Provider / Contractor from future tendering processes. The imposition and duration of the exclusion will be determined by the severity of the transgression. The severity will be determined by the circumstances of the case, which will include amongst others the number of transgressions, the position of the transgressors within the company hierarchy of the Tenderer / Professional Service Provider / Contractor and the amount of the damage. The exclusion will be imposed for up to a maximum of 10 (ten) years. However, Transnet reserves the right to impose a longer period of exclusion, depending on the gravity of the misconduct.
- 5.3 If the Tenderer / Professional Service Provider / Contractor can prove that it has restored the damage caused by it and has installed a suitable corruption prevention system, or

taken other remedial measures as the circumstances of the case may require, Transnet may at its own discretion revoke the exclusion or suspend the imposed penalty.

## **6 TRANSNET'S LIST OF EXCLUDED TENDERERS (BLACKLIST)**

- 6.1 All the stipulations around Transnet's blacklisting process as laid down in Transnet's Supply Chain Policy and Procurement Procedures Manual are included herein by way of reference. Below follows a condensed summary of this blacklisting procedure.
- 6.2 Blacklisting is a mechanism used to exclude a company/person from future business with Transnet for a specified period. The decision to blacklist is based on one of the grounds for blacklisting. The standard of proof to commence the blacklisting process is whether a "*prima facie*" (i.e. on the face of it) case has been established.
- 6.3 Depending on the seriousness of the misconduct and the strategic importance of the Goods/Services, in addition to blacklisting a company/person from future business, Transnet may decide to terminate some or all existing contracts with the company/person as well.
- 6.4 A Professional Service Provider or Contractor to Transnet may not subcontract any portion of the contract to a blacklisted company.
- 6.5 Grounds for blacklisting include: If any person/Enterprise which has submitted a Tender, concluded a contract, or, in the capacity of agent or subcontractor, has been associated with such Tender or contract:
  - a) Has, in bad faith, withdrawn such Tender after the advertised closing date and time for the receipt of Tenders;
  - b) has, after being notified of the acceptance of his Tender, failed or refused to sign a contract when called upon to do so in terms of any condition forming part of the Tender documents;
  - c) has carried out any contract resulting from such Tender in an unsatisfactory manner or has breached any condition of the contract;
  - d) has offered, promised or given a bribe in relation to the obtaining or execution of the contract;
  - e) has acted in a fraudulent or improper manner or in bad faith towards Transnet or any Government Department or towards any public body, Enterprise or person;
  - f) has made any incorrect statement in a certificate or other communication with regard to the Local Content of his Goods or his B-BBEE status and is unable to prove to the satisfaction of Transnet that:
    - (i) he made the statement in good faith honestly believing it to be correct; and
    - (ii) before making such statement he took all reasonable steps to satisfy himself of its correctness;

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

h) has litigated against Transnet in bad faith.

6.6 Grounds for blacklisting include a company/person recorded as being a company or person prohibited from doing business with the public sector on National Treasury's database of Restricted Service Providers or Register of Tender Defaulters.

6.7 Companies associated with the person/s guilty of misconduct (i.e. entities owned, controlled or managed by such persons), any companies subsequently formed by the person(s) guilty of the misconduct and/or an existing company where such person(s) acquires a controlling stake may be considered for blacklisting. The decision to extend the blacklist to associated companies will be at the sole discretion of Transnet.

## **7 PREVIOUS TRANSGRESSIONS**

7.1 The Tenderer / Professional Service Provider /Contractor hereby declares that no previous transgressions resulting in a serious breach of any law, including but not limited to, corruption, fraud, theft, extortion and contraventions of the Competition Act 89 of 1998, which occurred in the last 5 (five) years with any other public sector undertaking, government department or private sector company that could justify its exclusion from its registration on the Tenderer's / Service Provider's / Contractor's database or any tendering process.

7.2 If it is found to be that the Tenderer / Professional Service Provider /Contractor made an incorrect statement on this subject, the Tenderer / Service Provider / Contractor can be rejected from the registration process or removed from the Tenderer / Service Provider / Contractor database, if already registered, for such reason (refer to the Breach of Law Form contained in the applicable RFX document.)

## **8 SANCTIONS FOR VIOLATIONS**

8.1 Transnet shall also take all or any one of the following actions, wherever required to:

- a) Immediately exclude the Tenderer / Service Provider / Contractor from the tendering process or call off the pre-contract negotiations without giving any compensation the Tenderer / Service Provider / Contractor. However, the proceedings with the other Tenderer / Service Provider / Contractor may continue;
- b) Immediately cancel the contract, if already awarded or signed, without giving any compensation to the Tenderer / Service Provider / Contractor;
- c) Recover all sums already paid by Transnet;
- d) Encash the advance bank guarantee and performance bond or warranty bond, if furnished by the Tenderer / Service Provider / Contractor, in order to recover the payments, already made by Transnet, along with interest;
- e) Cancel all or any other contracts with the Tenderer / Service Provider; and
- f) Exclude the Tenderer / Professional Service Provider / Contractor from entering into any Tender with Transnet in future.

## **9 CONFLICTS OF INTEREST**

9.1 A conflict of interest includes, inter alia, a situation in which:

- a) A Transnet employee has a personal financial interest in a tendering / supplying entity; and
- b) A Transnet employee has private interests or personal considerations or has an affiliation or a relationship which affects, or may affect, or may be perceived to affect his / her judgment in action in the best interest of Transnet, or could affect the employee's motivations for acting in a particular manner, or which could result in, or be perceived as favouritism or nepotism.

9.2 A Transnet employee uses his / her position, or privileges or information obtained while acting in the capacity as an employee for:

- a) Private gain or advancement; or
- b) The expectation of private gain, or advancement, or any other advantage accruing to the employee must be declared in a prescribed form.

Thus, conflicts of interest of any Tender committee member or any person involved in the sourcing process must be declared in a prescribed form.

9.3 If a Tenderer / Service Provider / Contractor has or becomes aware of a conflict of interest i.e. a family, business and / or social relationship between its owner(s) / member(s) / director(s) / partner(s) / shareholder(s) and a Transnet employee / member of Transnet's Board of Directors in respect of a Tender which will be considered for the Tender process, the Tenderer / Service Provider / Contractor:

- a) must disclose the interest and its general nature, in the Request for Proposal ("RFX") declaration form; or
- b) must notify Transnet immediately in writing once the circumstances has arisen.

9.4 The Tenderer / Service Provider / Contractor shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any committee member or any person involved in the sourcing process, where this is done, Transnet shall be entitled forthwith to rescind the contract and all other contracts with the Tenderer / Service Provider / Contractor.

## **10 MONITORING**

10.1 Transnet will be responsible for appointing an independent Monitor to:

- a) Conduct random monitoring of compliance to the provisions of this Integrity Pact for contracts entered into between Transnet and the Tenderer / Professional Service Provider / Contractor for less than R100,000.000 (one hundred million Rand) in value;
- b) Monitor compliance to the provisions of this Integrity Pact for contracts entered into between Transnet and the Tenderer / Professional Service Provider / Contractor for greater than R100,000.000 (one hundred million Rand) in value; and
- c) Investigate any allegation of violation of any provisions of this Integrity Pact for contracts entered into between Transnet and the Tenderer / Professional Service Provider / Contractor, irrespective of value.

- 10.2 The Monitor will be subjected to Transnet's Terms of Conditions of Contract for the Provision of Services to Transnet, as well as to Transnet's Service Provider Code of Conduct.

## 11 EXAMINATION OF FINANCIAL RECORDS, DOCUMENTATION AND/OR ELECTRONIC DATA

For the purpose of Monitoring, as stipulated above, the Monitor shall be entitled to:

- a) Examine the financial records, documentation and or electronic data of Tenderer / Service Provider / Contractor / Transnet. The Tenderer / Professional Service Provider / Transnet shall provide all requested information / documentation / data to the Monitor and shall extend all help possible for the purpose of such examination.

## 12 DISPUTE RESOLUTION

12.1 Transnet recognises that trust and good faith are pivotal to its relationship with its Tenderer / Professional Service Provider / Contractor. When a dispute arises between Transnet and its Tenderer / Service Provider / Contractor, the parties should use their best endeavours to resolve the dispute in an amicable manner, whenever possible. Litigation in bad faith negates the principles of trust and good faith on which commercial relationships are based. Accordingly, following a blacklisting process as mentioned in paragraph 6 above, Transnet will not do business with a company that litigates against it in bad faith or is involved in any action that reflects bad faith on its part. Litigation in bad faith includes, but is not limited to the following instances:

- a) **Vexatious proceedings:** these are frivolous proceedings which have been instituted without proper grounds;
- b) **Perjury:** where a Tenderer / Service Provider / Contractor make a false statement either in giving evidence or on an affidavit;
- c) **Scurrilous allegations:** where a Tenderer / Service Provider / Contractor makes allegations regarding a senior Transnet employee which are without proper foundation, scandalous, abusive or defamatory; and
- d) **Abuse of court process:** when a Tenderer / Service Provider / Contractor abuses the court process in order to gain a competitive advantage during a Tender process.

## 13 GENERAL

13.1 This Integrity Pact is governed by and interpreted in accordance with the laws of the Republic of South Africa.

13.2 The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the law relating to any civil or criminal proceedings.

13.3 The validity of this Integrity Pact shall cover all the tendering processes and will be valid for an indefinite period unless cancelled by either Party.



- 13.4 Should one or several provisions of this Integrity Pact turn out to be invalid the remainder of this Integrity Pact remains valid.
  
- 13.5 Should a Tenderer / Professional Service Provider / Contractor be confronted with dishonest, fraudulent or corruptive behaviour of one or more Transnet employees, Transnet expects its Tenderer / Service Provider / Contractor to report this behaviour directly to a senior Transnet official / employee or alternatively by using Transnet's "Tip-Off Anonymous" hotline number 0800 003 056, whereby your confidentiality is guaranteed.

The Parties hereby declare that each of them has read and understood the clauses of this Integrity Pact and shall a Tenderer by it. To the best of the Parties' knowledge and belief, the information provided in this Integrity Pact is true and correct.

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Description of the Service: The Provision of a Topographical Survey for Ermelo CTC

**T2.2-33 NON-DISCLOSURE AGREEMENT**

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

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

**Transnet SOC Ltd** (Registration No. 1990/000900/30), a company incorporated and existing under the laws of South Africa, having its principal place of business at 9 Country Estate Drive, Waterfall Business Estate, Midrand, 1662, South Africa,

**and**

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

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- 1.3.1 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
- 1.3.2 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
- 1.3.3 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:
- 2.3.1 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
- 2.3.2 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 2.3.2 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





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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:

3.3.1 return all written Confidential Information [including all copies]; and

3.3.2 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 3.3.2 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.

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## **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 Section 14 of the Bill of Rights 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.



T2.2-36: TENDER DECLARATION FORM

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

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

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

FULL NAME OF OWNER/MEMBER/DIRECTOR/

PARTNER/SHAREHOLDER:

ADDRESS:

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

Indicate nature of relationship with Transnet:

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

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

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



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

For and on behalf of ..... duly authorised thereto
Name:
Signature:
Date:

**IMPORTANT NOTICE TO RESPONDENTS**

- Transnet has appointed a Procurement Ombudsman to investigate any material complaint in respect of tenders exceeding R5,000,000.00 (five million S.A. Rand) in value. Should a Respondent have any material concern regarding an tender process which meets this value threshold, a complaint may be lodged with Transnet's Procurement Ombudsman for further investigation.
- It is incumbent on the Respondent to familiarise himself/herself with the Terms of Reference for the Transnet Procurement Ombudsman, details of which are available for review at Transnet's website [www.transnet.net](http://www.transnet.net).
- An official complaint form may be downloaded from this website and submitted, together with any supporting documentation, within the prescribed period, to [procurement.ombud@transnet.net](mailto:procurement.ombud@transnet.net)
- For transactions below the R5, 000,000.00 (five million S.A. Rand) threshold, a complaint may be lodged with the Chief Procurement Officer of the relevant Transnet Operating Division.
- All Respondents should note that a complaint must be made in good faith. If a complaint is made in bad faith, Transnet reserves the right to place such a bidder on its List of Excluded Bidders.



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## T2.2-43: REQUEST FOR PROPOSAL – BREACH OF LAW

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

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 Tenderer 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 Tenderer from the tendering process, should that person or company have been found guilty of a serious breach of law, tribunal or regulatory obligation.

Signed on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF TENDERER



## TRANSNET GROUP CAPITAL

Enquiry Number: 3428187.002

Description of the Service: The Provision of a Topographical Survey for Ermelo CTC

### Eligibility Criteria Schedule: B-BBEE Status Level/EME or QSE/ Sub-

#### Consulting:

In an endeavour to grow and develop Black Owned (BO) companies as well as to ensure that Transnet meets its Shareholder Compact Objectives, Potential Tenderers are required to meet the eligibility criteria of B-BBEE Status Level/EME or QSE/Sub-consulting.

#### It is a specific tendering condition that tenderers:

- Have a minimum B-BBEE status level 1, 2 or 3
- Are an EME or QSE or

If there is a sub-consulting requirement Tenderers are required to submit the **valid B-BBEE certificates or Sworn Affidavits** of the Sub-consulting Company/ies together with the Tender submission.

**Tenderer to note that any deviations from this list of proposed sub-consultants will be subject to acceptance by the *Employer's Agent* in terms of the Conditions of Contract. Please also read the applicable Z Clauses in the Contract Data by Employer.**

Provide information of the Sub-consultants below:

	Name of proposed Sub-consultants	Proposed Sub-consultant: National Treasury Central Supplier Database Registration Number	Nature and extent of work	B-BBEE Certificates or Sworn Affidavit attached to this schedule? Yes/No	Amount of work sub-consulted in Rands (excl. 15% Vat)	Percentage (%) of the sub-consulted amount in terms of the tendered total of the prices.
1.						
2.						
3.						
4.						


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Description of the Service: The Provision of a Topographical Survey for Ermelo CTC

5.						
6.						
7.						

**The Tenderer is to submit the following documents or copies thereof for each of the proposed sub-consultant(s) with this schedule:**

- Valid B-BBEE Sworn Affidavits or B-BBEE Certificates of each of the proposed sub-consultant(s).

**NOTE TO TENDERERS: FAILURE TO PROVIDE THE ABOVE DOCUMENTS WILL RESULT IN THE NOMINATED SUBCONSULTANT'S PERCENTAGE BEING DISCOUNTED TO ZERO.**

Transnet reserves the right to request additional information of the nominated sub-consultants should it be deemed necessary to verify the compliance to the black ownership percentage or sub-consultant's entity size. These may include but not limited to;

- Agreement or Letter of Intent confirming the Sub-Consulting Agreement between the tenderer and proposed sub-consultant(s);
- Copies of the identity documents of the members of shareholders of the sub-consultant;
- Copies of the Audited Financial Statements or Income Statement of the sub-consultant.

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## **T2.2-51: Certificate of Acquaintance with Tender Documents**

NAME OF TENDERING ENTITY:

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1. By signing this certificate I/we acknowledge that I/we have made myself/ourselves thoroughly familiar with, and agree with all the conditions governing this RFP. This includes those terms and conditions of the Contract, the Supplier Integrity Pact, Non-Disclosure Agreement etc. contained in any printed form stated to form part of the documents thereof, but not limited to those listed in this clause.
2. I/we furthermore agree that Transnet SOC Ltd shall recognise no claim from me/us for relief based on an allegation that I/we overlooked any TENDER/contract condition or failed to take it into account for the purpose of calculating my/our offered prices or otherwise.
3. I/we understand that the accompanying Tender will be disqualified if this Certificate is found not to be true and complete in every respect.
4. For the purposes of this Certificate and the accompanying Tender, I/we understand that the word "competitor" shall include any individual or organisation, other than the Tenderer, whether or not affiliated with the Tenderer, who:
  - a) has been requested to submit a Tender in response to this Tender invitation;
  - b) could potentially submit a Tender in response to this Tender invitation, based on their qualifications, abilities or experience; and
  - c) provides the same Services as the Tenderer and/or is in the same line of business as the Tenderer
5. The Tenderer has arrived at the accompanying Tender independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium will not be construed as collusive Tendering.
6. In particular, without limiting the generality of paragraph 5 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
  - a) prices;
  - b) geographical area where Services will be rendered [market allocation]
  - c) methods, factors or formulas used to calculate prices;
  - d) the intention or decision to submit or not to submit, a Tender;





- e) the submission of a Tender which does not meet the specifications and conditions of the TENDER; or
  - f) Tendering with the intention not winning the Tender.
7. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the Services to which this TENDER relates.
8. The terms of the accompanying Tender have not been, and will not be, disclosed by the Tenderer, directly or indirectly, to any competitor, prior to the date and time of the official Tender opening or of the awarding of the contract.
9. I/We am/are aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to Tenders and contracts, Tenders that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and/or may be reported to the National Prosecuting Authority [NPA] for criminal investigation. In addition, Tenderers that submit suspicious Tenders may be restricted from conducting business with the public sector for a period not exceeding 10 [ten] years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

Signed on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF TENDERER



## **C1.1 FORM OF OFFER & ACCEPTANCE**

### **Offer**

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

#### **The Provision of a Topographical Survey for Ermelo CTC**

The tenderer, identified in the Offer signature block, has

examined the documents listed in the Tender Data and addenda thereto as listed in the Returnable Schedules, and by submitting this Offer has accepted the Conditions of Tender.

By the representative of the tenderer, deemed to be duly authorised, signing this part of this Form of Offer and Acceptance the tenderer offers to perform all of the obligations and liabilities of the NEC3 PSC Consultant under the contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the conditions of contract identified in the Contract Data.

The offered total of the Prices exclusive of VAT is	<b>R</b>
Value Added Tax @ 15% is	<b>R</b>
The offered total of the Prices inclusive of VAT is	<b>R</b>
(in words)	

This Offer may be accepted by the *Employer* by signing the Acceptance part of this Form of Offer and Acceptance and returning one copy of this document including the Schedule of Deviations (if any) to the tenderer before the end of the period of validity stated in the Tender Data, or other period as agreed, whereupon the tenderer becomes the party named as the *NEC3 PSC Consultant* in the *conditions of contract* identified in the Contract Data.



Signature(s)

Name(s)

Capacity

**for the  
Tenderer:**

Name &  
signature of  
witness

Date



## Acceptance

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

The terms of the contract, are contained in:

Part C1            Agreements and Contract Data, (which includes this Form of Offer and Acceptance)

Part C2            Pricing Data

Part C3            Scope of Service

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

Deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Returnable Schedules as well as any changes to the terms and *conditions of contract* of the Offer agreed by the tenderer and the *Employer* during this process of offer and acceptance, are contained in the Schedule of Deviations attached to and forming part of this Form of Offer and Acceptance. No amendments to or deviations from said documents are valid unless contained in this Schedule.

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



Notwithstanding anything contained herein, this agreement comes into effect on the date of award of contract. Unless the tenderer (now the *NEC3 PSC Consultant*) within five working days of the date of such receipt notifies the *Employer* in writing of any reason why he cannot accept the contents of this agreement, this agreement shall constitute a binding contract between the Parties.

Signature(s)

Name(s)

Capacity

**for the  
Employer:**

Transnet SOC (Ltd)

Name &  
signature of  
witness

Date



## Schedule of Deviations

No.	Subject	Details
1		
2		
3		

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

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



**For the *Tenderer*:**

**For the *Employer***

Signature

Name

Capacity

On behalf  
of

Name &  
signature  
of witness

Date

**Transnet SOC (Ltd)**


**TRANSNET GROUP CAPITAL**

Enquiry Number: 3428187.002

Description of the Service: The Provision of a Topographical Survey for Ermelo CTC

## C1.2 Contract Data

### Part one - Data provided by the *Employer*

Clause	Statement	Data
1	<b>General</b>	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option	
	dispute resolution Option	<b>A: Priced contract with activity schedule</b>
	and secondary Options	<b>W1: Dispute resolution procedure</b>
		<b>X2 Changes in the law</b>
		<b>X7: Delay damages</b>
		<b>X9: Transfer of rights</b>
		<b>X10 <i>Employer's Agent</i></b>
		<b>X18: Limitation of liability</b>
		<b>Z: <i>Additional conditions of contract</i></b>
	of the NEC3 Professional Services Contract (June 2005) (amended June 2006 and April 2013)	
10.1	The <i>Employer</i> is (Name):	<b>Transnet SOC Ltd</b>
	Address	Registered address: <b>Transnet Group Capital Waterfall Business Estate 9 Country Estate Drive Midrand 1662</b>
	Having elected its Contractual Address for the purposes of this contract as:	<b>Transnet Group Capital Waterfall Business Estate 9 Country Estate Drive Midrand 1662</b>
11.2(9)	The <i>services</i> are	<b>The Provision of a Topographical Survey for Ermelo CTC</b>
11.2(10)	The following matters will be included in the Risk Register	<b>None identified at the contract date</b>



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11.2(11)	The Scope is in	<b>Part C3.1: The Scope of the Contract Document</b>	
12.2	The <i>law of the contract</i> is the law of	<b>the Republic of South Africa subject to the jurisdiction of the Courts of South Africa.</b>	
13.1	The <i>language of this contract</i> is	<b>English</b>	
13.3	The <i>period for reply</i> is	<b>2 (two) weeks</b>	
13.6	The <i>period for retention</i> is	<b>5 (five) years following Completion or earlier termination.</b>	
<b>2</b>	<b>The Parties' main responsibilities</b>		
25.2	The <i>Employer</i> provides access to the following persons, places and things	<b>access to</b>	<b>access date</b>
		<b>1   Ermelo CTC</b>	<b>  04 September 2020</b>
<b>3</b>	<b>Time</b>		
31.2	The <i>starting date</i> is	<b>04 September 2020</b>	
11.2(3)	The <i>completion date</i> for the whole of the <i>services</i> is	<b>30 November 2020</b>	
31.1	The <i>Consultant</i> is to submit a first programme for acceptance within	<b>2 (two) weeks of the Contract Date.</b>	
32.2	The <i>Consultant</i> submits revised programmes at intervals no longer than	<b>4 (four) weeks.</b>	
<b>4</b>	<b>Quality</b>		
40.2	The quality policy statement and quality plan are provided within	<b>2 (two) weeks of the Contract Date.</b>	
41.1	The <i>defects date</i> is	<b>52 weeks after Completion of the whole of the services.</b>	
<b>5</b>	<b>Payment</b>		
50.1	The <i>assessment interval</i> is on the	<b>18<sup>th</sup> day of each successive month.</b>	
50.3	The <i>expenses</i> stated by the <i>Employer</i> are	<b>Item</b>	<b>Amount</b>
		<b>Economy air fares</b>	<b>Charged at proven costs strictly on limits as set out in National Treasury Instructions as amended from time to time.</b>
		<b>Car hire not exceeding group B</b>	<b>Charged at proven costs strictly on limits as set out in National Treasury Instructions as amended from time to time.</b>


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		Accommodation	Charged at proven costs strictly on limits as set out in National Treasury Instructions as amended from time to time.
51.1	The period within which payments are made is	Payment will be effected on or before the last day of the month following the month during which a valid Tax Invoice and Statement were received.	
51.2	The <i>currency of this contract</i> is the	South African Rand (ZAR).	
51.5	The <i>interest rate</i> is	The prime lending rate of the Standard Bank of South Africa.	
<b>6</b>	<b>Compensation events</b>	No additional data required for this section of the <i>conditions of contract</i> .	
<b>7</b>	<b>Rights to material</b>	No additional data required for this section of the <i>conditions of contract</i> .	
<b>8</b>	<b>Indemnity, insurance and liability</b>		
81.1	The amounts of insurance and the periods for which the <i>Consultant</i> maintains insurance are		
	<b>Event</b>	<b>Cover</b>	<b>Period following Completion of the whole of the <i>services</i> or earlier termination</b>
	failure by the <i>Consultant</i> to use the skill and care normally used by professionals providing services similar to the <i>services</i>	Professional Indemnity insurance for not less than R5 000 000.00 (Five Million Rand) in respect of each claim, without limit to the number of claims	52 Weeks
	death of or bodily injury to a person (not an employee of the <i>Consultant</i> ) or loss of or damage to property resulting from an action or failure to take action by the <i>Consultant</i>	General Third Party Liability Insurance for all amounts falling within the excess of the policy, currently R25 000.00 (Twenty Five Thousand Rand) each and every claim, and/or for all amounts in excess of the policy limits as detailed in the policy document or whatever the <i>Consultant</i> deems desirable in respect of each claim, without limit to the number of claims	0 Weeks


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	<p>death of or bodily injury to employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with this contract</p>	<p><b>The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the <i>Consultant</i> arising out of and in connection with this contract for any one event is that which is prescribed by the Compensation for Occupation Injuries and Diseases Act No. 130 of 1993 as amended.</b></p> <p><b>0 Weeks</b></p>
	<p>Motor Vehicle Liability Insurance</p>	<p><b>Comprising (as a minimum) “Balance of Third Party” Risks including Passenger Liability Indemnity for an amount of not less than R 5 000 000.00</b></p>
81.1	<p>The <i>Employer</i> provides the following insurances</p>	<p><b>Professional Indemnity insurance in respect of failure of the <i>Consultant</i> to use the skill and care normally used by Professionals providing services similar to the <i>services</i></b></p> <p><b>General Third Party Liability cover in respect of death of or bodily injury to a person (not an employee of the <i>Consultant</i>) or loss of or damage to property resulting from an action or failure to take action by the <i>Consultant</i></b></p>
82.1	<p>The <i>Consultant's</i> total liability to the <i>Employer</i> for all matters arising under or in connection with this contract, other than the excluded matters, is limited to</p>	<p><b><i>For all matters covered under the Employer's Professional Indemnity (PI) and General Third Party Liability policies, the Consultant's liability will be limited to the excesses applicable under the Employer's Professional Indemnity and General Third Party Liability policies as detailed in the policy wordings. The current excesses amounts to R5 000 000.00 (Five Million Rand) PI and R25 000.00 (Twenty Five Thousand Rand) General Third Party Liability, respectively, each and every claim. For all matters not covered under the Employer's Professional Indemnity and General Third Party Liability policies the Consultants liability will be limited to the final total of the Prices.</i></b></p>
<b>9</b>	<b>Termination</b>	<p><b>No additional data required for this section of the <i>conditions of contract</i>.</b></p>
<b>10</b>	<b>Data for main Option clause</b>	
<b>A</b>	<b>Priced contract with activity schedule</b>	

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21.3	The <i>Consultant</i> prepares forecasts of the total of the <i>expenses</i> at intervals of no longer than	4 weeks.
<b>11</b>	<b>Data for Option W1</b>	
W1.1	The <i>Adjudicator</i> is	Both parties will agree to an <i>Adjudicator</i> as and when a dispute arises. If the parties cannot reach an agreement on the <i>Adjudicator</i> , the Chairman of the Association of Arbitrators (Southern Africa) will appoint an <i>Adjudicator</i> .
W1.2(3)	The <i>Adjudicator nominating body</i> is:	the Association of Arbitrators (Southern Africa)
W1.4(2)	The <i>tribunal</i> is:	Arbitration
W1.4(5)	The <i>arbitration procedure</i> is	The latest addition of the South African Rules for the Conduct of Arbitrations of the Association of Arbitrators (Southern Africa)
	The place where arbitration is to be held is	Johannesburg
	The person or organisation who will choose an arbitrator	The Chairman of the Association of Arbitrators (Southern Africa)
	<ul style="list-style-type: none"> <li>• if the Parties cannot agree a choice or</li> <li>• if the <i>arbitration procedure</i> does not state who selects an arbitrator, is</li> </ul>	
<b>12</b>	<b>Data for secondary Option clauses</b>	
<b>X2</b>	<b>Changes in the law</b>	
X2.1	The <i>law of the project</i> is	South African Law.
<b>X7</b>	<b>Delay damages</b>	
X7.1	Delay damages for late Completion of the whole of the <i>services</i> are	R 1,000.00 per day
<b>X9</b>	<b>Transfer of rights</b>	
		The <i>Employer</i> owns the <i>Consultant</i> rights over any of the material whatsoever prepared for the Services of this Contract by the <i>Consultant</i> . The <i>Consultant</i> provides on request by the <i>Employer's Agent</i> , all documentation in whatever form as required (native's, PDF's, CD's, etc) and all other material items which transfer these rights to the <i>Employer</i> .
<b>X10</b>	<b>The <i>Employer's Agent</i></b>	
X10.1	The <i>Employer's Agent</i> is	
	Name:	Audrit Mayenetja

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Address	<b>Transnet Group Capital 9 Country Estate Drive Waterfall Business Estate Midrand 1662</b>
The authority of the <i>Employer's Agent</i> is	<b>Fully empowered to act on behalf of the <i>Employer</i> for the services covered by the contract.</b>

**X18 Limitation of liability**

X18.1	The <i>Consultant's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to:	<b>Nil</b>
X18.2	The <i>Consultant's</i> liability to the <i>Employer</i> for Defects that are not found until after the <i>defects date</i> is limited to:	<b>The cost of correcting the defect (The Total of the Prices)</b>
X18.3	The <i>end of liability date</i> is	<b>2 (Two) years after Completion of the whole of the <i>services</i>.</b>

**Z Additional conditions of contract**The *additional conditions of contract* are**Z1 Obligations in respect of Joint Venture Agreements**

Z1.1	Insert the additional core clause 21.5
	<p>21.5.1 In the instance that the <i>Consultant</i> is a joint venture, the <i>Consultant</i> shall provide the <i>Employer</i> with a certified copy of its signed joint venture agreement, and in the instance that the joint venture is an 'Incorporated Joint Venture,' the Memorandum of Incorporation, within 4 (four) weeks of the Contract <i>starting date</i>.</p> <p>The Joint Venture agreement shall contain but not be limited to the following:</p> <ul style="list-style-type: none"> <li>• A brief description of the Contract and the Deliverables;</li> <li>• The name, physical address, communications addresses and domicilium citandi et executandi of each of the constituents and of the Joint Venture;</li> <li>• The constituents' interests;</li> <li>• A schedule of the insurance policies, sureties, indemnities and guarantees which must be taken out by the Joint Venture and by the individual constituents;</li> <li>• Details of an internal dispute resolution procedure;</li> </ul>

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- Written confirmation by all of the constituents:
  - i. of their joint and several liability to the *Employer* to Provide the *services*;
  - ii. proof of separate bank account/s in the name of the joint venture;
  - iii. identification of the leader in the joint venture confirming the authority of the leader to bind the joint venture through the *Consultant's* representative;
  - iv. Identification of the roles and responsibilities of the constituents to provide the *services*.
- Financial requirements for the Joint Venture:
  - i. the working capital requirements for the Joint Venture and the extent to which and manner whereby this will be provided and/or guaranteed by the constituents from time to time;
  - ii. the names of the auditors and others, if any, who will provide auditing and accounting services to the Joint Venture

Z1.2	Insert additional core clause 21.6	21.6. The <i>Consultant</i> shall not alter its composition or legal status of the Joint Venture without the prior approval of the <i>Employer</i> .
<b>Z2</b>	<b>Additional obligations in respect of Termination</b>	
Z2.1	The following will be included under core clause 90.1: In the second main bullet, after the word 'partnership' add 'joint venture whether incorporate or otherwise (including any constituent of the joint venture)' and	Under the second main bullet, insert the following additional bullets after the last sub-bullet: <ul style="list-style-type: none"> <li>• commenced business rescue proceedings</li> <li>• repudiated this Contract</li> </ul>
Z2.2	<i>Clause 90.5 is added as an additional clause</i>	Where all or part of the Services are suspended for a period of six months or more either party may terminate the Contract by notifying the other.
<b>Z3</b>	<b>Right Reserved by the <i>Employer</i> to Conduct Vetting through SSA</b>	

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Z3.1	<p>The <i>Employer</i> reserves the right to conduct vetting through State Security Agency (SSA) for security clearances of any <i>Consultant</i> who has access to National Key Points for the following without limitations:</p> <ol style="list-style-type: none"><li data-bbox="783 398 1495 524">1. Confidential – this clearance is based on any information which may be used by malicious, opposing or hostile elements to harm the objectives and functions of an organ of state.</li><li data-bbox="783 562 1495 687">2. Secret – clearance is based on any information, which may be used by malicious, opposing or hostile elements to disrupt the objectives and functions of an organ of state.</li><li data-bbox="783 725 1495 846">3. Top Secret – this clearance is based on information, which may be used by malicious, opposing or hostile elements to neutralise the objectives and functions of an organ of state.</li></ol>
<b>Z4</b>	<b>Additional Clause Relating to the <i>Employer's</i> rights to take appropriate action</b>

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Z4.1	<b>The contract award is made without prejudice to any rights the <i>Employer</i> may have to take appropriate action later with regard to:</b>	Any declared, exposed or confirmed tender rigging.
Z4.1.1		The <i>Consultant</i> further undertakes: not to give or cause any offer, payment, consideration, or benefit of any kind, which constitutes or could be construed as an illegal or corrupt practice, either directly or indirectly, as an inducement or reward for the award or in execution of this contract.
Z 4.1.2		To comply with all laws, regulations or policies relating to the prevention and combating of bribery, corruption and money laundering to which it or the <i>Employer</i> is subject, including but not limited to the Prevention and Combating of Corrupt Activities Act, 12 of 2004.
Z4.1.3		The <i>Consultant's</i> breach of this clause constitutes grounds for terminating the <i>Consultant's</i> obligation to Provide the Services or taking any other action as appropriate against the <i>Consultant</i> (including civil or criminal action). However, lawful inducements and rewards shall not constitute grounds for termination.
Z4.1.4		If the <i>Consultant</i> is found guilty by a competent court, administrative or regulatory body of participating in illegal or corrupt practices, including but not limited to the making of offers (directly or indirectly), payments, gifts, gratuity, commission or benefits of any kind, which are in any way whatsoever in connection with the contract with the <i>Employer</i> , the <i>Employer</i> shall be entitled to terminate the contract forthwith and take any other action as appropriate against the <i>Consultant</i> (including civil or criminal action).
Z4.2	<b>The contract award is made without prejudice to any rights the <i>Employer</i> may have to take appropriate action later with regard to:</b>	Politically Exposed Persons including any allegations with regards to State Capture.
Z4.3	<b>The contract award is made without prejudice to any rights the <i>Employer</i> may have to take appropriate action later with regard to:</b>	Blacklisting by any State Entity on the National Treasury database.
<b>Z5</b>	<b>Protection of Personal Information Act</b>	
Z5.1		The <i>Employer</i> and the <i>Consultant</i> are required to process information obtained for the duration of the Contract in a manner that is aligned to the Protection of Personal Information Act.



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<b>Z6</b>	<b>Time</b>
Z6.1	<p><i>Clause 33.2. is added as an additional clause.</i></p> <p>The <i>Employer</i> may at any time suspend part or all of the <i>services</i>. As a consequence, if the <i>Consultant</i> is required to demobilise and then remobilise its staff and equipment, the <i>Consultant</i> will be reimbursed at cost. The <i>Consultant</i> will be required to reduce and mitigate all its costs during the period of suspension and will be entitled to compensation only to the extent that it can demonstrate it has incurred costs which were not capable of being mitigated.</p>
<b>Z7</b>	<b>Compensation Events</b>
Z7.1	<p>Clause 61.4: The first bullet point is amended to read as follows: arises from the fault, error, negligence or default of the <i>Consultant</i>.</p>
<b>Z8</b>	<b>Limitation of liability</b>
Z8.1	<p>Add to core clause 82.1 and X18</p> <p>For the avoidance of doubt the parties expressly agree that the total liability of the <i>Consultant</i> to the <i>Employer</i> applies jointly and severally across all organisations comprising of the <i>Consultant</i>.</p>
<b>Z9</b>	<b>Additional clauses relating to cession of rights</b>
Z9.1	<p>The <i>Consultant</i> shall not cede any rights under this contract without the approval of the <i>Employer</i>.</p>
Z9.2	<p>The <i>Employer</i> may on written notice to the <i>Consultant</i> cede and assign its rights and obligations under this contract to any of its subsidiaries or any of its present divisions or operations which may be converted into separate legal entities as a result of the restructuring of the <i>Employer</i>.</p>
<b>Z10</b>	<b>Additional clauses relating to interpretation of the law</b>
Z10.1	<p>Add to core clause 12.3 Any extension, concession, waiver or relaxation of any action by the Parties, the <i>Employers' Agent</i> or <i>Adjudicator</i> does not constitute a waiver of rights and does not give rise to an Estoppel or Lien, unless the Parties agree otherwise and confirm such an agreement in writing.</p>
<b>Z11</b>	<b>Employer's Step in rights</b>
Z11.1	<p>If the <i>Consultant</i> defaults by failing to comply with his obligations and fails to remedy such default within 2 weeks of the notification of the default by the <i>Employer's Agent</i>, the <i>Employer</i>, without prejudice to his other rights, powers and remedies</p>

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under the contract, may remedy the default either himself or procure a third party (including any *sub-consultant* or supplier of the *Consultant*) to do so on his behalf. The reasonable costs of such remedial works shall be borne by the *Consultant*.

Z11.2

The *Consultant* co-operates with the *Employer* and facilitates and permits the use of all required information, materials and other matter (including but not limited to documents and all other drawings, CAD materials, data, software, models, plans, designs, programs, diagrams, evaluations, materials, specifications, schedules, reports, calculations, manuals or other documents or recorded information (electronic or otherwise) which have been or are at any time prepared by or on behalf of the *Consultant* under the contract or otherwise for and/or in connection with any subsequent *works*) and generally does all things required by the *Employers' Agent* to achieve this end.

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## C1.2 Contract Data

### Part two - Data provided by the *Consultant*

The tendering consultant is advised to read both the NEC3 Professional Services Contract (April 2013) and the relevant parts of its Guidance Notes (PSC3-GN) in order to understand the implications of this Data which the tenderer is required to complete. An example of the completed Data is provided on pages 151 to 159 of the PSC3 Guidance Notes.

Completion of the data in full, according to Options chosen, is essential to create a complete contract.

Clause	Statement	Data
10.1	The <i>Consultant</i> is (Name): Address Tel No. Fax No.	
22.1	The <i>Consultant's</i> key persons are: 1 Name: Job: Responsibilities: Qualifications: Experience: 2 Name: Job Responsibilities: Qualifications: Experience:	
Info.		<b>CV's (and further <i>key persons</i> data including CVs) are appended to Tender Schedule entitled.....</b>
11.2(10)	The following matters will be included in the Risk Register	
11.2(13)	The <i>staff rates</i> are:	<b>name/designation                      rate</b>

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50.3	The <i>expenses</i> stated by the <i>Consultant</i> are	<b>item</b>	<b>amount</b>
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<b>A</b>	<b>Priced contract with activity schedule</b>
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11.2(14) The *activity schedule* is in

11.2(18) The tendered total of the Prices is .....(in figures)

.....(in words),  
**excluding VAT**

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Description of the Service: Topographical Survey for Ermelo CTC

## PART C2: PRICING DATA

<b>Document reference</b>	<b>Title</b>	<b>No of pages</b>
C2.1	Pricing instructions: Option A	2
C2.2	Activity Schedule	1

## C2.1 Pricing instructions: Option A

### 1.1 The *conditions of contract*

### 1.2 How the contract prices work and assesses it for progress payments

Clause 11 in NEC3 Professional Services Contract (PSC), June 2005 (with amendments June 2006 and April 2013) Option A states:

- Identified and defined terms** 11 (14) The Activity Schedule is the *activity schedule* unless later changed in accordance with this contract.
- 11.2 (15) The Price for Services Provided to Date is the total of the Prices for the activities which have been completed. A completed activity is one which is without Defects which would delay immediately following work.
- (18) The Prices are the lump sums for each of the activities on the Activity Schedule unless later changed in accordance with this contract.

### 1.3 Measurement and Payment

- 1.3.1 The activity schedule provides the basis of all valuations of the Price for Services Provided to Date, payments in multiple currencies and general progress monitoring.
- 1.3.2 The amount due at each assessment date is based on activities and/or milestones completed as indicated on the activity schedule.
- 1.3.3 The activity schedule work breakdown structure provided by the *Consultant* is based on the activity schedule provided by the *Employer*. The activities listed by the *Employer* are the minimum activities acceptable and identify the specific activities which are required to achieve Completion. **(Compiler to note, If you have this sentences in please ensure that a proposed Activity Schedule is provided) Please delete if not applicable also compilers' note. The activity schedule work breakdown structure is compiled to the satisfaction of the *Employer* with any additions and/or amendments deemed necessary.**
- 1.3.4 The *Consultant's* detailed activity schedule summates back to the activity schedule provided by the *Employer* and is in sufficient detail to monitor completion of activities related to the Accepted Programme in order that payment of completed activities may be assessed.



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- 1.3.5 The Prices are obtained from the activity schedule. The Prices includes for all direct and indirect costs, overheads, profits, oncosts, risks, liabilities, obligations, etc. relative to the contract.



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## C2.2 Activity Schedule

The details given below serve as guidelines only and the *Consultant* may split or combine the activities to suit his particular methods.

Activity No.	Activity	Price of each activity
A.1	Area to be Surveyed is = 12 ha	
A.2	Health and Safety Requirements	
	<b>TOTAL Price (Excluding VAT)</b>	
	<b>15% V.A.T</b>	
	<b>TOTAL Price (Including VAT)</b>	



## C3: Scope of Services

### C3.1 Scope of Service

The following abbreviations may be used in this document, and have the meaning as indicated :-

- DTM = Digital Terrain Model
- MSL = Mean Sea Level
- WGS = World Geodetic System
- CAD = Computer Aided Design

### 1. Description of the Services

The *Services* is to complete a topographical survey for the site as highlighted on the drawings/sketches attached. The *Services* covers the general survey of the site and any other work arising out of or incidental from the *Services* or required of the *Consultant* for proper completion of the work in accordance with the true meaning and intent of the contract document and includes the following:

- a) The survey of structures, underground and aboveground services, buildings, roads, electrical cables, data communication cables and markers, storm water drains, water and sewer network, rock outcrops, culverts, fences and gates within the area indicated in 2 below. All underground services must be detected using appropriate methods and should be clearly shown on layouts.
- b) Establish permanent and temporary bench mark positions.
- c) Provision of all survey information should be supplied on a magnetic medium in a format assessable by AutoCAD and MicroStation.
- d) Survey work which could be expected of a **qualified** surveyor that is professionally registered.

### 2. Drawings

Drawing number	Sheet	Revision	ID	Title
3428187-04-000-C-LA-0001-01	01	A	MN	SURVEY AREA DRAWING – ERMELO CTC BUILDING

### 3. Specifications

#### 3.1 Applicable Standard Specifications

There are no technical specifications applicable.

#### 3.2 Applicable Generic Specifications

Transnet E7/1 (July 1998): Specification for works on, over, under or adjacent to railway lines and near high voltage equipment.

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3.3 The *Consultant* must make sure that he obtains an access certificate and together with his personnel comply to any safety requirements imposed by Transnet Freight Rail and as arranged by the Employer's Agent

## 4. Constraints on how the *Consultant* Provides the Services

### 4.1 Requirements for Equipment (Refer to SANS 1921-1 clause 4.13)

- The requirements for equipment to be used near high voltage equipment are provided in the Generic specification, E7/1.
- The design of such a mechanism shall be submitted to the **Employers Agent for approval** before the *Consultant* first establishes on site.

### 4.2 Format of information to be provided

- 4.2.1 The survey information shall be supplied in a digital format (assessable on AutoCAD and Microstation).
- 4.2.2 The DTM data shall be in an ASCII and TOT format, supplied on a virus free compact disc and readable by the software programme CIVIL DESIGNER.
- 4.2.1 All annotations on the plan shall be in English.
- 4.2.2 The plan shall be orientated with north at the top of the drawing.
- 4.2.3 **Levels** shall be displayed with a point as the **decimal point** and this point shall be placed at the centre of the level and must **correspond with the survey shot**.
- 4.2.4 **Levels** shall be indicated with **2 digits before the decimal point and 2 digits** after the decimal point, with lettering not less than 2.5mm high, in Arial font. The level shall be one text line.
- 4.2.5 To prevent cluttering of the as-is drawings, when plotting these levels the *Consultant* shall ensure that they are spaced not closer than **1mm apart (at a 1:500 scale)**, and that the numerals indicating the levels do not **overlap**.
- 4.2.6 Levels and descriptions of the level shall be on separate CAD layers.
- 4.2.7 Contours generated from the survey must accurately reflect the ground levels. The height intervals shall depend on site conditions and on the scale of the drawing. Where practical 0,5m contours shall be shown, but the space between plotted contours on the plan shall not be less than 5mm.
- 4.2.8 When defining the various points surveyed, the standard symbols to be used on the as-is drawings are indicated on the 6 sheets in Annexure B.
- 4.2.9 Co-ordinates system and datum level
- All co-ordinates shall be based upon the WGS system.
  - The datum for levels shall be MSL.
- 4.2.10 Information to be recorded
- The *Consultant* shall record all local topography on a grid of not more than 20m x 20m.
  - Spot heights shall indicate the crests of hills and bottom of valleys and depressions. Sufficient spot heights need to be provided to indicate ground variations, which cannot be adequately expressed by contour lines. Storm water trenches, streams and berms need to be located and shown clearly.
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- Control points must be recorded on a separate layer on the drawing.
- **Levels of control points** shall be indicated with 4 **digits before the decimal point and 2 digits** after the decimal point, with lettering not less than 2.5mm high, in Arial font. The level shall be one text line.

4.2.11 In addition to the above, the following features shall also be surveyed, if encountered:

- Civil and other features
  - Water network
  - Stormwater network
  - Sewer network
  - Data Communication network
  - Top and bottom of banks
  - Change in topography
- Telephones, power lines and electrification
  - Telephone poles and routes
  - Power poles and routes
  - Transmission lines
  - Surface cables and cable markers, also recording the markings / numbering on it
  - Yard Area lighting
  - Transformers and sub-stations
- Structures and buildings
  - Edge of platforms – where applicable
  - Culverts, also recording the size of opening, length, and invert levels
  - Bridge structures, bridge decks, parapets, piers, abutments and retaining walls.
  - Buildings derelict buildings and quarters– where applicable
  - Water tower
  - Manholes – both cover and invert levels and recording the type of manhole. Invert levels shall clearly be marked as either pipe invert levels or manhole invert level
  - Fire hydrants and water taps
  - Miscellaneous features
  - Subway and subway invert levels shall clearly be marked
  - Markers for pipes / cables also recording the markings / numbering on it
- Roads, fences and other features
  - Footpaths and roads, showing kerbs, gutters, catch pits, type of road surface, width of premix and concrete surfaces with the relevant invert levels clearly marked as for Structures and buildings above
  - Fencing, stating the type of fence
  - Eroded areas, gullies and streams
  - Trees

### 4.3 Control points

- 4.3.1 The *Consultant* shall make use of new **control points** and pick up all **existing** control points if any.
- 4.3.2 The *Consultant* shall provide a list showing the co-ordinates and elevation of each control point and survey station
- 4.3.3 The new control points shall be inter-visible and not more than 50m apart.
- 4.3.4 As a general rule, control points shall be placed in the periphery of the area to be surveyed and so spaced that a network of further control points can be established if required.
- 4.3.5 Control points shall be located in such a position as to minimise the likelihood of disturbance or damage and outside of the new proposed construction.
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- 4.3.6 The *Consultant* and the Employees Agent shall agree on the minimum envisaged number of control points required for the survey.
- 4.3.7 The control points shall be 600 mm long Y-standard driven into the ground leaving at least 20mm protruding, which must be encased in concrete of at least  $\Phi 200$ mm and 100mm deep, or any other method which will protect these points permanently, as agreed between the *Consultant* and the Employers Agent.
- 4.3.8 Each control point shall be provided with a rust proof metal tag set into the concrete indicating its number.
- 4.3.9 Each control point shall have its own **photograph accompanied** with the survey.

#### **4.4 Accurate Measurements Tolerances**

- 4.4.1 The accuracy of the contours generated from Civil Designer (software program to be used) must be such that upon comparison with the results of a selective check survey, the surveyed elevations of at least 90% of the points checked do not differ from their elevation as interpolated from the contours by more than half of the contour interval, and not more than 1% differ by more than the contour interval. The check shots shall be placed at random and shall be sufficient in number for the size of the area being surveyed.
- 4.4.1 Spot heights shall be accurate to  $\pm 20$ mm.
- 4.4.2 Invert levels of culverts and manholes shall be accurate to  $\pm 10$ mm. Cross sectional dimensions of all structures such as culverts, pipes and any structure deemed necessary shall be given.

#### **4.5 Integrity of Results**

- 4.5.1 Testing
- 4.5.1 The *Consultant* shall ensure, by means of field checks or other independent confirmations, that the service complies with the specified standards and shall furnish proof, if required by the Employer's Agent, that drawings depict details correctly.
- 4.5.2 The Employers Agent will scrutinise and check the fieldwork, calculations, drawings, and records to such an extent as he may deem necessary in order to satisfy himself that the terms of the contract and specification are met and complied with.

#### **4.6 Deliverables**

- 4.6.1 DTM Survey: Civil Designer format

Survey data shall be submitted on a CD as a "Civil Designer format" or equivalent file that can be used in "Civil Designer" and must include, all break lines, survey points, triangles and contours.

Triangulation of break lines must create the actual representation of the topography of the land when longitudinal sections and cross sections are extracted.

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The DTM must be in a LandXML format that is triangulated. The triangulations must be in 3D and in a DWG/ DGN format or equivalent.

The surface features and contours must be in 3d polylines in DWG/DGN format.

#### 4.6.2 Survey Mapping

Survey mapping shall be provided in the form of hard copies to a scale of 1:500 as well as a magnetic medium in a format assessable by Microstation and AutoCAD (.dwg and/or .dxf format) on a CD.

#### 4.6.3 Tabulation of survey data in Excel and ASCII format

#### 4.6.4 A list of the permanent / temporary survey beacons (bench marks) used for undertaking the services. This list must also be indicated on the Drawing.

#### 4.6.5 List of Codes:

A list showing all descriptions of survey codes used.

#### 4.6.6 Photographs of the site in general must be provided in a digital format.

#### 4.6.7 A walk through digital video recording of the site in general must be provided.

### 4.7 Clarification meeting

#### 4.7.1 The appointed *Consultant* must be available for a clarification meeting either at the office or on site after the contract is awarded. The surveyor and the draft person must be available for this meeting.

## 5. Services and other things provided by the *Employer*

The *Employer* will not provide any plant, equipment or material.

There will be no other activities on site that will interfere with the execution of the requirements of this service other than train operational activities. In this regard the *Consultant* shall acquaint himself of and abide by the requirements of specification: Transnet E7/1 (July 1998) Specification for works on, over, under or adjacent to railway lines and near high voltage equipment.

## 6. Health and Safety

Prepare and submit for approval a Health and Safety file in terms of Transnet's Health and Safety requirements for *Consultants* working on Transnet property. In terms of this file, the successful Tenderer will be responsible for the implementation of the obligations contained in Health and Safety file.

The successful Tenderer must prepare and submit for approval a Health and Safety file in terms of Transnet's Health and Safety requirements for *Consultants* working on Transnet property. In terms of this file, the successful Tenderer will be responsible for the implementation of the obligations contained in Health and Safety file. A copy of the file will be kept by TCP and be available on site. There are requirements of the *Consultant* in terms of Health and Safety. These are described below:

- Legal Appointments and proof of competencies for the Delegated Authority 16(2), Construction supervisor 6(1), Construction safety officer 6(6) or SHE Rep 17(1) and First Aider (Trained).
  - First Aid Box with all the required contents.
  - Valid letter of good standing for the *Consultant*, a copy of WCL2 form and ID copies for all on site.
  - Safety Daily service Instruction (Safety Talk) to be done daily before work commences.
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- Health & Safety Plan for the *Consultant* correlating with TCP Health & Safety Specification.
- Organogram of supporting structure (this document must provide all persons appointed in terms of the OHS Act 85 of 1993).
- Baseline Risk Assessment with all the activities that will be performed on site.
- Method statement for the services.
- Safe work procedure for the services.
- Proof that issue register system in place for P.P.E.
- Valid medical certificates of fitness done by an Occupational Health Practitioner for all on site.
- Proof of induction training received.
- Section 37(2) mandatory agreement between Client – *Consultant* and *Consultant* – Sub contractor.
- Proof of alcohol testing register of all on site daily done by the trained person.
- Risk Assessment covering all the services and hazards on site including Overhead Wires and Moving Trains
- Appointment of certified track flagmen.

The above mentioned points are the minimum safety requirements.

The attached PRE SITE AUDIT provides an indication what will be required in terms of Health and Safety prior to the *Consultant* commencing with the work. Please note that this is standard audit and some of requirements may not be applicable for this investigation.

## 7. Procurement

### 7.1 Code of Conduct

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

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

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

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

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

1 *Transnet will not participate in corrupt practices and therefore expects its suppliers to act in a similar manner.*

- Transnet and its employees will follow the laws of this country and keep accurate business records that reflect actual transactions with and payments to our suppliers.
  - Employees must not accept or request money or anything of value, directly or indirectly, to:
    - Illegally influence their judgement or conduct or to ensure the desired outcome of a sourcing activity;
    - Win or retain business or to influence any act or decision of any decision stakeholders involved in sourcing decisions; or
    - Gain an improper advantage.
-

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- There may be times when a supplier is confronted with fraudulent or corrupt behaviour of Transnet employees. We expect our Suppliers to use our “Tip-offs Anonymous” Hot line to report these acts. (0800 003 056).
2. *Transnet is firmly committed to the ideas of free and competitive enterprise.*
- Suppliers are expected to comply with all applicable laws and regulations regarding fair competition and antitrust.
  - Transnet does not engage with non-value adding agents or representatives solely for the purpose of increasing BBBEE spend (fronting)
3. *Transnet’s relationship with suppliers requires us to clearly define requirements, exchange information and share mutual benefits.*
- Generally, Suppliers have their own business standards and regulations. Although Transnet cannot control the actions of our suppliers, we will not tolerate any illegal activities. These include, but are not limited to:
    - Misrepresentation of their product (origin of manufacture, specifications, intellectual property rights, etc);
    - Collusion;
    - Failure to disclose accurate information required during the sourcing activity (ownership, financial situation, BBBEE status, etc.);
    - Corrupt activities listed above; and
    - Harassment, intimidation or other aggressive actions towards Transnet employees.
  - Suppliers must be evaluated and approved before any materials, components, products or services are purchased from them. Rigorous due diligence is conducted and the supplier is expected to participate in an honest and straight forward manner.
  - Suppliers must record and report facts accurately, honestly and objectively. Financial records must be accurate in all material respects.

### **Conflicts of Interest**

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

## **8.2 The Consultant’s Invoices**

8.2.1 When the *Employer’s Agent’s* certifies payment following an assessment date, the *Consultant* complies with the *Employer’s* procedure for invoice submission.

8.2.2 The invoice must correspond to the *Employer’s Agent’s* assessment of the amount due to the *Consultant* as stated in the payment certificate.

8.2.3 The invoice states the following:

- Invoice addressed to Transnet Limited;
- Transnet Limited’s VAT No: 4720103177;
- Invoice number;
- The *Consultant’s* VAT Number; and

8.2.4 The invoice shall contain the supporting documentation details.

8.2.5 The invoice is presented either by post or by hand delivery.

8.2.6 Invoices submitted by post are addressed to by email to the *Employer’s Agent*.

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## Part 4: Site Information

Document reference	Title	No of pages
C4.1	This cover page	1
	Site Information	2
	Total number of pages	2



## C4.1: Site Information

The site is in Ermelo; the CTC building currently has out dated, obsolete and has disconnected air conditioning and fire fighting facilities. The objective of the project is to refurbish the building. The CTC building is being used for telecommunications services working via the coal line to other parts of the country using the optic fibre and relevant equipment.

### C4.1: Information about the site at time of tender which may affect the work in this contract

#### 1. Access limitations

The building is Transnet property and access will be granted for site visits arranged by the *Employer's Agent*.

#### 2. Ground conditions in areas affected by work in this contract

Not applicable

#### 3. Hidden and other services within the site

The existing services within the site are the following:

- Water supply system
- Sewer system
- Fire suppression facilities
- Power supply cables
- Air conditioning services
- Data Services
- Telephone services
- Telecommunication cables

#### 4. Details of existing buildings / facilities which *Consultant* are required to work on.

The *Consultant* will be required to refurbish the building. The building is currently being occupied by the train operators and the refurbishment is to be done whilst they occupy a section of the building. The services are not supposed to be interrupted during the refurbishment.

**5. Site layout.**

