

TRANSNET



**Process Document:
Manganese Export Capacity Allocation (MECA)**

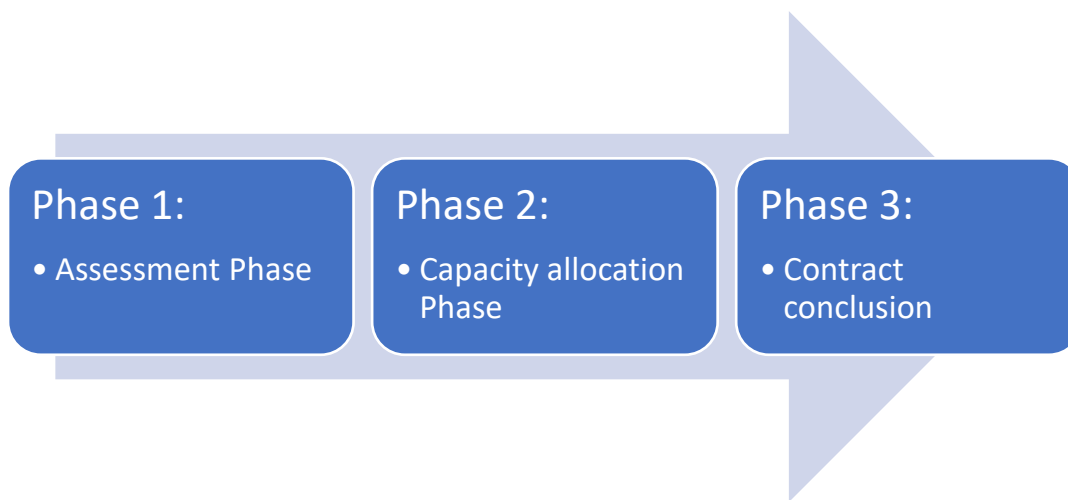
Section 1: Introduction

1.1 Background

Over the last few years, there has been an increase in the number of mining entities that have commenced operations in the Northern Cape and have expressed their interests in securing access to Transnet's rail and port facilities through the Manganese Export Capacity Allocation (MECA) contract.

Further to this, the existing agreements between Transnet and current export manganese customers will expire on 31 March 2023. Transnet has subsequently undertaken to initiate the MECA Process with a view to contract with customers who meet the requirements for capacity allocation for the provision of services up to March 2023.

The MECA process will be conducted through the following three phases:



1.2 Purpose of the Process Document

Transnet hereby invites prospective customers that hold Mining Rights and Permits to submit responses to this process document for the purpose of the assessment and qualification for capacity allocation.

This Process Document is a step-by-step guideline that aims to inform both the content and structure of the MECA responses in a requisite and standard manner on which Transnet will assess prospective customers with respect to the capacity allocation process. It further outlines the minimum requirements for participating in the MECA process, and provides additional information on the services offered in terms of this process.

The Process Document forms part of the Phase 1 of the MECA process in terms of which Transnet will evaluate Prospective Customers on their responses and pre-qualify them to participate in the next phases of the allocation process.

Transnet will assess all responses received in Phase 1 of the process, and responses that meet the requirements as outlined in this document will then be considered for participation in Phase 2 of the Allocation Process. Prospective Customers that fail to meet the requirements as set out in Phase 1 of this Process Document or as amended by Transnet, will be excluded from further participation in the MECA Process.

1.3 Format of the Process Document

The Process Document comprises of two parts, namely :

Part A: which relates to information on services, minimum requirements, and the MECA Process, comprising of Sections 2 to 4; and

Part B: which relates to additional information and response templates. This part of the document comprises of Section 5, Appendices 1 to 6.

1.4 Participation

Prospective Customers responding to this Process Document will be required to submit their responses to Transnet as set out in this Process Document.

Only prospective customers (including Consortia) with ownership of valid Mining Right/s may participate in this process. Consortia will be required to submit evidence of the formation of the consortium, and where the response is submitted by someone other than the owner of the Mining and/or Prospecting Right/s, evidence of the authority to act should be provided with the response. Respondents who have undertaken to submit responses as part of a consortium will not be eligible to apply in their individual capacity.

Prospective Customers that are able to comply with Transnet's operational requirements as set out in this Process Document and seek to conclude a Transnet Services Agreement (TSA) for the period up to 31 March 2033 are eligible to submit responses in respect of this allocation process. Please refer to the requirements outlined in Section 5 of this Process Document.

Section 2: Manganese Export Channels

2.1 The channels

South Africa's manganese mines are mostly located in the Northern Cape and Transnet transports the majority of the region's export manganese ore by rail from various loading sites to the Ports of Gqeberha, Ngqura, Cape Town and Saldanha where it is offloaded and stacked into stockpiles of various grades and then reclaimed and loaded onto Vessels for export.

The Export Terminals are utilised exclusively for the short term storage and export of Ore and are key manganese ore exporting facilities in the Republic of South Africa. Particularly, the Ggqeberha Manganese Terminal will migrate to the Port of Ngqura during the tenure of the new MECA contract.

2.2 Channel operation principles

Rail operations under undertaken in parcel sizes of no less than 104 wagons, which constitute 6,552 tons per train. Port operations are undertaken on the basis of parcels sizes of no less than 40,000 tons.

These operating principles are to give effect to operational efficiencies.

2.3 Pricing and commercial terms

Transnet will communicate its pricing and commercial terms in respect of the Services to be provided over the Contract Period during Phase 2 of the Allocation Process.

2.4 Take or pay

The Channel will operate on a “Take or Pay” principle in terms of which Contracted Customers will pay penalty equal to the full applicable tariff or a percentage thereof to Transnet for any shortfall in the guaranteed tonnage.

The Transnet Services Agreement will specify the applicable take or pay level. Transnet’s performance obligations will also be addressed in the Transnet Services Agreement.

Section 3: Allocation Process

3.1 Prospective Customer Assessment

In this phase Prospective Customers will be required to provide information as requested in sections 4, 5, 6, 7 and 8 of this Process Document. Prospective Customers must compile and submit the information requested in accordance with requirements as outlined in the sections quoted above.

Transnet will initially evaluate all responses in accordance with the assessment criteria set out in section 4.2 of this Process Document, with a view to qualify Prospective Customers as Qualifying Customers who will then participate in phase 2 of the Allocation Process.

3.2 Due diligence & binding marked-up contracts

As part of the evaluation of Qualifying Customers, Transnet will conduct a detailed due diligence of each Qualifying Customer covering the following areas:

- (i) Mining and Technical;
- (ii) Operational;
- (iii) Legal/Contractual; and
- (iv) Financial.

The due diligence, which may include site visits, will take place during Phase 2 of the Allocation Process. The purpose of the due diligence is to review the accuracy and completeness of Responses provided by the Qualifying Customers and to verify the request for capacity contained in each response.

The due diligence timetable will be issued shortly after the Qualifying Customers have been announced at the conclusion of phase 1. The due diligence will validate Responses received and inform our phase 2 evaluation as set out in section 4.2 of this Process Document.

In addition to the possible site visits, Transnet may also hold meetings with each of the Qualifying Customers to address any issues arising during Phase 2 or which Transnet believes are relevant so that the Qualifying Customer can provide clarification in respect of submission requirements.

Qualifying Customers will thus be required to participate fully in the due diligence process including making all required information and documentation available and ensuring that authorised personnel are available to provide information, documentation and responses to requests for clarification or questions. Qualifying Customers will also be required to participate in site visits.

The documentation that will be circulated to Qualifying Customers will include:

- (i) Response templates in respect of additional information requirements (if applicable);
- (ii) Tariff and other charges for the Services for the Contract Period;
- (iii) A draft Transnet Services Agreement; and
- (iv) A document setting out key operational and contractual requirements that Qualifying Customers will be required to comply with.

3.3 Contract Conclusion

At the conclusion of Phase 2, Transnet will announce a list of Qualified Customers to whom conditional allocations of Services will be made. These allocations will be subject to Transnet and the relevant Qualified Customer engaging and entering into a Transnet Services Agreement, prior to April 2023 or such later date as may be required to take account of extensions of the Allocation Process.

To the extent that Qualified Customers are granted conditional allocations, and by 01 April 2023 (or such later date as Transnet may determine), have not concluded a Transnet Services Agreement, Transnet reserves the right to withdraw the conditional allocation and terminate the Allocation Process. In this event Transnet will offer this capacity to all other Qualified Customers and Contracted Customers on a pro-rata basis as on temporary allocation basis.

3.4 Terms and Conditions

Prospective Customers providing a Response in respect of the Allocation Process do so on the basis that they acknowledge and accept the terms and conditions set out in this Process Document. Please refer to section 5 (appendices) of this Process Document for more information.

3.5 Phase outline of the allocation process

The phases governing the allocation process is as follows:

Phase 1
Circulation of Process Document
Deadline for Responses to Process Document
Phase 2 – Capacity Allocation
Commencement of due diligence assessments
Conclusion of due diligence assessments*
Conditional allocation of capacity
Phase 3 – Contract Conclusion
Announcement of Qualified Customers and conditional allocations
Contract Engagements for Allocation Process and Conclusion of Transnet Services Agreement

*** Individual clarification meetings may be held with Prospective Customers**

Please note that Transnet reserve the right to request additional information, documentation and clarification as necessary throughout the Initial Allocation Process. Transnet also reserves the right to change the order of allocation phases as outlined above.

3.6 Format of responses

In order to facilitate the completeness and ease of review of Responses, Prospective Customers are requested to structure their Responses under the following broad categories:

Chapter	Category	Requirements per Process Document
1	Capacity Application	Appendix D
2	Minimum requirements, including written undertakings	Section 4
3	Mining and Technical	Appendix C
4	Operational, including written undertaking to comply with operational requirements	Appendix C
5	Legal and Contractual	Appendix C

6	Financial	Appendix C
7	Process Document Declaration	Appendix E
8	Process Application	Appendix F

Prospective Customers are also required to complete and submit the Response templates set out in Appendices D to F and attach each template to the relevant section above.

All Prospective Customers are requested to confirm their participation in the Allocation by completing and submitting Appendix D.

Notwithstanding information provided to Transnet to date, Prospective Customers are required to provide all the information requested in this Process Document.

3.7 Key contacts

Any Prospective Customers requiring any clarification must submit a written request to Transnet (see section 3.9 below for contact details).

Transnet will aim to respond timeously to reasonable requests for clarification received in writing.

Transnet shall, in its sole discretion, decide whether to distribute responses to all Prospective Customers. Every attempt will be made not to disclose the source of questions. Any responses Transnet distributes to all Prospective Customers, via this mechanism, shall be deemed to form part of this Process Document.

3.8 Submission details

Process Document responses must be submitted through the Transnet e-tender portal on the following link: transnetetenders.azurewebsites.net

All enquiries can be submitted via the e-mail address tfremergingminers@transnet.net.

Section 4: Evaluation Process

4.1 Prospective Customer Assessment

The purpose of Phase 1 of the Allocation Process is to identify Prospective Customers that will be able to meet Transnet's operational, technical and commercial requirements to ensure the optimal operation of the Channel, thereby qualifying them as Qualifying Customers. In addition, Responses will be evaluated to assess the Prospective Customer's legal ability to contract with Transnet and establish or maintain viable operations over the Contract Period.

Prospective Customers must provide their requested allocation of the System Throughput, by indicating the total tonnage they would like to apply for, by completing Appendix A. Any Prospective Customer must disclose the source of its Ore whether obtained directly, through its

own mining interests or operations, or indirectly, through or by any interest or participation in any Consortium or Joint Venture. Transnet will apply the principle that no one source of Ore or Mining Right can form the basis of more than one Response, when determining System Throughput allocation. Ore that is attributable to a given Prospective Customer will not be taken into account in relation to another Prospective Customer.

Prospective Customers must own the Ore that is to be transported by Transnet in terms of a Transnet Services Agreement. The Prospective Customer may acquire ownership of such Ore:

- (i) Through its own mining operations; and/or
- (ii) In terms of a valid resource swap.

Merely functioning as an agent, intermediary or trader of Ore will render the Prospective Customer ineligible to participate in the Allocation Process, unless if officially elected in writing as a representative by a mining right holder.

Prospective Customers may be required to make an oral presentation to Transnet for clarification purposes or to present additional information if so required. The Advisors will schedule any necessary presentations should the need arise.

The information requested from Prospective Customers in this Process Document has been identified by Transnet as necessary to enable an objective, fair, and rigorous evaluation of each response.

Therefore, Transnet reserves the right, in its sole discretion, to disqualify any Prospective Customer that submits an incomplete, inaccurate or otherwise non-compliant Response. The evaluation of Responses will initially be on a desktop basis, with a validation of the information provided taking place during Phase 2.

The desktop evaluation will be based on the validity, accuracy and completeness of the information submitted by the Prospective Customers in terms of the requirements set out in sections 5 to 8.

However, as a minimum, Prospective Customers will be required to comply with certain key requirements as outlined in this Process Document if they are to be considered for further participation in the Allocation Process. Prospective Customers will thus be evaluated considering inter alia their submission of the following:

A written undertaking that:

- (i) The Prospective Customer meets the Broad Based Socio-Economic Empowerment requirements as set out by the Mining Charter. In this regard progress made by the Prospective Customer in achieving the aims of the Mining Charter as enunciated in the Scorecard will be measured with reference to the targets set in the Mining Charter;

(ii) The Prospective Customer has the ability and willingness to take up all requested and allocated capacity on a take or pay basis (refer to section 2.6) for the duration of the Contract Period;

(iii) In respect of Prospective Customers who do not have existing satisfactory credit arrangements with Transnet, the Prospective Customer must indicate that it is able to either effect upfront payment per train scheduled, or, furnish Transnet with an irrevocable bank guarantee in a form reasonably acceptable to Transnet, for payment of the full amount of the services required;

(iv) The Prospective Customer owns or has access to a siding/s and is able to accept in its own or another Transnet-approved siding, and load one hundred and four (104) wagon trains within the prescribed loading time of twelve (12) hours during the Contract Period with no additional shunting time required; and

(v) Whether the Prospective Customer has provided written proof of authority (in the form of a company resolution/resolution of members), which is reasonably acceptable to Transnet, duly authorising the elected signatory/ies to submit a Response with respect to this Process Document on behalf of the Prospective Customer and to engage with Transnet throughout the Allocation Process, including participation in negotiations. Where the Prospective Customer is a consortium the mining right holder must provide further written authority to confirm that the party who submits the Response is duly authorised to do so.

Failure to comply with the requirements above or providing any misleading, incomplete or inaccurate information shall lead to the disqualification of the Prospective Customer at Transnet's sole discretion..

4.2 Qualifying Customer Assessment

The Phase 2 evaluation, which includes the due diligence process, is intended to validate the Responses received in Phase 1 in order to establish which Qualifying Customers comply with Transnet's requirements and with whom Transnet is able to contract in respect of material contractual terms.

This evaluation will be conducted in terms of the following criteria:

4.2.1 Legal and Contractual.

Key criteria will include but are not limited to:

- (i) Compliance with and evaluation of the information requirements in section 7 of this Process Document

4.2.2 Financial Strength

Key criteria will include but are not limited to:

- (i) Compliance with and evaluation of the information requirements in section 8 of this Process Document;
- (ii) Financial ability to meet take or pay contractual requirements;
- (iii) Solvency, level of gearing and extent of financial indebtedness and credit rating (if applicable);
- (iv) Financial strength of shareholders; and
- (v) Level of operating leverage.

4.2.3 Operational, mining, and technical capability

Key criteria will include but are not limited to:

- (i) Compliance with and evaluation of the information requirements in sections 2, 3, 5 and 6 of this Process Document;
- (ii) Ability to meet Transnet's operational requirements to run the operations optimally;
- (iii) Quality and extent of the ore body;
- (iv) Number of grades requested;
- (v) Ability of the mine to consistently produce throughout the contract period;
- (vi) Ownership of and/or access to a loading site (including load out facilities) able to meet Transnet's operational requirements and performance of the load out station;

The capacity which Transnet can allocate is limited both in relation to rail capacity and rail operating requirements as well as in relation to port capacity. The latter is substantially impacted by the number of grades of Ore which can be stockpiled and exported which, in turn, are determined by vessel size and loading parcels, stockpiling capacity and related aspects such as dwell times.

If the due diligence process reveals that the prospective customer intentionally misrepresented information in responding to this Process Document, such Qualifying Customers' Responses will not be considered further.

Section 5: Appendices

Appendix A: Glossary of Terms

The following terms shall have the meanings assigned to them below and cognate expressions shall have corresponding meanings, namely:

"Allocation Process" means the competitive contracting process described in and commencing with the Invitation and all other phases, stages, processes, steps, activities and related requirements detailed in this Process Document as varied and notified by Transnet, from time to time, pursuant to or in the course of this Allocation Process, and culminating in the conclusion of Transnet Service Agreements with Contracted Customers, for the provision of the Services, by Transnet, via the Channel, for the Contract Period;

“Channels” mean the Gqeberha, Ngqura, Saldanha and Cape Town Manganese Export Channel, comprising the Manganese Line and the Export Terminal;

“Change in Control” means any change whatsoever in Control whether effected directly or indirectly;

“Consortium” means an unincorporated joint venture comprising one or more Persons evidenced by a binding joint venture agreement;

“Contracted Customer” means a Qualified Customer with whom Transnet concludes a Transnet Services Agreement;

“Contract Period” means, in respect of the Allocation Process, the period commencing on 1 April 2023 and ending on 31 March 2033, or such other period/s as may be provided for and notified by Transnet pursuant to or in the course of the Allocation Process;

“Control” means in relation to any entity, the ability directly or indirectly to direct or cause the direction of a majority of the votes attaching to its issued shares (or interests) carrying voting rights, or to appoint or remove or cause the appointment or removal of a majority of its directors (or equivalent officials) and/or those of its directors (or equivalent officials) holding the majority of the voting rights on its board of directors (or equivalent body), or to materially influence the policy of the firm in a manner comparable to a person who, in ordinary commercial practice, can exercise an element of control referred to above;

“Dwell Time” means the number of days that Ore is stored at the Export Terminal before it is loaded onto a Vessel;

“Invitation” means the invitation for expressions of interest to participate in the Manganese Allocation Process issued by Transnet;

“Laws” means all statutes, ordinances, regulations, proclamations, by-laws, rules, directives, orders, and codes of practice having the force of law in the Republic of South Africa including but not limited to each and every locality within which the Channel is operated and includes the common law; and **“Law”** shall have a corresponding meaning;

“Loading Sites” means the sidings and associated loading facilities whether or not located at or near the Qualifying Customer’s mines, which a Qualifying Customer owns or in respect of which a Qualifying Customer has acquired a right of access and use;

“Mining Charter” means the Broad Based Socio Economic Empowerment Charter for the South African Mining Industry incorporating the Scorecard for the Broad Based Socio Economic Empowerment Charter for the South African Mining Industry, promulgated on 13 August 2004 in

Government Notice 1639 of 2004, pursuant to the provisions of section 100 of the Mineral and Petroleum Resources Development Act No.28 of 2002;

“Mining Right” means a mining right and mining permits granted in terms of Section 23 of the Mineral and Petroleum Resources Development Act No.28 of 2002;

“Month” means, except where otherwise indicated, a calendar month, and “Monthly” shall have a corresponding meaning;

“Mt” means million tons and “Mtpa” means million tons per annum;

“Ore” means export manganese ore mined at the Qualifying Customer’s mine/s and made available by the Qualifying Customer for rail transportation by;

“Person” means a natural person, partnership, firm, corporation, joint stock company, trust, unincorporated association, limited liability company, close corporation;

“Process Document” means this Pre-Qualification Document, together with any and all annexures, appendices and/or schedules hereto;

“Prospective Customer” means any Person or Consortium who, having submitted an expression of interest to Transnet in response to the Invitation, and who having submitted copies or proof of their valid manganese Mining Right, and having entered into a confidentiality agreement with Transnet, is issued with this Process Document;

“Qualified Customer” means any Qualifying Customer who, following the conclusion of the Phase 2 evaluation (which includes a due diligence review) of the Allocation Process is qualified by Transnet for a conditional allocation of capacity in the Channel in terms of the Allocation Process.

“Qualifying Customer” means any Prospective Customer who, following a desk top evaluation of its Response, is pre-qualified by Transnet to enter into Phase 2 of the Allocation Process;

“Rand” or “R” means the lawful currency of the Republic of South Africa from time to time;

“Response” means a response to this Process Document, submitted by a Prospective Customer in accordance with this Process Document;

“Services” means the rail transportation of export Ore on the Manganese Line to the Export Terminal, including the TFR Services, and the handling of such export Ore at the Export Terminal, including the TPT Services, which are to be provided by Transnet to the Contracted Customer, or such additional or alternative railway lines and ports as may arise from the Long Term Allocation Process;

“System Throughput” means, in any financial year, the aggregate maximum total planned throughput of the Channel for Ore expressed in Mtpa and determined by Transnet, based on the designed throughput capacity of the Channel and on any expected variance thereto, being the basis on which the commitments of Transnet in terms of the Transnet Services Agreement (including the provision of Services) shall be calculated;

“Ton” means a metric ton of one thousand (1,000) kilograms;

“TFR Services” means the provision by Transnet (acting through Transnet Freight Rail) of empty rail wagons and the collection and transportation of loaded rail wagons to the Export Terminal;

“TPT Services” means the provision of the following services by Transnet (acting through Transnet Port Terminals): the offloading of loaded rail wagons at the Export Terminal, the stacking of Ore onto stockpiles, dust suppression, any obligations of Transnet in relation to stockpile management (if applicable), the reclaiming from stockpiles of Ore, further dust suppression and the loading of Ore onto Vessels for export;

“Transnet” means Transnet SOC LTD , a state owned company with limited liability duly incorporated in accordance with the laws of the Republic of South Africa, with (Registration No. 1990/000900/30);

“Transnet Freight Rail” and **“TFR”** means Transnet Freight Rail, a division of Transnet;

“Transnet Port Terminals” and **“TPT”** means Transnet Port Terminals, a division of Transnet;

“Transnet Services Agreement” means a written agreement for the provision of the Services via the Channel for the Contract Period entered into between Transnet and a Qualified Customer, pursuant to the Initial Allocation Process;

“Vessel” means a vessel properly nominated by a Contracted Customer to carry Ore by sea;

“Week” means a period of 7 (seven) days commencing on a Monday and ending on a Sunday (both dates inclusive) and **“Weekly”** shall have a corresponding meaning;

Appendix B Terms and Conditions

1. This Process Document, which Transnet is issuing, forms part of the Manganese Allocation Process. The terms and conditions stated herein have been stipulated for the sole and express benefit of Transnet and, except where expressly stated to the contrary, may be waived by Transnet at any time, in its sole discretion.
2. Although Transnet has taken reasonable care in preparing this Process Document, this Process Document does not purport to be comprehensive. Transnet reserves the right to amend, modify or withdraw this Process Document at any time and from time to time, without liability to compensate or reimburse any Person including but not limited to any Prospective Customer, Qualifying Customer or Qualified Customer.
3. This Process Document may not contain all the information that may be required by a Prospective Customer in considering whether to submit a Response. Neither Transnet nor its Advisors, nor any of their respective directors, officers, employees, agents, or representatives undertakes to update or otherwise revise this Process Document or other material supplied herewith or accepts any obligation to provide Prospective Customers with access to any additional information or to correct any inaccuracies which may become apparent in this Process Document or in any other information which may be made available concerning the Services. However, should further information relevant to the Services become available to Transnet, Transnet may, in its sole discretion, make such information available to Prospective Customers.
4. Transnet provides all information in good faith and for guidance and assistance to Prospective Customers in the preparation of their Responses. Transnet, its officers, employees, agents and Advisors do not warrant the accuracy, completeness or correctness of any information provided in this Process Document and shall not accept responsibility for the fairness, accuracy or completeness of any information or opinions, for any errors, omissions or misstatements, whether negligent or otherwise, or for any written or oral communication transmitted or made available at any time to a Prospective Customer or its advisors, or for any loss or damage suffered by any Prospective Customer relying on such information, opinions and/or communications provided.
5. The information is provided on the basis that it is non-binding on Transnet, its respective directors, officers, and employees, agents, representatives, or Advisors. Transnet reserves the right not to proceed with the Allocation Process as well as the right to not to discuss the allocation process further with any Prospective Customer.
6. Transnet, its officers, employees, agents, and Advisors shall not be liable for any costs or expenses incurred by any Prospective Customers in or associated with submitting a Response, or any other costs and expenses incurred by Prospective Customers in connection with or arising out of the Manganese Allocation Process.
7. This Process Document is not intended to form the basis of a decision to enter into any transaction involving Transnet, and does not constitute an offer or recommendation to enter into such transaction, or an intention to enter into any legal relationship with any Person. Accordingly, Prospective Customers have no right to the Services as a result of their participation in the Allocation Process.

8. In the event that any Prospective Customer submits a Response, then such Response will not constitute an offer.

9. Transnet reserves the right to carry out site inspections on the premises of a Prospective Customer and to request clarification meetings in order to verify the information provided by a Prospective Customer in its Response, and to call for and be promptly provided with supporting documentation in order to confirm any information provided by a Prospective Customer in its Response. Transnet also reserves the right to conduct complete security, credit and background clearance checks of all Prospective Customers and their shareholders and directors. All additional information obtained and collated by Transnet may be considered in the evaluation of Prospective Customers.

10. Transnet may rely on the Response as being accurate and comprehensive in relation to the information and proposals provided therein by the Prospective Customer. (Prospective Customers will be required to sign a declaration of accuracy, which is attached to this Process Document, as Appendix B). All Responses must be formulated and submitted in accordance with this Process Document. Prospective Customer must ensure that Responses are complete and address all requirements posed by Transnet in terms of this Process Document. Transnet reserves the right to reject any Response that is incomplete or does not comply with this Process Document, any subsequent amendments and supplementary information validly issued by Transnet to Prospective Customers during the Manganese Allocation Process.

11. Responses which do not comply with this Process Document or conduct by a Prospective Customer which fails to adhere to the requirements and terms and conditions prescribed by this Process Document may result in the disqualification of the relevant Prospective Customer by Transnet, in its sole and absolute discretion, from further participation in the Manganese Allocation Process.

12. Any Prospective Customer, Qualifying Customer or Qualified Customer must notify Transnet in writing of any change in Control and/or any change in composition prior to undergoing such Change in Control or change in composition. Such notification must contain sufficient information as to the nature of such Change in Control or change in composition. In the event that the Change in Control results in the Qualified Customer(s) receiving more allocated capacity than it would have had the Change of Control not occurred, such Prospective Customer, Qualifying Customer or Qualified Customer must re-qualify in terms of this Process Document. Or submit a new response at any stage of the Manganese Allocation Process. Transnet shall be entitled, in its sole discretion, to disqualify or exclude such Prospective Customer, Qualifying Customer or Qualified Customer from subsequent stages of the Manganese Allocation Process should it fail to notify Transnet of such proposed changes or in the event that it fails to re-qualify as a result of such changes. Transnet reserves the right to recall any capacity it may have allocated to a Qualifying Customer or Qualified Customer as a result of the Change in Control.

13. Prospective Customers may only contact officials, employees or the Advisors of Transnet who may be associated with the Manganese Allocation Process in terms of the

communication structure established by this Allocation Process Document, except in the case of pre-existing commercial relationships, in which case contact may be maintained only with respect thereto and in maintaining such contact no reference will be made to the Initial Allocation Process or this Process Document.

14. Responding to this Process Document does not obligate Prospective Customers to participate in further phases of the Manganese Allocation Process.

15. Transnet is not obliged to accept any Response or to select any Qualifying Customers, or to conclude negotiations with such Qualified Customers.

16. This Process Document may not be reproduced, furnished to any other person, referred to, or used for any purpose other than as intended by Transnet in respect of the Manganese Allocation Process. This Process Document is not being distributed to the general public. This Process Document constitutes Confidential Information as contemplated in the Confidentiality Agreement signed by all Prospective Customers

17. The copyright in all documents, data, designs, electronic aids, programmes, and the like, forming part of this Process Document or developed by Transnet during any stage of the Manganese Allocation Process, shall vest in Transnet and its Advisors. This Process Document may not be reproduced, copied or stored in any medium without the prior written consent of Transnet other than for use strictly for the purpose of preparing a Response.

18. Transnet will treat mine production information as confidential and will not disclose it to third parties, other than in an aggregated format for the purposes of sharing aggregate industry demand.

19. No Prospective Customer, Qualifying Customer or Qualified Customer, or their respective shareholders, directors, advisors or employees, representatives or nominees may directly or indirectly offer or give to any Person in the employment of Transnet or any Advisors of Transnet any gift or consideration of any kind as an inducement or reward for any favourable consideration of the relevant Prospective Customer, Qualifying Customer or Qualified Customer, in relation to the Manganese Allocation Process. In the event that any of the prohibited practices contemplated in this clause are committed, Transnet shall be entitled, without prejudice to any other remedies at its disposal or rights which it may have, to disqualify the Prospective Customer, Qualifying Customer or Qualified Customer from participating in any further phases of the 2009 Manganese Allocation Process.

20. Prospective Customer, Qualifying Customer or Qualified Customer are bound by the terms and conditions contained in this Process Document.

21. Prospective Customers, Qualifying Customers and Qualified Customers are requested to note that the undertaking by Transnet of the Allocation Process should not be seen as establishing a precedent or as giving rise to any further expectation in relation to the provision of Services by

Transnet in respect of the Channel, or in relation to any other rail and/or port services which may be provided by Transnet anywhere else within the Republic of South Africa.

Appendix C: Information Required

Technical and Mining:

1. Detailed production schedule, both domestic and export for the next five (5) years, by month, broken down into grades;
2. The existing and proposed loading site/s on the Channel;
3. Nature and extent of manganese reserves, supported by reports of experts;
4. Location and extent of the Prospective Customer's existing mine/s including propose extensions of existing mines and possible new mines;
5. Information relating to life of mine, production forecasts and current mine plan;
6. Copies of feasibility studies undertaken in relation to mines which have not yet, or have only recently commenced operations;
7. Information relating to the surface infrastructure, and if not yet established, the Prospective Customer is to supply plans and associated costs;
8. A geological model/interpretation setting out the resource/reserve statement and estimates with a report from a consulting company, if available;
10. Details of the ownership and source of Ore (i.e. the resource from which the Ore is to be mined);
11. Tonnages that the Prospective Customer requires Transnet to transport, stockpile and load into Vessels. Prospective Customer must also indicate what minimum tonnages would be regarded as being financially viable. Please indicate the date from which such tonnages are required to be transported and handled by Transnet.
12. Full details of any and all environmental impact assessments undertaken and/or being undertaken by the Prospective Customer and copies of all records of decision;
13. Details and location of all existing and proposed mining access roads, rail sidings and loading stations; and
14. Eskom power supply availability, backed up by written confirmation from Eskom

Operational:

1. The Prospective Customer must confirm in writing that it owns or has access to a siding/s and is able to accept from its own loading siding, or another Transnet-approved siding, and load one hundred and four (104) wagon trains within the prescribed loading time of twelve (12) hours (companies collect from the Hotazel Station or another Transnet approved siding and return) during the Contract Period with no additional shunting time required by Transnet. All costs of collection, loading and return to be borne by the Prospective Customer;
2. Transnet will limit the number of grades per train (104 CR wagons) to a maximum of two grades of Ore. Prospective Customer must state whether they require one (1) or two (2) grades per train;
3. Ability or willingness to make sidings and/or loading points, that meet Transnet's operational requirements (as set out in 6.1.2 above) available to other participants.
4. Details (volumes and grades) of all Ore exported via rail over the last two (2) years, other than via the Channel. Please indicate the ports through which the Ore was exported with a breakdown of tonnages per port; and
5. Details (volumes and grades) of all Ore exported via road over the last two (2) years, other than via the Channel. Please indicate the ports through which the Ore was exported with a breakdown of tonnages per port.

Legal and Contractual

All information requested below must be provided by the Prospective Customer or where the Prospective Customer is a Consortium, by each member of the Consortium comprising the Prospective Customer:

Corporate Information

In the case of companies:

1. Certified copies of Memorandum of Incorporation;
2. Certified copy of Certificate of Incorporation;
3. Certified copy of Shareholders Agreement (if applicable);
4. Names of all shareholders and details of their shareholdings;
5. Names of all directors;
6. BBBEE status by SANAS approved agency, including ratings;
7. Proof of authority of signatory – in the form of a certified copy of a company resolution;

8. Identification of the ultimate controlling shareholder; and
9. Valid tax clearance certificate.

In the case of partnerships:

1. Certified copy of the partnership agreement;
2. Names of all partners;
3. Details of the partnership interest held by each partner;
4. BBBEE status by SANAS approved agency, including ratings;
5. Proof of authority of signatory – in the form of a certified copy of a partnership resolution signed by all partners; and
6. Valid tax clearance certificate.

In the case of trusts:

1. Certified copy of the trust deed;
2. Name of the founder;
3. Names of all trustees;
4. Names of all beneficiaries;
5. BBBEE status, including ratings;
6. Proof of authority of signatory – in the form of a certified copy of a trustee's resolution signed by all trustees; and
7. Valid tax clearance certificate.

Consortium Arrangements (if applicable):

1. Names of all Consortium members;
2. Certified copy of the Joint Venture Agreement evidencing the formation of the Consortium; and
3. Copies of resolutions by each of the members of the Consortium authorising their individual representatives to represent and bind them in the Consortium, and a resolution passed by the duly authorised representatives of the members of the Consortium appointing the lead member/s of the Consortium.
4. Valid tax clearance certificate by each joint venture party

Contractual Arrangements:

1. Full details of all contractual arrangements, including certified copies of the agreements evidencing same, concluded between the Prospective Customer (or where the Prospective Customer is a Consortium by any or all of the members of such Consortium) and other third parties who are involved directly or indirectly in prospecting, mining, beneficiating, marketing and/or trading in Ore including agency agreements, mineral and ore-swaps, joint ventures etc; and
2. In the event that preference points are claimed for any sub-contractors, the BBBEE SANAS accreditation information of such sub-contractors must be furnished for each subcontractor in respect of Prospective Customers that have not previously contracted with Transnet in respect of the Channel, full details of any financing agreements or arrangements negotiated and/or being negotiated by the Prospective Customer with third parties in connection with the prospecting, mining, beneficiating, marketing and/or trading in Ore.
3. Customer information in respect of Prospective Customers that have not previously contracted with Transnet in respect of the Channel, details of supply contracts concluded by the Prospective Customer with customers or prospective customers for the supply of Ore for the next four (4) years including aspects such as contract duration but not including price.
4. Equipment and plant lease arrangements in respect of Prospective Customers that have not previously contracted with Transnet in respect of the Channel, full details of all lease agreements or arrangements concluded by the Prospective Customer in relation to the prospecting, mining, beneficiating of Ore.
5. Access to and use of loading sidings: Full details of all loading sites owned by the Prospective Customer and/or leased by the Prospective Customer from Transnet and/or another third party, or in respect of which the Prospective Customer has secured rights of access and use.
6. Third party rights / interests full details of all options, rights of pre-emption and all other rights granted or created by the Prospective Customer in favour of any third party which, if exercised, would entitle or permit the third party to acquire any interest in the Prospective Customer (be it a shareholding or other interest) or any interest in the whole or any portion of the Prospective Customer's prospecting and/or mining or other rights, its immovable property and/or its movable property; and
7. Litigation (Current or Pending): Details of all material litigation (current or pending) relating to any aspect of the Prospective Customer's immovable or movable property, business activities and interest regarding the prospecting, mining, beneficiation, marketing and/or trading in Ore.
8. Any other agreements with any other mining entities that are applying to contract for or have previously contracted with Transnet for the provision of rail transportation and handling services on the Channel; and

9. Management organisational charts/organograms setting out the positions and current identities of persons holding management positions in the Prospective Customer. To the extent that the Prospective Customer takes the form of a Consortium, the organizational chart/organogram must include each entity comprising the Consortium.

Financial

All information requested below must be provided by the Prospective Customer or where the Prospective Customer is a Consortium, by each member of the Consortium comprising the Prospective Customer:

1. Provide two years historical audited annual financial statements;
2. Provide details of working capital, capital expenditure and financing assumptions in respect of the projections above;
3. Provide any business plans (including strategic plan); and

Appendix D: Application for parcels available in the Initial allocation Process

	Response
Required capacity in mtpa	
Date from which capacity required	
Signature	

Where a customer envisages a ramp up of production, a supporting schedule showing the ramp up profile, and parcels required, over the Contract Period.

5.2 Appendix E: Process Document Declaration

Process Document Declaration

I, the undersigned,

I (entity No. _____)

the duly authorised representative of

(Registration No. _____)

a company registered in accordance with the laws of

_____, being either a single entity Prospective Customer submitting a Response to the Pre-Qualification Document (Process Document), or the lead member of a Prospective Customer which is consortium submitting a Response to the Process Document (hereinafter referred to as “the Respondent ”)

do hereby –

acknowledge that Transnet is conducting a competitive contracting process in respect of Services it is to provide on the Channel, and Transnet has invited the Respondent to submit a Response to a Process Document, and that this Process Document Declaration is one element of the information required by Transnet as part of the Response;

2. represent that I am a duly authorised representative of the Respondent, in that every member of the Respondent has authorised the company referred to above to be the lead member of the Respondent, and I am duly authorised by such company to sign this Process Document Declaration;

3. confirm that the Respondent has read and understood and accepts unconditionally the terms and conditions set out at paragraph 1.5 of the Process Document, in respect of Transnet’s rights regarding Responses to the Process Document, and other aspects of the Manganese Allocation Process as set out in this Process Document;

4. confirm that the Respondent has satisfied itself as to the accuracy and comprehensiveness of all information, documentation and proposals contained in the Respondent’s Response and that in evaluating the Respondent’s Response, Transnet may rely on such information, documentation and proposals as being accurate and comprehensive in relation to the requirements and requests set out in the Process Document;

5. declare that the Respondent (including all members of a Respondent consortium) save for purposes of forming a Consortium, has not colluded with any other person responding to the Process Document;

6. declare that the Services required and applied for are not in respect of Ore that is in any way available or committed to any other party who is independently applying for Services as a part of this process;

7. declare that the Respondent (including all members of a Respondent where such Respondent is a Consortium) is not aware of any person within Transnet or any of Transnet's Transaction Advisor team (as defined in the Process Document) who may directly or indirectly influence or be involved with the evaluation of the Respondent's Response (or if the Respondent is aware of any such person, that it has been explicitly stated in the Respondent's Response);

8. declare that the information provided to Transnet in a form of a Response is true and correct

8.1. If any information is found to be incorrect, Transnet shall, in addition to any other remedy it may have:

8.1.1. Disqualify the Respondent from participating in this Allocation Process and future Allocation Process;

8.1.2. Submit the Respondents name to National Treasury for Blacklisting]; and

8.1.3. Cancel the Transnet Service Agreement and claim any damages which it has suffered as a result of the cancellation;

9. agree that this Process Document Declaration may only be changed by an agreement in writing signed by both the Respondent and Transnet;

10. agree that failure by Transnet to insist upon strict adherence to any one or more of the terms of this Process Document Declaration one or more occasions shall not be construed as a waiver of any such term by Transnet, nor deprive Transnet of the right to require strict compliance thereafter with the same or any other term of this Process Document

Declaration.

SIGNED by the Respondent and witnessed on the following date and at the following place:

Name (On behalf of respondent) Designation

Date: Witness:

Appendix F: Process Applications

Process Applications

By signing the acknowledgement below, the respondent confirms their wish to participate/not participate on the MECA process. This acknowledgement is to be signed by the same signatory as the declaration above.

	Response (Y/N)
Will you be participating on the MECA process	
Signature	