



NEC3 Engineering & Construction Contract (ECC3)

Transnet Limited
(REGISTRATION NO.1990/000900/06)
trading as
Transnet Freight Rail

RFP No. SIW9015

**Tender Document for the control of vegetation by means
of chemical herbicides of mainly yards for a 24-month
period on Transnet property in the geographical area
controlled by the Depot Engineer, Koedoespoort**

OPENS: 21 September 2009

CLOSES: 13 October 2009 at 10h00

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PART T 1: Tendering Procedures

PRIEVIEW COPY ONLY

PART T1: TENDERING PROCEDURES

T1.1 TENDER NOTICE AND INVITATION TO TENDER

RFP NO. SIW9015

Transnet Limited trading as Transnet Freight Rail invites tenders for the control of vegetation by means of chemical herbicides of mainly yards for a 24-month period on Transnet property in the geographical area controlled by the Depot Engineer, Koedoespoort.

The physical address for collection of tender documents is:

Transnet Freight Rail
Tender Advice Centre
Level 100
Carlton Centre
150 Commissioner Street
Johannesburg

Tender documents may be collected during working hours after 08:00 on Monday, 21 September 2009 and will only be available until 15:00 on Monday, 28 September 2009.

Payment of an amount of R 250.00 (per set) is to be made to Transnet Freight Rail at the Standard Bank, account number 203158598, branch code 4805. The deposit slip must reflect the tender number SIW9015 and the Company name. The official Bank receipt(s) franked with the official Bank stamp to be provided with the collection of a tender document. This amount is not refundable. No tenders will be sold after 15:00 on Monday, 28 September 2009.

Queries relating to the administrative issues of these documents may be addressed to:

Mr. Neill Mitchell

or

Mr. A.P. Erasmus

Tel No. 011- 584 0627

Tel: no. 011 308 3868

Fax No.

Fax no. 011 308 3867

E mail: Neill.Mitchell@transnet.net

Queries relating to technical information may be addressed to:

Mr. Pieter le Roux

Tel No: 011-773 6550

Fax No. 011-773 9068

E mail: Pieter.le_Roux@transnet.net

A clarification meeting with representatives of the Employer will take place at the **Umjantshi C Boardroom, Ground Floor, Inyanda House 2, 15 Girton Road, Parktown, Johannesburg** on **29 September 2009** starting at **10h00**. Tenderers without a valid tender document in their possession will not be allowed to attend the clarification meeting.

Transnet reserves the right to accept the whole or any part of a tender. Transnet also reserves the right to negotiate terms and conditions with all, or a short-listed group of contenders, or the preferred tenderer, should it be deemed necessary.

This tender closes punctually at **10h00 on Tuesday, 13 October 2009**.

Tenders may only be submitted on the tender documentation that is issued. Telegraphic, telephonic, facsimile and late tenders will not be accepted.

Tenderers are warned that a tender will be liable to disqualification should any attempt be made by a Tenderer either directly or indirectly to canvass any officer(s) or employees of Transnet Limited in respect of a tender between the date the tender is submitted and the date of the award. A Tenderer may, however, at any time communicate with the Chairperson of the Transnet Freight Rail Acquisition Council, at telephone no. 011 308 3860 on any matter relating to his tender.

Envelopes must not contain documents relating to any tender other than that shown on the envelope. *No slips are to be attached to the tender documents. Any additional conditions must be embodied in an accompanying letter. Alterations, additions or deletions must not be made by the Tenderer to the actual tender documents.* Tenders submitted by Tenderers must be neatly bound and the inclusion of loose documents must be avoided.

Requirements for sealing, addressing, delivery, opening and assessment of tenders are stated in the Tender Data.

Compliance of tender(s) with Transnet's requirements is the sole responsibility of the Tenderer and any costs incurred in subsequent modifications to or replacement of equipment accepted by Transnet Limited in good faith on the grounds of certified compliance with specified standards by the contractor and in fact found to be inadequate in such respects, will be to the relevant Tenderer's account

BROAD-BASED BLACK ECONOMIC EMPOWERMENT ("BBBEE")

Transnet fully endorses and supports the Government's Broad-Based Black Economic Empowerment Programme and it is strongly of the opinion that all South African business enterprises have an equal obligation to redress the imbalances of the past.

Transnet would therefore prefer to do business with local business enterprises who share these same values and who are prepared to contribute to meaningful BBBEE initiatives (including, but not limited to subcontracting and Joint Ventures) as part of their RFP responses. Transnet will accordingly allow a "preference" in accordance with the 10% preference system, as per the Preferential Procurement Policy Framework Act 5 of 2000 (as amended), to companies who provide a BBBEE Accreditation Certificate. All procurement and disposal transactions in excess of R30 000 will be evaluated accordingly. All transactions below R30 000 will as far as possible be earmarked for EMEs

Consequently, when Transnet invites prospective suppliers to submit Proposals for its goods and services, it urges Respondents (Large Enterprises and QSE's - see below) to have themselves accredited by any one of the various Accreditation Agencies approved by SANAS (the South African National Accreditation Systems, under the auspices of the Dti)

In terms of Government Gazette No 32467, Notice No. 810 dated 31 July 2009, as from 1 February 2010 only BBBEE Accreditation Certificates issued by SANAS Approved verification agencies will be valid. However Accreditation Certificates issued before 1 February 2010, and which are still within their 1 year validity period, will still be acceptable, until its expiry date and provided the accreditation was done in accordance **with the latest Codes (i.e. those promulgated on 9 February 2007)**.

No certificate issued after 1 February 2010, by a Verification Agency not approved by SANAS, will be acceptable as from that date.

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

Large Enterprises (i.e. annual turnover >R35million)

- Rating level based on all seven elements of the BBBEE scorecard

Qualifying Small Enterprises — OSE (i.e annual turnover between R5million and R35million):

- Rating based on any four of the elements of the BBBEE scorecard

Exempted Micro Enterprises — EME (i.e. annual turnover <R5m):

- **EMEs are exempted from BBBEE accreditation**
- Automatic rating of Level 4 BBBEE irrespective of race of ownership, i.e. 100% BBBEE recognition
- Black ownership >50% or Black Women ownership >30% automatically qualify as Level 3 BBBEE, i.e. 110% BBBEE recognition
- EME's should only provide documentary proof of annual turnover (i.e. audited financials) plus proof of Black ownership if Black ownership is >50% or Black Women ownership >30%.

In addition to the above, Respondents who wish to enter into a Joint Venture or subcontract portions of the contract to BBBEE companies, must state in their RFP5 the percentage, of the total contract value that will be allocated to such BBBEE companies, should they be successful in being awarded any business. A rating certificate in respect of such BBBEE JV-partners and / or sub-contractor(s), as well as a breakdown of the distribution of the aforementioned percentage must also be furnished with the RFP response to enable Transnet to evaluate / adjudicate all RFP5 received on a fair basis.

The Dti has also contracted with B1SA (Pty) Ltd to create a national database of BBBEE enterprises. It will therefore be in the best interest of BBBEE enterprises, and they are accordingly encouraged to register themselves with B1SA (Pty) Ltd, immediately their SANAS approved verification agency issues their verification certificate. Not only will their name and BBBEE recognition level be published on the National BBBEE Database but other potential clients in the private and public sector requiring a particular commodity! service may source them from this National Database for possible future business opportunities.

Respondents will be required to furnish proof of the above to Transnet. (i.e. a detailed scorecard as stipulated above in respect of Large Enterprises and QSEs, or proof of turnover in respect of EMEs). Failure to do so will result in a score of zero being allocated for BBBEE.

Turnover: Kindly indicate your company's annual turnover for the past year

R _____

- If annual turnover <R5m, please attach audited financials
- If annual turnover >R5m please attach an accreditation certificate issued by an Accreditation Agency, together with all the relevant score sheets pertaining thereto.

Suppliers and Tenderers are requested to duly complete the Supplier Declaration Form (SDF) and provide all the relevant supporting attachments as requested. Failure to provide the following may disqualify your tender submission:-

1. Duly completed SDF
2. Current tax clearance certificate

The Supplier and Tenderer shall furnish proof of the above to Transnet.

Transnet at its sole discretion may decide to allow certain price preferences in order to uplift the historically disadvantaged in terms of the PPPFA (Act 5 of 2000).

Transnet insists on honesty and integrity beyond reproach at all times and will not tolerate any form of improper influencing, bribery, corruption, fraud, or any other unethical conduct on the part of bidders/ Transnet employees. If, in the opinion of Transnet's Chief Operating Officer, a tenderer/contractor/ supplier has or has caused to be promised, offered or given to any Transnet employee, any bribe, commission, gift, loan, advantage or other consideration, Transnet shall be entitled to revoke the tender / contract by following its internal policies that govern the Exclusion process. In such an event Transnet will be entitled to place any Tenderer/Contractor/Supplier who has contravened the provisions of Transnet's business ethics on its List of Excluded Tenderers. This List will also be distributed to all other State Owned Enterprises and Government Departments.

Transnet invites its valued suppliers to report any allegations of fraud, corruption or other unethical activities to Transnet Tip-offs Anonymous, at any of the following addresses/contract numbers :-

- **Toll free anonymous hotline – 0800 003 056**
- **Email – Transnet@tip-offs.com**
- **Fax number – 0800 007 788**
- **Freepost DN 298, Umhlanga Rocks, 4320**

Confidentiality is guaranteed.



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TRANSNET'S PROCUREMENT POLICY AT A GLANCE (A guide to Tenderers)

INTRODUCTION

Prospective tenderers for the supply of goods and services often want to know more about Transnet Limited and what they can expect when dealing with the company. All transactions relating to the procurement of goods and services and the sale of surplus and redundant goods are being dealt with in terms of Transnet's Procurement Policy, which provides guidelines, procedures and processes to ensure that its various operating divisions operate as a responsible and competitive enterprise.

COMPOSITION OF THE COMPANY

Transnet is a diversified transport and logistics group wholly owned by the South African Government. With over 65 000 employees and assets in excess of R77 billion, the Group seeks to provide integrated seamless transport solutions for its customers in the bulk and manufacturing sectors as part of the drive to increase the competitiveness of the South African economy.

Transnet is currently transforming into a focused company comprising its port, rail and pipeline business. The refocus is designed to ensure that Transnet delivers a reliable service to all its customers, an acceptable rate of return to its shareholder and is a choice and sustainable employer.

Transnet Supply Management is an integrated value added professional partner to our stakeholders, providing a reliable, cost-effective and customer focused service. We aim to provide this by ensuring that all transactions are fair and transparent and that our employees operating in all fields of the supply chain, are motivated and empowered to deliver an effective supply management service to our stakeholders.

The main operating divisions of Transnet are as follows:

- | | | |
|---------------------------------|---|--|
| ➤ Spoornet | - | Rail Transport |
| ➤ South African Port Operations | - | Harbour Operations |
| ➤ National Ports Authority | - | Harbour Management |
| ➤ Petronet | - | High Pressure Pipeline Transport |
| ➤ Transwerk | - | Heavy engineering and maintenance of rolling stock |



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- | | |
|--|---|
| <ul style="list-style-type: none"> ➤ Protekon (Since de-corporatised and amalgamated with Transnet Capital Projects) ➤ Esselenpark Centre of Excellence ➤ HSA | <ul style="list-style-type: none"> - Multi-disciplinary design, project management and construction management services, as well as rehabilitation, maintenance and emergency services. - Training - Fuel acquisition, distribution and management system. |
|--|---|

COMMERCIAL POLICY

When Transnet purchases or sells goods and obtains services, it strives to obtain optimum value for money, whilst ensuring that open and fair competition prevails, bearing in mind the following important factors:-

- Transnet's operating divisions - Spoornet, SAPO, NPA, Petronet, Transwerk and Transnet Projects, will afford one another the right of first refusal to provide goods and services. Only if they cannot deliver the goods or services, may such goods or services be sourced externally.
- The promotion, development and support of businesses from the previously disadvantaged communities, by supporting the Government's BBBEE legislation, i.e. the DTI's Balanced Score-card and Codes of Good Practice, specifically as it relates to Preferential Procurement.
- The promotion of national and regional local suppliers, who are internationally competitive, before considering overseas suppliers in terms of extant Government policy.
- Moral values and an ethical code that underpin the above, based on sound business practices. This value system governs all commercial behaviour within Transnet.

STANDARDS

Transnet subscribes to the following standards of commercial practice:

- All Transnet's transactions are to be conducted in an efficient and professional manner in support of Transnet's interests.
- Transnet insists on unimpeachable honesty and integrity at all times and will not tolerate any form or manifestation of improper influencing, bribery, corruption, fraud, or any other unethical conduct.



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- All tenders or quotations are required to be handled in the strictest confidence. All information supplied in response to an invitation to tender (or quote) will be treated in the strictest confidence, and will not be divulged to competitors or unauthorized personnel of Transnet.
- Any conditions of tender are to be clearly and unambiguously stated in writing at the time tenders are invited, to ensure that all tenderers tender on the same basis.
- After completion of the tender evaluation process, Transnet will enter into post-tender negotiations with the preferred bidder, or any number of duly approved, short-listed bidders. During such post-tender negotiations, prices of one bidder will not be disclosed to others, as this is considered to be "horse-trading" which is prohibited in terms of Transnet's ethical code.
- Contractual commitments with Transnet are to be respected and met in accordance with good business practice.
- Under no circumstances will Transnet employees be allowed to tender for Transnet's business. Employees who have a personal interest in a specific tender, quotation or offer, or whose close relatives are in any way connected or related to a tenderer, shall declare such interest and recuse themselves from the receipt, adjudication or acceptance thereof. Likewise, tenderers shall also declare any such relationship with a Transnet employee. Tenderers failing to declare such relationships will be disqualified from the tender process.
- All transactions are subject to periodic review by Transnet's auditors and where applicable by the relevant Acquisition Council. (Transnet, Divisional, regional, etc.)
- Transnet, as a public entity, with the Government as its sole shareholder, falls within the ambit of the Construction Industry Development Board Act, ("CIDB Act" - Act No 38 of 2000), and is therefore obliged to comply with the CIDB Act and Regulations, with regards to construction related contracts, as defined in that Act. Transnet has decided to standardize on the NEC suite of documents, being one of the four CIDB approved Standards. The CIDB has granted Transnet an extension for the implementation of the NEC short form of contract, as well as the term contract, until the end of 2006. The implementation date for the two CIDB Registers was 30 November 2005, and for the implementation of the NEC3 (Engineering and Construction Contract), the implementation date was 30 June 2006.

GIFTS AND ENTERTAINMENT

All decisions and business transactions at Transnet shall be made with uncompromised integrity, honesty and objectivity of judgment.

Transnet employees are not permitted to accept any gifts, personal favours or any hospitality from any supplier or potential supplier of goods and services to Transnet.



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Such favours may be considered bribery, which violates South African law and is against all that Transnet stands for.

PROCEDURES

The tendering system is Transnet's main buying and selling mechanism, as it ensures open and fair competition for any person or enterprise who wishes to tender for Transnet's business.

Tender responses for the procurement of goods and services are obtained by advertising tenders in newspapers, electronic tender bulletins and other private tender bulletins to which tenderers subscribe.

There are, however, instances where the calling of open tenders is just not possible or practicable (for example, low value transactions or crisis situations where human lives are at stake or where Transnet's property or assets are at risk) and where there is not sufficient time to call for open tenders. All these exceptions from the open tender system are governed by internal policies and procedures to prevent abuse.

Tenders or quotations which arrive after the specified closing time or which are deposited at an incorrect address will be regarded as late/inadmissible tenders and will not be considered.

Tender advertisements and "Notice to Tenderer" documents, will indicate the name and contact particulars of the relevant Transnet employee, who can be contacted should prospective tenderers require clarification of any aspect during the preparation of their tender response. i.e. before the closing date/time.

During the evaluation period, i.e. after the closing time and until the official notification of the successful tenderer of the acceptance of his offer, no communication is permitted between a tenderer and any Transnet employee involved with that particular tender, except for the following:-

- Should a tenderer wish to communicate anything to Transnet during this period, he may only communicate with the Chairman of the Transnet Acquisition Council, or relevant Divisional Acquisition Council, or in his/her absence, with the Secretary of such Council.
- An employee of Transnet may, with due authorisation, communicate with a tenderer regarding his/her tender or quotation for limited purposes to facilitate evaluation of the tender. In addition, as mentioned before, post-tender negotiations, by a multi-disciplinary negotiation team may also be conducted, after proper authorization has been obtained.



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Changes in specifications, plans, or tender conditions are permitted, provided all tenderers or prospective tenderers are duly advised thereof and are given equal opportunity to tender or re-tender on the new scope, by a revised closing date and time.

Depending on the goods/services being called for, the evaluation criteria may include, but is not limited to price, statutory compliance, conformance with specifications, experience, equipment, financial standing and previous performance based on timeliness, quality and service, bearing in mind Transnet's BBBEE policy for the development and support of the previously disadvantaged.

A request to tender or quote implies a serious intention on the part of Transnet to do business, and only under exceptional circumstances will Transnet withdraw a tender/enquiry.

Only persons with delegated powers have the authority to enter into contracts on behalf of Transnet.

ROLE OF TRANSNET'S ACQUISITION COUNCILS

The Acquisition Councils (which includes the six Divisional Acquisition Councils, the Transnet Acquisition Council which caters for Corporate Head Office requirements and the Procurement Advisory Council which caters for Transversal Acquisitions) are responsible for the receipt and opening of all the major (high value, high complexity) tenders and quotations falling within its jurisdiction. Such tenders and quotations are issued by the operating divisions / corporate office themselves and close at the specific designated Tender Boxes, details of which are provided in the relevant tender documents.

After evaluation of all tenders or quotations by the relevant operating division / corporate office, a recommendation on the award of business is made to the relevant Acquisition Council.

The Acquisition Councils approve the award of business and ensure and monitor compliance with Transnet's internal policies, rules and instructions governing the administration of all tenders and contracts.

Prices tendered by tenderers for Transnet's requirements are treated with the same confidentiality, as the tenderers themselves treat their prices and therefore tendered prices are not disclosed. The only information Transnet is prepared to make available is the names of all the tenderers who responded to a particular tender invitation and the name of the successful tenderer (but not the tender price). Unsuccessful tenderers are advised in whichever category they were unsuccessful e.g. price, quality, delivery, BBBEE status, etc., after the business has been awarded. Should an application be received in terms of the Promotion of Access of Information Act, confidential information will not be



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disclosed without the written consent of the information owner, unless otherwise ruled by a Court of Law, in which case the information owner will also be properly notified of such Court Ruling.

During evaluation of the tenders received, several factors such as price, compliance, delivery, quality, BBBEE involvement, after sales service, etc. are taken into account, which means that Transnet does not necessarily have to accept the lowest priced tender. The Acquisition Councils act as Transnet's watchdog and ensure that fair competition both in the eyes of Transnet and the public at large prevails and that optimal value for money is obtained, within Transnet's Procurement Policy.

TRANSNET'S POLICY ON BROAD BASED BLACK ECONOMIC EMPOWERMENT (BBBEE)

The following are a few basic principles on which Transnet's BBBEE Policy is based:

- BBBEE shall help all participants to become self-sufficient and contribute towards the economy of the country.
- The identification and development of black entrepreneurial potential is necessary to advance BBBEE.
- BBBEE shall be aimed at the upliftment and development of black entrepreneurs who have the potential and skills to become self-sufficient and who would in time be able to compete on an equal basis with established businesses.
- Quality workmanship, service levels and timeous delivery are pre-requisites for effective BBBEE advancement.
- BBBEE is aimed at the development of independent entrepreneurs.
- The use of black persons as fronts for established businesses is not acceptable. Transnet reserves the right to investigate such firms to establish the real owners, as well as the extent of real black participation, taking into account all the elements of the DTI's Broad Based scorecard.

TRANSNET'S SUPPLIER REQUIREMENTS

Transnet has adopted the DTI's Broad Based Black Economic Empowerment (BBBEE) scorecard to evaluate all its suppliers. Transnet prefers to conduct business with legally registered entities such as Close Corporations, private companies or public companies. The necessary documentary proof to substantiate the enterprise existence may be required by Transnet, for example, registration certificate, shareholders' agreement, company profile etc.

Transnet utilizes the DTI's BBBEE scorecard to redress the imbalances of the past by creating opportunities for historically disadvantaged communities, including already established Black business enterprises, as well as QSEs and EMEs to enter the



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mainstream economy. Such enterprises must however also indicate their willingness to contribute to the economy and the prosperity and growth of the country as a whole. Hence Transnet will not do business with any enterprise, which cannot produce a SARS Certificate of Good Tax Standing. Transnet will only do business with QSEs and EMEs, that are registered for VAT (Value Added Tax). Such small and micro enterprises are encouraged to apply for voluntary VAT Registration as soon as they reach the R20 000,00 annual turnover threshold laid down by the Receiver of Revenue for **voluntary** VAT Registration. The threshold for **compulsory** VAT registration is a R300 000,00 p.a. turnover.

Each and every link in the supply chain is just as important as another and Transnet would be willing to do business with any enterprise, which adds value to the supply chain. Businesses who merely act as fronts or marketing agents for established businesses do not necessarily add economic value to the supply chain and will not be considered in terms of the BBBEE Program. In terms of the DTI's Broad Based scorecard, Transnet no longer focuses on shareholding only and would therefore prefer to do business with business enterprises that have at least a BBBEE contributor rating of 5 or better. In terms of the DTI's Broad Based scorecard there are certain additional concessions for QSEs and EMEs, making it easier for them to enter the mainstream economy and to effectively compete with the established enterprises.

In view of the diversity of goods and services that Transnet procures from external sources, Transnet will request from prospective tenderers to indicate in all tenders, their previous experience/contracts already completed successfully. This information is then used to determine whether a QSE or EME tenderer would be able to undertake the contract as a whole, or whether it should perhaps be divided between two or more QSE or EME suppliers.

Should you require any further information regarding Transnet's different operating divisions, listed below are the contact particulars of the respective Chief Procurement Officers:-

DIVISION / UNIT	CONTACT	TELEPHONE	E-MAIL ADDRESS
Spoornet	Brian Fredercks	011-308-1302	BrianFr@Spoornet.co.za
National Ports Authority	Thami Jiyane	011-351-9086	Thamsanqal@npa.co.za
SA Port Operations	Fortune Nthloro	031-308-8373	FortuneN@Saportops.co.za
Petronet	Roderick Conway	031-361-1450	Roderick@Petronet.co.za
Transnet Projects	Louis Snyman	011-308-3105	Louissm@Protekon.co.za
Transwerk	Dudu Masoek	012-391-1303	DuduM@Transwerk.co.za
Transtel	Harold Grant	011-359-2447	HaroldGr@Transtel.co.za
Esselenpark	Thobile Golimpie	011-929-1383	ThobileG@Esselenpark.co.za
HSA	Zeyd Timol	011-475-7460	Zeyd@Fleetmax.co.za
Group Strategic Procurement	James Ryan	011-308-3761	James.Ryan@Transnet.net
Transnet BEE Manager.	Mmadiboka Mahlabe	011-308-3735	Mmadiboka.mahlabe@Transnet.net



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Should you require any clarity on Transnet's Procurement Policy as outlined in this document, please contact us at:-

Responsible department:

Karen van Vuuren, General Manager (Group Strategic Supply Management)

37th Floor, Carlton Centre

150 Commissioner Street

JOHANNESBURG

Tel. No. (011) 308-3521/2

Fax No. (011) 308-2637

e-mail address: Karen.van_Vuuren@transnet.net

Transnet views its relationship with its suppliers who provide substantial support as mutually beneficial, whereby both parties integrate their talents, resources and actions in order to provide stipulated requirements, whilst continuously striving to improve its product/service. Transnet's success in a deregulated transport market, depends on a reliable supply market of the right goods and services with the right quality, at the right time, delivered to the right place at the right price. Transnet looks forward to creating and maintaining a good, sound business relationship with the tendering public and its valued suppliers.

A handwritten signature in black ink, appearing to read "Maria Ramos".

Maria Ramos
Group Chief Executive
Transnet Limited.

Date: 31/1/2007