



ENQUIRY: LE 0612
CLOSING DATE: 2016/01/11
CLOSING TIME: 14H00

**ARCELORMITTAL SOUTH AFRICA LTD INVITES TENDERS
FOR FOLLOWING SERVICE:
TO PROVIDE OUTBOUND PLANNING SYSTEM FOR ALL
FINISHED PRODUCT DISPATCHES**

The tenders shall be deposited in the tender box at **ArcelorMittal South Africa-Vanderbijlpark Works**, and e-mailed to tenders@arcelormittal.com, not later than the closing time and date for receipt of tenders. Tenders, which due to size, cannot be deposited in the tender box shall be handed to the TENDER CLERK AT **ArcelorMittal South Africa-Vanderbijlpark Works**, PROCUREMENT AND LOGISTICS.

LATE TENDERS WILL NOT BE CONSIDERED.

The following persons are dealing with this enquiry:

Procurement Total Cost of Ownership (TCO)
Hugh Thomas
Tel: +27 (0)16 889 3427
E-mail: hugh.thomas1@arcelormittal.com

INSTRUCTIONS TO TENDERER (IT)

ArcelorMittal South Africa invites tenders for all outbound finish product dispatches. See Annexure E, Scope of Work for more detail in the tender document as well as Schedule of Prices (to be completed) in Annexure F.

1 Enquiry Documents

1.1 Alterations, Omissions or Additions

Alterations, omissions or additions shall only be made to this document as discussed with **ArcelorMittal South Africa** during the site meeting or as discussed during the post-tender meeting or as agreed to and so instructed by **ArcelorMittal South Africa** at any time prior to the finalisation of the contract.

1.2 Clarification Session:

Clarification session will take place week starting **10:00- 12:30, 09 December 2015 at Main Auditorium ArcelorMittal South Africa, Vanderbijlpark Works.**

1.3 Attendance of the Clarification session is compulsory. Tenders of Tenderers not attending the clarification will not be taken into consideration. If you are more than 10 (ten) minutes late you will not be allowed to join in the clarification, unless if you make arrangements before-hand.

2 Tenders

2.1 Submission of Tenders

The Tender and supporting documents shall be submitted to **ArcelorMittal South Africa** by hand, in sealed envelopes and soft copies on flash drive to be included in envelope on which the name of the Tenderer is not disclosed and shall be marked and addressed as follows:

Tender: Enquiry no: LE 0612

The tender shall be deposited in the tender box at **ArcelorMittal South Africa**, not later than 14:00 **on 2016.01.11**. A tender, which due to its size cannot be deposited in the tender box, shall be handed to the **Tender Clerk, Materials Management Building, Procurement and Logistics, ArcelorMittal South Africa-Vanderbijlpark Works.**

2.2 Tenders to be Complete

The Tenderer shall complete and sign all forms and schedules of Annexure **A, B, C, D, F and G** (tender form and schedules) with every detail.

Should a schedule not be applicable to the tender, such schedule shall be endorsed accordingly. Non-compliance with these requirements may render the tender liable to rejection.

2.3 Variations / Qualifications by Tenderers / Alternative Tenders

The Tenderer shall tender strictly in accordance with the requirements of the enquiry document, but is allowed to submit in addition alternative tender(s) in which case the alternative tender (s) shall be accompanied by appropriate tender forms, schedules, specifications, etc.

Where the Tenderer decides to deviate from the conditions and/or specifications of the enquiry document(s) or in any way qualifies the tenderer, such deviation or qualification shall be put down in **Annexure D - 4 General Comments**, failing which the tender submitted will be deemed to be unqualified and non-compliant with all conditions and specifications of the enquiry documents.

Tenderers to note that the tender documents as submitted will not necessarily be accepted for the contract document, but will form the basis for negotiations of the final contract document. See **Annexure H**

2.4 Changes to Tender Documents

- 2.4.1. Under no circumstances shall the description/s be changed or erased. Description changes are to be indicated in the specification schedule. (**Annexure D - 4. General Comments**)
- 2.4.2. Should the space provided be inadequate the information is to be indicated on a copy of the schedule.
- 2.4.3. Tenderers' attention is drawn to the following:
 - Tender documents are to be completed in black ink or preferably by typewriter.
 - Changes to the tender documents, whether erasures or by means of correction fluid (e.g. Tippex), are to be initialled by the tenderer.

Failure to comply with the above will render the tender null and void.

2.5 Incorrect Address

Any tender inadvertently opened before the closing time and date for the receipt of tenders due to an incorrect address or marking will not be considered by **ArcelorMittal South Africa**

2.6 Late Tenders

Late tenders will not be considered by **ArcelorMittal South Africa**.

2.7 Lowest Tender

ArcelorMittal South Africa is not bound to accept the lowest or any tender. No tender shall be deemed to have been accepted unless such acceptance has been conveyed to the Tenderer by notice in writing or by Facsimile from **ArcelorMittal South Africa**.

2.8 Validity of Tender

Tenders shall remain valid for a period of ninety (90) days from the due date for the receipt of tenders. During this period **ArcelorMittal South Africa** shall have the right to accept a tender without any right of withdrawal on the part of the Tenderer, and thereafter until withdrawn in writing by the Tenderer.

3 Prices / Currency

3.1 Currency

All prices shall be quoted in the currency of the Republic of South Africa (Rand unit) and shall be net, inclusive of all applicable taxes and fees.

3.2 Value Added Tax (VAT)

Prices for materials, services, etc. should be VAT exclusive. However, the total monetary value of the VAT provided for in the prices shall be shown separately.

3.3 Prices quoted will be fixed and firm for a 12-month period and commencing: to be negotiated.

3.4 Any tender response which entails the hire of labour must be done so in accordance with the Labour Relations Amendment Act.

4 Evaluating Criteria

The following criteria will be used when evaluating tenders but will not be limited to:

- **Price (Annexure F),**
- **Value- add,**
- **BBBEE,**
- **Technical proposal and overall solution,**
- **Delivery Reliability and implementation plan,**
- **List of references. (Annexure G)**
- **IT compatibility (Annexure G)**

5 **Duration**

The anticipated period of the Agreement will be for a period of 3 year to commence on a date to be communicated.

In case any circumstances of business activity change, **ArcelorMittal South Africa** reserves the right to terminate the contract by giving bidders 30 days' written notification.

6 **Details Confidential**

The Tenderer (whether his tender is accepted or not) shall treat all details in this enquiry document and his tender as private and confidential. **ArcelorMittal South Africa** will likewise treat details of the Tenderer's proposals as private and confidential and no information contained in a tender will be disclosed to third parties.

6.1 **Financial Ability**

The Tenderer shall furnish proof to **ArcelorMittal South Africa** of his financial ability to execute the contract works to the entire satisfaction of **ArcelorMittal South Africa** by providing audited statements, *i.e.* balance sheets, income statements etc. of at least the three most recent financial years, as requested to do so.

7 **Changes to Conditions of Contract clauses**

It is mandatory that the Tenderer suggest changes to the clauses of the contract, during the tender process, as this will be the only time that the Tenderer will be granted such an opportunity. Annexure "D" – Conditions of Contract has been included for this purpose. The Tenderer shall submit a separate appendix along with their tender quoting the clause number as well as detailing the suggestion. ArcelorMittal South Africa reserves the right to approve or reject the suggestions.

8 **BBBEE**

It is mandatory for the Tenderer to provide ArcelorMittal South Africa with its verified BBBEE certificate. Where the Tenderer is non-compliant in terms of its BBBEE rating, he must provide ArcelorMittal South Africa with its transformation plan which is accordance with the new amended codes.

9 **The following legal certificates should be submitted with your tender:**

- A certified copy of company registration forms (CK1, CK2) and/or Certificate of Incorporation (CM1, CM29/CM9 (name change), CM46);
- A valid, original and/or certified copy of a tax clearance certificate and a VAT registration certificate;
- A registration certificate at the Compensation Commissioner or proof of latest payment to the Compensation Commissioner;
- Resolution reflecting authority of representation.
- Failure to submit all the above documents can result in your tender being disqualified.

Responsible Sourcing/QMS requirements:

Document Type	Date last submitted
Quality Management System (ISO9001:2008)	
Health & Safety Management System (OSHAS18001:2007)	
Environment Management System (ISO14001:2004)	
Responsible Sourcing	

All of the abovementioned certificates should be submitted on a three yearly basis to **ArcelorMittal South Africa's** Vendor Management department for attention Mias de Kock.LE

If your last submitted certificate has been submitted more than 3 years ago, please submit your newest certificate as part of this tender document.

BBBEE Compliance Certificate:

Date last submitted	Score	Vendor Category (QSE/EME)	BO/BWO

Your BBBEE certificate should be submitted annually to **ArcelorMittal South Africa's** Vendor Management department for attention Mias de Kock

If your last submitted certificate has been submitted more than 1 year ago, please submit your newest certificate as part of this tender document.

Please note that failure to submit the required documents will result in your Vendor Code being inactive until the required documents have been submitted.

ANNEXURE A:
TENDERER INFORMATION

NB!! Completion of these fields is compulsory

ENQUIRY NO:	LE 0612
CLOSING DATE:	2015.01.11
CLOSING TIME:	14:00
1. Accept ArcelorMittal South Africa 's conditions:	Yes/No
(a) Terms of Payment <i>(1st day of the 2nd month after month end statement. Net)</i>	
(b) General Conditions of Contract	
(c) Validity 90 Days from closing date	
2. (a) Tenderer's reference:	
(b) Tenderer's VAT Registration no: (Please supply TAX Clearance Certificate & VAT registration Certificate)	
(c) Tenderer's Company's registered name: Certificate of Name change (CM46)	
(d) Company registration number Certified copy of Company's registration form (CK1 / CK2)	
(e) Street address:	
(f) Postal address:	
(g) Tel no:	
(h) Fax no:	
(i) Cell no:	
(j) E-Mail address:	
(k) BBBEE Status, score i.t.o. DTI scorecard (Please supply BBBEE Certificate)	

(j) Please state applicable supplier status with respect to this enquiry			
Agent		Distributor	
OEM		Service Provider	
Trader		Other	
3. Type of firm (cross appropriate type)			
Partnership		Sole Trader	
Close Corporation		Company Pty Ltd	
4. Since when has the firm been in business?			
5. State principle business activity			
6. Do you have unemployment insurance? Provide the registration number			
7. Do you have accident insurance? Provide the registration number			
8. Supply your WCF (Workmen's Compensation Fund) Registration number? Please submit letter of good standing.			
9. Do you have public liability of at least R 5 million? Provide proof.			
10. Provide proof of Financial ability. (Letter from Auditor will do)			
11. Reference list of clients and contact names/numbers			
12. Membership of professional organisation? (If yes, please state name of organization and provide proof.)			
13. Quality System - Do you conform to ISO 9001:2000? Provide proof.			
14. Safety System - Do you conform to OSHAS 18001:1999? Provide proof.			
15. Environmental Management System – Do you conform to ISO14001: 1996. Provide proof.			
Signature:			
Print Name:			
Designation:			

ANNEXURE B:
TENDER CLARIFICATION

This is to CERTIFY, that we

Representing and being duly authorised by:

(Name of Company and Address)

have made ourselves familiar with the scope of work and conditions, likely to influence the **Contract** and the cost thereof.

We further CERTIFY that we are satisfied with the description of the **Contract** and explanations given by **ArcelorMittal South Africa** and we understand perfectly the service to be rendered, as specified and implied, in the execution of this TENDER, and that we fully understand the nature of this TENDER.

SIGNATURE: _____

ON BEHALF OF: _____

ADDRESS: _____

DATE: _____

AS WITNESS: _____

AS WITNESS: _____

ANNEXURE C:

DECLARATION OF CONFLICT OF INTEREST

TO: ARCELORMITTAL SOUTH AFRICA

FROM: _____

DATE: _____ 20__

SUBJECT: DECLARATION OF CONFLICT OF INTEREST

The **Contractor** agrees and undertakes to declare to **ArcelorMittal South Africa** any personal or business relationship with any employee or supplier of **ArcelorMittal South Africa** (whether arising as a result of a financial interest or investment or other business engagements with such employee or supplier) that might represent a **Conflict of Interest**.

Accordingly, I, the undersigned, _____ (name of authorized representative of **Contractor**), acting in my capacity as _____ of the above named **Contractor** declare that neither I, nor the **Contractor** or any of its officers, directors, employees and authorized representative have any relationship with any employee or supplier of **ArcelorMittal South Africa** that raises a real or potential **Conflict of Interest**. Further, we undertake to disclose to **ArcelorMittal South Africa** any relationships that might exist for the duration of the **Contract** that raises a **Conflict of Interest**.

or

I, the undersigned, _____ (name of authorized representative of **Contractor**), acting in my capacity as _____ of the above named **Contractor** wish to declare and disclose the following relationships involving the **Contractor** and/or any of its officers, directors, employees and authorized representative that raise a real or potential **Conflict of Interest**.

.....

.....

.....

For and on behalf of

CONTRACTOR

(Authorised Signatory)

Date: _____

ANNEXURE D:

PRICE BASIS

NB!! Completion of these fields is compulsory

1	Will the quoted prices be fixed for a 12-month period after commencement date? Yes / No	
2	Will the quoted prices be subject to price variations? Yes / No	
3	PRICE ADJUSTMENTS ON RATES QUOTED	
(a)	When will the first price adjustments become effective?	
(b)	Will a body or committee govern the annual adjustments? (e.g. South African Bargaining Counsel)	Yes / No
(c)	Will the adjustments be based on any other indices?	Yes / No
(d)	Indicate payment discounts (if applicable) Settlement Discount Trade Discount	Yes / No % %

4	Contract (Service or Supply)	Section	Comments

ANNEXURE E:
SCOPE OF WORK and PRICING SCHEDULE

The scope detail below is a guideline to understand AMSA requirement and we encourage bidders to present solutions that encourages best practice.

The following is in scope for this enquiry:

- Road vehicle outbound planning;
- Loading bay/mill planning;
- Customer material planning.

Out of scope:

- Warehouse management;
- Warehouse operations;
- Customer site.

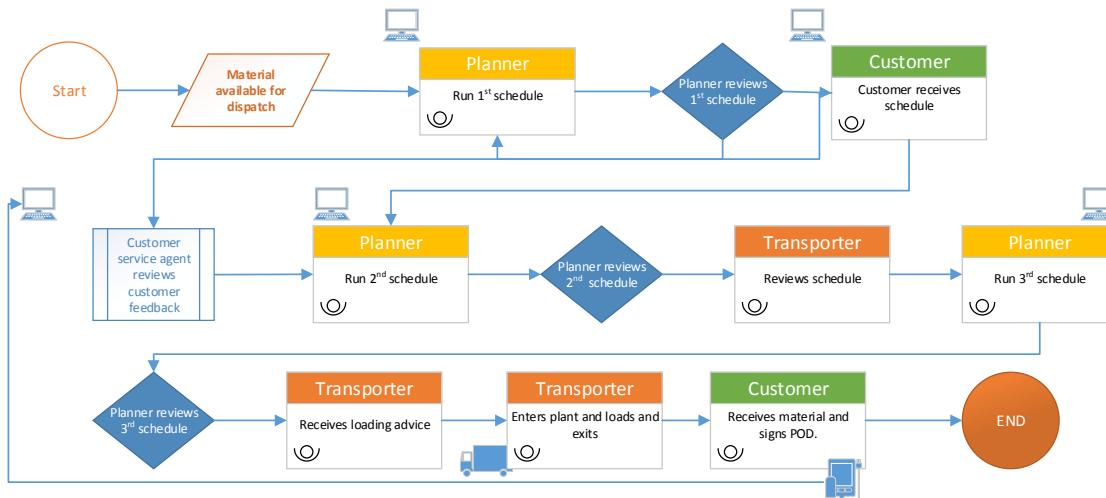
Rules described in this section are only for purposes of describing AMSA requirements. When implementing system, rules will be detailed and aligned to plant requirements.

1 SYSTEM REQUIREMENTS

This section is below is a high level overview of the requirements for the AMSA outbound scheduling and booking system and inter depot movement. AMSA foresees the following system functionality to enhance outbound planning:

- Load scheduling and vehicle planning system/tool,
- Load confirmation and vehicle booking system,
- Load track and trace visibility.

The flow diagram below articulates end to end outbound road planning process:



(i) First schedule

The system/tool create the first schedule based on material available (released) in a warehouse ready to be dispatch. The system should have the functionality to plan multiple warehouses located across different locations in South Africa. Inventory “Material/ stock” information will be an input from the different inventory management systems. AMSA makes use of NIPPS, SAP and other Legacy systems. The system should be capable of incorporating/reading/ identifying information in various formats.

The following, as a minimum, should be taken into consideration when the first schedule is created:

A. Plant

Plant loading performance as well as the capacity constraints for all activities impacting loading and dispatch when the system generates the first schedule.

Key activities to consider:

- Vehicle entering plant and the weighbridge. The system should also take into consideration potential congestion challenges caused by other vehicles entering the plant. AMSA plants makes use of same weighbridge for both inbound and outbound road movements.
- Loading performance per mill (capacity “tons per hour”). AMSA despatches material from various locations in its plants. Mills loading capacity varies dependent on product type and loading method.
- Product location information.
- Lashing of load.
- Vehicle exiting plant. (weighbridge – other vehicle)

B. Customer

Customer location, open and closing times as well off-loading capacity (number of vehicles/tonnage per day) constraints should be a minimum input to the first schedule. The systems functionality should

accommodate priority material as indicated in the NIPPS system and should allow full flexibility to planners and customer service agents.

Customer return materials should also be included in the schedule.

C. Transport

Legislative requirements for vehicle such as rest periods, night driving and total driver working hours, should be a minimum input. The system should also take into consideration the base fleet per transport contractor dedicated to plant including payload, trailer type, etc.

The first schedule should take into consideration all possible constraints A, B and C above as a minimum and create a first constraint load schedule. Output from the system should optimise a forward looking schedule for a month, week, seven days or the next 24 hours.

This schedule should:

- Build optimum trucks loads. Loads are build based on the material characteristics of length and weigh together with the trailer loading capability. Also, legal payload requirements should be taken into consideration and should be built into the algorithm.
- Bay/Mill sequencing and optimisation. The scheduling tool will sequence bays in taking NIPPS material location information, mills performance per gantry. The system will than allocate a timeslot per load and sequence how loading should take be executed based on location of material. Assumption is that the NIPPS location information is accurate.
- The system should have functionality to schedule rail for domestic and export material. Also, the system should have a functionality to accommodate rail loading scheduled outside of the system and interphase with NIPPS at all times taking into consideration load plan for material planned on rail. This impacts bay availability impacting time allocated for road vehicle to arrive at plant. Details to be further explored.

Scheduling Rules

The rules below are not final and requires input from all stakeholders.

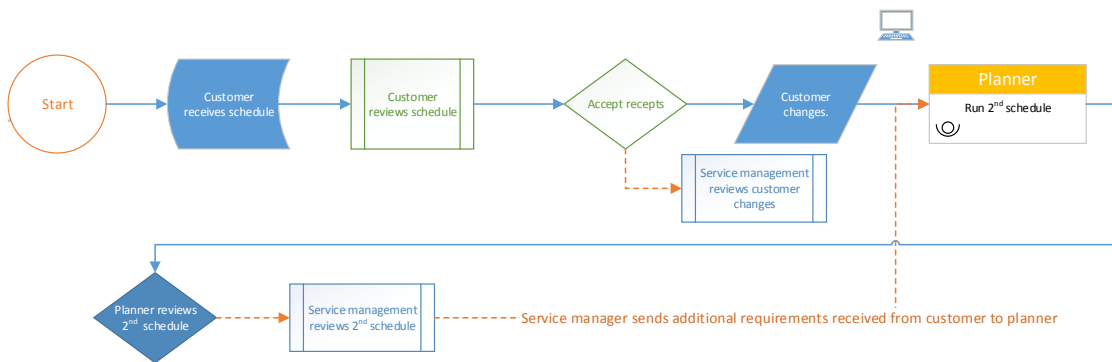
- Oldest order first and oldest material second.
- Priority material will as a rule be scheduled at maximum 24 hours after event. Planners should have flexibility to amend schedule and allocated priority material as the need arise. The specifics on priority material rule is to be detailed.
- Small customer orders compared to larger order customers. Current rule applies. Planning team will define rule to be coded in system. By default, the schedule should accommodate all customers ensuring a customer receives loads on a daily basis depending on material available.
- Current OTD rules as per customer contract will be built in first schedule.
- Minimum and maximum tolerance. Tolerance levels for materials are set in NIPPS/SAP. Tool will use tolerance information as per NIPPS/SAP for both material and customer.

Planner will review first schedule created by system. Planner will amend or adapt schedule and re-run schedule. Once planner is comfortable with the system proposed schedule, the schedule is send/communicated to the customer for review and acceptance.

(ii) Customer

The customer will receive a schedule based on the first iteration. The schedule can be by month, week or next 24 hour view. Details to be defined.

The booking tool will be used as a mechanism to communicate schedule to the customer. This can be done via web link. The view of the schedule as well as the format in which it will be displayed to customer should be defined.



The level of change the customer is allowed to change or amend schedule should be determined. e.g In the event that a customer has x number of loads planned over a month/week/next 24hrs, the customer can change 80% in month, 50% in week and 20% in the next 24 hours.

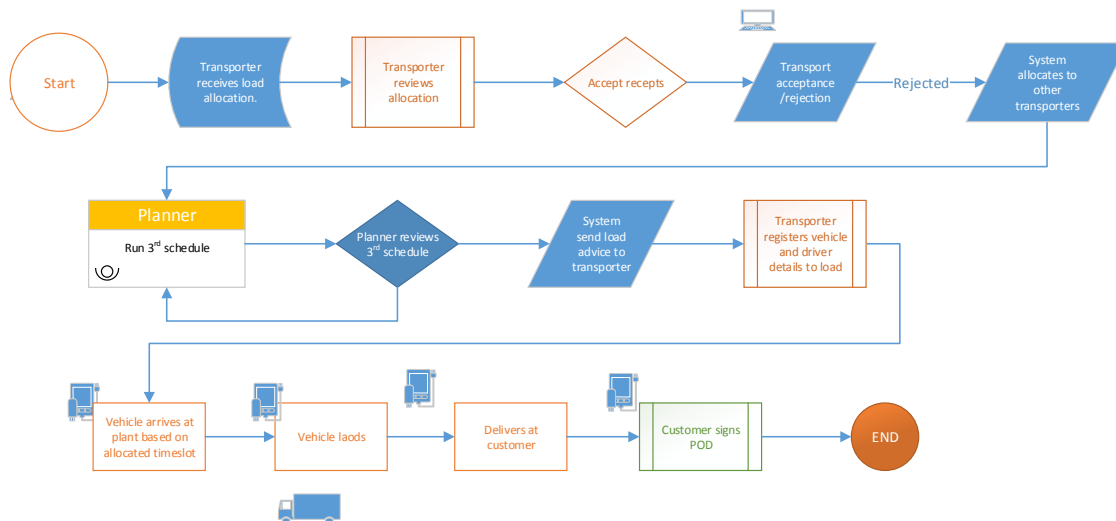
The communication mechanism (booking system) should enable customer to amend load schedule on line and this information should be automatically be communicated to the planning and scheduling system. This changes should also be send to customer service agent for information purposes. Rules related to time laps for customer to respond needs to be defined and notifications will be send to customer service agent and planner.

After customer preference or constraints has been received, the scheduling system, the planner receive confirmation that all customers has completed this activity. Customer service will send additional changes to planners and the planner can re-run the load schedule.

The scheduling system will run load schedule and allocate loads to transporters.

(iii) Transport contractors

Planner runs 3rd schedule and loads are allocated to transport contractors based on predefined rule. Once the planner has reviewed system recommendation and amended the schedule, the booking system will send load schedule to transporter. Systems allocates a month, week and 24 hour schedule to transporters.



Allocation of loads to transport contractors- Rules.

- Contracted number of loads per month, day.
- Fair distribution of loads by location.
- Allocation done based on trailer specification and transporters fleet composition.
- Vehicle type by customer. In the event that a customer request a certain vehicle or trailer type to off load at a specific location, this will be included as constraint in the schedule.

Booking and registration process

Vehicle and drivers entering the plant needs to registered and have valid access to the plant/works. Prior to entering the plant, vehicle combinations together with the driver needs to be registered preferable via booking system. The system and process needs to be flexible in allowing for changes to vehicle combination and truck driver before the vehicle enters the plant.

Vehicles entering plant/works should before arrival:

- Be registered to enter plant;
- Allocate load detailing the destination;
- Be allocate time interval for loading at a specific loading bay.

2 LOAD VISIBILITY

Load visibility for all outbound loads will enable AMSA stakeholder's local and cross boarder have a visibility of load status. This will enable better decision making as well as communicate ETA to customers. Load visibility should be enabled through existing transporters tracking devices or via a handheld devices specific for AMSA loads as transport contractors makes use of multiple subcontractors.

The system should facilitate or have minimum functionality to enable electronic POD's for both local and cross boarder loads.

Bidders are required to make recommendation on the best process or devices to enable load visibility as well as electronic POD's. All recommendations related to devices should include a device management plan and bidders are required to relate recommendation to AMSA environment.

3 REPORTING

System needs to provide reports on a daily and monthly basis on delivery activity as well as in-plant performance. Specific focus to be given to TAT (turnaround time) in plant, at customer and at South African borders.

Detail reporting requirements to be specified.

4 SCHEDULES FOR INVOICING

System should support or enable the creation of monthly schedule of all loads per transport contractor for both local and cross boarder loads. This schedule is to be used as a control measure in the invoicing process.

ANNEXURE F:

PRICING SCHEDULE

This section is a compulsory returnable schedule. Bidders are requested to complete pricing schedules below.

1. System Supply

System Function	CAPEX Once off Cost (ZAR)	OPEX Annual (ZAR)	License (ZAR)
Booking automation and confirmation.			
Planning and Scheduling			
Bay sequencing			
Tracking/Visibility			
Total			

Item	
Software	Include 1 3 and 5 year maintenance in the pricing
Hosting	If part of the solution
Hardware	If needed

2. Implementation

AMSA anticipates the implementation of the outbound planning scheduling, booking and load visibility system to be no longer that three (3) months. Bidders are requested to submit project plan and indicate resources for each phase of the implementation and re associated resource cost. Bidders should provide a schedule for cost related to travel and accommodation.

Milestone	Resource function	Number of days/weeks	Cost (ZAR)

3. Technical Support

Description (Describe type of technical support service)	Cost/Month (ZAR)

4. Training

	Duration	Cost (ZAR)
Cost per person (Super-user/planner)		
Cost per person (User/Planner)		

5. Value add.

Bidders are requested to list all value added service derived from system.

No.	Description	Benefit to AMSA

ANNEXURE G:

This section is a compulsory returnable schedule.

Bidders are required to provide a minimum of three reference where similar systems was implemented.

Please complete template below:

1. List of references.

No.	Commencement date. Implementation duration	Name and Contact Information	Duration. Is the relationship ongoing?	Benefits from service or system

2. Component table

COMPONENT	YES/NO	REMARKS
Is this a cloud based solution (if No please explain)?		
Does this require AMSA to have additional servers on site?		
How many servers are needed? What OS is needed on the servers? What database is needed? If any?		
What databases can your solution interface with?		
Can your solution interface to SAP, Oracle, Nipps and Phoenix? How? These are Oracle based systems.		
Does AMSA require additional support staff?		
What 3 rd party systems can you interface with?		
DEVICES		
What devices can you supply for the trucks? if any? Detail the devices I.E waterproof and ruggedized?		
Can the device support proof of delivery (pod).		
Can the device be remotely switched on?		
Can the device be fixed into a truck? Can the device be removed from the truck for POD?		
How long between charges for the device to stay on?		
Can the device roam? If yes? Explain how the device cost effectively roams outside of South Africa?		
Can your system do Geo mapping?		
Does your system support Electronic Data Interchange? i.e transfers of Invoices.		
Do you have reference accounts in South Africa? International?		Enter more detail in sections below
Do you require specific security for your solution?		

3. Reports

Please list reports the systems generate by default and how difficult it is to design and build custom reports

4. Security Requirements

Describe all levels of security, the type of access for each of the levels of security. The system may have third party users.

5. External Interfaces

Describe all external interfaces that the system may have, the parameters that must be interfaced, the medium by which the interface will occur and the frequency of the interface.

6. Internal Interfaces

Describe all interfaces that will occur between systems or modules, the frequency of the interface and the data that must be interfaced.

7. Administration Requirements

Describe any requirements that the administrator of the new system may have. If any?

8. Maintenance Requirements

Describe any ongoing maintenance requirements or support requirements that may be needed for the system. Backups, etc.

9. Other

Describe any other issues and details that you would like to include for this functionality

ANNEXURE H



ArcelorMittal

Contract _____

SUPPLY AGREEMENT

between

ARCELORMITTAL SOUTH AFRICA LIMITED

and

[INSERT NAME OF THE CONTRACTOR]

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1. INTRODUCTION

- 1.1. The Parties wish to enter into this Agreement in order to record the terms and conditions according to which AMSA appoints the Contractor to supply AMSA with the Goods.
- 1.2. Subject to clause 2, this Agreement comprises, inter alia:
 - 1.2.1. this Specific Terms, which records the specific terms and conditions that shall apply to the Agreement;
 - 1.2.2. the General Terms, which records the general terms and conditions that shall apply to the Agreement; and
 - 1.2.3. any other schedules and/or annexures that may be attached hereto.

[Instructions: Users are only able to select if the following clauses of the General Terms will not apply. All other provisions of the General Terms will apply:

2. AMENDMENTS TO THE GENERAL TERMS

- 2.1. The Parties hereby agree that:
 - 2.1.1. clause 12 (Rules, Safety and Security) of the General Terms;

[Instructions: select one of the following two clauses but not both:
 - 2.1.2. clause 23.2 (Dispute Resolution: Arbitration) of the General Terms; *[Instructions: this is suited to larger transactions and is a more complex dispute resolution mechanism]*

2.1.3. clause 23.3 (Dispute Resolution: Courts) of the General Terms; *[Instructions: this dispute resolution mechanism may be suited for smaller transactions]*

(the “**Excluded Provisions**”) shall not form part of this Agreement and shall not bind the Parties.

2.2. Save for the Excluded Provisions, the remaining provisions of the General Terms shall continue to form part of this Agreement.

3. INTERPRETATION

3.1. Save for the Excluded Provisions in terms of clause 2.1, this Specific Terms shall be read with, and shall at all times be subject to, the provisions of the General Terms unless if expressly agreed otherwise in the General Terms.

3.2. In this Specific Terms, words and expressions not otherwise defined in the Specific Terms shall bear the meanings assigned to them as set forth in the General Terms.

3.3. Unless the context indicates a contrary intention, the following words and expressions shall bear the meanings set out below:

3.3.1. “**Agreement**” shall mean this supply agreement comprising the Specific Terms, the General Terms and any schedules and/or annexures attached hereto;

3.3.2. “**AMSA Contract Representative**” means [•] or such other person as AMSA may nominate by written notice to the Contractor; *[Instructions: The name of the representative may be inserted or the designation of the AMSA official that will be the representative]*

3.3.3. “**AMSA Premises**” means the premises and/or sites of AMSA at [•] or such other areas as may be set out in a Purchase Order; *[Instructions: Insert description]*

3.3.4. “**Commencement Date**” means, notwithstanding the Signature Date, [•]; *[Instructions: Insert the Commencement Date. It must be noted that this may occur before or after the Signature Date]*

[Instructions: Choose the appropriate definition of the Contractor below. Alternative variations of the Contractor may be required depending on the form of business enterprise of the Contractor concerned]

3.3.5. “**Contractor**” means [•] a company duly registered in [insert country] with registration number [•] and having its physical address: [•]; postal address: [•]; telefacsimile [•]; and email: [•] (marked for the attention of [insert]);
OR

3.3.6. “**Contractor**” means [•] a close corporation duly registered in [insert country] with registration number [•] and having its physical address: [•]; postal address: [•]; telefacsimile [•]; and email: [•] (marked for the attention of [•]); OR

3.3.7. “**Contractor**” means [•] a [partnership/joint venture] trading in [insert country] and having its physical address: [•]; postal address: [•]; telefacsimile [•]; and email: [•] (marked for the attention of [•]); OR

3.3.8. “**Contractor**” means [•], an adult [male/female] with the identity number/passport number: [•] and having his/her physical address: [•]; postal address: [•];

telefacsimile [•]; and email: [•] (marked for the attention of [•];

3.3.9. “**Delivery Date**” means the agreed date of delivery, stipulated in each Purchase Order, for delivery of the Goods concerned by the Contractor to AMSA;

3.3.10. “**General Terms**” means the general terms and conditions of this Agreement, set out in Schedule A hereto but excludes the Excluded Provisions;

3.3.11. “**Goods**” means the goods set out in **Annexure A**; *[Instructions: list Goods in Annexure B]*

3.3.12. “**Initial Period**” means the period commencing on the Commencement Date and expiring *[Instructions: insert the one of the following options [[•] [months/years] thereafter] / on the last day of the [•] month thereafter; on [the [•] anniversary of the Initial Period] / on [insert date];*

3.3.13. “**Point of Delivery**” means the point of delivery, at the AMSA Premises, and specified in the Purchaser Order;

3.3.14. “**Price**” means the price of the Goods, excluding VAT, specified in the schedule of rates set out in **Annexure B**; *[Instructions: Insert the rates in Annexure B, which must be exclusive of VAT]*

3.3.15. “**Quality Control Plan**” means the documentation detailing the manufacturing process by which manufacturing work of the Goods is carried out by the Contractor and mutually accepted by both Parties;

- 3.3.16. **"Signature Date"** means the date of signature of this Agreement by the Party signing last, provided that both Parties sign this Agreement;
- 3.3.17. **"Specifications"** means the quality, quantity and other specifications of the Goods as set out in **Annexure C** hereto;
- 3.3.18. **"Specific Terms"** means this document containing the specific terms and conditions of this Agreement;
- 3.3.19. **"Termination Date"** means [•]; and *[Instructions: insert the date on which the Agreement is scheduled to terminate. Note, however, the Agreement may be terminated earlier in accordance with clause 6 below]*
- 3.3.20. **"Total Cost of Ownership"** or **"TCO"** means the total cost of owning the Goods and comprises more than just the Price of such Goods including, but not limited to, the cost of inventory, distribution, administration and waste removal.

4. APPOINTMENT AND ACCEPTANCE

- 4.1. AMSA hereby appoints, on a non-exclusive basis, the Contractor to supply and deliver the Goods and the Contractor hereby accepts such appointment, subject to the terms and conditions of this Agreement.
- 4.2. AMSA shall under no circumstances be held accountable for any costs incurred by the Contractor in supplying the Goods or otherwise. Without limiting the generality of the foregoing, AMSA shall not be liable for any expenses incurred by the Contractor in acquiring any equipment or material or appointing any Contractor Personnel or other persons in order

to give effect to this Agreement, unless specifically stated otherwise in this Agreement.

- 4.3. The Contractor is appointed as an independent contractor and not as an agent, employer, employee or partner of AMSA. The Contractor has no authority to hold itself out to be the agent, employer, employee or partner of AMSA and/or to bind AMSA to any contract or obligation of any nature whatsoever.

5. DURATION OF THE CONTRACT

- 5.1. Notwithstanding the Signature Date, this Agreement shall commence on the Commencement Date and shall subsist for the duration of the Initial Period, unless terminated earlier or renewed in accordance with the provision of this Agreement.
- 5.2. AMSA shall be entitled, in its absolute discretion, to renew the Agreement for a further period/s (the "**Renewal Period**") by giving written notice to the Contractor (the "**Renewal Notice**") not less than [•] Business Days before the expiry of the Initial Period and/or any immediately preceding Renewal Period, which Renewal Notice shall indicate the duration of the Renewal Period concerned, failing which the duration shall be equal to the duration of the immediately preceding Renewal Period or, if there is no preceding Renewal Period, the Initial Period.

[Instructions: The following clauses are in the alternative:

[For clause 9, the following clause must be used if there is no price adjustment despite renewal and no other amendments:

- 5.3. The remaining terms and conditions applicable to the Renewal Period (the "**Specified Renewal Period**") shall, *mutatis mutandis*, be the same as those contained in this Agreement.

[The Price Adjustment clauses 10, 11, 12 deal with the Price Adjustment following the Initial Period. There the following clause must be used.

5.4. The remaining terms and conditions applicable to the Renewal Period (the “**Specified Renewal Period**”) shall, *mutatis mutandis*, be the same as those contained in this Agreement, save that the Price shall be subject to a Price Adjustment in accordance with clause [10, 11, 12] *[Instructions: insert the appropriate option]*.

[The Price Adjustments clause 9 do not deal with a Price Adjustment following the Initial Period since they regulate shorter periods only (ie price periods within the duration of the Agreement]. In these cases, one of the following clauses must be selected if the Agreement will still be subject to a Renewal after the Initial Period:

5.5. The remaining terms and conditions applicable to the Renewal Period (the “**Specified Renewal Period**”) shall, *mutatis mutandis*, be the same as those contained in this Agreement, save that the Parties shall, not less than [•] months before the expiry of the Initial Period or the immediately preceding Renewal Period, whichever is later, agree on an amended Price that shall apply for the Specified Renewal Period by concluding an Agreement Modification. OR

5.6. The remaining terms and conditions applicable to the Renewal Period (the “**Specified Renewal Period**”) shall, *mutatis mutandis*, be the same as those contained in this Agreement, save that the Price (that was for the Initial Period or the immediately preceding Renewal Period, whichever is later) shall be subject to a Price Adjustment at the rate of **[insert rate]**.

6. EARLY TERMINATION

Notwithstanding clause 5, AMSA shall be entitled, at its sole and absolute discretion, to terminate this Agreement on not less than [●] ([●]) months' written notice of termination to the Contractor. In such event, AMSA shall only be liable to the Contractor for any amounts due and payable, or which have accrued by virtue of the Contractor having supplied the Goods. *[Instruction: Insert notice period for termination of this Agreement]*

7. BBBEE

For purposes of the BBBEE provisions contained in the General Terms, it is agreed that:

7.1. the Initial Level of the Contractor shall be [insert]; and *[Insert the initial BBBEE compliance level of the Contractor]*.

7.2. the Targeted Level of the Contractor shall be [insert]. *[Insert the targeted BEE compliance level that the Contractor must satisfy]*.

8. COMPLIANCE WITH SPECIFICATIONS

8.1. The Goods supplied by the Contractor must conform to the Specifications. AMSA shall have the right to test the Goods for compliance with the relevant Specifications. Should any of the supplied Goods (at any time after delivery) not conform with the Specifications then:

8.1.1. the Contractor shall be liable for non-conformance with the Specifications;

8.1.2. AMSA shall be entitled to down grade and/or reject the Goods in terms of clause 8.2; and/or

- 8.1.3. the Contractor shall be liable for any costs incurred for any such testing and/or rejection of the said Goods.
- 8.2. Should the Goods supplied by the Contractor not conform to the Specifications, AMSA shall be entitled to reject the Goods delivered by the Contractor for reasons included but not limited to the failure to conform with the Specifications, following which AMSA shall:
 - 8.2.1. notify the Contractor of its rejection in writing and provide reasons therefore; and
 - 8.2.2. request the Contractor, at its own cost, to collect and replace the rejected Goods within [•] ([•]) hours, failing which AMSA shall discard/destroy the Goods and withhold any due payment, claim damages and/or payment from the Contractor for the cost thereof, without prejudice to any other remedies AMSA may have. *[Instructions: AMSA to insert the period for collection depending on the type of goods]*
- 8.3. The Contractor hereby warrants and undertakes:
 - 8.3.1. that all warranties and/or guarantees (which it has in respect of, or attached to, the Goods) against the original supplier and/or manufacturer thereof shall be ceded and assigned to AMSA, provided that any such cession and assignment shall not release the Contractor from any liability in respect of the Goods or any obligations in terms of this Agreement;
 - 8.3.2. AMSA shall be entitled to enforce any such warranty and/or guarantee accordingly against the original supplier and/or manufacturer thereof; and

8.3.3. to the extent that such cession and assignment require the original supplier and/or manufacture to be notified of, and/or consent to, the cession and assignment, such notification and consent shall be obtained by the Contractor.

[Instructions: The following clause to be used for a) fixed price for initial period; b) no price adjustments thereafter]

9. **[PRICE AND PRICE ADJUSTMENTS**

9.1. The Price is determined in accordance with the schedule of rates set out in **Annexure B**.

9.2. The Price shall not be subject to a Price Adjustment in accordance with the General Terms.

[Instructions: The following clause to be used for a) fixed price for initial period; b) price adjustments by negotiations]

10. **PRICE AND PRICE ADJUSTMENTS**

10.1. The Price is determined in accordance with the schedule of rates set out in **Annexure B**.

10.2. The Price shall apply for the Initial Period.

10.3. After the Initial Period, the Price shall only be subject to a Price Adjustment if the Parties:

10.3.1. negotiate and agree on the amount of the Price Adjustment in accordance with clause 16; and

10.3.2. conclude an Agreement Modification recording the Price Adjustment.

10.4. Notwithstanding the foregoing, the maximum amount of the

Price Adjustment increase will be limited to [•]. ***[Instructions: This clause is optional]***

[Instructions: The following clause to be used for: a) fixed price for the initial period; b) price adjustment at a specific rate]

11. PRICE AND PRICE ADJUSTMENT

11.1. The Price is determined in accordance with the schedule of rates set out in **Annexure B**.

11.2. The Price shall apply for the Initial Period.

11.3. After the Initial Period, the Price shall be subject to a Price Adjustment at the rate of [•] (the “Escalation Rate”).

11.4. The maximum amount of the Price Adjustment will be limited to [•]. ***[Instructions: This clause is optional]***

11.5. Notwithstanding the foregoing, the Price Adjustment shall only be effective if the Parties conclude an Agreement Modification recording the Price Adjustment.

[The following clause to be used for [a) fixed price for the initial period; b) price adjustment by a formula]

12. PRICE AND PRICE ADJUSTMENT

12.1. The Price is determined in accordance with the schedule of rates set out in **Annexure B**.

12.2. The Price shall apply for the Initial Period.

After the Initial Period, the Price shall be subject to a Price Adjustment in accordance with the formula set out in **Annexure B** (the “Price Adjustment Formula”).

12.3. For purposes of calculating the Price Adjustment Formula:

12.3.1. the Commencement Date will be used as the base date. Thereafter the date of the last Price Adjustment will become the base date for calculating the next Price Adjustment;

12.3.2. if this Agreement is pursuant to a RFP, the first Price Adjustment shall be determined with the information, indices and documentary proof used in the Contractor Proposal as the base. For subsequent Price Adjustments, the information, indices and documentary proof used at the immediately preceding Price Adjustment will become the base for the subsequent Price Adjustment.

12.4. The maximum amount of the Price Adjustment will be limited to [•]. ***[Instructions: This clause is optional]***

12.5. Notwithstanding the foregoing, the Price Adjustment shall only be effective if the Parties conclude an Agreement Modification recording the Price Adjustment.

[The following clause to be used for: a) fixed price for a period that is shorter than the initial period; b) price adjustments by negotiations]

13. PRICE AND PRICE ADJUSTMENTS

13.1. The Price shall apply for a period from the Commencement Date and shall continue to apply for a period of [•] ([•]) ***[insert months/years]*** thereafter (the “**Initial Price Period**”).

13.2. Notwithstanding the foregoing, the Price Adjustment shall only be effective if the Parties:

13.2.1. negotiate and agree on the amount of the Price Adjustment in accordance with clause 16; and

13.2.2. conclude an Agreement Modification recording the Price Adjustment.

[The following clause to be used for (a) fixed price for a period that is shorter than the initial period; b) price adjustment at a specific rate]

14. PRICE AND PRICE ADJUSTMENT

14.1. The Price shall apply for a period from the Commencement Date and shall continue to apply for a period of [•] ([•]) *[insert months/years]* thereafter (the “**Initial Price Period**”).

14.2. After the Initial Price Period, the Price shall be subject to a Price Adjustment at the rate of [•] (the “**Escalation Rate**”).

14.3. The maximum amount of the Price Adjustment will be limited to [•]. ***[Instructions: This clause is optional]***

14.4. Notwithstanding the foregoing, the Price Adjustment shall only be effective if the Parties conclude an Agreement Modification recording the Price Adjustment.

[The following clause to be used for (a) fixed price for a period that is shorter than the initial period, b) price adjustment by a formula]

15. PRICE AND PRICE ADJUSTMENT

15.1. The Price shall apply for a period from the Commencement Date and shall continue to apply for a period of [•] ([•]) *[insert months/years]* thereafter (the “**Initial Price Period**”).

15.2. After the Initial Price Period, the Price shall be subject to a Price Adjustment in accordance with the formula set out in

Annexure B (the "Price Adjustment Formula").

15.3. For purposes of calculating the Price Adjustment Formula:

15.3.1. the Commencement Date will be used as the base date. Thereafter the date of the last Price Adjustment will become the base date for calculating the next Price Adjustment;

15.3.2. if this Agreement is pursuant to a RFP, the first Price Adjustment shall be determined with the information, indices and documentary proof used in the Contractor Proposal as the base. For subsequent Price Adjustments, the information, indices and documentary proof used at the immediately preceding Price Adjustment will become the base for the subsequent Price Adjustment.

15.4. The maximum amount of the Price Adjustment will be limited to [•]. ***[Instructions: This clause is optional]***

15.5. Notwithstanding the foregoing, the Price Adjustment shall only be effective if Parties conclude an Agreement Modification recording the Price Adjustment.

[Instructions: The following clause shall only apply to negotiated Price Adjustments in terms of clauses 10 and 13 and must be deleted if neither of these clauses are used]

16. NEGOTIATED PRICE ADJUSTMENTS

16.1. Any Price Adjustment shall be conducted in accordance with the following provisions:

16.1.1. applications for Price Adjustments shall be submitted by either Party not less than 30 (thirty) days prior to the

requested effective date of such adjustment. All Price Adjustment applications must be accompanied by a covering request letter to the other Party containing the following minimum information:

16.1.1.1. agreement reference number;

16.1.1.2. price adjustment requested;

16.1.1.3. motivation for adjustment; and

16.1.1.4. any documentation substantiating the Price adjustments requested.

16.2. If the application, together with the necessary documentary evidence, is not received in due time, the existing Prices shall remain in force and effect.

16.3. Any Price Adjustment in terms of this clause 16 shall only be valid and enforceable if an Agreement Modification is concluded by the Parties.

16.4. Should the Parties be unable to reach an agreement on any Price Adjustments, AMSA shall be entitled to reject the Services at such adjusted Price.

17. PAYMENT AND INVOICING

17.1. The Contractor shall ensure that all original tax invoices must be received by AMSA at its physical address stipulated in clause 25 of the General Terms on or before the Business Day of each month, with the first invoice being issued in the same month in which the Goods were delivered to AMSA.

17.2. Payment for such invoice will be effected on the [•] ([•]) Business Day *[insert number of days]* of the [•] ([•]) month after the Goods delivered have been processed on the SAP software solutions or other software programmes used by AMSA.

17.3. The Contractor acknowledges that, should an invoice be received by AMSA after the 7th (seventh) Business Day of a month, such invoice shall be treated as if was received in the following month and payment may be delayed accordingly.

18. PURCHASE ORDERS

18.1. Purchase Orders and requests for Price Adjustments under this Agreement shall be in accordance with the provisions of the General Terms and will be placed with the Contractor at the following Contractor's ordering details:

Fax No.: _____

E-mail: _____

18.2. It shall be the responsibility of the Contractor to update the above information accordingly with AMSA's Vendor Management Department.

[Instructions: The following Substitution of Goods clause must only be included if applicable]

19. [SUBSTITUTION OF GOODS

19.1. AMSA or the Contractor may submit a request to the other Party to substitute the Goods with other similar or generic goods.

19.2. If the request to substitute in accordance with clause 19.1 is made by the Contractor, then the Goods may only be substituted if:

19.2.1. AMSA was provided with notice, to its satisfaction, of the quality and standard of the substituting Goods in order to enable AMSA to make an informed decision on whether to consent to the request for substitution; and

19.2.2. the prior written consent of AMSA, exercisable at its sole discretion, is obtained.

19.3. In the event that AMSA consents, then the Goods must forthwith be substituted with the substituted Goods.

19.4. It is a specific condition that any substitution of the Goods will not place AMSA in a worse off position, as determined by AMSA in its sole discretion, including, but not limited to, any warranties against any original suppliers or manufacturers in terms of clause 8.2.2 or the quality of the substituted Goods.

19.5. Upon substitution of the Goods with substituted Goods, the substituted Goods shall be deemed, for purposes of the remaining provisions of this Agreement, to constitute the Goods and the provisions of this Agreement shall *mutatis mutandis* apply to the substituted Goods.]

20. DELIVERY

20.1. All Goods shall be delivered to the Point of Delivery and at the date and time specified in the Purchase Order in accordance with the delivery schedule set out in **Annexure D** hereto. Normal deliveries to AMSA will only be accepted on Business Days between 08:00 to 15:00.

20.2. If delivery is required outside the hours provided for in clause 20.1 above, the delivery must be executed to the same Point of Delivery as specified on the Purchase Order by prior arrangement.

20.3. All deliveries must be accompanied by at least the following documentation:

20.3.1. Copy of the Purchase Order; and

20.3.2. Delivery note stipulating:

20.3.2.1. Purchase Order Number;

20.3.2.2. Material numbers of the Goods;

20.3.2.3. Description of the Goods; and

20.3.2.4. Quantity of the Goods;

20.3.2.5. Materials test certificates, where applicable;

20.3.2.6. Quality Control Plan, where applicable; and

20.3.2.7. Material safety data sheet in respect of the Goods where applicable.

20.4. Should any of the documentation listed in clause 20.3 above not accompany delivery of the Goods concerned, AMSA shall, at its sole discretion, be entitled to accept or reject the Goods delivered. Should AMSA elect to:

20.4.1. reject the Goods delivered, the Goods shall be returned to the Contractor, at the Contractor's cost;

20.4.2. accept the Goods delivered, the Contractor shall be required, within [48 (forty eight)] hours of delivery, to

provide AMSA with the outstanding documentation concerned.

20.5. In the event of the Contractor over-supplying Goods (the “**Over-Supplied Goods**”) from the quantity that was initially specified in the Purchase Order (the “**Ordered Goods**”), AMSA shall, in its sole discretion, be entitled to accept the Ordered Goods and either accept or refuse to accept (wholly or in part) the Over-Supplied Goods. Provided that:

20.5.1. any Over-Supplied Goods not accepted by AMSA must be removed within 48 (forty eight) hours by the Contractor from the AMSA Premises at the Contractor's own cost and AMSA shall not be liable for any costs or risks whatsoever related to such Over-Supplied Goods that AMSA has refused to accept; and

20.5.2. AMSA shall not be liable for any costs or risks whatsoever related to the storage of the Over-Supplied Goods that may (at any time) be stored on the AMSA Premises.

20.6. In the event of the Contractor under-supplying Goods (the “**Under-Supplied Goods**”) from the quantity that was initially specified in the Purchase Order (the “**Ordered Goods**”), AMSA shall, in its sole discretion, be entitled to either accept or refuse to accept the Under-Supplied Goods. Provided that:

20.6.1. the Under-Supplied Goods not accepted by AMSA must be removed within 48 (forty eight) hours by the Contractor from the AMSA Premises at the Contractor's own cost and AMSA shall not be liable for any costs or risks whatsoever related to such Under-Supplied Goods that AMSA has refused to accept; and

20.6.2. AMSA shall not be liable for any costs or risks whatsoever related to the storage of the Under-Supplied Goods that may (at any time) be stored on the AMSA Premises.

20.7. AMSA shall not in any way be obliged to accept deliveries of alternative goods offered in substitution of, or to replace Goods specified on the Purchase Order, unless such Goods are supplied in accordance with the provisions of clause **Error! Reference source not found.** or clause 18 above.

20.8. The Goods shall be deemed delivered and accepted upon inspection and receipt thereof and signature by AMSA in writing to signify its acceptance. For the avoidance of any doubt, the signing of the delivery note by or on behalf of AMSA shall not mean that the Goods have been accepted as compliant with the Purchase Order or Specifications.

20.9. The Contractor shall at all times maintain sufficient inventory of the required Goods at its premises as per any agreed or forecasted quantities of Goods that AMSA may require during this Agreement. These forecasts shall not be binding on AMSA and are for estimate purposes and to assist the Contractor to keep the necessary inventory of Goods in terms of this clause.

[Instructions: this Drawings clause will only apply where the Goods have been custom designed. The clause shall not apply to "over the counter" Goods that are not custom designed for AMSA. Please delete if not applicable.]

21. [DRAWINGS

21.1. Submission of drawings for approval where applicable -

- 21.1.1. Prior to the manufacture, supply or construction of any part of the Goods, for which a drawing is required and such a drawing is not made available by AMSA, the Contractor shall submit its available drawings of such items for approval to AMSA in the form and quantity specified in the Purchase Order.
- 21.1.2. Any part of the Goods which is manufactured, supplied, imported or constructed prior to the approval of the relevant drawing by AMSA, may be rejected by AMSA and in such case the Contractor shall, at its own expense, re-manufacture, re-supply, re-construct or modify such part to conform with the relevant drawing as then approved by AMSA.
- 21.1.3. The approval of drawings shall in no way exonerate the Contractor from its contractual obligations to execute the Purchase Order in accordance with the Agreement and to guarantee delivery of the Goods free from any defect.
- 21.1.4. Proposed alterations and/or modifications to the Goods per Purchase Order either in the design or construction stage, shall be covered by formal revisions to the original drawings submitted for approval and such revisions shall be submitted by the Contractor, at its own expense, to AMSA for approval as provided for above.
- 21.1.5. The Contractor shall be responsible for verifying all dimensions and co-ordinates reflected on any drawings supplied by AMSA.

21.1.6. The Contractor shall deliver to AMSA, within 30 (thirty) days, or as stipulated in the Agreement after the Delivery Date, all final “**As Built**” documentation of the Purchase Order as executed and shall certify that they include all corrections and/or modifications made during the course of the Agreement and that a complete, final list of drawings with titles and latest revisions have been supplied.

21.2. AMSA's right to use the drawings:

21.2.1. Notwithstanding anything contained in this Agreement to the contrary, AMSA shall have the right at no charge to use and/or issue some or all the drawings supplied by the Contractor in terms of the Agreement to third parties for the purpose of maintenance, repairs, replacements, modernization, refurbishments, upgrading and renewals, obtaining competitive tenders for and ordering of spare parts and to manufacture or to have spares manufactured for the Goods;

21.2.2. By its signature hereto, the Contractor cedes its rights in and to any copyright in drawings of the Contractor, to AMSA, for the above purposes; and

21.2.3. The Contractor shall supply full item descriptions, part reference numbers, names of producers, suppliers or manufacturers, spare part prices and general arrangement drawings in respect of Goods.]

22. RISK AND OWNERSHIP

Subject to the provisions of clause 20, all risk to and ownership of the Goods shall pass from the Contractor to AMSA upon inspection, delivery by the Contractor, acceptance of the Goods and the signing of the delivery note of the Goods by an authorised person on behalf of AMSA signifying AMSA's acceptance at the Point of Delivery. For the avoidance of any doubt, the signing of the delivery note by or on behalf of AMSA shall not mean that the Goods have been accepted as compliant with the Purchase Order or Specifications.

23. PACKAGING

23.1. The Contractor shall ensure that the Goods are packaged in accordance with applicable laws, and per instructions on the Purchase Order. If no instructions are in the Purchase Order, the Contractor shall meet the packaging standards as are customary in its industry to ensure the adequate protection of the Goods and to eliminate all damage during transportation and storage.

23.2. Unless otherwise agreed to by the Contractor and AMSA in writing, packaging materials shall be deemed to be included in the Price and shall remain the property of AMSA.

23.3. The acceptance by AMSA of any replacement Goods for any Goods that may have been damaged or destroyed shall in no way preclude it from exercising its rights to claim damages for any damage suffered by it as a result of negligent packaging or for any other reason relating to the packaging of the Goods.

23.4. The Contractor shall specify and/or make available environmentally friendly procedures/methods to discard used packaging where applicable.

23.5. If AMSA cannot discard the packaging for whatever reason, AMSA may return the packaging to the Contractor without the Contractor claiming any cost from AMSA.

24. THE CONTRACTOR'S GENERAL OBLIGATIONS

The Contractor shall:

24.1. observe all directions and instructions given to the Contractor by AMSA in relation to the provision of the Goods;

24.2. comply with all reasonable written requests of AMSA from time to time, it being recorded that AMSA shall provide the Contractor with all necessary information and data required by the Contractor to discharge its obligations under the Agreement. It is the responsibility of the Contractor to request from AMSA information relevant to the carrying out of its obligations under this Agreement;

24.3. comply and agrees to procure that the Contractor's Personnel comply with all of the provisions of applicable policies of AMSA in regard to fraud, anti-bribery, conflict of interest declaration and corruption;

24.4. in performing the Services, uphold and promote the reputation and image of AMSA;

24.5. at its own expense obtain any authorisation and carry out its obligations necessary for the supply of the Goods in terms of this Agreement;

- 24.6. report to AMSA in writing as may from time to time be reasonably required;
- 24.7. in all matters, act in good faith towards AMSA and to work cooperatively and constructively with AMSA's representatives and employees; and
- 24.8. not offer, give or agree to any person in the service of AMSA or any member of their family or any person claiming to act on behalf of any such person, any gifts or consideration of any kind as an inducement or reward for doing or for bearing to do or for having done or forborne to do acts in relation to the obtaining or execution of the Agreement.

[The following confidentiality clause is optional if there is a need for Contractor's Personnel, etc to sign confidentiality undertakings:]

25. [ADDITIONAL CONFIDENTIALITY UNDERTAKINGS

Notwithstanding the confidentiality undertaking contained in the General Terms, the Contractor shall ensure that any Contractor's Personnel or other third parties who may require or be exposed to the Confidential Information shall have signed a confidentiality agreement which contains no less favourable terms than those set out in this Agreement (including the confidentiality undertakings contained in the General Terms) and which agreement must be approved by AMSA.]

[The following clause will only be included if additional insurance cover is required for the specific Agreement, in addition to the cover contemplated in the General Terms.

26. [ADDITIONAL INSURANCE COVER

26.1. Without limiting the generality of the provisions of the General Terms, in particular clause 12 thereof, it is agreed that, in addition to insurance cover contemplated in clause 12 of the General Terms, the Contractor shall have and maintain at its sole cost and expense throughout the term of this Agreement, the following types of insurance cover:

26.1.1. [insert];

26.1.2. [insert],

(collectively the "**Additional Insurance Cover**") from a reputable insurance company approved by AMSA in writing and shall list AMSA as an additional insured party. Such Additional Insurance Cover shall be in the amount of not less than R [insert].

26.2. The remaining provisions of clause 12 of the General Terms shall, *mutatis mutandis*, apply to the Additional Insurance Cover.]

27. PENALTIES

[Instructions: the following two clauses are in the alternative:

[Alternative 1: Agreed Liquidated Damages]

27.1. [Notwithstanding any other remedy that may be available to AMSA, if the Contractor fails to deliver the Goods or a part thereof by the Delivery Date stated in the Purchase Order concerned, AMSA shall, at its discretion, be entitled to deduct from the due Price liquidated damages equal to **[1% (one percent)] for every full day that the Goods are delivered late, up to a maximum of [10% (ten percent)] of the total Price due.]**

[Instructions: The 10% (ten percent) figure is a guideline and may vary depending on the Goods supplied.]

[Alternative 2: Proven Damages and/or Specific Performance]

27.2. [Notwithstanding any other remedy that may be available to AMSA, if the Contractor fails to deliver the Goods or a part thereof by the Delivery Date stated in the Purchase Order concerned, AMSA shall be entitled to claim either specific performance, and/or to cancel the Purchase Order concerned, and/or claim damages for loss suffered by AMSA as a consequence of such failure.]

28. SPECIFIC WARRANTIES

The Contractor hereby warrants that:

28.1. the Goods shall:

28.1.1. be fit for the purposes for which they were supplied to AMSA; and

28.1.2. otherwise comply, and/or perform, in accordance with the Specifications;

28.2. the Goods shall not be patently or latently defective;

28.3. the Goods shall suit AMSA's business purposes and Specifications;

28.4. it shall advise and assist with respect to all aspects of the Goods and in the performance of such duty the Contractor shall comply with all reasonable requests and/or directions of AMSA;

28.5. it possesses all licences and permits that are required by law and are necessary to supply the Goods and that all such

licenses and permits will be in effect for the term of the Agreement and any extension thereof; and

28.6. it has the ability, experience, expertise and skills necessary to supply the Goods. For the avoidance of doubt, the Contractor shall use all reasonable skill and care, to a standard to be reasonably expected from a first class and professional firm and supplier of the Goods, at all times in performing all its obligations under the Agreement.

29. GUARANTEES

29.1. If the Goods become defective within a *[insert months/year]* period from the Delivery Date or actual date of delivery (fair wear and tear excluded), the Contractor shall, at its own cost, replace or remove such Goods within a reasonable time of being notified thereof and being requested to do so, and if removed, issue AMSA with a credit note for the full purchase price of those Goods or, if requested by AMSA, refund the full purchase price. AMSA shall furthermore be entitled to claim any and all damages incurred by it as a result of the defective Goods. In such circumstances, AMSA shall be entitled to terminate any other Purchase Orders placed on the Contractor.

29.2. If the Contractor fails to remove the defective Goods within a reasonable time upon request of AMSA, AMSA may remove such Goods at the cost of the Contractor.

29.3. The Contractor's delivery reliability shall be monitored on a monthly basis. A delivery reliability of at least *[95%]* per month will be required. If a delivery reliability is below the target for a specific month the Contractor may be warned in writing and if the performance does not improve, a second warning in

writing will be issued by AMSA, where after AMSA reserves the right to cancel the Agreement with immediate effect.

30. CONTINUOUS IMPROVEMENT

30.1. The Contractor and AMSA will jointly and continually examine the operations at AMSA for opportunities to improve on the Total Cost of Ownership in terms of Specifications, technology, operations, procedures and management of the Goods to reduce the cost of the Goods.

30.2. The Contractor and AMSA will be jointly responsible for the following:

30.2.1. recommendations and correction of the Goods' descriptions and Specifications;

30.2.2. reduction of AMSA's stock levels; and

30.2.3. optimisation of the Goods' performance.

30.3. This Agreement shall further form part of an integrated process as provided for hereunder in terms of which the Contractor shall envisage AMSA's goals as its own.

31. AUTHORITY

Each person signing this Agreement for and on behalf of a Party hereto hereby warrants in his/her personal capacity that he/she is duly authorised by such a Party to do so.

32. SIGNATURE

Signed at _____ this _____ day of
_____ 20____.

As witnesses:

**ARCELORMITTAL SOUTH AFRICA
LIMITED**

1 _____

2 _____

Signed at _____ this _____ day of
_____ 20____.

As witnesses:

[THE CONTRACTOR]

1 _____

2 _____

SCHEDULE A: WRITTEN CONTRACT ON OCCUPATIONAL HEALTH AND SAFETY

1. Reporting

The **Contractor** and/or its designated person appointed in terms of Section 16(2) of the Occupational Health and Safety Act, Act No 85 of 1993 (the "OHS Act") shall report to **ArcelorMittal South Africa** prior to commencing with the **Works** at the **Plant**.

2. Warranty of compliance

2.1. The **Contractor** warrants that it agrees to the arrangements and procedures as prescribed by **ArcelorMittal South Africa** and as provided for in terms of Section 37(2) of the OHS Act for the purposes of compliance with the OHS Act.

2.2. The **Contractor** acknowledges that this written **Contract** on occupational health and safety constitutes an agreement in terms of Section 37(2) of the OHS Act, whereby all responsibility for health and safety matters relating to the work that the **Contractor** is to perform on the **Plant** shall be the obligation of the **Contractor**.

2.3. The **Contractor** further undertakes to maintain such compliance with the OHS Act. Without derogating from the generality of the above, nor from the provisions of the **Contract**, the **Contractor** shall ensure that the clauses as hereunder described and the OHS Act are at all times adhered to.

2.4. The **Contractor** hereby undertakes to ensure that the health and safety of any other person on the **Plant** is not endangered by its conduct and/or activities while on the **Plant**.

3. Mandatory and employer

The **Contractor** shall be deemed to be an employer in its own right while on the Plant in terms of Section 16(1) of the OHS Act, the **Contractor** shall accordingly ensure that the requirements of the OHS Act are complied with by itself and/or its nominated Chief Executive Officer.

4. Appointments and training

- 4.1. The **Contractor** shall appoint competent persons as per Section 16(2) of the OHS Act. Any such appointed person shall be a competent person sufficiently experienced in the work to be performed and shall be trained on any occupational health and safety matter and the OHS Act provisions pertinent to the work that is to be performed under his responsibility. Copies of any appointments made by the **Contractor** shall immediately be provided to **ArcelorMittal South Africa** and shall clearly set out the qualifications and previous experience of such persons to be appointed.
- 4.2. In as much as the appointment of such persons does not relieve **ArcelorMittal South Africa** of its responsibility in terms of the OHS Act, the **Contractor** will, in addition to its own responsibility under such legislation, be required to carry out any instruction of **ArcelorMittal South Africa**.
- 4.3. The appointed persons shall not at the same time be in charge of any other work, unless the **Site** on which such other work is to be performed is in close proximity to the **Site** of the **Works** provided that the necessary permission has been obtained in terms of the applicable legislation.
- 4.4. The appointed persons shall also be responsible for the work, if any, to be carried out by any sub-contractors.
- 4.5. As soon as the **Contractor** becomes aware that its appointed person is likely to be absent from the Plant for a period of more than 4 (four) days, the **Contractor** shall immediately notify **ArcelorMittal South Africa** and nominate a suitable person to act during such absence. If the period of absence exceeds or is expected to exceed 30 (thirty) days, the **Contractor** shall immediately take steps to nominate a person for appointment in the place of the principal appointee for the period of such absence.
- 4.6. The **Contractor** shall further ensure that all its employees are trained on the health and safety aspects relating to the work and that they understand the hazards associated with such work being carried out on the **Plant**. Without derogating from the foregoing, the **Contractor** shall, in particular, ensure that all its users or operators of any goods or the **Contractor's** equipment are properly trained in the use of such goods and the **Contractor's** equipment.
- 4.7. Notwithstanding the provisions of the above, the **Contractor** shall ensure that it, its appointed responsible persons and its employees are at all times familiar with the provisions of the OHS Act, and that they comply with the provisions of the OHS Act.

5. Provisions, discipline and reporting

- 5.1. The **Contractor** shall ensure that all work performed on the **Plant** are done under strict supervision and that no unsafe or unhealthy work practices are permitted. Discipline regarding health and safety matters shall be strictly enforced by the **Contractor** against any of its employees regarding non-compliance by such employee with any health and safety matters.
- 5.2. The **Contractor** shall further ensure that its employees report to it all unsafe or unhealthy work situations immediately after they become aware of the same and that it in turn immediately reports these to **ArcelorMittal South Africa**.

6. Access to the OHS Act

The **Contractor** shall ensure that it has an updated copy of the OHS Act on **Site** at all times and that this is accessible to its appointed, responsible persons and employees, save that the **Parties** may make arrangements for the **Contractor** and its appointed, responsible persons and employees to have access to **ArcelorMittal South Africa** copy/copies of the Act.

7. Co-Operation

- 7.1. The **Contractor** and/or its responsible persons and employees shall provide full co-operation and information if and when **ArcelorMittal South Africa** inquiries into occupational health and safety issues concerning the **Contractor**. It is hereby recorded that **ArcelorMittal South Africa** shall at all times be entitled to make such inquiry.
- 7.2. Without derogating from the generality of the above, the **Contractor** and its responsible persons shall make available to **ArcelorMittal South Africa**, on request, all and any checklists and inspection registers required to be kept by it in respect of any of the goods or the **Contractor's** equipment.

8. Work procedures

- 8.1. The **Contractor** shall be entitled to utilise the procedures, guidelines and other documentation as used by **ArcelorMittal South Africa** for the purposes of ensuring a healthy and safe working environment. The **Contractor** shall then ensure that its responsible persons and employees are familiar with and utilise the documents.
- 8.2. The **Contractor** shall implement safe work practices as prescribed by **ArcelorMittal South Africa** and shall ensure that its responsible persons and employees are made conversant with and adhere to such safe work practices.

8.3. The **Contractor** shall ensure that work for which, a permit is required by **ArcelorMittal South Africa** is not performed by its employees prior to the obtaining of such permit.

9. Health and safety meetings

1.If required in terms of the OHS Act, the **Contractor** shall establish its own health and safety committee(s) and ensure that its employees, being the committee members, hold health and safety meetings as often as may be required and at least every 3 (three) months. **ArcelorMittal South Africa** may elect to permit the **Contractor's** health and safety representatives to attend **ArcelorMittal South Africa** health and safety committee meetings.

10. Compensation registration

2.The **Contractor** shall ensure that it has a valid registration with the Compensation Commissioner, as required in terms of the Compensation for Occupational Injuries and Diseases Act, Act No 130 of 1993, and that all payments owing to the Compensation Commissioner is discharged. The **Contractor** shall further ensure that the cover shall remain in force while any such employee is present on the **Plant**.

11. Medical examinations

The **Contractor** shall ensure that all its employees undergo routine medical examinations and that they are medically fit for the work they are to perform.

12. Incident reporting and investigation

12.1. All incidents referred to in Section 24 of the OHS Act shall be reported by the **Contractor** to the Department of Labour and to **ArcelorMittal South Africa**. **ArcelorMittal South Africa** shall further be provided with copies of any written documentation relating to any incident.

12.2. **ArcelorMittal South Africa** retains an interest in the reporting of any accident as described above as well as in any formal investigation and/or inquiry conducted in terms of Section 32 of the OHS Act into such incident.

13. Sub-contractors

3.Without derogating from the generality of this clause 13:

13.1. The **Contractor** shall ensure that training as discussed under clause 4 (Appointments and Training) above, is provided prior to the Sub-**Contractor** commencing work on the **Plant**.

13.2. The **Contractor** shall ensure that work performed by the Sub-**Contractor** is done under strict supervision and discipline, under clause 5 (Supervision, Discipline and Reporting) above.

13.3. The **Contractor** shall inform **ArcelorMittal South Africa** of any health and safety hazard and/or issue that the Sub-**Contractor** may have brought to its attention.

13.4. The **Contractor** shall inform **ArcelorMittal South Africa** of any difficulty encountered regarding compliance by the sub-contractor with any health and safety instruction, procedure and/or legal provision applicable to the work the Sub-**Contractor** performs on the **Plant**.

14. Security and access

14.1. The **Contractor** and its employees shall enter and leave the **Plant** only through the main gate(s) and/or checkpoint(s) designated by **ArcelorMittal South Africa**. The **Contractor** shall ensure that employees observe the security rules of **ArcelorMittal South Africa** at all times and shall not permit any person who is not directly associated with the work from entering the **Plant**.

14.2. The **Contractor** and its employees shall not enter any area of the **Plant** that is not directly associated with the **Works**.

14.3. The **Contractor** shall ensure that all the **Contractor's** equipment brought by itself onto the **Plant** is recorded at the main gate(s) and/or checkpoint(s). A failure to do this may result in a refusal by **ArcelorMittal South Africa** to allow the **Contractor's** equipment to be removed from the **Plant**.

15. Fire precautions and facilities

15.1. The **Contractor** shall ensure that an adequate supply of fire-protection and first-aid facilities are provided for the work to be performed on the **Plant**, save that the **Parties** may mutually make arrangements for the provision of such facilities.

15.2. The **Contractor** shall further ensure that all its employees are familiar with fire precautions at the **Plant**, which include fire-alarm signals and emergency exits, and that such precautions are adhered to.

16. Hygiene and cleanliness

4.The **Contractor** shall ensure that the **Site** where the **Works** are being carried out and surrounding areas are at all times maintained to a reasonably practicable level of hygiene and cleanliness. In this regard, no loose materials shall be left lying about

unnecessarily and the **Site** shall be cleared of waste material regularly and on completion of the **Works**.

17. No nuisance

17.1. The **Contractor** shall ensure that neither it nor its employees undertake any activity that may cause environmental impairment or constitute any form of nuisance to **ArcelorMittal South Africa** and/or its surroundings.

17.2. The **Contractor** shall ensure that no hindrance, hazard, annoyance or inconvenience is inflicted on **ArcelorMittal South Africa**, another **Contractor** or any tenants. Where such situations are unavoidable, the **Contractor** shall give prior written notice to **ArcelorMittal South Africa**.

18. Intoxication not allowed

No intoxicating substance of any form shall be allowed on the **Plant**. Any person suspected of being intoxicated shall not be allowed on the **Plant**. Any person required to take medication shall notify the relevant responsible person thereof, as well as the potential side effects of the medication.

19. Personal protective equipment

The **Contractor** shall ensure that its responsible persons and employees are provided with adequate personal protective equipment (PPE) for the work they may perform and in accordance with the requirements of General Safety Regulation 2(2) of the OHS Act. The **Contractor** shall further ensure that its responsible persons and employees wear the PPE issued to them at all material times.

20. Goods, machinery and equipment

20.1. The **Contractor** shall ensure that all goods and the **Contractor's** equipment is/are at all times of sound order and fit for the purpose for which it/they is/are intended, and that it/they complies/comply with the requirements of Section 10 of the OHS Act.

20.2. In accordance with the provisions of Section 10(4) of the OHS Act, the **Contractor** hereby assumes the liability for taking the necessary steps to ensure that any article or substance that it erects or installs at the **Plant**, or manufactures, sells or supplies to or for **ArcelorMittal South Africa**, complies with all the prescribed requirements and will be safe and without risks to health and safety when properly used.

21. No usage of employer's equipment

The **Contractor** hereby acknowledges that its employees shall not be permitted to use any materials, machinery or equipment of **ArcelorMittal South Africa** unless approval

has been obtained, in which case the **Contractor** shall ensure that only those persons authorised to make use of same, have access thereto.

22. Transport

22.1. The **Contractor** shall ensure that all road vehicles used on the **Plant** are in a roadworthy condition and are licensed and insured. All drivers shall have relevant and valid driving licenses and no vehicle shall carry passengers unless it is specifically designed to do so. All drivers shall adhere to the speed limits and road signs on the Plant at all times.

22.2. In the event that any hazardous substances are to be transported on the **Plant**, the **Contractor** shall ensure that the requirements of the Hazardous Chemical Substances Act, Act No 15 of 1973 are complied with at all times.

23. Clarification

In the event that the **Contractor** requires clarification of any of the terms or provisions of this Occupational Health and Safety Contract, it should contact **ArcelorMittal South Africa**.

24. Duration of Contract

This **Contract** shall remain in force for the duration of the work to be performed by the **Contractor** and/or while any of the **Contractor's** workmen are present on the Plant.

25. Headings

The headings as contained in this Occupational Health and Safety **Contract** are for reference purposes only and shall not be construed as having any interpretative value in them or as giving any indication as to the meaning of the contents of the paragraphs contained in this **Contract**.

Compiled by:

Recommend by:

(Full name and surname in capital letters)

(Full name and surname in capital letters)

Signature

Signature

Signed on behalf of **ArcelorMittal South Africa** at _____ on

this _____ day of _____ 20____.

(Full name and surname in capital letters)

Signature

For and on behalf of:
ArcelorMittal South Africa

Witness

(Full name and surname in capital letters)

Signature