

## C1.2 ECC3 Contract Data

### Part one - Data provided by the *Employer*

Clause	Statement	Data
1	<b>General</b>	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option	
		<b>A: Priced Contract with activity schedule</b>
	dispute resolution Option and secondary Options	<b>W1: Dispute resolution procedure</b>
		<b>X1: Price adjustment for inflation</b>
		<b>X2: Changes in the law</b>
		<b>X3: Multiple currencies</b>
		<b>X5: Sectional Completion</b>
		<b>X4: Parent company guarantee</b>
		<b>X7: Delay damages</b>
		<b>X13: Performance Bond</b>
		<b>X16: Retention</b>
		<b>X17: Low performance damages</b>
		<b>X18: Limitation of liability</b>
		<b>Z: Additional conditions of contract</b>
	of the NEC3 Engineering and Construction Contract, April 2013 (ECC3)	
10.1	The <i>Employer</i> is: (Name)	<b>Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state-owned company incorporated in terms of the company laws of the Republic of South Africa</b>
	Address	<b>Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg</b>
	Represented by	<b>Mduduzi Ncube</b>

10.1	The <i>Project Manager</i> is: (Name)	<b>Nathi Mthethwa</b>
	Address	<b>Lethabo Power Station Deneysville Rd Viljoensdrift</b>
10.1	The <i>Supervisor</i> is: (Name)	<b>Vuako Hlungwani</b>
	Address	<b>Lethabo Power Station Deneysville Rd Viljoensdrift</b>
11.2(13)	The <i>works</i> are	<p>Refer to C3.1 ECC3 <i>Employers Works</i> Information in Part 3</p> <p>The works includes:</p> <ul style="list-style-type: none"> <li>• Six Unit C&amp;I systems for the operation, control, protection, interlocking and monitoring of the units concerned, and</li> <li>• One Common C&amp;I System with shared facilities and system for the Unit C&amp;I systems.</li> </ul> <p>The scope of the works includes:</p> <ul style="list-style-type: none"> <li>• Engineering, design, procurement, manufacturing, factory acceptance testing, delivery, off-loading at site, storage, installation, testing, commissioning, optimisation and as-built documentation for the complete C&amp;I system.</li> <li>• Development of new operating philosophies, control philosophies and protection philosophies based on existing procedures.</li> <li>• Removal and/or relocation of existing equipment.</li> <li>• Training of Operating, Engineering &amp; Maintenance staff.</li> <li>• Instrumentation as specified in Appendix 02.</li> <li>• Drives &amp; Actuators as specified in Appendix 03.</li> <li>• Interfaces to 3rd party systems as specified in Appendix 04, Appendix 05 and Appendix 20.</li> </ul> <p>The specific sub-systems provided as part of each Unit C&amp;I system includes but is not limited to the following:</p> <ul style="list-style-type: none"> <li>• Unit control system.</li> <li>• Boiler Protection system.</li> <li>• Power distribution systems.</li> <li>• Field equipment.</li> <li>• Vibration and online condition monitoring system.</li> <li>• Main Turbine Control &amp; Protection system.</li> <li>• BFPT Control &amp; Protection system.</li> <li>• Main Turbine Protection System mechanical modifications.</li> <li>• BFPT Protection System mechanical Modification.</li> <li>• Interface to other 3rd party systems.</li> </ul> <p>The specific sub-systems provided as part of the Unit Field Equipment includes but is not limited to the following:</p> <ul style="list-style-type: none"> <li>• Transmitters, probes, switches, thermocouples.</li> <li>• Cabling, racking, and associated infrastructure.</li> <li>• Partial replacement of impulse piping.</li> </ul>

- Electric Binary actuators with non-integrated switchgear.
- Electric Control actuators with integrated switchgear.
- Interfaces to existing switchgear for actuators and drives.
- Local Control Stations.
- Field Enclosures

The specific sub-systems provided as part of the Common C&I system includes—but is not limited to—the following:

- Plant Information System
- GPS Time sync system
- Backup & recovery system
- Central update system
- Electronic security perimeter
- Power distribution systems

The Operator and Engineering training Simulator system including all data collection necessary to engineer the simulator system The Engineering test and training system.

Identification of minimum critical spares for maintenance and provision of commissioning spares.

- The civil works as defined in section 6.
- The electrical works as defined in section 7.
- The mechanical works as defined in section 8.

11.2(14)	The following matters will be included in the Risk Register	<ul style="list-style-type: none"> <li>• Strikes and community unrest</li> <li>• Outage movements</li> <li>• Inclement weather conditions</li> <li>• Lack of access to plant areas</li> <li>• Working at elevated heights</li> <li>• Working in confined spaces</li> <li>• Poor or no general plant lighting</li> <li>• Working in very noisy area</li> <li>• Working adjacent running plant</li> <li>• Lifting and rigging by Others</li> <li>• Impact of Covid-19</li> <li>• Asbestos &amp; Hazardous Materials</li> <li>• Cable theft</li> <li>• Interface with others during outage</li> <li>• Impact of Load Shedding</li> </ul>
11.2(15)	The <i>boundaries of the site</i> are	<b>Lethabo Power Station</b>
11.2(16)	The Site Information is in	<b>Part 4: Site Information</b>
11.2(19)	The Works Information is in	Part 3: Scope of Work and all documents and drawings to which it makes reference.
12.2	The <i>law of the contract</i> is the law of	<b>the Republic of South Africa</b>
13.1	The <i>language of this contract</i> is	<b>English</b>
13.3	The <i>period for reply</i> is	Seven working days for communication.

Save for it being:

Five working days during the manufacturing stage, and

Three working days during outage execution on site.

The *period for reply* in respect of compensation events is always Seven days.

<b>2</b>	<b>The <i>Contractor's</i> main responsibilities</b>	<b>Data required by this section of the core clauses is provided by the <i>Contractor</i> in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data.</b>		
<b>3</b>	<b>Time</b>			
11.2(3)	The <i>completion date</i> for the whole of the <i>works</i> is	<b>30 May 2030</b>		
11.2(9)	The <i>key dates</i> and the <i>conditions</i> to be met are:	<b>Condition to be met</b>	<b>key date</b>	
		<b>1</b>	<b>General</b>	
			Basic Design Freeze	30/10/2024 Six (6) months after Contract Date
			Simulator Delivery to Site	Two (2) Months before Breaker Open of the reference Unit
		<b>2</b>	<b>1<sup>st</sup> Unit</b>	
			Detailed Design Freeze	30/12/2024 Eight (8) Months after Contract Date
			FAT Completion	15/08/2025 (Two Months before Breaker Open)
			Delivery to Site	15/07/2025 (One Month before Breaker Open)
			Pre-Outage Completion	15/09/2025
			<b>Breaker Open</b> <b>Beaker Close</b>	15/09/2025 12/01/2026 (120 Days)
			Optimisation Completion	Three (3) Months after Breaker Closed Months

3	As built documentation submission	Three Months after breaker closes
	<b>2<sup>nd</sup> Unit</b>	
	Detailed Design Freeze	30/05/2025
	FAT Completion	10/06/2026 (Two Months before Breaker Open)
	Delivery to Site	10/07/2026 (One Month before Breaker Open)
	Pre-Outage Completion	10/08/2026
	<b>Breaker Open Beaker Close</b>	10/08/2026 07/12/2026 (120 Days)
	Optimisation Completion	Three (3) Months after Breaker Closed
4	As built documentation submission	Three (3) Months after Breaker Closed
	<b>3<sup>rd</sup> Unit</b>	
	Detailed Design Freeze	30/11/2025
	FAT Completion	30/11/2026 (Two Months before Breaker Open)
	Delivery to Site	30/01/2027 (One Month before Breaker Open)
	Pre-Outage Completion	01/02/2027
	<b>Breaker Open Beaker Close</b>	01/02/2027 31/05/2027 (120 Days)
	Optimisation Completion	Three (3) Months after Breaker Closed

5	As built documentation submission	Three (3) Months after Breaker Closed
	<b>4<sup>th</sup> Unit</b>	
	Detailed Design Freeze	30/05/2026
	FAT Completion	23/06/2027 (Two Months before Breaker Open)
	Delivery to Site	23/07/2027 (One Month before Breaker Open)
	Pre-Outage Completion	23/08/2027
	<b>Breaker Open Beaker Close</b>	23/08/2027 20/12/2027 (120 Days)
	Optimisation Completion	Three (3) Months after Breaker Closed
6	As built documentation submission	Three (3) Months after Breaker Closed
	<b>5<sup>th</sup> Unit</b>	
	Detailed Design Freeze	30/09/2026
	FAT Completion	30/11/2027 (Two Months before Breaker Open)
	Delivery to Site	30/12/2027 (One Month before Breaker Open)
	Pre-Outage Completion	31/01/2028
	<b>Breaker Open Beaker Close</b>	31/01/2028 29/05/2028 (120 Days)

	Optimisation Completion	Three (3) Months after Breaker Closed
	As built documentation submission	Three (3) Months after Breaker Closed
	<b>7 6<sup>th</sup> Unit</b>	
	Detailed Design Freeze	28/02/2028
	FAT Completion	21/03/2029 (Two Months before Breaker Open)
	Delivery to Site	21/04/2029 (One Month before Breaker Open)
	Pre-Outage Completion	21/05/2029
	<b>Breaker Open Breaker Close</b>	21/05/2029 17/09/2029 (120 Days)
	Optimisation Completion	Three (3) Months after Breaker Closed
	As built documentation submission	Three (3) Months after Breaker Closed

30.1	The access dates are:	<b>Part of the Site</b>	<b>Date</b>
		<b>1</b> Site Establishment	As per Accepted Baseline Program
		<b>2</b> First Unit	As per Accepted Baseline Program
		<b>3</b> Second Unit	As per Accepted Baseline Program
		<b>4</b> Third Unit	As per Accepted Baseline Program
		<b>5</b> Fourth Unit	As per Accepted Baseline Program
		<b>6</b> Fifth Unit	As per Accepted Baseline Program

**7 Sixth Unit**

As per Accepted  
Baseline Program

Conditional to the receipt of a Construction Works Permit from the Department of Employment and Labour), and in line with the indicated access dates as listed for each section.

Full access shall be granted to the *Contractor* once the Outage block permit is issued for each referenced unit.

Partial access shall be granted to the *Contractor* to execute scope that can be safely performed while the Unit is in operation (without any risk to plant operation). This may include but not limited to:

- Pre outage work activities
- Construction activities

31.1	The <i>Contractor</i> is to submit a first programme for acceptance within	Fourteen (14) calendar days after Contract award date
31.2	The <i>starting date</i> is	30 April 2024
32.2	The <i>Contractor</i> submits revised programmes at intervals no longer than	The <i>Contractor</i> submits updated Programmes weekly (during Engineering and Manufacturing) and Daily (during outages)
35.1	The <i>Employer</i> is not willing to take over the <i>works</i> before the Completion Date of any <i>section</i> of the <i>works</i>	Not Applicable
<b>4</b>	<b>Testing and Defects</b>	
42.2	The <i>defects date</i> is	52 weeks per Section after each Sectional Completion date.
43.2	The <i>defect correction period</i> is	Normal Defect within 24hrs
	except that the <i>defect correction period</i> for	The period to initiate a response to notification of a defect will be: <ol style="list-style-type: none"> <li>1. Safety defect Within 12 hours 1<sup>st</sup> level technical person will be onsite.</li> <li>2. Load loss Defects Within 12 hours 1st level technical person will be onsite or as agreed between the parties, if not reasonably possible to remedy within the above time periods. The <i>Project Manager</i> shall be entitled to make the final determination as to the length of the <i>defect correction period</i>, provided the period is reasonable.</li> </ol>

**5 Payment**

50.1	The <i>assessment interval</i> is	On the 25 <sup>th</sup> day of each successive month.
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All assessments submission shall be accompanied by supporting documents confirming completion of each activity and signed by both parties.

Milestone to be presented on Activity Schedule document and agreed by both parties before contract award.

51.1	The <i>currency of this contract</i> is the	Multiple currencies.
51.2	The period within which payments are made is	60 (sixty) calendar days after receipts of a valid tax invoice.
51.4	The <i>interest rate</i> is	<p>the publicly quoted prime rate of interest (calculated on a 365-day year) charged from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands and</p> <p>(ii) the LIBOR rate applicable at the time for amounts due in other currencies. LIBOR is the 6 month London Interbank Offered Rate quoted under the caption "Money Rates" in The Wall Street Journal for the applicable currency or if no rate is quoted for the currency in question then the rate for United States Dollars, and if no such rate appears in The Wall Street Journal then the rate as quoted by the Reuters Monitor Money Rates Service (or such service as may replace the Reuters Monitor Money Rates Service) on the due date for the payment in question, adjusted <i>mutatis mutandis</i> every 6 months thereafter and as certified, in the event of any dispute, by any manager employed in the foreign exchange department of The Standard Bank of South Africa Limited, whose appointment it shall not be necessary to prove.</p>

## 6 Compensation events

60.1(13)	<p>The place where weather is to be recorded is:</p> <p>The <i>weather measurements</i> to be recorded for each calendar month are,</p> <p>The <i>weather measurements</i> are supplied by</p> <p>The <i>weather data</i> are the records of past <i>weather</i></p>	<p>Lethabo Power Station, and the records to be kept on site, in a file clearly marked for this purpose.</p> <p>the cumulative rainfall (mm)</p> <p>the number of days with rainfall more than 50 mm</p> <p>the number of days with minimum air temperature less than -5 degrees Celsius</p> <p>the number of days with snow lying at 09:00 hours South African Time</p> <p>and these measurements:</p> <p>South African Weather Bureau</p> <p>The nearest available weather station to Lethabo Power Station.</p>
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*measurements* for each calendar month which were recorded at:

and which are available from: the South African Weather Bureau

<b>7</b>	<b>Title</b>	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
<b>8</b>	<b>Risks and insurance</b>	
80.1	These are additional <i>Employer's</i> risks	<b>None</b>
84.1	The <i>Contractor</i> provides the insurances stated in the insurance table	The insurances provide cover for events which are at the <i>Contractor's</i> risk from the <i>start date</i> until the Defects Certificate or a termination certificate has been issued.
<b>9</b>	<b>Termination</b>	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
<b>10</b>	<b>Data for main Option clause</b>	
<b>A</b>	<b>Priced contract with activity schedule</b>	There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.
<b>11</b>	<b>Data for Option W1</b>	
W1.1	The <i>Adjudicator</i> is	the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a> ). If the Parties do not agree on an <i>Adjudicator</i> the <i>Adjudicator</i> will be appointed by the Arbitration Foundation of Southern Africa (AFSA).
W1.2(3)	The <i>Adjudicator nominating body</i> is:	the Chairman of ICE-SA a joint Division of the South African Institution of Civil Engineering and the London Institution of Civil Engineers. (See <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a> ) or its successor body.
W1.4(2)	The <i>tribunal</i> is:	<b>arbitration.</b>
W1.4(5)	The <i>arbitration procedure</i> is	the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.
	The place where arbitration is to be held is	South Africa
	The person or organisation who will choose an arbitrator	
	- if the Parties cannot agree a choice or	
	- if the <i>arbitration procedure</i> does not state who selects an arbitrator, is	the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.

12	Data for secondary Option clauses			
X1	Price adjustment for inflation			
X1.1(a)	The <i>base date</i> for indices is	One month prior tender closing		
X1.1(c)	The proportions used to calculate the Price Adjustment Factor are:	proportion	linked to index for	Index prepared
		0. 15	Non-adjustable	
		0. 85	Adjustable	
	Total	1.00		
X2	Changes in the law	There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.		
X3	Multiple currencies			
X3.1	The <i>Employer</i> will pay for these items or activities in the currencies stated	As per attached Price Schedule	ZAR and Currencies	
	The <i>exchange rates</i> are those published in	South African Reserve Bank		
		The following documentation is required to be submitted when payment is requested:		
		<ul style="list-style-type: none"><li>Commercial invoice (from the foreign supplier)</li></ul>		
		<u>Import payments</u>		
		<ul style="list-style-type: none"><li>SAD 500</li><li>Bill of Entry as evidence that goods have been cleared by the Department of Customs and Excise</li><li>Customs release notification</li><li>Transport documents from the freight company</li><li>Marine/ocean bill of lading</li></ul>		
		One of the following documents as per the mode of transportation		
		<ul style="list-style-type: none"><li>Airway bill / air transport document</li><li>Road or rail consignment note</li><li>Postal receipt “ goods dispatched”</li><li>Certificate of posting</li><li>Courier dispatch note or airway bill</li></ul>		
		NB: Proof of evidence for transport of related goods in the Republic of South Africa		
		<u>Goods and Service related payments</u>		
		Payment method 1A		
		Goods and Services related payments into a foreign bank account		

**Documents to submit with payment:**

- Commercial invoice (invoice from the overseas supplier)

**NB: Eskom will be hedging the exchange rate exposure by means of forward cover. Therefore, any delays by the supplier in delivery of the goods, or if the services are rendered late, and these delays result in Eskom having to modify the the forward cover to new dates, any additional costs incurred by Eskom, thereto will be reimbursed by the supplier. If any invoices are submitted late, and Eskom has to modify the forward cover due to not receiving the invoices timeously, any additional costs incurred by Eskom will be reimbursed by the supplier.**

<b>X5</b>	<b>Sectional Completion</b>			
X5.1	The <i>completion date</i> for each <i>section</i> of the <i>works</i> is:	<b>section</b>	<b>description</b>	<b>Completion Date</b>
		1	1 <sup>st</sup> Unit Completion	12/04/2026 (Optimisation to start 30 days after Breaker closed)
		2	2 <sup>nd</sup> Unit Completion	07/03/2027 (Optimisation to start 30 days after breaker closed)
		3	3 <sup>rd</sup> Unit Completion	31/08/2027 (Optimisation to start 30 days after breaker closed)
		4	4 <sup>th</sup> Unit Completion	20/03/2028 (Optimisation to start 30 days after breaker closed))
		5	5 <sup>th</sup> Unit Completion	29/08/2028 (Optimisation to start 30 days after breaker closed)
		6	6 <sup>th</sup> Unit Completion	17/12/2029 (Optimisation to start 30 days after breaker closed)
<b>X5 &amp; X7</b>	<b>Sectional Completion and</b>			

	delay damages used together			
X7.1 X5.1	Delay damages for late Completion of the <i>sections</i> of the <i>works</i> are:	<i>section</i>	Description	Amount per day, Capped at 15% of Contract Price
		1	1 <sup>st</sup> Unit Completion	R950 000
		2	2 <sup>nd</sup> Unit Completion	R950 000
		3	3 <sup>rd</sup> Unit Completion	R950 000
		4	4 <sup>th</sup> Unit Completion	R950 000
		5	5 <sup>th</sup> Unit Completion	R950 000
		6	6 <sup>th</sup> Unit Completion	R950 000
X13	Performance bond			
X13.1	The amount of the performance bond is	10% of the Contract Price, Performance bond to be issued four weeks from Contract Date.		
X16	Retention			
X16.1	The <i>retention free amount</i> is	R0.00		
	The <i>retention percentage</i> is	10% of every assessment amount certified.		
X17	Low performance damages			
X17.1	The amounts for low performance damages are:	Amount R3 000 000 Per day Capped at 15% of the Contract Price	Performance criteria is detailed in the Part C3.1 <i>Employers Works</i> Information document : <ul style="list-style-type: none"><li>• Section 9</li><li>• Appendix 11</li><li>• Appendix 12</li></ul>	
X18	Limitation of liability			
X18.1.1	The <i>Contractor's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to:	R0.0 (zero Rand)		
X18.1.2	Consequential loss includes, but is not limited eusdem			

		<p>generis, to loss of profit or revenues, loss of use of Equipment or systems, interruption of business, cost of replacement power, cost of capital, or wasted operating costs.</p>
X18.2	For any one event, the <i>Contractor's</i> liability to the <i>Employer</i> for loss of or damage to the <i>Employer's</i> property is limited to:	<b>the amount of the deductibles relevant to the event</b>
X18.3	The <i>Contractor's</i> liability for Defects due to his design which are not listed on the Defects Certificate is limited to	<p>The greater of</p> <ul style="list-style-type: none"> <li>the total of the Prices at the Contract Date and</li> <li>the amounts excluded and unrecoverable from the <i>Employer's</i> assets policy for correcting the Defect (other than the resulting physical damage which is not excluded) plus first amount payable in terms of the <i>Employer's</i> assets policy.</li> </ul>
X18.4	The <i>Contractor's</i> total liability to the <i>Employer</i> for all matters arising under or in connection with this contract, other than excluded matters, is limited to:	<p>the total of the Prices other than for the additional excluded matters.</p> <p>The <i>Contractor's</i> total liability for the additional excluded matters is not limited.</p> <p>The additional excluded matters are amounts for which the <i>Contractor</i> is liable under this contract for</p> <ul style="list-style-type: none"> <li>Defects due to his design which arise before the Defects Certificate is issued,</li> <li>Defects due to manufacture and fabrication outside the Site,</li> <li>Loss of or damage to property (other than the <i>Employer's</i> property, the <i>works</i>, Plant and Materials)</li> <li>Death of or injury to a person and</li> <li>Infringement of an intellectual property right.</li> </ul>
X18.5	The <i>end of liability date</i> is	<p>(i) Twenty years (20) after the <i>defects date</i> for latent Defects and</p> <p>(ii) the date on which the liability in question prescribes in accordance with the Prescription Act No. 68 of 1969 (as amended or in terms of any replacement legislation) for any other matter.</p> <p>A latent Defect is a Defect which would not have been discovered on reasonable inspection by the <i>Employer</i> or the <i>Supervisor</i> before the <i>defects date</i>, without requiring any inspection not ordinarily carried out by the <i>Employer</i> or the <i>Supervisor</i> during that period.</p> <p>If the <i>Employer</i> or the <i>Supervisor</i> do undertake any inspection over and above the reasonable inspection, this does not place a greater responsibility on the <i>Employer</i> or the <i>Supervisor</i> to have discovered the Defect.</p>
<b>Z</b>	<b>The additional conditions of contract are</b>	<b>Z1 to Z24 always apply.</b>

**Z1 Cession delegation and assignment**

- Z1.1 The *Contractor* does not cede, delegate, or assign any of its rights or obligations to any person without the written consent of the *Employer*.
- Z1.2 Notwithstanding the above, the *Employer* may on written notice to the *Contractor* cede and delegate its rights and obligations under this contract to any of its subsidiaries or any of its present divisions or operations which may be converted into separate legal entities as a result of the restructuring of the Electricity Supply Industry.

**Z2 Joint ventures**

- Z2.1 If the *Contractor* constitutes a joint venture, consortium or other unincorporated grouping of two or more persons or organisations then these persons or organisations are deemed to be jointly and severally liable to the *Employer* for the performance of this contract.
- Z2.2 Unless already notified to the *Employer*, the persons or organisations notify the *Project Manager* within two weeks of the Contract Date of the key person who has the authority to bind the *Contractor* on their behalf.
- Z2.3 The *Contractor* does not alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without the consent of the *Employer* having been given to the *Contractor* in writing.

**Z3 Change of Broad Based Black Economic Empowerment (B-BBEE) status**

- Z3.1 Where a change in the *Contractor's* legal status, ownership or any other change to his business composition or business dealings results in a change to the *Contractor's* B-BBEE status, the *Contractor* notifies the *Employer* within seven days of the change.
- Z3.2 The *Contractor* is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the *Project Manager* within thirty days of the notification or as otherwise instructed by the *Project Manager*.
- Z3.3 Where, as a result, the *Contractor's* B-BBEE status has decreased since the Contract Date, the parties meet within 30 days of such decrease to discuss potential remedial action. If they cannot agree on a remedy within a further 30 days, the *Employer* may either re-negotiate this contract or alternatively, terminate the *Contractor's* obligation to Provide the *works*.
- Z3.4 Failure by the *Contractor* to notify the *Employer* of a change in its B-BBEE status may constitute a reason for termination. If the *Employer* terminates in terms of this clause, the procedures on termination are P1, P2 and P3 as stated in clause 92, and the amount due is A1 and A3 as stated in clause 93.

**Z4 Confidentiality**

- Z4.1 The Receiving Party does not disclose or make any information arising from or in connection with this contract available to Others, without the prior written consent of the Disclosing Party, which is not unreasonably withheld. This undertaking does not apply to information which at the time of disclosure or thereafter, without default on the part of the Receiving Party, enters the public domain or to information which was already in the possession of the Receiving Party at the time of disclosure, or information independently developed without reference to the Disclosing Party's information. Should the Disclosing Party disclose information to Others in terms of clause 25.1, the Disclosing Party ensures that the provisions of this clause are complied with by the recipient.

- Z4.2 If the Receiving Party is uncertain about whether any such information is confidential, it is regarded as such until notified otherwise by the Disclosing Party.
- Z4.3 In the event that the Receiving Party is required by law to disclose any such information which is required to be kept confidential, the Receiving Party, to the extent permitted by law prior to disclosure, notifies the Disclosing Party so that an appropriate protection order and/or any other action can be taken if possible, prior to any disclosure. In the event that such protective order is not, or cannot, be obtained, then the Receiving Party may disclose that portion of the information which it is required to be disclosed by law and uses reasonable efforts to obtain assurances that confidential treatment will be afforded to the information so disclosed.

Z4.4 The taking of images (whether photographs, video footage or otherwise) of the *works* or any portion thereof, in the course of Providing the Services or after Completion, requires the prior written consent of the *Employer*. All rights in and to all such images vests in the *Employer*

Z4.5 The Receiving Party ensures that all his Subcontractors abide by the undertakings in this clause.

**Z5 Waiver and estoppel: Add to core clause 12.3:**

- Z5.1 Any extension, concession, waiver or relaxation of any action stated in this contract by the Parties, the *Project Manager*, the *Supervisor*, or the *Adjudicator* does not constitute a waiver of rights, and does not give rise to an estoppel unless the Parties agree otherwise and confirm such agreement in writing.

**Z6 Health, safety and the environment: Add to core clause 27.4**

- Z6.1 The *Contractor* undertakes to take all reasonable precautions to maintain the health and safety of persons in and about the execution of the *works*. Without limitation the *Contractor*:
- accepts that the *Employer* may appoint him as the "Principal Contractor" (as defined and provided for under the Construction Regulations 2014 (promulgated under the Occupational Health & Safety Act 85 of 1993) ("the Construction Regulations") for the Site;
  - warrants that the total of the Prices as at the Contract Date includes a sufficient amount for proper compliance with the Construction Regulations, all applicable health & safety laws and regulations and the health and safety rules, guidelines and procedures provided for in this contract and generally for the proper maintenance of health & safety in and about the execution of *works*; and
  - undertakes, in and about the execution of the *works*, to comply with the Construction Regulations and with all applicable health & safety laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his Subcontractors, employees and others under the *Contractor's* direction and control, likewise observe and comply with the foregoing.
- Z6.2 The *Contractor*, in and about the execution of the *works*, complies with all applicable environmental laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his Subcontractors, employees and others under the *Contractor's* direction and control, likewise observe and comply with the foregoing.

**Z7 Provision of a Tax Invoice and interest. Add to core clause 51**

- Z7.1 Within one week of receiving a payment certificate from the *Project Manager* in terms of core clause 51.1, the *Contractor* provides the *Employer* with a tax invoice in accordance with the *Employer's* procedures stated in the Works Information, showing the amount due for payment equal to that stated in the payment certificate.
- Z7.2 If the *Contractor* does not provide a tax invoice in the form and by the time required by this



contract, the time by when the *Employer* is to make a payment is extended by a period equal in time to the delayed submission of the correct tax invoice. Interest due by the *Employer* in terms of core clause 51.2 is then calculated from the delayed date by when payment is to be made.

- Z7.3 The *Contractor* (if registered in South Africa in terms of the companies Act) is required to comply with the requirements of the Value Added Tax Act, no 89 of 1991 (as amended) and to include the *Employer's* VAT number 4740101508 on each invoice he submits for payment.

## **Z8            Notifying compensation events**

- Z8.1 Delete from the last sentence in core clause 61.3, "unless the *Project Manager* should have notified the event to the *Contractor* but did not".

## **Z9            *Employer's* limitation of liability**

- Z9.1 The *Employer's* liability to the *Contractor* for the *Contractor's* indirect or consequential loss is limited to R0.00 (zero Rand)
- Z9.2 The *Contractor's* entitlement under the indemnity in 83.1 is provided for in 60.1(14) and the *Employer's* liability under the indemnity is limited.

## **Z10            Termination: Add to core clause 91.1, at the second main bullet point, fourth sub-bullet point, after the words "against it":**

- Z10.1     or had a business rescue order granted against it.

## **Z11            Addition to secondary Option X7 Delay damages (if applicable in this contract)**

- Z11.1 If the amount due for the *Contractor's* payment of delay damages reaches the limits stated in this Contract Data for Option X7 or Options X5 and X7 used together, the *Employer* may terminate the *Contractor's* obligation to Provide the *works* using the same procedures and payment on termination as those applied for reasons R1 to R15 or R18 stated in the Termination Table.

## **Z12            Ethics**

For the purposes of this Z-clause, the following definitions apply:

- Affected Party**     means, as the context requires, any party, irrespective of whether it is the *Contractor* or a third party, such party's employees, agents, or Subcontractors or Subcontractor's employees, or any one or more of all of these parties' relatives or friends,
- Coercive Action**    means to harm or threaten to harm, directly or indirectly, an Affected Party or the property of an Affected Party, or to otherwise influence or attempt to influence an Affected Party to act unlawfully or illegally,
- Collusive Action**    means where two or more parties co-operate to achieve an unlawful or illegal purpose, including to influence an Affected Party to act unlawfully or illegally,
- Committing Party**    means, as the context requires, the *Contractor*, or any member thereof in the case of a joint venture, or its employees, agents, or Subcontractor or the Subcontractor's employees,
- Corrupt Action**     means the offering, giving, taking, or soliciting, directly or indirectly, of a good or service to unlawfully or illegally influence the actions of an Affected Party,

**Fraudulent Action** means any unlawfully or illegally intentional act or omission that misleads, or attempts to mislead, an Affected Party, in order to obtain a financial or other benefit or to avoid an obligation or incurring an obligation,

**Obstructive Action** means a Committing Party unlawfully or illegally destroying, falsifying, altering or concealing information or making false statements to materially impede an investigation into allegations of Prohibited Action, and

**Prohibited Action** means any one or more of a Coercive Action, Collusive Action Corrupt Action, Fraudulent Action or Obstructive Action.

- Z12.1 A Committing Party may not take any Prohibited Action during the course of the procurement of this contract or in execution thereof.
- Z12.2 The *Employer* may terminate the *Contractor's* obligation to Provide the Services if a Committing Party has taken such Prohibited Action and the *Contractor* did not take timely and appropriate action to prevent or remedy the situation, without limiting any other rights or remedies the *Employer* has. It is not required that the Committing Party had to have been found guilty, in court or in any other similar process, of such Prohibited Action before the *Employer* can terminate the *Contractor's* obligation to Provide the Services for this reason.
- Z12.3 If the *Employer* terminates the *Contractor's* obligation to Provide the Services for this reason, the amounts due on termination are those intended in core clauses 92.1 and 92.2.
- Z12.4 A Committing Party co-operates fully with any investigation pursuant to alleged Prohibited Action. Where the *Employer* does not have a contractual bond with the Committing Party, the *Contractor* ensures that the Committing Party co-operates fully with an investigation.

### Z13 Insurance

#### Z 13.1 Replace core clause 84 with the following:

##### 84 Insurance cover

- 84.1** When requested by a Party, the other Party provides certificates from his insurer or broker stating that the insurances required by this contract are in force.
- 84.2** The *Contractor* provides the insurances stated in the Insurance Table A.
- 84.3** The insurances provide cover for events which are at the *Contractor's* risk from the *starting date* until the earlier of Completion and the date of the termination certificate.

**INSURANCE TABLE A**

Insurance against	Minimum amount of cover or minimum limit of indemnity
Loss of or damage to the <i>works</i> , Plant and Materials	The replacement cost where not covered by the <i>Employer's</i> insurance  The <i>Employer's</i> policy deductible, as Contract Date, where covered by the <i>Employer's</i> insurance
Loss of or damage to Equipment	The replacement cost
Liability for loss of or damage to property (except the <i>works</i> , Plant and	<b><u>Loss of or damage to property</u></b> <b><u>Employer's property</u></b>

Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Contractor</i> ) caused by activity in connection with this contract	<p>The replacement cost where not covered by the <i>Employer's</i> insurance</p> <p>The <i>Employer's</i> policy deductible, as at Contract Date, where covered by the <i>Employer's</i> insurance</p> <p><u>Other property</u> The replacement cost</p> <p><b><u>Bodily injury to or death of a person</u></b> The amount required by applicable law</p>
Liability for death of or bodily injury to employees of the <i>Contractor</i> arising out of and in the course of their employment in connection with this contract	The amount required by the applicable law

**Z 13.2**

**Replace core clause 87 with the following:**

The *Employer* provides the insurances stated in the Insurance Table B.

**INSURANCE TABLE B**

<b>Insurance against or name of policy</b>	<b>Minimum amount of cover or minimum of indemnity</b>
Assets All Risk	Per the insurance policy document
Contract Works insurance	Per the insurance policy document
Environmental Liability	Per the insurance policy document
General and Public Liability	Per the insurance policy document
Transportation (Marine)	Per the insurance policy document
Motor Fleet and Mobile Plant	Per the insurance policy document
Terrorism	Per the insurance policy document
Cyber Liability	Per the insurance policy document
Nuclear Material Damage and Business Interruption	Per the insurance policy document
Nuclear Material Damage Terrorism	Per the insurance policy document

**Z14 Asbestos**

For the purposes of this Z-clause, the following definitions apply:

**AAIA** means approved asbestos inspection authority.

**ACM** means asbestos containing materials.

**AL** means action level, i.e. a level of 50% of the OEL, i.e. 0.1 regulated asbestos fibres per ml of air measured over a 4 hour period. The value at which proactive actions is required in order to control asbestos exposure to prevent exceeding the OEL.

**Ambient Air** means breathable air in area of work with specific reference to breathing zone, which is defined to be a virtual area within a radius of approximately 30cm from the

nose inlet.

<b>Compliance Monitoring</b>	means compliance sampling used to assess whether or not the personal exposure of workers to regulated asbestos fibres is in compliance with the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, Equipment and articles.
<b>OEL</b>	means occupational exposure limit.
<b>Parallel Measurements</b>	means measurements performed in parallel, yet separately, to existing measurements to verify validity of results.
<b>Safe Levels</b>	means airborne asbestos exposure levels conforming to the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, Equipment and articles.
<b>Standard</b>	means the <i>Employer's</i> Asbestos Standard 32-303: Requirements for Safe Processing, Handling, Storing, Disposal and Phase-out of Asbestos and Asbestos Containing Material, Equipment and Articles.
<b>SANAS</b>	means the South African National Accreditation System.
<b>TWA</b>	means the average exposure, within a given workplace, to airborne asbestos fibres, normalised to the baseline of a 4 hour continuous period, also applicable to short term exposures, i.e. 10-minute TWA.

- Z14.1 The *Employer* is responsible for ensuring that the ambient air in the area where the *Contractor* will Provide the *works* conforms to the acceptable prescribed South African standard for asbestos, as per the Asbestos Regulations, R 1196 of 10 November 2020, promulgated under the Occupational Health and Safety Act, 1993 (Act 85 of 1993), with the occupational exposure limit of 0,1 regulated asbestos fibres per millilitre of air over a continuous period of four hours measured in accordance with HSG 248, and short-term exposure limit" means a short-term exposure limit of 0,6 regulated asbestos fibres per millilitre of air, measured over a continuous 10-minute period.
- Z14.2 Upon written request by the *Contractor*, the *Employer* certifies that these *conditions* prevail. All measurements and reporting are effected by an independent, competent, and certified occupational hygiene inspection body, i.e. a SANAS accredited and Department of Employment and Labour approved AAIA. The *Contractor* may perform Parallel Measurements and related control measures at the *Contractor's* expense. For the purposes of compliance the results generated from Parallel Measurements are evaluated only against South African statutory limits as detailed in clause Z14.1. Control measures conform to the requirements stipulated in the AAIA-approved asbestos work plan.
- Z14.3 The *Employer* manages asbestos and ACM according to the Standard.
- Z14.4 In the event that any asbestos is identified while Providing the Services, a risk assessment is conducted and if so required, with reference to possible exposure to an airborne concentration of above the AL for asbestos, immediate control measures are implemented and relevant air monitoring conducted in order to declare the area safe.
- Z14.5 The *Contractor's* personnel are entitled to stop working and leave the contaminated area forthwith until such time that the area of concern is declared safe by either Compliance Monitoring or an AAIA approved control measure intervention, for example, per the emergency asbestos work plan, if applicable.
- Z14.6 The *Contractor* continues to Provide the Services, without additional control measures presented, on presentation of Safe Levels. The contractually agreed dates to Provide the Services, including the Completion Date, are adjusted accordingly. The contractually agreed dates are extended by the notification periods required by regulations 3 and 21 of

the Asbestos Regulations, 2001.

- Z14.7 Any removal and disposal of asbestos, asbestos containing materials and waste, is done by a registered asbestos contractor, instructed by the *Employer* at the *Employer's* expense, and conducted in line with South African legislation.

**Z15 Title**

- Z15.1 Delete 70.1 and replace with:

Whatever title the *Contractor* has to Plant and Materials which are outside the Working Areas passes to the *Employer* as soon as the *Contractor* or *Project Manager* has marked them as for this contract or the *Employer* makes payment (partial or otherwise) whichever is the earlier. Risk does not pass until Completion.

**Z16 Intellectual Property**

- 16.1 “**Intellectual Property**” means (a) patents, trademarks, service marks, rights in designs, trade names, copyrights and topography rights, in each case whether registered or not; (b) applications for registration of any of them; (c) rights under licences and consents in relation to any of them; (d) all forms of protection of a similar nature or having equivalent or similar effect to any of them which may subsist anywhere in the world.
- 16.2 All Intellectual Property rights, contained in any developed materials which are created by the *Contractor* or on behalf of the *Contractor*, for the purposes of and in support of the execution of the *works* vests with the *Contractor*. The *Contractor* retains the Intellectual Property rights in and to the *Contractor's* Intellectual Property made by or on behalf of the *Contractor* as part of the *works*.
- 16.3 The *Contractor* gives to the *Employer* an irrevocable, non-exclusive, royalty-free licence to use the *Contractor's* documents containing Intellectual Property relating to the *works* (the “**IP Documents**”), as supplied to the *Employer* under the contract, for the purposes of operating, maintaining, and repairing the *works*. The *Contractor* is not obliged to provide any proprietary manufacturing documents, designs, processes or specifications.
- 16.4 This licence (a) applies throughout the actual or intended working life (whichever is longer) of the *works*; (b) entitles the *Employer*, its authorised employees and wholly owned subsidiaries of the *Employer* in proper possession of the relevant part of the *works*, to use the IP Documents for the purposes of completing, operating, using, maintaining, adjusting, repairing and demolishing the *works* (the “**Purposes**”); and (c) in the case of IP Documents which are in the form of computer programs and other software, permit their use and communication for the Purposes.
- 16.5 The IP Documents are not, without the *Contractor's* written consent, used, copied or communicated to a third party by or on behalf of the *Employer* for any purpose, other than the Purposes.
- 16.6 The *Contractor* procures that each Subcontractor executes all and any IP Documents and take all and any other actions as may be required, in order to give effect to this licence.
- 16.7 The *Employer* retains all Intellectual Property rights in all documents made by or on behalf of the *Employer* including all documents and requirements provided prior to or during the execution of the *works*. The *Contractor* does not, without the written consent, of the *Employer*, copy, use or issue to a third party any of these documents and requirements except for the purposes of executing the *works*.
- 16.8 Either party procures that any third party executes confidentiality undertakings not to disclose to any other third parties, any of the *Employer's* documents and requirements at all, in respect of the *Employer*, or the IP Documents other than for the Purposes, in respect of the *Contractor*.
- 16.9 Third Party Claims:**
- 16.9.1 In the event of any claims being made or actions brought against the *Employer*, on the ground that the *Contractor* infringed any patent, trademark or copyright, the *Contractor* is notified thereof and at

its own expense, conducts all negotiations in consultation with the *Employer* for the settlement of the claim and litigation that may arise from such alleged infringement.

16.9.2 Save where the *Contractor* fails to take over the conduct of the negotiation or litigation within a reasonable time of the notification of the alleged infringement, the *Employer* does not make any admission which might be prejudicial to the *Contractor's* position. The *Employer*, at the request and the cost of the *Contractor* affords it all reasonable technical assistance that the *Employer* is able to provide for the purpose of contesting any such claim or action

16.9.3 Should it be held in any such action that any such protected rights has been infringed, as definitely stated by a judgment of the court before which the action is brought, the *Contractor*, at its own expense and in consultation with the *Employer*, shall either:

16.9.3.1 procure for *Employer* the right to continue to use the affected item or design; or

16.9.3.2 replace the said affected item or design with a non-infringing item; or

16.9.3.3 design of equivalent quality or modify such affected item or design so as to make it non-infringing without affecting the quality.

16.9.4 Notwithstanding anything contained in this contract, the foregoing sets forth the entire responsibility of *Contractor* with respect to claims relating to infringement.

16.9.5 Where it is alleged that the *Employer* has committed an infringement as intended vis-à-vis the *Contractor* as set out in this clause 17.9, the *Employer* has the same rights and obligations as the *Contractor*, mutatis mutandis, as regards such alleged infringement.

16.9.6 Subject to Core Clause 83, the *Contractor* herewith indemnifies the *Employer* and undertakes to keep the *Employer* indemnified against all claims of whatsoever nature, real or imagined, which may be made against the *Employer* arising from the infringement of any third-party intellectual property rights.

## **Z17 Notice of Outages**

Z17.1 The *Employer* gives four weeks' notice on outage movements without cost.

## **Z18 COVID Claims:**

Z18.1 The Covid-19 pandemic may impact the *Contractor's* ability to fulfil its obligations under this contract.

Z18.2.1 If the *Contractor* is of the view that it has a claim under core clause 60.1 (19) or secondary Option clause X2 because of the Covid pandemic or any legislation promulgated as a result thereof (the "Circumstances"), the *Contractor* submits its claim in accordance with the contract.

Z18.2.2 If the claim is assessed as valid and the cause thereof directly attributable to the Circumstances, and the *Contractor* was not otherwise in default or delay, then, despite any term of the contract to the contrary, the *Contractor* is entitled to an extension to the Completion Date only and no costs.

Z18.3 The *Contractor* submits a revised schedule for the Completion of the *works* or *section* of the *works* affected.

## **Z19 Export Control**

- Z19.1 The *Employer* and the *Contractor* complies with all applicable country export laws, and agree that no products, technical data, or other information furnished pursuant to this contract, or any product thereof, subject to export controls, are exported, re-exported or otherwise used except in accordance with all such applicable export laws, except with prior written consent of the other Party.

This consent is not unreasonably withheld but may be contingent on additional United States Government and other applicable government approvals, and the *Contractor* timeously advises the *Employer* of the same and provides any assistance to the *Employer* which may be required.

**Z20 Protection of Personal Information Act, 2013 ("POPIA").**

- Z20.1 For the purposes of this clause 1, the terms "Data Subject", "Personal Information" and "Regulator" and "Responsible Party" have the meanings given to them in the Protection of Personal Information Act, 2013 ("POPIA").

- Z20.2 Each Party acknowledges that it is an independent Responsible Party in relation to the Personal Information processed in terms of this Agreement ("Shared Personal Information") and that it determines the purposes for which and the manner in which the Shared Personal Information is, or is to be, processed.

- Z20.3 Each Party complies with POPIA when performing its obligations under this Agreement and does not perform any of their respective obligations under this Agreement in such a way as to cause the other Party to breach any of that other Party's obligations under POPIA.

- Z20.4 Each Party ensures that, in respect of all Shared Personal Information provided to the other Party and in respect of the use of that Shared Personal Information under this Agreement:

- Z20.4.1 all necessary, fair, processing notices have been provided to and consents obtained from Data Subjects by that Party, where required, in terms of POPIA, including to specify that the other Party is also a Responsible Party in respect of the Data Subject's Personal Information and to provide a link to the other Party's Privacy Statement or to include a statement that the other Party's Privacy Statement can be found on the other Party's corporate website, and

- Z20.4.2 all necessary steps have been taken to ensure that Shared Personal Information has been collected and processed in accordance with the principles set out in POPIA, including in particular those relating to:

- Z20.4.2.1 lawful, fair and transparent Processing,

- Z20.4.2.2 specified, legitimate and explicit purposes of Processing, and

- Z20.4.2.3 adequate, relevant, and not excessive Processing.

- Z20.5 If either Party receives any complaint, notice or communication from the Regulator which relates directly to:

Z20.5.1 the other Party's Processing of the Shared Personal Data, or

Z20.5.2 a potential failure by the other Party to comply with POPIA in respect of the activities of the Parties under or in connection with this Agreement, it must, to the extent permitted by law, promptly notify the other Party and provide such information as it shall reasonably request in that regard.

Z20.6 If a Data Subject makes a written request to either Party to exercise any of their rights under POPIA, the receiving Party responds to that request in accordance with POPIA. To the extent the request concerns processing of Shared Personal Information undertaken by the other Party, the receiving Party:

Z20.6.1 promptly and without undue delay forwards the request to the other Party; and

Z20.6.2 cooperate and provide reasonable assistance in relation to that request to enable the other Party to respond in accordance with POPIA.

Z20.7 Each Party acknowledges that the other Party may disclose Shared Personal Information to any Regulator or law enforcement authority with jurisdiction to request access to the Shared Personal Information.

Z20.8 Neither Party discloses or otherwise makes available the Personal Information to any third Party (including sub-contractors, but excluding its authorised employees who require access to such Personal Information strictly in order for the parties to carry out their obligations pursuant to this contract), unless a Party has provided, to a requesting Party, its prior written consent to do so, and the requesting Party has submitted to the other Party (consenting Party), to its satisfaction, a copy of a written contract or undertaking that the requesting Party has entered into with a third Party for the protection of Personal Information of the Data Subjects or unless there is an applicable exemption in terms of the law to process or further process the personal information.

Z20.9 The requesting Party indemnifies and holds harmless the consenting Party and its staff, successors, cessionaries, delegates, and assigns, from any and all losses, costs, expenses and damage, as well penalties and fines arising from the requesting Party's non-compliance with the provision of any relevant legislation applicable to Personal Information/data protection, as well as damage to the consenting Party's reputation and costs of compliance as directed by the Regulator, including but not limited to publication of the data breach.

Z20.10 No Party may transfer Personal Information about a data subject to a third Party who is in a foreign country unless they have obtained the relevant written consent of the other Party and there is full compliance with section 72 of POPIA and any foreign applicable legislation.

## **Z21 Load Shedding**

Z21.1 The *Contractor* should be aware (and if not is hereby made aware) of the constrained electricity supply (Load Shedding) in South Africa, which may impact the Contractors manufacturing operations. The *Contractor* is expected to mitigate against any potential impact of Load Shedding, to ensure fulfilment of its obligations under this contract.



**Z17 SDL&I Performance bond**

Z22.1 The *Contractor* provides the *Employer* with a Performance bond for the fulfilment of its Supplier Development, Localisation, and Industrialisation obligations equivalent to 0.25 % of the total of the Prices as at *starting date*. The SDL&I performance bond is released on the *Contractor's* fulfilment of its SDL&I obligations.

Z22.2 The weightings allocated to each of the SDL&I obligations are as follows:

- Subcontracting weighting of 30% of the SDL&I performance bond,
- Local Production and Content weighting of 30% of the SDL&I performance bond,
- Skills Development CSDG weighting of 20% SDL&I performance bond, and
- Enterprise Development CPG weighting of 20% of the SDL&I performance bond

In this clause CSDG means Contract Skills Development Goal.

In this clause CPG means Contract Participation Goal.

Z22.3 In the event that the *Contractor* fails to achieve its CSDG the SDL&I performance bond will be reduced by the difference between the contracted CSDG and CSDG achieved in the performance of the contract.

Z22.4 The *Contractor* will receive a CSDG completion certificate if the *Employer* is satisfied that it has complied with its CSDG obligations and submitted all reports required by the *Employer*

Z22.5 In the event that the *Contractor* fails to achieve its CPG the SDL&I performance bond will be reduced by the difference between the contracted CPG and CPG achieved in the performance of the Contract.

Z22.6 The *Contractor* will receive a CPG completion certificate if the *Employer* is satisfied that it has complied with its CPG obligations and submitted all reports required by the *Employer*

**Z23 Multiple currencies Add new clause X3.3**

Z23.1 Where the *Employer* has contracted to pay the *Contractor* for imported goods/services in currencies other than the *currency of this contract* and the *Employer* has hedged the foreign currency exposure, the *Contractor* is liable for all the *Employer* costs arising out of a request to modify or cancel forward cover made by the *Contractor*.

**Z24 Criminal clearance/checks for Contractors accessing Power Stations [National Key Point-(NKP)]**

Z24.1 Acceptance of the Contractor's tender is subject to the condition that both the contracting company's management and its employees will provide Eskom with a clear criminal record not older than thirty (30) days from a reputable screening company. If the principal Contractor appoints a Subcontractor, the same provisions and measures will apply to the Subcontractor. Acceptance of the tender is also subject to the condition that the contractor will implement all such security measures for the safe performance of the work as required in the scope of the contract.

Z24.2 Contractors are to submit proof of verification record(s) (Security clearance) from SAPS or accredited supplier linked to SAPS AFIS system not older than thirty (30) days, as part of Risk Management process in order to curb any threats against the Installation. It is compulsory for these documents to be submitted to Security for verification before access to site is granted. Only individuals with clear criminal records will be considered.

Z24.3 Contractors are required to submit the SAPS Clearance Certificate obtained by the employee along with a copy of his/her Identity Document or Passport to the site Security Manager.

Z24.4 The process shall be repeated every 12 months for low-risk employees (Risk Rating 5, 4) and every 6 months for medium to high-risk employees (Risk Rating 3)

## **Annexure A: One-in-ten-year-return *weather data* obtained from SA Weather Bureau for Lethabo Weather Station**

If any one of these *weather measurements* recorded within a calendar month, before the Completion Date for the whole of the *works* and at the place stated in this Contract Data is shown to be more adverse than the data obtained from SA Weather Bureau then the *Contractor* may notify a compensation event.

Only the difference between the more adverse recorded weather and the equivalent measurement given above is taken into account in assessing a compensation event.