Employer's Requirements **SECTION 4**

Employer Policies and Procedures

Stakeholder Management, Industrial Relations and Personnel **PART 6**

Part 6.1 Stakeholder Management

Part 6.2: Industrial Relations and Personnel

Introduction

The Projects Stability Department strategically directs, coordinates and integrates various functions to mitigate and/or eliminate the risk of instability incidents and its impact thereof on the project, thereby creating a stable environment for the execution of projects. This is achieved through development of processes and systems that promote sound labour relations practices, risk management, good pay practices, effective stakeholder management, strategic interventions and stability initiatives to enable effective delivery of projects.

Eskom aims to positively impact the socio-economic landscape of the environment in which Eskom operates in to create a geographic footprint and legacy. This is achieved through a well-coordinated and integrated approach driving transformation of industries and social upliftment of communities in line with the South African socio-economic legislative framework, which seeks to promote social cohesion, social justice, economic transformation and empowerment.

Eskom contributes significantly to improving the social, environmental and economic well-being of communities through its socio-economic development (SED) and corporate social initiatives (CSI) initiatives and programmes,

Eskom encourages and contractually commits its business partners to participate in these initiatives. This is essential for creating a stable environment, strengthening the relationship with the local communities and reducing non-technical risks and reputational damage, such as social conflict, acts of instability and protest actions, which may lead to project delays and disruptions to operations.

Project Jurisdiction

The information below indicates the project location that defines the local to site jurisdiction for the project.

Province	Mpumalanga
Municipality	eMalahleni Local Municipality

1.1. Stakeholder Management

1.1.1. The Stakeholder management and the engagement strategy adopted for the project must have an overarching approach in relation to building and maintaining good working

relationships with key stakeholders. This is crucial for understanding of the key issues affecting stakeholders and communities and its impact on the project, with the aim of facilitating a collaborative approach towards relationship building, early identification and resolution of issues.

1.1.2. The engagement and communication strategy will strengthen the stakeholder partnerships that is important for sustainable positive relationships, based on mutual trust and in turn building acceptance, support and a 'social licence to operate' within the impacted communities.

1.1.3. This is fostered by the Eskom Stakeholder Relations Policy and King IV engagement requirements and the Eskom Board's accountability for stakeholder engagement in accordance with Principles of the King IV Governance Framework of June 2017, which provides for transparency and inclusivity in relation to stakeholder relationship management.

1.2. Definitions:

1.2.1. **Affected parties** means persons, groups, and other entities within the project area who are directly affected by the project.

1.2.2. **Communication plan** means a policy-driven approach to providing stakeholders with information, defining who should be given specific information, when that information should be delivered and what communication channels will be used to provide the information.

1.2.3. **Interested parties** mean individuals/groups/entities that may not experience direct impact from the project but consider or perceive their interests as being affected by the project and/or who could affect the project and the process of its implementation in some way.

1.2.4. **Project stakeholders** means individuals, groups, or other entities who are either affected or likely to be affected directly or indirectly, positively, or adversely, by the project (also known as 'affected parties'); and may have an interest in the project ('interested parties').

1.2.5. **Public relations** (PR) is a strategic communication process that builds beneficial relations between the organisation and its publics.

1.2.6. **Stakeholder relations** refers to managing the stakeholder interface/engagements through effective lobbying.

1.2.7. **Traditional leader** means a traditional leader of a specific traditional community or headman or headwoman serving under a senior traditional leader, as defined in section 1(a) and (b) of the Traditional Leadership and Governance Framework Act 41 of 2003, as amended.

1.2.8. **Traditional community** means, as referred to in section 2(a) and (b) of the Traditional Leadership and Governance Framework Act 41 of 2003, as amended; and states that "a community may be recognised as a traditional community if it:

1.2.9. **Vulnerable groups** mean persons who may be disproportionately impacted or further disadvantaged by the project(s) as compared to any other groups due to their vulnerable status and who may require special engagement efforts to ensure their equal representation in the consultation and decision-making process associated with the project.

1.3. Stakeholder Engagements

1.3.1. The Contractor may, on invitation by Eskom, at any given time during the execution of the project, be required to participate in the local stakeholder engagement forum that is established by the local municipality.

1.3.2. The Contractor may not engage with the Local Community or Local Stakeholders without Eskom representation.

1.3.3. However, in the absence of an engagement forum being established by the local municipality, Eskom may establish a stakeholder forum for the purposes of dealing with stakeholder issues and all external instability related matters to mitigate those risks to prevent future re-occurrences.

1.3.4. These forums should not be confused with the Contractor's Labour and employee engagement forum.

2. Constraints On How the Contractor Provides the Services

2.1. Part 1: External Stakeholder Requirements

2.1.1. Interpretation, Additional Definitions and Abbreviations

2.1.1.1. In this Stakeholder Management requirements to avoid confusion with usual employer and employee terminology for industrial relations, reference is made to “Eskom” rather than “the Employer” (as Eskom Holdings Limited is referred to elsewhere in the Contract). The reference to Eskom herein is, however, analogous to “the Employer” under the Contract and includes the legal successors in title to Eskom Holdings Limited under the Contract.

2.1.1.2. The following additional definitions shall be referred to in the interpretation of any part of the requirements:

a) “**Contractor**” mean the contractor employed by Eskom to perform works relating to the Project as agreed to between Eskom and the employed contractor. Depending on the context the term “Contractor(s) may also include the Contractor and Sub-Contractors as defined in this Policy.

b) “**Competent Person**” means any person having the knowledge, training, experience, and qualifications specific to the work or task being performed; provided that where the appropriate qualifications and training are registered in terms of the South African Qualifications Act, 85 of 1995, these qualifications shall be deemed to be the required qualifications and training.

c) “**This Policy**” means any part of the Eskom Employers Policy and Procedures – External Stakeholder Relations Management.

d) “**Local Community**”, “**Local Businesses**”, “**Local Stakeholder**” means the ward and or municipal area within which the works falls, or any of the feeder areas within the project as agreed to between Eskom and the Contractor prior to contracting. After contracting it may from time to time be agreed to or amended at an Eskom nominated external stakeholder forum / committee. If the nominated external stakeholder forum fails to agree on the definition of “Local” the agreement between Eskom and the Contractor will prevail.

2.1.2. Recruitment of Contractor personnel

2.1.2.1. Recruitment by the Contractor will support the principle of localisation. Employees from the Local Community must be given preference in any recruitment process relating to General Workers. In any other category of skills, Employees from the Local Community that are Competent Persons must be given preference.

2.1.3. Accommodation of Contractor personnel

2.1.3.1. The accommodation of Contractor’s personnel must support the principle of localisation by providing opportunities to the Local Business / Community.

2.1.4. Transportation of Contractor personnel

2.1.4.1. The transportation of Contractors personnel must support the principle of localisation by means of the appointment of service providers from local business / local transport associations / industry that has operating licence within the project jurisdiction. Local associations will always be prioritised unless there are no registered transport associations in the area.

2.1.4.2. The transportation of Contractor personnel must meet the Eskom transportation safety standard, existing and relevant legislation (i.e. National Land Transportation Act) and will be assessed by mandated personnel before operating.

2.1.4.3. To promote and foster cordial working relationships, the Contractor may use local transport service providers to shuttle contractor personnel to and from Site. The Contractor is advised to contact taxi association(s) local to the Site to determine transporting options and the current rates thereof.

2.1.5. Participation of local Small Medium Micro Enterprises (SMMEs)

2.1.5.1. The Contractor must play an active role in driving transformation of industries, upliftment of communities, and society at large in line with the South African socio-economic legislative framework which seeks to promote social cohesion, social justice, economic transformation, and empowerment. The Contractor must do so by purchasing / securing consumables, goods, transportation of personnel, accommodation of personnel, or other goods and services not listed below from the Local Community / Local Businesses at market related prices.

2.1.5.2. If the Contractor procures any good or services referred to in the paragraph above by means of sub-contracting, the provisions of this paragraph will apply to such sub-contractor.

2.1.5.3. It is mandatory that the Contractors source from local to site SMMEs, some of the core commodities that can be indicated and Support Services required which include but not limited to, Facilities Hire & Management, Trucking and Logistics, Vegetation Management, Safety, Garden Services, Specialist Botanical services, Waste removal, Security, Cleaning, Ablution facilities, Electrical consumables, Stationery, Plumbing, Paving, Supply of concrete, Bush clearing, PPE, COVID 19 equipment. However, it should be noted that these can be sourced elsewhere if local suppliers are unable to provide these services and proof to that effect will be supplied when required.

2.1.5.4. In consultation with Eskom and the local municipality, an expression of interest workshop will be conducted a month before site establishment by the Contractor. The objective of the Workshop is to introduce the project to local SMMES, to outline core and support commodities and services that will be required by the project as well as how to do business with the Contractor.

2.1.5.5. An expression of interest workshop should be conducted by the Contractor prior to site establishment to introduce the project and to outline commodities to be outsourced by the contractor. This will result in a comprehensive database of local companies that may be approached for goods and services.

2.1.6. Corporate Social Investment (CSI)

2.1.6.1. Corporate Social Investment is a form of corporate social responsibility, which is a company's overarching approach or strategy for improving the social, environmental, and economic well-being of project impacted communities or societies at large. Eskom through its corporate social initiatives and development programmes has over time contributed significantly towards the upliftment of many impoverished communities. Eskom also encourages and contractually commit its business partners to do the same so that the lives in those communities are improved and uplifted.

2.1.6.2. The Contractor is required to spend an allocated % of the contract value on CSI. The Contractor must in co-operation with the Eskom Project representative identify value added initiative/s to achieve the aim of leaving legacies and geographical footprints in the project area and Local Communities.

2.1.6.3. Eskom will approve the CSI projects prior to the Contractor executing them.

2.1.6.4. CSI projects must be identified in consultation with Eskom and Local Stakeholders and be initiated within the first 6 months of the commencement of the project. Implementation to be done within 7 to 16 months of construction.

2.2. Part 2: Personnel and Industrial Relations Policy and Requirements

2.2.1. Definitions

2.2.1.1. "**Bargaining Council/s**" means a council/s jointly established by employer organisations and Trade Unions for a particular sector or industry in terms of section 27 of the LRA and for the purposes as set out in section 28 of the LRA. For the purposes of this document, unless otherwise states, it refers to:

a) The Bargaining Council for the Civil Engineering Industry (BCCEI). All information pertaining to the scope of the BCCEI, its main agreement and all other associated collective agreements setting out the conditions of employment, wage schedules levies etc. that all Civil Contractors must comply with can be found at http://www.bccei.co.za/.

b) The Metal and Engineering Industry Bargaining Council (MEIBC). All information pertaining to the scope of the MEIBC, its main agreement and all other associated collective agreements setting out the conditions of employment, wage schedules levies etc. that all Mechanical Contractors must comply with can be found at https://www.meibc.co.za.

c) The National Bargaining Council for the Electrical Industry of South Africa (NBCEI). All information pertaining to the scope of the NBCEI, its main agreement and all other associated collective agreements setting out the conditions of employment, wage schedules levies etc., all Electrical Contractors must comply with can be found athttp://www.nbcei.co.za/.

2.2.1.2. "**Competent Person**" means any person having the knowledge, training, experience, and qualifications specific to the work or task being performed; provided that where the appropriate qualifications and training are registered in terms of the South African Qualifications Act, 85 of 1995, these qualifications shall be deemed to be the required qualifications and training.

2.2.1.3. "**Engagement Forum**" means the forum attended by the Contractor, their employees and or the employees trade union representatives on labour relations related matters.

2.2.1.4. "**Eskom**" means Eskom Holdings SOC Limited.

2.2.1.5. "**Eskom Representative**" Unless otherwise stated, means either the Employer's Representative / Agent or Project Manager or a functionary appointed by Eskom to represent it in any matter concerning these Requirements. To avoid doubt, it will include a person appointed by the Employer's Representative, Employer's Agent, or the Employers Project Manager to represent Eskom in any matter concerning these Requirements, such as the Eskom Internal Stability Manager.

2.2.1.6. "**General Workers**" means employees employed in jobs graded as Category 1 in the wage schedules issued by the MEIBC or in jobs graded as Task Grade 1 in the wage schedules published by the BCCEI or As a General Assistant in terms of the NBCEI main agreement. In the case of Contractors that fall within the jurisdiction of any other Bargaining Council or for non-party Contractors, it means jobs that are same, similar, or comparable with those referred to in this definition.

2.2.1.7. "**Industrial Action**" means a lock-out or strike as defined in the LRA (Section 213) and includes but is not limited to: strikes, lockouts, work stoppages, stay-away, protests and demonstrations, go-slows, any organised disruption of work and any other related actions. It also includes any action taken by the community that impedes the execution of the Project works.

2.2.1.8. "**Industrial Action Management Procedure**" means the industrial action management procedure referred to in Part 7 of these Requirements.

2.2.1.9. "**Industry Agreements**" means the collective agreements and addendums to it for the Bargaining Council for the Civil Engineering Industry (BCCEI), the Main Agreement of the Metal and Engineering Industries Bargaining Council (MEIBC) respectively and the Main Agreement for the National Bargaining Council for the Electrical Industry to South Africa (NBCEI), that regulates terms and conditions of employment of Employees. Industry Agreement may become applicable to Contractor(s) by means of applying a Bargaining Council Agreement; extension by the Minister of Labour to none parties in terms of section 32 of the LRA; or through the operation of this Policy. Concerning the Project works, the Industry Agreements of the BCCEI, the MEIBC or the NBCEI will apply to a Contractor. It is the Contractors' responsibility to ensure that it correctly determines the Bargaining Council that has jurisdiction over its works and that they use the latest version of the applicable Industry Agreements.

2.2.1.10. "**Industry Wage Rates**" means the entry rates negotiated at Bargaining Council level between the relevant Employer's organisations and Trade Union(s) in an Industry Agreement.

2.2.1.11. "**Labour Relations Act**" (LRA) – means the South African Labour Relations Act 66 of 1995. A copy of the LRA may be found at https://www.gov.za/documents/labourrelations-act.

2.2.1.12. "**Local Employees**" or "**Local Community**" means an employee ordinarily resident within a 40-kilometre radius of the Project (in accordance with the criteria established by Eskom). It may, from time to time be agreed or amended at an Eskom nominated external stakeholder forum/committee. If the nominated external stakeholder forum fails to agree on the definition of "Local" the agreement between Eskom and the Contractor will prevail.

2.2.1.13. "**Medical Certificate of Fitness for Duty**" means a certificate valid for one (1) year issued by an Occupational Health Practitioner (OHP) as defined in these Requirements.

2.2.1.14. "**Medical Surveillance**" means a planned programme or periodic examination (which may include clinical examinations, biological monitoring, or medical tests) of employees by an Occupational Health Practitioner or, in prescribed cases, by an occupational medicine practitioner.

2.2.1.15. "**Non – local employees**" means persons employed at the Project works who do not meet the definition of Local Employees.

2.2.1.16. "**Occupational Health Practitioner**" means a qualified Occupation Health Practitioner that is registered with SASOM as an Occupational Health Practitioner and includes Occupational Nursing Practitioners and Occupational Medicine Practitioners.

2.2.1.17. "**Principal Contractor**" means an entity that conducts construction work and related activities on the Project and holds a primary commercial contract with Eskom. Depending on the context, the term "Contractor(s)" may also include either a Principal Contractor, a Subcontractor or a Service Provider as defined in these Requirements.

2.2.1.18. The "**Project**" means the Construction of Sandblast Workshop for Kusile Power Station.

2.2.1.19. The "**Site**" means the Site as stipulated in the commercial contract or any other places that may be specified under the contract as forming part of the Site.

2.2.1.20. "**Site Skills Development Plan**" means the development, implementation and submission of training plans that address the skills shortage and skills upliftment relevant to the Project site and the surrounding community. These site-specific Skills Plans should feed into the Contractor's Workplace Skills Plan ("WSP").

2.2.1.21. "**Scarce and critical skills**" means the list of skills or qualifications determined to be critical for the Republic of South African in relation to an application for a critical skills visa or permanent residence permit as published in the Government Gazette No 37716 of 3 June 2014 or any other Government Gazette issued by the Department of Home Affairs which amend or replace the list set out in the mentioned Government Gazette and which is available at: http://www.dha.gov.za/images/immigration_critical_skills.pdf. It is the responsibility of the Contractor to ensure that he has the latest version of the list.

2.2.1.22. "**Semi-Skilled Employees**" means employees employed:

[1] In jobs graded Category 2 to 4 (MEIBC) in the scheduled issued by the MEIBC

[2] In jobs graded jobs graded as Task Grade 2 to 8 (BCCEI)

[3] In jobs that are not graded as a General Assistant and not as an Artisan as issued by the NBCEI

[4] With regards to non-party *Contractors,* it means jobs that are the same, similar, or comparable with those referred to in this definition.

2.2.1.23. "**Skilled Employees**" or "**Artisans**" means employees employed:

[1] In jobs graded Category 5 (MEIBC) in the scheduled issued by the MEIBC.

[2] In jobs graded as Task Grade 9 (BCCEI) in the scheduled of the BCCEI.

[3] In a job that requires the employee to be an Artisan (NBCEI) in the schedule issued by the NBCEI.

[4] Concerning non-party Contractors, it means jobs that are the same, similar, or comparable with those referred to in this definition. It will include any qualified artisan.

2.2.1.24. "**Strike Diary**" means the strike diary referred to in these Requirements.

2.2.1.25. "**Subcontractor**" means an entity that has been contracted by a Principal Contractor to conduct construction work and related activities or services at the Project. Subcontractors also include Temporary Employment Services or labour brokers and Support Service Contractors.

2.2.1.26. "**Support Service Contractors**" means any entity, irrespective of whether such entity was contracted by Eskom, the EPC Contractor or a Subcontractor as defined, who is employed at the Project site and that provides any of the following services: contract cleaning, horticulture, hospitality (including preparation and serving of food), infrastructure maintenance (existing infrastructure which does not form part of the projects works), security, transport, and removal of waste.

2.2.1.27. "**Temporary Employment Service Provider**" means any institution who, for reward, procures for or provides to a client, persons that render services to, or perform work for, a client; and who are remunerated by the Temporary Employment Service Provider. As defined in section 198 of the LRA.

2.2.1.28. "**Termination**" means the date on which the employee's limited duration contract or secondment contract comes to a natural end, due to the completion of the task the employee was employed for, or due to the expiry of the period, the employee was employed for. It excludes the dismissal of an employee for reasons related to conduct, capacity, and operational requirements, but includes demobilisation.

2.2.1.29. "**These Requirements**" means any part of the Employer's Personnel and Industrial Relations requirements.

2.2.1.30. "**Trade Unions**" means an association of employees whose principal purpose is to regulate relations between employees and Employers, including any Employer organisations and who are registers in terms of the requirements established by the LRA. It excludes political parties or any other association of persons or members of the community who are not registered as a trade union at the Department of Labour and whose scope of application includes work that is performed at the Project works.

2.2.2. Abbreviations

Abbreviation	**Description**
CSI	Corporate Social Investment
BCCEI	Bargaining Council for the Civil Engineering Industry
BCEA	Basic Conditions of Employment Act
CCMA	Commission for Conciliation, Mediation and Arbitration
CIPC	Companies Intellectual Property Commission
COIDA	Compensation for Occupational Injuries and Diseases Act
EMPSA	Employer Statement of Account
FIDIC	Federation Internationale Des Ingenieurs-Counseils
HR & IR	Human Resources & Industrial Relations
ERT	Emergency Response Team
LDC	Limited Duration Contract.
LRA	Labour Relations Act, 66 of 1995 as amended.
MEIBC	Metal and Engineering Industry Bargaining Council
NBCEI	National Bargaining Council for the Electrical Industry to South Africa

Abbreviation	Description
NEC	New Engineering Contract
POPIA	Protection of Personal Information Act
SARS	South African Revenue Service
SASOM	South African Society of Occupational Medicine
SLA	Service Level Agreement
UIF	Unemployment Insurance Fund

2.2.3. General

2.2.3.1. Interpretation and Abbreviations

a) The terms identified (italicised) and/or defined (Capital Initials) in this document have no relevance to the identified and defined terms of the FIDIC/NEC or other form of Construction, Service or Supply Contract to which it may be appended.

b) In the case of duplications and/or contradictions with the applicable Law and/or the terms and conditions of the FIDIC/NEC or other form of Construction, Service or Supply Contract to which these Requirements may be appended, the applicable Law and/or the terms and conditions of the FIDIC/NEC and/or other forms of Construction, Service or Supply Contract takes precedence.

c) To avoid confusion in the use of the term “Employer” as it is referred to in the Human Resources/Personnel and Industrial Relations context versus the use thereof in commercial contracts, these Requirements refers to Eskom as Eskom Holdings SOC Limited rather than the Employer as would be the case in FIDIC/NEC Contracts. These Requirements further refer to the Employer when reference is made to the employer in the Human Resources/Personnel and Industrial Relations context. The reference to Eskom herein is thus analogous to “the Employer” under the FIDIC/NEC Contract and includes the legal successors in title to Eskom Holdings SOC Limited under the FIDIC Conditions of Contract.

2.2.3.2. Italicised and Capital Initialled terms.

a) Italicised and Capital Initialled terms within these Requirements means they are defined within.

2.2.3.3. Scope and Application

a) These Requirements apply to the Contractor (including all Subcontractors) and all Other Project Contractors. For the avoidance of doubt, these Requirements apply to labour brokers (being a Temporary Employment Service as defined in section 198 of the LRA) and the Contractor shall ensure compliance with these Requirements by all labour brokers engaged by the Contractor in connection with the Works and related activities at the Project.

b) These Requirements will not apply to Support Service Contractors that principally perform work within the following industries: Catering; Contract cleaning; Security; Waste removal; Horticulture; Maintenance of existing structures, and Transport.

c) Nothing in these Requirements shall limit or derogate from the Contractor's responsibilities under the contract or the Contractor's obligations to manage its personnel and conduct its human resources management and its industrial relations effectively and efficiently.

2.2.3.4. Duty to co-operate

a) The Contractor shall co-operate with the Eskom Representative with regards to all personnel and industrial relations issues that may from time to time arise at the Site or in connection with the Works.

b) If required by the Eskom Representative, the Contractor shall co-operate with other Contractors in addressing HR, IR, Industrial Action or community unrest or potential unrest that may from time to time arise at the Site or in connection with the Works.

2.2.3.5. Contractor's representative

a) The Contractor's Representative shall have all authority, qualifications, competence, and mandate necessary to act on behalf of the Contractor on all personnel and industrial relations matters. If the Contractor's Representative is not a Competent Person concerning HR and South African IR, he shall be assisted by a Competent Person in the fields of HR Management and South African IR. Such assistant must be readily available to attend to the Site. The Eskom Representative shall, if the human resourcing for the Works justifies it, be entitled to require this assistant to be in the full-time employ of the Contractor and/or to be employed full-time at the Site.

b) The Contractor's Representative or his assistant shall attend all meetings which the Eskom Representative convenes and requires the Contractor Representative to attend.

c) If the Contractor is represented by the Contractor's Representative's Assistant in any meeting, engagements or discussions with the Eskom Representative or the Eskom Internal Stability Manager relating to these Requirements, such assistant will at all times be mandated appropriately to engage with the Eskom Representative or the Eskom Internal Stability Manager relating to these Requirements.

2.2.3.6. Compliance with Industry Agreements

a) The Principal Contractor must determine which Bargaining Council has jurisdiction over its Works.

b) All Principal Contractors must comply with the Industry Agreements and regulations that apply to its portion of the Works.

c) All Principal Contractors must contract with their Subcontractors, Consultants or Service Providers on the same basis.

d) If a Principal Contractor appoints a Subcontractor, Consultant or Service Provider, which performs work that falls outside the scope of the BCCEI, MEIBC or NBCEI or any other Bargaining Council, such Principal Contractor will for the duration of the Project assign to the Subcontractor, Consultant or Service Provider one of the Bargaining Councils that are the most closely related to the works performed by the Subcontractor, Consultant or Service Provider. All Principal Contractors must be assigned to one of the Bargaining Councils and must comply with the agreements and regulations of such assigned Bargaining Council. Non-party Contractors do not have to comply with the term and conditions of employment exclusively available for employers and employees that are

parties to a particular Bargaining Council, i.e., Pension and Provident Fund Schemes, Medical aid, etc.

2.2.4. Recruitment, Selection and Contracting

2.2.4.1. Resource Plan

a) Before project kick-off the Contractor shall supply Eskom with an estimated project resource plan and histogram. The Contractor must regularly update the plan at intervals agreed to with Eskom. The Contractor must include a first draft of the resource plan in its tender.

b) The resource plan shall contain the following minimum information:

   i) The project phases, from kick-off to close out.

   ii) The resource plan shall be split into two parts:

      (1) Part A will contain information relating to the type of skills to be employed during each phase of the project, and the estimated number of employees per skills type. The skills type shall be aligned with those issued by the Department of Employment and Labour. It must further indicate what percentage of employees in each skill type will be employed from the local community (Local), the province (provincial), the rest of South Africa (RSA) and foreign nationals.

      (2) Part B will relate to the estimated number of employees per job categoriies during each phase of the project. The job categories shall be divided into the following four categories: unskilled, semi-skilled, skilled, and supervision/management/administrative. It must further indicate what percentage of employees in each skill type will be employed from the local community (Local), the province (Provincial), the rest of South Africa (RSA) and foreign nationals.

c) The Contractor shall require its Subcontractors to employ people from the local community in accordance with the following criteria:

   i) 100% of all General workers will be employed from the Local community.

   ii) At least 70% of all Semi-Skilled employees will be employed by the Local community.

   iii) At least 30% of all Skilled employees will be employed from the Local community.

d) The Contractor shall require its Subcontractors to submit a similar resource plan supporting the Contractor’s resource plan. The Contractor shall consolidate the resource plans in a format required by Eskom and submit such to Eskom. The consolidated resource plan shall provide data per Contractor and Subcontractor.

e) Depending on the stability risk profile of the Project, Eskom may request the Contractor to amend its resource plan, to mitigate the risk of instability on site and in the local community.

f) The Contractor shall once a quarter or as Eskom may require provide the actuals for Part A of the resource plan. The EPC Contractor will also once a quarter update the forecast and provide Eskom with a copy thereof.

g) The Contractor shall on a monthly basis or as may be determined by Eskom provide the actuals for Part B of the resource plan. The Contractor will also once a quarter update the forecast and provide Eskom with a copy thereof.

h) Monthly, report the actual number of employees per Part B, and report progress against the resource plan to Eskom at intervals and frequency determined by Eskom.

i) Failure to adhere to these requirements will constitute non-compliance.

2.2.4.2. Recruitment

a) The Contractor shall require its Subcontractors to comply with the following:

b) The Contractor shall give preference to people from the Local Community for any job category used at the Project site. The Contractor will always interview applicants from the Local Community before interviewing non-local candidates.

c) The Contractor shall only source persons from the Local Community via the recruitment office designated by Eskom.

d) If the Contractor is not able to meet the localisation requirements for semi-skilled and skilled employees, the Contractor must obtain approval from Eskom to employ non-local employees. In doing so the Contractor must prove that it could not obtain the necessary skills from the Local Community.

e) The Contractor may employ its core employees at the Project site per the approved resource plan. Nonetheless, the Contractor is still required to meet the requirements of paragraphs a) and b) above.

f) No recruitment shall occur at the Project site, accommodation areas or at any other places specified under the contract as forming part of the Project site or within a 5km radius of the Project site. Irrespective of whether the recruitment is conducted directly, indirectly, by the Contractor, by a Temporary Employment Service or a third party

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2.2.4.3. Fitness for Duty Assessments (Including Foreign Nationals)

a) Contractor personnel may NOT offer a contract of employment or a seconded employee contract to perform any work at the Site unless the candidate has been issued with a Medical Certificate of Fitness for Duty issued by a registered Occupational Health Practitioner conducted in terms of the Occupational Health and Safety Act.

b) The Contractor must implement a Medical Surveillance program. Such Medical Surveillance programme must ensure that the Medical Certificate of Fitness for Duty for each employee is always valid.

c) When the services of an employee are terminated for whatever reason, such Contractor will ensure that the employee undergoes an exit medical examination.

d) Eskom reserves to at any time inspect the Contractor’s records to determine whether all employees have a valid Medical Certificate of Fitness for Duty.

e) If an employee does not have a valid Medical Certificate of Fitness for Duty for the job the employee has been appointed in, Eskom will have the right to prevent such person(s) from carrying out any work at the Site / works and remove or cause to remove such

persons from the Site. The removal of such person by Eskom will not constitute a compensation event and will not establish any grounds for a claim by a Contractor for time or cost.

f) All costs relating to any assessment required to issue an employee with a Medical Certificate of Fitness for Duty will be borne by the Contractor. Such costs must be included in the Contractor's tender price and will not constitute an entitlement and or a claim. To estimate the costs, the Contractor may contact the South African Society of Occupational Medicine for assistance. www.sasom.org.

2.2.4.4. Certification of Persons as Competent to Perform the Required Activities

a) The Contractor must ensure that it appoints competent persons to perform the work. The Contractor must put a process in place to ensure that where appropriate persons employed in job categories semi-skilled and skilled is certified as competent persons. Eskom may at its discretion audit this process and confirm the certification.

b) Contractor or its designated service provider may at its discretion subject the Contractors personnel employed in job categories classified as semi-skilled and skilled to competency testing, to determine whether the employees are Competent Persons, irrespective of whether a person has already been assessed and proven competent by the Contractor or any other person at the institution. Eskom may do likewise.

c) The Contractor may on good cause revoke the certification of any employee. Eskom may on good cause require the Contractor to revoke the certification of any employee

d) This certification shall not in any way reduce the Contractor's responsibilities to perform the works as per the contract requirements, including in a safe manner.

e) The Contractor and Eskom reserves the right to prevent any person from conducting any operation that such person is not fit or qualified to perform. The removal of such a person by the Contractor or Eskom will not constitute grounds for a claim for the extension of time or cost.

2.2.4.5. Security Clearance to perform Work On-site.

a) The Contractor must comply with the security clearance and access requirements for the Site.

b) A Contractor may NOT offer a contract of employment or secondment to a person before obtaining security clearance for the employee.

c) A Contractor may NOT offer a contract of employment to a person if any other Project Contractor has dismissed such a person for misconduct or an inability to perform the work at the required standard without the prior application to and approval by the Eskom Representative.

d) If a Contractor does not comply with the provisions of this paragraph and the Contractor offers employment or secondment to a person, such person will not be allowed to work at the Site. If the person is already working, the Contractor will remove such employee from the Site. Failure to do so will entitle Eskom to remove or cause to remove such a person from the Site. It will be the Contractor's responsibility, without any recourse against Eskom, to resolve any disagreement or dispute (legal or non-legal) that arises

out of such actions taken by Eskom. Such removal does not constitute a compensation event.

2.2.4.6. Anti-poaching Undertaking

a) Contractors shall not recruit or attempt to recruit staff or labour from among the personnel of another Contractor through financial inducements, or other incentives, or by any other means during the period of the Project, except where:

i) Another Contractor has demobilised a person or made the person redundant.

ii) The Contractors that want to recruit an employee must obtain a letter from the current or old employer confirming that the person is no longer in the employment of the previous employer.

2.2.4.7. Contracting of Personnel

a) All non-permanent scheduled employees shall be appointed by means of a limited duration contract (LDC) in compliance with section 198B of the LRA. They may only be mobilised at the Project site after signing such a limited duration contract.

b) All permanent employees or core employees shall be employed at the Contractors business premises and thereafter be seconded to the project. They may only be mobilised at the Project site after signing such a secondment agreement.

c) Before a Contractor offers an LDC or a secondment contract, the Contractor shall be in possession of:

i) A competency certificate as determined.

ii) A fitness for duty certificate.

iii) A security clearance certificate.

iv) All employees shall complete site induction and the Contractor's induction before the Contractor mobilises the employees at the Project site.

d) Employees shall be entitled to payment from the date stated in the contract or the date the parties signed the contract

e) All employees shall be registered in the Wage Bureau, with the names, ID numbers (or passport numbers), type of contract, scheduled or non-scheduled, geographical location, union membership and skills level.

2.2.4.8. Termination of Limited duration /secondment Contracts

a) Termination of the limited duration contract or the secondment contract will occur on completion of the task for which the employee was employed or seconded to.

b) For the purposes of these Requirements, "Termination" excludes employees dismissed for any reason relating to the employee's conduct or capacity or the employer's operational requirements as permissible under South African labour legislation.

c) If a Contractor contemplates Termination, the Contractor must inform the Eskom Representative, before engaging any employees concerning such Termination for approval.

d) After the Termination of a secondment contract, such employees shall be returned to their parent company, and their contract of employment upon which the secondment was based will become applicable.

e) Before engaging employees concerning Termination, the Contractor shall notify Eskom. The Contractor will submit a Termination plan to Eskom. Such a plan will clearly stipulate how the Contractor intends to meet all procedural requirements, proof that the Contractor has met the skills development requirements set out in this IR Policy and mitigate all reasonable risks associated with the Termination. If not satisfied, Eskom may, in his sole discretion, refer the plan back to the Contractor to address any procedural aspects, skills development insufficiencies/deficiencies and or mitigate any risk that has not been met/mitigated to the satisfaction of Eskom.

f) After a Local employee's limited duration contract is terminated and the employee elects so, the Contractor will register the employee's name with the designated recruitment office as an active job seeker.

g) The Contractor shall not engage in any consultation concerning retrenchments at the Project site.

h) All terminations shall be registered in the Wage Bureau, by indicating the termination date against the employee.

2.2.4.9. Use of Temporary Employment Service Providers

Eskom prefers that Contractors directly employ its labour force. The Contractor may only utilise the services of a Temporary Employment Service Provider subject to Compliance with the provisions of section 198 and 198A of the LRA; and Compliance with the requirements established by any applicable Industry Agreement. Before engaging the services of a Temporary Employment Service Provider, the Contractor must:

a) Submit a motivation for approval by the Eskom Representative. The Contractor must clearly state the reasons why the Contractor is not able to employ the employee itself and the reasons why they must use a Temporary Employment Service Provider.

b) The Contractors and Subcontractors remains responsible for the Temporary Employment Service Provider and its employees.

c) All labour sourced through a Temporary Employment Service Provider is employed on the applicable standard industry agreed LDC and/or a "Secondment Contract of Employment".

d) All local labour employed on the Project be recruited through the established recruitment process as set out in these Requirements. No alternative recruitment of local labour is permitted under any circumstances.

e) All seconded labour is registered with the Industrial Relations Senior Officer for "take-on" and induction purposes.

f) Should the Contractor and Subcontractors be found to be circumventing the established recruiting system or procedure, the Contractor and Subcontractors is to remove the employee as well as the employee's access to the Project immediately.

g) The Temporary Employment Service Provider employees must be registered with the Eskom Wage Bureau in the same manner that all other employees are registered.

h) Not approving the use of a Temporary Employment Service by the Eskom Representative will not constitute a variation or in any manner give rise to a compensation event or result in entitlement and/or a claim for time and or cost by the Contractor.

2.2.4.10. Induction

2.2.4.10.1. Visitors Induction Programme:

a) Eskom will provide a generic Project site induction programme for visitors to the Project site.

b) All employees that will work at the Project site for less than 30 continuous calendar days and all visitors shall attend the mentioned induction programme before being granted access to the Project site.

c) Such induction will concern site orientation, site-specific safety rules, site-specific security measures and any other relevant matter. Eskom will determine the frequency of attending induction training.

d) By providing induction training, Eskom assumes no liability, and the Contractor remains responsible for all its visitors.

2.2.4.10.2. Eskom's Induction Programme

a) Eskom will provide a generic Project Site induction program for personnel and visitors to the Project Site.

b) All employees that will work at the Project site for a period longer than thirty (30) calendar days shall undergo the induction programme before commencing with work on site. No employee that has not attended the induction programme will be allowed access to the site and to work on-site.

c) The Contractor's personnel shall be in possession of a valid identity document/Passport to undergo induction training.

d) This programme will include identification, site access, site rules, environmental protection, health and safety, project information and miscellaneous project and site-specific requirements.

e) Contractor personnel shall undergo re-induction after being absent from the Project site for longer than six (6) weeks or before returning from the Easter break or an annual break.

f) The provision of a Project site induction programme by Eskom does not relieve the Contractor of his obligation to require and ensure that its Contractors implements the required Contractor Induction Programme as set out below.

2.2.4.10.3. Contractor Induction Programme:

a) The Contractor shall ensure that its Subcontractors provide project-specific induction and training for all employees employed under its authority. The

Contractor shall bear all costs related to such training. Any re-induction that is required before employees return to the site after Industrial action, strike action, unrest or protest action will be for the sole cost of the Contractor, irrespective of whether the Contractor is able to claim for time and cost.

b) The training shall include, among others:

   a. Environmental and occupational health and safety rules and regulations for the employee's area of work.

   b. The industrial relations system, the specific conditions of employment relating to its employees as contained in the employment contract, and applicable industry agreement.

   c. Applicable policies and procedures emphasise industry-specific conditions of employment, site-specific conditions of employment, disciplinary procedures, grievance procedures, engagement forum, conflict resolution, dispute resolution procedures, end of work procedures (termination / demobilisation) and any other relevant HR or IR procedures.

c) The Contractor will take all the necessary steps to ensure that its Subcontractors promote an understanding and acceptance among employees of the industry within which the Contractor's operations fall, the applicable terms and conditions of employment and the industrial relations system that applies to them.

d) The Contractor will keep it on record, a certificate of induction individually signed by each employee and the Contractor or Subcontractor which will be readily available for audit purposes.

e) No employee will be allowed to work on the Project site without undergoing the Contractor's induction programme and having provided written acceptance of the conditions and regulations as determined by the Contractor and Eskom.

f) Should an employee change employment to another on-site employer during the project's duration, the employee shall attend and complete the new employer's specific induction programme and sign a new written acceptance of the conditions and regulations before commencing work for the new employer on-site.

g) The Contractor and or the PERM may be present at the Contractor's induction for purposes of inspection and quality control.

h) Contractor personnel shall undergo re-induction after being absent from the Project site for longer than six (6) weeks or after returning from an Easter break or an annual break.

2.2.4.11. Entry to Site

2.2.4.11.1. The Contractor will ensure that the Eskom Representative signs off its resources plan and mobilisation plan before mobilising any resources to the Site.

2.2.4.11.2. The employee will be expected to comply with the Project works security access policies and procedures.

2.2.4.11.3. A Contractor employee shall not be registered on the security access system unless the Contractor can prove in the prescribed format that the employee:

a) Has completed the required medical examination and has a valid Medical Certificate of Fitness for Duty.

b) Has the requisite valid police clearance certificate in compliance with the National Key Point Act requirements

c) Is in possession of a valid contract of employment or secondment contract issued by a Project Contractor.

d) Has submitted copies of their South African identity documents/smart identity card or, if a foreign national, a valid passport, work permit and residence permit.

e) Has completed the Project-specific induction programme.

f) Has been issued by site security with an active site identity card.

g) Has provided written consent in terms of the POPI Act to grant the Wage Bureau direct access to the *Contractor's* skills, time, attendance and payroll information database.

2.2.4.11.4. An employee must clock in at entry and clock out when exiting the Site, and no exceptions will be allowed. Contractors will be allowed to fix accidental issues, e.g., single clock's (one-way entry). This information will be used for the assessment of contract payments.

2.2.4.11.5. Contractor that does not have a formal clocking system must require the employees to sign on when entering the Site and to sign off when leaving the Site. The Contractor must retain the records, for inspection and auditing by the Eskom Representative.

2.3. Part 3: Remuneration, Benefits and Other Conditions of Employment

2.3.1. Principles

2.3.1.1. It is the sole responsibility of the Contractor to ensure that it pays wages and provide benefits and conditions of employment prescribed by the Industry Agreements that apply to the Contractor.

2.3.1.2. Annual increases and the improvement of benefits as determined by the applicable Bargaining Council will be implemented accurately and timeously to ensure labour stability.

2.3.1.3. The Contractor will not engage in any form of wage negotiations at the Site, accommodation areas or at any other places that may be specified under the contract as forming part of the Site or within a 5km radius of the Site or any such other places or accommodation.

2.3.1.4. The Contractor will ensure that labour peace and stability on the Site is not negatively affected by wage disputes because of wage differentials. Expedited resolution of wage disputes is encouraged.

2.3.1.5. Eskom has the right to audit any Contractor without notice to ensure compliance with the above listed principles. The Contractor and its Subcontractors will, for these purposes, make available the required information at a time and frequency specified by Eskom.

2.3.2. Industry Wages Rates

2.3.2.1. All Contractors shall comply with the Industry Wage Rates prescribed by the applicable Industry Agreement. Contractors must pay at least the minimum wage rate specified in the Industry Wage Rates Schedule.

2.3.2.2. The extension of a Bargaining Council Agreement by the Minister of Labour will NOT constitute a change in legislation.

2.3.2.3. The Contractor must pay its General Workers and Semi-skilled Employees the wages as reflected in the relevant Industry Agreements.

2.3.2.4. The Contractor must manage the wage increments granted to Skilled Employees above the applicable Industry Wage Rates in a manner that:

a) Would enable the Contractor to substantiate wage differentials should it be challenged by their employees, organised labour, or any other interested party. Such increments should be based on sound remuneration principles, which should include but not limited to performance, competency, years of service, related experience, and qualifications.

b) It does not create inconsistencies that may cause labour instability for other Contractors employed at the Site.

2.3.3. Working Hours and Overtime

2.3.3.1. The site hours of work shall comply with the applicable legislation or Industry Agreements, whichever is applicable.

2.3.3.2. All hours worked more than those stated in relevant Industry Agreements shall be paid at the applicable overtime rates.

2.3.3.3. Averaging of working hours (clawback) must comply with the provisions of the Basic Conditions of Employment Act (BCEA) and the relevant Industry Agreements.

2.3.3.4. Where scheduled overtime to be worked is more than what is stipulated in the BCEA or the Industry Agreements, the Contractor shall apply for exemption at the MEIBC or the Department of Employment and Labour, whichever is applicable.

2.3.3.5. Overtime shall be worked at the Contractor's cost.

2.3.4. Lunch Breaks

2.3.4.1. Lunch Breaks will meet the requirements determined by the BCEA, the applicable Industry Agreements and any allowable agreement between the Contractor and its employees.

2.3.4.2. The specific time when the lunch break will be taken will be determined by the Contractor, in cooperation with the Eskom Representative.

2.3.5. Working Shift

2.3.5.1. Shift Pattern

a) Shifts should be worked in accordance with a working pattern agreed with the Eskom Representative.

b) Contractors may be required to consult their employees and their representatives on the Shift Pattern.

c) The Contractor will consult Eskom on a Contractor’s site project calendar consisting of weekly/monthly working patterns and the total number of shifts per year.

d) The calendar must also consider projects long weekends.

e) The Contractor shall provide the PERM with an annual calendar that sets out the various working arrangements.

2.3.6. Night Work

2.3.6.1. Night work will constitute any work performed between 18:00 to 06:00 or as defined otherwise by an applicable Industry Agreement.

2.3.6.2. A night shift allowance must be paid in compliance with the applicable Industry Agreements.

2.3.7. Leave

2.3.7.1. The type of leave, the quantity, any payment associated with leave as well as the timing thereof will be granted to employees in accordance with prevailing legislation, Industry Agreements, and industry practices.

2.3.7.2. Eskom will be provided with leave records periodically to determine whether employees were absent from work with or without approval.

2.3.8. Incentive Bonuses

2.3.8.1. Any incentive scheme introduced by the Contractor must be based on productivity and align with the Site safety standards. No other incentives or bonus schemes will be allowed.

2.3.8.2. Where required by law or good IR Practices, the Contractor must consult its workforce or its representatives on the nature and the rules of the incentive scheme.

2.3.8.3. All costs associated with an incentive bonus will be borne by the Contractor and will not constitute a compensation event, a variation, an entitlement, or a claim.

2.3.8.4. Before consulting the workforce on introducing an incentive bonus scheme, the Contractor must consult with and obtain acceptance from the Eskom Representative.

2.3.9. Additional Allowances and Bonuses

2.3.9.1. Except for incentives paid for working during annual shut down or for recovery of the Project schedule, which may from time to time be agreed with the workforce; or any allowances and bonuses stipulated in an Industry Agreement, no additional allowances, subsidies, or bonuses will be considered or paid on the Site unless it is provided for in these Requirements.

2.3.10. General Principles for Payment of Wages

2.3.10.1. No salaries or wages or any part thereof shall be paid in cash, or vouchers, whether directly or indirectly or whether paid by the Contractor, Temporary Employment Service or a third party.

2.3.10.2. To avoid doubt, this restriction shall not prevent the issuing of payslips or other written confirmation of payment at the Site.

2.3.10.3. All scheduled employees must be paid monthly. No daily, weekly, or fortnightly payments will be allowed.

2.3.10.4. It is advisable that payday in consultation with the Eskom representative should be the last Thursday of each month or on an agreed date between Eskom and the Contractor. To resolve any pay queries before payment is made, payslips must be issued the day before payday. The payslip format must meet the requirements of the bargaining council. During public holidays or builders break, an agreement between Eskom and the Contractor should be reached on the payment date.

2.3.10.5. To resolve or prevent labour instability relating to payment, timesheets will close seven (7) days before payday. Each employee will sign off timesheets at the end of each week. All queries concerning hours worked and processed must be resolved timeously and expeditiously.

2.3.10.6. The Eskom Representative may, after consultation with the Contractor, require all Project Contractors to pay their employees on the same day of the month. Such requirement will not constitute a compensation event, variation, or entitlement to a claim.

2.3.10.7. The Eskom Representative may monitor and, from time-to-time audit compliance of timesheets and payment as and when determined. Virtual Wage Bureau:

2.3.10.7.1. Eskom shall implement a virtual wage bureau to ensure consistent application and compliance of all contractors with payroll requirements, to mitigate payroll-related labour instability, and to provide data to Eskom and the Contractor related to claims or variation orders lodged by the Contractor or its subcontractors.

2.3.10.7.2. The Contractor shall implement a biometric time and attendance system compatible with the wage bureau systems.

2.3.10.7.3. The Contractors shall cooperate with the wage bureau and supply the wage bureau with the data and information required to implement and operate the wage bureau functionality.

2.3.10.7.4. The Contractor shall obtain appropriate POPI consent from its employees to enable the wage bureau to access payroll-related information

2.3.10.8. Wage Bureau Indemnity

2.3.10.9. a) The Contractor shall indemnify and hold harmless Eskom, Eskom personnel, and their respective agents against and from all claims, damages, losses, and expenses (including legal fees and expenses) in respect of or arising out of the implementation of the Wage Bureau by Eskom at the Project site or the contract with the Service Provider.

2.3.10.10. b) The Contractor shall indemnify Eskom for any breach of POPI due to the Contractor’s failure to obtain the required and requested consent.

2.3.11. Emergency Medical Services

2.3.11.1. Each Contractor shall provide and maintain good order suitable first-aid equipment as prescribed in regulation 3 of the General Safety Regulations, 1986, made clear under the Occupational Health and Safety Act, 1993, at the Project works.

2.3.11.2. Each Principal Contractor must ensure the availability and provision of emergency medical services, in compliance with the requirements established by the National Health

Act, 2003 (Act No. 61 of 2003) and the Emergency Medical Services Regulations for all employees employed by that Principal Contractor and its Subcontractors at the Project Site, accommodation areas or at any other places that may be specified under the contract as forming part of the Site.

2.3.12. Transportation

2.3.12.1. The Contractors and Subcontractors will be solely responsible for providing suitably licensed transportation to and from the Site for its employees.

2.3.12.2. The appointed transport service providers must incorporate the principles of localisation and empowerment of local business, local transport associations/industry, as determined by the area licencing in consultation of Eskom.

2.3.12.3. Transport service providers and Contractors transporting employees must always comply with the National Road Traffic Act (no 93 of 1996) and the latest Eskom Vehicle Safety Specification as amended from time to time and available on request, will be applicable concerning the transportation of employees and Contractors will comply with the provisions thereof.

2.3.12.4. The contractor to appoint recruited taxis for transportation of employees. Such taxi appointment to be done from the impacted municipalities within the project jurisdiction.

2.3.13. Accommodation

2.3.13.1. The contractor provides accommodation that meet the minimum Eskom requirements to its employees.

2.3.13.2. As a minimum standard, all accommodation must meet the requirements set out in the Main Agreement for the NBCEI, Part II, Sec 1(e) (iii), irrespective of whether a different Bargaining Council has jurisdiction over the Project works of the Contractor.

2.3.13.3. All accommodation constructed or provided for shall meet the applicable legislative requirements and any other legislation that may become applicable from time to time.

2.3.13.4. Eskom may inspect accommodation at any time to ensure that it meets the requirements as set out in these Requirements.

2.3.13.5. If the Eskom Representative inspects accommodation and finds such accommodation not meeting the standard, the Contractor will implement at its cost all steps required to accommodate the employees in accommodation that meets the required standard. Such will not constitute a compensation event, variation, or entitlement to a claim.

2.3.14. Time and Attendance

2.3.14.1. The Contractor shall implement and operate a biometric time and attendance system before mobilising any employees to the Project Site. The Contractor shall issue employees with a smart card with a photo of the employee.

2.3.14.2. All on-site Contractor employees shall daily clock in on a biometric time and attendance system. The name of the system shall be shared with the Wage Bureau.

The Contractor shall, in the required format, supply all biometric time and attendance data electronically to the Wage Bureau.

2.3.14.3. The Contractor shall close its timesheets at least 7 (seven) days before payday, set out in the Contractor's site project calendar. Timesheets shall close the morning before the day shift starts.

2.3.14.4. The Contractor shall contract on the same basis with their Sub-Contractors and Support Service Providers

2.4. Part 4: Skills Development and Skills Transfer

2.4.1. Skills Development

2.4.1.1. The Contractor must meet all legal requirements about skills development of its workforce. The Contractor must prove that it has met these Requirements in as far as it concerns the employees it employs at the Project works.

2.4.1.2. The Contractor must keep the relevant records that show it has met these Requirements for skills development.

2.4.1.3. The Contractor must make available to Eskom all information that shows that it has met such requirements, in a format prescribed by Eskom and as frequent as determined by the Eskom Representative.

2.4.1.4. Eskom may, at its discretion, audit compliance of the Contractor with the legal requirements.

2.4.2. Skills Transfer

2.4.2.1. The Contractor must ensure the transfer of skills from its Skilled Employees with scarce and critical skills to Local Employees as agreed to during the contract negotiations. The Contractor will bear the cost associated with such transfer of skills.

2.4.3. Site Workplace Skills Plan

2.4.3.1. Notwithstanding the legal obligation for a Contractor to have a workplace skills plan,

the Contractor shall be required to produce a site skills development plan relating to the Contractor and Subcontractors.

2.4.3.2. The Contractor shall meet the skills transfer/development undertaking stipulated in the visa/work permit application of any scheduled employees and any other condition established by the South African Government. The Contractor shall make available to Eskom copies of correspondence between the Contractor or its Subcontractors and the South African Government, visa/work permit applications submitted by the Contractor, approvals, and approval conditions before mobilising foreign national Scheduled employees to the Project Site.

2.5. Part 5: Minimum Compliance and Adherence

2.5.1. Compliance Requirements

2.5.1.1. Before mobilising, the Contractors must submit proof that they are compliant with the following legislative requirements i.e.:

a) Registration with COIDA and letter of good standing

b) Registration for UIF and letter of good standing

c) Skills development levies and letter of good standing

d) Submission of skills development plans

e) Tax – letter of good standing

2.5.1.2. Proof that they are compliant with the following requirements as established in these Requirements and the BCEA or the applicable Industry Agreements i.e.:

a) Registration with the relevant Bargaining Council by producing a registration certificate and a letter of good standing.

b) Contracts of employment and secondment agreements.

c) Benefits (leave).

d) Contributions i.e.: levies, provident fund, and medical aid, etc.

e) Industry Wage Rates

The above to be complied with before any recruitment can commence.

2.5.1.3. Before mobilising, the Contractor must submit proof that they are in a financial position to pay the required industry wages, benefits and any site-specific benefits that may be applicable at the time.

2.5.1.4. To ensure that a Contractor is financially sustainable, the Contractor and its Subcontractors must, upon request from the Eskom Representative supply a guarantee that they will be able to sustain payment of its employees for at least three months. If a Subcontractor is not able to provide such a guarantee, the Principal Contractor must provide such a guarantee on behalf of the Subcontractor.

2.5.1.5. Principal Contractors will be held liable if a Subcontractor defaults on the payment of its employees, if the Principal Contractor fails, Eskom will pay any outstanding amounts to the employees and deduct the value of any such payments made from the amount Eskom must pay to the Contractor or that Eskom holds for retention purposes.

2.5.2. During Execution of Works

2.5.2.1. The Principal Contractor must prove to the Eskom Representative that all their Subcontractors meet the minimum compliance requirements and are in good standing. The Eskom Representative may at any time perform its own audits on any Contractor(s) to determine whether they are fully compliant or not.

2.5.2.2. Eskom will have zero tolerance for any Contractor none-compliance. It reserves the right to remove from the Site any individual that is found to have caused any non-compliance due to misconduct, lack of care, incompetency or negligence and project reputational damage.

2.5.2.3. Removal from the Site

2.5.2.4. Zero-Tolerance – Eskom will have zero-tolerance for:

a) *Contractor* non-compliance that relates to the non-payment, late payment, incorrect payment, or short payment of an employee's wages/remuneration.

b) Participation in unprotected Industrial Action / work stoppages, retardation of work and such conduct will constitute misconduct, irrespective of whether the employees have resumed work within the same shift or not.

c) Non-compliance with the Eskom Life Saving Rules issued under the commercial contract.

d) Tampering with safety equipment; and

e) Conduct that is impermissible by any legislation that applies to the Works, the Site, or the accommodation areas.

2.5.2.5. Grounds for Removal of Contractor Personnel from Site
Eskom may require the Contractor to remove temporarily or permanently (or cause to be removed) any person or person(s) employed at the Project works, including the Contractor's representative if applicable, who, in the opinion of the Employer's Representative is in breach of any listed requirement.

a) That goes against project approved internal and external processes.

b) Causes Eskom or the company reputational damage.

c) For which the employer has zero-tolerance; Commits any act or omission that places Site labour stability at risk.

d) Has caused or did not take reasonable steps to prevent labour instability.

e) Fails to ensure compliance by its Subcontractors,

f) Does not comply with the provisions of these Requirements, Industry Agreements, applicable collective agreements, and site instructions.

2.6. PART 6: Industrial Relations

2.6.1. Freedom of Association

2.6.1.1. The organisational rights should afford employees the right to participate in the establishment of a Trade Union, join a registered Trade Union, partake in the lawful activities of a Trade Union, elect shop stewards, stand for election and be eligible for the appointment as shop stewards, offices bearer and if so appointed to perform the lawful function of a shop steward.

2.6.1.2. The organisational rights should also afford Contractors the right to: participate in the establishment of an employer organisation, join a registered employer organisation, participate in its lawful activities, nominate representatives of the Contractor to stand for election and be eligible to be appointed as an office-bearer of an employer organisation, and to perform the lawful functions of the employer organisation.

2.6.1.3. Any of the above rights may be exercised free of victimisation, discrimination and or intimidation.

2.6.2. Trade Union Organisational Rights:

2.6.2.1. The Contractor will afford organised labour organisational rights as determined by Chapter 3 Part A of the Labour Relations Act.

2.6.2.2. The granting of such organisational rights to Trade Unions will meet the requirements established in sections 12, 13 and 19 of the Labour Relations Act and the applicable Industry Agreement.

2.6.2.3. In addition to the right to access to the workplace as determined in section 12 of the Labour Relations Act and the relevant Industry agreements, access to the Project site will be subject to approval by the Contractor and the PERM. The normal Project site security requirements will apply to any office-bearer or official of a representative Trade Union seeking access to the Project site for reasons consistent with section 12 of the Labour Relations Act and the relevant Industry agreements.

2.6.2.4. Mass meetings or report-back meetings between shop stewards and employees will not be allowed on the Project site. The Contractor shall consult the other Contractors and the PERM on the timing of mass feedback meetings and obtain their acceptance for measures the Contractor shall implement to avoid disruption to the project works.

2.6.3. Industrial Relations Policy, Standards and Practices

2.6.3.1. The Contractor shall make provision for the written procedures in the interest of sound industrial relations and managing their workforce:

2.6.3.2. To this end and is not exhaustive, the Contractor must have in place procedures and processes for dispute resolution, disciplinary handling, grievance handling, Industrial Action, absenteeism, induction programmes, recruitment and selection, daily labour returns, payroll, and payment of wages, working time and shift rosters, incident reporting, violence and intimidation, mobilisation, and Termination.

2.6.3.3. Eskom reserves the right to request an audit concerning the implementation and adherence to these policies, standards, and practices. The Contractor is required to provide all relevant information to the Eskom Representative to perform such an audit.

2.6.3.4. All industrial relations incidents, no matter how minor and whether that may result in Industrial Action, must be reported immediately to Eskom.

2.6.3.5. All Contractors will submit a weekly industrial relations report in accordance with the format and frequency requirements established by the Eskom Representative. This will be done irrespective of any incidents/claims that may have occurred or not.

2.6.3.6. Eskom reserves the right to request the Contractor to report to it in a format and frequency prescribed by Eskom and to submit to Eskom Representative information and statistics related to any matter referred to in these Requirements. The Contractor must supply the Eskom Representative with the requested information within 7 days of first requesting such information. Such a request will not constitute a compensation event, variation or create an entitlement for a claim.

2.6.4. Resolution of Labour Related Disputes

2.6.4.1. Any labour disputes will be resolved in accordance with the provisions of the main agreement of a Bargaining Council who has jurisdiction over the work being performed by the Contractor or alternatively by the CCMA.

2.6.5. Establishment of Engagement Forums

2.6.5.1. The Contractor shall establish forums where the employer can engage its employees and vice versa. Such a forum shall ensure regular and effective engagement and

communication between the employers, their employees, and recognised Trade Union(s). If a Contractor, in the ordinary course of its business, has established such a forum, it shall continue with it. For the avoidance of doubt, each Contractor must have an Engagement Forum with his own workforce, and so must all the Subcontractors.

2.6.5.2. Should the need arise the Contractor may create a system of forums across the project i.e., at Contractor Level, Subcontractor level, and Site level. Before doing so the Contractor must consult the Internal Stability Manager on the need and way such a system would operate. All Principal Contractors will require their Subcontractors to implement such Engagement Forums and will monitor and ensure compliance.

2.6.5.3. The Contractor shall take the necessary steps to ensure that the Engagement Forum remains effective and functional for the duration of the works at the Site. The Contractor will regularly hold Engagement Forums.

2.6.5.4. The Eskom Representative shall from time to time be entitled to audit the effectiveness of the Engagement Forums, and where appropriate, make recommendations to the Contractor. The Eskom Representative shall furthermore be entitled to attend meetings of the Engagement Forums and shall have observer status at such meetings.

2.6.5.5. Copies of the minutes of the meetings of the Engagement Forums, decisions and any required action emanating from each meeting, and the status of previous and current actions shall be furnished to the Eskom Representative within seven (7) days of each meeting.

2.7. PART 7: Industrial Action

2.7.1. The Contractor shall deal with Industrial Action at the Site effectively and efficiently. To this end, the Contractor shall meet the following requirements as set out below:

2.7.1.1. The Contractor shall submit an Industrial Action Management Procedure to the Eskom Representative for approval before commencing work on the Project. The procedure must deal with all forms of Industrial Action at the Site, which shall include a comprehensive strike management plan, including in this regard, provision for a strike management committee, a communications plan, and picketing rules plan. No picketing shall be permitted at the Project Site

2.7.1.2. The Contractor shall co-operate with the Eskom Representative and other Contractors to refine and establish Industrial Action Management Procedures to deal with all forms of industrial action at the Site. It shall include integration with the Site Emergency Preparedness Plan, Security, SAPS, etc.

2.7.1.3. The Contractor shall ensure that all its managers and supervisors are conversant with the provisions of and adequately trained on the Industrial Action Management Procedure.

2.7.1.4. The Contractor shall immediately notify the Eskom Representative of any actual or potential Industrial Action and/or demand (whether verbal or in writing) by its employees and/or any Trade Union acting on their behalf and keep them fully informed of all developments during any Industrial Action or anticipated or potential Industrial Action.

2.7.1.5. Each Contractor will keep a Strike Diary in the format supplied by Eskom. During any Industrial Action, each affected Contractor will, daily, provide the Eskom Representative with an updated version of the Strike Diary.

2.7.1.6. The Contractor shall mitigate the risk to the Site, and the Works with the following steps. All actions must be directed at taking reasonable steps to safeguard plant equipment and life. Such steps are NOT limited to those listed below and do not replace any duty on the Contractors to take any other steps that might be necessary to safeguard plant, equipment, and life.

2.7.2. Removing striking employees from the Site.

2.7.3. Keeping all employees off the Site until the Contractor has addressed matters to the extent that it will not threaten site labour stability.

2.7.4. The Contractor will only be permitted to mobilise employees back to the Site once the Contractor has to the satisfaction of the Eskom Representative motivated and demonstrated how the risks have been addressed.

2.7.5. If the Contractor, in the opinion of Eskom, has failed to institute effective steps to mitigate the risk of Industrial Action or mitigate the risk of labour instability on the Site, Eskom may without causing a compensation event (thus the Contractor will not be entitled to cost or the extension of time), decide on one or more of the following actions:

2.7.5.1. Order the removal of the workforce of Contractors that have employees who participated in any form of Industrial Action, or who may potentially participate in Industrial Action from the Site.

2.7.5.2. Order that possible striking employees may not return to the Site; and/or

2.7.5.3. Ordering that all the Contractor's employees be kept off the Site until the Contractor can satisfy the Eskom Representative that instability within the Contractor's workforce does not threaten the Site labour stability.

2.7.6. The Contractor shall furthermore submit a comprehensive Industrial Action report to the Eskom Representative as soon as possible, but no later than 24 hours after the commencement of any Industrial Action. If circumstances dictate, the Contractor must supply the Eskom Representative with such report within every seven (7) days until the Industrial Action has been resolved. The Industrial Action report shall include the following details:

2.7.6.1. The reason/s for the Industrial Action.

2.7.6.2. The employee demands before and during the Industrial Action and management response.

2.7.6.3. A chronological sequence of events:

2.7.6.4. Starting time of the Industrial Action.

2.7.6.5. Number of employees involved, per employment category (General Workers, Semi-Skilled Employees, Skilled Employees, supervisory employees, managerial or staff) and Trade Union membership, on each day of the Industrial Action.

2.7.6.6. Man-hours lost (Production hours lost).

2.7.6.7. Trade Union actions, Contractor actions, meetings held, decisions of the Contractor, representatives that were present at meetings and minutes of meetings held.

2.7.6.8. Any resolution or settlement reached.

2.7.6.9. Measures put in place to ensure Industrial Action on similar grounds does not re-occur.

2.7.7. To the extent where Industrial Action impacts or may impact the Project works and involves the Contractor and one or more other Project Contractors, the Contractor shall, as required by Eskom, co-operate to form an Emergency Response Team (ERT) to assist in the management of the Industrial Action. This forum should consist of Eskom, Principal Contractor site manager, Subcontractors site managers, IR representatives (Contractor's Representative IR Assistant) and security representatives.

2.7.8. Where Industrial Action impacts or may impact the Project works and involves the Contractor and one or more other Project Contractors, the IAMF will decide on all courses of action. Under such circumstances, all Contractors are compelled to follow the approach agreed upon by the ERT. If any Contractor does not comply with the decisions of the ERT:

2.7.8.1. Such Contractor will forfeit their right to claim concerning any matter that relates to any matter that falls within the scope of the ERT.

2.7.8.2. Such Contractor will become liable for all related claims that other Contractors may have against Eskom.

2.7.8.3. Such Contractor will be liable for damages to Eskom and other Project Contractors that relate to its non-compliance.

2.7.8.4. Eskom may also remove or cause to be removed or prevent entrance to the Site of the Contractor personnel that in the view of Eskom may be responsible for such non-compliance as set out in Part 5 of these Requirements.

2.7.9. Labour Relations Training:

2.7.9.1. The Contractor shall, at his cost, provide project-specific industrial relations training to all his employees in its package, which training shall include but not limited to:

2.7.9.2. The Contractor's project objective; and

2.7.9.3. The specific conditions of employment relating to employees as contained in the applicable Industry agreements, wage rates and collective agreements.

2.7.9.4. The training shall promote the understanding and acceptance among employees of the Industry agreements applicable to them, the industrial relations system that applies to them and their terms and conditions of employment,

2.7.9.5. The Contractor shall furnish the employees with the following in writing:

2.7.9.5.1. The main provisions of their particular terms and conditions of employment (wage rate, working hours), the contract period and expected date of termination (demobilisation).

2.7.9.5.2. An outline of the collective bargaining system where applicable and the associated communication channels.

2.7.9.5.3. A summary of the Contractor's primary industrial relations procedures, including its grievance procedure, disciplinary code and procedure, Demobilisation procedure; and

2.7.9.5.4. Any other appropriate information.

2.7.9.6. The Contractor shall keep a written attendance record and, on request by the Employer, make it available.

2.7.9.7. Eskom reserves the right to audit any Contractor for compliance with the requirements for IR Training.

2.8. Part 8: Force Majeure due to Labour Instability or Industrial Action

2.8.1. Force Majeure

2.8.1.1. Wages within the industry and any other industry involved in executing the scope of works that is governed by any of the Bargaining Council are determined by means of collective bargaining at an industry / Bargaining Council level. It is reasonably foreseeable that Industrial Action in support of wage demands within the mentioned industries will take place during the duration of the Project; therefore, such Industrial Action will not constitute a claim. It will not entitle a Contractor to a force majeure claim.

2.8.1.2. It is reasonably foreseeable that disputes and unresolved grievances concerning the following issues may result in industrial action.

a) Matters relating to remuneration.

b) Conditions of employment; and

c) Safety matters.

2.8.1.3. Industrial Action caused by the employees of the Contractor or the employees of any of its Subcontractors, for whatever reason, will not constitute a compensation event, and it will not entitle a Contractor to a force majeure or any other claim.

2.9. Stability Integration and Reporting

2.9.1. The contractor to facilitates and participate in the stakeholder Management platforms of the project tendered for and strategizes on project development and mitigate project risks or emergencies interrupting project operations.

2.9.2. The contractor to display commitment to social upliftment of communities where the project is executed through job creation, skills transfer, local SMME inclusion, local to site procurement, enterprise development in the core scope of the works and Corporate Social investment initiatives.

2.9.3. The contractor shall submit a Project Stability Implementation Schedule which must be developed in consultation of Eskom Project Stability Representative for acceptance a month before site establishment.

2.9.4. The suppliers shall monthly submit a report to Eskom in accordance with monthly report Template on their compliance with the Project Stability Obligations described above.

2.9.5. Eskom shall review the Project Stability reports submitted by the suppliers within 60 (sixty) days of receipt of the reports and notify the suppliers in writing if their Project Stability obligations have not been met.

2.9.6. Upon notification by Eskom that the Contractor have not met their Project Stability obligations, the suppliers shall be required to implement corrective measures to meet those

obligations before the commencement of the following report, failing which Retention clauses shall be invoked.

2.10. Stability Undertakings

2.10.1. The Contractor undertakes to facilitate and participate in the project stakeholder management platforms as per the stability schedule given by Eskom.

2.10.2. The tenderer is undertaking to show its commitment to the social upliftment of communities where the project is executed through job creation, skills transfer, local (EME 1/2 / QSE 1/2) inclusion, and execution of a Corporate Social investment initiatives to be negotiated in partnership with the Eskom project stability practitioner in this regard.

2.10.3. If successful, the tenderer undertakes to appoint stability personnel and conduct an “expression of interest workshop” aimed at introducing the project to local businesses, outlining project commodities for subcontracting and (EME 1/2 / QSE 1/2), onboarding before site establishment.

2.11. SDL&I, Project Stability and CSI

2.11.1. The Contractor endeavours to provide necessary assistance in respect of the Skills Development, Localisation and Industrialisation in order to uplift local community within the Nkangala region.

2.11.2. The Contractor shall keep accurate records and provide the Project Manager with reports on the Contractor’s actual spent against the above stated request.

2.11.3. The Contractor’s failure to comply with his SDL&I obligations constitutes substantial failure on the part of the Contractor to comply with his obligations under this contract.

2.12. Project Stability Requirement Checklist

Project Stability Requirement Checklist	Tick
Contractor Project Resource Plan	
Project Stability Plan with a clear stakeholder management guideline reflecting: Community Liaison protocol	
Project Communication Protocol inclusive of: Media Management, Spokesperson guideline, Project Branding Protocols that include project Signage, Uniform and Vehicles	
Methodology for issue and incident management	
Employers Policies or Procedures for employee	
Bargaining council registration	
Project Training Matrix with clear roll out plan	
A guideline on recruitment & demobilisation	
Termination of Contract and Removal from Site	
Industrial Action Management Procedure	
Pro Forma of Limited Duration Contract	
Local SMME Integration approach	
Employee Transportation & Local Taxi Integration approach	