



Transnet SOC Ltd
REQUEST FOR PROPOSALS

**Transnet Engineering Capital Assets
Leasing Company**

REPUBLIC OF SOUTH AFRICA

RFP NUMBER: TE/2023/04/0019/26626/RFP

ISSUE DATE: April 4, 2023

BID CLARIFICATION MEETINGS: May 8, 2023

Session 1 will be at 09H00 SAST

Session 2 will be at 15H00 SAST

BID SUBMISSION DATE: June 30, 2023

BID SUBMISSION TIME: 17H00 SAST

BID VALIDITY PERIOD: 12 months from Bid Submission Date

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SECTION 1: SBD1 FORM AND NOTICE TO BIDDERS

1. **SBD1 Form**

All Bidders are required to complete the SBD1 Form and include it in their Proposal.

BID NUMBER:	TE/2023/04/0019/26626/RFP	ISSUE DATE:	04 April 2023	BID SUBMISSION DATE:	30 June 2023	BID SUBMISSION TIME:	17H00 SAST
Briefing date	<p>08 May 2023 at 09H00 SAST and 15H00 SAST</p> <p>Interested bidders may choose to attend any of the sessions based on the time zones that suit their country</p>						
DESCRIPTION	<p>Capital Assets Leasing Company at Transnet Engineering, a division of Transnet SOC Limited, in South Africa</p>						
BID RESPONSE DOCUMENTS SUBMISSION							
<p>BIDDERS ARE TO MAKE THEIR SUBMISSIONS TO TRANSNET AT THE FOLLOWING EMAIL ADDRESS: Engineering.PSP@transnet.net</p>							
BIDDING PROCEDURE ENQUIRIES AND CLARIFICATION QUESTIONS MAY BE DIRECTED TO:							
CONTACT PERSON	Aaron Mabena						
E-MAIL ADDRESS	Engineering.PSP@transnet.net						
BIDDER'S AUTHORISED REPRESENTATIVE							
CONTACT PERSON	Aaron Mabena						
TELEPHONE NUMBER	+27 63 645 9379						
E-MAIL ADDRESS	Engineering.PSP@transnet.net						
SPECIAL NOTE	<p>Bidders who are interested in participating in this opportunity must inform the tender administrator, so that they can be kept abreast with developments as well as any changes in the tender contents or timelines.</p> <p>The tender administrator may be informed on the mails below :</p> <p>Engineering.PSP@transnet.net</p> <p>aaron.mabena@transnet.net</p>						

BIDDER/CONSORTIUM INFORMATION – Lead Member				
NAME OF LEAD MEMBER				
POSTAL ADDRESS				
STREET ADDRESS				
TELEPHONE NUMBER	CODE		NUMBER	
CELLPHONE NUMBER				
E-MAIL ADDRESS				
BIDDER/CONSORTIUM INFORMATION – Member (1)				
NAME OF CONSORTIUM TEAM MEMBER				
POSTAL ADDRESS				
STREET ADDRESS				
TELEPHONE NUMBER	CODE		NUMBER	
CELLPHONE NUMBER				
E-MAIL ADDRESS				
BIDDER/CONSORTIUM INFORMATION – Member (2)				
NAME OF CONSORTIUM TEAM MEMBER				
POSTAL ADDRESS				
STREET ADDRESS				
TELEPHONE NUMBER	CODE		NUMBER	
CELLPHONE NUMBER				
E-MAIL ADDRESS				
BIDDER/CONSORTIUM INFORMATION – Member (3)				
NAME OF CONSORTIUM TEAM MEMBER				
POSTAL ADDRESS				
STREET ADDRESS				
TELEPHONE NUMBER	CODE		NUMBER	
CELLPHONE NUMBER				
E-MAIL ADDRESS				
BIDDER/CONSORTIUM – Member (4)				
NAME OF CONSORTIUM TEAM MEMBER				
POSTAL ADDRESS				
STREET ADDRESS				

TELEPHONE NUMBER	CODE		NUMBER	
CELLPHONE NUMBER				
E-MAIL ADDRESS				
BIDDER/CONSORTIUM – Member (5)				
NAME OF CONSORTIUM TEAM MEMBER				
POSTAL ADDRESS				
STREET ADDRESS				
TELEPHONE NUMBER	CODE		NUMBER	
CELLPHONE NUMBER				
E-MAIL ADDRESS				
QUESTIONNAIRE TO BIDDERS/CONSORTIUMS WHICH ARE FOREIGN ENTITIES / SUPPLIERS				
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?				<input type="checkbox"/> YES <input type="checkbox"/> NO
DOES THE ENTITY HAVE A BRANCH IN THE RSA?				<input type="checkbox"/> YES <input type="checkbox"/> NO
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?				<input type="checkbox"/> YES <input type="checkbox"/> NO
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?				<input type="checkbox"/> YES <input type="checkbox"/> NO
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?				<input type="checkbox"/> YES <input type="checkbox"/> NO

SIGNATURE OF AUTHORISED REPRESENTATIVE OF BIDDER:

.....

CAPACITY UNDER WHICH THIS PROPOSAL IS SIGNED:

.....

(Proof of authority must be submitted upon request by Transnet e.g. company resolution)

DATE: _____

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



Ethics Helpdesk (Pty) LTD.
Ethics Management System™

You can choose to be **Anonymous** or **Non-Anonymous** on ANY of the platforms
PLEASE RETAIN YOUR REFERENCE NUMBER



AI Voice Bot "Jack"

Speak to our AI Voice Chat Bot "JACK", you converse with him like chatting to a human, with the option to record a message and speak to an agent at anytime.

What's App

Speak to an Agent via What's App.

Speak to an Agent

Speak to an Agent via the platform with no call or data charge

Telegram

Speak to an Agent via Telegram



0800 003 056



086 551 4153



reportit@ethicshelpdesk.com



*120*0785980808#

2. **Invitation to Bid**

- 2.1. Transnet is inviting local and international investors interested in partnering with Transnet in the development and implementation of a capital asset leasing commercial venture, to submit Proposals in response to this RFP Procurement Process. The objective of the capital asset leasing commercial venture is to pursue domestic (South African) and regional leasing opportunities in rail rolling stock and port equipment.
- 2.2. Transnet intends to select the Preferred Bidder in accordance with the evaluation methodology set out in this RFP document.
- 2.3. Subject to finalisation of the Project Agreements, Transnet, through Transnet Engineering, will collaborate with the Preferred Bidder as shareholders in NewCo, on the basis that NewCo will undertake the development and implementation of the capital assets leasing commercial venture.

3. **Deadline for Submission of Proposals**

Proposals must be received by Transnet on or before **5PM SAST ON June 30, 2023**, or such later date as Transnet may in its discretion determine by notice or update to Bidders.

4. **Formal Briefing**

A briefing session on the RFP will be conducted on 08 May 2023 as detailed in paragraph 21.

5. **Right to Cancel**

Transnet does not bind itself, and there is no obligation of any nature whatsoever imposed upon Transnet, to respond to or accept any Proposal or any other submission, and Transnet hereby expressly reserves the right to at any time withdraw from or cancel the Request for Proposals or the Procurement Process.

SECTION 2: DISCLAIMER

6. No Contract

- 6.1. This RFP is not intended to, and will not, impose any legal obligation on Transnet other than as expressly set out herein.
- 6.2. By participating in the RFP process, Bidders expressly acknowledge, confirm, and agree that no contract, legal relationship or obligation of any nature whatsoever arises from, or is formed under, this RFP or the Procurement Process described herein.
- 6.3. The information set out in this RFP, or any document related to this RFP is not intended, and does not purport, to contain all the information required to enable Bidders to prepare Proposals. Bidders are required to conduct and rely upon their own investigations and analysis pursuant of the opportunity.
- 6.4. Neither Transnet, nor any of its directors, officers, employees, consultants, Transaction Advisors, contractors, representatives or agents make any representation or warranty, either express or implied, as to the accuracy, completeness, reliability or reasonableness of the contents of this RFP or of any information or material in the Information Memorandum. Transnet is under no obligation to correct, update or revise this RFP, or the Information Memorandum or any written or oral communications transmitted to any Bidders.

7. Waiver And Release

- 7.1. Transnet hereby expressly disclaims any and all liability for any costs, damages, liabilities or claims of any nature whatsoever, arising from or relating to the participation by any Person in the Procurement Process described herein or based upon or relating to any information, material, forecasts or estimates contained in this Request for Proposals or any written or oral communications by Transnet or any of its directors, officers, employees, consultants, Transaction Advisors, contractors or representatives.
- 7.2. As a condition of its participation in the Procurement Process described herein, Bidders agree and confirm that neither them nor any of their Consortium members, nor their advisors will make any claim or demand, or bring any action, suit or petition against Transnet, or any of its directors, officers, employees, consultants, Transaction Advisors or representatives, for any costs, damages, liabilities or claims of any nature whatsoever relating to its participation in the Procurement Process described herein or based upon or relating to any information, material, forecasts or estimates contained in this Request for Proposals or any written or oral communication by Transnet or any of its directors, officers, employees, consultants, Transaction Advisors, contractors or representatives.

SECTION 3: DEFINED TERMS

8. Defined Terms

As used in this Request for Proposals:

- 8.1. **"Applicable Law"** means all laws in force and effect as of the date of issue of this RFP and which may be promulgated or brought into force and effect hereinafter in the Republic of South Africa, including statutes, rules, regulations, directions, by-laws, notifications, ordinances and judgments having force of law, or any final interpretation by a court of law having jurisdiction over the matter in question, as may be in force and effect during the course of this Procurement Process.
- 8.2. **"Authorised Representative"** means a natural person designated by the Bidder who has the capacity and legal authority to represent the Bidder and act as its contact with Transnet for all matters relating to the Procurement Process. In the event that the Bidder is a Consortium, the Authorised Representative of the Bidder must be a duly authorised representative of the Lead Member of the Consortium.
- 8.3. **"B-BBEE"** has the meaning given to it in the B-BBEE Act.
- 8.4. **"B-BBEE Act"** means the Broad Based Black Economic Empowerment Act, No. 53 of 2003.
- 8.5. **"B-BBEE Codes"** means the B-BBEE Codes of Good Practice issued in terms of section 9(1) of the B-BBEE Act.
- 8.6. **"B-BBEE Contributor Status"** means the level at which a measured entity is recognised, based on its overall performance in respect of B-BBEE Elements, measured in terms of the B-BBEE Codes and/or any applicable Sector Codes, demonstrated by the submission of a valid B-BBEE Verification Certificate.
- 8.7. **"B-BBEE Elements"** means the elements contained in the B-BBEE Codes for measuring achievement of B-BBEE in relation to a measured entity.
- 8.8. **"B-BBEE Verification Certificate"** means a B-BBEE rating certificate or affidavit issued in terms of a Sector Code or the B-BBEE Codes, as applicable.
- 8.9. **"Bidder"** means an interested party (which could be a single Person or a Consortium) who will submit a Statement of Qualifications and Proposals pursuant to this RFP.
- 8.10. **"Bid Submission Date"** means June 30, 2023.
- 8.11. **"Competition Act"** means the Competition Act, No. 89 of 1998.
- 8.12. **"Conflict of Interest"** has the meaning ascribed to it in paragraph 60 of this RFP.

- 8.13. "**Consortium**" means any joint venture, partnership or other grouping comprised of two or more Persons which is established for purposes of responding to the RFP and participating in the Project.
- 8.14. "**Consortium Team Member**" means the members of the Consortium, where the Bidder is a Consortium.
- 8.15. "**Contact Person**" means the sole point of contact for Bidders to submit communications to Transnet in relation to this RFP, as detailed at paragraph 47.2.7 of this RFP.
- 8.16. "**COVID-19**" means an infectious disease caused by the SARS-CoV-2 virus.
- 8.17. "**EBITDA**" means earnings before interest, taxes, depreciation, and amortization.
- 8.18. "**Forms**" means the blank forms included in this RFP, numbered as Form I to Form IX, each of which must be completed by the Bidder and, where applicable, each Consortium Team Member, and submitted to Transnet as part of the response to the RFP.
- 8.19. "**Government Department**" means the Department of Public Enterprises, National Treasury and any other organ of state notified by Transnet to the Bidders as being directly connected with the implementation of the Procurement Process.
- 8.20. "**Lead Member**" means, in relation to a Bidder, the entity which, through the Authorised Representative, legally and fully represents and irrevocably binds all Consortium Team Members in all matters connected with the Procurement Process and any related transactions.
- 8.21. "**List of Restricted Suppliers**" means suppliers who for valid reasons, have transgressed Transnet and Government Department procurement policies, processes, and legislation and as such, have been restricted by National Treasury from doing any business with the state.
- 8.22. "**Memorandum of Incorporation**" means "Memorandum of Incorporation" or "MOI" means a public document which sets out the rights, obligations and responsibilities of shareholders, directors, and prescribed officers of a company.
- 8.23. "**Minimum Financial Criteria**" means the financial criteria set out in paragraph 42.3 of this RFP.
- 8.24. "**National Treasury**" has the meaning ascribed to it in the Public Finance Management Act, No. 1 of 1999.
- 8.25. "**NewCo**" or Special Purpose Vehicle ("SPV"), means the company to be established by Transnet as a special purpose vehicle to operate the capital asset leasing company, and enable the PSP.

- 8.26. "**Person**" means a natural person, company, close corporation or any other juristic person or other corporate entity, charity, partnership, joint venture, syndicate, association, trust or unincorporated organization and any trustee or any other association of persons.
- 8.27. "**Person of Influence**" means any person who is or at any point in the 10 years preceding the issue of the RFP was a (a) Domestic Prominent Influential Person; or (b) Foreign Prominent Public Official in terms of Schedule 3A and Schedule 3B, respectively, of the Financial Intelligence Centre Act No. 38 of 2001, including their family members contemplated in section 21H of that Act and their friends or business partners.
- 8.28. "**PFMA**" means the Public Finance Management Act No. 1 of 1999.
- 8.29. "**PPPFA**" means the Preferential Procurement Policy Framework Act, No. 5 of 2000.
- 8.30. "**Preferred Bidder**" means the Bidder whose compliant Proposal has met or exceeded the Evaluation Criteria and is invited by Transnet to participate in contract negotiations for purposes of finalization of the Project Agreements.
- 8.31. "**Prevention and Combating of Corrupt Activities Act**" means the Prevention and Combatting of Corrupt Activities Act, No.12 of 2004.
- 8.32. "**Private Sector Participation**" or "**PSP**" means the introduction of the private sector to participate in the equity of NewCo and in the Project.
- 8.33. "**Procurement Process**" means the process for selecting a private sector partner for participation in the Project.
- 8.34. "**Prohibited Person**" means a Person (a) whose name appears on the Database of Restricted Suppliers published by National Treasury; or blacklisted by such Person's professional body (if applicable); or (c) who is or who is Related to any employee or director of Transnet; or (d) who is or who is Related to any official or employee of a Government Department who has or may have the ability to influence a decision of any Government Department or a regulatory authority pertaining to the Project; or (e) who or which has been charged with or found guilty in a court of law of fraud or corruption-related crimes; or (f) listed in a Sanctions List or who/which is subject to Sanctions; or (g) ordinarily resident, organised or operating in a country or territory which is listed on a Sanctions List or is subject to Sanctions; or (h) who is a Person of Influence, whose involvement in the Project has the potential to harm the reputation or standing of Transnet or bring the Project into disrepute.
- 8.35. "**Project**" means the entire scope of work and services relating to the capital assets leasing company, as generally described in this RFP, which is to be carried out by NewCo in accordance with the Project Agreements.

- 8.36. "**Project Agreements**" means, collectively, the subscription of shares agreement, shareholders' agreement, the Memorandum of Incorporation of NewCo, and all other agreements, leases, legal documents or instruments to be entered into by Transnet and the NewCo in respect of the Project.
- 8.37. "**Proposal**" means a proposal submitted by a Bidder in response to the RFP.
- 8.38. "**Proposal Documents**" means, collectively, the Non-Disclosure Agreement/s, the completed Forms, and all other returnable documents and annexures as specified in the RFP.
- 8.39. "**Qualification Declaration**" means the form of Qualification Declaration attached hereto as Annexure A.
- 8.40. "**Register for Tender Defaulters**" means a register of suppliers who have been found to have breached procurement tender rules when doing business with the state.
- 8.41. "**Related**" means a relationship formed on the basis of any one or more of:
- 8.41.1. directors and shareholders;
 - 8.41.2. family (including spouses and in-laws);
 - 8.41.3. friendship;
 - 8.41.4. partnership or participation in the same business venture;
 - 8.41.5. professional engagement; or
 - 8.41.6. employment.
- 8.42. "**Returnable Documents**" means the SBD1 Form provided in paragraph 1, the forms described in paragraph 26.1, B-BBEE certificate as per paragraph 18.1, the tax compliance requirement set out in paragraph 37, due diligence declaration required by paragraph 38.2 and all information required by Section 9.
- 8.43. "**Request for Proposals**" or "RFP" means this Request for Proposals (including all annexures and accompanying documentation) issued by Transnet to select the Preferred Bidder to pursue the Project.
- 8.44. "**RFP Declaration and Breach of Law**" means the form of Declaration of Interest attached hereto as Form IV.
- 8.45. "**Sanctions**" means trade, economic or financial sanctions, embargoes or restrictions imposed or applied pursuant to applicable Laws and regulations which are administered or enforced from time to time by any Sanctions Authority.

- 8.46. **"Sanctions Authority"** means: (a) the United Nations; (b) the European Union; (c) the government of the United States of America; (d) the government of the United Kingdom; (e) the government of the Republic of France, and any of their applicable and authorised governmental authorities, including, without limitation, the Office of Foreign Assets Control for the US Department of Treasury (also known as "OFAC"), the US Department of Commerce, the US State Department or the US Department of the Treasury, Her Majesty's Treasury (also known as "HMT"), the Bank of England and the French Ministry of Finance.
- 8.47. **"Sanctions List"** means: (a) the Specially Designated Nationals and Blocked Persons List maintained by OFAC; and (b) the Consolidated List of Financial Sanctions Targets and the Investments Ban List maintained by HMT, and any similar list maintained, or a public announcement of a Sanctions designation made by any Sanctions Authority, in each case as amended, supplemented, or substituted from time to time.
- 8.48. **"Statement of Qualifications"** means a statement of qualifications to be made by a Bidder and submitted to Transnet in response to the RFP, as part of the Returnable Documents.
- 8.49. **"Timetable"** has the meaning ascribed to it in paragraph 16 of this RFP.
- 8.50. "Transaction **Advisors**" means the advisors appointed by Transnet in respect of the **Project**.
- 8.51. **"Transnet"** means Transnet SOC Ltd, registration number 1990/000900/30.
- 8.52. **"Transnet e-tender Submission Portal"** means the portal described in paragraph 47.2.3.1 of this RFP.
- 8.53. **"Transnet Engineering"** means the division of Transnet that specializes in manufacturing and maintenance of locomotives and wagons, with OEM accreditation with regard to certain locomotives and wagons.
- 8.54. **"Transnet Freight Rail"** or **"TFR"** means an operating division of Transnet that owns and manages Rail Network infrastructure and conducts Rail Operations over major rail corridors to transport commodities for export, regional and domestic markets. Its Rail Network and rail services provide strategic links between ports, terminals and production hubs in the Southern African Development Community (SADC) region.

38.2 4: GENERAL INTRODUCTION

9. TRANSNET SOC LTD

- 9.1. Transnet is a state-owned company (constituted in terms of the Legal Succession to the South African Transport Services Act No. 9 of 1989), with the South African Government as the sole shareholder. As a state-owned company (SOC) and major public entity, the Companies Act No. 71 of 2008 and the Public Finance Management Act No. 1 of 1999 (PFMA), serve as Transnet's primary governing legislation. Transnet is also subject to the JSE Debt Listings Requirements as they pertain to (i) the registration of a debt listing programme; and (ii) debt securities listed and to be listed.
- 9.2. Transnet's Memorandum of Incorporation - approved by the Shareholder Minister on 25 June 2013 – aligns with the provisions of the PFMA, the Companies Act, and the National Ports Act 12 of 2005.
- 9.3. Transnet's mandate is to:
 - 9.3.1. Assist in lowering the cost of doing business in South Africa;
 - 9.3.2. Enable economic growth; and
 - 9.3.3. Ensure security of supply by providing appropriate port, rail, and pipeline infrastructure in a cost-effective and efficient manner, within acceptable benchmarks.
- 9.4. Transnet signs an annual Shareholder's Compact with the Government of the Republic of South Africa, represented by the Minister of Public Enterprises. The Shareholder's Compact mandates Transnet to deliver on numerous strategic deliverables, including sustainable economic, social, and environmental outcomes. Transnet seeks to promote economic growth in the Republic of South Africa by providing its customers with access to world-class integrated logistics solutions and by creating transportation capacity ahead of demand
- 9.5. Transnet is the owner of South Africa's railway, ports and pipelines infrastructure and is structured to provide transport and handling services through its five operating divisions, namely:
 - 9.5.1. Transnet Freight Rail (TFR),
 - 9.5.2. Transnet Engineering (TE),
 - 9.5.3. Transnet National Ports Authority (TNPA),
 - 9.5.4. Transnet Port Terminals (TPT), and
 - 9.5.5. Transnet Pipelines (TPL).
- 9.6. As the custodian of ports, rail and pipelines, Transnet's objective is to ensure a globally competitive freight system that enables sustained growth and diversification of the country's economy.

10. **TRANSNET ENGINEERING**

10.1. Transnet Engineering (TE) is an integral part of South Africa's railway and port industry value chain as a provider of assets used in operations. TE has the following competencies in locomotives, freight wagons, passenger coaches and port equipment:

10.1.1. Manufacturing

10.1.2. Remanufacturing, and

10.1.3. Assembly of railway rolling stock.

10.2. These offerings are supported by specialist engineering proficiencies in:

10.2.1. Research and design;

10.2.2. Asset condition monitoring;

10.2.3. Systems testing and integration

10.3. TE has industry accreditations and certifications, over 150 years industry experience in heavy engineering and is an independent African original equipment manufacturer (OEM) for wagons and locomotives.

10.4. TE contributes to Transnet's core developmental mandate of providing a comprehensive, cost effective and effective rail and port freight service to the domestic and regional economies.

10.5. TE has successfully developed and manufactured the 'Trans Africa' locomotive (TAL) which is currently in operations in Saldhana Ore line. Further to this, TE has researched, developed, and built the 'Transnet Port Hauler' which is under operational testing at the port of Durban in South Africa.

10.5.1. Trans Africa Locomotive (TAL) is a locomotive developed and manufactured by TE. The locomotive structure, underframe and train control system is inhouse designed and manufactured.

10.5.2. This loco was specifically designed for the African continent addressing the most common constraints such as rail gauge and axle weight.

10.6. TE remains the largest single source of heavy engineering capability in South Africa, with extensive manufacturing capability and engineering services. Operations are enabled by:

10.6.1. Six manufacturing plants (out-of-service maintenance) in Cape Town, Uitenhage, Durban, Bloemfontein, Johannesburg, and Pretoria (which also provides support to satellite depots).

These plants have the capacity to build and/or manufacture 4,000 wagons.

- 10.6.2. TE has customer facing businesses which focus on manufacturing and engineering. The businesses offer the following products to domestic and regional markets: locomotive, wagon, coach, port equipment, wheel, rolling stock equipment, rotating machine, for the rail and port industries.
- 10.6.3. TE has two foundries that enable its manufacturing and engineering operations.
- 10.6.4. Business support services which include plant equipment maintenance, school of engineering and administration.
- 10.7. TE has primarily serviced the domestic market in South Africa. However, the organisation is geared towards driving economic development and growth in the Sub-Saharan Africa region, with focus on being the preferred supplier of rolling stock. In recent years, TE has conducted business with customers located outside of the Republic of South Africa, including Tanzania, Zambia, and the Democratic Republic of Congo.
- 10.8. TE has no leasing entity as part of its business; however, the business recently concluded the leasing of rolling stock in South Africa and in other Sub-Saharan African countries. Details of the leases are:
 - 10.8.1. 125 Container wagons leased for operations in Zambia and Tanzania.
 - 10.8.2. 100 Container wagons, 5-year lease in Democratic Republic of Congo (DRC).
 - 10.8.3. 3 Trans African Locomotives (TAL) to TFR in South Africa.
- 10.9. Transnet Engineering Strategy:
 - 10.9.1. In response to the rail and port operating environment, and market opportunities, TE has adopted a strategy which includes the establishment of a rolling stock and port equipment leasing company. To realise the strategy and capture market opportunities, TE is looking to partner with a Person or Consortiums with access to financial resources to support the development of the Project and with leasing capabilities which will enable the successful operations of the envisioned capital assets leasing company.

11. **MARKET OPPORTUNITIES AND THE PROJECT**

11.1. Market Opportunities

- 11.1.1. The Project is in response to market opportunities which Transnet has identified. Preliminary assessments show that

several opportunities exist in the South African market that TE, through the Project, can capitalise on. Although this market is not yet quantified, Transnet has identified following developments in the South African market which present as an opportunity:

- 11.1.1.1. Unmet demand by TFR due to contractual and financial constraints.
 - 11.1.1.2. Proposed rail reforms that will allow third party access to the rail network.
 - 11.1.1.3. Proposed capacity expansion in the Durban Container Terminal (DCT) precinct which will result in an increase in throughput. This will result in the need for more locomotives, wagons, and port haulers.
 - 11.1.1.4. Proposed operating lease on the Container Corridor by TFR which may result in an increased demand for rolling stock.
- 11.2. Further assessments show that regional opportunities to supply rolling stock exist due to unmet demand for rolling stock. A recent market study which involved the railway authorities in Sub-Saharan Africa, viz. Société Nationale des Chemins de fer du Congo (SNCC) in DR Congo, Zambia Railways Limited (ZRL) in Zambia, National Railways of Zimbabwe (NRZ) in Zimbabwe, Eswatini Railways (ESR) in eSwatini and Transnet Freight Rail (TFR) in South Africa found a strong demand for rolling stock which remains unserved. However, this opportunity remains unquantified and TE, through the joint development of the business case with private sector partner(s), seeks to quantify this opportunity and develop it further should a viable business case exist.

12. **THE PROJECT**

- 12.1. Transnet, through Transnet Engineering, is looking to partner with a Person or Consortiums who meet the evaluation criteria detailed in paragraph 42 for the joint development and implementation of a capital leasing asset commercial venture which will lease rolling stock (wagons and locomotives), and port equipment to the South African market and markets outside of South Africa.
- 12.2. Transnet does not have a rolling stock and/or port equipment leasing company, therefore, as such, no assets will be transferred to NewCo for the implementation of the Project. It will be the responsibility of NewCo to acquire leasing assets and apply for relevant legal and regulatory permits for the operation of NewCo.

- 12.3. At the time of incorporation of NewCo, the leasing business of TE will be reviewed and where long-term leases exist, the leased assets and contracts will be transferred into the NewCo at fair value.
- 12.4. The scope of the Project includes, but is not limited to:
 - 12.4.1. Acquisition of capital assets.
 - 12.4.2. Developing rolling stock and port equipment leasing capabilities in South Africa.
 - 12.4.3. Leasing rolling stock assets in South Africa and to markets outside of South Africa.
 - 12.4.4. Development of business opportunities.
 - 12.4.5. Ensuring efficient and effective management of NewCo.
 - 12.4.6. Ensuring that the capital assets are well maintained and available for leasing to customers.

SECTION 5: COMMERCIAL AND GOVERNANCE ARRANGEMENTS

13. TRANSACTION STRUCTURE AND COMMERCIAL ARRANGEMENTS

The proposed Project transaction and governance structure is described below:

13.1. An SPV will be created for the purposes of implementing the Project. This SPV will be created subject to Transnet obtaining all regulatory approvals required to give effect to the transactions which comprise the Project, including but not limited to:

13.1.1. Approval from the Minister of Finance and/or the Minister of Public Enterprises to establish NewCo, and dispose of shares in NewCo to the Preferred Bidder, in terms of the PFMA;

13.1.2. Approval of the Project in terms of the Competition Act, to the extent required;

13.1.3. Exemption from the PFMA for NewCo, to the extent appropriate.

13.2. After incorporation, Transnet and the Preferred Bidder will jointly develop the Project for the domestic and regional markets.

13.3. Transnet and the Preferred Bidder will jointly own, control and operate the NewCo.

13.4. The shareholding of NewCo shall be negotiated between Transnet and the Preferred Bidder at incorporation.

14. GOVERNANCE ARRANGEMENTS FOR NEWCO

14.1. The NewCo governance arrangements will be negotiated between Transnet and the Preferred Bidder. Governance provisions will be captured in The Memorandum of Incorporation and/or shareholders' agreement in respect of NewCo. Some of the provisions that will be negotiated, but not limited to, are:

14.1.1. Percentage shareholding in NewCo by Transnet and the Preferred Bidder.

14.1.2. Majority control of the Board.

14.1.3. Appointment of Board Chairperson.

14.1.4. Number of votes per director.

14.1.5. Reserved matters.

14.1.6. Dividend Policy.

14.1.7. Percentage required for passing ordinary and special resolutions.

- 14.1.8. The quorum required for shareholders meetings, and whether representation is required from both Transnet and the Preferred Bidder.
- 14.1.9. Treatment of shareholders' equity if funding is provided disproportionately to equity percentage, and whether or not disproportionate funding will result in equity dilution.
- 14.1.10. Power over hiring of executives and managers.
- 14.1.11. Dissolution of partnership (performance and material breach)

SECTION 6: PROCUREMENT PROCESS AND SCHEDULES

15. PROCUREMENT PROCESS OVERVIEW

15.1. Transnet will conduct the Procurement Process for the selection of a PSP partner for the Project, by;

15.1.1. Soliciting bids in response to this RFP;

15.1.2. Providing Bidders with the opportunity to seek clarification and to submit questions regarding this RFP and the Project to Transnet. Enquiries and responses will be made available to all Bidders. Transnet reserves the right, subject to applicable legislation, to elect not to respond to any enquiry or question;

15.1.3. Evaluating the Proposal and selecting the Preferred Bidder based on the criteria set out in paragraph 42;

16. ANTICIPATED PROCUREMENT SCHEDULE

16.1. The key milestones in the Procurement Process and the currently anticipated schedule for its completion are, subject to internal and third-party approvals, set out in the following table ("**Timetable**"):

1.	RFP ISSUE DATE	April 3, 2023
3.	RFP BRIEFING SESSION	May 8, 2023 Session 1 09H00 SAST Session 2 15H00 SAST
4.	CLARIFICATION QUESTION AND ANSWER PERIOD	April 4 to June 15, 2023
5.	BID SUBMISSION DATE (CLOSING DATE FOR SUBMISSION OF BIDDER PROPOSALS)	June 30, 2023
6.	EVALUATION OF PROPOSALS AND ANNOUNCEMENT OF SELECTION OF PREFERRED BIDDER	July 2023
7.	NEGOTIATION AND COMPLETION OF PROJECT AGREEMENTS	August 2023
8.	REGULATORY APPROVALS IN TERMS OF PFMA AND OTHER LEGISLATION	September 2023

16.2. The Timetable represents the approximate dates on which Transnet currently anticipates the various stages of the Procurement Process will be carried out and, except as otherwise set out in this Request for Proposals, remains subject to change at the sole discretion of Transnet.

17. **CONSORTIUMS**

Submissions of Proposals from Consortiums will be accepted by Transnet provided that:

- 17.1. The nature of, and parties to, the Consortium must be detailed in the Consortium's Proposal;
- 17.2. each Consortium Team Member enters into a Non-Disclosure Agreement (attached hereto marked Form III) and submits it to Transnet through the Transnet e-Tender Submission Portal on or before the Bid Submission Date;
- 17.3. each Consortium Team Member completes a Qualification Declaration (attached hereto marked Form VIII) and an RFP Declaration and Breach of Law Form (attached hereto marked Form IV) and submits those completed s Proposal Documents to Transnet through the Transnet e-Tender Submission Portal on or before the date of submission of the Proposal;
- 17.4. at least the one member of the Consortium Team Members must satisfy the Minimum Financial Criteria.
- 17.5. A Bidder cannot submit a Proposal as an individual and as a member of a Consortium. Furthermore, a member of a particular Consortium cannot be a member of any other Consortium submitting a Proposal;

18. **PREFERENTIAL PROCUREMENT QUALIFICATION CRITERIA**

- 18.1. The Proposal must be accompanied by a B-BBEE Verification Certificate showing its B-BBEE Contributor Status. Where the Bidder's B-BBEE Contributor Status has not been verified through the issue of a B-BBEE Verification Certificate, the Bidder should clearly indicate this in the Proposal.
- 18.2. Although the B-BBEE Contributor Status of the Bidder is not a requirement for the selection of Preferred Bidder, the NewCo will be required to hold a B-BBEE Contributor Status of at least a level 4.

19. **CONTACT PERSON**

- 19.1. Transnet shall manage the Procurement Process and shall be the single point of contact for all Bidders.
- 19.2. During the RFP phase of the Procurement Process, Bidders shall contact Transnet only through the Contact Person.

19.3. All communications regarding the Procurement Process must be addressed to the following email address: Engineering.PSP@transnet.net

19.4. Bidders may also, at any time after the Bid Submission Date, communicate via the Contact Person on any matter relating to its Proposal. Bidders are to note that changes to its Proposal will not be considered after the Bid Submission Date, except as contemplated in this RFP.

20. **CLARIFICATION AND QUESTIONS SUBMISSION PROCESS**

20.1. Bidders can address their questions related to the RFP and the Procurement Process in writing to Transnet mail Engineering.PSP@transnet.net or the Contact Person.

20.2. Questions and answers will be distributed to all registered Bidders. Transnet reserves the right, subject to Applicable Law, not to respond to questions or communications made by a Bidder.

20.3. Bidders shall submit questions in accordance with the deadline set out in the Timetable in paragraph 15.1.

21. **BRIEFING SESSION**

21.1. Bidders will have the opportunity to attend the non-compulsory RFP briefing session and to verify information they deem necessary for the preparation of their Proposals.

21.2. There will be two briefing session that shall be held on **May 8, 2023**, as per the RFP Timelines. The sessions shall be held jointly with representatives of all Bidders at the same time. Bidders may opt to attend any of the two briefing sessions, as they suit the time zones of their countries.

21.3. Any subsequent questions post the briefing session will be answered as per paragraph 20.

22. **PROJECT AGREEMENTS**

22.1. Project Agreements together with governance arrangements of the new entity will be negotiated between Transnet and the Shortlisted Bidders.

23. **BID SUBMISSION DATE FOR PROPOSALS**

23.1. Each Bidder must submit its Proposals to Transnet on or before the Bid Submission Date, such submissions to be in the format prescribed in Section 11 of this RFP and to be compiled and delivered as per the instructions indicated in Section 9 of this RFP.

24. **RESPONSIBILITIES OF BIDDERS**

24.1. Notwithstanding any information given in the RFP and/or any additional information/communications from Transnet, including any addenda or responses to questions, it is the sole responsibility of each Bidder to:

24.1.1. become fully acquainted with the requirements, terms, and conditions of the Procurement Process;

24.1.2. examine all RFP Documents in order to determine the correctness, completeness, and reliability of the information contained in these documents;

24.1.3. familiarize itself with all Applicable Law, regulations, and relevant policies, guidelines, and protocols of South Africa, whether national or local, that may affect the Procurement Process and the Project; and

24.1.4. determine and satisfy itself, at its own cost and risk, and by such means as it considers necessary or desirable, as to all matters pertaining to the execution of the Project, including but not limited to the location and nature of the Project; the terrain, geological, meteorological, and hydrological conditions; existing works and plans for future works in the area; existing and planned above ground and below ground utilities; easements; existing or threatened legal disputes or issues; environmental and social concerns and issues; the requirement and availability of labour, materials, equipment, aggregate sources, water, power, roads, communications; resource requirements; traffic projections; the financial viability of the Project; and risks and contingencies that may affect the cost, duration, execution and completion and operation of the Project.

25. **NON-ELIGIBLE PERSONS (EXCLUSION CRITERIA)**

25.1. Bidders are required to declare if any of their members or any individual who is a director, officer, employee or shareholder of any member is Related to any employee of Transnet and/ or a Government Department, by completing and submitting Form IV (RFP Declaration and Breach of Law Form).

25.2. Bidders must declare if any of its Proposal includes the involvement of any Person:

25.2.1. blacklisted by the office of National Treasury; or

25.2.2. blacklisted by such person's professional body (if applicable);
or

- 25.2.3. related to any employee of Transnet or a Government Department;
 - 25.2.4. related to any other Government official or Person directly involved in the Project, who may be involved with the evaluation of the Proposal, or any Person with the ability to influence the decision of Transnet with respect to the appointment of the Preferred Bidder;
 - 25.2.5. who has been found guilty in a court of law of fraud or corruption related crimes or is named on any recognized international sanctions list; or
 - 25.2.6. who is a Person of Influence, whose involvement in the Project has the potential to harm the reputation or standing of Transnet or bring the Project into disrepute, such Proposal may, in the sole discretion of Transnet, be rejected by Transnet.
- 25.3. A Bidder, Person, lender, or advisor may not participate in, advise or be involved (either directly or indirectly) with more than one Bidder at any stage during the Procurement Process pertaining to the Project.
- 25.4. Bidders shall ensure that no anti-competitive or collusive behavior pertaining to the Procurement Process or the Project is displayed or engaged in by any Person, Bidder, Consortium Team Member or advisor participating or involved with the Bidder. Transnet shall, in its sole discretion, be entitled to disqualify any Bidder whose Proposal displays any such anti-competitive or collusive behavior, or if it becomes aware of any such anti-competitive or collusive conduct having been engaged in by any Bidder or person associated therewith.

SECTION 7: RFP DOCUMENTS

26. RFP Documents

26.1. The documents comprising this RFP (the "RFP Documents") are:

- 26.1.1. this RFP;
- 26.1.2. Form I – Ownership Structure and Authorised Representative;
- 26.1.3. Form II – Process Statement;
- 26.1.4. Form III – Non-Disclosure Agreement;
- 26.1.5. Form IV – RFP Declaration and Breach of Law Form;
- 26.1.6. Form V - CSD information;
- 26.1.7. Form VI – Disclosure of Contract (DPIP and FPPO);
- 26.1.8. Form VII – Bidder Confirmation on Due Diligence Information;
- 26.1.9. Form VIII – Qualification Declaration;
- 26.1.10. Form IX – Statement of Qualifications.
- 26.1.11. Form X – Protection of Personal Information

26.2. All Forms can be found at the end of this RFP.

27. Incorporation by Reference

The RFP Documents shall be read as a whole. The Forms and addenda, if any, constitute an integral part of this RFP and are incorporated by reference. For clarity, background information documents are not RFP Documents.

28. Notice of Ambiguity or Conflict

28.1. If a Bidder believes that there is any term or condition in any RFP Document that is ambiguous, or that conflicts or is inconsistent with any other term or condition in the RFP Documents, the Bidder shall notify Transnet of that ambiguity, conflict or inconsistency in accordance with paragraph 19 and paragraph 20 of this RFP and by the deadline set out in the RFP for the submission of clarification questions.

28.2. Transnet will assess the consequences of the ambiguous, contradictory, incomplete or incorrect information on a case-by-case basis and will decide how to deal with the matter.

29. Bidder Investigations

29.1. Each Bidder and each of its Consortium Team Members is solely responsible, at its own cost and expense, to carry out its own independent research and due diligence and to perform any other investigations,

including seeking independent advice, considered necessary by the Bidder to satisfy itself as to all existing conditions affecting the Project.

- 29.2. The Bidders' and Consortium Team Members' obligations set out in this paragraph 29 of the RFP apply irrespective of any information contained in the RFP Documents or in responses to clarification questions.
- 29.3. Transnet does not represent or warrant the accuracy or completeness of any information set out in the RFP Documents or made available to Bidders as background or reference information or documents prepared by Transnet or by third parties and which may be made available to Bidders or Consortium Team Members by or through Transnet.
- 29.4. Bidders and Consortium Team Members shall make such independent assessments as they consider necessary to verify and confirm the accuracy and completeness of all such information, as any use of or reliance by Bidder or Consortium Team Members on any and all such information shall be at the Bidders' and Consortium Team Members' sole risk and without recourse against Transnet.
 - 29.4.1. at any time before the Bid Submission Date, for events that are to occur on or before the Bid Submission Date, including the Bid Submission Date itself; and
 - 29.4.2. at any time in the Procurement Process, for events that are to occur after the Bid Submission Date.

SECTION 9: REQUIRED CONTENT OF THE PROPOSALS

30. **General Information**

30.1. Contact information

The Proposal shall state the name and contact details of the Authorised Representative and his/her replacement.

30.2. Corporate Information

The corporate information Transnet requires, relates to matters such as core activities and corporate governance. If the Bidder is a Consortium, this information should be provided in respect of all Consortium Team Members.

31. **SBD1**

Bidders to complete this form (set out at paragraph 1 of this RFP) in full (even if the information contained therein is covered elsewhere in the Proposal).

32. **Ownership Structure and Authorised Representative (Form I)**

32.1. The Bidder should submit information on its ownership structure in conformity with Form I. If the Bidder is a Consortium, it should provide information concerning the composition of the Consortium and information on the ownership structure for each Consortium Team Member.

32.2. In addition, the Consortium Team Members shall declare that, pursuant to any applicable law, the Authorised Representative is authorised to legally represent the Lead Member and all the other Consortium Team Members, and is able to submit the Proposal on their behalf and thereby assume obligations on behalf of the Consortium and each of its Consortium Team Members.

33. **Process Statement (Form II)**

The Bidder must sign the Process Statement as presented in Form II.

34. **Non-disclosure Agreement (Form III)**

The Bidder, and in the case of a Bidder which is a Consortium, each Consortium Team Member, must sign the Non-Disclosure Agreement as presented in Form III. All signed Non-Disclosure Agreements must be submitted as part of the Proposal.

35. **RFP Declaration and Breach of Law (Form IV)**

The Bidder, and in the case of a Bidder which is a Consortium, each Consortium Team Member, must complete and sign the RFP Declaration and Breach of Law Form as presented in Form IV. All signed RFP Declaration and Breach of Law Forms must be submitted as part of the Proposal.

36. **Central Supplier Database (Form V)**

- 36.1. The Bidder, and in the case of a Bidder which is a Consortium, each Consortium Team Member, is 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. Bidders must register on the CSD prior to submitting their Proposals. Only foreign Bidders or Consortium Team Members with no local (South African) registered entity need not register on the CSD.
- 36.2. For purposes of confirming CSD registration, the Form V is included in the RFP. Form V must be completed and submitted as part of the Proposal.

37. **Proof of tax compliance**

- 37.1. It is a condition of this RFP that the tax matters of the Preferred Bidder be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the Preferred Bidder's tax obligations before the Project Agreements are concluded.
- 37.2. The Preferred Bidder is required to remain compliant for the entire Project term with all applicable tax legislation, including but not limited to the Income Tax Act, 1962 (Act No. 58 of 1962) and Value Added Tax Act, 1991 (Act No. 89 of 1991).
- 37.3. Each Bidder must submit proof of its tax compliant status when submitting a Proposal to Transnet. Transnet's requirements regarding submission of proof of tax compliance status requirements are also applicable to foreign Bidders, which in the absence of a South African tax registration must submit proof, in the form of written confirmation from their external auditors or the local tax authority in their country of tax registration, of tax compliance.
- 37.4. Where the Bidder or any Consortium Team Member is a South African entity registered on the Central Supplier Database, their tax compliance status will be verified through the Central Supplier Database and need not be separately confirmed.

38. **Due diligence in respect of the Preferred Bidder**

- 38.1. As per paragraph 44.1 of this RFP, Transnet will perform a due diligence on the Preferred Bidder.
- 38.2. In its Proposal, the Bidder must provide an undertaking that, should it be selected as the Preferred Bidder, the Bidder and each Consortium Team Member will provide the information and documentation required by Transnet within ten (10) working days of a written request from Transnet to do so, whether in the letter of award or separately from the letter of award.

38.3. The Bidder must also acknowledge and accept that if such information and documentation is not provided in full within the period required, Transnet has the right, but not the obligation, to stop the process of finalisation of the Project Agreements with the Preferred Bidder, and to enter into negotiations with the second ranked Bidder.

39. **Qualification Declaration (Form VIII)**

39.1. The Bidder must submit, with its Proposal, form VIII declaring that all information and materials contained in, or provided together with the Bidder's Proposal documents to Transnet are true, accurate and complete.

40. **Statement of Qualifications (Form IX)**

40.1. The Bidder must submit, with its Proposal, form IX providing all information required for the evaluation of the Proposal.

SECTION 10: EVALUATION CRITERIA AND METHODOLOGY

41. ASSESSMENT PROCEDURE

- 41.1. Proposals submitted in response to this RFP will be evaluated by Transnet to determine which Bidders are qualified to meet Transnet’s objectives and to efficiently undertake and complete the Project.
- 41.2. The process of evaluation will be conducted in stages as follows (each described in more detail below):
 - 41.2.1. Compliance with Process Criteria;
 - 41.2.2. Compliance with Exclusion Criteria;
 - 41.2.3. Compliance with the Minimum Financial Criteria.
 - 41.2.4. Evaluation of Minimum Technical Criteria

42. Evaluation of statements of qualification

In its consideration of each Proposal, Transnet will apply the following criteria in the order set out below:

42.1. Process Criteria

- 42.1.1. Bidders are to pass the administrative responsiveness test to be considered further in RFP Process.

Administrative Responsiveness Test

Procedural and Documentary Requirements check
<ul style="list-style-type: none"> • Bidder has submitted their Proposal on time using Transnet e-Tender Submission Portal and/or Engineering.PSP@transnet.net
<ul style="list-style-type: none"> • Bidder has registered to be part of the RFP process as per the process described in paragraph 47.2.3
<ul style="list-style-type: none"> • Bidders has completed SECTION 1: SBD1 Form
<ul style="list-style-type: none"> • Bidder has completed and submitted Ownership Structure and Authorised Representative (Form I).
<ul style="list-style-type: none"> • Bidder has signed and submitted the Process Statement (Form II).
<ul style="list-style-type: none"> • Bidder has signed and submitted the Non-Disclosure Agreement (Form III)
<ul style="list-style-type: none"> • For Consortiums, all Consortium Team Members have signed and submitted the Non-Disclosure Agreement (Form III)
<ul style="list-style-type: none"> • Bidder has submitted the RFP Declaration and Breach of Law Form (Form IV)
<ul style="list-style-type: none"> • Bidder has completed the CSD declaration (Form V)
<ul style="list-style-type: none"> • Bidder has signed and submitted the Disclosure of Contract Information (Form VI)

<ul style="list-style-type: none">• Bidder has submitted confirmation that if selected as Preferred Bidder, it will provide Transnet with the information and documentation required for purposes of Transnet’s due diligence (Form VII).
<ul style="list-style-type: none">• Bidders have submitted their Proposal in English (Supporting documents and printed literature furnished by the Bidder along with or as part of their Proposals may be in any other language provided that they are accompanied by an accurate English translation of such document and are certified by the translator as being true and accurate translations).
<ul style="list-style-type: none">• Bidder (For Consortium – All Consortium Team Members) that are registered as a South African entity must be registered in the National Treasury Central Supplier Database and be tax compliant. Consortium Team Members that are foreign entities must submit proof of tax compliance in their country of residence.

42.1.2. Statements of Qualifications will first be assessed to confirm

42.1.2.1. whether these have been submitted according to the instructions for submission as stated in Form IX. Transnet reserves the right to disqualify any Bidder whose Proposal deviates from those instructions for submission.

42.1.2.2. whether these meet the content requirements as described in paragraph 42.1. Transnet reserves the right to disqualify any Bidder whose Statement of Qualifications does not meet those content requirements.

42.2. Exclusion Criteria

42.2.1. No Proposal will be considered, and the Bidder/s in question shall be disqualified from participating further in this RFP and the Procurement Process unless the Bidder, or in the case of a Consortium, each Consortium Team Member thereof, executes and delivers to Transnet a Qualification Declaration (Form VIII) confirming that none of the exclusion criteria (paragraph 25) set out therein apply to the Bidder, or Consortium Team Member, as applicable.

42.2.2. Bidders comply to the exclusion criteria if they formally declare, amongst other matters as set out in Form IV, that:

42.2.2.1. All information and material contained in, or provided together with, the Bidder's Proposal and submitted to Transnet concurrently herewith is true, accurate and complete.

42.2.2.2. The Bidder is not, and has not been, the subject of any bankruptcy, insolvency, or creditor protection proceedings, and has not at any time been declared

bankrupt or insolvent and has not initiated or taken any action to protect itself from creditors' rights.

42.2.2.3. No parent corporation, affiliate, major shareholder, or partner of the Bidder is, or has been, the subject of any bankruptcy, insolvency or creditor protection proceedings and none have at any time been declared bankrupt or insolvent or initiated or taken any action to protect themselves from creditors' rights.

42.2.2.4. None of the Bidder, any parent corporation, affiliate or partner of the Bidder or any of their respective directors or officers have at any time been convicted of fraud, breach of trust, bribery, corruption or other criminal offence.

42.2.2.5. Full disclosure has been made regarding the involvement of Persons of Influence in the Bidder.

42.2.2.6. The Bidder accepts irrevocably the terms and conditions of this Request for Proposals without reservations or qualifications.

42.3. **Financial Qualifications:** To be eligible for pre-qualification and short-listing, the Bidders must satisfy the following Minimum Financial Criteria for eligibility:

A Bidder will be considered to have sufficient financial capacity, when the following criteria are met by one of its Consortium Team Members (at latest financial year end):

42.3.1. Each Bidder must submit its most recent five (5) years audited, consolidated financial statements (including auditor's report) showing that the profit, EBITDA and operational free cashflow in each of the last five years were positive. Where the impact of COVID-19 has resulted in a negative result, Transnet will concede the requirement for positive results in the affected financial years provided sufficient explanation of the COVID-19 impact is provided. Transnet reserves the right to admit Bidders that can provide a convincing explanation for a negative profit, EBITDA or operational free cashflow. For ease of assessment the Bidders should attach a table that has the EBITDA, Net Profit Before Tax, and Cash flows from operations for the past 5 years, with an explanation where applicable.

42.3.2. Solvency Ratio, computed from the most recent audited financial statements, is equal to or exceeds 0.4, as calculated by the following formula:

Solvency: Total Equity¹/Total Assets is equal to or exceeds
0.4

- 42.3.3. Liquidity Ratio, computed from the most recent audited financial statements, using the Acid Test Ratio, is equal to or exceeds 1 as calculated by the following formula:

$$\text{Acid Test Ratio: } (\text{Current Assets} - \text{Inventory}) / \text{Current Liabilities} \Rightarrow 1$$

- 42.3.4. Further, the Bidders must declare that since the publication of the latest financial statements, the Bidder's situation has not materially changed, such that the criteria will not be met in the financial statements of the current and subsequent financial years.
- 42.3.5. Finally, the Bidder must declare that the Bidder has, to date, not engaged in commitments to the extent that such commitments might affect the Bidder's ability to finance or complete the Project.
- 42.3.6. Transnet may require that declarations made by the Bidder in respect of satisfaction of the Minimum Financial Criteria be verified / certified by an independent third party, for the Bidders (and at the Bidder's cost).

¹ Both Total Equity and Total Assets will be expressed in USD, using the IMF Historic Exchange Rate for the relevant currency, as of the date of publication of the financial statement. The relevant exchange rates may be found through:
https://www.imf.org/external/np/fin/data/param_rms_mth.aspx

43. Technical Evaluation Criteria and Scoring

43.1. Bidders who meet the criteria and comply with the process detailed in paragraph 42 will have their submissions evaluated further as per the technical evaluation criteria detailed in the table below.

Key Performance Indicator	Evaluation Criteria and Scoring	Weight	Score
Provide cumulative number of years of leasing or operating capital-intensive assets in either one or a combination of the following industries: railways, airlines, mining, oil production and refinery, steel production and automobile manufacturing.	> 15 Years – 100 points 10 - 15 Years – 80 points 5 – 10 Years – 60 points 2 - 5 Years – 20 points 0 – 2 Years – 0 points	30%	Out of 100
Provide geographical locations i.e., countries, where the bidder has operated or leased capital-intensive assets in either one or a combination of the following industries: railways, airlines, mining, oil production and refinery, steel production and automobile manufacturing.	> 3 Geographical area – 100 points 2 – 3 Geographical areas – 80 Points 1 Geographical area – 60 Points 0 Geographical area – 0 Points	10%	Out of 100
List the number of lease contracts* in the past 10 years in either one or a combination of the following industries: railways, airlines, mining, oil production and refinery, steel production and automobile manufacturing, ports and maritime.	> 10 Contracts – 100 points 5 – 10 Contracts – 80 Points 3 – 4 Contracts – 60 Points 1 – 2 Contracts – 40 Points 0 Contracts – 0 Points	30%	Out of 100
Average asset utilisation ratio over the Bidder's past three (3) financial years. Asset utilisation is calculated as: $\frac{\text{Number of Active Assets}}{\text{Total Number of Assets}}$	0.8 – 1.00 – 100 Points 0.50 – 0.79 – 80 Points 0.20 – 0.49 – 60 Points 0.00 – 0.19 – 0 Points	30%	Out of 100
Total Score			100%
Minimum qualifying score required:			70%

**List individual leasing contracts and duration of the contracts.*

- 43.2. Transnet may require that declarations made by the Bidder in respect of satisfaction of the technical evaluation criteria be verified / certified by an independent third party, for the Bidders (and at the Bidder's cost).

44. **DUE DILIGENCE PROCESS**

- 44.1. Transnet will undertake a due diligence on the Preferred Bidder.
- 44.2. The purpose of the due diligence is –
 - 44.2.1. to assess the reliability of information submitted by Bidders as part of the RFP, Qualification Declaration (Form VIII), and in the RFP Declaration and Breach of Law (Form IV); and
 - 44.2.2. to provide assurance to Transnet that non-eligible persons (as contemplated in paragraph 25) are not selected as Preferred Bidders.
- 44.3. Preferred Bidders will be required to provide such information and documentation as may be required for Transnet to complete the due diligence process for the purposes stated above, within ten (10) working days of a written request being issued by Transnet to the Authorised Representative.
- 44.4. Should the due diligence process elicit evidence that the information provided by the Preferred Bidder in response to the RFP is false or misleading, or that the Preferred Bidder does not qualify to participate as a Bidder in the Procurement Process by virtue of including non-eligible persons, that evidence will be provided to the Preferred Bidder and an opportunity given to make representations.
- 44.5. Transnet has the right to terminate the Preferred Bidder's eligibility for participation in the Procurement Process on the grounds of misrepresentation.

45. **AWARD**

- 45.1. The negotiating committee constituted by Transnet shall, to the extent necessary after provisional appointment of the Preferred Bidder, enter into final negotiation regarding the technical and financial terms of the Project Agreements with the Preferred Bidder.
- 45.2. The Preferred Bidder will be required to provide the information and documentation required for Transnet to complete the due diligence process
- 45.3. Subject to Transnet obtaining third party approvals as are required by law for Transnet to enter into the Project Agreements, it will then enter into final contract negotiations with the Preferred Bidder and will, if applicable, request the second ranked Bidder to extend the validity period of its Proposal pending completion of the final contract negotiations with the Preferred Bidder.

- 45.4. When the negotiations have been successfully concluded and any third-party approvals obtained by Transnet, the Preferred Bidder will be notified, in writing, of the award of the Project Agreements by Transnet.
- 45.5. The Bidder with whom the negotiation of the Project Agreements has been successfully concluded, will be invited to sign the Project Agreements with Transnet and/or NewCo as applicable. If the Project Agreements are not signed within a period of one (1) month of such invitation, Transnet has the right, but not the obligation, to stop the execution process with the Preferred Bidder and enter into negotiations with the second ranked Bidder.
- 45.6. In the letter of award, which may be subject to conditions as stated therein, the Preferred Bidder will be invited to sign the Project Agreements and to complete all actions envisaged therein, with a view to implementing the Project within the terms set out in the executed Project Agreements.
46. **TIE BREAKER**
- In an event where more than one supplier progresses successfully through all stages of the evaluation process up to award, the company with the most financial strength will be considered for partnering with Transnet.

SECTION 11: GENERAL REQUIREMENTS AND CONDITIONS

The Bidder must meet the requirements and conditions as set out in this Section 11, in order for its submission to be considered as compliant with the procedural and documentary requirements set forth in the Request for Proposals, as contemplated in Section 9. Non-compliance with the requirements of this Section 11 shall lead to exclusion of the Submission in question from further consideration by Transnet in the Procurement Process.

47. Requirements and Conditions

47.1. To be eligible for selection as the Preferred Bidder, the Bidders are required to, amongst other matters, meet several procedural and formal requirements and agree to the RFP conditions as set out in this Section 11 of the RFP.

47.2. By submitting statements of qualification in response to the RFP, Bidders are deemed to acknowledge, accept, and confirm these requirements, as applicable.

47.2.1. Returnable Documents

Bidders are required to sign and return, in their Proposals, all of the Returnable Documents provided for in the RFP and listed individually in Section 9 above. MS Word versions of the SBD1 form and the other Forms will be made available to Bidders.

47.2.2. Contents

The contents of the Proposal shall be truthful, complete, and up to date. The Proposal shall include all the mandatory topics listed in the RFP. Bidders must use the forms as presented in Section 12.

47.2.3. Manner of Submission

47.2.3.1. Transnet has implemented an electronic tender submission system, the e-Tender Submission Portal, in line with the overall Transnet digitalization strategy, where suppliers can view advertised tenders, register their information, log their intent to respond to bids and upload their bid proposals/responses on to the system. All Bid Submissions in response to this RFP must be uploaded by the Bidder via the Transnet e-Tender Submission Portal.

The Transnet e-Tender Submission Portal can be accessed as follows:

1. log on to the Transnet e-Tenders management platform website/ Portal (transnetetenders.azurewebsites.net). Please use **Google Chrome** to access Transnet link/site);
2. click on "ADVERTISED TENDERS" to view advertised tenders;
3. click on "SIGN IN/REGISTER" – for bidder to register their information (must fill in all mandatory information);
4. click on "SIGN IN/REGISTER" - to sign in if already registered;
5. toggle (click to switch) the "Log an Intent" button to submit a bid; and
6. submit bid documents by uploading them into the system against each tender selected.
7. No late submissions will be accepted. The bidder guide can be found on the Transnet e-Tender Submission Portal transnetetenders.azurewebsites.net

47.2.4. **Language**

47.2.4.1. The Proposal and all enclosures shall be written in English. Supporting documents and printed literature furnished by the Bidder along with or as part of their Proposals may be in any other language provided that they are accompanied by an accurate English translation of such document and are certified by the translator as being true and accurate translations.

47.2.4.2. If the document was issued by a foreign authority, the Bidder should also submit a certified true copy of such document along with a duly translated English copy of such documents, certified by the translator as being a true and accurate translation.

47.2.5. **Currency**

All amounts and calculations stated in the Business Plan shall be expressed in US Dollars.

47.2.6. **Submission Address**

No physical Bid Submissions will be accepted. All Bid Submissions to Transnet are to be made as per paragraph 47.2.3.

47.2.7. Contact Person

Please address all communications regarding the Procurement Process to the following email address:

Engineering.PSP@transnet.net

48. Confidentiality (Non-Disclosure Agreement)

48.1. The Bidders shall sign and return the Non-Disclosure Agreement/s (Form III) in their Proposals. The Bidder is sworn to confidentiality regarding the information that it obtains from Transnet or regarding the Project.

48.2. Towards the Bidders, Transnet undertakes to treat any information it receives from the Bidder as confidential, subject to the qualification that Transnet may disclose Bidder information and documentation to its Transaction Advisors, the Auditors (Transnet Internal Audit and Auditor-General of South Africa), and to any Government Department or regulatory authority to which Transnet is required to submit details of the Procurement Process and/or the Project for purposes of progressing the regulatory approvals that will be required in order to give full effect to the Project Agreements.

49. Authorisation To Submit Proposal

The Proposal must be signed by the Authorised Representative who, by signing the Proposal on behalf of the Bidder, confirms that they are duly authorised, according to Applicable Law or the laws of the applicable jurisdiction, to submit the Proposal and thereby to bind each Consortium Team Member to participate in the Procurement Process.

50. Validity of Proposal

50.1. The Proposal is irrevocable for the duration of the validity period of the Proposal. The Proposal shall be valid for a period of twelve (12) months from the date of submission of the Proposal. Transnet can request the Bidders to extend the validity of the Proposals for a further period of a maximum of six (6) months.

50.2. Transnet shall make any such request for an extension of the Proposal validity period to the Authorised Representative, asking Bidders to state whether they accept the request or not. A Bidder that declines Transnet's request or fails to respond to the request or fails to extend the validity of the Proposal within thirty (30) days of the request, shall be disqualified from the Procurement Process.

51. Changes to the Procurement Process and/or the RFP Documents

Transnet reserves the right to make any changes to the RFP or any aspect of the Procurement Process, the Project and all relevant information, in its discretion. In such event, Transnet shall timely inform the Bidders and give the Bidders adequate opportunity to adapt their Proposals according to the changes. Transnet will also

extend the Bid submission Date in the event of any material change to the RFP Documents or other aspects of the RFP phase of the Procurement Process. Interested parties are encouraged to inform the tender administrator at these E-Mails Engineering.PSP@transnet.net and aaron.mabena@transnet.net of their intention to participate, so that they can be kept abreast with any changes in the tender contents or timelines, However, any amendments to the tender will still be published at the Transnet e-tender portal, as well as the National Treasury website.

52. **Right To Reject Proposals, Terminate Bids, Terminate Procurement Process, and Disqualify Bidders**

Transnet reserves the right to reject any Proposal, including without limitation, where the Bidder:

- 52.1. submits false, inaccurate or incomplete information in its Proposal; or
- 52.2. at any time, makes or is discovered to have made, a material misrepresentation to Transnet in relation to its Proposal; or
- 52.3. being a Consortium, submits a Proposal where the membership of the Consortium has changed without Transnet's approval; or
- 52.4. fails to provide clarification information requested in writing by Transnet; or
- 52.5. submits a Proposal which is found to be materially incomplete at the time of the opening thereof; or
- 52.6. engages in any form of politicking or other lobbying with respect to the Procurement Process; or
- 52.7. engages in any prohibited contact as contemplated in paragraph 54 of this RFP; or
- 52.8. engages in illegal conduct or attempts to influence Transnet's evaluation of the Proposal or does anything in order to gain an unfair advantage over other Bidders; or
- 52.9. is or becomes a Prohibited Person; or
- 52.10. breaches any of the Conflict-of-Interest provisions; or
- 52.11. contravenes the provisions of any Applicable Law in order to have an unfair advantage over other Bidders in the award of the tender, or otherwise; or
- 52.12. breaches any of the other conditions set out in this RFP.

- 52.13. Transnet shall notify the concerned Bidder in writing upon occurrence of any of the disqualification events enumerated above, and of Transnet's decision on disqualification of the Bidder arising therefrom.
- 52.14. If all the Proposals are rejected by Transnet on the grounds of non-compliance with RFP requirements or for any other reason, Transnet may terminate the Procurement Process.
- 52.15. If at any time after selection of the Preferred Bidder but prior to the signing of the final Project Agreements, the Preferred Bidder is found to have breached any of the conditions of the RFP, then its Proposal will be disqualified and the letter of award (if issued) withdrawn. In the event that the final Project Agreements have been signed, Transnet shall be entitled to terminate the Project Agreements.
- 52.16. If the Bidder is constituted as a Consortium, each and every Consortium Team Member will be disqualified for breach of any of the provisions above.
- 52.17. Save and to the extent provided in this RFP and any Applicable Law, Transnet shall entertain no correspondence whatsoever with any Bidder in relation to acceptance or rejection of its Proposal.

53. **Clarifications And Verifications by Transnet**

- 53.1. Transnet reserves the right to ask the Bidders for clarification of information presented in the Proposal. The Bidder is obliged to cooperate in this context.
- 53.2. Transnet reserves the right to verify the reliability of information presented in the Proposal. The Bidder is obliged to cooperate in this context.

54. **Prohibited Contacts**

Neither Bidders nor Consortium Team Members nor any of their respective advisors, employees or representatives shall contact or attempt to contact, either directly or indirectly, at any time during the RFP phase of the Procurement Process, any of the following persons or organizations on matters related to the RFP phase of the Procurement Process, the RFP Documents, or the Proposals:

- 54.1. any person employed or engaged by Transnet, or any person who has been employed by Transnet, other than the Contact Person;
- 54.2. any of the Transaction Advisors, or other advisors or consultants to Transnet in relation to the Project;
- 54.3. any member of Transnet's Board of Directors;
- 54.4. any employee of the Government Departments;
- 54.5. any member of any union that organises employees at Transnet;

54.6. any Member of Parliament of South Africa or his or her staff or representatives; or

54.7. any other Bidder, other Consortium Team Member or their respective advisors, employees, and representatives, nor any Authorised Representative.

55. **Bidder Contravention**

If a Bidder or a Consortium Team Member or any of their respective advisors, employees, or representatives, in the opinion of Transnet, contravenes paragraph 54, Transnet may, in its sole discretion:

55.1. disqualify any Bidder; or

55.2. impose conditions on the Bidder's or Consortium Team Member's continued participation in the Procurement Process that Transnet considers, in its sole discretion, to be appropriate; or

56. **Media Release**

Media releases or advertising pertaining to the Procurement Process may not be made without the prior written approval of Transnet.

57. **Costs Of Proposal Preparations**

Each Proposal and all information required to be submitted pursuant to this RFP shall be compiled and prepared at the sole cost and expense of the Bidder. There shall be no claims whatsoever against Transnet, its Transaction Advisors, its staff, or its professional consultants, for reimbursement for the payment of costs or expenses incurred in the preparation of the Proposal or other information related in any way to this RFP.

58. **Restrictions On Communications Between Bidders – No Collusion**

58.1. A Bidder shall not discuss or communicate, directly or indirectly, with any other Bidder, any information whatsoever regarding the preparation of its own Proposal or the Proposal of another Bidder in a fashion that would contravene Applicable Law. Bidders shall prepare and submit Proposals independently and without any connection, knowledge, comparison of information or arrangement, direct or indirect, with any other Bidder.

58.2. For greater clarity, this paragraph applies to Bidders and Consortium Team Members and their respective advisors, employees, and representatives.

59. **Copyright And Use of Information in Proposals**

59.1. Transnet's right, as set out in this paragraph, to the Proposal and all Proposal Information submitted by the Bidder during the RFP Process, shall be granted to Transnet upon submission of the Proposal.

- 59.2. Bidders shall not use or incorporate into their Proposals any concepts, products or processes which are subject to copyright, patents, trademarks, or other intellectual property rights of third parties unless Bidders have, or will procure through licensing without cost to Transnet, the right to use and employ such concepts, products and processes in and for the Project.
- 59.3. All requirements, designs, documents, plans and information supplied by Transnet to the Bidders in connection with this RFP are and shall remain the property of Transnet. Upon request of Transnet, all such designs, documents, plans and information (and any copies thereof in any format or medium created by or on behalf of the Bidder) must be returned to Transnet.
- 59.4. For the purpose of this paragraph 59, "Proposal Information" includes:
- 59.4.1. all information contained in a Proposal, or which is disclosed by or through a Bidder to Transnet during the evaluation of Proposals or during the process of executing any Project Agreements; and
- 59.4.2. any and all ideas, concepts, products, alternatives, processes, recommendations and suggestions developed by or through a Bidder and revealed to or discovered by Transnet, including any and all those which may be connected in any way to the preparation, submission, review or negotiation of any Proposal or the Project Agreements.
- 59.4.3. Bidders shall ensure that all intellectual property rights associated with any and all of the Proposal Information (including copyright and moral rights but excluding patent rights) provide for and give Transnet the rights set out in this paragraph 59. It is expressly understood and agreed that any actual or purported restriction in the future on the ability of Transnet to use any of the Proposal Information, or anything else obtained by or through Bidders, shall be absolutely null and void and unenforceable as against Transnet and each of its respective Transaction Advisors, and that the provisions of this paragraph 59 shall take precedence.

60. **Conflict Of Interest**

- 60.1. If a Bidder, a Consortium Team Member, or any of their respective advisors, following submission of the Bidder's Proposal, discovers any Conflict of Interest, the Bidder shall promptly disclose the Conflict of Interest to Transnet in a written statement to the Contact Person.
- 60.2. Bidders and Consortium Team Members and each of their advisors shall disclose, in Form IV (RFP Declaration and Breach of Law Form) (in respect of Consortium Team Members), all Conflicts of Interest.

- 60.3. At the request of Transnet, the Bidder shall provide Transnet with the Bidder’s proposed means to mitigate and minimize to the greatest extent practicable any Conflict of Interest. The Bidder shall submit any additional information to Transnet that Transnet considers necessary to properly assess the Conflict of Interest.
- 60.4. Transnet may, in its sole discretion, exclude any Bidder or Consortium Team Member from further participation in the Procurement Process, on the grounds of Conflict of Interest.
- 60.5. Transnet may, in its sole discretion, require the Bidder or Consortium Team Member to substitute a new person or entity for the person or entity giving rise to the Conflict of Interest.
- 60.6. Transnet may, in its sole discretion, waive any and all Conflicts of Interest of Bidders or Consortium Team Members. A waiver may be upon such terms and conditions as Transnet, in its sole discretion, requires to satisfy itself that the Conflict of Interest has been appropriately managed, mitigated and minimized, including requiring the Bidder to put into place such policies, procedures, measures and other safeguards as may be required by and be acceptable to Transnet, in its sole discretion, to manage, mitigate and minimize the impact of such Conflict of Interest.
- 60.7. For the purposes of this RFP phase of the Procurement Process, “Conflict of Interest” includes any perceived, potential, or actual situation or circumstance where, in relation to the Project, a Bidder or any Consortium Team Member or any of their respective directors or executives:
 - 60.7.1. has any commitments, relationships, or financial interests that:
 - 60.7.1.1. could or could be seen to cause any Person to exert an improper influence over the objective, unbiased and impartial exercise of judgment by any personnel of Transnet or its Transaction Advisors; or
 - 60.7.1.2. could or could be seen to compromise, impair or be incompatible with the effective performance of a Bidder’s obligations under the Project Agreements if that Bidder was determined to be the Preferred Bidder under the RFP Process; or
 - 60.7.2. has contractual or other obligations to Transnet that could or could be seen to have been compromised or otherwise impaired as a result of its participation in the RFP phase of the Procurement Process or the Project.

SECTION 12: FORMS

Form I: Ownership structure and Authorised Representative

Form II: Process Statement

Form III: Non-Disclosure Agreement

Form IV: RFP Declaration and Breach of Law Form

Form V: Central Supplier Database

Form VI: Disclosure of Contract Form (DPIP and FPPO)

Form VII: Bidder Confirmation on Due Diligence Information

Form VIII: Qualification Declaration

Form IX: Statement of Qualifications

Form X: Protection of Personal Information

FORM I: OWNERSHIP STRUCTURE AND AUTHORISED REPRESENTATIVE

From: [Name of Bidder] _____

Date:

Ownership Structure of Bidder

1. The Bidder shall present its ownership structure in the format indicated in the table below.
2. In the event that the Bidder is a Consortium, each Consortium Team Member should be described in the following table.

Name of company (Bidder or Consortium Team member)	Percentage ownership in the Bidder or Consortium Team Member, and the name (and registration or identity number, as applicable) of the owner of shares in the Bidder or relevant Consortium Team Member	Description of the shareholder’s core business activities

Authorised Representative

The Bidder shall identify their Authorised Representative in the table below. In the event that the Bidder is a Consortium, a duly authorised representative of each Consortium Team Member shall sign this Form on behalf of the Consortium Team Member. ***Therefore, please duplicate the table below in the completed Form I, as many times as necessary to be able to include the details in respect of each Consortium Team Member.***

Name of natural person authorised as representative of the Bidder or Consortium Team Member	
Date and place of birth	
Capacity	
Name of legal entity represented	
I confirm that [the Consortium Team Member] has agreed to participate in the Consortium in the capacity and to the extent provided for in the Proposal, and to participate in the RFP phase of the	[Signature of natural person authorised to represent the Consortium Team Member]

Procurement Process and in the Project; and that the Authorised Representative is authorised to legally represent this company concerning the Proposal, the Procurement Process and the Project.	
--	--

Bidder: _____

Signed by the Authorised Representative: _____

Position: _____

Date: _____

Place: _____

FORM II: PROCESS STATEMENT

From: [Name of Bidder]

Date:

1. The Process Statement is a declaration required by Transnet, which every Bidder must submit, signed, together with its Proposal.
2. The Process Statement contains various declarations by the Bidder, which relate to the Procurement Process, but which are not relevant to the assessment of the Bidder's Proposal. However, should the Bidder fail to produce a Process Statement, or if the Bidder makes changes to the form of Process Statement provided by Transnet, this could result in exclusion of the Bidder from further participation in the Procurement Process.

2.1. Acceptance of Procurement Process

2.1.1. The Bidder accepts the Procurement Process as described in the Request for Proposals, in particular with respect to the intended Timetable and the fact that Transnet can terminate the Procurement Process prematurely subject to Applicable Law. The Bidder deems itself to be bound by the conditions and provisions of the Request for Proposals.

2.1.2. The Bidder understands and accepts that failure to meet the requirements stated in the Request for Proposals can lead to exclusion of the Bidder from further participation in the Procurement Process.

2.1.3. The Bidder understands and accepts that it is necessary to familiarise itself with and to abide by Applicable Law.

2.2. Warranty

The Bidder confirms that – if requested – it is willing to give a warranty to Transnet, regarding the accuracy and reliability of any representations, claims, undertakings or proposals included in its Proposal.

2.3. Bankruptcy, moratorium, merger, take-over and other 'change of control'

2.3.1. The Bidder agrees to notify Transnet as quickly as possible of any changes in its enterprise or financial position which are relevant to its continued existence or to the accuracy and reliability of its Proposal. This involves, at minimum, filing for bankruptcy or moratorium, declaration of bankruptcy or moratorium, a merger, take-over (both taking over and being taken over) and other changes of control.

2.3.2. The Bidder agrees that Transnet may exclude the Bidder from further participation in this Procurement Process if drastic changes occur in the Bidder's enterprise or financial position.

2.4. In good faith

The Bidder confirms its commitment to take part in the Procurement Process in good faith and thereby undertakes to adhere closely to the rules and requirements prescribed by Transnet, in the interests of Transnet being able to meet the Project objectives through timeous completion of the Procurement Process.

2.5. Terms and conditions

The Bidder accepts irrevocably the terms and conditions of the Request for Proposals without reserve.

2.6. General Provisions

2.6.1. The words and terms capitalized in this Process Statement are definitions. The definitions in this Process Statement have the same meaning as in the Request for Proposals.

2.6.2. This Process Statement is subject to South African law. The Bidder agrees that the High Court of South African has non-exclusive jurisdiction to settle disputes arising under or in connection with this Process Statement.

Bidder: _____

Signed by the Authorised Representative: _____

Position: _____

Date: _____

Place: _____

FORM III: NON-DISCLOSURE AGREEMENT

**TRANSNET SOC Ltd
REQUEST FOR PROPOSALS**

CAPITAL ASSETS LEASING COMPANY

NON-DISCLOSURE AGREEMENT

_____ of _____, 2023
[COMPLETE DATE]

Transnet SOC Ltd
138 Eloff Street
Johannesburg
2000

Re: Transnet – Request for Proposals Capital assets leasing company

[NAME OF BIDDER] of **[ADDRESS OF BIDDER]** (the "**Bidder**") confirms its intention to participate in the Request for Proposals and Procurement Process described in the Request for Proposals issued on 03 April 2023 (the "**RFP**") by Transnet for the selection of a partner for the Project.

The Bidder further confirms, acknowledges, and agrees that:

- (a) The Bidder has received the RFP and has submitted or is concurrently herewith registering in the Transnet e-Tenders Submission Portal confirming its intent to participate in the Procurement Process.
- (b) In connection with the Bidder's participation in the Procurement Process, and in order to assist it in considering the potential opportunity to undertake the development and operation of capital assets leasing company as described in the RFP, Transnet will disclose and make available to the Bidder information, materials and documents that will enable Bidders to prepare and submit Proposals.
- (c) All such information, materials and documents made available or provided by Transnet whether furnished before or after the date hereof, whether oral or written, and regardless of the manner in which it is made available or provided (including whether or not it is specifically described as being confidential), is of a confidential and proprietary nature and is referred to in this Non-Disclosure Agreement as "**Confidential Information**". The Confidential Information includes, without limitation, all communications, whether written, electronically

stored or delivered, or oral, of any kind between Transnet, or any of its representatives and the Bidder, including all information, materials and documents contained or made available through Transnet, whether by way of dedicated capital assets leasing websites, or otherwise, the electronic data room established by Transnet in respect of the Procurement Process, and any and all information reports, analyses, studies, compilations, forecasts and other material prepared by or on behalf of the Bidder which contain or otherwise reflect such information.

In consideration of the opportunity to participate in the Procurement Process, the Bidder hereby further agrees, acknowledges and confirms with Transnet as follows:

1. Non-Disclosure and use of Confidential Information

Except as required by law, the Bidder shall:

- (a) keep all Confidential Information confidential and not disclose or reveal any Confidential Information to any Person other than to the Bidder's directors, officers, employees, agents and representatives who are actively and directly participating in the Procurement Process or who otherwise need to know the Confidential Information for the purposes of the Procurement Process (collectively, the "**Bidder's Representatives**") and to cause all such Bidder's Representatives to observe the terms of this Non-Disclosure Agreement;
- (b) not use, or permit the use of the Confidential Information for any purpose other than in connection with the Procurement Process, and without limiting the generality of the foregoing, not use, or permit the use of, the Confidential Information to obtain a competitive advantage over Transnet or any other Person directly or indirectly, in any line of business in which either Transnet or the Bidder is engaged;
- (c) not (and the Bidder shall cause the Bidder's Representatives to not) contact or attempt to contact any customer, supplier or employee of Transnet, any of their respective directors, officers, employees, agents and representatives or any other Person having business relations with Transnet;
- (d) not copy, reproduce or distribute, in whole or in part, any portion of the Confidential Information to any persons other than to the Bidder's Representatives or as otherwise permitted by Transnet hereunder, at any time without the prior written consent of Transnet;

(e) not disclose to any Person (other than to the Bidder’s Representatives) any information about the Procurement Process.

2. Liability for Breach

The Bidder acknowledges, confirms and agrees with Transnet that any disclosure of any Confidential Information by the Bidder or any of the Bidder’s Representatives other than as specifically permitted hereunder, or any other breach of the terms of this Non-Disclosure Agreement by the Bidder, or any of the Bidder’s Representatives, may result in substantial and irreparable damage and loss to Transnet and that the Bidder shall remain solely responsible for and liable to Transnet for any damages, losses or liabilities arising from any breach of this Non-Disclosure Agreement by the Bidder, or any of the Bidder’s Representatives.

3. Disclosure Required by Law

In the event the Bidder or any of the Bidder’s Representatives are requested pursuant to, or required by, Applicable Law or regulation or by legal process to disclose any Confidential Information or any other information concerning Transnet or the Procurement Process, the Bidder agrees that it will provide Transnet with prompt written notice of such request or requirement in order to enable Transnet to seek an appropriate protective order or other remedy, to consult with the Bidder with respect to Transnet taking steps to resist or narrow the scope of such request or legal process, or to waive compliance, in whole or in part, with the terms of this Non-Disclosure Agreement. In any such event the Bidder will consent to Transnet obtaining any protective order or other appropriate remedy that Transnet may seek for the purpose of preventing disclosure of any of the Confidential Information. In the event that such protective order or other remedy is not obtained, or that Transnet waives compliance with the provisions of this Non-Disclosure Agreement, the Bidder or the Bidder’s Representatives shall furnish only that portion of the Confidential Information which the Bidder is advised by written opinion of counsel is legally required and the Bidder shall use reasonable best efforts to cooperate with Transnet to obtain a protective order and to ensure that all Confidential Information and other information that is so disclosed will be accorded confidential treatment.

4. Governing Law and Jurisdiction

This Non-Disclosure Agreement shall be governed by and construed in accordance with the laws of South Africa. Each party hereto irrevocably submits to the non-exclusive jurisdiction of the courts of South Africa with respect to any matter arising hereunder or in relation to this Non-Disclosure Agreement.

[NAME OF BIDDER]

Per:

_____ Authorized Signatory

Per:

_____ Authorized Signatory

**Acknowledged and Agreed to as of the _____ day of _____, 2023 by
Transnet**

Per:

_____ Authorized Signatory

FORM IV:

RFP DECLARATION AND BREACH OF LAW FORM

NAME OF ENTITY: _____

We _____ do hereby certify that:

1. Transnet has supplied and we have received appropriate responses to any/all questions [as applicable] which were submitted by ourselves for RFP clarification purposes;
2. We have received all information we deemed necessary for the completion of this RFP;
3. We have been provided with sufficient access to the existing Transnet facilities/sites and as well as Transnet information, and have had sufficient time in which to conduct and perform a thorough due diligence of Transnet's operations and business requirements and assets used by Transnet.
4. At no stage have we received additional information relating to the subject matter of this RFP from Transnet sources, other than information formally received from the designated Transnet contact(s) as nominated in the RFP documents;
5. The Bidder has complied with all obligations which apply to Bidders as indicated in the Transnet Supplier Integrity Pact (available on the Transnet website) which include but are not limited to ensuring that the Bidder takes all measures necessary to prevent corrupt practices, unfairness and illegal activities in order to secure or in furtherance to secure a contract with Transnet;
6. We are satisfied, insofar as our entity is concerned, that the processes and procedures adopted by Transnet in issuing this RFP and the requirements requested from Bidders in responding to this RFP have been conducted in a fair and transparent manner;
7. We have complied with all obligations of the Bidder as indicated in the Transnet Supplier Integrity, available on the Transnet website, which includes but are not limited to ensuring that we take all measures necessary to prevent corrupt practices, unfairness and illegal activities in order to secure or in furtherance to secure a contract with Transnet;
8. We declare that a family, business and/or social relationship exists / does not exist [delete as applicable] between an owner / member / director / partner / shareholder of our entity and an employee or board member of Transnet including any person who may be involved in the evaluation and/or adjudication of this Proposal;
9. We declare that an owner / member / director / partner / shareholder of our entity **is / is not** [delete as applicable] an employee or board member of Transnet;

10. In addition, we declare that an owner / member / director / partner / shareholder/employee of our entity **has / has not been** [delete as applicable] a former employee or board member of Transnet in the past 10 years. I further declare that if they were a former employee or board member of Transnet in the past 10 years that they **were/were not** involved in the bid preparation or had access to the information related to this RFP; and
11. If such a relationship as indicated in paragraph 7, 8 and/or 9 of this Form IV exists, the Bidder is to complete the following section:

FULL NAME OF OWNER/MEMBER/DIRECTOR/

PARTNER/SHAREHOLDER/EMPLOYEE:

ADDRESS:

Indicate nature of relationship with Transnet:

Failure to furnish complete and accurate information in this regard will lead to the disqualification of a response and may preclude a Bidder from doing future business with Transnet. Information provided in the declarations may be used by Transnet and/or its affiliates to verify the correctness of the information provided.

12. 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 entity in the forthcoming adjudication process, we shall notify Transnet immediately in writing of such circumstances.

BIDDER'S DISCLOSURE (SBD4)

13. Purpose Of the Form

13.1. Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.

13.2. Where a Person/s are listed in the Register for Tender Defaulters and / or the List of Restricted Suppliers, that Person will automatically be disqualified from the bid process.

14. Bidder’s Declaration

14.1. Is the Bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest² in the enterprise, employed by the state? **YES/NO**

14.2. If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/ directors / trustees / shareholders / members/ partners or any person having a controlling interest in the enterprise, in table below.

Full Name	Identity Number	Name of State institution

14.3. Do you, or any Person connected with the Bidder, have a relationship with any person who is employed by the procuring institution?

YES/NO

14.3.1. If so, furnish particulars:

.....

14.4. Does the Bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest

² the power, by one Person or a group of Persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.

in any other related enterprise whether or not they are bidding for this contract?

YES/NO

14.4.1. If so, furnish particulars:

.....
.....

15. Declaration

I, the undersigned, (name)..... in submitting the accompanying bid, do hereby make the following statements that I certify to be true and complete in every respect:

- 15.1. I have read and I understand the contents of this disclosure.
- 15.2. I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect.
- 15.3. The Bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. Communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.
- 15.4. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 15.5. 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.
- 15.6. There have been no consultations, communications, agreements or arrangements made by the Bidder with any official of the procuring institution in relation to this Procurement Process prior to and during the bidding process except to provide clarification on the bid submitted where

³ 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.

so required by the institution; and the Bidder was not involved in the drafting of the specifications or terms of reference for this bid.

- 15.7. 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.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 12, 13 and 14 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

BREACH OF LAW

We further hereby certify that *I/we* (the bidding entity and/or any of its directors, members or partners) **have/have not been** [delete as applicable] 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 Bidder is required to disclose excludes relatively minor offences or misdemeanours, e.g., traffic offences. This includes the imposition of an administrative fine or penalty.

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

NATURE	OF	BREACH:
<hr/>		
<hr/>		

DATE OF BREACH: _____

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

SIGNED at _____ on this ____ day of _____
20__

For and on behalf of _____ duly authorised hereto	AS WITNESS:
Name:	Name:
Position:	Position:
Signature:	Signature:
Date:	Registration No of Company/CC
Place:	Registration Name of Company/CC

FORM V:

CENTRAL SUPPLIER DATABASE (CSD) CONFIRMATION (TO BE COMPLETED FOR THE BIDDER AND EACH CONSORTIUM TEAM MEMBER)

SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE	UNIQUE REGISTRATION REFERENCE NUMBER: MAAA
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FORM VI: DISCLOSURE OF CONTRACT INFORMATION

DOMESTIC PROMINENT INFLUENTIAL PERSONS (DPIP) OR FOREIGN PROMINENT PUBLIC OFFICIALS (FPPO)

1. Transnet is free to procure the services of any person within or outside the Republic of South Africa in accordance with applicable legislation. Transnet shall not conduct or conclude business transactions, with any Bidder without having:
 - 1.1. Considered relevant governance protocols;
 - 1.2. Determined the DPIP or FPPO status of that counterparty; and
 - 1.3. Conducted a risk assessment and due diligence to assess the potential risks that may be posed by the business relationship.

2. As per the Transnet Domestic Prominent Influential Persons (DPIP) and Foreign Prominent Public Officials (FPPO) and Related Individuals Policy, Bidders are required to disclose any commercial relationship with a DPIP or FPPO (as defined in the Policy) by completing the following section:

The below form contains personal information as defined in the Protection of Personal Information Act, 2013 (the "Act"). By completing the form, the signatory consents to the processing of her/his personal information in accordance with the requirements of the Act. Consent cannot unreasonably be withheld.							
Is the Bidder, or any Consortium Team Member or any of their respective directors: <i>(Complete with a "Yes" or "No")</i>							
A		Closely Related to a DPIP/FPPO		Closely Associated to a DPIP/FPPO			
List all known business interests, in which a DPIP/FPPO may have a direct/indirect interest or significant participation or involvement.							
No	Name of Entity / Business	Role in the Entity / Business (Nature of interest/ Participation)	Shareholding %	Registration Number	Status (Mark the applicable option with an X)		
					<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; text-align: center; padding: 5px;">Active</td> <td style="width: 50%; text-align: center; padding: 5px;">Non-Active</td> </tr> </table>	Active	Non-Active
Active	Non-Active						

1						
2						
3						
4						
5						
6						
7						
8						

Bidders declaring a commercial relationship with a DPIIP or FPPO are to note that Transnet is required to annually publish on its website a list of all business contracts entered into with DPIIP or FPPO. This list will include successful Bidders, if applicable.

FORM VII: BIDDER CONFIRMATION ON DUE DILIGENCE INFORMATION

THIS DECLARATION

MADE BY:

[Name of Bidder]

[Address of Bidder]

Email: _____
[Email address of Bidder]
(the "**Bidder**")

TO:

TRANSNET SOC LTD
138 Eloff Street
Johannesburg
2000
Contact person: Engineering.PSP@transnet.net
Telephone : +26 63 645 9379

PURSUANT TO:

The Request for Proposals: Capital assets leasing
(the "**RFP**")

DATE:

_____ day of _____ 2023

All terms defined in the RFP and used in this Qualification Declaration shall have the same meanings as ascribed thereto in the RFP.

THE BIDDER HEREBY DECLARES, REPRESENTS AND WARRANTS TO TRANSNET AS FOLLOWS:

1. Should the Bidder be selected as the Preferred Bidder, the Bidder will provide information or documentation required by Transnet for purposes of satisfying itself that the Preferred Bidder are not Prohibited Persons, within ten (10) working days of a written request from Transnet to do so, whether such request is made in the letter of award or separately from the letter of award.

If this information and documentation is not provided in full within the period required, Transnet has the right, but not the obligation, to stop the process of finalisation of the Process with Preferred Bidder, and to enter into negotiations with other Bidders.

DATED AT ON _____ day of _____ (**month**), 2023.

Authorized Signatory of Bidder

Name

Title

FORM VIII: QUALIFICATION DECLARATION

**TRANSNET SOC Ltd
REQUEST FOR PROPOSALS**

CAPITAL ASSETS LEASING

THIS DECLARATION

MADE BY:

[Name of Bidder]

[Address of Bidder]

Email: _____
[Email address of Bidder]
(the "**Bidder**")

TO:

TRANSNET SOC LTD
138 Eloff Street
Johannesburg
2000
Contact person: Aaron Mabena
Mail : Engineering.PSP@transnet.net
Telephone +27 63 645 9379

PURSUANT TO: The Request for Proposals: Capital assets leasing
(the "**RFP**")

DATE: _____ day of _____ (month) 2023

All terms defined in the RFP and used in this Qualification Declaration shall have the same meanings as ascribed thereto in the RFP.

THE BIDDER HEREBY DECLARES, REPRESENTS AND WARRANTS TO TRANSNET AS FOLLOWS:

1. All information and material contained in, or provided together with, the Bidder's Statement of Qualifications (Form IX) and submitted to Transnet concurrently herewith is true, accurate and complete.
2. The Bidder or if the Bidder is a Consortium, at least one of the Consortium Team Members, satisfies the following five (5) Minimum Financial Criteria:
 - (a) The profit, EBITDA and operational free cashflow of each of the last five (5) years were positive. Where the profit, EBITDA and

operational cashflow were negatively impacted by the COVID-19 pandemic, sufficient details are provided to explain the negative returns;

- (b) Solvency exceeds or is equal to 0.4 (based on latest audited financial statements); and
 - (c) Acid Test Ratio exceeds 1 (based on latest audited financial statements).
 - (d) Since the publication of the latest financial statements, the Bidder's situation has not materially changed, such that the Minimum Financial Criteria described above will not be met in the financial statements of the current and subsequent financial years.
 - (e) The Bidder has, to date, not engaged in commitments to the extent that such commitments might affect the Bidder's ability to finance or complete the Project.
3. The Bidder is not, and has not been, the subject of any bankruptcy, insolvency or creditor protection proceedings, and has not at any time been declared bankrupt or insolvent and has not initiated or taken any action to protect itself from creditors' rights.
4. No parent corporation, affiliate, major shareholder or partner of the Bidder is, or has been, the subject of any bankruptcy, insolvency or creditor protection proceedings and none have at any time been declared bankrupt or insolvent or initiated or taken any action to protect themselves from creditors' rights.
5. None of the Bidder, any parent corporation, affiliate or partner of the Bidder or any of their respective directors, officers or Persons associated with the Bidder have at any time:
- (a) been convicted of fraud, breach of trust, bribery, corruption or other criminal offence;
 - (b) been named on any recognized international sanctions list;
 - (c) committed any offence in terms of the Prevention and Combating of Corrupt Activities Act including directly or indirectly, offering or giving to any Person in the employment of Transnet or any other Government official, who is directly involved in the Procurement Process or the Project, or any of the Transaction Advisors, any gift or consideration of any kind as an inducement or reward for appointing any Bidder as a Shortlisted Bidder or a preferred Bidder, or for showing or omitting to show favour or disfavour to

any Bidder, Persons or Consortium Team member, or its subcontractors in relation to the Project.

6. None of the respective directors, executives, senior managers, officers or other Persons associated with the Bidder or any parent corporation, affiliate or partner of the Bidder is a Person of Influence, save for the Persons named below:

Name	Relationship between the Person of Influence and the Bidder	Description of the position/role which results in the named individual or entity being a Person of Influence

7. The Bidder accepts irrevocably the terms and conditions of this Request for Proposal without reservations or qualifications.

DATED AT ON _____ day of _____, 2023.

Authorized Signatory of Bidder

Name

Title

FORM IX: STATEMENT OF QUALIFICATIONS

TRANSNET SOC Ltd REQUEST FOR PROPOSALS

CAPITAL ASSETS LEASING COMPANY

THE PROPOSAL MUST BE IN THE FORM SET OUT IN THIS STATEMENT OF QUALIFICATIONS AND MUST INCLUDE ALL INFORMATION AND MATERIAL SPECIFIED IN THIS STATEMENT OF QUALIFICATIONS AND IN THE REQUEST FOR PROPOSALS (THE "**RFP**").

IF THE BIDDER IS A CONSORTIUM, THE REQUIRED INFORMATION AND MATERIAL AS SPECIFIED BELOW MUST BE PROVIDED FOR EACH CONSORTIUM TEAM MEMEBER.

ALL TERMS DEFINED IN THE RFP AND USED IN THIS STATEMENT OF QUALIFICATIONS SHALL HAVE THE SAME MEANINGS AS ASCRIBED THERETO IN THE RFP.

PART 1 - IDENTIFICATION OF BIDDER (AND WHERE APPLICABLE CONSORTIUM TEAM MEMBERS)

- 1.1 Complete legal name of Bidder.
- 1.2 Jurisdiction of incorporation or organization of the Bidder.
- 1.3 Bidder's Head Office address.
- 1.4 Address of any office Bidder may have in South Africa.
- 1.5 Bidder's mailing address.
- 1.6 Bidder's email address.
- 1.7 Bidder's telephone number.
- 1.8 Bidder's website address.
- 1.9 Summary of the Bidder's business activities, showing geographical location.

PART 2 - CONSORTIUMS

- 2.1 If Bidder is a Consortium, list all Consortium Team Members, the role of each Consortium Team Member, the percentage shareholding intended for each Consortium Team Member, and indicate who will be the Lead Member of the Consortium.

- 2.2 In the event that a Consortium agreement is already in place, submit this agreement as part of this Statement of Qualifications.

PART 3 - OWNERSHIP OF BIDDER OR CONSORTIUM

- 3.1 If the Bidder is a wholly owned subsidiary of a parent corporation, provide the name, address and jurisdiction of incorporation of the parent corporation.
- 3.2 If the Bidder is a corporation (other than a wholly owned subsidiary), provide the name, address and jurisdiction of incorporation, organization or residency of each of its major shareholders.
- 3.3 If the Bidder is a partnership, provide the name, address and jurisdiction of incorporation, organization or residency of each of its partners.
- 3.4 If the Bidder is an entity other than a corporation or partnership, describe the legal and ownership structure of the Bidder and provide the names, addresses and jurisdiction of incorporation or organization of each owner.

PART 4 - AUTHORIZED REPRESENTATIVE

Provide the name, title, residency, address, telephone number and email address of the individual authorized by the Bidder to represent the Bidder, to make enquiries to Transnet, and to receive correspondence on matters relating to the RFP.

PART 5 - BIDDER'S EXPERIENCE

Technical Information

- 5.1 Provide a summary of the Bidder's experience in each of the areas in the leasing of capital assets, including the following information:
- a) Role of the Bidder (or Consortium Team Member) in the Leasing operations;
 - b) Number of years of experience of the Bidder (or Consortium Team Member)'s in the involvement of leasing capital assets.
 - c) The list of contracts in the past 10 years and duration of the contracts.
 - d) Type(s) of capital assets leased.
 - e) Size of the operations (Asset base, Number of leasing contracts, Annual Turnover, number of employees, geographic distribution);

- f) Efficiency of operations as measured by Asset utilisation;

This summary should not be longer than approximately 4 pages of A4 size, although annexures may be provided if required to support information contained in the summary.

Financial Information

- 5.2 Provide, at a minimum, the most recent five (5) years audited, consolidated financial statements, including auditors' reports, for the Bidder, and for each Consortium Team Member if the Bidder is a Consortium. Where applicable, provide the most recent five (5) years audited, consolidated financial statements, including auditors' reports, for respective parent corporations and any other entity anticipated to assume any financial responsibility in connection with the Project by way of equity contribution, guarantee, debt or otherwise.
- 5.3 Provide current credit rating reports if available, for the Bidder, and for each Consortium Team Member if the Bidder is a Consortium. Where applicable, provide current credit rating reports for respective parent corporations and any other entity anticipated to assume any financial responsibility in connection with the Project by way of equity contribution, guarantee, debt or otherwise.
- 5.4 Provide the Solvency and Liquidity calculations based on the most recent audited financial statements.

PART 6 - CONFIRMATION

- 6.1 Provide confirmation of the Bidder's acceptance of the Procurement Process, and the terms and conditions set out in the RFP. Bidder to include confirmation that none of the exclusion criteria apply to the Bidder, or any Consortium Team Member, by signing and submitting the Qualification Declaration (Form VIII).
- 6.2 Provide confirmation that the Bidder obtained such legal and other advice as it has determined necessary and confirms its understanding of and agreement with the Procurement Process and the terms and conditions set out in the RFP by signing and submitting the Qualification Declaration (Form VIII).
- 6.3 Provide confirmation that the Bidder is fully acquainted with the laws of South Africa (including without limitation all statutes and regulations (on a national, provincial and municipal level)) in relation to procurement and the subject matter of the Project, and will

comply with such laws, or that the Bidder has engaged South African counsel to advise them in relation to the laws of South Africa (including without limitation all statutes and regulations (on a national, provincial and municipal level)) in relation to procurement and the subject matter of the Project by signing and submitting the Qualification Declaration (Form VIII).

- 6.4 Provide the B-BBEE Verification Certificate for the Bidder (if the Bidder has a B-BBEE Verification Certificate).
- 6.5 Provide confirmation that the Bidders in the Bidder will not make any claim or demand, or bring any action, suit or petition against Transnet, or any of its directors, officers, employees, consultants or representatives, for any costs, damages, liabilities or claims of any nature whatsoever relating to its participation in the Procurement Process or based upon or relating to any information, material, forecasts or estimates contained in the RFP or otherwise provided or made available by Transnet or any of its directors, officers, employees, consultants, contractors or representatives by signing and submitting the Qualification Declaration (Form VIII).

FORM X: PROTECTION OF PERSONAL INFORMATION

1. The following terms shall bear the same meaning as contemplated in Section 1 of the Protection of Person information act, No. of 2013 "(POPIA"):

consent; data subject; electronic communication; information officer; operator; person; personal information; processing; record; Regulator; responsible party; special information; as well as any terms derived from these terms.
2. The Operator will process all information by the Transnet in terms of the requirements contemplated in Section 4(1) of the POPIA:

Accountability; Processing limitation; Purpose specification; Further processing limitation; Information quality; Openness; Security safeguards and Data subject participation.
3. The Parties acknowledge and agree that, in relation to personal information of Transnet and the information of a third party that will be processed pursuant to this Agreement, the Operator is (Respondent) and the Data subject is "Transnet". Operator will process personal information only with the knowledge and authorisation of Transnet and will treat personal information and the information of a third party which comes to its knowledge as confidential and will not disclose it, unless so required by law or subject to the exceptions contained in the POPIA.
4. Transnet reserves all the rights afforded to it by the POPIA in the processing of any of its information as contained in this Agreement and the Operator is required to comply with all prescripts as detailed in the POPIA relating to all information concerning Transnet.
5. In terms of this Agreement, the Operator acknowledges that it will obtain and have access to personal information of Transnet and the information of a third party and agrees that it shall only process the information disclosed by Transnet in terms of this Agreement and only for the purposes as detailed in this Agreement and in accordance with any applicable law.
6. Should there be a need for the Operator to process the personal information and the information of a third party in a way that is not agreed to in this Agreement, the Operator must request consent from Transnet to the processing of its personal information or and the information of a third party in a manner other than that it was collected for, which consent cannot be unreasonably withheld.
7. Furthermore, the Operator will not otherwise modify, amend or alter any personal information and the information of a third party submitted by Transnet or disclose or permit the disclosure of any personal information and the information of a third party to any third party without prior written consent from Transnet.
8. The Operator shall, at all times, ensure compliance with any applicable laws put in place and maintain sufficient measures, policies and systems to manage and secure against all forms of risks to any information that may be shared or accessed pursuant to the services offered to Transnet in terms of this Agreement (physically, through a computer or any other form of electronic communication).

9. The Operator shall notify Transnet in writing of any unauthorised access to personal information and the information of a third party, cybercrimes or suspected cybercrimes, in its knowledge and report such crimes or suspected crimes to the relevant authorities in accordance with applicable laws, after becoming aware of such crimes or suspected crime. The Operator must inform Transnet of the breach as soon as it has occurred to allow Transnet to take all necessary remedial steps to mitigate the extent of the loss or compromise of personal information and the information of a third party and to restore the integrity of the affected personal information as quickly as is possible.
10. Transnet may, in writing, request the Operator to confirm and/or make available any personal information and the information of a third party in its possession in relation to Transnet and if such personal information has been accessed by third parties and the identity thereof in terms of the POPIA.
11. Transnet may further request that the Operator correct, delete, destroy, withdraw consent or object to the processing of any personal information and the information of a third party relating to the Transnet or a third party in the Operator's possession in terms of the provision of the POPIA and utilizing Form 2 of the POPIA Regulations.
12. In signing this addendum that is in terms of the POPIA, the Operator hereby agrees that it has adequate measures in place to provide protection of the personal information and the information of a third party given to it by Transnet in line with the 8 conditions of the POPIA and that it will provide to Transnet satisfactory evidence of these measures whenever called upon to do so by Transnet.

The Operator is required to provide confirmation that all measures in terms of the POPIA are in place when processing personal information and the information of a third party received from Transnet:

YES		NO	
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13. Further, the Operator acknowledges that it will be held liable by Transnet should it fail to process personal information in line with the requirements of the POPIA. The Operator will be subject to any civil or criminal action, administrative fines or other penalty or loss that may arise as a result of the processing of any personal information that Transnet submitted to it.

Signature of Respondent's authorised representative: _____

14. Should a Respondent have any complaints or objections to processing of its personal information, by Transnet, the Respondent can submit a complaint to the Information Regulator on <https://www.justice.gov.za/infoereg/>, click on contact us, click on complaints.IR@justice.gov.za