1. Project Stability

The intent of Project Stability mandate is to facilitate an enabling environment for project planning and execution to be implemented in a stable operational environment through the development of enabling processes, systems, and initiatives throughout the project life cycle. This is done by providing direction, assurance, integration, coordination and management of stakeholder engagement, the impact of SED and supplier labour risks; all aimed at obtaining an SLO by empowering the project so that it is implemented in an environment that is free of constraints that may create instability for its completion. The Eskom Socio-economic Development (SED) Policy and Strategy, which emphasises obtaining a social licence to operate (SLO), is essential for reducing non-technical risks, such as social conflict, workforce protests, damage to the company's reputation and property, which may lead to project delays and possible shutdowns.

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

Province	Local Municipalities
Kwa –zulu Natal	Mersey Substation - Umshwati Local Municipality Tugela substation - Okhahlamba Local Municipality Impala Substation - uMhlathuze Local Municipality

Stakeholder Management

1.1.1 The contractor in consultation and partnership with Eskom will earn the trust of local communities, which necessitates a structured approach of how the contractor will integrate different stakeholders that are affected by the execution of the Eskom project with the intention of adhering to the principles of inclusivity.

1.1.2 This is fostered by Eskom's Stakeholder Relations Policy and the Eskom Board 's accountability for stakeholder engagement in accordance with Principle of the King IV Governance Framework of June 2017, which makes provision for stakeholder relationship management..

1.1.3 Furthermore, in terms of the CIDB (Construction Industry Development Board) regulations the contractor in consultation and partnership with Eskom shall facilitate the establishment of a community project committees (CPC be executed in line with the Eskom Project Execution stability guideline) representing the affected communities. The CPC shall include the affected Ward Councillor(s) and other relevant community leaders and stakeholders.

1.1.4 The contractor with Eskom will activate participative structures that must be established in all Eskom construction businesses sites to enable project stability aimed at finishing the project activities with no or minimal hindrances from external stakeholders. The nature of these structures may differ in many ways, inclusive of magnitude, location, timeline on sight, costing and impact.

Definitions

1.1.5 Affected parties means persons, groups, and other entities within the project area of influence (PAI) who are directly influenced (actually or potentially) by the project and/or have been identified as most susceptible to change associated with the project and who need to be closely engaged in identifying impacts and their significance, as well as in decision-making on mitigation and management measures.

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

1.1.7 Other interested parties mean individuals/groups/entities that may not experience direct impacts from the project but who 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.

1.1.8 Project stakeholders mean 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').

1.1.9 Feeder area is the community area that is impacted by the project/ programme or operations. The jurisdiction of the feeder area should be predetermining at the beginning of the operations by Eskom. The municipality maybe consulted in determining this jurisdiction and the km radius must be indicated. Any change to this must be recommended by the forum officially and thereby declared by Eskom.

1.1.10 Public relations (PR) mean the practice of managing the flow of information between an individual and a project, in this case, and its audiences.

1.1.11 Stakeholder relations mean a relationship that exists primarily to manage the stakeholder interface/engagements through effective lobbying.

1.1.12 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.

1.1.13 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:

1.1.14 Is subject to a system of traditional leadership in terms of that community's customs Observes a system of customary law."

1.1.15 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.

1.1.16 The contractor in executing stability deliverables shall execute the following:

Stakeholder Management Engagements	
Project Introduction (Municipality, Traditional Councils where applicable, Business Chamber, Local Taxi Industry) and emergency preparedness initiatives	Venue hire, meeting logistics and catering for attendees
Stakeholder Forums	Bi-monthly meetings, transportation of members, meeting logistics, catering for attendees
Community Liaison	
Project Introduction to the affected wards	Venue Hire, sound system hire, meeting logistics
Enterprise Development	
Expression of interest workshop	• Advertisement of the workshop, • Venue hire, meeting logistics and catering for attendees, • Employee training logistics
Recruitment of site-based personnel, Labour Integration and Labour peace	• Recruitment of unskilled as guided by this document. • Advertisements for required semi-skilled and skilled personnel as per the local to site definition of the project. • Recruitment of One Client Liaison Officers at Task grade level 9 (T9) and Human Resource officer at (T9) level • Recruitment of Advisor-Stakeholder Management at a T12 level, If applicable • Facilitation of interview venues and catering for interviewers, • Conduct monthly employee engagements as guided by the engagement forum reflected in this document.
Employee Transportation	
Integration with local taxi association	• Onboarding of local taxi association • Utilisation of local taxi association for employee association, Driver recruitment • Facilitate Taxi integration meeting on a quarterly basis, an adhoc monthly engagement may be facilitated if there are transportation related issues being dealt with.
Corporate socio-investment (CSI)	
Corporate socio-investment initiative requests	• A % of project budget for identified socio-upliftment programmes or initiations. • Handover event with event logistics

2 CONSTRAINTS ON HOW THE CONTRACTOR PROVIDES THE SERVICES

Part 1: External Stakeholder Requirements

2.1.1 Interpretation, Additional Definitions and Abbreviations

2.1.1.1 In this Stakeholder Management requirements in order 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:

"Contractor of Contractors" mean the contractors employed by Eskom to perform project 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 Principal Contractors and Sub-Contractors as defined in this Policy.

"*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, 85/1995, these qualifications shall be deemed to be the required qualifications and training.

"*This Policy"* means any part of the Eskom Employers Policy and Procedures – External Stakeholder Policy and Requirements.

"*Local Community", "Local Businesses", "Local Stakeholder*" means the ward and / or municipal area within which the project 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. In the event that 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, unless stated otherwise.

2.1.3 Accommodation of contractor personnel

2.1.3.1 The Accommodation of *Contractors* personnel must support the principle of localisation by providing opportunities to the *Local Business / Community*.

2.1.3.2 It is advisable that the contractor should look for employee accommodation outside the 30 km radius of the construction site. This is aimed at minimising risk of employees being targeted by rioting communities when there are dissatisfactions that may cause vulnerability to the project.

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 and will be assessed by mandated personnel before operating.

2.1.4.3 In order to promote and foster cordial working relationships, the *Contractor* must make use of local transport service providers to shuttle contractor personnel to and from project site. The *Contractor* is advised to contact taxi association(s) local to the project 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 In the event that 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 note that these can be sourced elsewhere if local suppliers are unable to provide these services and proof to that effect will be supplier when required.

2.1.5.4 In consultation with Eskom and impacted local municipalities, an expression of interest workshop will be conducted a month before site establishment by the contractor. The objective of the Worksop 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 site establishment to introduce the project and to outline commodities to be outsourced by the contractor. This will result to 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 CSI) 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 of project(s) 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 project commencement. Implementation to be done within 7 to 16 months of construction.

2.1.7 Participation in the local stakeholder forums

2.1.7.1 The *Contractor* in consultation with Eskom will be required to facilitate and participate in the project local stakeholder forum to be established before site establishment. Terms of reference to be developed and be workshopped in consultation with Eskom.

2.1.7.2 The information to be shared will relate to the scope of the project, Resource Plan, recruitment initiatives, recruitment processes, local to site procurement plan, corporate social investment and any other initiatives aimed at the economic upliftment of the community.

2.1.7.3 The *Contractor* may not engage with the *Local Community* or *Local Stakeholders* without the presence or informing Eskom. Resolutions taken in the meeting to be shared in the reports.

2.1.7.4 The nominated external stakeholder forum / committee will also deal with all the external instability related matters with the aim of mitigating those risks and preventing future re-occurrences.

Part 2: Personnel and Industrial Relations Policy and Requirements

NOTE: See 3.2.3 for interpretation of terms identified (italicised) and/or defined (Capital Initials)

2.1.8 Definitions

2.1.8.1 "*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:

- 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/.
- 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.
- 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/.

2.1.8.2 "*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, 85/1995, these qualifications shall be deemed to be the required qualifications and training.

2.1.8.1 "*Engagement Forum*" means the engagement forum(s) referred to in Part 6 of *these Requirements*.

2.1.8.2 "Eskom" means Eskom Holdings SOC Limited.

2.1.8.3 "*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.

2.1.8.1 "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. Concerning Contractors that falls 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.

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

2.1.8.3 "*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 regulate 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*.

2.1.8.4 "*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*.

2.1.8.5 "*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/labour-relations-act.

2.1.8.6 "*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.

2.1.8.7 "*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*.

2.1.8.8 "*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.

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

2.1.8.10 "*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.

2.1.8.11 "*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*.

2.1.8.12 The *"Project*" means the Eskom contracted scope of work.

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

2.1.8.14 "*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.

2.1.8.15 "*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] Concerning non-party *Contractors,* it means jobs that are the same, similar, or comparable with those referred to in this definition.

2.1.8.16 "*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.

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

2.1.8.18 "*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 service contractors.

2.1.8.19 "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.

2.1.8.20 "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.

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

2.1.8.22 “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.

2.1.9 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
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
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

2.1.10 Part 1: General

2.1.10.1 Interpretation and Abbreviations

(a) The terms identified (italicised) and/or defined (Capital Initials) in *these Requirements* has no relevance to the identified and defined terms of an NEC3 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 an NEC3 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 NEC3 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 NEC or FIDIC 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 NEC or FIDIC Contract and includes the legal successors in title to Eskom Holdings SOC Limited under the NEC or FIDIC Contract.

2.1.10.2 Italicised and Capital Initialled terms.

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

2.1.10.3 Scope and Application

(d) *These Requirements* applies to the *Contractor* (including *all Subcontractors*) and all Other Project *Contractors*. For the avoidance of doubt, *these Requirements* applies 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 *Project* works and related activities at the *Project*.

(e) *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.

(f) 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.

2.1.10.4 Duty to co-operate

(b) The *Contractor* shall co-operate with the *Eskom Representative* concerning all personnel and industrial relations issues that may from time to time arise at the *Project Site* or in connection with the *Project* works.

(g) If required by the *Eskom Representative,* the *Contractor* shall co-operate with other project *Contractors* in HR, IR, *Industrial Action* or community unrest or potential unrest that may from time to time arise at the *Project Site* or in connection with the *Project* works.

2.1.10.5 *Contractor's* Representative

(h) 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 *Project Site*. The *Eskom Representative* shall, if the human resourcing for the *Project* 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 *Project Site*.

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

(j) 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*.

2.1.10.6 Compliance with Industry Agreements

(a) The Principal Contractor has to determine which *Bargaining Council* has jurisdiction over its *Project* works.

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

(c) All Principal Contractors must contract with its 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.

2.1.11 Part 2: Recruitment, Selection and Contracting

2.1.11.1 Resource Plan

(a) The *Contractor* shall include a contractor organogram and a project resource histogram indicating:

(b) The various stages in which the *Project* works will be executed.

(c) The skills type and the associated job categories and job titles that will be required during each stage of the *Project*.

(d) The job titles must be aligned with those appearing in the wage schedules of the applicable *Bargaining Council*, Wage Schedules. The job titles further must be classified as either: Management, Supervisory or Administrative staff; *Skilled Employees* (*Artisans*); *Semi-Skilled Employees* and *General Workers*.

(e) The plan must also clearly state the number and job titles of the *Contractors* core employees it intends seconding to the *Project* works. *General Workers* may not be part of the *Contractor*'s core employees.

(f) The number of employees to be employed in each job title / job category and the ratio of *Local Employees* versus non-local or core employees for each job category.

(g) The stage of the *Project* when the number of employees will be reduced and the stage when a specific job title will no longer be required at the *Project* works.

(h) If so, required by *Eskom Representative,* the *Contractor* will be required to communicate to the Eskom nominated external stakeholder forum/committee the content of the resource plan.

(i) If required and feasible, the *Contractor* may be required to amend the resource plan. If the *Eskom Representative* requires the *Contractors* to amend the resource plan with more than 20% of the number of *General Workers* (measured separately) or *Semi-Skilled Employees* (measured independently), this will constitute a compensation event, and the *Contractor* must follow the normal processes to claim any additional cost from Eskom. The *Contractor* must substantiate such claims against the resource plans required in terms of *these Requirements*.

(j) The *Principal Contractor* must contract with its *Subcontractors* on the same basis.

2.1.11.2 Recruitment

(a) The *Contractor* shall recruit employees to be employed at the *Project* works in compliance with the principles set out below:

(b) In accordance with the resource plan, referred to in *these Requirements*.

(c) Preference for the employment of all employees in all job categories, excluding the *Contractor*'s core component, will be provided to candidates from the *Local Community*. All *General Workers* will be employed from the *Local municipalities 70% of which should be from the Communalities of the impacted wards*.

(d) Project Feeder Area for unskilled recruitment is 10-20 km for urban & 20-40 km for rural. In cases of multiple wards that are within the allowable km radius, the 60-40% recruitment split principle will apply. The list to be submitted by the impacted Municipality for interviews and final appointed by the contractor in consultation of Eskom representative.

(e) All *Project Contractors* shall source persons from the *Local Community* via the recruitment guideline by Eskom and as agreed to from time to time at relevant external stakeholder forum/committee. If the relevant external stakeholder *Project* steering forum/committee does not agree or fails to agree on a recruitment procedure, the procedure guided by Eskom will prevail.

(f) A detailed recruitment guideline will be made available to the *Contractors* and *Subcontractors* at the "kick-off" meeting.

(g) The *Contractor* may only recruit persons by means of its normal in-house recruitment procedure in the following circumstances:

(h) The resource plan indicates that the skills will not be recruited from the *Local Community,* and it is clear that such skills are not available in the *Local Community*.

(i) The *Contractor* can prove that it did follow the required procedure for recruiting *Local Employees* and that it was not possible to appoint a *Competent Person*.

(j) Foreign nationals may only be employed with the approval of the *Eskom Representative*. Such appointments will be communicated with the relevant external stakeholder forum/committee and.

(k) The *Contractor*'s recruitment policy and procedure shall be fair and shall not discriminate against any person or group of persons. The *Eskom Representative* shall be entitled to inspect the *Contractor*'s recruitment policies, procedures and any records concerning shortlisting, pre-selection checks, competency testing, medical testing or any other relevant document.

(l) No recruitment shall occur at the *Project Site* / *Project* works, accommodation areas or at any other places that may be 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. However, interviews maybe conducted within the project site when necessary.

2.1.11.3 Fitness for Duty Assessments (Including Foreign Nationals)

(m) *Contractor* personnel may NOT offer a contract of employment or a seconded employee contract to perform any work at the *Project 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.

(n) 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.

(o) When the services of an employee are terminated for whatever reason, such *Contractor* will require the employee to undergo an exit medical examination.

(p) 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*.

(q) 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 *Project Site* / works and remove or cause to remove such persons from the *Project 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.

(r) 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

2.1.11.4 Security Clearance to perform Work on-Site.

(a) The *Contractor* must establish a security clearance and access requirements for the Project Site. In addition, the *Contractor* must also adhere to the requirements set out below.

(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 *Project* works / *Project Site*. If the person is already working, the *Contractor* will remove such employee from the *Project* works / *Project Site*. Failure to do so will entitle Eskom to remove or cause to remove such a person from the *Project 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.

2.1.11.5 Anti-poaching Undertaking

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

(b) Another *Contractor* has demobilised a person or made the person redundant.

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

2.1.11.6 Contracting of Personnel

(a) All *Local Employees* shall be appointed by means of a limited duration contract (LDC) in compliance with section 198B of the LRA and the applicable *Industry Agreements*.

(b) All LDC agreements will be standardised based on the terms and conditions determined by the applicable *Bargaining Council* that may have jurisdiction over a particular part of the *Project* works. Such a contract should be submitted to an Eskom representative for approval.

(c) All *Non - local employees* shall be employed at the Contractor's premises, and after that, be seconded to the *Project* where-after, they may be mobilised at the *Project Site*.

(d) All permanent core employees and LDC core employees shall enter secondment contracts before being mobilised at the *Project Site*.

(e) All employees shall complete site induction and *Contractor*'s induction before being mobilised at the *Project* works / Site.

(f) Employees shall be entitled to payment from the date stated in the contract or if the contract does not contain such a date, from the date both parties signed the contract.

(g) If so, required by Eskom, 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.

2.1.11.7 *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.

2.1.11.8 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 paragraph 2.1.11.2 of Part 2 of 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(s) and Subcontractors be found to be circumventing the established recruiting system or procedure, the Contractors and Subcontractors is to remove the employee as well as the employee's access to the Project immediately.

(g) If so, required by Eskom, 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.

2.1.11.10 Induction

2.2.4.10.1 The *Contractor* shall submit for approval by the *Eskom Representative* a *Project* specific induction and training program. The *Contractor* shall, at their own cost, provide *Project* specific induction and training for its employees and *Subcontractors*, which training shall include, among other things:

(a) The objective of the *Contractor* on the *Project*; and

(b) The *Bargaining Council* has jurisdiction over the *Contractor*'s portion of the *Project* works. The industrial relations system that applies to them. The nature and way matter of mutual interest are agreed to at the industry level.

(c) The specific terms and conditions of employment relating to its employees as contained in the applicable collective agreements / wage instruments (if any).

(d) The particular procedures and structures employees must use to air dissatisfactions / grievances and engage the employer as required by Section 0 Part 6 of *these Requirements*.

(e) Information regarding identification, site access, site rules, environmental protection, hygiene, health and safety, *Project* information and miscellaneous *Project* and *Project Site*-specific requirements.

(f) End of work procedures and policies.

(g) Contractors Spokesperson and Media Policy

(h) The Contractor's corporate branding policy. The induction will be in a form and language that the attendee can reasonably be expected to understand.

(i) No employee will be allowed to work on the Project Site (or at any other places, if any, as specified under the contract as forming part of the Site) without having undergone this required induction training.

(j) The Contractor shall be required to keep and make available to Eskom on request a written record of the attendance of its employees who have attended such training.

(k) Should an employee change employment to another employer on-site during the duration of the Project, the employee must attend and complete the new employer's specific induction programme and sign a newly written acceptance before commencing work for the new employer on-site.

(l) For inspection, audit and quality control purposes, the *Eskom Representative* may at any time be present at the *Contractor* induction.

(m) *Contractor* personnel must undergo re-induction: after being absent from the *Project Site* for longer than 6 weeks; before returning from the Easter break or an annual break; before returning to the Site after *Industrial Action*.

(n) The Contractor shall bear all costs related to such training. Any re-induction that is required before / after employees return to the Site after *Industrial Action* / strike action or unrest will be for the sole cost of the *Contractor*

2.1.12 Entry to Site

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

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

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

(c) 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.

(d) Has completed the *Project*-specific induction programme.

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

2.1.12.4 An employee must clock in at entry and clock out when exiting the *Project 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.

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

Part 3: Remuneration, Benefits and Other Conditions of Employment

2.1.13 Principles

2.1.13.1 It is the sole responsibility of the *Contractor* to ensure that it at least pays wages and provide benefits and conditions of employment prescribed by the *Industry Agreements* that applies to the *Contractor* as determined in paragraph 2.1.10.6 of Part 1 of *these Requirements*.

2.1.13.2 Annual increases and the improvement of benefits as determined by the applicable *Bargaining Council* will be implemented accurately and timeously to ensure labour stability. Failure to do so will entitle Eskom to exercise its rights in accordance with Section 0 Part 5 of *these Requirements*.

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

2.1.13.4 The *Contractor* will ensure that labour peace and stability on the *Project Site* is not negatively affected by wage disputes as a result of wage differentials. Expedited resolution of wage disputes expeditiously is encouraged.

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

2.1.14 Industry Wages Rates

2.1.14.1 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.

2.1.14.2 The extension of a Bargaining Council Agreement in terms of section 32 by the Minister of Labour will NOT constitute a change in legislation, as contemplated by the NEC contracts and will therefore not constitute a compensation event and will not constitute an entitlement or a claim by the *Contractor*.

2.1.14.3 The *Contractor* must pay its *General Workers* and *Semi-skilled Employees* the wages as reflected in the relevant *Industry Agreements*. The *Contractor* may not pay such employees above the scheduled rates without first consulting other project contractors and obtaining authorisation from the *Eskom Representative*.

2.1.14.4 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 be 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 *Project Site*.

2.1.15 Working Hours and Overtime

2.1.15.1 The site hours of work shall comply with the applicable legislation and *Industry Agreements,* whichever is applicable.

2.1.15.2 All hours worked more than that stated in relevant *Industry Agreements* shall be paid at the applicable overtime rates.

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

2.1.15.4 Where overtime is scheduled to be worked 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 Labour, whichever is applicable.

2.1.16 Lunch Breaks

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

2.1.16.2 The specific time when the lunch break will be taken will be determined by the *Contractor*, in co-operation with the *Eskom Representative*.

2.1.17 Working Shift

2.1.17.1 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.

2.1.18 Night Work

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

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

2.1.19 Leave

2.1.19.1 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.

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

2.1.20 Incentive Bonuses

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

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

2.1.20.3 Unless otherwise agreed, 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.

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

2.1.21 Additional Allowances and Bonuses

2.1.21.1 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 *Project Site* unless it is provided for in *these Requirements*.

2.1.22 General Principles for Payment of Wages

2.1.22.1 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.

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

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

2.1.22.4 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 and must be approved by the *Eskom Representative*. During public holidays or builders break, an agreement between Eskom and the contractor should be reached on the payment date

2.1.22.5 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.

2.1.22.6 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

2.1.22.7 The *Eskom Representative* may monitor and, from time-to-time audit compliance of timesheets and payment as and when determined.

2.1.23 Emergency Medical Services

2.1.23.1 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.

2.1.23.2 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 *Project Site*.

2.1.24 Transportation

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

2.1.24.2 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

2.1.24.3 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.

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

2.1.25 Accommodation

2.1.25.1 Accommodation will be provided to *non-local employees* only.

2.1.25.2 The *Contractors* and *Subcontractors* that are outside the 120km radius of the project feeder must provide accommodation and full boarding at the designated hostel/accommodation for Supervision and semi-skilled personnel or *Artisans*, where the *Contractors* and *Subcontractors* are required to accommodate its seconded employees. Such Accommodation will be supplied at the *Contractors* cost.

2.1.25.3 Accommodation will not be provided to *Local Employees*.

2.1.25.4 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*.

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

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

2.1.25.7 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.

Part 4: Skills Development and Skills Transfer

2.1.26 Skills Development

2.1.26.1 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.

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

2.1.26.3 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*.

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

2.1.27 Skills Transfer

2.1.27.1 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.

Part 5: Minimum Compliance and Adherence

2.1.28 Compliance Requirements

2.1.28.1 Before mobilising, the *Contractors* have to 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

2.1.28.2 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 secondments agreements.

(c) Benefits (leave).

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

(e) Industry Wage Rates

The above to be complied before any recruitment can commence

2.1.28.3 Before mobilising, the *Contractor* has to 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.

2.1.28.4 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* has to provide such a guarantee on behalf of the *Subcontractor*.

2.1.28.5 *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.

2.1.29 During Execution of Works

2.1.29.1 The *Principal Contractor* must prove to the *Eskom Representative* that all of 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.

2.1.29.2 Eskom will have zero tolerance for any *Contractor* none-compliance. It reserves the right to remove from the *Project 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.

2.1.30 Removal from The *Project Site*

2.1.30.1 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 Project works, the Project Site, or the accommodation areas.

2.1.30.2 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

- That goes against project approved internal and external processes.
- Causes Eskom or the company reputational damage
- For which the employer has zero-tolerance; Commits any act or omission that places site labour stability at risk.
- Has caused or did not take reasonable steps to prevent labour instability.
- Fails to ensure compliance by its *Subcontractors,*
- Does not comply with the provisions of *these Requirements*, *Industry Agreements*, applicable collective agreements, and site instructions.

PART 6: Industrial Relations

2.1.31 Freedom of Association

2.1.31.1 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.

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

2.1.32 Industrial Relations Policy, Standards and Practices

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

2.1.32.2 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*.

2.1.32.3 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.

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

2.1.32.5 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.

2.1.32.6 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.

2.1.33 Resolution of Labour Related Disputes

2.1.33.1 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.

2.1.34 Establishment of Engagement Forums

2.1.34.1 The *Contractor* must establish forums in which the employer can engage its employees and vice versa. The purpose of such a forum must be to ensure regular and effective engagement and communication between the employers, their employees, and recognised Trade Union(s). If a *Contractor* in the normal course of its business has established such a forum, it must continue with such.

2.1.34.2 All *Principal Contractors* will require their *Subcontractors* to implement such *Engagement Forums* and will monitor and ensure compliance.

2.1.34.3 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 *Project Site*. The *Contractors* will regularly hold *Engagement Forums*.

2.1.34.4 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.

2.1.34.5 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.

PART 7: Industrial ACTION

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

2.1.35.1 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 *Project 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*

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

2.1.35.3 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.

2.1.35.4 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.

2.1.35.5 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.

2.1.35.6 The Contractor shall mitigate the risk to the Project Site, and the Project 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.

2.1.36 Removing striking employees from the Project Site.

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

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

2.1.39 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 Project 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:

2.1.39.1 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 *Project Site*.

2.1.39.2 Order that possible striking employees may not return to the *Project Site*; and/or

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

2.1.40 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:

2.1.40.1 The reason/s for the Industrial Action.

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

2.1.40.3 A chronological sequence of events:

2.1.40.4 Starting time of the Industrial Action.

2.1.40.5 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.

2.1.40.6 Man-hours lost (Production hours lost).

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

2.1.40.8 Any resolution or settlement reached.

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

2.1.41 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.

2.1.42 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:

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

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

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

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

Part 8: *Contractor*'s right to claim Force Majeure due to Labour Instability or *Industrial Action*

2.1.43 Force Majeure

2.1.43.1 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 compensation event. It will not entitle a *Contractor* to a force majeure claim.

2.1.43.2 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.

2.1.43.3 *Industrial Action* caused by the employees of the *Principal 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.

3 Stability integration and Reporting

3.1.1 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

3.1.2 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.

3.1.3 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.

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

3.1.5 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.

3.1.6 Upon notification by Eskom that the suppliers 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.

4. Stability Undertakings

(a) The contractor undertakes to facilitate and participate in the project stakeholder management platforms as per the stability schedule given by Eskom.

(b) 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 with in partnership with the Eskom project stability practitioner in this regard.

(c) 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

5. SDL&I, Project Stability And CSI Retention And Penalty

(a) A 2.5% SDL&I and CSI retention will be implemented above the normal contract retention of 5%.

(b) A Project Stability penalty of 2.5% will be charged on every invoice if the project stability, requirements are not met.

(c) The retention will be released if the promised SDL&I and Stability commitments were achieved. However, in the event that the Contractor failed to fulfil its obligations, the portion not made would be quantified and withheld from the final payment.

6. 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	