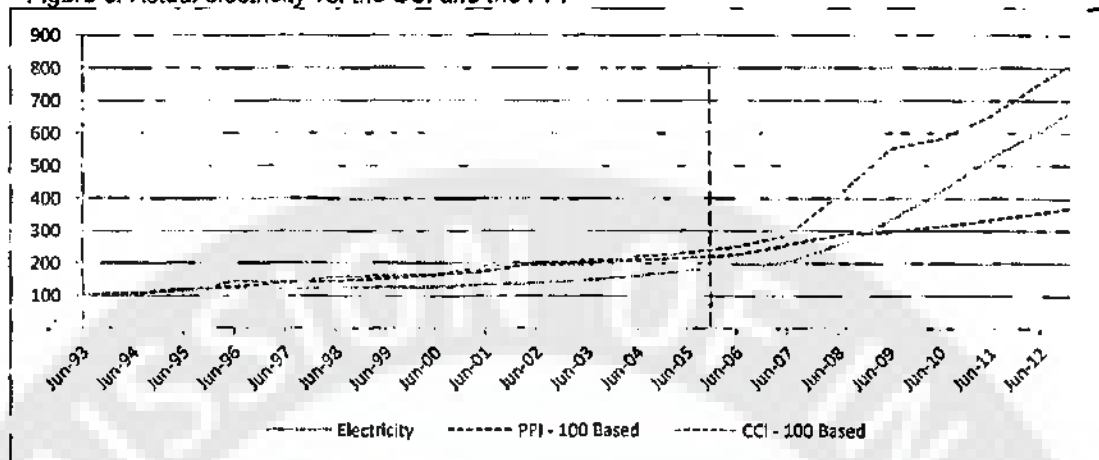




15 years of the CSA4, although from 2008 significant increases were experienced.⁵

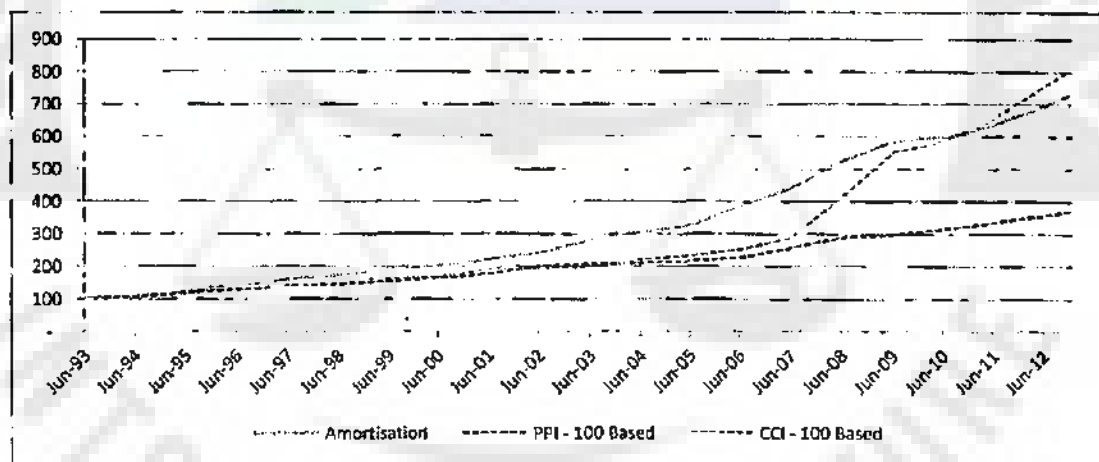
Figure 8: Actual electricity vs. the CCI and the PPI



2.11.7 Amortisation

Optimum's mining engineers have estimated amortisation to be split into 20%/50%/30% steel/labour/the CPI. The figure below shows amortisation costs, rebased to 100, against the PPI and the CCI. It demonstrates that amortisation costs have increased by approximately 98% more than the PPI and approximately 9% less than the CCI.

Figure 9: Amortisation costs (proxy) vs. the CCI and the PPI



⁴ It is common knowledge that there was a large surplus of electricity supply when the CSA was negotiated in the 1990's.

⁵ It is likely that Eskom will continue to push for above inflationary price increases, as evidenced by its recent 16% request in the 2013 Multi Year Price Determination application. Although the energy regulator granted an 8% increase, OCM understands that this is likely to be appealed.



- 2.12 The above graphs demonstrate that annual increases in the cost components were largely in line with the PPI for the first 8 years after inception of the CSA, but, on average, started significantly diverging from the PPI in 2006, with the result that each of the major cost inputs in the production of coal has increased at a substantially higher rate (ranging from 78% - 188%) than the PPI. Importantly, the impact of the commodities boom is evident from the significant 'step change' increases (which can be seen in each of the figures above) in production costs for mining (as opposed to other sectors) that occurred from about 2006 - that is, shortly following the commencement of the commodities boom. There is an equivalent 'step change' in the CCI index in 2006, which reinforces the notion that the commodities boom resulted in Eskom experiencing significant increases in the costs of coal.
- 2.13 As noted above, these significant increases in production costs are not reflected in the PPI, and the PPI therefore ceased to be reflective of the increases in the cost of coal. The heavy weighting of the PPI in the escalation factor has meant that the escalation factor has become unrepresentative of the cost escalation being experienced by Optimum.
- 2.14 Neither the commodities boom, nor the events leading up to such boom, could have been anticipated at the time the CSA was concluded. In addition, the commodities boom is manifestly an occurrence that is outside of the control of Optimum.
- 2.15 In sum, the CSA includes an escalation factor, which was appropriate at the time the CSA was concluded, but, due to circumstances that were not foreseeable at that time and were beyond the reasonable control of Optimum (i.e. the commodities boom), has become inadequate to compensate Optimum for the cost of producing a ton of coal for sale to Eskom. Accordingly, relevant circumstances, as contemplated in clause 27.2 of the CSA, have arisen.

3 DATE OF COMMENCEMENT OF RELEVANT CIRCUMSTANCE

In our determination, the relevant circumstances (being the commodities boom and the impact on the costs of mining) commenced in or about 2006.

4 NEXT STEPS

- 4.1 We note that, in terms of clause 27.4 of the CSA, Eskom may, at any time within 7 days of receipt of this relevant circumstances notice, refer such notice to arbitration in accordance with clause 30 of the CSA for a determination as to whether the relevant circumstances notice has been validly given and/or whether the relevant circumstances commencement date is correctly stated. In default of such a referral, the relevant circumstances notice will be deemed to have been validly given and the relevant circumstances commencement date correctly stated.
- 4.2 We are prepared to work with you to make available to Eskom and/or its nominee/s such other information and/or documents as Eskom may reasonably require to confirm the statements made in this letter. We confirm that the contents of this letter and any additional information which we may

Optimum Coal Mine (Pty) Ltd
(Registration No: 2007/005308/07)

A wholly owned subsidiary of Optimum Coal Holdings Limited
23 Melrose Boulevard, 1st Floor, Melrose Arch, Melrose North, Johannesburg 2196, South Africa
Mailing address: Suite No. 19, Private Bag X1, Melrose Arch 2076
Tel: +27 11 772 0600 Fax: +27 11 772 0697
Directors: R Cohen, C M Ephron, P Mahanyele, T Ncube



provide should be regarded as confidential information as contemplated in clause 25 of the CSA, and will be subject to the provisions of that clause.

- 4.3 Optimum remains committed to fulfilling its obligations under the CSA and delivering the full contractual tonnage, provided that it is able to do so on terms that do not cause it undue hardship. Accordingly, we propose that after the date on which the relevant circumstances notice is agreed, determined or deemed to have been validly given and the relevant circumstances commencement date correctly stated ("effective date"), we commence a process in the manner contemplated in clause 27.5 of the CSA to agree mutually acceptable amendments to the CSA in order resolve the problems resulting from the relevant circumstances.
- 4.4 If such mutually acceptable amendments have not been agreed by 90 days after the effective date, we will refer the matter to arbitration in terms of clause 30 of the CSA for a determination as to the amendments to be made to the CSA. We obviously hope that such a referral will not be necessary.

5 CONCLUSION

- 5.1 We appreciate that, given Eskom's current position, this notice will not be well received by Eskom, but we trust that, in the spirit of the principle that the CSA should operate with fairness and without undue hardship to any party, Eskom will understand that we could not continue to bear such substantial losses any longer and that we have no choice but to invoke the hardship provisions of the CSA.
- 5.2 We, as part of the Glencore group, value our relationship as a substantial supplier to Eskom, and we hope that we will be able to resolve this matter in a manner that is fair to both parties in the manner contemplated in the CSA.
- 5.3 Our failure to deal with this matter more fully at this stage should not be construed as a waiver of our rights in this regard, which rights are, in all respects, fully reserved. The contents of this letter should not, in addition, be construed as exhaustive of our contentions.

Yours faithfully

Clinton Ephron
Optimum Coal Mine (Pty) Ltd

Optimum Coal Mine (Pty) Ltd
(Registration No: 2007/005308/07)

A wholly owned subsidiary of Optimum Coal Holdings Limited
23 Melrose Boulevard, 1st Floor, Melrose Arch, Melrose North, Johannesburg 2196, South Africa
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Tel: +27 11 772 0600 Fax: +27 11 772 0697
Directors: R Cohen, C M Ephron, P Mahanyele, T Ncube

Annexure “N”



**PRIVATE AND CONFIDENTIAL**

Eskom Holdings SOC Limited
Megawatt Park
Maxwell Drive
Sunninghill

Attention:

Brian Molefe: Acting Chief Executive Officer
Vusi Mboweni, Acting Head: Primary Energy

with a copy to: Johann Bester: General Manager - Fuel Sourcing

30 June 2015

Dear Sirs

HENDRINA COAL SUPPLY AGREEMENT : REVISED OFFER

We refer to the meeting held at Eskom's offices on 11 June 2015 between your Mr Molefe and Mr Mboweni and our Mr Ivan Glasenberg and Mr Clinton Ephron. As discussed at the meeting, Optimum is willing to consider a compromise deal in relation to the renegotiation and extension of the Hendrina supply agreement. We have given consideration as to what sort of compromise would be feasible in the circumstances and, accordingly, we hereby submit this revised offer for Eskom's consideration. The proposed new agreement would supersede the existing Hendrina coal supply agreement and be in full and final settlement of all pending disputes and claims:

Commencement Date	1 July 2015
Duration	<ul style="list-style-type: none"> The agreement will endure until a total quantity of 46,750,000 tonnes of contract coal ("Total Contract Quantity") has been supplied by Optimum to Eskom.
Price	<ul style="list-style-type: none"> 1 July 2015 to 31 December 2018 ("First Period") Base price ("Base Price"), as at 1 July 2015 ("Base Date"), of R300 per Ton (Moisture free), excluding VAT, for a CV of 23 megajoules/kg (Moisture free); 1 January 2019 to 31 December 2023 ("Second Period") - Base price ("Second Base Price") as at the Base Date, of R570 per Ton (Moisture

Optimum Coal Mine (Pty) Ltd
(Registration No: 2007/005308/07)

A Glencore Operation

Business Address: N11 Hendrina Road, Pullenshope Offramp, Pullenshope

Mailing Address: Private Bag X1201, Pullenshope, 1096, South Africa

Tel.: +27 13 2965111

Registered Address: 23 Melrose Boulevard, 1st Floor, Melrose Arch, Melrose North, Johannesburg, 2196, South Africa

Mailing Address: Suite No. 19, Private Bag XI, Melrose Arch, Johannesburg, 2076

Tel: +27 11 772 0600 Fax: +27 11 772 0697

Directors: R Cohen, C M Ephron, P Mahanyele, T Ncube



	free); excluding VAT, for a CV of 23 megajoules/kg (Moisture free).
Escalation	<ul style="list-style-type: none"> The Base Price for the First Period and the Second Period shall be escalated on each anniversary of the Base Date in accordance with a Price Adjustment Factor which is to be calculated in accordance with an escalation table to be agreed between Eskom and Optimum.
Quality Specifications and Adjustment	<ul style="list-style-type: none"> To be agreed between Eskom and Optimum
Quantity	<ul style="list-style-type: none"> The total quantity to be supplied by Optimum to Eskom for the balance of the term of the CSA from 1 July 2015 will, subject to below, be 46,750,000 tonnes or 5 500 000 tonnes per calendar year, except in respect of the 2015 calendar year where the quantity will be 2,750,000 tonnes for the period 1 July 2015 to 31 December 2015. Eskom shall be entitled, by no later than 31 December 2015, to implement and conclude a tender process to obtain bona fide written offers ("Third Party Offers") from third party coal suppliers (each a "Third Party Supplier" and collectively the "Third Party Suppliers") to supply a quantity of coal to Eskom at the Hendrina power station of not more than 5 500 000 tonnes per annum (ie 27 500 000 tonnes in aggregate) ("Replacement Quantity") during the period commencing on 1 January 2019 and ending on 31 December 2023 ("Second Period"). If Eskom wishes to accept one or more Third Party Offers (each an "Accepted Third Party Offer"), it must notify Optimum accordingly in writing ("Third Party Offer Notice"), by no later than five Business Days after 31 December 2015, and provide the details of each Accepted Third Party Offer including the quantity, the price range (on a delivered basis to Hendrina power station), the quality, the penalty regime and any other relevant information. Optimum shall be entitled, by notice in writing to Eskom within fifteen Business Days of receipt of the Third Party Offer Notice, to require Eskom to enter into good faith negotiations with Optimum until not later than 31 March 2016 (such period, the "Negotiation Period") for the supply by Optimum to Eskom of the quantity that is the subject of the Accepted Third Party Offer ("Accepted Quantity") at the terms set out in the Third Party Offer Notice or such other terms as may be acceptable to Eskom and Optimum. Eskom shall be precluded from concluding a contract in respect of the Accepted Third Party Offer during such Negotiation Period. If during the Negotiation Period, Optimum and Eskom reach agreement regarding the Accepted Quantity (or a portion thereof), then they shall conclude an addendum effecting the necessary changes to the CSA to give effect to such agreement. If Optimum elects not to require Eskom to enter into negotiations with Optimum, or if Optimum requires Eskom to enter into negotiations with

Optimum Coal Mine (Pty) Ltd

(Registration No: 2007/005309/07)

A Glencore Operation

Business Address: N11 Hendrina Road, Pullenshope Offramp, Pullenshope

Mailing Address: Private Bag X1201, Pullenshope, 1096, South Africa

Tel.: +27 13 2965111

Registered Address: 23 Melrose Boulevard, 1st Floor, Melrose Arch, Melrose North, Johannesburg, 2196, South Africa

Mailing Address: Suite No. 19, Private Bag X1, Melrose Arch, Johannesburg, 2076

Tel: +27 11 772 0600 Fax: +27 11 772 0697

Directors: R Cohen, C M Ephron, P Mahanyele, T Ncube



	<p>Optimum but Optimum and Eskom are unable to reach agreement on the terms for the supply of the Accepted Quantity (or a portion thereof) during the Negotiation Period, the Total Contract Quantity shall be reduced by the Accepted Quantity (or a portion thereof in respect of which no agreement was reached) from the date on which Optimum advises Eskom that it does not require Eskom to enter into negotiations with Optimum or the date of expiry of the Negotiation Period, as applicable.</p>
--	---

We remain of the view that this offer represents a reasonable compromise for all parties in that it provides some limited relief for Optimum to allow it to continue operating while at the same time ensures long-term supply for Eskom until 2023 at its preferred efficient cost plus a fair return model.

This offer is valid until 31 July 2015.

We look forward to hearing from you.

Yours faithfully

Clinton Ephron

on behalf of
Optimum Coal Mine (Proprietary) Limited

Optimum Coal Mine (Pty) Ltd
(Registration No: 2007/005308/07)

A Glencore Operation

Business Address: N11 Hendrina Road, Pullenshope Offramp, Pullenshope

Mailing Address: Private Bag X1201, Pullenshope, 1096, South Africa

Tel.: +27 13 2965111

Registered Address: 23 Melrose Boulevard, 1st Floor, Melrose Arch, Melrose North, Johannesburg, 2196, South Africa

Mailing Address: Suite No. 19, Private Bag X1, Melrose Arch, Johannesburg, 2076

Tel: +27 11 772 0600 Fax: +27 11 772 0697

Directors: R Cohen, CM Ephron, P Mahanyele, T Neube

Annexure “O”





1 Protea Place Sandown 2198
Private Bag X40 Benmore 2010
South Africa
Dx 42 Johannesburg

T +27 (0)11 562 1000
F +27 (0)11 562 1111
E jhb@dlacdh.com
W www.cliffedekkerhofmeyr.com

Also at Cape Town

Optimum Coal Mine (Pty) Limited
23 Melrose Boulevard 3rd Floor
Melrose North

Attention: Clinton Ephron

BY HAND & REGISTERED POST

Our Reference R Moodley/J Feris
Account Number 01949978
Your Reference C. Ephron
Direct Line (011) 562 1666/1825
Direct Telefax (011) 562 1466
Direct e-mail Rishaban.moodley@dlacdh.com
Date 16 July 2015

Dear Sir

DEMAND FOR REPAYMENT IN RESPECT OF COAL WHICH FAILED TO COMPLY WITH THE QUALITY SPECIFICATION OF THE CSA DURING THE PERIOD 1 MARCH 2012 TO 31 MAY 2015

- 1 We confirm that we act on behalf of Eskom Holdings SOC Limited ("Eskom").
- 2 We have been instructed by Eskom as follows –
 - 2.1 Eskom, Trans-Natal Coal Corporation Limited (now BECSA) and the Trans-Natal Collieries Limited concluded a Coal Supply Agreement on 4 January 1993;
 - 2.2 Eskom subsequently agreed to the cession and assignment of the rights and obligations in terms of the CSA to Optimum Coal Holdings Proprietary Limited ("OCH") and Optimum Coal Mine Proprietary Limited ("OCM") by BECSA, and concluded the First Addendum with OCH and OCM on 8 April 2008 ("First Addendum") (OCH and OCM are collectively referred to as "Optimum" in this demand) and the Settlement of Arbitration and Second Addendum to the Hendrina Coal Supply Agreement with OCH dated 12 April 2011 ("Second Addendum").
 - 2.3 The First Addendum to the CSA provides that all coal supplied and delivered by Optimum to Eskom had to comply with, amongst others, the following quality specification –
 - 2.3.1 In terms of clause 3.4.2 all coal must have an ash content which shall not exceed 28.8% in order to ensure that the calorific value of the coal is not less than 23.0MJ/kg (calculated on a moisture free basis);
 - 2.3.2 In terms of clause 3.4.3 all coal must have a monthly average size distribution of:

CHAIRMAN AW Pretorius CHIEF EXECUTIVE OFFICER B Williams CHIEF OPERATING OFFICER MF Whitaker CHIEF FINANCIAL OFFICER ES Burger

DIRECTORS: JOHANNESBURG A Abma N Akin JA Aukema CD Baird CA Barclay R Beeman E Bestor P Bhagatjee R Borner CJ Botes TE Brinkhorst H Burger CWJ Charter M Chenia CJ Daniel EF Dempster S de Vries ML du Preez L Erasmus BV Faber JJ Feris TS Fletcher L Françoise TG Fuhrmann F Gertoo MZ Gertoo B Gill SB Gore J Govender AJ Hofmeyr G Honey WH Jacobs WH Janse van Rensburg CM Jesseman JCA Jones TTM Kall J King Y Kollman LJ Kruger J Lattky AM le Grange FE Leppert AG Lewis BC Masodorp Z Malinga O Mashe HW Mennen B Meyer WJ Midgley R Moodley MG Mphahlele BP O'Connor SJ Oosthuizen N Parthoo A Patel JS Pennington GH Pieterse V Pillay DB Pincock AM Potgieter AW Pretorius AG Reid M Sertfontein P Singh-Dhulain NTY Sivendu WHN Thyne HR van der Merwe JJ van Dyk WPS van Wyk NJ von Ey JG Webber MF Whitaker JG Wintle DA Wilson B Williams LD Wilson JM Wills-Hewinson MP Yeates

DIRECTORS: CAPE TOWN AC Alexander RD Bamandaa TJ Bawls MA Bromley MR Collins HC Degut A de Lange LF Egypt QT Ford S Franks DP Fyfe SAP Gie JW Green AJ Harvie AM Heiberg PB Hesselberg CJ Hindley RC Horn S Immanuel JH Jacobs R Jaga A Karim U Lessing GC Lumb RE Marcus SI Meyer A Moohan MW Muller J Neiser FT Newham G Orle L Rhoads MB Rodgers BT Rubinstein BPA Strauss DM Thompson CW Williams TJ Winstanley

EXECUTIVE CONSULTANTS: HS Coetzee PJ Conradie CH Ewing HS Jackson MB Jackson

CONSULTANTS: A Abercrombie JMA Everhulst EJ Kingdon FF Koba

SENIOR ASSOCIATES: G Barkhuizen-Barbosa MA Bobet B Brown L Brunton K Caddy E Cheng NS Conate J de Vos YM Doodrat L Engelbrecht T Erasmus TV Erasmus P Jani T Jordaan KJ Kerley JA Krige H Laing CJ Lewis HJ Louw NS Mambisa N Mchunu N Ma T Moodley CP Muller DJ Ndoo CM O'Connor AP Pillay KS Prote B Polastri NA Preston JR Ripley-Evans IJ Salt IE Schneider BJ Scriba T Sulfman FJ Terblanche T Tson M Trombly M van Zeele MF Ward NJ Zwane

CLIFFE DEKKER HOFMEYR SERVICES PROPRIETARY LIMITED DIRECTORS: ES Burger JA Cassette Z Omar CH Pieterse R van Eeden MF Whitaker B Williams

¹British ²Canadian ³Dutch ⁴Cape Town Managing Partner

Cliffe Dekker Hofmeyr Inc. Reg No 2008/015923/21

Cliffe Dekker Hofmeyr is a member of DLA Piper Group,
an affiliate of that entity.

- 2.3.2.1 not more than 55% of coal supplied will be smaller than 6mm;
- 2.3.2.2 not more than 35% of coal supplied will be smaller than 2.38mm; and
- 2.3.2.3 not more than 15% of coal supplied will be smaller than 0.81mm.

("sizing specification")

- 2.4 A number of issues have arisen between Eskom and Optimum relating to the interpretation, implementation and execution of the CSA over an extended period of time. As a result thereof Eskom and Optimum entered into a Co-Operation Agreement on 23 May 2014. In terms of the Co-Operation Agreement Eskom undertook that it would, *inter alia*, with retrospective effect to 1 May 2014 and until the termination of the settlement process, suspend the implementation of all penalties and/or payment reductions (including AI, CV, Ash, sizing and short supply) in relation to the CSA, on the condition that Optimum continues delivering coal in accordance with the specification. The settlement process contemplated by the Co-Operation Agreement terminated on 22 June 2015, which entitles Eskom to re-commence with the implementation of all penalties and/or payment reductions in terms of the CSA.
- 2.5 Optimum has for a consecutive period from 1 March 2012 to 31 May 2015 (the "Supply Period"), failed to supply and deliver to Eskom coal which meets the quality parameter contemplated by clause 3.4 of the First Addendum. The coal supplied and delivered to Eskom, amongst others, failed to comply with the sizing specification, in that 20% to 45% of the coal supplied and delivered to Eskom by Optimum on a monthly basis, during the Supply Period, was smaller than 0.81mm. Despite this failure by Optimum, Eskom has, without prejudice to its right in terms of clause 3.6 of the First Addendum, paid Optimum for such coal, without applying any adjustment or reduction to the payment, for Optimum's failure to comply with the quality parameters, even though Eskom was entitled to adjust or reduce the payment accordingly.
- 2.6 Eskom has done a calculation of the reduction to the purchase price that Eskom was entitled to impose on the payment to Optimum for the coal supplied and delivered during the Supply Period, which failed to comply with the quality parameters in clause 3.4 of the First Addendum. The reduction Eskom is entitled to impose on the purchase price paid to Optimum for the Supply Period amounts to R2,176 530 611.99 (two billion one hundred seventy six million five hundred and thirty thousand six hundred and eleven rand and ninety nine cents). A spread sheet with the calculation of the reduction amount in respect of the quality parameters is attached hereto for your ease of reference.
- 2.7 Eskom herewith demands payment in the amount of R2, 176 530 611.99 (two billion one hundred seventy six million five hundred and thirty thousand six hundred and eleven rand and ninety nine cents) from Optimum within 14 (fourteen) days from receipt of this letter, failing which Eskom shall invoke the dispute resolution process as contemplated by clause 6 of the First Addendum.
- 3 In the event that Optimum disputes the aforementioned claim, we submit that this letter shall constitute a referral of the dispute to arbitration as contemplated in clause 6.3 of the First Addendum.
- 4 Eskom records that clause 6.1 of the First Addendum has been complied with by virtue of the Co-Operation Agreement. The dispute is therefore not required to be referred to a Special Committee as contemplated in clause 6.1 of the First Addendum. We submit that this is the correct approach to follow as the termination of the Co-Operation Agreement, has illustrated that it will not be possible for this matter to be resolved at the executive level, as the settlement discussions has failed.

Letter of Demand - Optimum Coal Mine
18 July 2015

3

- 5 Further, in the event that Optimum disputes the claim amount Optimum must provide us with the names of its preferred arbitrator(s) within 5 (five) business days of the noting of the dispute. Should we fail to reach agreement on a particular arbitrator within 7 (seven) business days from the date of exchange of the names of the arbitrators, a request shall be made to the President of the Law Society of Northern Provinces to nominate an arbitrator.
- 6 We look forward to your response.

Yours faithfully


RISHABAN MOODLEY
CLIFFE DEKKER HOFMEYR INC

Acknowledgement of Receipt

By  on 16 July 2015

Annexure “P”





MEMORANDUM

To:	Brian Molefe Acting Chief Executive	Reference: 724700
From:	Edwin Mabelane Acting Group Executive, Commercial & Technology	Version: 01
CC:	Vusi Mboweni Senior General Manager Primary Energy Division	Classification:
Date:	8 July 2015	:
SUBJECT: LETTER OF DEMAND FOR OPTIMUM COAL MINE AND OPTIMUM COAL HOLDINGS		

PURPOSE:

1. The aim of this memorandum is:

Notify the Chief Executive of the letter of demand which will be sent to Optimum Coal Holdings in respect of the claim for penalties incurred.

BACKGROUND:

2. Salient Facts:

The Parties, Eskom Holdings SOC Limited ("Eskom") and Optimum Coal Mine Proprietary Limited ("OCM") and Optimum Coal Holdings Limited ("OCH") (jointly referred to as the "Optimum") are party to a coal supply agreement with addenda (the "CSA"), which regulates the supply and delivery of coal to Eskom's Hendrina Power Station ("Hendrina") up until 2018 at prescribed quantities, qualities and at an agreed price.

A number of impasses and/or issues have arisen between the Parties relating to the interpretation, implementation and execution of the CSA over an extended period with a claim of Hardship from OCM and the penalty claims by Eskom that resulted in an attempt by the Parties to reach a negotiated outcome. This was unsuccessful and on the 22nd June 2015, Eskom issued a letter terminating this negotiation process. As a result, OCM re-instated their Hardship Claim and initiated arbitration proceedings in this regard.

In order to commence claim proceedings related to penalties due to Eskom for out of specification coal against Optimum and in order to stay prescription of a potential claim that Eskom has, the process as articulated in the attached memorandum from Cliffe Dekker and Hofmeyer ("CDH"), namely the issuance of a Letter of Demand, is required to be executed.

3. Letter of Demand

The attached letter of demand should be sent to OCM without further delay in order to ensure that any potential claim of Eskom, for accrued claims in respect of penalties not imposed, be stayed from prescribing for now. The letter of demand limits the claim to the period March 2012 to January 2014, as we only have the calculation of the potential claim for that period. Once the calculation for the remaining period (February 2014 to date) is finalised, Eskom will supplement the claim. Eskom and CDH met on the 2 July 2015 to agree on the calculation of the potential claim up to May 2015.

4. Potential Risks

Some potential risks have been identified and these are mitigated in terms of the issuance of this letter of demand.

a) Business Risk

External legal counsel is of the view that the letter of demand on its own cannot amount to Optimum being placed under business rescue. In the highly improbable event that Optimum admits that the amount claimed in terms of the letter of demand is due and payable and as a result thereof becomes "financially distressed", its Board of directors could then potentially proceed to pass a resolution to place it under business rescue. It is likely that they will dispute the claim and therefore may not necessarily choose business rescue as an option at this stage.

b) Legal Risk

In order to initiate the dispute resolution mechanism in terms of the CSA, a letter of demand must be sent to Optimum. The letter of demand does not mean that Optimum is obliged to make payment on demand. Optimum would in all likelihood dispute Eskom's claim, triggering the dispute resolution clause of the CSA which obliges Eskom and Optimum to arbitrate the dispute. Optimum will only become legally obliged to make payment to Eskom once the arbitrator grants an order in Eskom's favour in respect of the amount due and payable to Eskom.

DISCUSSION:

5. In order to initiate the dispute resolution mechanism in terms of the CSA, a letter of demand should be sent to Optimum. Optimum would in all likelihood dispute Eskom's claim, triggering the dispute resolution clause of the CSA which obliges Eskom and Optimum to arbitrate the dispute. Optimum will only become legally obliged to make payment to Eskom once the arbitrator grants an order in Eskom's favour in respect of the amount due and payable to Eskom.

It is recommended that the attached letter of demand is issued to Optimum based on the legal opinion received from CDH and syndicated with Eskom Group Legal.

Both the Hardship, arbitration and the penalty claim arbitration proceeding will be out of the public domain, however Optimum is a subsidiary of Glencore Operations South Africa Ltd who may be obligated to declare these as material disputes to shareholders.

FINANCIAL IMPLICATIONS:

6. Eskom terminated the settlement discussion with Optimum on 22 June 2015. In terms of a written undertaking between the parties, which by virtue of the termination of the settlement discussion prescription re-commences. In this instance prescription would recommence on the 23rd June 2015 in respect of any potential claim Eskom has against Optimum in respect of payment reductions. The re-commencement of prescription from 23 June 2015 thus means Eskom must immediately proceed with steps to preserve Eskom's accrued rights. Prescription would only stop running upon the matter being referred to arbitration, hence the compressed time periods for such referral contained in the attached letter of demand.

BUDGET IMPLICATIONS:

7. N/A

Compiled


Johann Bester

GENERAL MANAGER: FUEL SOURCING

Date: 7 July 2015

Supported


Neo Tsholantso

GENERAL MANAGER: LEGAL

Date:

Supported


Vusi Mboweni

SENIOR GENERAL MANAGER (PRIMARY ENERGY DIVISION)

Date: 9/7/15

Approved


Edwin Mabelane

ACTING GROUP EXECUTIVE: TECHNOLOGY AND GROUP COMMERCIAL

Date: 2015/07/10

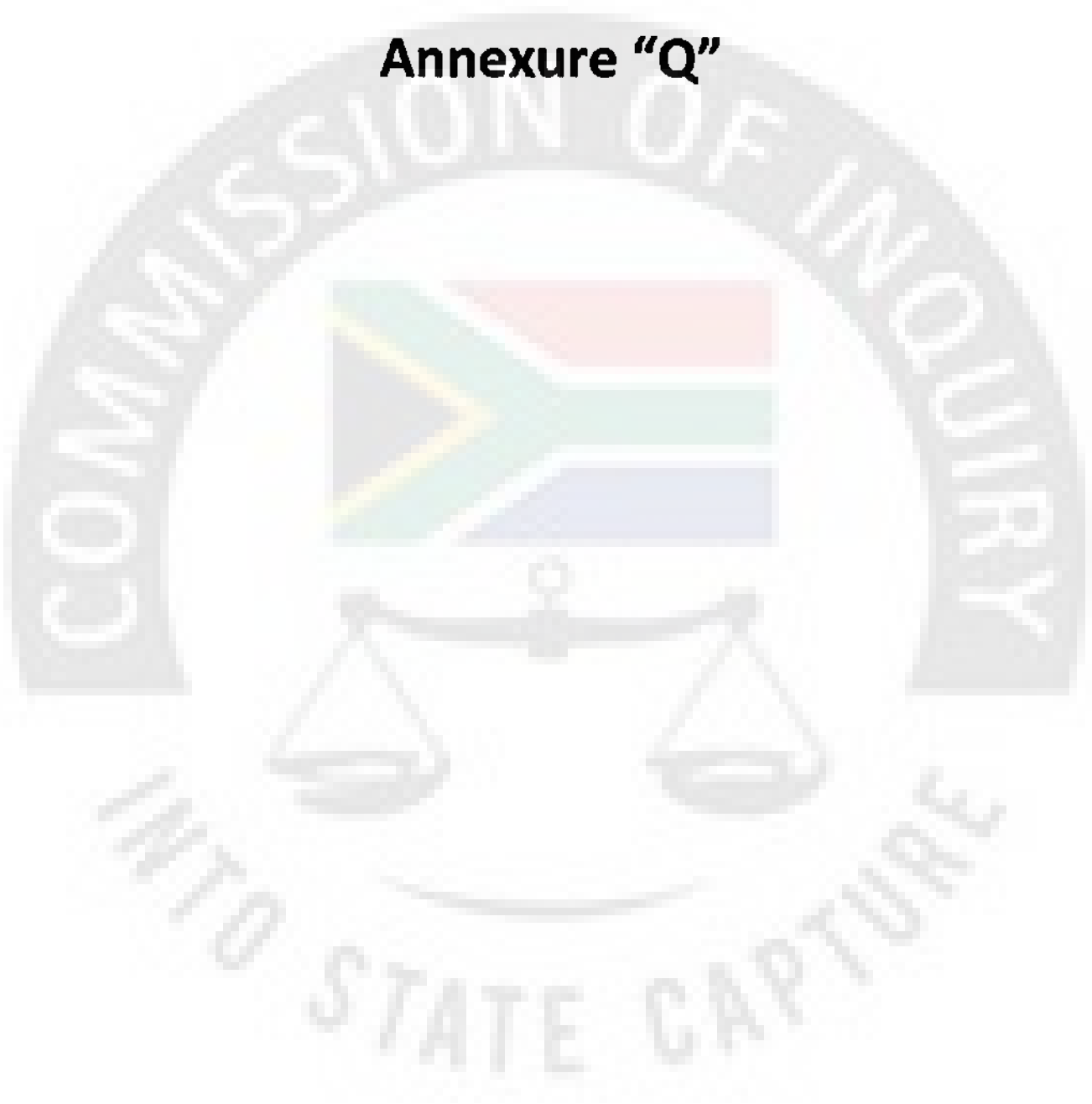
Noted


Brian Molefe

ACTING CHIEF EXECUTIVE: ESKOM

Date: 15/7/15

Annexure “Q”



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG**

CASE NO: 28155/15

In the matter between:

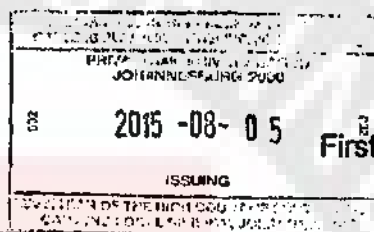
ESKOM HOLDINGS LIMITED

Plaintiff

and

OPTIMUM COAL MINE (PTY) LTD

(Registration number:2007/005308/07)



First Defendant

OPTIMUM COAL HOLDINGS (PTY) LTD

(Registration number:2006/007799/06)

Second Defendant

COMBINED SUMMONS

TO: THE SHERIFF OR HIS DEPUTY

INFORM

OPTIMUM COAL MINE (PROPRIETARY) LIMITED, a private company duly incorporated in the Republic of South Africa under registration number 2007/005308/07 and having its principle place of business at 23 Melrose Boulevard, 1st Floor, Melrose Arch, Melrose North, Johannesburg. ("First Defendant")

AND:

OPTIMUM COAL HOLDINGS (PROPRIETARY) LIMITED, a public company duly incorporated in the Republic of South Africa under registration number 2006/007799/06 and having its principle place of business at 23 Melrose Boulevard, 1st Floor, Melrose Arch, Melrose North, Johannesburg. Prior to March 2010 the Second Defendant was a private company known as Optimum Coal Holdings Proprietary Limited with registration number 2006/007799/07. ("Second Defendant")

("collectively referred to as the Defendants")

THAT

ESKOM HOLDINGS LIMITED, a state owned company duly incorporated in the Republic of South Africa under the registration number 2002/015527/07, having its principle place of business at Megawatt Park, Maxwell Drive, Sunninghill, Sandton, Gauteng Province.

(hereinafter referred to as "the plaintiff")

hereby institutes action against the Defendants in which action the Plaintiff claims the relief sought on the grounds set out in the particulars of claim annexed hereto.

INFORM the Defendants further that if the Defendants dispute the claim and wish to defend the action, the Defendants shall-

- (i) Within 10 (ten) days of the service of this summons on the Defendants, file with the Registrar of this Honourable Court at corner Pritchard and Von Brandis Streets, Johannesburg, notice of the Defendants' intention to defend and serve a copy thereof on the attorneys of the Plaintiff which notice shall give an address referred to in rule 19(3) for the service upon the Defendants of all notices and documents in the action.

- ii) Thereafter and within 20 (twenty) days after filing and serving notice of intention to defend as aforesaid, file with the Registrar and serve upon the Plaintiff a plea, exception, or notice to strike out, with or without a counterclaim.

INFORM the Defendants further that if the Defendants fail to file and serve notice as aforesaid, judgment as claimed may be given against the Defendants without further notice to the Defendants, or if having filed and served such notice, the Defendants fail to plead, except, make application to strike out or counterclaim, judgment may be given against the defendants;

AND immediately thereafter serve on the Defendants a copy of this summons and return the same to the Registrar with whatsoever you have done thereupon.

DATED at SANDTON this 5th day of AUGUST 2015.

Registrar of the High Court

CLIFFE DEKKER HOFMEYR INC.

Plaintiff's Attorneys

1 Protea Place

Sandown

Sandton, 2198

Private Bag X40, Benmore, 2010

Tel: 011 562 1666/1825

Fax: 011 562 1466

Email: Rishaban.moodley@dlacdh.com/

Jackwell.feris@dlacdh.com

Ref: R Moodley/J Feris-01949978

TO:

THE REGISTRAR OF THE ABOVE
HONOURABLE COURT
JOHANNESBURG



PARTICULARS OF CLAIM

- 1 The Plaintiff is **ESKOM HOLDINGS LIMITED**, a state owned company duly incorporated in the Republic of South Africa under the registration number 2002/015527/07, having its principle place of business at Megawatt Park, Maxwell Drive, Sunninghill, Sandton, Gauteng Province.
- 2 The First Defendant is **OPTIMUM COAL MINE (PROPRIETARY) LIMITED**, a private company duly incorporated in the Republic of South Africa under registration number 2007/005308/07 and having its principle place of business at 23 Melrose Boulevard, 1st Floor, Melrose Arch, Melrose North, Johannesburg.
- 3 The Second Defendant is **OPTIMUM COAL HOLDINGS (PROPRIETARY) LIMITED**, a public company duly incorporated in the Republic of South Africa under registration number 2006/007799/06 and having its principle place of business at 23 Melrose Boulevard, 1st Floor, Melrose Arch, Melrose North, Johannesburg. Prior to March 2010 the Second Defendant was a private company known as Optimum Coal Holdings Proprietary Limited with registration number 2006/007799/07.

BACKGROUND

- 4 On 4 January 1993 the Plaintiff, Trans-Natal Coal Corporation Limited (now BECSA) and the Trans-Natal Collieries Limited concluded a Coal Supply Agreement ("CSA").
- 5 The Plaintiff subsequently agreed to the cession and assignment of the rights and obligations in terms of the CSA to the Defendants by BECSA, and concluded the First Addendum with the Defendants on 8 April 2008 ("First Addendum") and the Settlement of Arbitration and Second Addendum on 12

April 2011 ("Second Addendum"). A copy of the CSA and the Addenda thereto is annexed hereto marked "POC1 – POC3".

6 All references in the CSA to Trans-Natal Coal Corporation Limited and the Trans-Natal Collieries Limited should therefore be read and understood as references to the First and Second Defendant respectively.

7 The First Addendum to the CSA provides that all coal supplied and delivered by the Defendants to the Plaintiff had to comply with, amongst others, the following quality specification –

7.1 In terms of clause 3.4.2 all coal must have an ash content which shall not exceed 28.8% in order to ensure that the calorific value of the coal is not less than 23.0MJ/kg (calculated on a moisture free basis);

7.2 In terms of clause 3.4.3 of the First Addendum to the CSA all coal to be supplied and delivered by the Defendants to the Plaintiff must have a monthly average size distribution of:

7.2.1 not more than 55% of coal supplied will be smaller than 6mm;

7.2.2 not more than 35% of coal supplied will be smaller than 2.38mm; and

7.2.3 not more than 15% of coal supplied will be smaller than 0.81mm. ("sizing specification")

8 Clause 3.6 of the CSA states that-

" 3.6.1 In the event that any coal supplied by Optimum Colliery to Eskom with effect from the Effective Date does not comply, for whatever reason, with the specifications provided for in this Addendum (including, without limitation, the specifications set out in clause 4.4.1 of Schedule 1 to the CSA to the extent that such specifications have not been amended by this Addendum) ("Quality Parameter"), then in addition to any specific remedies provided for in clauses 3.2, 3.3, 3.4 and 3.5 of this Addendum, the purchase price payable in

respect of such coal by Eskom to Optimum Colliery shall be adjusted and, if applicable, be reduced, on the basis that:

3.6.1.1 in the event that any Quality Parameter from time to time shall fail to have been met for any three day rolling period, no adjustment shall be made to the purchase price;

3.6.1.2 in the event that any Quality Parameter shall fail to have been met for any four day rolling period, the purchase price payable by Eskom to Optimum Colliery in respect of the coal (which shall not comply with the Quality Parameters) on the fourth day of such period, shall be reduced to 90% of the purchase price otherwise payable by Eskom to OCM in respect of such coal;

3.6.1.3 in the event that any Quality Parameter shall fail to have been met for any five day rolling period, the purchase price payable by Eskom to Optimum Colliery in respect of the coal (which shall not comply with the Quality Parameters) on the fifth day such period, shall be reduced to 75% of the purchase price otherwise payable by Eskom to Optimum Colliery in respect of such coal;

3.6.1.4 in the event that any Quality Parameter shall fail to have been met for any six day rolling period, the purchase price payable by Eskom to Optimum Colliery in respect of the coal (which shall not comply with the Quality Parameters) on the sixth day such period, shall be reduced to 50% of the purchase price otherwise payable by Eskom to Optimum Colliery in respect of such coal; and

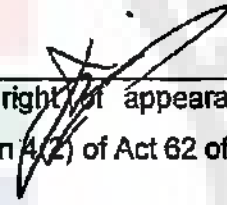
3.6.1.5 in the event that any Quality Parameter shall fail to have been met for any seven day rolling period, the purchase price payable by Eskom to Optimum Colliery in respect of the coal (which shall not comply with the Quality Parameters) on the seventh day such period and/or any subsequent consecutive day on which the Quality Parameters, or either of them, shall fail to have been met, shall be reduced to R 1-00 per tonne."

- 9 The Defendants have for a consecutive period from 1 March 2012 to 31 May 2015 (the "**Supply Period**"), failed to supply the Plaintiff with coal which meets the quality parameter contemplated in clause 3.4 of the First Addendum, in that 20% to 45% of the coal supplied and delivered by the Defendants to the Plaintiff on a monthly basis, during the Supply Period, was smaller than 0.81mm. Despite this failure by the Defendants, the Plaintiff has, without prejudice to its right in terms of clause 3.6 of the First Addendum, paid the Defendants for such coal, without applying any adjustment or reduction to the payment, for the Defendants' failure to comply with the quality parameters, even though the Plaintiff was entitled to adjust or reduce the payment accordingly.
- 10 The reduction the Plaintiff was entitled to impose on the purchase price paid to the Defendants for the Supply Period amounts to R 2 , 176 530 611.99 (Two billion one hundred and seventy six million six hundred and eleven rand and ninety nine cents). A spread sheet with the calculation of the reduction amount is attached hereto marked "**POC 4**".
- 11 On 16 July 2015 the Plaintiff served a letter of demand on the Defendants demanding payment in the amount of R 2, 176 530 611.99 (Two billion one hundred and seventy six million six hundred and eleven rand and ninety nine cents), which the Defendants have failed to do. A copy of the letter is annexed hereto as "**POC 5**".
- 12 In the premises the Defendants are indebted to the Plaintiff in the amount of R2, 176 530 611.99 (Two billion one hundred and seventy six million six hundred and eleven rand and ninety nine cents).
- 13 Notwithstanding demand, alternatively this summons constituting demand, the Defendants have neglected and/ or refuses to pay to the Plaintiff the amount claimed or any portion thereof.

WHEREFORE the Plaintiff prays for judgment against the Defendants for:

1. Payment in the sum of R 2, 176 530 611.99;
2. Interest on the aforesaid amount calculated at 9% *tempore more*;
3. Costs of the suit;
4. Further and alternative relief.

DATED at SANDTON on this the 5th day of August 2015.



Attorney with right of appearance in
terms of Section 4(2) of Act 62 of 1995
Jackwell Feris



**DLA CLIFFE DEKKER
HOFMEYR**



CLIFFE DEKKER HOFMEYR INC

Attorneys for the Plaintiff

1 Protea Place, Sandown

Sandton 2196

Private Bag X40, Benmore 2010

Tel: (011) 526 1666/1825

Fax: (011) 526 1466

Ref: R Moodley/J Feris

Email: rishaban.moodley@dlacdh.com;

jackwell.feris@dlacdh.com

TO:

THE REGISTRAR OF THE ABOVE
HONOURABLE COURT
JOHANNESBURG



Annexure “R”

IN THE ARBITRATION BEFORE ADV. RA SOLOMON S.C
JOHANNESBURG

In the matter between:

ESKOM HOLDINGS SOC LIMITED

Claimant

and

OPTIMUM COAL MINE (PROPRIETARY) LIMITED

First Defendant

TEGETA EXPLORATION AND RESOURCES
(PROPRIETARY) LIMITED

Second Defendant

SETTLEMENT AGREEMENT

PREAMBLE

The Claimant initiated arbitration proceedings against the Defendants for payment in the amount of R2 176 530 611.99 for accrued penalties not imposed against the Defendants by the Claimant for the period of March 2012 to May 2015 ("the Claim"). The aforesaid Claim was defended by the Defendants.

WHEREAS the Parties entered into a process of negotiation in order to resolve the Claim. Pursuant to the settlement negotiations, the Parties have agreed to settle this dispute in respect of the accrued penalties for the period March 2012 to May 2015 in an amount of R 577 839 105.42.

WHEREAS the Parties acknowledge that the accrued penalty amount of R 577 839 105.42 is in full and final settlement of the Claim.

Handwritten initials and signatures: A, B, and a circular stamp.

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

It is hereby recorded and agreed that the accrued penalty due and payable for the period March 2012 to May 2015 is the amount of R 577 839 105.42 ("the Settlement Amount").

1 CALCULATION AND SETTLEMENT OF HISTORIC PENALTIES

The Settlement Amount is calculated based on the following periods i.e.:

1.1 The period March 2012 to May 2014:

The parties agree that an amount of R158 386 758.77 (one hundred and fifty-eight million three hundred and eighty-six thousand seven hundred and fifty-eight rand and seventy-seven cents) was deducted from payments due to the Defendants as penalties. The parties accept the aforesaid figure to be a settlement of any and all penalties due for the period March 2012 to May 2014;

1.2 The period June 2014 to May 2015:

1.2.1 For this period the Claimant calculated penalties in the amount of R419 452 346.65 (four hundred and nineteen million four hundred and fifty-two thousand three hundred and forty-six rand sixty-five cents) which is due and payable by the Defendants. In order to settle and resolve the matter, the Defendants accepts liability in an amount of R255 400 819.18 (two hundred and fifty-five million four hundred thousand eight hundred and nineteen rand and eighteen cents) calculated in accordance with paragraph 1.2.2 *infra*, on which the parties so settle.

1.2.2 The amount of R255 400 819.18 (two hundred and fifty-five million four hundred thousand eight hundred and nineteen rand and eighteen cents) is calculated as:

Total Penalty from March 2012 – May 2015	R 577 839 105.42
Less: Penalties already deducted	R 158 386 758.77
Total Penalty	R 419 452 346.65

Handwritten initials and signatures at the bottom right of the page.

Less: CV Penalty (Binary Score M Total Penalties)	- R 126 678 838.80
Less: GC Penalty reduction Sept 2013- May 2014	- R 37 371 688.67
Total payable	R 255 400 819.18

2 PAYMENT OF SETTLEMENT AMOUNT

2.1 The parties agree and confirm that the balance of the Settlement Amount of R 255 400 819.18 will be paid by the Defendants to the Claimant in equal monthly instalments, the first payment to be made on 1 April 2017 and the last payment to be made on or before 31 December 2018 when the current Coal Supply Agreement terminates. For clarity, the Claimant shall not be entitled to set off or deduct the monthly instalments from the monthly payments due by the Claimant to the Defendants for the remaining period of the Coal Supply Agreement.

2.2 In the event that any one payment is not paid in full on the due date:

2.1.1 the full amount then outstanding (whether or not the date for payment has fallen due) shall become due and payable immediately; and

2.1.2 the Defendants hereby consents to the Claimant making application for this settlement agreement/arbitration award to be made an order of court in terms of section 31 of the Arbitration Act 42 of 1965 and judgment to be granted for the outstanding amount, together with *mora* interest and costs occasioned by such application.

3 GENERAL

3.1 This settlement agreement constitutes the sole record of the agreement between the parties in relation to the dispute raised herein.

3.2 The parties shall be bound by any express, tacit or implied term, representation, warranty, promise or the like not recorded herein. No addition to, variation, novation or agreed cancellation of any provision in this settlement agreement shall

[Handwritten signatures and initials]

be binding upon the parties unless reduced to writing and signed by and on behalf of the parties.

- 3.3 No indulgence or extension of time which any party may grant to any other shall constitute a waiver of or whether by estoppel or otherwise limit any of the existing or future rights of the parties in terms hereof save in the event and to the extent that the parties have signed a written document expressly waiving or limiting such a right.

4 COSTS

Each party will be liable for its own costs towards the arbitration whilst both parties will share the costs of the arbitrator equally.

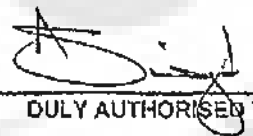
5 CONFIDENTIALITY

The existence, contents and terms of this settlement agreement are confidential and, save as may be required by law, no party shall disclose same to any third party other than its affiliates and their respective directors, employees, officers and advisors.

6 ARBITRATION AWARD

The parties agree that this settlement agreement be made an award by the arbitrator and both parties request the arbitrator to do so.

SIGNED AT 318 ON THIS 14 DAY OF March 2017.



DULY AUTHORISED THERETO
AND ON BEHALF OF
ESKOM HOLDING SOC
LIMITED

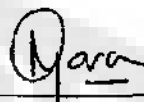


SIGNED AT SANDTON ON THIS 14 DAY OF MARCH 2017.

French
DULY AUTHORISED THERETO
AND ON BEHALF OF
OPTIMUM COAL MINE (PTY) LTD

SIGNED AT SANDTON ON THIS 14 DAY OF MARCH 2017.

Q ~~Q~~
~~Q~~



DULY AUTHORISED THERETO AND ON BEHALF OF

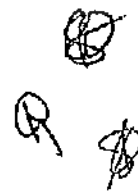
OPTIMUM COAL HOLDINGS LTD

TEGETA EXPLORATION

AND RESOURCES (PTY)

LTD

Q



Annexure “S”



Annexure “T”



**OPTIMUM COAL MINE (PTY) LTD (IN BUSINESS RESCUE)**

Attention: Business Rescue Practitioners

By Email: kurt@skinc.co.za

CC: juanlod@rwl.co.za

Dear Sir

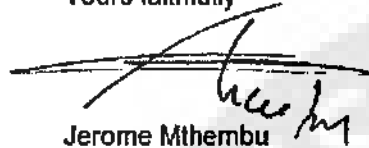
**RE: REQUEST TO AMENDMENTS OF THE COAL SUPPLY AGREEMENT CONCLUDED BETWEEN
ESKOM AND OPTIMUM COAL MINE (PTY) LTD ("OCM")**

- 1 We refer to your letter dated 29 March 2018 and our meeting of 20 April 2018, which inter alia, requested Eskom to consider varying certain provisions of the Coal Supply Agreement ("CSA").
- 2 Your proposal was submitted to Eskom Board for consideration and approval. To ensure continued operation of the CSA, on 8 May 2018 the Eskom Board agreed to a variation of the CSA, albeit for a limited period of 3 months.
- 3 Accordingly, and as discussed during our meeting earlier today, Eskom hereby accepts your request to:
 - 3.1 reduce the contractual quantities supplied by OCM from 400 000 tons per month to 200 000 tons per month ("Reduced Monthly Quantity") at the current CSA Price of R201.46/ton; and
 - 3.2 conclude an interim agreement with the Business Rescue Practitioners (BRPs) for supply of the Reduced Monthly Quantities, of 200 000 tons per month, for a period of 3 months effective 1 May 2018.
 - 3.3 To ensure that the amendments to the CSA are aligned to Eskom Board approval, we will prepare the draft Interim Agreement and circulate it for your consideration on Tuesday 22 May 2018.

Legal Department
Megawatt Park Maxwell Drive Sunninghill Sandton
PO Box 1091 Johannesburg 2000 SA
Tel +27 11 800 4759 www.eskom.co.za
Eskom Holdings SOC Ltd Reg No 2002/015527/30

- 4 Kindly further be informed that your request to vary the other provisions of the CSA as recorded in paragraph 13 of your letter under reply were not tabled to Eskom Board for consideration.
- 5 The partial acceptance of your proposal is made with Eskom's rights being fully reserved.

Yours faithfully



Jerome Mthembu

Legal and Compliance

Date: 18-05-2018





**OPTIMUM
COAL MINE**

29 March 2018

Eskom Holdings SOC Ltd
Megawatt Park
Maxwell Drive
Sunninghill
Sandton

Att: John Mamabolo and Kholeka Tilman

Per email: mamaboloJS@eskom.co.za / TilmanKC@eskom.co.za

Dear Sirs,

**REQUEST TO DISCUSS AMENDMENTS TO THE COAL SUPPLY
AGREEMENT**

1. As you are aware, we are the appointed by the Business Rescue Practitioners of Optimum Coal Mine (Pty) Ltd (in business rescue) (OCM).
2. We are currently formulating a workable business rescue plan for OCM with the intention of avoiding its potential liquidation.
3. We refer to the coal supply agreement between Eskom Holdings SOC Limited ("Eskom"), Tegela Exploration and Resources Proprietary Limited and OCM, as amended by the first to fifth addenda thereto, in terms whereof OCM supplies and delivers coal to Eskom's Hendrina Power Station ("the CSA").

Optimum Coal Mine (Pty) Ltd
(Registration No.: 2007/005308/07)
144 Katherine Street, Grayston Ridge Office Park, Block A Lower Ground Floor, Johannesburg, South Africa
Tel.: +27 11 542 2200 Fax: 086 685 1814

Directors: PU Govender



**OPTIMUM
COAL MINE**

4. As you are aware, OCM is obliged to supply 400,000 tonnes of coal to Eskom's Hendrina power station ("CSA Coal") each month ("the Monthly Contract tonnage") and penalties ("short-supply penalties") are imposed in respect of each tonne of coal less than 370,000 tonnes (i.e. the "Minimum Monthly Contract Tonnage") not supplied. Penalties are also leviable in circumstances where the CSA coal supplied by OCM to Eskom fails to meet the agreed quality standards ("quality-related penalties").
5. In present circumstances, the OCM mine produces approximately 685,000 unprocessed run of mine (ROM) tonnes of coal per month, of which only approximately 60 000 tonnes meets the agreed quality standards for CSA coal without processing. In order to supply the required Monthly Contract Tonnage under the CSA, the remaining 625 000 ROM tonnes has to be processed in OCM's plant with the following results:
 - 5.1 206,250 tonnes of RB1 coal at a primary yield of approximately 33%; and
 - 5.2 142375 tonnes of CSA Spec coal at a yield of approximately 34%.
 - 5.3 The remaining 23% is discarded as waste.

Optimum Coal Mine (Pty) Ltd
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 144 Katherine Street, Grayston Ridge Office Park, Block A Lower Ground Floor, Johannesburg, South Africa
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Directors: PU Govender



**OPTIMUM
COAL MINE**

6. Given that the average cost per tonne to produce the 400,000 tonnes of CSA Coal is R320.44, which is more than the currently agreed price of R201.46 per tonne ("the CSA price"), OCM's cash flow status is dependent on its ability to sell a sufficient volume of coal in local markets at an export parity price basis, which is currently in the region of R500 per tonne ("the EPP market price"). In other words, assuming the OCM mine continues to produce approximately 685,000 KT of run of mine coal, for so long as OCM seeks to supply Eskom with the full Monthly Contract Tonnage, it will operate on a negative cash-flow basis.
7. In view of the above, the business rescue practitioners are of the view that if OCM operate so as to meet the Minimum Monthly Contract Tonnage, it would render any potential business rescue plan unworkable and open the company up to imminent liquidation. Furthermore, should OCM fail to supply the Minimum Monthly Contract Tonnage, it runs the risk that Eskom will choose to levy significant short-supply penalties (the formula applicable to the calculation of which results in a 'penalty price' of approximately R1,000 per tonne), which will also potentially have the effect of rendering any potential business rescue plan unworkable – even on the assumption that the said penalties would, in the event that Eskom seeks to recover same, be likely to be reduced in accordance with the Conventional Penalties Act, 15 of 1962.
8. The already-constrained scenario identified above has been significantly aggravated by recent challenges that have had the effect that the OCM mine will, for the foreseeable future, only be able to produce 685,000 tonnes of run of mine coal per month. As previously advised by Optimum, these challenges include:

Optimum Coal Mine (Pty) Ltd
(Registration No. 2007/005308/07)

144 Katherine Street, Grayston Ridge Office Park, Block A Lower Ground Floor, Johannesburg, South Africa
Tel.: +27 11 542 2200 Fax: 086 685 1814

Directors: PU Govender



**OPTIMUM
COAL MINE**

- 8.1 contractors who have declined to render services to OCM because of so-called "reputational risk"; and
- 8.2 unprotected strike action by OCM's employees.
9. Assuming a production of 685,000 tonnes, we have calculated that the 'break-even point' is approximately 200,000 tonnes of CSA coal – in the sense that if OCM supplies more than 200,000 tonnes of CSA coal at the CSA price, it becomes cash-flow negative and it will not be possible to formulate and implement a workable business rescue plan. On the other hand, if OCM is required to supply less than 200,000 tonnes of CSA coal at the CSA price, and does not face the imposition of short-supply penalties, a workable business rescue plan would potentially be possible to formulate and implement.
10. The consequences of a failure of the business rescue proceedings and consequent insolvency of OCM would be catastrophic. Apart from the loss of approximately 2,200 non-management jobs, it would have negative effects on OCM's other contractors and creditors. Of the greatest significance for Eskom, however, would be the termination of the CSA, and the loss of its ability to source any coal at the highly favourable CSA price. It would be necessary for Eskom to source all of its coal for Hendrina at the EPP market price.

Optimum Coal Mine (Pty) Ltd
(Registration No.: 2007/005308/07)

144 Katherine Street, Grayston Ridge Office Park, Block A Lower Ground Floor, Johannesburg, South Africa
Tel.: +27 11 542 2200 Fax: 086 685 1814

Directors: PU Govender



**OPTIMUM
COAL MINE**

11. We therefore wish to inform you that the Business Rescue Practitioners have been advised that this is an instance in which a court would be likely to find that it is *"just and reasonable"* to make an order in terms of section 136(2)(b) of the Companies Act, 71 of 2008 *"partially cancelling"* the CSA so as to reduce the Monthly Contract Tonnage that OCM is required to
12. supply under the CSA to 200,000 tonnes per month for the remainder of the CSA and to reduce the Total Contract Tonnage accordingly. In particular, we have been advised that a variation of the CSA in this manner would probably be regarded as a solution that is favourable to all the affected parties because:
- 12.1 of the improved chances that the OCM business rescue proceedings will succeed;
 - 12.2 it would guarantee the continued employment of the approximately 2,200 persons employed at the Optimum mine in non-management capacities;
 - 12.3 OCM's contractors and other suppliers and creditors will be protected;
 - 12.4 the arrangement will be beneficial to Eskom itself, which would be able to continue obtain approximately half of the agreed volume of coal at the heavily discounted CSA price.

Optimum Coal Mine (Pty) Ltd
(Registration No.: 2007/005308/07)

144 Katherine Street, Grayston Ridge Office Park, Block A Lower Ground Floor, Johannesburg, South Africa
Tel.: +27 11 542.2200 Fax: 086 685.1814

Directors: PU Govender



**OPTIMUM
COAL MINE**

13. In the circumstances, we hereby request an opportunity to engage with you at your earliest convenience for the purposes of engaging in discussions aimed at an agreed variation of the CSA with effect from 1 April 2018 in a manner that would facilitate the conclusion of a workable business rescue plan and ensure the continued operation of the CSA, albeit in an attenuated form, without the necessity to approach a court. We consider that such amendments might encompass one or more of the following aspects:

- 13.1 reduction of the Minimum Monthly Contract tonnage and Monthly Contract Tonnage;
- 13.2 Increase of the CSA coal price; and/or
- 13.3 adjustment of the short-supply penalty regime.

14. We undertake to make ourselves available for the purposes of the proposed discussions at your convenience but would seek to conclude any such discussions by no later than Friday, 6 April 2018. Should an agreed solution not be achieved by this date, we expect that it will be necessary to instruct our attorneys to approach a court for a court ordered partial cancellation of the CSA with effect from 1 April 2018.

15. We look forward to hearing from you.

Yours faithfully,


Kurt Knoop
Senior Practitioner

Optimum Coal Mine (Pty) Ltd
(Registration No: 2007/005308/07)

144 Katherine Street, Grayston Ridge Office Park, Block A Lower Ground Floor, Johannesburg, South Africa
Tel.: +27 11 542 2200 Fax: 086 685 1814

Directors: PU Govender

Annexure “U”



Tegeta Exploration & Resources Pty Ltd.

Lower Ground Floor,
Grayston Ridge Block A,
144 Katherine Street, Sandown,
Sandton, South Africa.
www.tegeta.com

Postal Address: Postnet Suite 458,
Private Bag X9, Benmore, 2010
Tel: +27 11 262 3870
Email: info@tegeta.com; joym@tegeta.com

Directors :
Ronica Govender
Ravindra Nath
Registration No.:
2006/014492/07



COAL, COPPER & PGM

The General Manager (Fuel Sourcing)
Primary Energy Division
Megawatt Park
Maxwell Drive, Sunninghill
Sandton

Attn. Ms. Ayanda

Date: 22nd January 2016

Dear Sir,

COAL SUPPLY OFFER- TEGETA EXPLORATION & RESOURCES

Kindly refer to our discussion in the captioned matter. In this connection we offer to supply Eskom 250,000 tonnes (two hundred and fifty thousand tonnes) of coal per month for 3 (three) months starting from 1st February 2016 with the following specifications to Eskom Power Stations on delivered basis. The coal shall be a blended product sourced from Optimum Coal Mine:

Coal Quality Specifications and Rejection Limits

Quality parameter	Unit	Quality Expected	Quality Rejection Limit	Measurement basis
Calorific Value	MJ/kg	25.04	<23.44	Air Dried
Total Moisture	%	8.0	>9	As Received
Ash	%	21.04	>25.36	Air Dried
Abrasive Index (Eskom Mining House Method)	mgFe/4kg	<450	>450	Air Dried
Sulphur	%	1.19	>1.30	Air Dried
Volatiles	%	22.6	<20.37	Air Dried

The offer price for the Coal shall be R22.00 (twenty two rands) excluding VAT per GJ plus transportation cost on Eskom scale, delivered at the Power Station.

Yours sincerely

(Authorised Signatory)

Annexure “V”



**MEMORANDUM**

To: Mr Vusi Mboweni, Senior General Manager, Primary Energy Division

From: Ms Julia Bahula, Senior Advisor Coal Quality & Quantity Assurance, Primary Energy Division

Date: 15 January 2016

SUBJECT: REVIEW OF THE SHORT TERM ORDER BETWEEN ESKOM AND TEGETA EXPLORATION AND RESOURCES – OPTIMUM COLLIERY

PURPOSE:

1. The aim of this memorandum is to give a summary feedback to the Senior General Manager (SGM) Primary Energy Division (PED) on the final evaluation/proactive review of Tegeta file for the two (2) months short term order of 500kt with Eskom.

BACKGROUND:

2. Optimum is currently supplying coal to Hendrina Power Station under the contract with Eskom which ends December 2018. Tegeta has offered the Optimum coal to Eskom with an offtake agreement between Tegeta and Optimum Coal Mine.

DISCUSSION:

3. The review was conducted on a file submitted by Fuel sourcing for the short term order of 500kt from Tegeta to Arnot Power Station. The following are to be noted as revealed from the review.
 - a. Cross functional areas have submitted their recommendations on contracting of the coal for this short term order.
 - b. Though Technical Services Department recommended for contracting with the supplier, their technical report indicated that the Tegeta coal from Optimum supplied on the emergency order in January 2016 did not meet quality contractual specification on AFT, and some stockpiles on Sizing and Sulphur were also not within the specifications. Recommendations were made to lower the AFT spec to 1380°C as advised or agreed by the Power Station.
 - c. Arnot Power Station also indicated that the monthly tonnages be reduced from 250kt to 150kt per month to avoid congestions on the road.

- d. Tegeta has sent a note specifying that their BEE shareholding has changed to 50%+1. However the actual BBBEE certificate has not been submitted. The BBBEE certificate which was available had expired on the 09 Feb 2016 and was for the previous shareholding.
- e. The takeoff agreement submitted covered the previous agreement for the 100kt coal delivered in Jan 16 and does not cover the 500kt coal offered.

FINANCIAL IMPLICATIONS:

- 4. Not Applicable

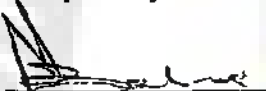
BUDGET IMPLICATIONS:

- 5. Not Applicable

RECOMMENDATION:

- 6. It is recommended that the supplier submit a valid BBBEE certificate and a take-off agreement with Optimum for the 500kt before contracting.
- 7. Eskom should ensure that they are consistent in terms of contracting of coal on a 240 specification as per document 240 – 71273834 for coal quality specifications.

Complied by:



Name Julia Bahula

Title: Senior Advisor- Coal Quality & Quantity: Primary Energy Division

Date: 15/02/2016

Approved by



Name Vusi Mboweni

Title: Senior General Manager: Primary Energy Division

Date: 16/2/16

X Offtake to be provided once
Eskom confirms need to Supplier
& is part of this transaction

X

**MEMORANDUM**

To: Vusi Mboweni, Senior General Manager: Primary Energy Division

From: Ayanda Nteta, Acting General Manager: Fuel Sourcing

Date: 15 February 2016

SUBJECT: **BRIEFING NOTE ON THE PROPOSED SHORT TERM CONTRACT WITH TEGETA FOR 500 000 TONNES TO ARNOT AND KRIEL POWER STATIONS**

PURPOSE:

1. The purpose of this note is to provide information on the attached Short Term Contract submitted for your signature.

BACKGROUND:

2. Tegeta Exploration and Resources ("Tegeta") currently supplies coal to Eskom's Majuba Power Station from their Brakfontein Resource through a Coal Supply Agreement signed in 2015. Tegeta are in the process of taking over Optimum Coal Mine which was undergoing business rescue proceedings subject to all due diligences being met. Eskom has a contract with Optimum Coal Mine ("Optimum") which expires in December 2018 and Optimum currently supplies Hendrina Power Station.

DISCUSSION:

3. Tegeta initially offered 100 000 tonnes coal from Optimum for a short term supply from their export stockpile through an offtake agreement with Optimum, and Eskom placed a short term order with Tegeta for this coal due to the emergency situation declared at Arnot

A

BRIEFING NOTE ON THE PROPOSED SHORT TERM CONTRACT WITH TEGETA FOR 500 000 TONNES TO ARNOT AND KRIEL POWER STATIONS

Power Station. Tegeta have now offered an additional 500 000 tonnes from Optimum based on a delivery profile of 250 000 tonnes per month for two months. Tegeta have signed a letter of Intent with Optimum to conclude an offtake agreement for the 500 000 tonnes.

4. The February 2016 Supply Plan (Version 7) identified that there is urgent need for coal at various Power Stations, including Arnot and Kriel Power Stations. This identified requirement is as a result of the need to build up stock days at these Power Stations. A request was sent to PED Technical services from Fuel Sourcing to identify a list of sources where combustion tests were done and the coal was suitable for Arnot in addition to the Tegeta - Optimum coal. Technical services indicated that based on the database of Coal Combustion Test Reports, the following sources meet the 240-71273834 Coal Quality Specification for Eskom Power Stations at Staithe/Silo Inlet Standard for Arnot:

- Universal Coal – NCC
- Mbuyelo Coal – Welgemeend
- Thutsi – Uitgevalen
- Umsimbithi - Wonderfontein
- Eirene Africa – Puleng
- Izimbiwa
- Exxaro – Dorsfontein East

5. Fuel Sourcing is in the process of finalizing short term agreements with some of the sources from the list above, which were part of the A&F audit process and they are as shown below:

- Universal Coal – To Kriel Power Station
- Mbuyelo Coal – To Kriel Power Station
- Thutsi – To Camden Power Station
- Umsimbithi – Arnot Power Station

6. The remaining three sources are not currently supplying Eskom through existing contracts and are still in early stages of engagements and hence will not be able to supply coal immediately to Arnot. Due to the urgent need of coal at Arnot and Kriel Power Stations, the Tegeta offer of 500 000 tonnes of coal from Optimum was pursued as a potential source for these Power Stations based on the attached technical assessment which indicated the coal was suitable for these stations.

BRIEFING NOTE ON THE PROPOSED SHORT TERM CONTRACT WITH TEGETA FOR 500 000 TONNES TO ARNOT AND KRIEL POWER STATIONS

FINANCIAL IMPLICATIONS:

7. The total value of the Short Term Contract is R 235 021 150 excluding Value Added Tax (VAT), quality adjustments and logistics. The logistics costs are estimated to be R57 730 000

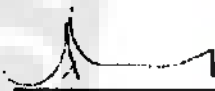
BUDGET IMPLICATIONS:

8. The Short Term Contract is budgeted for.

RECOMMENDATION:

9. The Senior General Manager: Primary Energy to approve the Short Term Contract between Eskom Holdings SOC Ltd and Tegeta Exploration and Resources (Pty) Ltd for the supply of 500 000 tonnes of coal from Optimum Colliery.

Compiled by:

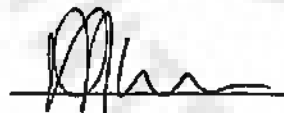


Ayanda Nteta

Acting General Manager: Fuel Sourcing

Date: 15-02-2016

Approved/Not Approved by:




Vusi Mboweni

Senior General Manager: Primary Energy

Date: 16/2/16

Annexure “W”



	Ratification of an Emergency	Unique Identifier	240-53463051
		Revision	Rev. 1
		Revision Date	August 2015
		Group Technology and Commercial	

TO: The Chairman Date: 15 February 2016
 Primary Energy Division
 R300M Tender Committee

COMPILER: Thulani Zulu Tel: 011- 800 3462
 BUSINESS UNIT & Coal Supply Operations Rev: 0
 NAME OF END-USER: Thulani Zulu

DESCRIPTION: Emergency supply and delivery of coal from South32 Holdings (Pty) Ltd and Tegeta Exploration and Resources (Pty) Ltd to Arnot Power Station

NAME OF SUPPLIERS: South32 Holdings (Pty) Ltd and Tegeta Exploration and Resources (Pty) Ltd

DESCRIPTION OF EMERGENCY PURCHASE: On the 23rd December 2015 and emergency was declared on Arnot Power Station coal supply by the Primary Energy Division Tactical Command Centre (PED TCC). The emergency was due to security threats against coal supply to Arnot Power Station.


South32 Holdings (Pty) Ltd		
INVOICE NO	AMOUNT	DATE
0840097554	R 402,113.36	01 February 2016
0920383171	R 36,761,468.84	01 February 2016
0920383212	R 4,549,549.18	31 January 2016
TOTAL VALUE	R 41,713,131.38	

Tegeta Exploration and Resources (Pty) Ltd		
INVOICE NO	AMOUNT	DATE
00000174	R 16,196,842.57	22 January 2016
00000176	R 39,653,350.20	31 January 2016
TOTAL VALUE	R 55,850,192.77	

COST CENTRE/PROJECT NO.	118107
GL ACCOUNT NO.	41011

REQUESTOR:

NAME	SIGNATURE	DESIGNATION
Thulani Zulu		Coal Supply Unit Manager

	Ratification of an Emergency	Unique Identifier	240-53463051
		Revision	Rev. 1
		Revision Date	August 2015
		Group Technology and Commercial	

SUPPORTED BY EXECUTIVE LINE MANAGER WHO AUTHORISED EMERGENCY PROCUREMENT

NAME	SIGNATURE	DESIGNATION
Petros Mazibuko		Acting General Manager Coal Supply Operations

1 DESCRIPTION OF THE EMERGENCY

On the 23rd December 2015 an emergency situation arose at Arnot Power Station. The situation arose as a result of security threats against coal supply by road transport to Arnot Power Station. This was as a result of the security of supply at Arnot Power Station being at risk due to the stoppage of supply from Arnot Colliery as well as the need to increase stock days to mitigate any strike actions from the Arnot Colliery Employees.

If the emergency materialised, one / more of the following threats to the Eskom business were likely to arise within 24 hours:


Threats to human life or safety	
Threats of interruptions in the supply of electricity to customers or load loss	✓
Threats of substantial ecological damage	
The threat of major consequential expense to Eskom	
The threat of serious damage to Eskom's reputation and good name	

In order to prevent the aforementioned threats from arising, the most senior available manager responsible for PED at E-Band level, being Dan Mashigo, the Chairman of the PED TCC, convened a meeting on 23 December 2015, during which meeting an emergency was declared and permission was granted to immediately procure coal that would resolve the emergency situation. Refer to the attached minutes of the meeting.

2 SCOPE OF WORK/SERVICE CARRIED OUT DURING THE EMERGENCY

The scope of work carried out included the supply and delivery of coal from the following suppliers:

- South32 Holdings (Pty) Ltd; for the supply and delivery of 90,000 tonnes of coal from Vandyksdrift (VDD) to Arnot Power Station

 Eskom	Ratification of an Emergency	Unique Identifier	240-53463051
		Revision	Rev. 1
		Revision Date	August 2015
		Group Technology and Commercial	

- Tegeta Exploration and Resources (Pty) Ltd; for the supply and delivery of 100,000 tons of coal from Optimum Colliery to Arnot Power Station

3 FINANCIAL IMPLICATIONS


The invoices for the purchases are attached hereto. Upon approval by the Committee, these invoices will be submitted to the Finance Department within Group Commercial in order to facilitate payment within 48 hours from receipt of the invoices.

4 RECOMMENDATION

It is recommended that the Committee ratify this emergency purchase permitted by Dan Mashigo (the Chairman of the PED TCC) from Primary Energy Division for the supply and delivery of 88,796.32 tons of coal from South32 Holdings (Pty) Ltd and 99,760.44 tons of coal from Tegeta Exploration and Resources (Pty) Ltd, during the months of December 2015 to February 2016 for the value of R 41,713,131.38 and R 55,850,192.77 respectively, excluding VAT.

	EMERGENCY PURCHASING REQUEST FORM	Unique Identifier	240-61270699
		Revision	Rev. 0
		Revision Date	March 2016
		Group Commercial Division	

EMERGENCY REQUEST / PROCESS FORM			
TO: CHAIRMAN: <u>LEON PETER</u>		FROM: <u>GERT OPPERMAN</u>	
DATE: <u>12/02/2016</u>		DEPARTMENT: <u>PEP: COAL SUPPLY OPERATIONS</u>	
MATERIAL REQUEST NUMBER:			
SUPPLIER NAME: <u>TEGETA EXPLORATION & RESOURCES (Pty) LTD</u>			
SUPPLIER ADDRESS: <u>BLOCK 'A' LOWER GROUND FLOOR, GRANITON RIDGE, 144 KATHERINE STREET, SANDTON, 2010</u>			
BUDGET ESTIMATED VALUE: <u>R65,860,192.77 exd VAT (Actual)</u>			
DETAILED SCOPE: <u>SUPPLY & DELIVER COAL FROM TEGETA (OPTIMUM) TO ARNOT PS</u>			
Quantity	Description	Costs	
<u>99,760.44</u>	<u>COAL SUPPLY & DELIVERY TO ARNOT</u>	<u>R65,860,192.77</u>	
EXPECTED DELIVERY / COMPLETION DATE: <u>30 JANUARY 2016</u>			
Tick applicable reason:			
<input type="checkbox"/>	Threat to human life or safety		
<input checked="" type="checkbox"/>	Threat to interruption in the supply of electricity to customers or load loss;		
<input type="checkbox"/>	Threat of substantial ecological damage;		
<input type="checkbox"/>	The threat of major consequential expense to Eskom; or		
<input type="checkbox"/>	The threat of serious damage to Eskom's reputation and good name.		
MOTIVATION / COMMENTS			
<u>Supply and delivery of coal has been completed, and within agreed parameters. The Committee is therefore requested to ratify the purchase.</u>			
RECOMMENDED BY	<u>T. Zulu</u>	DATE: <u>15/02/16</u>	
APPROVED BY	<u>[Signature]</u>	DATE: <u>16.02.2016</u>	
ESKOM SENIOR MANAGER ON SITE			
TO BE COMPLETED BY PROCUREMENT DEPARTMENT:			
RECEIVED BY:		PURCHASE ORDER	
(Buyer's Name)		NUMBER (PO)	
SIGNATURE		SUBMITTED BY:	
DATE RECEIVED		DATE SUBMITTED:	

	EMERGENCY PURCHASING REQUEST FORM	Unique Identifier	240-61270699
		Revision	Rev. 0
		Revision Date	March 2016
		Group Commercial Division	

EMERGENCY REQUEST / PROCESS FORM		
TO: <u>Chairman: P300 PEDR</u>	FROM: <u>ISAAC TAJE</u>	
DATE: <u>11/02/2016</u>	DEPARTMENT: <u>PED: COAL SUPPLY OPERATIONS</u>	
MATERIAL REQUEST NUMBER:		
SUPPLIER NAME:	<u>SOUTH32 COAL HOLDINGS (PTY) LTD</u>	
SUPPLIER ADDRESS:	<u>6 HOLLARD STREET</u> <u>JOHANNESBURG, 2001</u>	
BUDGET ESTIMATED VALUE:	<u>R41,713,131.38 excl VAT (Actuals)</u>	
DETAILED SCOPE:	<u>SUPPLY & DELIVER COAL FROM VANRYKSDEFT TO ARNOT PS</u>	
Quantity	Description	Costs
<u>88,776.32 TONS</u>	<u>COAL SUPPLY & DELIVERY TO ARNOT</u>	<u>R41,713,131.38</u>
EXPECTED DELIVERY / COMPLETION DATE: <u>04 FEBRUARY 2016</u>		
Tick applicable reason:		
<input type="checkbox"/>	Threat to human life or safety	
<input checked="" type="checkbox"/>	Threat to interruption in the supply of electricity to customers or load loss;	
<input type="checkbox"/>	Threat of substantial ecological damage;	
<input type="checkbox"/>	The threat of major consequential expense to Eskom; or	
<input type="checkbox"/>	The threat of serious damage to Eskom's reputation and good name.	
MOTIVATION / COMMENTS		
<u>Supply and delivery of coal has been completed, and within agreed parameters. The Committee is therefore requested to ratify the purchase.</u>		
RECOMMENDED BY <u>THULANI ZULU</u>	<u>T. Zulu</u>	DATE: <u>15/02/16</u>
APPROVED BY ESKOM SENIOR MANAGER ON SITE	<u>[Signature]</u>	DATE: <u>16.02.2016</u>
TO BE COMPLETED BY PROCUREMENT DEPARTMENT:		
RECEIVED BY: (Buyer's Name)		PURCHASE ORDER NUMBER (PO)
SIGNATURE		SUBMITTED BY:
DATE RECEIVED		DATE SUBMITTED:

Annexure “X”





3 February 2016

Tegeta Exploration & Resources Proprietary Limited
 Lower Ground Floor, Block A
 Grayston Ridge Office Park
 144 Katherine Street
 Sandton
 2196
 Attention: Mr Nazeem Howa

Dear Sir

COAL SUPPLY TO ARNOT POWER STATION

1. We refer to recent discussions between you and our Mr Clinton Ephron regarding a short term coal supply arrangement between Optimum Coal Mine (Proprietary) Limited ("Optimum") and Tegeta Exploration & Resources Proprietary Limited ("Tegeta") in respect of coal to be supplied to Arnot Power Station.
2. We confirm that Optimum will supply 600 000 tons of coal to Tegeta for delivery to Arnot Power Station on an expedited basis, subject to Optimum's existing contractual obligations with Eskom and Optimum's production capabilities.
3. In the event that Tegeta wishes to purchase such quantities of coal from Optimum, the parties will be required to conclude a written coal supply agreement, on terms reasonably similar to the terms recorded in the written coal supply agreement concluded between Tegeta and Optimum in January 2016 for the supply of 100 000 tons of coal to Arnot Power Station.

Yours faithfully

Optimum Coal Mine (Proprietary) Limited

Optimum Coal Mine (Pty) Ltd

(Registration No: 2007/005308/07)

A Glencore Operation

Business Address: N11 Hendrina Road, Pullenshope Offramp, Pullenshope

Mailing Address: Private Bag X1201, Pullenshope, 1096, South Africa

Tel.: +27 13 2965111

Registered Address: 1st Floor, Nedbank Building, 23 Melrose Boulevard, Melrose Arch, Melrose North, Johannesburg, 2196, South Africa

Mailing Address: Suite No. 19, Private Bag X1, Melrose Arch, Johannesburg, 2076

Tel: +27 11 772 0600 Fax: +27 11 772 0697

Directors: R Cohen, C M Ephron, P Mahanyele, T Ncube

Annexure “Y”





**OPTIMUM
COAL
MINE**

3 February 2016

Tegeta Exploration & Resources Proprietary Limited
Lower Ground Floor, Block A
Grayston Ridge Office Park
144 Katherine Street
Sandton
2196
Attention: Mr Nazeem Howa

Dear Sir

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Yours faithfully

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(Registration No: 2007/005308/07)
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Tel: +27 11 772 0600 Fax: +27 11 772 0697

Directors: R Cohen, C M Ephron, P Mahanyele, T Ncube



3 February 2016

Tegeta Exploration & Resources Proprietary Limited
 Lower Ground Floor, Block A
 Grayston Ridge Office Park
 144 Katherine Street
 Sandton
 2196
 Attention: Mr Nazeem Howa

Dear Sir

COAL SUPPLY TO ARNOT POWER STATION

1. We refer to recent discussions between you and our Mr Clinton Ephron regarding a short term coal supply arrangement between Optimum Coal Mine (Proprietary) Limited ("Optimum") and Tegeta Exploration & Resources Proprietary Limited ("Tegeta") in respect of coal to be supplied to Arnot Power Station.
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Yours faithfully

Optimum Coal Mine (Proprietary) Limited

Optimum Coal Mine (Pty) Ltd
 (Registration No: 2007/005308/07)
 A Glencore Operation

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 Mailing Address: Private Bag X1201, Pullenshope, 1096, South Africa
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 Mailing Address: Suite No. 19, Private Bag X1, Melrose Arch, Johannesburg, 2076
 Tel: +27 11 772 0600 Fax: +27 11 772 0697

Directors: R Cohen, C M Ephron, P Mahanyele, T Ncube

Annexure “Z”





**OPTIMUM
COAL
MINE**

17.02.2016

Tegeta Exploration and Resources (Pty) Ltd
144 Katherine Str, Grayston Ridge Office Park,
Block A, Lower Ground Floor,
Sandown, Sandton, 2146

Attention: Mr Nazeem Howa

Re: SALE OF STEAM COAL - CONTRACT NO. 117

Optimum Coal Mine (Pty) Ltd, South Africa (hereinafter known as "Seller") is pleased to confirm the sale of steam coal to Tegeta Exploration and Resources (Pty) Ltd. (hereinafter known as "Buyer"), according to the following terms and conditions:

Material: Steam Coal

Quantity: 400,000 MT to the nearest truck load
Evenly spread at a rate of 7,000 MT pd- 12,000 MT pd

Delivery: February 2016 to April 2016

Seller's Colliery: Refers to Optimum Colliery.

Price: R18.68/GJ on a Gross as received basis plus transport rate as negotiated with the relevant transporter and Optimum Coal Mine DAP Delivery point (excluding VAT)

Payment: The Seller will submit an invoice to the Buyer on the day that the coal quantity delivered is greater than 50,000MT. Invoicing will thereafter be done in increments of 50,000MT until the entire Quantity is delivered.

Optimum Coal Mine (Pty) Ltd
(Registration No: 2007/005303/07)
A Glencore Operation

Business Address: N11 Hendrina Road, Pullenshoep Offramp, Pullenshoep

Mailing Address: Private Bag X1201, Pullenshoep, 1096, South Africa

Tel: +27 13 2965111

Registered Address: 1st Floor, Nedbank Building, 23 Melrose Boulevard, Melrose Arch, Melrose North, Johannesburg, 2196, South Africa

Mailing Address: Suite No. 19, Private Bag X1, Melrose Arch, Johannesburg, 2076

Tel: +27 11 772 0600 Fax: +27 11 772 0697

Directors: R Cohen, C M Ephum, P Mahanyele, T Neube

Payment of each invoice shall be made by the Buyer within, one business day, after receipt by the Buyer of such invoice, via telegraphic transfer into the Seller's nominated bank account, without any counterclaim, deduction, set-off or withholding of any nature whatsoever.

Quality: Specifications all on an ISO "air dried" basis, unless otherwise stated:

Quality Parameter	Unit	Expected Quality	Quality Rejection Limit	Measurement basis
Calorific Value	MJ/kg	24.0	<23.50	Air Dried
Total Moisture	%	8.0	>9.0	As Received
Ash	%	25.3	>25.3	Air Dried
Volatiles	%	21.1	<21.0	Air Dried
Sulphur	%	1.1%	>1.24	Air Dried

Analysis:

The **Seller** shall set aside clearly labeled stockpiles of approximately 5,000 MT each at the **Seller's** Colliery.

Sampling and analysis to be performed by Bureau Veritas Inspectorate Laboratories (Pty) Ltd ("BV") for each stockpile at the **Seller's** Colliery. Costs of the same to be for the **Seller's** account.

Results of each clearly marked pre-certified stockpile will be sent to the **Buyer** for approval.

The **Buyer** will also send the Eskom certified laboratory ("Eskom lab") GCV (as received) result to the **Seller** for approval.

Material can only be uplifted from the pre-certified stockpile once:

- The results of both the Eskom lab and BV lab have been sent to all Parties; and
- The GCV (as received) result of the Eskom lab is not more than 0.20 MJ/kg (as received) lower than the GCV (as received) of the BV lab.

Provided both these conditions are fulfilled, the Material can be uplifted from the pre-certified stockpile and Payment will be based on the Eskom lab GCV (as received).

Weight Determination:

Tonnage to be determined by the assigned weighbridge at Seller's Colliery. Results will be final and binding for the purpose of settlement.

Delivery Point:

Eskom's Arnot Power Station Middleburg or otherwise specified,

Risk & Ownership:

Risk in the Coal Product supplied in terms of this Agreement will pass to the Buyer when such coal is delivered to the Delivery Point. Ownership of Coal Product will pass to the Buyer once it has been paid for in accordance with this Agreement.

Force Majeure:

If because of Force Majeure Seller/Buyer is unable to carry out any of his obligations under this contract, and if such party promptly gives to the other party written/telex notice expressly claiming Force Majeure, then the following shall apply:

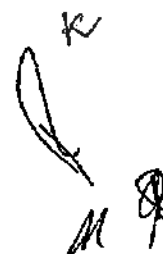
The term "Force Majeure" as used in this agreement shall mean any causes reasonably beyond control and without fault or negligence of the party affected thereby which wholly or in substantial part prevent the loading, unloading, delivery of the product sold hereunder.

The Force Majeure situations are including but not limited to acts of the public enemy, acts of war, riot or civil commotion, labor disputes, labor or material shortages, accidents, fires, explosions, floods, acts of God, breakdown or damage of plant, equipment, partial or complete embargoes, interruptions to contingencies or transportation, acts of governmental authority, acts, rules, regulations of any government, and if a condition of Force Majeure occurs and notice is given, the obligations of the party giving such notice shall be suspended. Should the Force Majeure event not be remedied within 90 days of its occurrence, then either party may by way of written notice, cancel this contract.

Arbitration:

Any controversy or claim arising out of or relating to this contract or any alleged breach thereof shall be settled by arbitration in Johannesburg as follows:

The Parties to the dispute may mutually agree to the appointment of any person to act as Arbitrator but failing such Agreement, the Arbitrator shall be an Advocate of no less than 10 (ten) years standing (alternatively, in respect of any technical or operational dispute, by any independent person with a minimum of 10 years' experience in the appropriate field), appointed by the Chairman for the time being of the Johannesburg Bar Council.

Handwritten signature and initials in the bottom right corner of the page.

The said arbitration shall be held:

- In a summary manner, i.e. on the basis that it shall not be necessary observe or carry out either:
- the usual formalities or procedure(e.g. there pleadings or discovery); and/or
- the strict rules of evidence;
- Immediately and with a view to its being completed, if possible, within 21 (twenty one) business days after it is demanded;
- On the basis that the Arbitrator shall decide the matters submitted to him according to what he considers just and equitable in the circumstance, and therefore, the strict rules of law shall not be observed or be taken into account by him in arriving at his decision;
- Otherwise (but subject to 1.1 and 1.2) under the provisions of the Arbitration Act No.42 of 1965 of the Republic of South Africa (as amended from time to time).

Any Party to the arbitration shall be entitled to be legally represented at the Arbitration proceedings. In the event of any Party deciding to be so legally represented, he shall be required to notify the other Party of such intention not less than 7 (seven) days prior to the date set aside for the hearing of the arbitration, to enable such other Party itself to be legally represented.

Breach:

Should either party breach any of the terms and conditions of this agreement and fail to remedy such breach within a period of 14 days after receipt by the defaulting party of written notice from the other party ("the aggrieved party") requiring it to do so, then the aggrieved party shall be entitled without prejudice to such other rights as it may have, to claim immediate payment and/or performance by the defaulting party of all the defaulting party's obligations, all without prejudice to the aggrieved party's rights to claim damages; provided that the aggrieved party shall not however, be entitled to cancel this agreement for any breach by the defaulting party unless such breach is a material breach going to the root of this agreement and incapable of being remedied by a payment in money, or if it is capable of being remedied by a payment in money, the defaulting party shall have failed to pay the amount concerned within 14 days after determination of the amount so payable.

In the event of the Seller, being placed under liquidation, judicial management or in the event of the estate of the Seller, being sequestrated then the Buyer shall be entitled, without prejudice to such other rights as it may have, to cancel the contract forthwith.

Cession and Assignment:

Neither party may cede or assign the whole or any part of its rights or obligations under this agreement to any other party without prior consent in writing of the other party, provided however that such consent shall not be unreasonably withheld. This agreement shall be binding upon and shall hereto. Any purported assignment of cession by either party without the said written consent by the other party shall be void.

[Handwritten signatures and initials]

No waiver:

No indulgence which any of the parties ("the grantor") may grant to any other or others of them ("the grantee(s)") shall constitute a waiver of any of the rights of the grantor, who shall not thereby be precluded from exercising any rights against the grantee(s) which might have arisen in the past or which might arise in the future.

Non-variation:

No addition to, variation or consensual cancellation of any provision in this contract, including this provision, shall be of any force or effect unless reduced to writing and signed by or on behalf of the parties.

Counter-signature:

The signature by either party of a counterpart of this offer will be as effective as if that party had signed the same document as the other party.

THUS DONE and SIGNED at SANDTON on this the 18th day of FEBRUARY 2016
in the presence of the undersigned witnesses:-

AS WITNESS:

1. [Signature]
2. [Signature]

[Signature]

For and on behalf of
TEGETA EXPLORATION AND
RESOURCES PTY LTD.

THUS DONE and SIGNED at ROSEBANK on this the 18th day of FEBRUARY 2016
in the presence of the undersigned witnesses:-

AS WITNESS:

1. [Signature]
2. [Signature]

[Signature]

For and on behalf of
OPTIMUM COAL MINE
PTY LTD.

Annexure “AA”





CONFIDENTIAL

Andre van Heerden
Senior Manager Integrated Planning
Primary Energy Division

Date: 30 April 2015

Dear Andre

MAY 2015 COAL SUPPLY PLAN Rev 6 (29 April 2015)

1. Stock days

The stock days are projected to reach 45.1 in March 2016.

		May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16			
PS	SDB	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Min	Alarm	Exp
Arnot	24.88	27.9	32.7	38.0	43.1	45.1	51.5	53.3	48.0	41.9	41.4	35.0	25	30	35
Camden	18.00	27.8	29.8	30.9	31.0	29.4	30.3	30.0	26.3	25.5	28.9	27.3	20	23	25
Duvha	37.01	29.3	32.0	33.9	28.1	22.3	18.0	16.2	15.8	21.7	28.0	34.3	22	26	30
Grootvlei	14.65	26.9	34.4	39.3	38.5	39.0	36.1	34.1	30.2	27.2	26.0	24.0	20	23	25
Hendrina	21.11	30.3	30.3	26.1	25.1	25.5	28.2	30.2	22.1	25.3	26.3	30.6	20	25	30
Kendal	45.70	63.3	58.7	48.6	44.2	42.5	41.8	38.2	41.1	36.3	33.9	28.9	25	30	35
Komati	10.48	7.8	8.6	7.5	5.1	7.0	8.9	11.1	15.1	16.4	10.9	11.4	7	7	11
Kriel OC	17.23	36.1	34.7	33.2	32.3	32.8	34.9	35.0	33.6	35.3	38.9	38.2	30	35	40
Kriel UG	16.06	58.9	52.4	54.6	55.7	65.1	64.0	55.5	44.1	40.8	41.7	47.7	35	40	47
Lethabo	47.43	87.0	92.4	99.7	105.8	112.1	115.9	120.3	124.8	125.0	122.3	112.4	24	27	30
Majuba	41.54	34.5	39.0	37.9	37.9	38.6	39.2	39.1	48.5	48.3	51.1	51.1	40	45	50
Matimba	41.57	38.0	37.3	31.8	28.0	25.8	25.1	30.2	30.6	31.7	29.3	26.6	20	24	28
Matla	36.68	9.0	16.7	25.0	32.5	36.9	35.2	27.0	20.7	27.5	35.9	37.3	27	31	35
Tutuka	36.42	33.8	36.8	36.3	39.8	42.3	39.3	34.1	37.0	41.7	41.8	41.7	32	36	40
Matla Unusable	36.68	13.5	13.5	13.5	13.5	13.5	13.5	13.5	13.5	13.5	13.5	13.5			
System excl Medupi	408.55	41.7	43.6	43.8	44.5	45.5	45.6	44.7	44.8	45.5	48.6	45.1			
Medupi	7.24	447.8	518.2	586.7	659.1	726.8	769.1	817.4	855.7	899.8	942.9	981.1			
System incl Medupi	415.79	48.7	51.8	53.3	55.2	67.4	68.2	58.2	58.9	60.4	62.2	61.4			

2. Shortfall Coal

2.1 The total shortfall coal requirement for June – March is 8.31 Mt.

The June requirement is 0.71 Mt.

Shortfall	June	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
Arnot	115 000	115 000	115 000	115 000	115 000	115 000	115 000	120 000	120 000	120 000	1 165 000
Camden	100 000	100 000	100 000	100 000	300 000	300 000	300 000	300 000	350 000	350 000	2 300 000
Grootvlei								25 000	25 000	25 000	75 000
Komati					40 000	40 000	40 000	40 000	80 000	80 000	320 000
Kriel OC	100 000	100 000	100 000	100 000	100 000	100 000	120 000	120 000	120 000	120 000	1 080 000
Kriel UG								80 000	80 000	80 000	240 000
Majuba	130 000	130 000	100 000	100 000	100 000						560 000
Matla	260 000	260 000	260 000	200 000	200 000	200 000	200 000	200 000	200 000		1 980 000
Tutuka				90 000	90 000	90 000	80 000	80 000	80 000	80 000	500 000
Grand Total	705 000	705 000	675 000	705 000	945 000	845 000	855 000	965 000	1 055 000	855 000	8 310 000

Primary Energy Division
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Eskom Holdings SOC Limited Reg. No 2002/015527/06

-2-

2.2 The total shortfall coal including uncontracted sources is 13.29 Mt.

Shortfall Coal Requirement Incl. Uncontracted Sources (Mtpa)			
	FY2016	FY2017	Total
Amot	1.87	0.00	1.87
Camden	2.30	4.28	2.30
Duvha	0.00	0.00	0.00
Grootvlei	0.08	0.00	0.08
Kendal	0.45	6.00	0.45
Komatli	0.32	1.80	0.32
Kriel OC	1.88	1.44	1.88
Kriel UG	0.64	0.60	0.64
Majuba	1.50	1.80	1.50
Matla	2.97	0.67	2.97
Tutuka	1.49	0.48	1.49
Total	13.29	17.05	30.33

3. Logistics

3.1 FY16 DEL trend = 17.19 Mt and FCA trend = 17.23 Mt

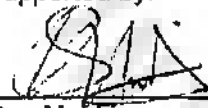
Transport Mode Split (Mt)	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	FY2016
Total DEL	1.42	1.55	1.65	1.69	1.69	1.42	1.28	1.15	1.21	1.21	1.21	17.19
FCA (incl Sidings)	1.60	1.58	1.56	1.62	1.64	1.51	1.51	1.34	1.37	1.33	1.34	17.23

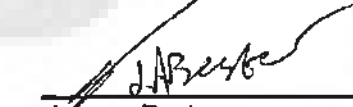
3.2 FY16 Rail trend = 11.69 Mt.


Majuba = 8.68 Mt, Camden = 1.14 Mt, Tutuka = 1.35 Mt & Grootvlei = 0.52 Mt

FY16 Rail Trend														
Transport Mode/Rail	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-16	Feb-16	Mar-16		FY2016	FY2016
Majuba Rail	0.62	0.66	0.51	0.51	0.51	0.51	0.51	0.51	0.51	0.51	0.51		6.69	8.68
Majuba Rail (FCA to Blinkpan)	0.04	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03	0.03		0.32	
Majuba Rail (FCA to Hawerhillp)	0.09	0.18	0.18	0.18	0.18	0.18	0.18	0.18	0.16	0.16	0.16		1.67	
Camden Rail	-	-	-	-	-	-	-	-	-	-	-		0.20	1.14
Camden Rail (FCA to Blinkpan)	0.14	0.20	0.20	0.20	0.20	-	-	-	-	-	-		0.94	
Camden Rail (FCA to Wesseltreen)	-	-	-	-	-	-	-	-	-	-	-		0.00	
Tutuka Rail	0.08	0.08	0.04	0.04	0.04	0.04	0.04	0.04	0.04	0.04	0.04		0.68	1.35
Tutuka Rail (FCA to Blinkpan)	-	-	-	-	-	-	-	-	-	-	-		0.00	
Tutuka Rail (FCA to Arbor)	0.07	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05		0.67	
Tutuka Rail (FCA to Hawerhillp)	-	-	-	-	-	-	-	-	-	-	-		0.00	
Grootvlei Rail	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.04	0.05	0.05	0.05		0.62	0.52
Grootvlei Rail (FCA to Fortar)	-	-	-	-	-	-	-	-	-	-	-		0.00	
Total	1.09	1.23	1.04	1.04	1.04	0.84	0.84	0.83	0.84	0.84	0.84		11.69	11.69

Supported by:


Dan Mashigo
 GENERAL MANAGER
 COAL OPERATIONS


Johann Bester
 GENERAL MANAGER
 FUEL SOURCING


Edward Funyufunyu
 SENIOR MANAGER
 LOGISTICS

Approved by:


Andre van Heerden
 SENIOR MANAGER
 INTEGRATED PLANNING

Annexure “AB”





CONFIDENTIAL

Andre van Heerden
Senior Manager Integrated Planning
Primary Energy Division

Date: 30 Oct 2015

Dear Andre

NOVEMBER 2015 COAL SUPPLY PLAN Rev 4.2 (30 Oct 2015).

1. The stock days including shortfall coal are projected to reach 59.3 in March 2016.

PS	SDB	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Min	Alarm	Exp
		Plan	Plan	Plan	Plan	Plan			
Arnot	24.88	33.8	33.9	33.6	36.9	35.2	26	30	35
Camden	18.00	25.4	24.8	25.2	28.1	25.7	20	23	25
Duvha	37.01	30.2	32.8	33.3	32.1	28.2	22	26	30
Grootvlei	14.55	29.1	29.4	28.7	28.0	25.4	20	23	25
Hendrina	21.11	50.2	37.4	31.7	32.2	30.9	20	25	30
Kendal	45.70	51.7	48.1	43.6	42.9	34.2	25	30	35
Komati	10.46	10.4	11.8	11.8	11.3	11.0	7	7	11
Kriel OC	17.23	35.2	37.3	35.0	36.5	40.1	30	35	40
Kriel UG	16.08	34.4	32.8	32.2	40.1	47.4	35	40	47
Lethabo	47.43	66.7	58.5	53.9	48.8	47.9	24	27	30
Majuba	41.54	43.7	44.0	44.7	43.8	51.4	40	45	50
Matimba	41.57	37.0	39.4	35.3	31.4	29.4	20	24	28
Matla usable	36.58	31.9	27.3	29.3	34.9	36.9	27	31	35
Tutuka	36.42	39.3	37.0	37.9	36.4	40.6	32	36	40
Matla Unusable	36.58	28.2	37.5	45.6	54.1	63.0			
System excl Medupi	408.55	43.3	42.0	41.2	41.8	42.3			37
Medupi	7.24	816.3	855.9	895.4	963.0	1018.4			
System incl Medupi	415.79	56.7	58.2	56.1	57.8	59.3			

1.1 The stock days excluding shortfall coal are projected to reach 50.0 in March 2016, and Camden, Komati and Kriel U/G will run out of coal.

PS	SDB	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Min	Alarm	Exp
		Plan	Plan	Plan	Plan	Plan			
Arnot	24.88	33.8	25.3	18.3	14.0	4.7	26	30	35
Camden	18.00	25.4	14.8	5.2	-1.8	-14.3	20	23	25
Duvha	37.01	30.2	32.8	33.3	32.1	28.2	22	26	30
Grootvlei	14.55	29.1	29.4	28.7	28.6	21.9	20	23	25
Hendrina	21.11	50.2	34.5	26.0	23.2	18.6	20	25	30
Kendal	45.70	51.7	48.1	43.6	40.7	29.8	25	30	35
Komati	10.46	10.4	11.8	11.8	13.1	23.4	7	7	11
Kriel OC	17.23	35.2	29.8	20.5	15.1	11.7	30	35	40
Kriel UG	16.08	34.4	20.6	8.0	3.6	-1.2	35	40	47
Lethabo	47.43	66.7	58.5	53.9	48.8	47.9	24	27	30
Majuba	41.54	43.7	44.0	44.7	43.8	51.4	40	45	50
Matimba	41.57	37.0	39.4	35.3	31.4	29.4	20	24	28
Matla usable	36.58	31.9	22.9	24.9	30.5	32.5	27	31	35
Tutuka	36.42	39.3	36.2	36.3	33.9	38.2	32	36	40
Matla Unusable	36.58	28.2	37.5	45.6	54.1	63.0			
System excl Medupi	408.55	43.3	39.7	37.0	35.0	32.9			37
Medupi	7.24	816.3	855.9	895.4	963.0	1018.4			
System incl Medupi	415.79	56.7	53.9	52.0	51.2	50.0			

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Eskom Holdings SOC Limited Reg. No 2002/015527/06

Page 1 of 3
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-2-

2. Shortfall Coal

2.1 The total shortfall coal requirement for Dec – March is 3.87 Mt.

The Dec requirement is 0.95 Mt.

	Sum of Dec-15	Sum of Jan-16	Sum of Feb-16	Sum of Mar-16	Sum of Total FY2016
Shortfall					
Amot	190 000	190 000	190 000	190 000	760 000
Camden	180 000	180 000	180 000	180 000	720 000
Grootvlei			20 000	30 000	50 000
Hendrina	60 000	60 000	70 000	70 000	260 000
Kendal			100 000	100 000	200 000
Komati			150 000	210 000	360 000
Kriel OC	130 000	120 000	120 000	120 000	490 000
Kriel UG	195 000	195 000	195 000	195 000	780 000
Matla	160 000				160 000
Tutuka	30 000	30 000	30 000		90 000
Grand Total	945 000	775 000	1 055 000	1 095 000	3 870 000

2.2 The total shortfall coal including uncontracted sources is 4.59 Mt.

Shortfall Coal Requirement Incl. Uncontracted Sources (Mtpa)			
	FY2016	FY2017	Total
Amot	0.76	2.40	0.76
Camden	0.72	4.34	0.72
Duvha	0.00	0.00	0.00
Grootvlei	0.05	0.33	0.05
Hendrina	0.26	4.50	0.26
Kendal	0.20	6.60	0.20
Komati	0.36	1.82	0.36
Kriel OC	0.77	1.39	0.77
Kriel UG	0.78	0.60	0.78
Majuba	0.44	0.40	0.44
Matla	0.16	0.37	0.16
Tutuka	0.09	0.53	0.09
Total	4.59	23.28	27.87

3. Logistics

3.1 DEL trend = 20.32 Mt, FCA trend = 16.99 Mt

Transport Mode	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	FY16 Trend
Total DEL	1.63	1.18	1.35	1.34	1.33	20.32
FCA (incl Sidings)	1.61	1.27	1.33	1.27	1.28	16.99

-3-

3.2 Total Rail trend = 12.58 Mt.

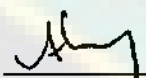
Majuba = 7.50 Mt, Camden = 1.64 Mt, Tutuka = 2.44 Mt & Grootvlei = 1.00 Mt

FY16 Rail Trend							
Transport Mode: Rail	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	FY2015	FY2016
Majuba Rail	0.68	0.44	0.48	0.48	0.48	6.71	7.50
Majuba Rail (FCA to Blinkpan)	-	-	-	-	-	0.00	
Majuba Rail (FCA to Hawerklip)	0.10	0.21	0.16	0.16	0.16	0.79	
Camden Rail	-	-	-	-	-	1.33	1.64
Camden Rail (FCA to Blinkpan)	0.23	0.02	0.02	0.02	0.02	0.31	
Camden Rail (FCA to Woestalleen)	-	-	-	-	-	0.00	
Tutuka Rail	0.23	0.15	0.10	0.10	0.10	2.14	2.44
Tutuka Rail (FCA to Blinkpan)	-	-	-	-	-	0.00	
Tutuka Rail (FCA to Arbor)	0.06	0.06	0.06	0.06	0.06	0.30	
Tutuka Rail (FCA to Hawerklip)	-	-	-	-	-	0.00	
Grootvlei Rail	0.02	0.09	0.12	0.12	0.12	0.72	1.00
Grootvlei Rail (FCA to Forfar)	-	-	-	-	-	0.00	
Grootvlei Rail (FCA to Clewer)	0.05	0.06	0.05	0.06	0.07	0.28	
Total	1.36	1.03	0.99	1.00	1.00	12.58	12.58


Supported by:

 2/11/15

Petros Mazibuko
GENERAL MANAGER
COAL OPERATIONS

 3.11.15

Ayanda Nteta
ACTING GENERAL MANAGER
FUEL SOURCING

 03/11/2015

Edward Funyufunyu
SENIOR MANAGER
LOGISTICS

Approved by:

 3/11/2015

Andre van Heerden
SENIOR MANAGER
INTEGRATED PLANNING

Risky Subsidy Plan (200-2015) v.2		FY2015										FY2016		FY2017		FY2018		FY2019		FY2020		FY2021		FY2022		FY2023		FY2024		FY2025		FY2026		FY2027		FY2028		FY2029		FY2030		FY2031		FY2032		FY2033		FY2034		FY2035		FY2036		FY2037		FY2038		FY2039		FY2040		FY2041		FY2042		FY2043		FY2044		FY2045		FY2046		FY2047		FY2048		FY2049		FY2050		FY2051		FY2052		FY2053		FY2054		FY2055		FY2056		FY2057		FY2058		FY2059		FY2060		FY2061		FY2062		FY2063		FY2064		FY2065		FY2066		FY2067		FY2068		FY2069		FY2070		FY2071		FY2072		FY2073		FY2074		FY2075		FY2076		FY2077		FY2078		FY2079		FY2080		FY2081		FY2082		FY2083		FY2084		FY2085		FY2086		FY2087		FY2088		FY2089		FY2090		FY2091		FY2092		FY2093		FY2094		FY2095		FY2096		FY2097		FY2098		FY2099		FY2100		FY2101		FY2102		FY2103		FY2104		FY2105		FY2106		FY2107		FY2108		FY2109		FY2110		FY2111		FY2112		FY2113		FY2114		FY2115		FY2116		FY2117		FY2118		FY2119		FY2120		FY2121		FY2122		FY2123		FY2124		FY2125		FY2126		FY2127		FY2128		FY2129		FY2130		FY2131		FY2132		FY2133		FY2134		FY2135		FY2136		FY2137		FY2138		FY2139		FY2140		FY2141		FY2142		FY2143		FY2144		FY2145		FY2146		FY2147		FY2148		FY2149		FY2150		FY2151		FY2152		FY2153		FY2154		FY2155		FY2156		FY2157		FY2158		FY2159		FY2160		FY2161		FY2162		FY2163		FY2164		FY2165		FY2166		FY2167		FY2168		FY2169		FY2170		FY2171		FY2172		FY2173		FY2174		FY2175		FY2176		FY2177		FY2178		FY2179		FY2180		FY2181		FY2182		FY2183		FY2184		FY2185		FY2186		FY2187		FY2188		FY2189		FY2190		FY2191		FY2192		FY2193		FY2194		FY2195		FY2196		FY2197		FY2198		FY2199		FY2200		FY2201		FY2202		FY2203		FY2204		FY2205		FY2206		FY2207		FY2208		FY2209		FY2210		FY2211		FY2212		FY2213		FY2214		FY2215		FY2216		FY2217		FY2218		FY2219		FY2220		FY2221		FY2222		FY2223		FY2224		FY2225		FY2226		FY2227		FY2228		FY2229		FY2230		FY2231		FY2232		FY2233		FY2234		FY2235		FY2236		FY2237		FY2238		FY2239		FY2240		FY2241		FY2242		FY2243		FY2244		FY2245		FY2246		FY2247		FY2248		FY2249		FY2250		FY2251		FY2252		FY2253		FY2254		FY2255		FY2256		FY2257		FY2258		FY2259		FY2260		FY2261		FY2262		FY2263		FY2264		FY2265		FY2266		FY2267		FY2268		FY2269		FY2270		FY2271		FY2272		FY2273		FY2274		FY2275		FY2276		FY2277		FY2278		FY2279		FY2280		FY2281		FY2282		FY2283		FY2284		FY2285		FY2286		FY2287		FY2288		FY2289		FY2290		FY2291		FY2292		FY2293		FY2294		FY2295		FY2296		FY2297		FY2298		FY2299		FY2300		FY2301		FY2302		FY2303		FY2304		FY2305		FY2306		FY2307		FY2308		FY2309		FY2310		FY2311		FY2312		FY2313		FY2314		FY2315		FY2316		FY2317		FY2318		FY2319		FY2320		FY2321		FY2322		FY2323		FY2324		FY2325		FY2326		FY2327		FY2328		FY2329		FY2330		FY2331		FY2332		FY2333		FY2334		FY2335		FY2336		FY2337		FY2338		FY2339		FY2340		FY2341		FY2342		FY2343		FY2344		FY2345		FY2346		FY2347		FY2348		FY2349		FY2350		FY2351		FY2352		FY2353		FY2354		FY2355		FY2356		FY2357		FY2358		FY2359		FY2360		FY2361		FY2362		FY2363		FY2364		FY2365		FY2366		FY2367		FY2368		FY2369		FY2370		FY2371		FY2372		FY2373		FY2374		FY2375		FY2376		FY2377		FY2378		FY2379		FY2380		FY2381		FY2382		FY2383		FY2384		FY2385		FY2386		FY2387		FY2388		FY2389		FY2390		FY2391		FY2392		FY2393		FY2394		FY2395		FY2396		FY2397		FY2398		FY2399		FY2400		FY2401		FY2402		FY2403		FY2404		FY2405		FY2406		FY2407		FY2408		FY2409		FY2410		FY2411		FY2412		FY2413		FY2414		FY2415		FY2416		FY2417		FY2418		FY2419		FY2420		FY2421		FY2422		FY2423		FY2424		FY2425		FY2426		FY2427		FY2428		FY2429		FY2430		FY2431		FY2432		FY2433		FY2434		FY2435		FY2436		FY2437		FY2438		FY2439		FY2440		FY2441		FY2442		FY2443		FY2444		FY2445		FY2446		FY2447		FY2448		FY2449		FY2450	
Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area	Area																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																			

Annexure “AC”





Mr. Andre van Heerden
SENIOR MANAGER INTEGRATED PLANNING
PRIMARY ENERGY

Dear Andre

SUBJECT: MAY 2016 COAL SUPPLY PLAN Rev 5.2 (29 April 2016)

- The stock days including shortfall coal are projected to reach 66.6 in March 2017.

		May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17	
	SOB FY17	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	FY17 Exp.
PS													
Arnot	23.14	40.2	51.0	52.3	52.2	57.2	53.0	47.5	42.5	39.4	40.8	41.9	35
Camden	18.76	25.3	32.3	38.3	37.2	34.6	30.4	27.2	25.2	26.6	31.4	28.9	25
Duvha	38.26	26.0	26.0	24.8	20.9	22.9	23.5	24.6	31.4	34.5	41.8	47.1	30
Grootvlei	13.65	21.2	28.2	24.3	27.2	25.4	21.7	18.9	17.2	26.1	28.8	28.8	25
Hendrina	21.53	32.4	31.7	35.1	38.0	41.7	39.9	37.2	34.3	33.5	37.4	36.7	30
Kendal	43.05	43.9	48.4	49.8	43.8	39.9	36.2	34.7	30.3	27.0	28.4	25.2	35
Komati	10.53	9.2	11.0	11.0	10.9	13.3	12.0	11.2	11.5	15.1	14.6	10.5	11
Kriel OC	15.79	28.3	29.5	33.1	40.9	50.7	56.4	56.3	62.3	50.9	42.4	38.4	40
Kriel UG	14.64	55.8	54.8	55.3	44.7	36.8	43.8	48.4	47.4	57.7	60.6	46.2	47
Lethabo	46.92	70.5	68.4	78.0	83.2	83.7	91.6	110.5	127.5	128.9	130.3	128.2	30
Majuba	40.58	43.4	42.9	39.8	34.1	35.4	34.5	39.7	43.6	45.6	47.5	48.8	50
Matimba	40.72	42.8	41.5	39.0	40.9	41.1	40.8	41.9	44.5	50.1	56.4	63.6	28
Matla usable	36.80	10.8	24.2	30.7	39.3	41.7	46.0	48.5	45.5	44.0	39.8	35.8	35
Tutuka	34.56	24.5	25.5	27.7	40.0	56.4	62.0	58.8	62.5	63.1	63.6	63.7	40
Matla Unusable	36.80	59.1	70.5	81.8	87.0	92.9	103.9	115.7	124.8	136.1	141.1	146.2	
System excl Medupi	394.84	42.5	46.0	49.1	50.8	53.5	55.7	59.0	62.3	64.3	66.6	66.6	37
Medupi	7.22	1110.2	1133.3	1142.5	1151.4	1180.2	1197.1	1246.1	1319.1	1398.5	1440.8	1500.6	
System incl Medupi	402.16	61.6	65.6	68.7	70.6	73.7	76.2	80.3	84.9	88.1	91.3	92.4	
Tutuka Burn risk (10.4Mt)	34.56	28.2	23.3	25.1	34.2	42.6	47.4	45.8	52.7	50.9	48.4	40.7	

- The stock days excluding shortfall coal are projected to reach 34.3 in March 2017. Arnot, Camden, Komati, Matla usable coal and Tutuka (risk burn) will run out of coal.

		May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17	
	SOB FY17	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	Plan	FY17 Exp.
PS													
Arnot	23.14	40.2	46.7	43.7	39.3	35.2	21.9	7.3	-6.8	-19.0	-26.6	-34.6	35
Camden	18.76	25.3	32.3	38.3	25.3	10.8	-5.4	-30.1	-53.6	-73.7	-89.7	-113.2	25
Duvha	38.26	26.0	26.0	24.8	20.9	22.9	23.5	24.6	31.4	34.5	41.8	47.1	30
Grootvlei	13.65	21.2	28.2	24.3	27.2	25.4	21.7	18.9	17.2	26.1	28.8	28.8	25
Hendrina	21.53	32.4	31.7	35.1	38.0	41.7	39.9	37.2	34.3	33.5	37.4	36.7	30
Kendal	43.05	43.9	48.4	49.8	43.8	39.9	36.2	34.7	30.3	27.0	28.4	25.2	35
Komati	10.53	9.2	-4.2	-19.3	-30.0	-41.7	-67.3	-75.1	-88.3	-85.6	-87.9	-93.9	11
Kriel OC	15.79	28.3	29.5	33.1	40.9	50.7	56.4	56.3	62.3	50.9	42.4	38.4	40
Kriel UG	14.64	55.8	54.8	55.3	44.7	36.8	39.5	42.3	36.2	47.5	50.3	36.0	47
Lethabo	46.92	70.5	68.4	78.0	83.2	83.7	91.6	110.5	127.5	128.9	130.3	128.2	30
Majuba	40.58	43.4	39.0	31.9	22.2	19.6	14.8	18.0	18.0	14.1	12.0	8.3	50
Matimba	40.72	42.8	41.5	39.0	40.9	41.1	40.8	41.9	44.5	50.1	56.4	63.6	28
Matla usable	36.80	10.8	17.0	6.3	2.7	-6.4	-13.5	-22.4	-36.8	-49.8	-65.3	-80.8	35
Tutuka	34.56	24.5	18.8	14.4	20.6	30.9	30.8	21.7	19.7	20.3	20.8	20.8	40
Matla Unusable	36.80	59.1	70.5	81.8	87.0	92.9	103.9	115.7	124.8	136.1	141.1	146.2	
System excl Medupi	394.84	42.5	43.3	43.5	42.1	41.3	40.0	39.4	38.9	37.9	37.2	34.3	37
Medupi	7.22	1110.2	1133.3	1142.5	1151.4	1180.2	1197.1	1246.1	1319.1	1398.5	1440.8	1500.6	
System incl Medupi	402.16	61.6	62.8	63.3	62.0	61.7	60.8	61.1	61.9	62.1	62.4	60.6	
Tutuka Burn risk (10.4Mt)	34.56	23.2	18.7	15.9	19.8	17.1	10.3	6.8	10.1	2.9	-5.9	-2.1	

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Eskom Holdings SOC Ltd Reg No 2002/015527/30

2. The total shortfall coal for FY2017 (June 2016 – Mar 2017) is 14.57 Mt.

Shortfall Coal Requirement (Mtpa)		
	FY2017	FY2018
Arnot	1.77	2.04
Camden	2.38	3.82
Duvha	0.00	0.00
Grootvlei	0.00	0.00
Hendrina	0.00	0.00
Kendal	0.00	0.48
Komati	1.10	1.38
Kriel OC	0.00	0.24
Kriel UG	0.15	0.84
Majuba	1.60	0.00
Matla	4.29	6.15
Tutuka	0.00	0.00
Kusile	1.80	2.76
Total	13.09	17.71
Tutuka Burn Risk	1.48	0.00
Total	14.57	17.71

2.1 The shortfall coal requirement for June is 1.2 Mt.

	Sum of Jun-16	Sum of Jul-16	Sum of Aug-16	Sum of Sep-16	Sum of Oct-16	Sum of Nov-16	Sum of Dec-16	Sum of Jan-17	Sum of Feb-17	Sum of Mar-17	Sum of Total FY2017
- Shortfall											
Arnot	100 000	100 000	100 000	210 000	210 000	210 000	210 000	210 000	210 000	210 000	1 770 000
Camden			200 000	200 000	200 000	360 000	360 000	360 000	350 000	350 000	2 380 000
Hendrina											-
Kendal											-
Komati	160 000	160 000	110 000	150 000	150 000	180 000	120 000	30 000	20 000	20 000	1 100 000
Kriel OC											-
Kriel UG				30 000	30 000	30 000	30 000	30 000			150 000
Majuba	180 000	160 000	160 000	160 000	160 000	160 000	160 000	160 000	160 000	160 000	1 600 000
Matla	450 000	450 000	450 000	420 000	420 000	420 000	420 000	420 000	420 000	420 000	4 290 000
Tutuka											-
Kusile	100 000	120 000	120 000	170 000	170 000	205 000	220 000	230 000	230 000	230 000	1 795 000
Tutuka Burn Risk	230 000	230 000	210 000	210 000	200 000	200 000	200 000				1 480 000
Grand Total	1 280 000	1 220 000	1 350 000	1 550 000	1 540 000	1 765 000	1 720 000	1 440 000	1 390 000	1 380 000	14 555 000

3. Logistics

3.1 DEL trend = 18.33 Mt, FCA trend = 10.66 Mt

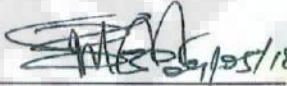
Transport Mode	Apr-16	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17	Total FY2017
Total DEL	2.42	2.14	1.92	1.85	1.61	1.54	1.15	1.15	1.10	1.15	1.14	1.16	18.33
FCA (incl Sidings)	1.31	1.42	1.21	0.99	0.82	0.82	0.82	0.67	0.82	0.66	0.66	0.67	10.66

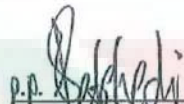
3.2 Total Rail trend = 10.65 Mt.

Majuba = 8.44 Mt, Camden = 0.75 Mt, Tutuka = 1.45 Mt & Grootvlei = 0.36 Mt

FY17 Rail Trend													FY2017	FY2017
Transport Mode: Rail	Apr-16	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17		
Majuba Rail	0.52	0.53	0.60	0.60	0.60	0.60	0.60	0.60	0.60	0.60	0.60	0.60	7.03	8.44
Majuba Rail (FCA to Blinkpan)	-	-	-	-	-	-	-	-	-	-	-	-	0.00	
Majuba Rail (FCA to Hawerklip)	-	0.19	0.20	0.11	0.11	0.11	0.11	0.11	0.11	0.11	0.11	0.11	1.41	
Camden Rail	0.18	-	-	-	-	-	-	-	-	-	-	-	0.18	0.75
Camden Rail (FCA to Blinkpan)	-	0.23	0.17	0.17	-	-	-	-	-	-	-	-	0.57	
Camden Rail (FCA to Woestalleen)	-	-	-	-	-	-	-	-	-	-	-	-	0.00	
Tutuka Rail	0.20	0.06	-	-	-	-	-	-	-	-	-	-	0.26	1.45
Tutuka Rail (FCA to Blinkpan)	-	0.10	-	-	-	-	-	-	-	-	-	-	0.10	
Tutuka Rail (FCA to Arbor)	-	0.09	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	1.09	
Tutuka Rail (FCA to Hawerklip)	-	-	-	-	-	-	-	-	-	-	-	-	0.00	
Grootvlei Rail	0.02	-	-	-	-	-	-	-	-	-	-	-	0.02	0.36
Grootvlei Rail (FCA to Forfar)	-	-	-	-	-	-	-	-	-	-	-	-	0.00	
Grootvlei Rail (FCA to Clewer)	-	0.04	0.03	0.03	0.03	0.03	0.03	0.03	0.02	0.03	0.03	0.03	0.34	
Total	0.91	1.24	1.10	1.01	0.84	0.84	0.84	0.84	0.83	0.84	0.84	0.84	10.99	10.99

Supported by:


 Petros Mazibuko
GENERAL MANAGER
COAL OPERATIONS
 Date: 09/05/16


 Ayanda Mteta
ACTING GENERAL MANAGER
FUEL SOURCING
 Date:


 Edward Funyufunyu
SENIOR MANAGER
LOGISTICS
 Date: 12/05/2016

Approved by:


 Andre van Heerden
SENIOR MANAGER
INTEGRATED PLANNING
 Date: 12/05/2016

[illegible]

Annexure “AD”



[illegible]

01.3

Mr van der Riet



Statement to the Zondo State Capture Commission

By: Dr Mark Van der Riet

Date: 6 November 2018

1. Background

My name is Dr Mark Van der Riet, and I have been employed for more than 30 years by Eskom Holdings SOC Ltd (Eskom) in the field of coal characterisation and utilisation, at the Eskom Research Testing and Development (RT&D) Department in the Risk & Sustainability Division (R&S) located in Rosheville, south of Johannesburg.

On 1 February 2015 I was seconded from my owner division (RT&D, R&S) to the Primary Energy Division (PED), with an advisory support mandate. This was part of an Eskom recovery strategy to assist in resolving the load-shedding prevalent at that time, and I was one of 25 senior experts seconded on instruction by the Eskom Exco to various parts of the business. During my secondment I reported directly to the Senior General Manager (SGM)-PED.

Whilst seconded I initiated several solutions to assist PED coal quality management. In order to start enacting these solutions, I was appointed by the SGM-PED on 1 July 2015 as acting Technical Services Departmental (TSD) Manager for a 3 month period.

On 1 September 2015 I was suspended on an allegation of possible serious misconduct whilst conducting my duties under secondment to PED. The circumstances of this suspension and the outcome will be described in detail later in this statement. A protracted suspension ensued, and after I resorted to the CCMA and Labour Court Eskom convened a disciplinary hearing that commenced on 20 June 2017. I was returned to service on 1 May 2018, at my owner division RT&D, R&S.

2. Qualifications, experience and acknowledgements

I have a BSc and BSc Honours in Industrial Chemistry, and a post-graduate diploma in Engineering Management. I also earned my PhD in coal conversion in 1988, from the University of the Witwatersrand. I'm a registered Natural Scientist Professional (SACNASP No. R1021R), and a member of the SA Chemical Institute (SACI No. 39148).

I was employed in Eskom in 1988, as a coal scientist. My speciality is coal science, and utilisation of coal in combustion, gasification and conversion processes. In 2001 I was promoted to the level of a Corporate Specialist, which is a senior technical and strategic position providing input up to Eskom's Board level.

During my 30 years with Eskom I have been awarded two Eskom Chairman's awards for Excellence, and six Eskom's Manager's awards in various categories. I have also won national and international awards in my field, including international Who's Who listing, and a Fossil Fuel Foundation of Africa award in 2011 for my lifelong advancements in coal research and development.

I was appointed to the honorary (un-remunerated) position as adjunct/visiting Professor at the University of the Witwatersrand in 2005, in recognition of my expertise. As part of my duties I've supervised 4 PhD and 11 MSc graduates in the field of coal utilisation, and have been external examiner for 5 PhD and 13 MSc candidates.

3. Role generally in Eskom business

I was employed by Eskom in 1988 to establish coal testing facilities at Eskom's RT&D Department. These facilities have grown to become world class, and a routine operational requirement. In 1992 I included coal education and training into my responsibilities. In 2001, after promotion to Corporate Specialist, I handed over responsibility for the coal testing facilities and shifted to a more strategic role. My focus became new coal technologies that can produce cleaner, cheaper and more sustainable electricity. I also consulted internationally on

coal quality impacts on plant design through Eskom's non-regulated business, with utilities in Ireland and Vietnam.

4. Coal Sampling, Analyses and Testing

My expertise with **coal testing** was gained in the period 1988 to 2001, when I established the RT&D coal testing facilities. These facilities have grown to become world class, and a routine operational requirement. These facilities can simulate power station conditions on a small scale and enable Eskom to rapidly evaluate the impact of coal quality, prior to contracting the coal and feeding it into a power station. The findings led to the development of coal specifications for each power station.

My exposure to the more routine **coal sampling** and **analyses** was limited to my 2 month position as acting Technology Services Department (TSD) manager within PED, from 1 July 2015 to 31 August 2015.

5. Specifications for each power station

Eskom experts within Technology Division (Engineering), Generation Division, PED and RT&D have combined decades of experience in power station operation, coal testing and power station modelling, to derive the Eskom Standard 240-71273834, "Coal Quality Specifications for ESKOM Power Stations at Staithe/Silo Inlet Standard".

This standard details the acceptable and rejection coal quality for all Eskom coal-fired power stations, and is defined by the power station's ability to produce the designed rated output without any coal related load losses.

The Eskom Standard 240-71273834 consequently forms an important pre-requisite for Eskom's coal supply agreements (CSA's) contracted by the PED Department.

6. Secondment to PED

On 1 February 2015 I was seconded from my owner division (RT&D, R&S) to the Primary Energy Division (PED), with an advisory support mandate. This was part of an Eskom recovery strategy to assist in resolving the country-wide load-shedding prevalent at that time. The rationale was that unacceptable coal quality was leading to coal-related load losses, which was a major contributor to the load-shedding. I was one of 25 senior Eskom experts drawn from our normal jobs and seconded to various parts of the business that needed assistance. During my secondment I reported directly to the Senior General Manager SGM (PED), Vusi Mboweni.

In the February to June 2015 period I occupied a supernumerary position in PED, with no management accountability. I was responsible however to network extensively within and external to PED, to identify problems, gaps and potential solutions that were reported weekly to SGM (PED), copied to the Group Executive (Generation) and to my owner division (RT&D, R&S). The potential solutions were acknowledged as being very important, however the PED response to these potential solutions was limited due primarily to lack of resources.

For this reason I was appointed as acting-TSD manager on 1 July 2015 for a 3 month period, to capacitate these solutions. The TSD manager role carried accountability for the outputs of 25 professionals in 4 sections, one of which was the coal Quality Assurance (QA) section.

7. The role of PED QA Section

During my tenure as acting TSD manager from 1 July – 31 August 2015, the coal QA section comprised 9 professionals with qualifications including chemistry and chemical engineering. Their skills were accumulated within Eskom and external coal laboratories, and they are highly regarded in their field. The QA section reported to the TSD department, and their role was to:

7.1. Manage the contracts and allocate workload for the nominated coal laboratories sub-contracted to PED.

7.2. Routinely audit these nominated coal laboratories to ensure coal quality control.

7.3. Work with RT&D to routinely perform round-robin assessment studies of all the external and internal coal laboratories, to ensure consistency is maintained.

7.4. Administer the coal analytical processes as defined in the Coal Quality Management Procedures (CQMP's), which are an annexure to the Eskom's Coal Supply Agreements (CSA's) with the various medium term coal suppliers. The QA section has contracted external laboratories for routine analysis of Eskom's coal supplies. All Eskom-appointed laboratories are required to be SANAS (ISO 17025) accredited, implying that their quality control is according to national standards.

The physical sampling of coal supplies was the responsibility of the medium term coal suppliers, preferable with an automated mechanical sampler. The responsibility and accountability for ensuring the representivity of these samples resided with Coal Geology section, which also reported to the TSD department. The Coal Geology section was also responsible and accountable for transporting the coal samples to Eskom's nominated laboratory, where the sample was split, crushed and prepared for analyses. Duplicate reference samples were also retained for up to 30 working days at Eskom's nominated laboratory, for dispute resolution.

In the event of a dispute over the analyses, either the supplier or Eskom may declare such within five working days, whereupon a reference sample would be re-tested by a third independent laboratory nominated by Eskom. These results would be final and binding.

8. The Brakfontein Coal Supply Agreement

I was informed by QA staff during my tenure as acting-TSD manager from 1 July – 31 August 2015 that the Brakfontein Coal Supply Agreement (CSA) was signed in March 2015, and the QA staff professional opinion was that coal qualities from this colliery were fair until July 2015 when tonnages delivered increased substantially, and qualities deteriorated.

Anecdotally, the Eskom geologist responsible for overseeing the Brakfontein operation believed this was due to commencement of deliveries from the 4-Upper seam, which was apparently deemed to be of too low quality to meet Eskom specifications. The 4-Lower seam met Eskom's quality specifications, but this was underneath the 4-Upper seam which therefore had to be removed and discarded first. The Eskom geologist's hypothesis therefore had merit, as the mixing of 4-Lower with 4-Upper seams would correlate with the increased tonnages delivered. However, this hypothesis was never tested, as the Eskom geologist Mr James Mudau; the Eskom QA manager Ms Charlotte Ramvhona; the Eskom Senior QA Mr Sam Phetla responsible for Brakfontein colliery, and myself were all suspended on 1 September 2015 prior to being able to initiate the investigation.

9. Suspension

The following sequence of events led to my suspension on Tuesday 1 September 2015:

- 9.1. On Tuesday 25 August 2015 I received a phone call from the SGM (PED) regarding an accusation from a "Gupta-owned mine" (sic) supplying coal to Eskom. The allegation was that the Eskom-contracted laboratory monitoring the colliery coal quality had requested a bribe.
- 9.2. SGM (PED) confirmed that the Group Executive of Commercial and Technology Divisions, Mr Matshela Koko, wanted this to be immediately investigated and to be kept informed. Due to the seriousness of the allegations and the direct intervention of an Executive Manager, Mr Koko, four TSD employees were allocated full-time to investigate the allegations,

including myself in my role as acting-TSD manager. All prior commitments were cancelled until the investigation was concluded.

- 9.3. Disputes between coal suppliers and Eskom were daily and routine events, and many times had far more serious repercussions for Eskom than this allegation of a bribe.
- 9.4. The "Gupta-owned mine" (sic) was confirmed as being Brakfontein colliery, which was owned by Tegeta. After investigation, I compiled a briefing note for Mr Koko concerning the coal qualities supplied from Brakfontein Colliery since their contract inception in March 2015. This note confirmed sporadic but escalating coal quality exceedances. Mr Koko called me to his office in Megawatt Park (MWP) to report personally on the briefing note. The TSD QA Manager Ms Charlotte Ramavhona and I met with Mr Koko and the Eskom Head of Legal Ms Suzanne Daniels. A plan was devised to recall all the reference samples for August 2015 held by Sibonisiwe, the laboratory contracted to the Employer, and to submit these for re-analysis to the SABS coal laboratory in unmarked bags.
- 9.5. On Friday 28 August 2015 a briefing note with the SABS laboratory results was delivered to Mr Koko. This confirmed that the SABS results contradicted the Sibonisiwe results. Sibonisiwe had shown that 15 out of 30 coal consignments in August 2015 had failed, whereas SABS showed that 29 out of 30 should have failed. Mr Koko responded that SABS and RT&D laboratories should replace the designated laboratory Sibonisiwe for Brakfontein colliery, and written instruction was issued to this effect.
- 9.6. On either labs version the stockpiles were not fit for purpose. This I had already highlighted, and I could do no more.
- 9.7. On Mr Koko's instruction to Ms Ramavhona and myself, it was arranged with the Brakfontein colliery manager for TSD to re-sample and analyse the coal stockpiles in the colliery stockyard that had failed minimum specification.
- 9.8. A WhatsApp group was created between myself, Ms Ramavhona, and TSD Geology Manager James Mudau to coordinate logistics for the upcoming

sampling and analyses. See **Annexure 1** for a record of the WhatsApp group discussions.

- 9.9. The sampling exercise was arranged for Saturday 29 August 2015, and Mr James Mudau and myself were scheduled to personally witness the sampling to ensure compliance with standards. However, on Mr Koko's telephonic instruction to myself, Mr Mudau and I were informed that we will not be involved from witnessing the sampling. This was in contravention of the CQMP, which allows the Employer to witness any sampling. I made Mr Koko aware of this, and Mr Koko suggested that the sampling exercise go ahead, but that the Brakfontein stockpiles would be sampled again in the next week in the presence of Eskom representatives including himself.
- 9.10. A progress report with the re-sampled stockpile analyses received up to that point was sent to Mr Koko in the evening of Sunday 30 August 2015. Mr Koko did not respond, and no further communication regarding the colliery was received from him or sent to him from this point onwards.
- 9.11. The testing of the samples taken on Saturday 29 August 2015 came to a preliminary finding that the coal was in fact fit for purpose. This in and of itself should be a cause for considerable concern as Eskom staff were not present when the coal was resampled. In effect, I could not vouch for the authenticity and representivity of the samples so I stand by the initial findings that the coal was not fit for purpose.
- 9.12. On Monday 31 August 2015 the SGM-PED phoned me and requested a file on the complete investigation be prepared for him by 10:00 on Tuesday 01 September 2015. His office subsequently re-arranged the meeting with me for 10:30. An investigation file was prepared for SGM-PED with copies of all communications, analyses, reports and briefing notes. The file included an affidavit and CCTV video footage from the Sibonisiwe laboratory, alleging that the Brakfontein colliery manager and a relative had forcibly gained access to the laboratory during the early hours of Sunday 30 August 2015, and confronted the Sibonisiwe staff who were working overtime on the analyses. The colliery manager had allegedly attempted to exert undue

pressure on the laboratory to change their results to the effect that the coal was fit for purpose.

- 9.13. The TSD QA Manager Ms Ramavhona and I met with Ms Marumo Lekoto who was at that stage with the PED Legal Advisory office, to discuss the laboratory break-in, and the chronological order of events and the facts evident thus far.
- 9.14. On Tuesday 01 September 2015 at 10:30 I reported to SGM-PED's office in Megawatt Park to ostensibly hand over the investigation file and discuss any technical queries. I took my laptop PC with, for this intent. The meeting started late as SGM-PED was occupied in his office. When I finally entered SGM-PED's office he passed me a letter of intent to suspend written by Mr Masingita Rikhotso of the Eskom Industrial Relations (IR) department. Mr Rikhotso asked me to read the letter and confirm that I understood the contents thereof. I accepted and signed the letter. SGM-PED took possession of the investigation file and my laptop PC. Mr Rikhotso explained that I needed to immediately collect my personal belongings and leave the building. I would not be escorted by security, in order not to embarrass me. On departing, I needed to hand over my Employer access card at the Security Office.
- 9.15. My affidavit for the chronological sequence of events up until this point is presented in **Annexure 2**
- 9.16. I initiated correspondence on Wednesday 2 September 2015, with reasons why I believed I should not be suspended. I believed I had been doing my job, and welcomed an investigation.
- 9.17. The suspension on pay was confirmed by Eskom on 8 September 2015.
- 9.18. Thereafter a protracted engagement took place, and I had to resort to the CCMA to force Eskom to issue their charges against me.
- 9.19. The ultimate charge sheet was dated 11 March 2016. The charges were presented in an odd manner. There seem to be 10 distinct charges in the charge sheet set out as my duties, which were in fact substantially the duties of the TSD QA Manager Ms Ramavhona. These charges seem to

have been subsumed into a further charge that there was a duty to perform the aforementioned duties diligently and without negligence and in terms of the fiduciary duties owed to Eskom.

- 9.20. The charge ultimately was that I was either grossly negligent or alternatively negligent in the performance of my duties as TSD manager (acting).
- 9.21. The charge sheet confirmed the disciplinary hearing would be held over two days, being 01 and 07 April 2016.
- 9.22. The hearing dates were subsequently cancelled by Eskom, and no further dates were proposed.
- 9.23. Thereafter a protracted engagement took place, and I had to resort to the CCMA and then the Labour Court to force Eskom to hold my disciplinary hearing.
- 9.24. Supplementary charges were introduced on 15 May 2017. The first of these was to the effect that I contravened or failed to comply with Eskom's conditions of service, agreements with trade unions, operating regulations, security and/or safety measures, procedures, directives and applicable statutory requirements in that on 1 September 2015, on the date of my suspension, I sent approximately 27 emails relating to the Brakfontein investigation, from my Eskom email address to my private email address.
- 9.25. The second supplementary charge was that I was grossly negligent in the performance of my duties as a senior manager, Technical Services (acting) in the Primary Energy Department.
- 9.26. The disciplinary hearing commenced on 20 June 2017, under the chairmanship of an external chairman Advocate Hlalele Moletsisi.
- 9.27. The disciplinary hearing took 13 days, ending on 05 February 2018.
- 9.28. The chairman Advocate Hlalele Moletsisi issued his findings on 22 March 2018, and he determined that all the original charges dated 11 March 2016 had been substantially unproven by Eskom, and that I was innocent.

- 9.29. With regards the supplementary charges dated 15 May 2017, the chairman determined that the second charge relating gross negligence was unproven, and that I was innocent.
- 9.30. The chairman determined on the first charge relating to emails that I was guilty, and he recommended dismissal.
- 9.31. The chairman had disregarded my Heads of Argument, and the reminder that I had given of the evidence presented during the hearing that refuted this charge.
- 9.32. Eskom reviewed the chairman's findings, and on 26 April 2018 I received a disciplinary determination that the chairman's sanction was irrational, and that I should return to my duties at RT&D on 01 May 2018.
- 9.33. I resumed duty on 01 May 2018, after 32 months of suspension.
- 9.34. My graphical representation of my disciplinary process is presented in **Annexure 3.**

10. Parliamentary inquiry

My name was mentioned by Mr Matshela Koko in the Parliamentary enquiry on 24 January 2018, wherein he stated that SABS labs were more credible than myself so he had no option but to suspend me, and re-instate Brakfontein deliveries to Eskom. This is not supported by the factual evidence when the retests of Brakfontein coal reference samples by SABS showed that Brakfontein had failed 29 of 30 deliveries in August 2015. It must be noted that these reference samples had been submitted as "blind" samples to SABS, and all labels identifying them as originating from Brakfontein had been removed. This finding was submitted to Mr Koko by myself in a briefing note dated 28 August 2015, so he was fully aware of this. Please refer to **Annexure 4**.

I must also note that the coal samples taken on Saturday 29 August 2015 at Brakfontein colliery had been taken in the absence of Eskom's TSD representatives, Mr James Mudau and myself. This was on the specific telephonic recommendation of Mr Koko. My WhatsApp group comprising Mr Mudau and the QA manager Ms Charlotte Ramavhona confirms (please refer to **Annexure 1**). The representivity of these coal samples is therefore in question, and the SABS tests on these samples must be discounted.

11. Questions asked by the Zondo Commission evidence leaders on 31 October 2018 that I cannot answer:

11.1. The committee asked several questions relating to Optimum colliery, and their accumulated penalties ?

- *I had no direct engagement on the Optimum coal supply in my two months as acting TSD manager, in the period July-August 2015.*

11.2. Why did PED relax coal specifications for Tegeta/Brakfontein ?

- *I have no factual evidence to respond. This question should be addressed to Mr Dan Mashigo , current acting SGM – PED.*

11.3. Why would PED relax coal specifications generally ?

- *I have no factual evidence to respond. This question should be addressed to Mr Dan Mashigo , current acting SGM – PED.*

11.4. Was poor coal paid for ?

- *I have no factual evidence to respond. This question should be addressed to Mr Dan Mashigo , current acting SGM – PED.*

11.5. Explain penalties ?

- *This is a contractual question, and the TSD department was not involved in setting non-technical terms. This question should be addressed to Mr Dan Mashigo , current acting SGM – PED.*

11.6. When was the Brakfontein coal supply initially tested for combustion behaviour; why were these tests performed repeatedly prior to the contract being signed; is this normal for other suppliers; and who pays for these tests ?

- *I have no factual evidence to respond. These questions should be addressed to Mr Dan Mashigo, current acting SGM – PED.*

11.7. Compare the CSA's for all of Majuba power station's suppliers, including Tegeta, versus the Eskom coal specification for Majuba ?

- *I have no factual evidence to respond, as I do not have access to any of the CSA's. This question should be addressed to Mr Dan Mashigo, current acting SGM – PED.*

Annexure “1”



Annexure 1

WhatsApp group discussions – Brakfontein Investigation

2015/08/28, 16:47 - You created group "Brakfontein investigation"

2015/08/28, 16:48 - Mark: Hi - this will be easier
The colliery contact is Jacques Roux 071 859 7120

2015/08/28, 16:51 - Mark: He will sample 3 reject stockpiles with one of our geologists, and accompany us to SABS to prepare. He will take his samples back to his lab and we send the others to RT&D, Duvha and Sibonisizwe

2015/08/28, 16:52 - Charlotte Ramavhona: Great, but you said 4 stockpiles earlier

2015/08/28, 16:52 - Mark: He asks that sampling take place only tomorrow afternoon, as he is checking his lab accuracy still.

2015/08/28, 16:53 - Mark: James - please assign a geologist to this important task

2015/08/28, 16:54 - Mark: Stockpiles 26A, 26B and 27A

2015/08/28, 16:55 - Mark: Jacques agreed with Matshela to only sample 3

2015/08/28, 16:55 - Charlotte Ramavhona: I will tell the lab

2015/08/28, 16:56 - Mark: Thanks Charlotte 🙏

2015/08/28, 17:05 - James: Let me talk to Siphelele if available.

2015/08/28, 17:36 - Mark: Thanks James

2015/08/28, 18:48 - Charlotte Ramavhona: lab is ready for a sample.thanks everyone

2015/08/28, 19:15 - Mark: Tx Charlotte

2015/08/28, 22:10 - Mark: Evening - request from Matshela : remove first lab from Brakfontein and replace with SABS and RT&D. The colliery don't want Sam, so we must swap out QA. My view - this is actually a compliment to Sam for spotting problems ! I will draft a letter to colliery tonight for Matshela to sign that states as such and notes lab results confirm they may have a quality problem and offer to assist

2015/08/29, 06:58 - James: Thanks Mark for me keeping us posted. I couldn't find Siphelele to oversee the Sampling at the Colliery but I might end up going by myself.

2015/08/29, 07:04 - Mark: I'm available to go but need a crash course in sampling, which I last did 25 years ago. Has anyone got a crash course ?

2015/08/29, 07:14 - James: We can meet up and go together. I would also like to conduct a full site visit inspection from the pit to the product beds in order to understand their grade/coal quality control measures.

2015/08/29, 07:19 - Mark: Thanks James - as long as you haven't got church commitments

2015/08/29, 07:58 - Charlotte Ramavhona: Morning, i will call you wrt sampling still busy now

2015/08/29, 08:02 - Mark: Ok

2015/08/29, 09:15 - James: I am available. What time is the mine ready?

2015/08/29, 09:17 - Mark: Thank you James ! I'll arrange a time now with the mine. Where are they and what's the travel time ?

2015/08/29, 09:22 - James: They are after Delmas town on the R50 towards Matla PS. From Megawatt is about 90 min drive.

2015/08/29, 09:48 - Mark: The mine lab is retesting to avoid their further embarrassment. Charlotte and I discussed and suggest we need 3 hours to sample so we should leave Jhb at 13:30 and plan to get there at 15:00. Is this ok ?

2015/08/29, 10:12 - James: It's fine with me. We will can meet in Delmas have a brief caucus prior to proceeding to the mine. What about that proposal?

2015/08/29, 10:53 - Mark: Change of plan -the colliery does not want us there and will take the samples themselves and hand to rovers. Charlotte we must arrange transport to SABS. I chatted to Matshela and agree this is very suspicious. We will insist next week on going out to sample stockpiles, and Matshela will come with us

2015/08/29, 18:54 - Mark: The 1st bakkie is at mine but waiting for the second one to come as samples bags are too many for 1 vehicle. Jacques will confirm once he leaves mine

2015/08/29, 19:18 - James: I think issues at Brakfontein are not only stockpiles failing but planning of the operation. Despite the mine reanalyzing the product. Stockpiles are readily available for sampling, it shouldn't this long. Were they rebuilding the stockpiles?

2015/08/29, 19:41 - Mark: Aha James ☺

2015/08/29, 19:47 - Charlotte Ramavhona: two bakkies have been dispatched are now approaching. The company informed me that there are 90 samples of 20kg each they will transport them at once. The lab is briefed and waiting for the sample.

2015/08/29, 19:49 - Mark: Tx Charlotte !

2015/08/29, 19:49 - Charlotte Ramavhona: Each bakkie will transport 30 samples equivalent to 600kg it meets the Eskom loading requirements.

2015/08/29, 19:52 - James: What will happen to the other 30 bags since Eskom loading requirements is 600kg and only 2 Bakkies from the lab were dispatched. The total samples is about 1800 kg, and 1200kg is dispatched.

2015/08/29, 19:57 - Charlotte Ramavhona: The first bakkie is already at the mine as Jacques confirmed it's the rover's bakkie in total it will be 3 bakkies transporting the sample. Thanks

2015/08/30, 07:26 - Mark: Hi - we need to execute this weekend's sampling exercise as per original plan : 4 way lab test - Brakfontein lab, RT&D, Duvha and Sibonisizwe

2015/08/30, 07:33 - Charlotte Ramavhona: Noted, the people from Brakfontein were at the lab to witness sample prep yesterday. I will distribute the samples. Duvha and RT&D samples will be sent tomorrow bcz the two labs do not operate on weekends

2015/08/30, 07:34 - Mark: Thanks Charlotte 🙏

2015/08/30, 08:17 - Mark: Jacques has unofficial confirmation from SABS labs that his coal passes spec so he wants to load. I said we wait for other labs. Charlotte - please give feedback the moment you get. The big question of whether we accept coal given risk of manipulation depends on Matshela

2015/08/30, 08:47 - James: We really giving Brakfontein enough control to manipulate aspects that are governed by the contract. Results should be declared at once to both parties. We are setting a wrong precedence in terms of the CSA particularly the CQMP. Why is Jacques getting unofficial confirmation from the Lab?

2015/08/30, 08:49 - Mark: Jacques knows before we do from SABS and Sibonisizwe. We must follow CQMP & CSA - pls guide

2015/08/30, 09:19 - Charlotte Ramavhona: so he wants to use the results to load is that the reason all four of them were at SABS yesterday. SABS is not their contractual lab results are for comparison purposes. The fact that they witnessed sample prep without Eskom reps means results could be compromised.

2015/08/30, 09:27 - Charlotte Ramavhona: Please note he cannot use the results to load because we only did Prox, CV, TS and AI. We only covered parameters they struggled with we did not do all contractual specs.

2015/08/30, 09:31 - Mark: We must follow CQMP and CSA and if that means they resample in our presence and do all parameters then that's what we do

2015/08/30, 09:34 - Charlotte Ramavhona: I agree they need to sample in our presence. And we both witness the sample prep and analysis.

2015/08/30, 09:44 - Charlotte Ramavhona: If possible please get out of church we need to talk Jacques is tormenting Sibonisiwe.

2015/08/30, 09:45 - Mark: I'm out - can I call you ?

2015/08/30, 09:46 - Charlotte Ramavhona: Please

2015/08/30, 11:52 - Mark: Jacques Roux.vcf (file attached)

2015/08/30, 11:53 - Charlotte Ramavhona: Thanks

2015/08/30, 11:54 - Mark: Tx Charlotte for the long telecon with Jacques. I trust this resolves the issue. James, he accepted that Geology visit the mine to assess

2015/08/30, 11:54 - Charlotte Ramavhona: Great

2015/08/30, 12:10 - James: Honestly, this is wrong precedence in terms of contract management. Brakfontein must comply with the CSA principles, and we must be allowed to do our job in a professional manner. As for our Executive, they must know that we are custodians of the CSA and we are capable enough to render our job without interference. We have allowed Jacque to dictate how things must be done, which was contrary to CSA/CQMP stipulations. Analysis do not fix issues if operational planning is not in place to address issues such as these.

2015/08/30, 12:12 - Mark: You're right James hence the long telecon with Charlotte explaining to Jacques the CQMP. He claims ignorance and apologised.

2015/08/30, 18:51 - Mark: Any more lab feedback ?

2015/08/30, 19:05 - Charlotte Ramavhona: Have not finished compiling the data as yet nothing from the Mine as expected.

2015/08/30, 19:08 - Mark: Please email to me at Mark.vdRiet@eskom.co.za

2015/08/30, 19:51 - Charlotte Ramavhona: I am still waiting for the results

2015/08/30, 20:03 - Mark: Thanks Charlotte - I'm preparing a report template so that I can drop the results in

2015/08/30, 20:52 - Mark: I can't get through to Jacques. Charlotte - do you have any feedback from their lab ?

2015/08/31, 03:04 - Charlotte Ramavhona: Nothing their lab is not in a position to produce results he said from the discussion we had that he was going to outsource if he did then we should get the results tomorrow if payment will not be in an issue.

2015/08/31, 09:30 - Charlotte Ramavhona: RT&D is no longer doing analysis they outsource to Siza so we can't take the samples there. Duvha will do the analysis for us but we might get the Ash tomorrow they subcontract TS to SGS. Jenny is enquiring at Komati if they cannot do analysis for us but they are also subcontracting to SGS.

Annexure “2”



Annexure 2

Chronological sequence of events leading up to my suspension



AFFIDAVIT

I, Dr Mark van der Riet, ID No. 6209175055087, hereby swear that the following chronological record of events with regards the Brakfontein Colliery coal quality dispute, is an accurate and a true reflection of communications with all parties.

Yours Sincerely



Dr Mark Van der Riet

RSA ID No. 6209175055087

Eskom Unique No. 0391737

Chronological Sequence of Events – Brakfontein Colliery Coal Quality Dispute

Prepared by : Dr Mark Van der Riet

Tuesday 25/08/2015

- Tuesday 25/08/2015, 13:09 & 13:25 & 14:04 – phone call from Vusi Mboweni regarding accusation from Gupta mine supplying Eskom, that a white women in our coal laboratory analysing their coal had requested a bribe to change results. Vusi confirmed that Matshela Koko wants this to be immediately investigated.
- Tuesday 25/08/2015, 13:30 – Charlotte Ramavhona and I spoke to Melody McCurrach from PED Sourcing to confirm which collieries supplying Eskom were owned by the Gupta's. She confirmed this was only Brakfontein Colliery. Charlotte confirmed that the laboratory contracted by Eskom to analyse Brakfontein Colliery coal samples is Sibonisiwe.
- Tuesday 25/08/2015, 13:40 – Melody McCurrach from PED Sourcing confirmed in writing that the only Gupta mine supplying Eskom was Brakfontein colliery, owned by Tegeta. She also confirmed the directors are Ravindra Nath and Satish Mudliar.
- Tuesday 25/08/2015, - prepared a briefing note for Matshela Koko on the coal qualities supplied from Brakfontein Colliery since their contract inception in March 2015. This confirmed sporadic but escalating exceedances on CV, ash, Total Sulphur and later sizing. The colliery had also been increasing production rates recently. It was noted that the colliery had only disputed 2 out of 24 rejected stockpiles, and that they were not exercising their rights under the CQMP.
- Tuesday 25/08/2015, 16:53 – phone call from Matshela Koko requesting me to come to his office to discuss the colliery accusation. Charlotte Ramavhona and I went to his office, and met with himself and Suzanne Daniels. We discussed the briefing note contents. He repeated the accusation from the colliery against the Eskom laboratory Sibonisiwe. We confirmed the actions, including the plan to withdraw all the reference samples held by Sibonisiwe, and to submit to a reference lab. Matshela Koko and Suzanne Daniels noted that had sufficient information to discuss with the colliery.
- Tuesday 25/08/2015, 17:23 – emailed Suzanne Daniels a copy of the briefing note and analyses

Wednesday 26/08/2015

- Wednesday 26/08/2015, 06:08 – emailed a copy of the briefing note to Vusi Mboweni, and gave brief feedback on the meeting with Matshela Koko and Suzanne Daniels
- Wednesday 26/08/2015, 12:44 – the Eskom geologist for Brakfontein Colliery, Siphelele Gobeni, emailed the colliery to advise them of their right to declare a dispute regarding Eskom's laboratory analyses. This was done as the colliery had only disputed 2 out of 24 rejected stockpiles.
- Wednesday 26/08/2015, 16:40 – emailed Matshela Koko and Suzanne Daniels feedback on the status of actions discussed the previous day, and included a copy of the email to the colliery advising them of their rights under the CQMP noted above.
- Wednesday 26/08/2015, 17:11 - phone call from Matshela Koko requesting a status update on the reference sample analyses sent to SABS Laboratories. He asked me to call the Sibonisiwe lab manager about the request for a bribe from one of their staff.
- Wednesday 26/08/2015, 17:40 – I discussed calling the Sibonisiwe lab manager with Charlotte Ramavhona, the contract manager. We concluded that it was wise to only

confront them with the allegation if the SABS reference analyses showed any evidence of malpractice.

Thursday 27/08/2015

- Thursday 27/08/2015, 17:09 & 19:25 - phone call from Matshela Koko
- Thursday 27/08/2015, 19:29 - missed call from Charlotte Ramavhona
- Thursday 27/08/2015, 19:30 - phone call to Charlotte Ramavhona
- Thursday 27/08/2015, 19:31 - phone call to Matshela Koko. Matshela asked if I had called the laboratory owner regarding the accusation. I responded that I had not, as I was waiting for evidence from the retesting of their samples. Matshela noted he would call the laboratory owner.
- Thursday 27/08/2015, 19:31 - I SMS'ed Matshela Koko the Sibonisiwe Laboratory owner's contact number.
- Thursday 27/08/2015, 20:19 - phone call to Charlotte Ramavhona

Friday 28/08/2015

- Friday 28/08/2015, 13:57 - unanswered phone call to Charlotte Ramavhona for a status update. She responded by SMS to say the report was being finalised, and that Sam Phetla had been to see Matshela Koko re. the investigation.
- Friday 28/08/2015, 15:40 - phone call from Matshela Koko
- Friday 28/08/2015, 15:46 - phone call to Charlotte Ramavhona
- Friday 28/08/2015, 16:19 - phone call to Charlotte Ramavhona
- Friday 28/08/2015, 16:22 - emailed Charlotte Ramavhona the colliery manager Jacques Roux's cell number, and Matshela's agreement with Jacques to sample 4 reject stockpiles for analysis over the weekend.
- Friday 28/08/2015, 16:23 - phone call to Charlotte Ramavhona
- Friday 28/08/2015, 16:35 - phone call to Jacques Roux, Manager of Brakfontein Colliery and special consultant to the owners
- Friday 28/08/2015, 16:35 - WhatsApp to Charlotte Ramavhona and James Mudau to confirm arrangements: we would sample 3 rejected stockpiles on Saturday, take to SABS for preparation, and then send for duplicate analyses to Brakfontein Colliery lab, and the labs at RT&D, Duvha and Sibonisiwe. Stockpiles 26A, 26B and 27A.
- Friday 28/08/2015, 16:55 - WhatsApp from Charlotte Ramavhona to confirm she will tell the lab
- Friday 28/08/2015, 16:56 - emailed Charlotte Ramavhona confirmation of the 3 reject stockpile numbers - 26A, 26B and 27A
- Friday 28/08/2015, 17:05 - WhatsApp from James Mudau confirming he will talk to Siphelele about her attending the sampling visit to Brakfontein Colliery on Saturday
- Friday 28/08/2015, 17:05 - I sent a letter to Matshela Koko, confirming the results of the SABS laboratory repeat analyses for all the Brakfontein reference samples held by Sibonisiwe Laboratory for the period 01-23 August. The SABS results contradicted the Sibonisiwe results showing 15/30 consignments failed, in that they confirmed that 29/30 should have failed.
- Friday 28/08/2015, 18:48 - WhatsApp from Charlotte Ramavhona confirming the lab is ready
- Friday 28/08/2015, 20:11 - phone call from Vusi Mboweni, requesting that I send Sam Phetla's cellphone number to Matshela Koko

- Friday 28/08/2015, 20:19 – I SMS'ed Sam Phetla's cellphone number to Matshela Koko, and Matshela acknowledged receipt
- Friday 28/08/2015, 20:21 - phone call from Matshela Koko
- Friday 28/08/2015, 20:33 – I SMS'ed Sam Phetla to alert him to expect a call from Matshela Koko
- Friday 28/08/2015, 21:44 - phone call from Matshela Koko, who requested a letter to be prepared for Brakfontein Colliery confirming the swop of the designated Eskom lab, the swop of the Eskom QA representative, and the outcome of the SABS repeat laboratory tests. Matshela noted that he can sign this letter from his Samsung Slate. Matshela also requested Sibonisiwe be removed from the lab list and replaced with SABS and RT&D.
- Friday 28/08/2015, 22:10 – WhatsApp to Charlotte Ramavhona and James Mudau confirming Sibonisiwe must be removed from the lab list and replaced with SABS and RT&D.
- Friday 28/08/2015, 22:21 – unanswered phone call to Jacques Roux
- Friday 28/08/2015, 22:21 – I SMS'ed Jacques Roux to ask for his email address, so that I could email him the signed letter when received from Matshela Koko confirming the SABS repeat laboratory tests.
- Friday 28/08/2015, 23:10 – I sent a letter to Matshela Koko (CC: Vusi Mboweni, Dan Mashigo, Petros Mazibuko and Charlotte Ramavhona), confirming the swop of the designated Eskom lab, the swop of the Eskom QA representative, and the outcome of the SABS repeat laboratory tests

Saturday 29/08/2015

- Saturday 29/08/2015, 06:03 - SMS from Jacques Roux confirming his email address
- Saturday 29/08/2015, 06:03 – missed phone call from Jacques Roux
- Saturday 29/08/2015, 06:43 – unanswered phone call to Jacques Roux
- Saturday 29/08/2015, 06:58 – WhatsApp from James Madua confirming that he couldn't contact Siphelele, and that he would accompany on the site visit
- Saturday 29/08/2015, 07:04 – WhatsApp to James Madua and Charlotte Ramavhona confirming that I would accompany on the site visit to assist, as I recalled that both had church commitments on the weekend
- Saturday 29/08/2015, 07:10 – WhatsApp from James Madua confirming that he will accompany on the site visit, so that he can conduct a full inspection from the pit to the product beds in order to understand the colliery's grade/quality control measures
- Saturday 29/08/2015, 08:26 – missed phone call from Sam Phetla
- Saturday 29/08/2015, 08:26 – SMS from Sam Phetla confirming that Matshela Koko has asked that he not be involved
- Saturday 29/08/2015, 08:32 – unanswered phone call to Sam Phetla
- Saturday 29/08/2015, 08:32 – SMS to Sam Phetla confirming that Charlotte will deal with the investigation QA side. He acknowledged this by SMS.
- Saturday 29/08/2015, 09:15 – WhatsApp from James Madua asking what time the mine would be ready ?
- Saturday 29/08/2015, 09:19 – SMS to Jacques Roux asking confirmation of the convenient time for Eskom to visit Brakfontein Colliery to collect samples
- Saturday 29/08/2015, 09:19 - missed call from Jacques Roux
- Saturday 29/08/2015, 09:27 – SMS from Jacques Roux confirming he was still busy doing retests on his lab, and would be ready to sample late afternoon
- Saturday 29/08/2015, 09:27 – unanswered phone call to Jacques Roux

- Saturday 29/08/2015, 09:28 – phone call to Charlotte Ramavhona to arrange sampling logistics, and time (calculated so that sampling could be complete before sunset)
- Saturday 29/08/2015, 09:48 – WhatsApp to James Mudau and Charlotte Ramavhona confirming the logistics plan
- Saturday 29/08/2015, 09:50 – SMS to Jacques Roux confirming the PED Head of Geology and myself will arrive at 15:00 with our rovers and samplers, and asking that he arrange a front end loader and his own sampling team
- Saturday 29/08/2015, 09:50 – phone call from Jacques Roux confirming acceptance
- Saturday 29/08/2015, 10:16 – missed call from Matshela Koko
- Saturday 29/08/2015, 10:17 – unanswered call to Matshela Koko
- Saturday 29/08/2015, 10:20 – unanswered call to Matshela Koko
- Saturday 29/08/2015, 10:21 – phone call from Matshela Koko requesting a status update. I confirmed that planned trip by James Mudau and myself to represent Eskom and oversee that sampling in the late afternoon. He asked for the contact details for Jacques Roux, which I SMS'ed to him at 10:20
- Saturday 29/08/2015, 10:28 – phone call to James Mudau, Acting Head of Geology, PED TSD
- Saturday 29/08/2015, 10:42 – phone call from Matshela Koko noting that Brakfontein colliery did not want Eskom presence on their site, and that they would do the stockpile sampling. I agreed with Matshela that this was very suspicious. Matshela noted that we still go ahead with the weekend's sampling and inter-lab comparison, but that Eskom will insist that Brakfontein stockpiles be sampled again next week in the presence of Eskom representatives, including himself.
- Saturday 29/08/2015, 11:15 – phone call to Charlotte Ramavhona, confirming cancellation of site visit to witness stockpile sampling, and Matshela Koko's indication that sampling will go ahead again next week in the presence of Eskom representatives.
- Saturday 29/08/2015, 11:16 – phone call to James Mudau, confirming cancellation of site visit to witness stockpile sampling
- Saturday 29/08/2015, 12:57 – phone call to Charlotte Ramavhona
- Saturday 29/08/2015, 14:24 – phone call from Charlotte Ramavhona
- Saturday 29/08/2015, 18:48 – unanswered call to Jacques Roux
- Saturday 29/08/2015, 18:48 – SMS to Jacques Roux requesting a status update on their sampling
- Saturday 29/08/2015, 18:48 – missed call from Jacques Roux
- Saturday 29/08/2015, 18:48 – unanswered call to Jacques Roux
- Saturday 29/08/2015, 18:50 – SMS from Jacques Roux confirming 1st bakkie is on site to collect samples, and that 2nd bakkie is awaited as samples to many for one vehicle
- Saturday 29/08/2015, 18:53 – missed call from Jacques Roux
- Saturday 29/08/2015, 18:53 – SMS to Jacques Roux to thank him for update
- Saturday 29/08/2015, 19:18 – WhatsApp from James Mudau confirming his suspicion that the colliery problems arose due to their operations, and that they appear to be rebuilding stockpiles otherwise their stockpiles would be ready for sampling without delays
- Saturday 29/08/2015, 19:47 – WhatsApp from Charlotte Ramavhona confirming bakkies were on their way to Brakfontein, and that the SABS lab was briefed and waiting for the samples. Three bakkies had to be used to carry the 1800 kg's of samples, as this is in accordance with Eskom loading requirements.

Sunday 30/08/2015

- Sunday 30/08/2015, 06:10 - missed call from Jacques Roux
- Sunday 30/08/2015, 06:10 - SMS from Jacques Roux querying why Sibonisiwe laboratory had not collected their samples ? (This had been requested by Matshele Koko the previous day)
- Sunday 30/08/2015, 07:23 – unanswered phone call to Jacques Roux
- Sunday 30/08/2015, 07:23 – SMS to Jacques Roux that I will check why.
- Sunday 30/08/2015, 07:23 – WhatsApp to James Madua and Charlotte Ramavhona suggesting inclusion of Sibonisiwe lab, as it made sense to have them participate in the inter-lab comparison to check their accuracy.
- Sunday 30/08/2015, 07:33 – WhatsApp from Charlotte Ramavhona confirming the addition of Sibonisiwe lab, and that SABS would only distribute the samples to Duvha and RT&D labs on Monday as Eskom labs do not work on the weekend.
- Sunday 30/08/2015, 08:08 –phone call from Jacques Roux stating that he has unofficial confirmation from SABS that the 3 Brakfontein reject stockpiles had passed the Eskom's specifications, and that he wanted to load them for delivery to Eskom. I stated that this was not the understanding, as the inter-laboratory test was to specifically resolve lab accuracy and that we had to anyway await for all the other lab results.
- Sunday 30/08/2015, 08:17 – WhatsApp to James Madua and Charlotte Ramavhona confirming Jacques Roux's request, and expressing my concern that we had not witnessed the sampling so could not rely on the sample representivity.
- Sunday 30/08/2015, 08:47 – WhatsApp from James Madua querying Brakfontein's adherence to the CQMP, and how they were getting unofficial results from our Eskom contract labs (Sibonisiwe and SABS) before we were ?
- Sunday 30/08/2015, 09:19 – WhatsApp from Charlotte Ramavhona querying Brakfontein staff presence at Eskom's contract lab SABS, and noting concerns that Eskom did not have representation and did not witness the sample preparation itself (at the request of Brakfontein), which compromises the results. She also noted that the inter-laboratory re-tests were for comparison purposes and not to permit loading, and that anyway insufficient parameters had been analysed. For the analyses to be used contractually, Eskom and the supplier had to both witness the sample preparation and analyses.
- Sunday 30/08/2015, 09:46 – phone call to Charlotte Ramavhona to discuss the unfolding circumstance and agree on the approach.
- Sunday 30/08/2015, 10:28 – phone call from Jacques Roux, wherein I suggested that we needed to telecon with Charlotte Ramavhona to explain the CQMP.
- Sunday 30/08/2015, 10:39 – phone call from Charlotte Ramavhona wherein we listed essential items to discuss with Jacques Roux
- Sunday 30/08/2015, 11:01 – phone call to Charlotte Ramavhona, and then teleconferenced in Jacques Roux at 11:09. We discussed that the essential CQMP principles : (1) he must not communicate with the Eskom labs; (2) sampling, sample preparation and analyses had to be witnessed by both Eskom and the supplier for them to be valid; (3) this weekend's exercise was not for contractual purposes, as the repeat analyses had already been done on the reject stockpiles and had proven rejection. These repeat analyses are final and binding, as per the CQMP; (4) Eskom geology would like to assess the colliery operations to confirm potential problems. Jacques Roux accepted the points, and apologised for contravening the CQMP principles.
- Sunday 30/08/2015, 11:37 – phone call to Charlotte Ramavhona to debrief from the telecon
- Sunday 30/08/2015, 11:45 – phone call from Charlotte Ramavhona

- Sunday 30/08/2015, 11:49 - missed call from Jacques Roux
- Sunday 30/08/2015, 12:10 - WhatsApp from James Madua noting that Eskom was allowing the supplier to bully us, and that all the analyses will not fix operational problems
- Sunday 30/08/2015, 17:32 - missed call from Matshela Koko
- Sunday 30/08/2015, 17:46 - unanswered call to Matshela Koko
- Sunday 30/08/2015, 18:49 - unanswered call to Matshela Koko
- Sunday 30/08/2015, 18:51 - WhatsApp to James Madua and Charlotte Ramavhona querying status of lab analyses
- Sunday 30/08/2015, 18:57 - phone call from Matshela Koko querying status
- Sunday 30/08/2015, 19:05 - WhatsApp message from Charlotte Ramavhona noting there was no further lab feedback. I called her to ask her to chase up.
- Sunday 30/08/2015, 19:51 - WhatsApp message from Charlotte Ramavhona noting there was still no further lab feedback. I noted that I was preparing a report to Matshela Koko, and would leave place for the missing analyses.
- Sunday 30/08/2015, 19:11 - unanswered phone calls to Jacques Roux
- Sunday 30/08/2015, 19:11 - SMS to Jacques Roux, to ask for his lab analyses.
- Sunday 30/08/2015, 19:11 & 20:38 - unanswered phone calls to Jacques Roux
- Sunday 30/08/2015, 21:01 - I emailed a preliminary laboratory investigation report to Matshela Koko. An unacceptable variation in the total sulphur analyses was noted
- Sunday 30/08/2015, 21:04 - unanswered call to Matshela Koko
- Sunday 30/08/2015, 21:11 - phone call from Matshela Koko wherein I explained the status

Monday 31/08/2015

- Monday 31/08/2015, 03:04 - WhatsApp message from Charlotte Ramavhona noting there was still no further lab feedback. RT&D now contracts out analyses to Siza Laboratories, and Duvha subcontracts their total sulphur analyses to SGS.
- Monday 31/08/2015, 06:20 - unanswered phone call from Jacques Roux
- Monday 31/08/2015, 06:20 - SMS from Jacques Roux confirming he will send his lab's analyses
- Monday 31/08/2015, 12:26 - phone call from Vusi Mboweni requesting the Brakfontein investigation file by 10:00.
- Monday 31/08/2015, 12:49 - email from Gert Opperman, the Brakfontein Colliery CSA contract manager, noting that he was uninformed on the dispute and wanted to be included in further communication. I responded that we would gladly do so, but also explained that this was a lab dispute and had not impacted on the CSA.
- Monday 31/08/2015, 13:32 - email from Charlotte Ramavhona confirmed that the Brakfontein Colliery laboratory, Vitrovian, is not SANAS accredited
- Monday 31/08/2015, 14:28 - missed call from Vusi Mboweni
- Monday 31/08/2015, 16:14 - phone call to Charlotte Ramavhona to ask for a status report
- Monday 31/08/2015, 16:17 - received email from Vuyisile Ncube noting the CQMP had not been signed yet for the Brakfontein CSA.
- Monday 31/08/2015, 16:23 - unanswered phone call to Jacques Roux to ask for a status report
- Monday 31/08/2015, 16:23 - SMS'ed Jacques Roux a request for him to send his Abrasiveness Index analyses to me.
- Monday 31/08/2015, 16:25 - waited outside Vusi Mboweni's office to give him feedback, but he was unable to see me

- Monday 31/08/2015, 17:00 (approx.) – Charlotte Ramavhona and I met with Marumo Lekota to discuss the dispute, and she noted the chronological order of events and the facts evident thus far.

Tuesday 01/09/2015

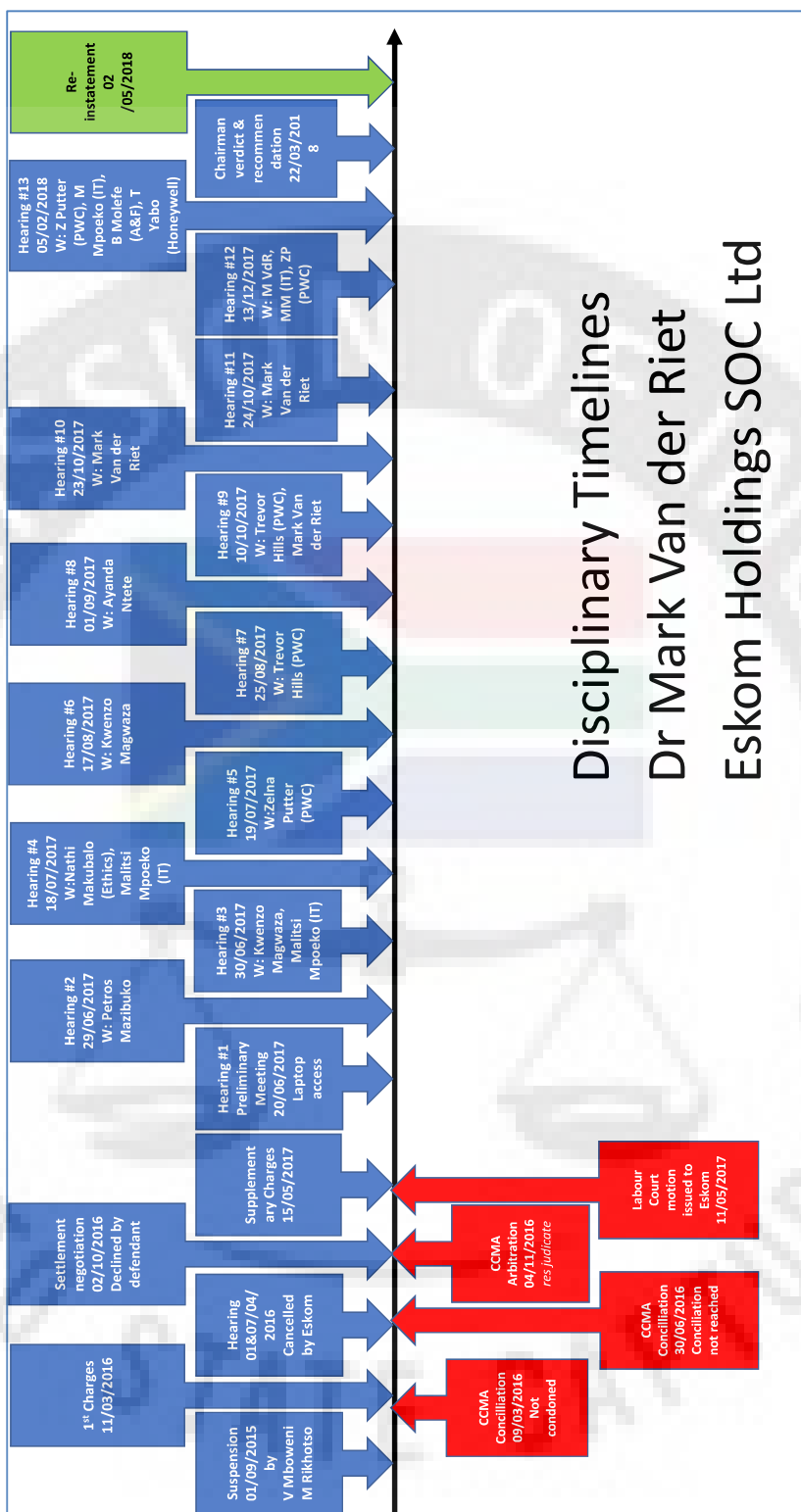
- Tuesday 01/09/2015, 10:30 – received email from Jacques Roux with his abrasiveness index analyses.
- Tuesday 01/09/2015, 10:30 – I was suspended by Vusi Mboweni and Norman Rikhotso (IR) with immediate effect, pending an investigation into allegations of misconduct. I had my laptop with me during the meeting, and immediately handed this over to Vusi Mboweni for safe-keeping. During this meeting I handed over the investigation case file, which contained:
 - Briefing note summarising the lab results to date, and a recommendation that the colliery operations need a review by an Eskom geologist as there is an increasingly apparent risk that the operations are contrary to the CSA, which stated that the colliery must not mine the 4U seam as the qualities were unacceptable to Eskom
 - A copy of the RT&D report which specified that the 4U seam qualities were unacceptable to Eskom
 - A copy of the briefing note compiled on 28 August for Matshela Koko, confirming the results of the SABS laboratory repeat analyses for all the Brakfontein reference samples for the period 01-23 August.
 - Copies of the laboratory analyses obtained up to that point from SABS, Sibonisiwe and Brakfontein Colliery lab.
 - A transcript of SMS's received by Sibonisiwe Laboratory from Brakfontein Colliery showing that the colliery had allegedly attempted to exert undue pressure on the laboratory to change their results
 - A statement from Sibonisiwe Laboratory that Brakfontein Colliery staff had gained physical access to their laboratory in the early hours of Sunday 30 August 2015

Annexure “3”



Annexure 3

Graphical representation of my disciplinary process




Annexure “4”



Annexure 4

Briefing note dated 28 August 2015 to Mr Matshela Koko

134

 Eskom	BRIEFING DOCUMENT	Unique ID:	721077
		Revision:	1
		Effective Date:	
		Page 1 of 4	
		Primary Energy Division	

CLASSIFICATION	CONFIDENTIAL	DATE	28 AUGUST 2015
FOR ATTENTION	MATSHELA KOKO	ACTION REQUIRED	FOR INFORMATION
FROM	MARK VAN DER RIET	REFERENCE	
SUBJECT	PROGRESS FEEDBACK ON BRAKFORTEIN QUALITY DISPUTE		

INTRODUCTION

Brakfontein Pulverized Fuel (PF) and bulk reference samples obtained from the split of the contractual samples from 01 August to 23 August 2015 were relabeled at the Nominated laboratory (Sibonisiwe) and reanalyzed at SABS Laboratory.

The purpose of the exercise was to verify the integrity of results reported by Sibonisiwe during precertification of Brakfontein stockpiles.

The PF samples were analysed for Ash, Calorific Value (CV), Volatile Matter (Vols) and Total Sulphur (TS), and results are reported in the table below. The bulk reference samples were analysed for Size grading, AFT and AI, and PED is still awaiting results from SABS Laboratory.

Table 1: Summary of Brakfontein results reported by Sibonisiwe and SABS Commercial Laboratories


Number of stockpiles produced	30					
Stockpiles failed Sibonisiwe	15	5 (Ash)	2 (CV)	4 (Vols)	3 (TS)	2 (AI)
Stockpiles failed SABS	29	10 (Ash)	5 (CV)	24 (Vols)	12 (TS)	
Dispute stockpile 13A	Failed	Ash, CV, Vols, AI				
Dispute stockpile 24A	Failed	AI				
Dispute stockpile 26A	Failed	TS				
Dispute stockpile 28B	Failed	TS				

FINDINGS

SABS has reported higher Ash of up to 36%, lower CV of 18.23 MJ/kg, Lower Vols of 17.3% and higher TS of 1.90 compared to Sibonisiwe. Both laboratories confirmed that above 50% of the stockpiles produced at Brakfontein until 23 August 2015 were of lower quality on Ash, CV, Vols, AI and TS. SABS's results on AI are not yet available.

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	BRIEFING DOCUMENT	Unique ID: 721077
		Revision: 1
		Effective Date:
		Page 2 of 4
		Primary Energy Division

Sibonisiwe had declared that Vols and Ash are predominantly on the borderline with averages of 29.2% on Ash and 20.9% on Vols, whereas SABS results are slightly higher on Ash and lower on Vols with averages of 30.7% on Ash and 19.1% on Vols.

The reproducibility of CV results between the two laboratories was very good, however the SABS lab results are slightly higher. Average CV results of Sibonisiwe and SABS are 21.72MJ/kg and 21.82MJ/kg respectively.

SABS has confirmed the existence of specification rejections with regard to Ash, Vols and TS, whereas Sibonisiwe has confirmed existence of the same rejections but to a lesser extent.


Table 2: results from the two laboratories compared against the contractual specifications (shaded numbers indicate reject qualities)

	SIB	SABS	SIB	SABS	SIB	SABS	SIB	SABS	SIB
	ASH	ASH	CV	CV	VOLS	VOLS	TS	TS	AT
ESKOM STOCKPILE 1	29.4	30	20.58	20.53	21.7	18.1	0.89	1.00	144
ESKOM STOCKPILE 2	29.6	30	20.79	21.16	22.8	16.2	1.11	1.00	127
ESKOM STOCKPILE 3	26.7	26.9	23.62	23.38	20.0	18.2	1.23	1.75	431
ESKOM STOCKPILE 4	25	20.3	24.04	25.85	17.4	18.2	1.74	1.18	250
ESKOM STOCKPILE 5	26.5	26.2	23.81	24.11	20.1	17.3	1.14	1.33	258
ESKOM STOCKPILE 6	24.8	24.2	23.76	24.69	20.4	18.5	1.03	1.44	252
ESKOM STOCKPILE 7	28.4	28.3	21.03	23.10	21.8	17.9	1.11	1.22	233
ESKOM STOCKPILE 8	29.5	30.2	20.57	20.58	21.8	16.9	1.03	1.80	296
ESKOM STOCKPILE 9	29.5	31.8	20.60	20.97	20.6	16.7	1.23	1.33	349
ESKOM STOCKPILE 10	26.7	26.5	22.10	23.56	20.1	17.5	1.30	1.34	284
ESKOM STOCKPILE 11	29.1	28.8	22.29	22.38	20.9	17.9	1.30	1.32	421
ESKOM STOCKPILE 12	27.5	31.6	22.39	21.46	21.1	17.4	1.13	1.45	277
ESKOM STOCKPILE 13	29.4	30.7	21.99	21.58	20.3	17.9	1.08	1.26	355
ESKOM STOCKPILE 14	27.1	28.5	22.44	22.56	20.1	17.3	1.12	1.30	303
ESKOM STOCKPILE 15	25	30.1	21.15	21.54	19	20.1	1.17	1.15	174
ESKOM STOCKPILE 16	31.6	32.5	20.93	20.23	18.9	18.6	1.04	1.09	450
ESKOM STOCKPILE 17	29.7	32.6	20.65	20.54	20.5	19.2	1.13	1.20	333
ESKOM STOCKPILE 18	30	29.3	21.58	22.09	21.5	21.6	1.90	1.39	375
ESKOM STOCKPILE 19	27.8	27.7	23.19	23.18	20.3	20.3	1.83	1.55	370
ESKOM STOCKPILE 20	28.1	28	22.57	22.58	25	20.4	1.21	1.35	291
ESKOM STOCKPILE 21	28.7	33.6	21.33	20.18	20.7	17.8	0.94	1.02	302
ESKOM STOCKPILE 22	28.7	28.9	21.53	22.18	21.1	20.1	1.21	1.80	293
ESKOM STOCKPILE 23	33.7	33.9	20.09	20.08	18.9	18.6	1.12	1.22	482
ESKOM STOCKPILE 24	29.5	32.6	20.56	20.50	20.4	19.4	1.00	1.02	450
ESKOM STOCKPILE 25	28.4	29.6	21.75	22.02	20.5	19.2	1.30	1.30	450
ESKOM STOCKPILE 26	31	31.7	20.96	21.04	20.1	19.8	1.23	1.06	388
ESKOM STOCKPILE 27	25.1	25.6	23.43	23.72	18.8	18.9	1.80	1.87	401
ESKOM STOCKPILE 28	29.5	30.8	21.20	21.20	21.7	20.4	1.33	1.33	352
ESKOM STOCKPILE 29	29.7	36.4	21.03	18.77	21.6	19.4	1.21	1.21	427
ESKOM STOCKPILE 30	30.8	36.1	20.52	18.68	20.6	19.1	1.30	1.07	409
	6	15	2	5	4	28	5	12	2

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136

 BRIEFING DOCUMENT	Unique ID:	721077
	Revision:	1
	Effective Date:	
	Page 3 of 4	
	Primary Energy Division	

TS results are comparable in most samples, and both laboratories confirm existence of spikes of up to 1.90% from SABS and 1.83% from Sibonisiwe, the averages are 1.28% and 1.22% from SABS and Sibonisiwe respectively.

There is a higher number of rejections on Ash, Vols and TS from the SABS laboratory results, compared to those from the Sibonisiwe Laboratory. The following actions are in progress to conclude the Brakfontein quality dispute.

ACTIVITY	RESPONSIBLE PERSON	STATUS
1. Three reject stockpiles will be sampled by the Brakfontein colliery manager in the presence of a PED geologist. These samples will be prepared at the SABS lab, then despatched for analysis to RT&D, Duvha and Sibonisiwe.	James Mudau	Will commence Saturday 29 Aug pm, at the request of Brakfontein lab manager.
2. Relabelled samples that were analysed at SABS are currently being analysed at Noko Laboratory- referees laboratory	Charlotte Ramavhona	In progress, due date 31 August 2015
3. A certified reference material (sample of known qualities) for Ash, CV, Vols and TS is being prepared and will be distributed amongst the three laboratories that participated in this exercise; Noko, SABS and Sibonisiwe	Charlotte Ramavhona	In progress, due date 31 August 2015
4. Arrangements were made to have the relabelled samples as analysed at Sibonisiwe, to be analysed at Brakfontein's onsite laboratory, and the results will be compared against the other laboratories results.	Sam Phetla	In progress, due date 31 August 2015
5. Complete analysis of samples: Prox, CV, TS, AFT, PSD and AI	Charlotte Ramavhona	Due date, 31 August 2015
6. Compilation and issuing of comparison results	Charlotte Ramavhona	Due date, 01 September 2015

Prepared by:

Charlotte Ramavhona
QA Manager (Acting)

Date


Sam Phetla – Senior QA

Date

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		Revision:	1
		Effective Date:	
		Page 4 of 4	
		Primary Energy Division	


Approved by:

.....
 Mark Van der Riet
 TSD Manager (Acting)

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01.4

Mr Magwaza



AFFIDAVIT

I, THE UNDERSIGNED, KWENZOKUHLE KENNEDY MAGWAZA

Hereby declare under oath as follows: -

1.

I am an adult male with ID 7306045399080. I am a Chief Mining Engineer currently acting as Senior Manager: Technical Services Department and Project Management Office with Eskom Primary Energy Division ("PED"), attached to the Technical Services Department (TSD) for nearly ten (10) years. My work telephone number is 011 800 4553 and mobile phone number is 083 6567699.

2.

The facts herein contained are within my own personal knowledge and are to the best of my knowledge and belief both true and correct.

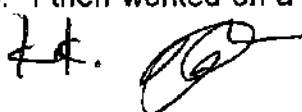
3.

I am duly authorised to depose to this affidavit in terms of my position.

4.

4.1. I have a BSc degree in Mining Engineering from the University of the Witwatersrand obtained in 1996, as well as a Master's degree in Business Leadership (MBL) from UNISA School of Business Leadership obtained in 2010.

4.2. I started with Eskom in May 2007 in Coal Supply Operations. I was appointed as a Coal Supply Unit Manager (CSUM) for Kendal Power Station from 01 February 2008 to 09 September 2008. I then worked on a project to extend the operating

4. 

life of Kendal Power Station's tied-colliery Khutala Colliery and was thereafter appointed as Chief Mining Engineer from April 2009.

4.3. I have had two opportunities to act as Senior Manager Technical Services (and Project Management Office). The first time was for fourteen months, from 7 September 2015 to 30 November 2016. The second, from 1 July 2018 to date. Prior to these two acting opportunities, I had been acting as Middle Manager: Engineering in Technical Services Department.

4.4. PED Technical Services Department (TSD) has four functions, namely: Geology, Engineering, which is combined with Project Management Office and Quality and Quantity Assurance. I have included a document titled NEW WORKING ARRANGEMENTS FOR TECHNICAL SERVICES dated 1 October 2015 to explain what services are offered by TSD (*Annexure KKM1*). In short, TSD among other things renders a support service as cross functional team members for other PED departments such as Fuel Sourcing and Coal Supply Operations, advising when needed.

4.5. Regarding the question on: Why Kendal Power Station Laboratory was used to analyse Brakfontein Mine samples? My response is detailed as follows:

4.5.1. The late Dr Mark Van Der Riet, Ms Charlotte Ramavhona, Ms Sipelele Gobenj and Mr Sam Phetla were suspended around the same time as two of the five Nominated Laboratories, namely, Sibonisiwe Coal Laboratory Services and SGS South Africa (Pty) Ltd towards the end of August 2015. Dr Van Der Riet had been acting Senior Manager Technical Services when he was suspended. He was succeeded by Mr. Rakgomo Setshedi for about a week. (This was the second acting opportunity for Mr Setshedi in Technical Services as he had acted before Dr Van Der Riet). Mr Vusi Mboweni, the then Senior General Manager for Primary Energy (PED) appointed me to act for a month, which was later extended. I succeeded



Mr Setshedi on 7 September 2015 and reported to Mr Mboweni. Mr Setshedi returned to his acting as Senior Manager in Fuel Sourcing Department.

- 4.5.2. It was the first time I was fully involved in the matters relating to coal qualities. I had to quickly learn and provide answers on a number of issues ranging from engagements with Eskom's Assurance & Forensics, who were working closely with PWC to probe the coal qualities precertification process, to deliveries of poor coal qualities to some Eskom Power Stations.

The Use of Kendal Power Station Laboratory to Analyse Brakfontein Mine Samples

- 4.5.3. On 21 October 2015, as I was driving to work around 07h30, I received a call from Mr Matshela Koko, who was Group Executive for Generation at the time, summoning me to his office. It was the first time Mr Koko had contacted me. Mr Mboweni who reported to Mr Koko, was not in office on that day. I continued to my office desk to drop my laptop and immediately proceeded to Mr Koko's Office. This was the second time I had been called to his office. I shall discuss the first incident in 5.1 below.
- 4.5.4. Mr Koko was alone in his office and I soon realised that this was not a friendly call as he did not offer me a seat to sit down. I was made to stand for what appeared to be up to 30 minutes as he expressed his displeasure about "not just you, but people in PED in general, who are fighting other peoples' battles". If I remember well, Ms Kiren Maharaj, the previous PED Divisional Executive (Mr Mboweni's predecessor) was on suspension and Mr Johann Bester former General Manager: Fuel Sourcing in PED resigned suddenly. Mr Koko proceeded to tell me about where Mark (Dr Van Der Riet) had been seated in (Mr Koko's office), when he was telling

him exactly what he was telling me.

4.5.5. I felt threatened when he proceeded to say "The only reason I am not suspending you is because you do not deserve it. You think you are right. You are right at your house, not here. This is Eskom". I wondered whether he meant that I was one mistake away from being suspended like Dr Van Der Riet? I noticed that Mr Koko had a way to get his message across, without raising his voice.

4.5.6. He then instructed me to do the following in no particular order:

4.5.6.1. Remove Ms Viloshnee Moodley from her acting role of Middle Manager: Quality and Quantity Assurance. I was not to mention his name and if she resisted, he would find another way to deal with her. Mr Koko mentioned that Ms Moodley had suspended a service provider for Obseving and Roving at Brakfontein Mine, Mpumamanzi Group. She had replaced it with Rockcom Transport and Projects;

4.5.6.2. Reverse decision to suspend Mpumamanzi Group;

4.5.6.3. Use Kendal Laboratory to analyse Brakfontein Mine samples; and

4.5.6.4. I was meant to do this immediately and send him e-mails as proof before midday.

4.5.7. I then returned to my desk, drafted the letters and sent them to the Obseving and Roving service providers, to Brakfontein Mine personnel (*Annexure KKM2*) and an e-mail to Ms Moodley (*Annexure KKM3*) as instructed and then to Mr Koko (*Annexure KKM4*).

- 4.5.8. May I highlight that the removal of Ms Moodley was not a demotion as she was in middle management already and I later informed Mr Mboweni about it. Ms Moodley was acting in same level as her occupation, which is Chief Advisor: Quality and Quantity Assurance. In PED, one does not get compensated for acting in any role. Ms Moodley was replaced by Mr Khulekani Dladla, who is Senior Engineer: Metallurgy.
- 4.5.9. The use of Kendal Lab to analyse Brakfontein samples was out of the norm as other Short/Medium Term Coal Contracts were analysed at Nominated Labs. I believe this was an Executive decision discussed between Mr Koko as Head of both Generation and PED, and Mr Chistopher Nani, the then Kendal Power Station Manager. If I remember well, funds had been made available to upgrade the Kendal Lab before my time.
- 4.5.10. The instruction to change the lab analysing the Brakfontein Mine coal samples from SABS Lab to Kendal Power Station Lab came from Mr Koko. In my view it was out of the norm for a Group Executive to issue such an instruction.
- 4.5.11. May I also add that in general, there were serious problems with coal qualities sent to Eskom Power Stations even before I started acting. In my middle management role I had very little to do with coal qualities. All of a sudden I had to deal with coal-related load losses at some power stations, that were way out of control.
- 4.5.12. The PWC investigation was revealing serious challenges with the pre-certification process, especially with the performance of the Nominated Labs, which were ISO 17025 Accredited (*Annexure KKM5*). Although the investigation was triggered by the Brakfontein Mine coal supply, it

included how the NEC 3: TSC Lab Contracts had been procured, as well as how they had been managed by the Quality and Quantity Assurance team in Technical Services Department of PED.

4.5.13. Two of the five Nominated Labs had been on suspension and there was no indication of when the suspensions would be uplifted. The turn-around times were to deliver samples results were sometimes not met and the coal trucking operators were complaining about shortage of coal in the system to transport.

4.5.14. The complaints from Brakfontein Mine were not stopping either. I heard that the suspension of the four colleagues and the two labs was as a result of a lab requesting a bribe to pass Brakfontein Mine's coal qualities.

4.5.15. It is important to note that at the time of the change, the Kendal Power Station Lab was not ISO 17025 accredited. However, Kendal Power Station Lab had been analysing coal samples for coal received through the conveyor from the tied Khutala Mine for over 20 years under the Kendal/Khutala Coal Supply Agreement, for 12.2 million tons per annum. An audit of the Kendal Power Station Lab was conducted by PED Qualities and Quantities Assurance before the Brakfontein Mine coal samples were delivered (*Annexures KKM6*). A lot of gaps were identified and the Kendal Lab had to close them and prepare for ISO 17025 Accreditation.

5.

The Brakfontein Mine Coal Quality Management Procedure (CQMP)

5.1 In 4.5.3 I mentioned that I was meeting Mr Koko for the second time on 21 October 2015. I know the date of the 21st because of the dates on the e-mails I had sent. The first time I met him was when my then manager, Mr Mboweni, had

called me to come to Mr Koko's office. I do not recall the exact date in September 2015, but I do recall that it was just after 18h00 when I was about to leave my desk.

- 5.2 Mr Mboweni was with Ms Ayanda Ntetha, who was the General Manager: Fuel Sourcing (Acting) and Ms Marumo Lekoto, who was working in the Office of the Group Executive. I am not sure in what capacity. Ms Ntetha had replaced Mr Bester. If I remember well they were preparing responses to questions raised by a journalist about Brakfontein Mine and Mr Mboweni wanted me to assist with some of the responses.
- 5.3 Mr Koko later walked in and immediately demanded to know why the Brakfontein Mine CQMP had not been signed. Mr Mboweni intervened to say that I had recently assumed this role. Mr Koko ignored him and continued to ask me. "Chief, am I allowed to talk to you or ask you questions?" I responded by saying yes he was allowed and he quickly said "then answer my question". I told him I did not know that it had not been signed. He then proceeded to sit on his chair and asked me no further questions.
- 5.4 The Brakfontein Mine CQMP should have been signed on 10 March 2015 when the Coal Supply Agreement was signed as it is a contractual document detailing how coal qualities issues would be handled. I signed the cover page of the Brakfontein Mine CQMP together with my colleagues on 30 September 2015 to formalise it as we could not implement an unsigned document (**Annexure KKM7**).

6.

The Use of Kendal Power Station Lab to Analyse Optimum Coal Samples for Arnot Power Station Coal Deliveries

- 6.1 One Saturday, before the Optimum Coal deliveries to Arnot Power Station with coal could commence, I received a call from Mr George Van Der Merwe, who was
- Affidavit Kwenzokuhle Kennedy Magwaza

[Handwritten signature]

if I remember well a Chief Executive Officer of an entity related to the Brakfontein Mine.

- 6.2 The purpose of Mr Van Der Merwe's call was to request that they be allowed to use the Kendal Power Station Lab to analyse coal samples for the Optimum Coal Mine to Arnot Power Station coal supply. I responded by saying that I did not think that the Kendal Lab would have enough capacity to handle additional samples. He insisted until I said I would confirm with Mr Thamsanqa Sibanda, who was Middle Manager: Operating, responsible for the Kendal Power Station Lab.
- 6.3 I called Mr Sibanda on his cell phone and he confirmed that the Kendal Lab indeed did not have additional capacity. I called Mr Van Der Merwe to inform him this and I thought that was the end of story.
- 6.4 I then received a call from Mr Sibanda informing me that I could bring the Optimum Mine coal samples to Kendal. I said to him but you have just said you do not have capacity. He shocked me when he said something like, "I do not know who you are talking to, now I am receiving phone calls, just bring the samples and I shall see what to do."
- 6.5 I felt I pressured to deviate from an established norm and I decided to call Mr Mboweni to report this and get his advice. Sadly, Mr Mboweni's response was that this was an operational issue, why was I involving him in operational matters, whereas he had me there to handle such issues.
- 6.6 I then called Mr Van Der Merwe and told him that Kendal Lab had agreed to analyse Optimum Mine samples for coal intended for Arnot Power Station.
- 6.7 It was irregular of a CEO of a company to call a Technical Services Manager to request a change of lab usage. The proper way would have been to request this through Coal Supply Operations, stating the reasons to request such a change.

Coal Supply Operations would then forward the request to Technical Services Department. The Middle Manager: Quality and Quantity Assurance is the person that may appoint a lab as an NEC 3:TSC Service Manager.

6.8 This was a limited duration contract. It commenced in January 2016 and concluded in September 2016.

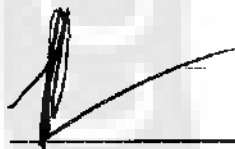
7.

Declaration by deponent regarding the taking of the oath:


I know and understand the contents of this declaration.

I have no objection to taking the prescribed oath.

I consider the prescribed oath to be binding on my conscience.



Signature of Deponent



SIGNATURE OF DECLARANT

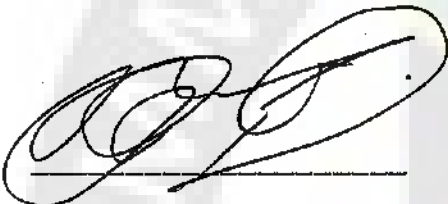
I certify that the deponent has acknowledged that he/she knows and understands that the content of this declaration which was sworn to affirmed before me and the deponent's signature/thumbprint was placed herein in my presence

JUSTICE OF THE PEACE COMMISSIONER OF OATHS
Designation(Rank) Justice of the Peace Ex Officio Republic of
South Africa
Security, Megawatt Park, Maxwell Drive, Sandton
Date: 2019-02-19 Place: Megawatt Park

CERTIFICATE BY COMMISSIONER OATHS:

It is hereby certified that the aforesaid affidavit was signed and sworn to in my presence at 09 h 18 on this 19th day of February 2019 at Megawath Park and the said deponent having confirmed and acknowledged: -

- (a) that he knows and understand the contents thereof;
- (b) that he confirms the truth thereof;
- (c) that he has no objection to taking the prescribed oath; and
- (d) that he regards the said oath as binding on his conscience.




Commissioner of Oaths

FULL NAMES : Johannes Beyers de Wet Wentzel
 DESIGNATION : Officer Security
 PLACE : Ekom Megawath Park
 ADDRESS : Maxwell Drive; Sunninghill.

Annexure “KKM1”



Annexure KKM1

	INTERNAL MEMO	Unique ID:	723946
		Revision:	1
		Effective Date:	06 August 2014
		Page 1 of 4	
		Primary Energy Division	

CLASSIFICATION	CONFIDENTIAL	REVIEW DATE	1 OCTOBER 2015
FOR ATTENTION	PED	ACTION REQUIRED	FOR INFORMATION
FROM	KWENZA MAGWAZA	CONTACT	+27 11 800 4553
SUBJECT	NEW WORKING ARRANGEMENTS FOR TECHNICAL SERVICES		

1. INTRODUCTION

Primary Energy Division's Technical Services Department (TSD) mandate is to provide accurate, credible, consistent and timeous technical information, to enable the optimal identification, development, sourcing, procurement and delivery of the required amounts of primary energy (water, coal, limestone, biomass), to client specification over the full plant life cycle of Eskom's generating assets.

Therefore the department has realigned its functions to suit the requirements of the business and for continuous improvement purposes. The new working arrangement was effected from 01/06/2015 and the key changes are outlined in this Memo. As shown in Figure 1.1 below, the structure of TSD consist of the following sub departments.

- Quality assurance
- Engineering
- Geology
- Project Office

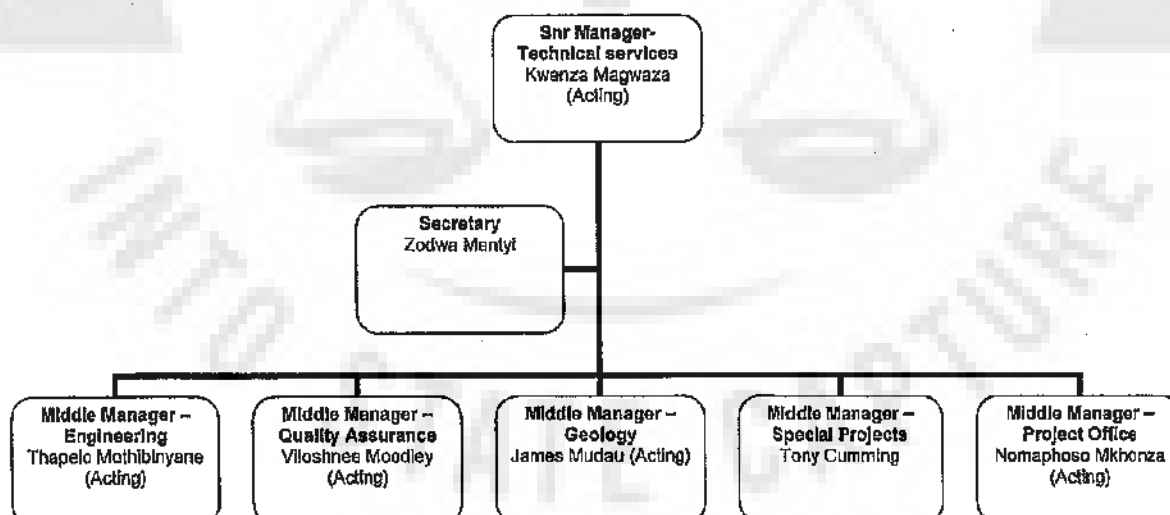



Figure 1.1: PED TSD management structure

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	INTERNAL MEMO	Unique ID:	723946
		Revision:	1
		Effective Date:	06 August 2014
		Page 2 of 4	
		Primary Energy Division	

2. QUALITY ASSURANCE SUB DEPARTMENT

2.1 Sub department objectives

The objective of the Quality Assurance sub department is to provide assurance on the primary energy (coal and limestone) quality and quantity that is delivered to all Eskom's coal-fired power stations.

The Quality assurance sub department is further divided into the following sub functions:

- Quantity assurance
- Quality assurance

2.2 Sub department structure

The structure of the Quality Assurance sub department is shown in figure 2.1 below.

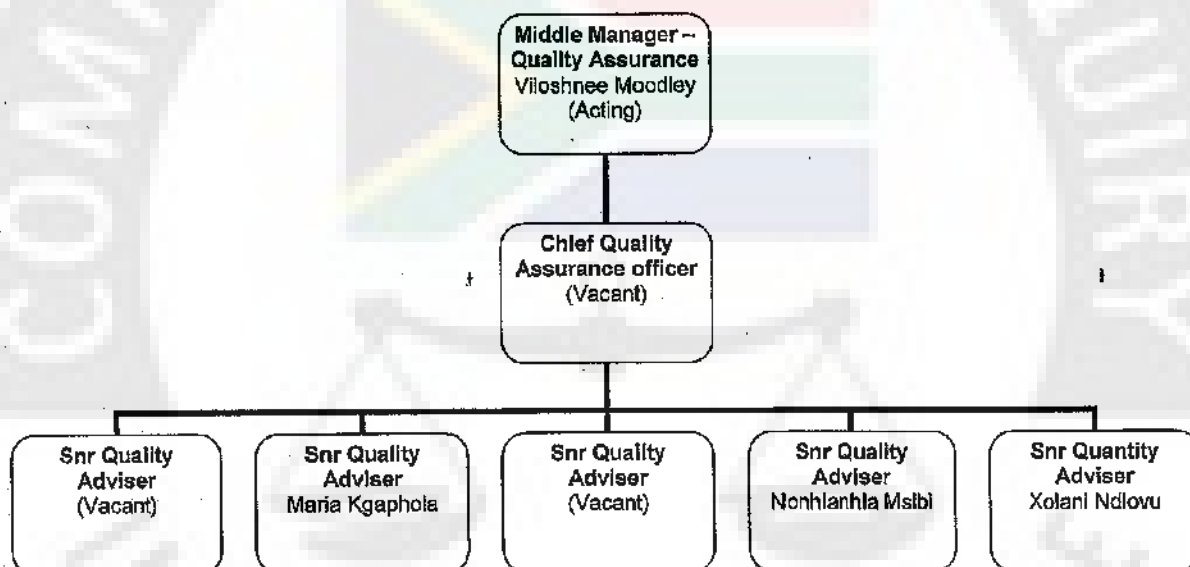


Figure 2.1: Quality Assurance sub department structure

2.3 Areas of accountability

2.3.1. Quantity Assurance sub department


The Quantity Assurance sub department is accountable for the following:

Assurance of stockyard management

1. Coal Stock Survey – job descriptions
2. Rain readiness
3. Audits of measurement devices *KK*

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	INTERNAL MEMO	Unique ID:	723946
		Revision:	1
		Effective Date:	06 August 2014
		Page 3 of 4	
		Primary Energy Division	

2.3.2 Quality assurance sub department

The Quality Assurance sub department is accountable for the following:


1. Audits of commercial, Power Station and Mine laboratories to verify compliance to applicable ISO standards and Coal Quality Management Procedure
2. Evaluate results reported by the laboratory in the certificate of analysis against the results declared in the Quality control sheet by the Supplier for payment purposes.
3. Involvement in specific functions regarding Power Station laboratories
 - Engaging with key personnel at Chemical Services Managers forums
 - Participate in peer review committee
 - Lead ISO 17025 accreditations in all Power Station laboratories
4. Management of PED laboratory Services Contract with panel of Service Providers: Transport and Analysis of Contractual Samples from all sources that are using Eskom contracted commercial Laboratories.
5. Engagement with RT&D management on the Services rendered to PED through Service Level Agreement to offer technical and consulting services and services rendered on the calibration of Abrasive Index instruments.
6. Organising and conducting verification sampling at the Power Station or siding by;
 - Engaging with all stakeholders to implement procedures and put systems in place that will ensure credibility on the verification sampling process.
 - To develop, implement and communicate site specific sampling procedures to all stakeholders.
 - Audit compliance to the agreed sampling procedures and processes
7. The revision of long term Coal Quality Management Procedures

The Quality Assurance support structure for Power Stations, Mine and Commercial Laboratories is shown in Figure 2.2 below

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	INTERNAL MEMO	Unique ID:	723946
		Revision:	1
		Effective Date:	06 August 2014
		Page 4 of 4	
		Primary Energy Division	

CSM	OU	CSUM	PS Laboratory	Mine Laboratory	Quality Assurance
Petros Mzibuko	OU1	Thulani Sibanyoni	Anot	Exaro Coal (Pty) Ltd	Sam Phetla
			Matimba	Exaro Coal (Pty) Ltd	
		Haron Kola	Cemden		Viloshnee
		John Mamabolo	Malla	Exaro Coal (Pty) Ltd	Sam Phetla
			Medupi	Exaro Coal (Pty) Ltd	
Martinus Blomend(Acting)	OU2	Bridgeman Kgolegomang	Kriel	Anglo Coal SA (Pty) Ltd	Tsholo Sigodi
		Pheleas Khoza	Lathebe	Anglo Coal SA (Pty) Ltd	
		Martin Makoni	Tutuka	Anglo Coal SA (Pty) Ltd	
		Sylvia Bopape	Grooblet		Viloshnee
Vuytelle Neube(Acting)	OU3	Isaac Teje	Kendal	BECSA	Viloshnee
			Durba	BECSA	
		Gerl Opperman	Mejuba		Maria Kgaphola
			Hendrina	Optimum Coal Holdings	
		Sidney Kgolleng	Komat		Maria Kgaphola

SERVICE AREA	ACCOUNTABLE QA
Commercial Laboratories	Charlotte Ramavhona
SLA with ESKOM RT&D	Viloshnee Moodley

Figure 2.2 Quality assurance support structure

3. ENGINEERING SUB DEPARTMENT

3.1 Sub department objectives

The objective of the Engineering sub department is to provide technical specification and direction, both in execution of capital projects at the Eskom cost plus mines and in support of operating Eskom Power Stations. The engineering sub department is further divided into the following sub functions:

- Coal processing engineering
- Electro-mechanical engineering
- Mining engineering


3.2 Sub department structure

The structure of the Engineering sub department is shown in figure 3.1 below.

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	INTERNAL MEMO	Unique ID:	723946
		Revision:	1
		Effective Date:	06 August 2014
		Page 5 of 4	
		Primary Energy Division	

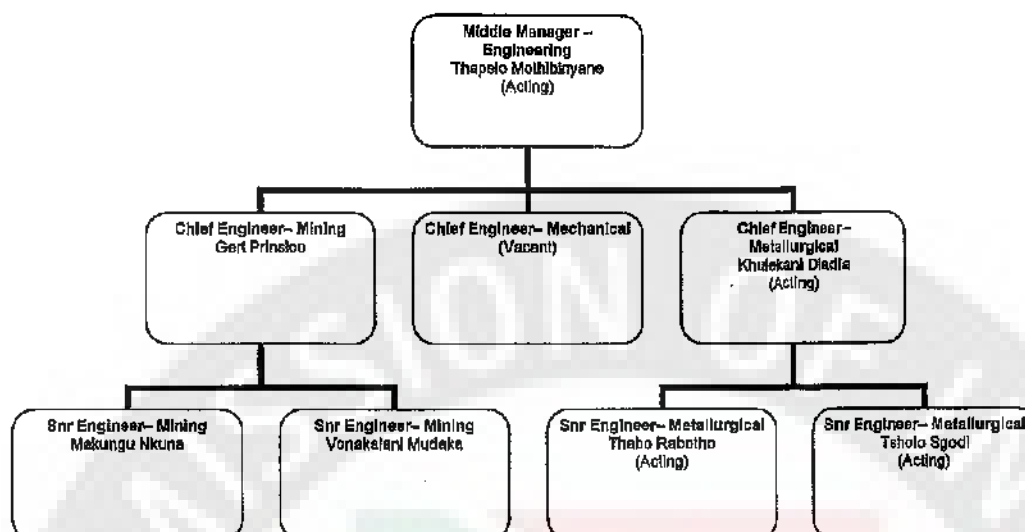


Figure 3.1: Engineering sub department structure

3.3 Areas of accountability

The Engineering Manager is accountable for all the engineering function's deliverables. The function's activities will be linked and aligned to Group Technology's Engineering (GTE) Centres of Excellence.

3.3.1 Coal processing engineering

The Coal Processing engineering sub function is accountable for the following:


1. Coal processing aspects including coal beneficiation plants, sampling plants at power stations and at coal supplier sites, bias tests, coal processing assets management
2. Review of the Coal Processing Section of LOMPs/Budgets.
3. Review of pre-feasibility studies for the purpose of entering into Coal supply agreements

3.3.2 Electro-Mechanical engineering

The Electro-Mechanical engineering sub function is accountable for the following:

1. Bulk materials handling
2. Assets management, valuation and disposal of scrap as well as FRAs
3. The review of the Engineering Section of LOMP/Budget and advising on defunct mines.
4. Review of pre-feasibility studies for the purpose of entering into Coal supply agreements

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	INTERNAL MEMO	Unique ID:	723946
		Revision:	1
		Effective Date:	06 August 2014
		Page 6 of 4	
		Primary Energy Division	

3.3.3 Mining engineering

The Mining engineering sub function is accountable for the following:

1. The preparation of mine submission documents to request funding from Eskom including the FRAs.
2. The management of assets registers across the ESKOM cost plus mines
3. The review of LOMP/Budgets and the compiling of reports
4. The reporting on CAPEX Plans for the relevant cost plus mines
5. The management of the PED Technical Plan as well as technical advice on operating, defunct mines and possible suppliers.

The Engineering support structure for PED activities is shown in Figure 3.2 below


Technical Services Support Structure for Operating Units					
CSM	OU	CSUM	Power Station	Mining Engineer	Process and Electro-Mechanical Engineering
Petros Mazibuko	OU1	Thulani Sibanyoni	Amot	Gert Prinsloo	Thapelo Mothibinyane / Khulekani Dladla / Thabo Rabotho Tsholo Sigodi
			Matimba		
		Haroon Kola	Camden		
		John Mamabolo	Matla		
			Medupi		
Martinus Bismund(Acting)	OU2	Bridgeman Kgotlagomang	Kriel	Vonakalani Mudaka	
		Phenias Khoza	Lethabo	Oriel Nkuna	
		Martin Makoni	Tutuka	Oriel Nkuna	
		Sylvia Bopape	Kusile	Gert Prinsloo	
	Grootvlei				
Vuyisile Ncube(Acting)	OU3	Isaac Taje	Kendal	Vonakalani Mudaka	
			Duvha		
		Gert Opperman	Majuba	Gert Prinsloo	
		Sidney Kgotleng	Komati	Gert Prinsloo	

Figure 3.2 Engineering support structure

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	INTERNAL MEMO	Unique ID:	723946
		Revision:	1
		Effective Date:	06 August 2014
		Page 7 of 4	
		Primary Energy Division	

4. GEOLOGY SUB DEPARTMENT

4.1 Sub department objectives

The purpose of the Geology sub department is to provide geological and technical support service in relation to the management of coal qualities, contamination control systems and assessing coal quality impacts and risk mitigation thereof. The geology function also provide advisory support to the strategic Fuel Sourcing by conducting technical evaluations and validation of coal resources and reserves of the new potential and/or existing coal suppliers.

4.2 Sub department structure

The structure of the Geology sub department is shown in figure 4.1 below.

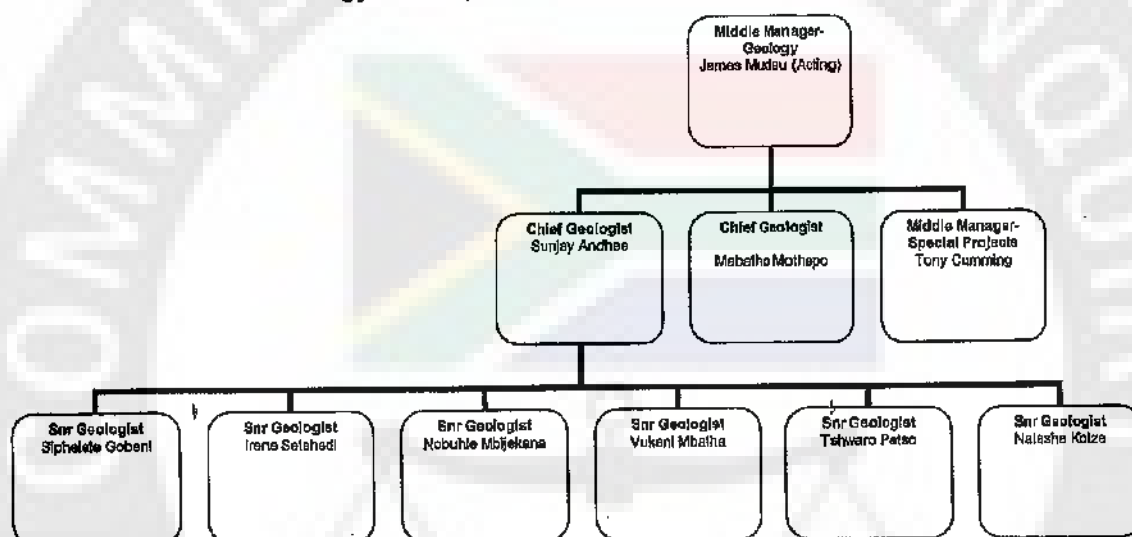


Figure 4.1: Geology sub department structure

4.3 Areas of accountability


The Geology sub department is accountable for the following:

1. As per the new working arrangements, the Geologist will focus on the day-to-day operational issues at source. This will involve verifying and assuring that coal contamination procedure and controls of the mines are strictly adhered to, to ascertain that the right coal qualities are delivered at Eskom Power Stations.
2. To ensure coal quality control management, the geologists will oversee the implementation and monitoring of the CQMP, this will include the building of the product stockpile, stockpile layout and dispatching of the right coal to the Power Station.

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	INTERNAL MEMO	Unique ID:	723946
		Revision:	1
		Effective Date:	06 August 2014
		Page 8 of 4	
		Primary Energy Division	


3. Geologists to ensure that Rovers and Observers at source play an oversight role to support the Geologist in relation to compliance to the site specific CQMP.
4. In terms of arising disputes the Geologist will coordinate the process but the matter will be handled by Quality Assurance (QA) since most disputes are related to analysis (Laboratory), which is the domain of the QA.
5. To provide advisory support to the strategic Fuel Sourcing by conducting technical evaluations and validation of coal resources and reserves of the new potential and/or existing coal suppliers.

The Geology support structure for PED activities is shown in Figure 4.2 below

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	INTERNAL MEMO	Unique ID:	723946
		Revision:	1
		Effective Date:	06 August 2014
		Page 9 of 4	
		Primary Energy Division	


CSM	OU	CSUM	Power Station	Supplier	Sources	Geologist
Petros Mazibuko	OU1	Thulani Sibanyoni	Arnot	Exxaro Coal (Pty) Ltd Hegisa Mining	Arnot Colliery Wildfontein	James Mudau
			Matimba	Exxaro Coal (Pty) Ltd	Grootegekluk	Siphelele Gobeni / James Mudau
		Haroon Kola	MTS	Stuart Coal (Pty) Ltd	East Block	Siphelele Gobeni
				Exxaro Coal (Pty) Ltd	NBC	
				Exxaro Coal (Pty) Ltd	Leeuwpan	
		Haroon Kola	Camden	Vunene	Usuthu Colliery	Nobuhle Mbijekana / Natasha Kotze
				Kuyasa Mining (Pty) Ltd	Delmas Coal	
		John Mamabolo	Matla	Sudor Coal	Haligewonnen / Elandsfontein	James Mudau
				Exxaro Coal (Pty) Ltd	Matla Colliery	
		John Mamabolo	Medupi	Exxaro Coal (Pty) Ltd	Grootegekluk	Siphelele Gobeni
Marthus Bilemond(Acting)	OU2	Bridgeman Kgoflagomang	Kriel	Anglo Coal SA (Pty) Ltd	Kriel Colliery OC &UG	Nobuhle Mbijekana
				Universal Coal	Kangala	
				Eyethu Coal Ltd	Moolfontein	
				African Exploration Mining & Finance Corporation	Vlakfontein (part of New Largo Complex)	
		Phenias Khoza	Lethabo	Anglo Coal SA (Pty) Ltd	New Vaal Colliery	Irene Setshedi
				Luroo Coal	Woestlaan	
				Perisat	Rhrhendu	
				Umzobanzi	Schoongezicht	
		Martin Makoni	Tutuka	Anglo Coal SA (Pty) Ltd	New Denmark Colliery	Irene Setshedi
				Just Coal	Homelands Kendal Colliery & Benkfontein	
				Wescoal Mining	Khanyisa & Intibane	
		Sylvia Bopape	Kusile	Anglo Coal SA (Pty) Ltd	New Largo Colliery	Irene Setshedi
				HCI Khusela Coal	Palesa Colliery	
				Liketh Investments	Twefontein / Tavistock (TT)	
				Liketh Investments	KK Pit 5 West Kleinkopje & Rietspruit Spiral	
Vuyisile Neube(Acting)	OU3	Isaac Taje	Kendal	BECSA	Khutala Colliery	Vukani Mbatha / Natasha Kotze
				BECSA	Khutala Colliery - Portion 16	
			Duvha	BECSA	Middieburg Mine Services	
		Gert Opperman	Majuba	Xstrata / ARM JV	Goedgevonden	Siphelele Gobeni
				Shanduka Coal	Graspan & MTC	
				Idwala	Brakfontein	
		Gert Opperman	Handrina	Umcebo Mining	Middlekraal, Stathraa, Kleinfontein, Norvasco, Doornrug & Klippan	Tshwaro Pelso
				Optimum Coal Holdings	Optimum Coal Mine	
				Keaton Energy / Keaton Mining	Vanggatfontein	
		Sidney Kgotleng	Kornati	Namane Commodities	Elandsfontein	Tshwaro Pelso
				OCH (old Shyanda Coal)	Koomfontein	
				Nishevelo Resources	Vlakvarkfontein	

Figure 4.2 Geology support structure

K.K.

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		Effective Date:	06 August 2014
		Page 10 of 4	
		Primary Energy Division	

5. PROJECT OFFICE SUB DEPARTMENT

5.1 Sub department objectives

The purpose of the project office is to provide Portfolio, programme and project management services to the Primary Energy Division.


The Project office is accountable and responsible for:

1. Portfolio management and programme management by tracking the aggregation of projects and programmes and resource allocation.
2. Projects Capital Management (CAPEX management), by performing project capital allocation and prioritising on-going investment decisions, tracking costs, risks and benefits within the portfolio of projects.
3. Project Management, where proper management of the work of the project in terms of scope, cost, time and quality to the required specification is delivered on behalf of Clients.
4. Contracts Management, by performing management of contracts and the procurement of goods and services including the management of compensation events (e.g. claims and variations) and the approval and payment of invoices.
5. Providing client office role on behalf of Departments (where projects are implemented outside Primary Energy), by providing project specific information, tracking, monitoring and facilitating governance approvals for the projects.
6. Ensuring that all PED projects are implemented according to the Eskom Project Management Office Policies, standards, procedures and systems.

Kk

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		Effective Date:	06 August 2014
		Page 11 of 4	
		Primary Energy Division	

5.2 Sub department structure

The organisational structure of the Project Office is shown in figure 5.1 below.

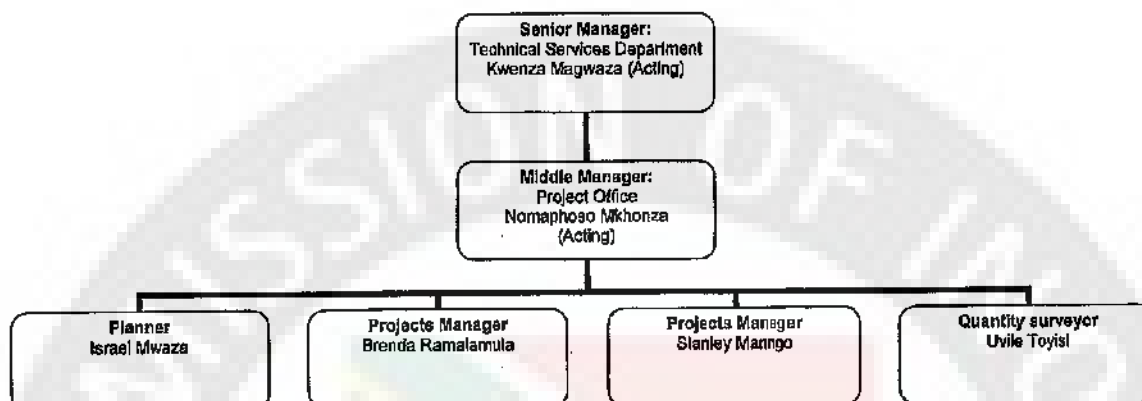



Figure 5.1: Project Office organisational structure

The Project office support structure for PED activities is shown in table 5.2 below

Programme	PROJECT Name	Client Department	Client representative	Implementing Division	Project Manager
Business Productivity Programme (Cost containment and savings)	Use of Fine Coal at all Power stations VP	Finance	Andre Van Heerden	Primary Energy	Clem Rajah
	Medium Term Reduction VP				Nomaphoso Mkhonza
	Lethabo excess coal reduction				
	Overall BPP programme management				
IT Projects	Nerve Centre	Corporate IT	Andre Van Heerden	Enterprise	Clem Rajah
	SAP R2				Sagren Chetty
LOGISTICS (road to rail strategy implementation)	Forfar siding upgrading	Logistics	Edward Fonyutluny	Primary Energy	Stanley Manngo
	Majuba Heavy Haulage Line			Group Capital	
	Majuba Yard Optimisation and Offloading facility				
	Grootvlei Coal terminal long term Phase 2				
	Medupi Rail siding				
	Improve operations logistics			TBC	TBC

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		Page 12 of 4	
		Primary Energy Division	

Programme	PROJECT Name	Client Department	Client representative	Implementing Division	Project Manager
WATER AND ENVIRONMENT (technical plan projects)	Kilbarchan treatment plant water	Water and Environment	Anesh Surandra	Primary Energy	Brenda Ramalamula
	Vygeboom replacement motors		Dan Govender		
	Wintershoek replacement Motors				
	Bosloop replacement Motors				
	Metlab meter refurbishment project	Sustainability	Tebatso Mogale		
COAL OPERATIONS	Coal quality Improvement Programme (Potentially new projects)	TBC	TBC	TBC	TBC
CAPEX MANAGEMENT	Project fund allocation, prioritisation. Monitoring and tracking of Coal Technical Plan Capital Expenditure	Project Office	Portfolio Manager (Mark Van Der Riet)	Primary Energy	Israel Mwaza
FUEL SOURCING	Conversion of long term coal contracts from Cost Plus Mines to Fixed Price Mine contracts	Fuel Sourcing	Johann Bester	Primary Energy	Israel Mwaza
	Monitor and report the coal supplier application process		Mudzi Marageni		Uvile Toyisi

Table 1: PO support structure

The new arrangement does not limit any TSD personnel from assisting any department within PED should a support request be made on an adhoc basis.

Yours sincerely



Kwenza Magwaza
SENIOR MANAGER: TECHNICAL SERVICES (ACTING)

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Annexure “KKM2”



Annexure KKM2



Ms Wadzanai Matowanyika
PO Box 881
WITBANK
1035

Dear Ms Matowanyika

**ROVING AND OBSERVING CONTRACT BETWEEN MPUMAMANZI GROUP AND
ESKOM: TRANSPORT AND ANALYSIS OF ESKOM CONTRACTUAL SAMPLES
- REF: 724883**

This letter serves to reverse our earlier communication stopping your services at Kangala and Brakfontein Mines, respectively. As per the Eskom Contract, Mpumamanzi is to provide services on as and when basis. Mpumamanzi is hereby requested to continue providing the observing and roving function at both sites.

Our meeting scheduled for the 26 October 2015 will still be held at Megawatt Park.

Yours sincerely

Kwenzokuhle Magwaza
SENIOR MANAGER: TECHNICAL SERVICES (ACTING)

Date: 21/10/2015

CC: Maria Kgaphola
Nonhlanhla Msibi
Khulekani Dladla

K.K.

Primary Energy
Megawatt Park, Maxwell Drive, Sunninghill, Sandton
PO Box 1091, Johannesburg 2000, SA
Tel: +27 11 800 8111 Fax: +27 86 663 9855 www.eskom.co.za

Eskom Holdings SOC Ltd Reg No 2002/016627/30

Annexure KKM2



Mr Sipho Masina
Project Manager
Rockcom Transport and Projects
4028 Springbok Street, Tasbet Park
WITBANK
1040

Dear Mr Masina

BRAKFORTEIN OBSERVING AND ROVING – REF: 724884

Please note that there has been a change regarding an e-mail sent to you by PED requesting your services at Brakfontein. This letter serves to reverse that request as PED will no longer require your services at Brakfontein.

I do not have your numbers but would like to set up a meeting to discuss this.

Yours sincerely

A handwritten signature in black ink, appearing to read 'K. Magwaza'.

Kwenzokuhle Magwaza
SENIOR MANAGER: TECHNICAL SERVICES (ACTING)

Date:

CC: Sipho Masina: rockcomprojects@gmail.com
Maria Kgaphola
Nonhlanhla Msibi
Khulekani Dladla

Kk.

Primary Energy
Megawatt Park, Maxwell Drive, Sunninghill, Sandton
PO Box 1091, Johannesburg, 2000, SA
Tel +27 11 800 8111 Fax +27 86 683 9865 www.eskom.co.za

Eskom Holdings SOC Ltd Reg No 2002/015527/30

Annexure KKM2



Mr Jacques Roux
Special Advisor: Brakfontein Colliery
Tegeta Exploration and Mining Resources
Posnet Suite 458
Private Bag X9
BENMORE
2010

Dear Mr Roux

**CHANGE OF CONTRACTUAL LAB FROM SABS LAB TO KENDAL POWER
STATION LAB – REF 724885**

This letter serves to inform you that PED has appointed Kendal Power Station Laboratory as a contractual lab to analyse your coal samples from 21 October 2015. This is an initiative to improve our pre-certification process.

You are welcome to contact me to discuss this.

Yours sincerely

A handwritten signature in black ink, appearing to be 'K. Magwaza'.

Kwenzokuhle Magwaza
SENIOR MANAGER: TECHNICAL SERVICES (ACTING)

Date: 21/10/2015

CC: Jacques Roux - jacquesr@jic.co.za

KK

Primary Energy
Megawatt Park Maxwell Drive Sunninghill Sandton
PO Box 1091 Johannesburg 2000 SA
Tel +27 11 800 8111 Fax +27 86 683 9855 www.eskom.co.za

Eskom Holdings SOC Ltd Reg No 2002/015527/30

Annexure KKM2



Ms Wadzanai Matowanyika
PO Box 881
WITBANK
1035

Dear Ms Matowanyika

**ROVING AND OBSERVING CONTRACT BETWEEN MPUMAMANZI GROUP AND
ESKOM: TRANSPORT AND ANALYSIS OF ESKOM CONTRACTUAL SAMPLES
- REF: 724886**

This letter serves to inform you that PED has appointed Kendal Power Station as a contractual lab for Brakfontein Colliery's coal samples from 21 October 2015. You are required to transport all Brakfontein Mine's coal samples to Kendal Power Station with immediate effect.

Yours sincerely

A handwritten signature in black ink, appearing to read 'K. Magwaza', with a long horizontal line extending to the right.

Kwenzokuhle Magwaza
SENIOR MANAGER: TECHNICAL SERVICES (ACTING)

Date: 21/10/2015

CC: Maria Kgaphola
Nonhlanhla Msibi
Khulekani Dladla
Gert Opperman
Tshwaro Petso

K.K.

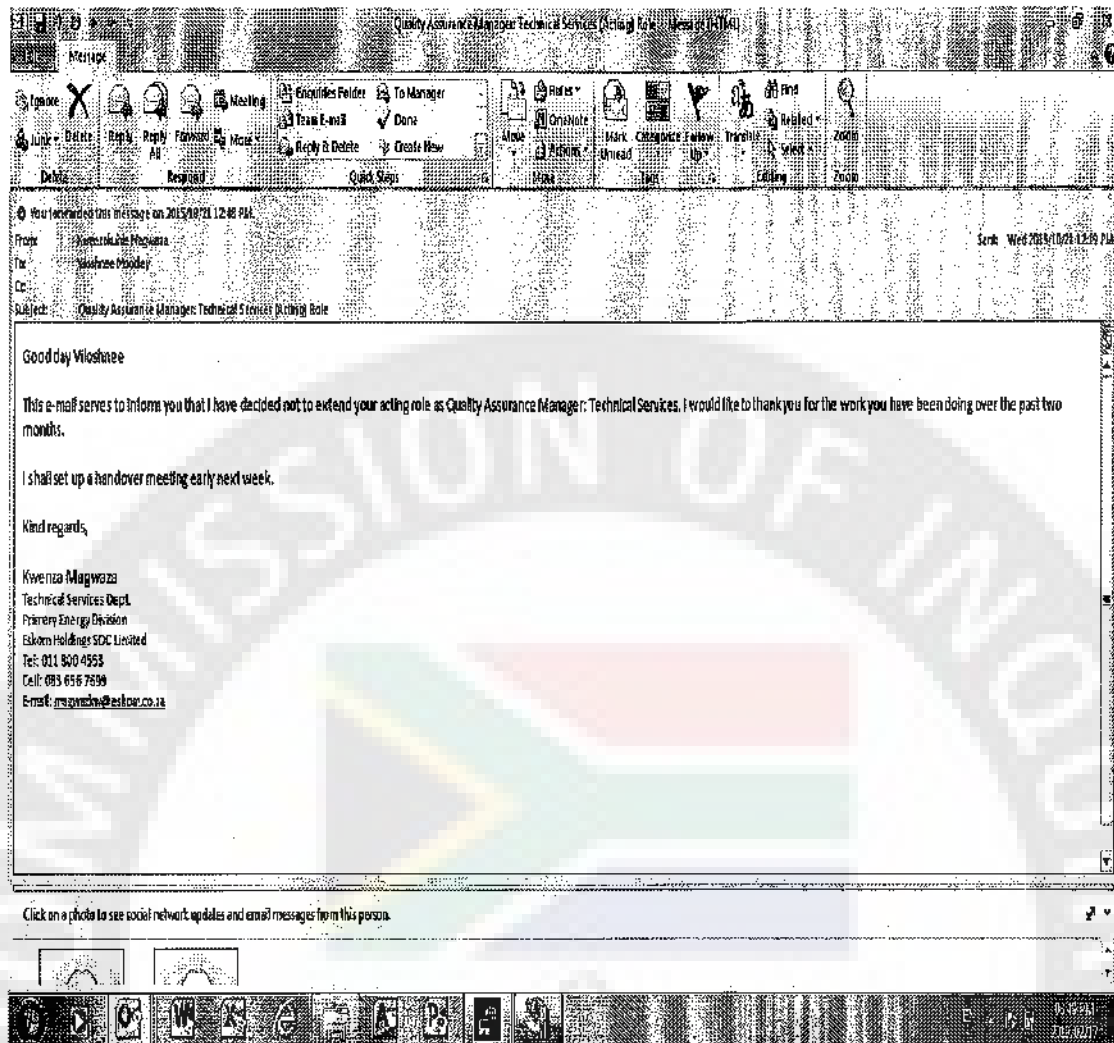
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Tel +27 11 800 8111 Fax +27 88 663 9855 www.eskom.co.za

Eskom Holdings SOC Ltd Reg No 2002/015827/30

Annexure “KKM3”



Annexure KKM3



KK.

Annexure “KKM4”



Kwenzokuhle Magwaza

Annexure kkm4

From: Kwenzokuhle Magwaza
Sent: 21 October 2015 12:48 PM
To: Matshela Koko
Subject: Fwd: Quality Assurance Manager: Technical Services (Acting) Role

Hi

As requested.

Kind regards,

Kwenza

Sent from my Samsung device

----- Original message -----

From: Kwenzokuhle Magwaza <MagwazKW@eskom.co.za>
Date: 21/10/2015 12:19 (GMT+02:00)
To: Viloshnee Moodley <MoodleyV@eskom.co.za>
Subject: Quality Assurance Manager: Technical Services (Acting) Role

Good day Viloshnee

This e-mail serves to inform you that I have decided not to extend your acting role as Quality Assurance Manager: Technical Services. I would like to thank you for the work you have been doing over the past two months.

I shall set up a handover meeting early next week.

Kind regards,

Kwenza Magwaza
 Technical Services Dept.
 Primary Energy Division

k.k.

Annexure “KKM5”



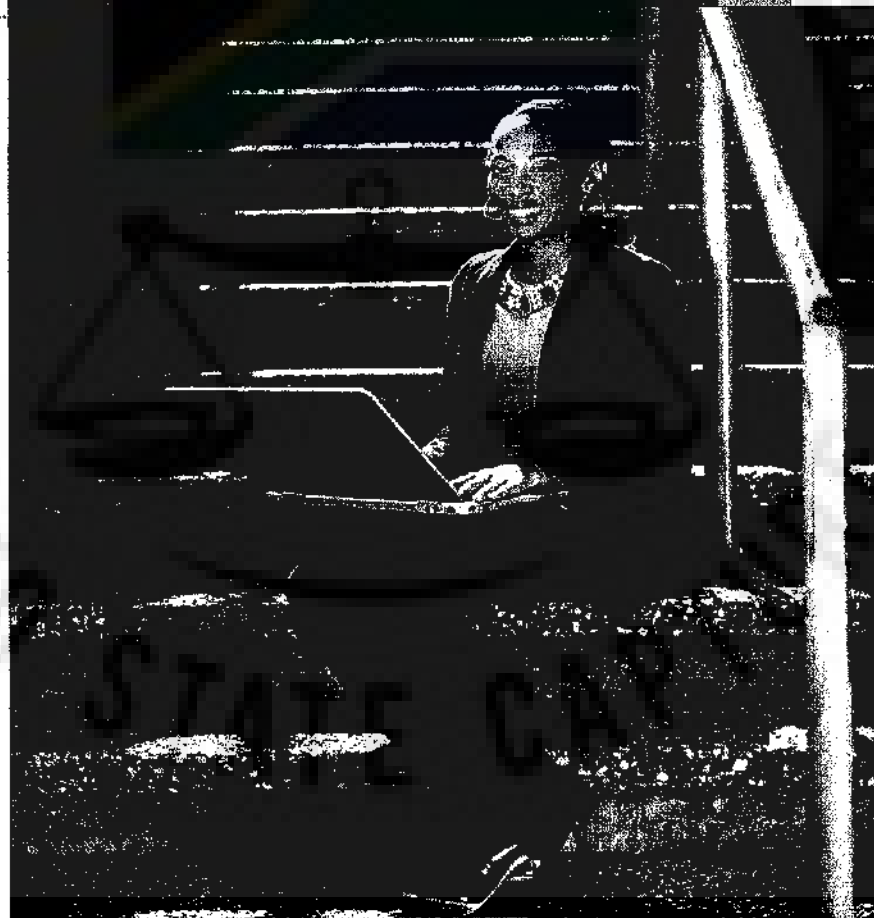
Annexure KKM5

www.pwc.co.za

Eskom Holdings SOC Ltd

Coal Quality Management
Review – Effectiveness of
Controls Assessment of
Management's
implementation of actions

November 2016



pwc

K.K.



Strictly Private and Confidential

Mr Anoj Singh
Chief Financial Officer
Eskom Holdings SOC Ltd
Megawatt Park
Sunninghill
2157

10 November 2016

Dear Mr Singh

Report: Coal Quality Management Review – Effectiveness of Controls Assessment of Management's implementation of actions

PricewaterhouseCoopers Advisory Services (Pty) Ltd ("PwC") was appointed to assist Eskom Holdings SOC Limited ("Eskom") with an independent "Coal Quality Management Review – Effectiveness of Controls Assessment of Management's implementation of actions".

This Report has been prepared solely for the use of Eskom and should be used for information purposes only. As such, it should not be disclosed to any other party without our prior written consent. It shall be a condition of such consent, if given, that PwC accepts no responsibility to that third party will hold PwC harmless in respect of any consequences of such disclosure. Whether or not we have given our consent, we will not accept liability or responsibility to any other party who may gain access to this document.

Should you have any comments, please do not hesitate to contact me on +27 (11) 797 5526 or +27 (79) 599 4677.

Yours sincerely

Trevor Hills
Director
trevor.hills@pwc.com

KK.

PricewaterhouseCoopers Advisory Services (Pty) Ltd, Reg. no. 1999/024417/07
2 Eglin Road, Sunninghill 2157, Private Bag X36, Sunninghill 2157, South Africa
T: +27 (11) 797 4000, F: +27 (11) 797 5800, www.pwc.co.za

MA O'Flaherty – National Advisory Leader

The Company's principal place of business is at 2 Eglin Road, Sunninghill where a list of directors' names is available for inspection.

1. INTRODUCTION

According to the Group Chief Financial Officer's request, PwC was requested to assess management's implementation of actions insofar as they relate to the findings extracted from the PwC "Coal Quality Management Review" Report (PwC Report) dated 26 November 2015.

2. BACKGROUND

On 26 November 2015, PwC issued a report on the Coal Quality Management Review of certain coal suppliers and Eskom's contracted laboratories (Labs) following aspects pursuant to the allegations raised.

The review related to the appointment of four Mines as suppliers of coal to Eskom and the nine Laboratories, namely:

Mines:

- Mine 1: Tegeta Mining & Exploration: Brakfontein Colliery ("Tegeta/Brakfontein")
- Mine 2: Tshedza Mining Manungu Colliery ("Tshedza/Manungu")
- Mine 3: Keaton Mining ("Vanggatfontein")
- Mine 4: Universal Coal Kangala Colliery ("Universal Coal/Kangala")

Laboratories:

- Noko Analytical Services
- SGS South Africa (Pty) Ltd
- Sibonisiwe Coal Laboratory Services
- Siza Coal Services CC
- SABS (SOC) Ltd
- Rockom Transport and Projects
- Mpumamanzi Group CC
- MBMCF Management Resources
- Natural Sampling Services CC

PwC was further requested to extract findings from the PwC Report for purposes of incorporating finding ratings, criteria, root cause and effect. The root causes, impact and ratings are informed by the Eskom's Assurance and Forensic Department's audit findings rating system and have been reported in the A&F report format. This findings report has been issued separately.

PwC was requested to conduct an effectiveness of controls assessment of management's implementation of actions that were agreed to be put in place, and we report on our findings pertaining to our assessment in this report.

3. OBJECTIVE, SCOPE AND APPROACH

3.1 Objective

The purpose of this assessment is to ascertain the implementation status of the agreed management action(s) and where there is an alternative action an evaluation of the effectiveness of the action(s) and progress of actions taken.

3.2 Scope

The scope of the assessment was limited to the management action(s) relating to the findings raised in the "Coal Quality Management Review" Report.

3.3 Approach

The engagement was to review and assess evidence that previously agreed management actions have been implemented.

K.K.

We reviewed and analysed management's evidence of implementation of the management actions by:

- Interviewing the staff members responsible for applying recommendations;
- Reviewing various supporting documentation; and
- Conducting tests to determine the effectiveness of controls confirming management's implementation of actions taken.

3.4 Responsibilities of Management

The management of Eskom is responsible for establishing and maintaining an appropriate system of internal control and for the prevention and detection of irregularities and fraud. In fulfilling this responsibility, estimates and judgements by management are required to assess the expected benefits and related costs of control procedures. The objectives of systems of internal control are to provide management with reasonable, but not absolute, assurance that the business is conducted in an orderly and efficient manner, that there is adherence to management policies and laws and regulation, that assets are safeguarded against loss or unauthorised use and that transactions are executed in accordance with management's authorisation and are accurately and completely recorded to permit, inter alia, the preparation of financial statements.

It is agreed that responsibility for the implementation of actions identified in the course of this assignment rests with Eskom, its management and employees.

3.5 Fraud, defalcations and other irregularities

We endeavour to plan our work so that we have a reasonable expectation of detecting significant control weaknesses and, if detected, we shall carry out additional work directed towards identification of consequent fraud or other irregularities. The discovery of any fraud, defalcation or other irregularity will be reported to you. However, internal audit procedures alone, even when carried out with due professional care, do not guarantee that fraud will be detected. Accordingly, our examinations as internal auditors should not be relied upon solely to disclose fraud, defalcations or other irregularities which may exist, unless we are requested to carry out a special investigation for such activities in a particular area.

3.6 Third parties

Our work was carried out as directed by Eskom for specific purposes. Should we be required to issue any reports, we cannot accept responsibility or liability to third parties who may be shown our reports or into whose hands they may come. We accept no responsibility to the external auditors with regard to the extent they choose to utilise our work as evidence for the purpose of their audit of financial statements.

K.K.

4. CONCLUSION AND OVERVIEW OF THE EFFECTIVENESS OF MANAGEMENT ACTION (S)

The table below summarises the levels of implementation of management action (s).

Table A – Mines (Coal Supply)

#	Finding title	Status			Assessment
		Implemented	Partly Implemented	Implementation date pending	Overdue finding
1	Non-compliance to Eskom's Procurement and Supply Chain Management Procedure 32-1034		1/10		1. BTC Minutes for 10/2/2016 outstanding
2	Inadequate handover process between fuel sourcing and coal operations				1. Brakfontein CSA not sent to Eskom Legal
3	Coal procurement strategy/governance		1/2		1. BTC Minutes for 10/2/2016 outstanding
4	Inadequate training and appropriate oversight for key staff				
5	Inadequate document management				
6	Coal procurement strategy		1/2		1. BTC Minutes for 10/2/2016 outstanding

Table B – Laboratories

#	Finding title	Status			Assessment
		Implemented	Partly implemented	Implementation date pending	Overdue finding
7	Non-compliance to Eskom's Procurement and Supply Chain Management Procedure 32-1034				1. RFP process for Labs not started as current contracts will end 31/3/2017. 2. Technical returnables to include accreditation status, once new RFP process begins for contracts ending 31/3/2017.
8	Non-compliance to the Laboratory Audit Procedures		1/8		PED is liaising with HR for a Legal person to assist on Contracts, once the new RFP process commences for Lab contracts ending 31/3/2017.

#	Finding title	Status				Assessment
		Implemented	Partly Implemented	Implementation date pending	Actions not implemented	Overdue finding
9	Mandatory training not completed		½		IDF has not been done	✓
10	Inadequate document management				RFP process for Labs not started, as current contracts are only ending 31/3/2017.	

5. ASSESSMENT OPINION

Based on the assessment conducted to date, including interviews held, documentation reviewed, walk-throughs performed, as well as testing of certain controls within the specific sub-processes noted in the table below, the controls were considered to be **adequate** and no material gaps were identified. However, this is based on the management implementation plan that has been implemented to address initial control weaknesses. Further, management still needs to address the following:

- PED still needs to appoint a Legal person to assist on Contracts, once the new RFP process starts for Lab contracts ending 31/3/2017.
- The Individual Development Plans (IDP) that is supposed to be used for skills gap analysis and identification of relevant training interventions have not been done.

There are some matters where the implementation date is a future date, and as such certain controls or actions have not yet been implemented or actioned. For example:

Mines:

- The Brakfontein Coal Supply Agreement will be sent to Eskom Legal to be reviewed by 31 March 2017.

Laboratories:

- Since the next RFP process for Laboratories have not commenced, as these contracts are only expiring 31/3/2017, accreditation status forming part of the technical due diligence checklist could not be assessed and this will be done during the new RFP process.

The table below summarises the sub-processes reviewed against process objectives:

Sub-process	Process objectives	Control Adequacy	Control Effectiveness
Commercial Process for coal contracting	All Commercial processes for coal contracting must be compliant with Procedure 32-1034.	Yes	Yes
Handover of contracted mines to contract manager	All completed contracts must follow a documented handover process.	Yes	Yes
Coal Procurement strategy/governance	All Coal Supply processes to adhere to the Coal Procurement strategy/governance requirements.	Yes	No, refer to Finding 3
Training	All PED staff to attend mandatory training.	Yes	Yes
Technical Evaluations	All Technical Evaluations must be performed in line with the RFP and Procedure 32-1034.	Yes	Yes
Safeguarding of documentation	Adequate safeguarding of documentation processes	Yes	Yes
Non-conformances regarding laboratories	Adequate monitoring and reporting of non-conformances at Laboratories.	Yes	Yes

K.C.

Based on the results, we rate the above assessment as **satisfactory** given there is evidence of progress and operating effectiveness for controls implemented or actions taken, with reference to implementation dates. For actions that are future dated, we have noted the deficiency and the implementation date. Refer to Appendix B for Eskom's opinion rating and respective definition.





APPENDIX A – ASSESSMENT OF MANAGEMENT ACTION (S)

The table below indicates the status of the assessment on the Management Implementation Action (s) arising from the Coal Quality Management Review report dated 7 October 2016.

MINES

Finding title	Initial rating (pre-assessment)	Finding Detail	Root Cause	Management Implementation Action (s)	Assessment of Management Implementation Action (s)	Management Action (s) Not Implemented	Revised Assessment Rating	Revised Management Action (s) Status
1. Non-compliance to coal procurement process		<ul style="list-style-type: none"> It is evident that although Section 3.4.5.8 of Eskom's Procurement and Supply Management Procedure 32-1034 (Procedure 32-1034) provides certain requirements for these types of unsolicited offers, and the Eskom Process Control Manual for Source External Suppliers (240-7891684) provide direction for how it integrates into the normal procedures, Primary Energy Department (PED) have not integrated this into a 	<ul style="list-style-type: none"> The procurement was done under the 2008 Medium Term coal procurement mandate set up originally for emergency coal procurement. Proper evaluations were not performed and due process was not followed regarding documentation to be obtained and retained. No end to end process documented in the form of a checklist to ensure that all steps are completed. Inadequate documentation controls in place to ensure the completeness of files and adequate audit trail. 	<ul style="list-style-type: none"> PED is in the process of developing revised standard conditions of contract. Short Term Mandate 2016 was approved at the Board Tender Committees (BTC) on 10 February 2016. This indicates a new procurement process for coal that is in line with Procedure 32-1034. PED have introduced a checklist for every transaction, further pro-active assurance reviews will ensure that all documents are in place and adequately and timeously updated. Buyers have been allocated a responsibility to review every file they are involved in for completeness in line with the checklist, and 	<ul style="list-style-type: none"> PED has developed the Master Coal Supply Agreement (MCSA). We obtained a copy and reviewed the MCSA. This MCSA document is then tailored based on the conditions and needs of that particular work and supplier to suit its specification. Once the document is tailored, it is sent to Eskom's Legal Department for review and sign-off as a final contract. The contract for "Koomfontein Mining" was reviewed and we confirmed that this process was followed. The communication with Eskom Legal was also reviewed to confirm the sign-off of this contract. No exceptions noted. Control is adequate and is operating effectively. 	<ul style="list-style-type: none"> We were unable to review BTC meeting minutes for the 10 February 2016 to confirm that the Short Term Mandate 2016 was approved, as there is a backlog at Secretariat. 	Partly Implemented	Not applicable

K.K.

Finding title	Initial reference per Para 500000	Finding Detail	Root Cause	Major Error Implementation Action (e)	Assessment of Management Implementation Action (f)	Management Action (g) and Implementation	Revised Assessment finding	Revised Management Action (h) due date
		<p>concise and sufficiently robust internal process to constitute a formal control process and procedure.</p> <ul style="list-style-type: none"> Contracts were awarded to the four mines despite the mines not having qualified in each of the evaluation requirements in terms of Health & Safety, Environmental, Legal & Commercial, Financial, Technical and Quality. Various deficiencies were noted. 	<ul style="list-style-type: none"> It was acceptable to contract a supplier prior to obtaining their Water Use Licence after confirmation of their application. Management does not interpret "marginal" in the Technology & Research division reports as unsuitable for the Power Stations indicated. The Coal Quality Management Procedure (CQMP) was not finalised and/or signed off. 	<p>adequacy of documentation.</p> <ul style="list-style-type: none"> The Power Stations required coal quality specifications is the quality upon which the coal contract is based. The pre-certification process ensures that the Power Station does not receive coal that is below the minimum quality requirements. The key controls of the CQMP is to ensure adequate processing, certification and dispatch of the right quality coal as per the coal contract. The Procedure 32-1034 will be amended to reflect the current practice that SD&L supplier pre-qualification and supplier registration is conducted post all technical and commercial negotiations. Further, SD&L targets included in the Master Coal Supply Contract. Some PED staff members have undergone Ethics training. The rest of the staff were given a December 2015 deadline. 	<ul style="list-style-type: none"> PED has adopted the Procedure 32-1034 for all tenders going forward. We confirmed this by placing reliance on Proactive Assurance Reports issued by other Audit Firms. We reviewed the requests for Proactive Assurance review completed by other Audit Firms and confirmed through review of the reports provided to us that 3 out of 6 tenders were completed and submitted to BTC. Minor findings were raised during the Proactive Assurance reviews, but these were cleared before submission to BTC. No findings were raised on Declaration of Interests. PED has implemented a checklist and we confirm that Buyers are completing these checklists. We selected one file (Lucro Mining Resourcing) and reviewed this against the checklist. We confirmed that the checklist was completed satisfactorily by the Buyer for the file. All 			

K.K.

Finding title	Initial Rating as per PED (1-5)	Finding Detail	Root Cause	Management Implementation Action (6)	Assessment of Management Implementation Action (7)	Is the Plan Management Action (8) Not Implemented	Revised Assessment Rating	Revised Management Action (9) Date
				<ul style="list-style-type: none"> There is a plan in place to monitor Ethics training for PED. The PED Administrator is responsible for this plan and regularly advises of outstanding ethics training. A formal Declaration of Interest process is now being implemented and Proactive Assurance reviews will be conducted during open Request for Proposal (RFP). <p>Effective date: 30 April 2016</p>	<p>returnables were checked and we confirm that they are on the file as per the checklist. Based on a discussion with the General Manager: Fuel Sourcing, it is not a requirement to have the files reviewed post Buyer's reviews, however, an Eskom Assurance and Forensic (A&F) auditor randomly reviews these files for completeness. We therefore confirm that the control is adequate and is operating effectively regarding file reviews and maintaining of required documentation.</p> <p>We confirmed through review of the quarterly reviews performed by the Quality Assurers that the pre-certification process is reviewed to ensure that the Power Station does not receive coal that is below the minimum quality requirements. We therefore confirm that the control is adequate and is operating effectively regarding the monitoring of the pre-certification</p>			

K.K.

Findings Title	Initial Findings Report	Findings Detail	Root Cause	Management Implementation Action(s)	Assessment of Management Implementation Action(s)	Management Action(s) not Implemented	Revised Assessment Rating	Revised Management Action(s) & Due date
2. Inadequate handover process between fuel sourcing and coal operations.		<ul style="list-style-type: none"> Proper handover procedures need to be in place between Fuel Sourcing 	<ul style="list-style-type: none"> No documented handover processes from those involved 	<ul style="list-style-type: none"> There has been implementation of a hand over process between Fuel Sourcing and Coal Operations. 	<ul style="list-style-type: none"> We confirmed through inspection that the CQMP has been developed and approved to ensure adequate processing, certification and dispatch of the right quality coal as per the coal contract. We therefore confirm that the control is adequate and is operating effectively, as each Contract has its own CQMP which is monitored on a monthly basis. We confirm through inspection of Procedure 32-1034 that SD&L can form part of the functionality criteria or maybe included as separate objective criteria, therefore it is not necessary to amend Procedure 32-1034. We reviewed the Plan that is used to monitor Ethics training and we confirm that all Fuel Sourcing staff members have undergone Ethics training. 			
					<ul style="list-style-type: none"> We confirm through inspection of training slides, completed handover forms and attendance registers 	<ul style="list-style-type: none"> The Brakfontein Coal Supply Agreement was not sent to the Eskom Legal department for 		Not applicable

K.K.

Finding title	Initial rating as per five points	Finding Detail	Risk Cause	Management Implementation Action (s)	Assessment of Management Implementation Action (s)	Management Action (s) not Implemented	Revised Management rating	Revised Management Action (s) & due date
		and the Coal Contract Manager (Coal Operations) to ensure that the Contract Manager understands the detail structure and functioning of the contract terms, which includes knowledge of all exposures and opportunities. Neither the Coal Sourcing Manager (contracting process) and the Coal Supply Unit Manager (implementation and operational management) were clear on key outstanding elements of the contract like the quality testing and confirmation (Condition Precedent), potential risks identified by the Bulk Sample test results and the finalisation of the	with the negotiation and drafting of the Coal Supply Agreement (CSA) to the eventual Contract Manager(s) <ul style="list-style-type: none"> Process design – Inadequate level of involvement of Coal Operations (Contracts Managers) in the procurement process. 	<ul style="list-style-type: none"> Contracts Management training was conducted and this included a section on contracts handover requirements. We will ensure that the Brakfontein CSA is sent to Eskom Legal for review as suggested. We will draft a Master Coal Supply Agreement which will be reviewed by Eskom Legal. <p>Effective date: 31 March 2017</p>	<p>that Fuel Sourcing held training to ensure a proper handover process has been implemented and is taking place. Further, following discussions held with Coal Supply Management, we confirm that management is putting together a "Noddy Guide" that will include a documented handover process. We therefore confirm that the control is adequate and is operating effectively for the Handover process.</p> <ul style="list-style-type: none"> We confirm that all staff have undergone the Contracts Management training by either reviewing the attendance registers and the notification letters confirming attendance of the Contracts Management course. No exceptions noted, as CSA training control is operating effectively. We confirm that PED has compiled a MCSA and Eskom Legal has reviewed these Agreements tailored for each coal supplier. We 	<p>review, as combustion test results and approval for the modification were required. Post this review, the CSA will be sent to Eskom Legal department and thereafter will be signed.</p>		

K.K.

Finding title	Initial finding as per BTC Report	Finding Detail	Root Cause	Management Implementation Action (a)	Assessment of Management Implementation Action (b)	Management Action (c) not implemented	Review Assessment (d)	Review Management Action (e) & due date
		<ul style="list-style-type: none"> outstanding CQMP. The combustion tests done to date on the Brakfontein coal supply are inconclusive and it is unclear if the condition precedent of clause 10.2.1 of the contract has been met. Clause 10.3 of the agreement specifically stipulates that if 10.2.1 is not fulfilled or waived, the contract shall never become effective. We found no proof that the Coal Operations division was involved in coal contracting process. 			therefore confirm that the control is adequate and is operating effectively for Coal Supply Agreements.			
3. Coal procurement strategy/governance.		<ul style="list-style-type: none"> The procurement was done under the 2008 Medium Term coal procurement mandate set up originally for emergency coal procurement. 	<ul style="list-style-type: none"> PED had adopted the Medium Term mandate approved for the period 2008 - 2018 which did not specify the procurement strategy. Interpretation 	<ul style="list-style-type: none"> Short Term Mandate 2016 was approved at the BTC on 10 February 2016. This indicates a new procurement process for coal that is in line with Procedure 32-1034. This will be phased in whilst the 2008 	<ul style="list-style-type: none"> We reviewed the Short Term Mandate 2016 and confirm that the mandate is aligned to Procedure 32-1034. We therefore confirm that the coal procurement strategy is adequate but we are unable to confirm operational 	<ul style="list-style-type: none"> We were unable to review BTC meeting minutes for the 10 February 2016 to confirm that the Short Term Mandate 2016 was approved, as there is a backlog at 	Partially Implemented	Not applicable

K.K.

Initial Finding title	Initial rating as per PwC Report	Pending Detail	Root Cause	Management Implementation Action (a)	Assessment of Management Implementation Action (b)	Management Action (c) Not Implemented	Revised Assessment rating	Revised Management Action (d) - due date
		<p>During an update to the Board Tender Committee (BTC) in 2010 the mandate was extended and expanded to contract for life of mine, to extend current contracts and powers with sub delegation was granted to the Divisional Executive (DE) PED to execute.</p> <p>PED in a feedback note to the BTC in 2014 gave feedback of procurement action against the Medium Term (MT) Mandate and requested continuation of the same.</p> <p>The BTC minutes only reflect that the feedback was noted.</p> <p>It was the interpretation of this mandate that allowed the DE PED to commit Eskom to 10 year CSA with nominal values in</p>	<p>of the BTC feedback which resulted in committing Eskom for 10 years or more with single signing authority.</p> <p>PED not ensuring the Coal Procurement Strategy is signed off appropriately.</p>	<p>Medium Term Procurement Mandate is phased out.</p> <p>Effective date: 30 April 2016</p>	<p>effective on controls as the Mandate has not been phased in as yet.</p> <ul style="list-style-type: none"> The 2008 Medium term Procurement Mandate is still in use and will be replaced once all coal quantity requirements have been met. We therefore confirm that the 2008 Mandate is still in use and the controls are adequate and operating effectively for the procurement process. 	Secretariat		

k.f.

Finding Title	Initial Rating as per IFC Report	Finding Details	Root Cause	Management Implementation Action (a)	Assessment of Management Implementation Action(s)	Management Action(s) not implemented	Revised Assessment Rating	Revised Management Action (a) if any
		<p>excess of Rghn each without having to refer to any committee or other oversight process. This is despite Eskom's procurement policy prohibiting single adjudication. Although it was reported that an updated Coal Procurement Strategy exists, this was not provided for review, nor was any evidence found that demonstrates that the procurement was in line with this approved strategy.</p> <p>It was also confirmed that while PED has a Coal Supply Optimization Model and an integrated demand and supply planning process exists, this is not generally used to confirm a</p>						

Fk.

Finding title (BIC)	Initial rating as per the Report	Binding Detail (BIC)	Risk Category	Management Implementation Action(s)	Assessment of Management Implementation Action(s)	Management Action(s) not implemented	Revised Assessment Rating	Revised Management Action(s) and date
4. Inadequate training and appropriate oversight for key staff.		<p>supply contract fits the optimised plan.</p> <p>During the interviews with Fuel Sourcing personnel the following observations were made:</p> <ul style="list-style-type: none"> • Very few of the interviewees seemed familiar with the requirements of Section 3.4.5.8 of the Procedure 32-1034. • Interviewees could not link the procurement decisions to a commodity (coal) supply strategy and also not to a contracting strategy; and • The commercial or financial rationale for entering into the contracts at the negotiated terms and conditions are weak or absent on two of the four procurement events reviewed. 	<ul style="list-style-type: none"> • Time pressures from Head of Fuel Sourcing, thus unable to oversee/attend every negotiation meeting. • High staff turnover with insufficient on boarding and skills development. • Limited exposure to different negotiation styles/strategies 	<ul style="list-style-type: none"> • We will train our teams in understanding section 3.4.5.8 of the Procedure 32-1034. We will also send the relevant staff on a negotiation course, as well as ensure they attend training on the Conflict of Interest Policy, the Eskom Code of Ethics and the Eskom Cardinal Rules for Safety. • Regarding the inadequate oversight of team leaders, we now follow an RFP process and as such there will now be adequate oversight throughout the process. • We will reinforce the criteria and requirements at the Mines and relevant training will be provided. • All relevant staff will attend CSA training. <p>Effective date: 30 April 2016</p>	<ul style="list-style-type: none"> • We confirmed through inspection of an email confirmation and attendance registers that all Fuel Sourcing staff attended the Procurement in Eskom (Pit) training and the CSA training. We therefore confirm that the monitoring of training control is operating effectively. • PED has adopted the Procedure 32-1034 for all tenders going forward. We confirmed this by placing reliance on Proactive Assurance Reports issued by other Audit Firms. We reviewed the requests for Proactive Assurance review completed by other Audit Firms and confirmed through review of the reports provided to us that 3 out of 6 tenders were completed and submitted to the BTC. Minor findings were raised during the Proactive Assurance reviews, but these were cleared before 	Not applicable		Not applicable

K.K.

Finding ID	Initial rating as per PwC Report	Finding Detail	Root Cause	Management Implementation Action(s)	Assessment of Management Implementation Action (a) in	Management Action (s) not implemented	Revised Assessment (b) in	Revised Management Action (c) & due date
		<p>In addition the following were identified during the review:</p> <ul style="list-style-type: none"> Negotiation Team Leaders evidently are in full control of the process from beginning to end. There was no evidence to indicate that there was any oversight from the PED General Manager during the process, although he attended some of the meetings with suppliers and led the final negotiation meeting on one of the contracts. No evidence was provided that the team underwent the required training on the Conflict of Interest Policy (32-173), the Eskom Code of Ethics (Standard 32-527) and the Eskom Cardinal Rules 			<p>submission to BTC. No findings were raised on Declaration of Interests. We therefore confirm that the controls are operating effectively regarding the procurement process.</p>			

K.K.

Finding title	Initial rating as per FWC Report	Finding Detail	Root Cause	Management Implementation Action (s)	Assessment of Management Implementation Action (s)	Management Action (s) not implemented	Revised Assessment rating	Revised Management Action (s) & Date
		for Safety (32-421). During a visit to one of the Mines, the following was observed: <ul style="list-style-type: none"> The Mine plan supervisor was unaware of the requirements that adjustments to the sampling plant can only happen with Eskom's consent; and Sampling operators and supervisors, including observers are not properly trained about the sampling process and critical parameters. 						
5. Inadequate document management.		<ul style="list-style-type: none"> Various discrepancies were noted relating to pre-qualification documents not available / not filed such as Closure Cost Assessment report, NRMA, IWULA, commercial documents, declaration of interest forms, <i>inter alia</i>. Contract files were also not 	<ul style="list-style-type: none"> Inadequate document control in place and inadequate discipline by all parties involved in ensuring that required documents are obtained, completed with due care and filed appropriately. Lack of a checklist to ensure completeness of 	<ul style="list-style-type: none"> We have introduced a checklist for every transaction, further pro-active reviews will ensure that all documents are in place and adequately and timeously updated. Further buyers have been allocated a responsibility to review every file they are involved in for completeness in line with the checklist, and adequacy of 	<ul style="list-style-type: none"> We confirm that PED management have implemented a checklist, which is used by Buyers. We selected one file (Lucro Mining Resourcing) and confirm that the file was satisfactorily reviewed using the checklist. All returnables were checked and are filed as per the checklist. Based on the discussion with the General Manager: Fuel Sourcing, it is 	Not applicable		Not applicable

K.K.

Finding title	Initial finding as per A&F report	Findings Detail	Root Cause	Management Implementation Action (s)	Assessment of Management Implementation Action (s)	Management Action (s) not implemented	Review assessment date	Revised Management Action (s) & due date
		<p>opened for all service providers, and maintained.</p> <ul style="list-style-type: none"> There is no evidence provided that any of the suppliers were referred to SD&L for supplier pre-qualification and supplier registration as required by section 3.4.5.8 of Procedure 32-1034. The Coal Quality Management Procedure ("CQMP"), containing obligatory requirements referred to in the body of the contract is in draft, incomplete and not yet agreed or implemented. A Coal Supply Agreement was signed in November but the date of the month was not recorded. 	<ul style="list-style-type: none"> Individual files. Procurement (Buyer) did not adequately fulfil their role of active facilitation with SD&L for this transaction Due process was not followed in ensuring that appropriate steps were followed in the correct order. 	<ul style="list-style-type: none"> documentation. New Master Coal Supply Agreement has been developed for utilisation on new contracts. We will make use of the Eskom Group Commercial Document Management Procedure going forward and communicate this to all relevant FED staff. We would also like to have a Proactive Assurance review conducted before 1 December 2016 to ensure compliance. We have a central document repository – Hyperwave. <p>Effective date: 1 December 2016</p>	<ul style="list-style-type: none"> not a requirement to have the files reviewed post buyer's reviews. However, an A&F auditor randomly reviews these files for completeness. We therefore confirm that the control is adequate and is operating effectively in terms of compliance with Procedure 32-1034. We confirm through inspection that a new Master Coal Supply Agreement has been compiled. This MCSA document is then tailored based on the conditions and needs of that particular work and supplier to suit its specification. Once the document is tailored, it is sent to Eskom's Legal department for review and sign-off as a final contract. The contract for "Koomfontein Mining" was reviewed and we confirmed that this process was followed. The communication with Eskom Legal was also reviewed to confirm the sign-off of this contract. No exceptions noted, therefore we confirm 			

K.K.

Finding title	Initial rating per PwC Report	Finding Detail	Root Cause	Management Implementation Action (a)	Assessment of Management Implementation Action (b)	Management Action (c) not implemented	Revised Assessment rating	Revised Management Action (d) & due date
					<p>that the control is adequate and is operating effectively. PED has adopted the Procedure 32-1024 for all tenders going forward. We confirmed this by placing reliance on Proactive assurance Reports issued by other Audit Firms. We reviewed the requests for Proactive Assurance review completed by other Audit Firms and confirmed through review of the reports provided to us that 3 out of 6 tenders were completed and submitted to Board Tender Committee. Minor findings were raised during the Proactive Assurance reviews, but these were cleared before submission to Board Tender Committee. No findings were raised on Declaration of Interests. We therefore confirm that the controls are operating effectively for the procurement process.</p> <ul style="list-style-type: none"> We confirm that PED staff have undergone awareness training on Hyperwave and relevant staff that 			

K.K.

Finding title	Initial rating as per Power Review	Finding Detail	Risk Rating	Management Implementation Action (s)	Assessment of Management Implementation Action (s)	Management Action (s) Not Implemented	Revised Assessment Rating	Revised Management Action (s) Not Implemented
					use Hyperwave attended training where access was granted to use the system. We therefore confirm that the document management control is adequate and is operating effectively as all documents are stored on Hyperwave.			
6. Coal procurement strategy not finalized and implemented.		<p>The following anomalies were noted:</p> <ul style="list-style-type: none"> Although it was reported that an updated Coal Procurement Strategy exists, this was not provided for review, nor was any evidence found that demonstrates that the procurement was in line with this approved strategy; and PEB has a Coal Supply Optimization Model and an integrated demand and supply planning process exists, but that it is not generally used to 	<ul style="list-style-type: none"> The focus was on meeting urgent coal shortfalls/requirements by contracting with potential suppliers who meet quality requirements for a Power Station under the 2008 Medium Term Mandate. 	<ul style="list-style-type: none"> The Short Term Mandate 2016 was approved at the BTC on 10 February 2016. This indicates a new procurement process for coal that is in line with Procedure 32-1034. This further requires the involvement of an assurance provider in all PED coal transactions. <p>Effective date: 1 December 2016</p>	<ul style="list-style-type: none"> We reviewed the Short Term mandate 2016 and confirm that the mandate is aligned to Procedure 32-1034, therefore the controls are adequate for the procurement process, however, operational effectiveness could not be tested, as this mandate has not been phased in as yet. PEB has adopted the Procedure 32-1034 for all tenders going forward. We confirmed this by placing reliance on Proactive assurance Reports issued by other Audit Firms. We reviewed the requests for Proactive Assurance review completed by other Audit Firms and confirmed through review of the reports provided to us that 3 out of 6 	We were unable to review BTC meeting minutes for the 10 February 2016 to confirm that the Short Term Mandate 2016 was approved, as there is a backlog at Secretariat.	Partially implemented	Not applicable

k.f.

Finding title	Initial rating as per PAC Report	Finding Detail	Root Cause	Management Implementation Action (s)	Assessment of Management Implementation Action (s)	Management Action (s) not implemented	Revised Assessment rating	Revised Management Action (s) & due date
		confirm a supply contract fits the optimised plan.			tenders were completed and submitted to Board Tender Committee. Minor findings were raised during the Proactive Assurance reviews, but these were cleared before submission to Board Tender Committee. No findings were raised on Declaration of Interests, therefore the controls are adequate and operating effectively for the procurement process.			

LABORATORIES

Finding title	Initial rating as per PAC Report	Finding Detail	Root Cause	Management Implementation Action (s)	Assessment of Management Implementation Action (s)	Management Action (s) not implemented	Revised Assessment rating	Revised Management Action (s) & due date
7. Non-compliance to Eskom's procurement and supply chain management procedure 32-1034		<ul style="list-style-type: none"> Several inadequacies were identified in the Procurement, Contracting, Contract Management and Quality Assurance systems. The following anomalies were noted: Tender Process A Contracting Strategy was 	<ul style="list-style-type: none"> The End-User managed the procurement process without adequately engaging all relevant stakeholders. The Buyer did not adequately fulfil the role of active facilitation for this transaction, by ensuring the requirement of the procedure adhere to Procedure 32-1034. Evaluations were 	<ul style="list-style-type: none"> The irregularities relating to the procurement process resulted in a suspension and a disciplinary hearing was held for the involved colleague. FED are awaiting results thereof. For the upcoming RFP all reviews will be afforded sufficient time to be completed and they will include other stakeholders for 	<ul style="list-style-type: none"> Following discussions held with management, we confirm that no results have been communicated to FED on the outcome of the disciplinary hearing. FED has fully adopted Procedure 32-1034 to address every procurement/outsourcing related transaction. This has been evidenced through review of the requests for Proactive Assurance reviews 	Since the next RFP process for Laboratories have not commenced, accreditation status forming part of the technical due diligence checklist could not be assessed.		Not applicable

K.K.

Initial finding title	Initial rating per EWT Report	Findings Detail	Root Cause	Management Implementation Action (s)	Assessment of Management Implementation Action (s)	Management Action (s) not implemented	Revised Assessment rating	Revised Management Action (s) & date
		<p>provided, which was signed off by the General Manager. Commercial, however it was not dated.</p> <ul style="list-style-type: none"> The Scope of Work was formulated by the End-User only, as no evidence exists to confirm that the End-User consulted any stakeholders or received approval of the Scope of Work. Similarly, the Technical evaluation criteria was also compiled by the End-User, without input from other technical experts. As a result, the technical evaluation team members indicated that the criteria did not enable them to adequately evaluate the technical competence of the Laboratories as items that should have been included in the criteria, was excluded. 	<p>performed in some instances by one individual only, without adequate review and approval.</p> <ul style="list-style-type: none"> Coal quality tests may not be done in accordance with testing requirements/standards, impacting the integrity of the coal test results. Lack of supervision by the Commercial Manager. 	<p>transparency.</p> <ul style="list-style-type: none"> The contracts in question commenced in April 2014 and are expiring on 31 March 2017. To prevent a re-occurrence, Procedure 32-1034 has been fully adopted to address every procurement/sourcing related transaction. We are currently using Noko, SABS, SGS and Siza Laboratories and they are all fully compliant to accreditation requirements. This is confirmed through Quarterly Proactive Assurance conducted by the Technical Services Department personnel. The delegated Service Managers (per Service Provider) monitor compliance on a monthly basis and a standard agenda item is included to track any changes of expiry of certification. For the next RFP process accreditation status will form part of the technical due diligence checklist. Tenderers that do not comply with the accreditation status will be disqualified. The governance requirements /process 	<p>completed by other Audit Firms. We placed reliance on the Reports provided to us for tenders within Fuel Sourcing, where adequate stakeholder engagement was afforded. We therefore confirm that the controls are operating effectively for the procurement process.</p> <ul style="list-style-type: none"> We confirmed through inspection of the quarterly Proactive assurance reviews performed by the Technical Services team for Noko, SABS, SGS and Siza Laboratories that they are all fully compliant to accreditation requirements. We therefore confirm that the monitoring controls for compliance to accreditation is operating effectively. 			

f.k.

Problem title	Initial findings summary and Report	Findings Detail	Root Causes	Management Implementation Action (s)	Assessment of Management Implementation Action (s)	Management Action (s) not implemented	Revised Assessment Rating	Revised Management Action (s) and Date
		<ul style="list-style-type: none"> The technical evaluation team was selected solely by the End-User, without input or approval from other independent stakeholders. There was a difference between the evaluation criteria on the Contracting Strategy and the Invitation to Tender, where an additional criteria (Quality) was added to the Invitation to Tender. There was however, no evidence of approval of these changes. On the closing date of the tender, a register of tenders were submitted, however, there was no audit trail of how these documents were handled throughout the process by the different evaluation disciplines. Further, there was no indication in the 		<p>have been defined and will be followed regarding each transaction. This will be communicated to each Buyer before any transaction resumes.</p> <ul style="list-style-type: none"> All procurement transactions will be subjected to Proactive Assurance reviews. <p>01 April 2017 (to be addressed during upcoming RFP)</p>				

kk

Finding title	Initial Rating as per PAC Report	Finding Detail	Root Cause	Management Implementation Action (6)	Assessment of Management Implementation Action (7)	Management Action (8) not Implemented	Revised Assessment Rating	Revised Management Action (9) & Due date
		<p>tender submission, that two (2) Eskom Officials initialled each page as required by the tender process.</p> <ul style="list-style-type: none"> Following an interview with the Buyer, she indicated that she was not suitably qualified to identify the 2 gatekeepers, resulting in the End-User performing the pre-evaluation of the Laboratories. The disqualification of the 5 service providers was therefore performed by one person, with no review or approval. An analysis of the disqualified tender submissions revealed that three (3) of the disqualified tenderers submitted the mandatory gatekeepers, contrary to what the End-User and Buyer advised. Furthermore, 						

K.K.

Incident title	Initial finding as per PNC Report	Incident Detail	Root Cause	Management Implementation Action (S)	Assessment of Management Implementation Action (S)	Management Action (S) if not implemented	Final Assessment finding	Final Management Action (S) & due date
		<p>disqualified tenderers were not given adequate reasons for disqualification. The regret letters sent to the suppliers only indicated that they were "unsuccessful", not necessarily that they were "disqualified" and the reasons provided in the Evaluation Report were not specific, as the report stated that the tenders were disqualified because they "Did not submit the qualifying mandatory requirement".</p> <p>Technical evaluation sheets used by the different members of the technical evaluation team were electronic, not dated and no names were depicted on the sheet, predisposing them to manipulation. Furthermore, the technical evaluation team</p>						

K.K.

Findings etc.	Initial rating as per Post Report	Findings Details	Root Cause	Management Implementation Action (S)	Assessment of Management Implementation Action (S)	Management Action (S) not implemented	Revised Assessment Value	Revised Management Action (S) Due date
		<p>members did not compile a detailed site visit report of the site visit performed as part of the technical evaluation. Score sheets were only provided in respect of the site visits. These did not include any detail on them.</p> <p>The Evaluation Report stated that the minimum average qualifying score for Functionality (threshold) was 60%. All tenders that fail to achieve the minimum qualifying score on Functionality should not be considered for further evaluation on Price and BEB. This was however incorrect, as the minimum score of 60% related to the Quality threshold as set out in the Invitation to Tender. The Quality Expert stated in her report that</p>						

K.K.

Finding title	Initial rating of per-Proc Report	Finding Detail	Root Cause	Management Implementation Action (2)	Assessment of Management Implementation Action (3)	Management Action (4) not implemented	Revised Assessment (5)	Revised Management Action (6) and date
		<p>service providers who attained below 60% for Quality should not be contracted, and that only 3 service providers attained the minimum required score for Quality. The Commercial Buyer confirmed during an interview, that she aggregated the scores and made the recommendations to the PTC based on the aggregated scores. Further, she admitted that aggregating the scores was an oversight on her part and did not enquire whether or not the aggregated or individual scores had to be used for recommendation purposes.</p> <p>The Evaluation Report also reflected scores for Price which together with the BEB scores, were used to rank the service providers according to the</p>						

k.k

Funding title	Initial rating, as per the Report	Scoring Detail	Root Cause	Management Implementation Action (a)	Assessment of Management Implementation Action (b)	Management Action (c) not implemented	Revised Assessment rating	Revised Management Action (d) & due date
		<p>total combined scores attained. The service provider with the highest score was ranked 1st whilst the service provider that scored the lowest occupied the last ranking on the list. Price scoring sheets could not be provided and it is also unclear who performed the Price scoring.</p> <ul style="list-style-type: none"> The Health and Safety and Quality scores were verified to the actual score sheets, however, Technical score sheets could not be provided and therefore could not verify the Technical scores reflected in the evaluation report. The evaluation team members did not have sight of the consolidated scores presented to the Procurement Tender Committee and there was no "four eye" review of the consolidated 						

4-k.

Finding title	Initial Rating as per PAC Report	Finding Details	Root Cause	Management Implementation Action (1)	Assessment of Management Implementation Action (2)	Management Action (3) Not Implemented	Revised Assessment Rating	Revised Management Action (3) & due date
		<p>scores to ensure accuracy.</p> <ul style="list-style-type: none"> There was no audit trail, including PTC minutes of what transpired during the presentation to the PTC. It is therefore not clear what the PTC reviewed and questioned. There was no evidence in the documents provided that the SD & L team was consulted before going out on Tender as required by the Procurement Procedure. SD&L objectives were referred to following an instruction from the PTC. The SABS Secunda Lab failed to obtain the minimum score of 70% for technical competence. The contract signed by SABS is however silent on this and does not specifically prohibit the use of this Lab. The End-User has confirmed that 						

kk.

Finding ID	Initial Rating as per PoC Report	Finding Detail	Root Cause	Management Implementation Action (a)	Assessment of Management Implementation Action (b)	Management Action (c) not implemented	Revised Assessment Rating	Revised Management Action by K.D.D.
		<p>there are no controls currently in place to ensure that Eskom does not use the SAES Secunda Lab.</p> <p>Contracting</p> <ul style="list-style-type: none"> The End-User advised that a detailed review of the service provider's quality management protocols and methodologies could not be conducted due to time constraints, as a normal review would require 2 to 3 days to complete. The evaluation team therefore focused on accreditation certificates, as these were critical to the performance of the Eskom contracts. There were disparities and no commercial reasoning in the pricing accepted between the 9 service providers, considering that these service providers were providing exactly 						

f.k.

Findings title	Initial finding as per PTC Report	Findings details	Root Cause	Management Implementation Action (s)	Assessment of Management Implementation Action (s)	Management Action (s) not implemented	Revised Assessment rating	Key/Lead Management Action (s) & due date
		<p>the same services. No price benchmarking was performed prior to going out on tender.</p> <ul style="list-style-type: none"> The Feedback Report showing negotiation outcomes to the PTC was dated 28 March 2014. However, two contracts were signed as early as 26 March 2014. The Buyer indicated that they received a mandate to negotiate and conclude the contract. The Feedback report referred to the mandate, but there was no signature and date from the PTC chairperson. The Evaluation Report was only signed by the Chairperson of the PTC on 15 October 2016, which was after the contracts were concluded. 						
8. Non-compliance to the laboratory audit procedures		<p>Upon review of the Lab audit procedures, the following was noted:</p> <ul style="list-style-type: none"> Following 	<ul style="list-style-type: none"> Non-compliance to the Coal Quality Management Procedure (CQMP). No appropriate contractual remedy to ensure full and 	<ul style="list-style-type: none"> All Laboratories comply with the competency requirement and this is confirmed by proactive assurance on a quarterly basis by PED 	<ul style="list-style-type: none"> We confirm that quarterly Proactive Assurance takes place at each Laboratory. We further, reviewed the Quarterly Laboratory Compliance Audit 	<ul style="list-style-type: none"> We reviewed meeting minutes and noted that management is liaising with HR to get a 	Partly Implemented	The Quality Assurance team is drafting reports to indicate that the 131 non-conformances relating to the 4 labs

K.k.

Finding title	Initial finding as per SAC's Report	Finding Detail	Root Cause	Management Implementation Action (a)	Assessment of Management Implementation Action (b)	Management Action (c) not implemented	Revised Assessment Rating	Revised Management Action (s) to be done
		Interviews held with the Quality Assurance team, we were informed that they did not have access to the current Lab Contracts and as such, did not audit the Laboratories for compliance with the Terms and Conditions of the contract. Through review and scrutiny of the Laboratory non-conformance report we identified that a total of 49 audits were carried out at the 5 Laboratories between April 2014 and August 2015. During these audits, 214 non-conformances were identified (148 major and 66 minor). Of the total non-conformances, 83 non-conformances were resolved. However, no evidence was obtained to determine whether the	continuous compliance to the required standards. <ul style="list-style-type: none"> Inadequate contracts management in ensuring compliance to the Eskom Laboratory Audit Procedure. Inadequate management oversight over the contract management of laboratories. Inadequate skills levels and/or competence of Lab staff. 	<p>personnel.</p> <ul style="list-style-type: none"> This finding has been addressed by the recording of non-conformances on SAPQIM for tracking and monitoring. If non-conformances remain open or are recurring, an early warning meeting is held to warn the lab/observer that it is in breach of its contract. This is a step before a suspension of a contract. PED has also requested a legal opinion on how they may terminate contracts without incurring financial losses. All Laboratories equipment is linked to the Laboratory Information Management System (LIMS) as per contractual requirements. Furthermore, Laboratories have to submit results generated by the LIMS system as opposed to manually generated spreadsheets. Proactive Assurance is conducted on a quarterly basis to ensure compliance. Long term plan – Eskom IT is assisting the Technical Services 	<p>Reports for Noko, SABS, SGS and Siza for three quarters and confirm that non-conformances are included in the reports, as well as the accreditation certification. We therefore confirm that the monitoring controls for compliance to accreditation is operating effectively.</p> <ul style="list-style-type: none"> We confirm that the SAP Quality Issue Management system (SAPQIM) is used for tracking and monitoring non-conformances. This system has only been used for all non-conformances reported on since 1 January 2016. The system is able to extract results showing open and closed non-conformances. We therefore confirm that the SAPQIM tracking and monitoring control for non-conformances is operating effectively. We confirmed that all lab equipment was linked to the Laboratory Information Management System (LIMS), through the inspection of linkage screenshots and a video recording showing the linkage of equipment at Noko, SABS, SGS and Siza. We therefore confirm that the monitoring control of 	Legal person to assist on the Contracts matter.		currently being used have been closed. In addition to capturing and monitoring on SAPQIM, non-conformances will be presented at meetings with the service providers, at the Technical Services Departmental meeting and at Primary Energy EXCO (PEXCO) meetings. These are monthly meetings and minutes will be kept on Hyperwave. Responsible Officer: Kwenzokuhle Magwaza (Senior Manager: Technical Services – Acting) Effective Date: 30 November 2016

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Findings title	Initial rating as per PACT Report	Findings Detail	KPI Cause	Management Implementation Action (a)	Assessment of Management Implementation Action (b)	Management Action(s) implemented	Revised Assessment Rating	Revised Management Action (c) & Due date
		<p>remaining 131 non-conformances were addressed. Also, we were not provided with all Close-out audit reports and as such, we could not determine if the 131 unresolved non-conformances were major or minor. Further, we noted that in certain instances, some of the non-conformances were recurring.</p> <ul style="list-style-type: none"> In addition, we reviewed the Follow-up Lab Audit Reports to assess whether the QA team complied with the provisions of Eskom's Lab Audit procedure, and noted the following: <ul style="list-style-type: none"> Of the 14 audits conducted, 7 Lab audit reports were 		<p>Department with a VacILMS Software Project, which will allow Eskom remote access to contracted Laboratories' results by 2018.</p> <ul style="list-style-type: none"> Where non-conformances remain open or are recurring, early warning meetings are held to drive the point home. Contract Management has also been included as a KPI for individual Service Managers, weighing 30% of KPA 4. <p>Effective date: 31 August 2016</p>	<p>linking equipment is operating effectively.</p> <ul style="list-style-type: none"> We confirmed through inspection of appraisals that Contract Management has also been included as a KPI for individual Service Managers, weighing 30% of KPA 4. We therefore confirm that the monitoring control of Contract Management is operating effectively. With regards to the 131 non-conformances outstanding as per previously reported, we reviewed Follow up reports and confirm that all 131 non-conformances were closed. Adequate monitoring is occurring regarding early warning for non-conformances, as all non-conformances are monitored on the SAPQIM system. Further, management has updated Eskom's Laboratory Audit Procedures 240-44512454 on 19/9/2016, which includes monthly monitoring and reporting of non-conformances. This control will be measured going forward regarding reporting of results of non-conformances as well as monitoring of early warnings. 			

K.K.

Finding title	Initial rating as per PwC Report	Finding Detail	Root Cause	Management Implementation Action (C)	Assessment Management Implementation Action (D)	Management Action (S) Not Implemented	Revised Assessment Action	Revised Management Action (S) & due date
		<p>signed off after the required time limit of 7 days.</p> <ul style="list-style-type: none"> 15 follow up audits were conducted, of which 7 audit reports were signed off after the required time limit of 7 days; and the follow up audits were conducted after the 14 day time limit. <p>During our observation of the Lab audits performed between 12 October 2015 and 16 October 2015, we noted various discrepancies (refer to detailed report) which raised concerns about the training and competency of the Lab staff. Further we conducted a "blind" sampling process (refer to detailed report).</p>						

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Finding #	Initial Finding Report	Finding Detail	Risk Cause	Management Implementation Action (a)	Assessment of Management Implementation Action (b)	Management Action (c) not Implemented	Followed Assessment Rating	Revised Management Action (d) & Date
9. Mandatory training not completed		<p>The results showed that 5 service providers had failure rates.</p> <ul style="list-style-type: none"> We reviewed the Contracts Manager (End-User) training records, provided by the Middle Manager HR Operations (HR Business Partner). Based on her training records, it appears that the Contracts Manager has not undergone training in the following areas as required per the Procurement policy: The Procurement Framework; Foreign Exchange and commodity exposures policies and procedures; and New Engineering Contracts. 	<ul style="list-style-type: none"> The End-User had been recently appointed at the time of the procurement transaction. 	<ul style="list-style-type: none"> IDP will be used for skill gap analysis and identification of relevant training interventions. Right Services Managers reporting to a Term Services Contract Manager (TSC) have been trained on contract management. Each one has been handed a contract to manage and this includes the keeping of hard copy files in cabinets and soft copy files on Hyperwave. The TSC Manager conducts inspections for compliance using a checklist. <p>The TSC Manager has received all necessary training except for Foreign Exchange and Commodity Exposure Policies and Procedures, which is not applicable to these contracts.</p> <p>Effective date: 22 February 2016</p>	<ul style="list-style-type: none"> We confirmed that six Services Managers reporting to a Term Services Contract Manager (TSC) have been trained on contract management. Each one has been handed a contract to manage and this includes the keeping of hard copy files in cabinets and soft copy files on Hyperwave. The TSC Manager conducts inspections for compliance using a checklist. Confirmed through inspection of the checklist that this process is in place. No exceptions noted. We therefore confirm that the monitoring control is operating effectively for contract management. We confirmed through inspection of documentation that the TSC Manager has received all necessary training except for Foreign Exchange and Commodity Exposure Policies and Procedures, which is not applicable to these contracts. We therefore confirm that the monitoring control for training is operating effectively. 	The Individual Development Plans (IDP) that is supposed to be used for skill gap analysis and identification of relevant training interventions have not been done.	Partly Implemented	<p>Individual Development Plans (IDP) will follow the Talent Management Board process which is currently under way. The intention is to use the IDP to highlight gaps that may exist in one's training requirements, including contract management.</p> <p>Responsible Officer: Kwenakutle Magwaza (Senior Manager: Technical Services - Acting)</p> <p>Effective Date: 31 March 2017</p>
10. Inadequate document		<ul style="list-style-type: none"> A Purchase 	<ul style="list-style-type: none"> Lack of oversight 	<ul style="list-style-type: none"> The contracts in 	<ul style="list-style-type: none"> PED has fully adopted 	Since the next RFP process for		Not applicable

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Initial Findings by PWC Report	Initial Findings by PWC Report	Initial Findings by PWC Report	Initial Findings by PWC Report	Initial Findings by PWC Report	Initial Findings by PWC Report	Initial Findings by PWC Report	Initial Findings by PWC Report	Initial Findings by PWC Report
management	<p>Requisition appears to have been approved by the Cost Centre Manager as per the SAP printout provided to us. It is however unclear when it was approved as the purchase requisition printout does not indicate the date of approval.</p> <ul style="list-style-type: none"> The tender was advertised in Eskom Tender Bulletin from 26 November 2013 to 14 January 2014, which exceeded the required 20 days. We could not find any evidence that the tender results were advertised in the Eskom Tender Bulletin. We found no evidence that contract files for each service provider were opened and maintained. We requested the above contract files as prescribed by the Policy from the End-User but 	<p>and care regarding documentation management.</p> <ul style="list-style-type: none"> No document management system exists, including checklists, review of documents for completeness. The Buyer did not adequately fulfil its role of active facilitation for this transaction, by ensuring the requirements of the Procedure 32-1034 was complied with. 	<p>question started in April 2014 and are expiring on 31 March 2017. To prevent a re-occurrence, the Supply Procedure 32-1034 has been fully adopted to address every procurement/sourcing related transaction.</p> <ul style="list-style-type: none"> Compliance will be confirmed using a checklist and the process will be subjected to proactive assurance. PTC minutes will be kept as part of the contract file. We will make use of a central repository to store all documents and will migrate toward using the Group Commercial Document Management Procedure. <p>Effective date: 1 April 2017</p>	<p>Procedure 32-1034 to address every procurement/sourcing related transaction. This has been evidenced through review of the requests for Proactive Assurance reviews completed by other Audit Firms. We placed reliance on the Reports provided to us for tenders within Fuel Sourcing, where adequate stakeholder engagement was afforded. We therefore confirm that the controls are operating effectively for the procurement process.</p> <ul style="list-style-type: none"> We have reviewed the checklist that Buyers are using and confirm that no exceptions were noted. We therefore confirm that the monitoring control is operating effectively for the procurement process. We confirmed through inspection that PRD staff are using Hyperwave to store documents, therefore we confirm that the document management system is operating effectively. 	<p>Laboratories have not commenced, no further assessment could be completed.</p>			

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Findings	Initial Rating per RAC Report	Findings Detail	Risk Cause	Management Implementation Action (a)	Assessment of Management Implementation Action (b)	Management Action (c) not implemented	Revised Assessment Action	Revised Assessment Action (d) & date
		these were not provided to us. She however provided us with an electronic folder titled "2017 Lab Contracts" which contained some information pertaining to the Laboratories. This file does not meet the requirements of a Contract file as envisaged by the Policy.						

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APPENDIX B – ESKOM'S DEFINITIONS

The definitions of the individual finding(s) are as follows:

The ratings and definitions as included in the table was used to rate the adequacy and effectiveness of the controls tested:

Rating	Description
Partly Implemented	Indicates, that in relation to the agreed management action plan, some evidence was provided but not all of the elements of the recommendation were addressed.

The definitions of classification of findings:

Classification	Description
Overdue	Management has implemented some actions to address the risk; however, the risk exposure still exists.
Repeat	The Follow-up review identified that none of the management actions have been actioned to address the exposure.

Eskom's overall opinion rating definitions are as follows:

Opinion	Description
Partially satisfactory	<p>The results of the follow up are regarded as partially satisfactory if all or most of the envisaged management actions to address the control deficiency have been partially implemented in time.</p> <p>OR</p> <p>Some of the envisaged management actions to address the control deficiency have been implemented in time.</p>



Annexure KKM6

SIZA COAL SERVICES CC

Reg. No: 2005/001517/23

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Tel: 012 665 5007/2762 Cell: 073 267 6356 Fax: 012 665 2651

CONFIDENTIAL

Mr. Thami Sibanda

Date: 01/02 October 2015

Kendal chemical services

Enquires:
Kinross- Quality Department
017 687 1630/0008
073 485 7216

Dear MR Thami Sibanda

System - Kendal chemical services

1. Introduction

It is part of Siza coal services Quality Department function's mandate to provide reasonable assurance that the risks in the business are managed in an acceptable manner to achieve Kendal Chemical Services departmental and divisional objectives. This is achieved through auditing our processes to ensure that the objectives are realized. The planned audit was conducted on 01/02/ October 2015 at Siza Coal Services Kinross commercial lab, by Siza coal services Quality Department.

2. Audit Objective

The audit was also conducted in order to establish if the compliance to the Coal Quality Management Procedure, relevant ISO standards and Kendal Chemical Services management procedures are adhered to and also to do a gap analysis against the ISO 17025:2005 .

3. Audit Scope

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Document no	Revision Status	Effective Date	Page no
SRF 001R	02	08/2014	1 of 8

The Audit scope will cover the following areas of management system, Technical, internal audits, management review. Quality management witnessing as per ISO 17025.

Description of clauses from ISO 17025 standard/Manual.

Clause Number	Description	Laboratory document No
All	Management system	TBA

Audit Team

Auditor (Quality Manager)	Siboniso Masondo
Auditor (Quality officer)	Nozipho Madondo
Auditee(Quality coordinator)	Lettie Matulu
Auditee(Coal supervisor)	Selia Sethowa
Auditee(Laboratory Supervisor)	Sylvia Maule

4. Audit Criteria

ISO/IEC 17025:2005 General requirements for the competence of testing laboratories. Relevant Laboratory Test methods, Specific operating procedures and applicable ISO standards.

ISO 17025 : 2005	Witnessing of activities	Siza Coal Services Quality Department
RATING KEY: NA=NOT APPLICABLE; C= COMPLIANCE; NC= NON COMPLIANCE; MAJ= MAJOR, MIN = MINOR.		

REF	DESCRIPTION OF NON CONFORMANCE/CONFORMANCE AND OBSERVATION IN DETAILS	RATING	CLASSIFICATION
4.1	Organization and Management system		

Document no	Revision Status	Effective Date	Page no
SRF 001R	02	08/2014	2 of 8

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1	The company registration number to show that the company can be held legal responsible did not appear on the quality manual as per ISO 17025:2005	NC	Major
2	The company is performing test against the ISO standard but during the assessment they could not proof that the standards were indeed always available for traceability of these method	NC	Minor
3	The Kendal Chemical Services did not have the policy statement that is in line with the laboratory	NC	Major
4	During the time of assessment an organogram was presented by the Kendal Chemical services however the it was not clear where the coal laboratory structure fits in	NC	Major
5	During the time of assessment Job descriptions were available and signed by the employees to acknowledge they responsibilities	C	
6	During the time of the assessment it was discovered that the Kendal Chemical Services does not have arrangements to prevent undue pressure whether internal, external commercial and financial pressures	NC	Major
7	During the time of the assessment it was discovered that the lab does not have the procedure for customer confidentiality to protect information	NC	Major
8	During the time of assessment it was discovered that the laboratory has a system to monitor work performed by staff by signing analysis sheet of work done by the analyst.	C	
9	The laboratory has appointed deputies for key personnel	C	
4.3	Document control: management requirement		

Document no	Revision Status	Effective Date	Page no
SRF 001R	02	08/2014	3 of 8

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10	The document control procedure is available however the laboratory does not control laboratory instrument manual external origin document	NC	Major
11	The document procedure is detailed on how the lab controls obsolete document however it was discovered during the assessment that some old revision document were being used e.g. document control procedure rev 03 was used instead of rev 04	NC	Major
4.4	Review of request, tenders and contracts		
12	The laboratory does not have the procedure on review of request	NC	Major
4.5	Subcontracting of results		
13	The procedure for subcontracting of test work was not adequate and the lab does not have the	NC	Major
4.6	Purchasing and supplies		
14	The lab claims that it has a procedure for selection of purchasing and supplies services and it is kept by the procurement department however at the time there were no evaluations of critical consumable suppliers and those approved	NC	Major
4.7	Service to customer		
15	The procedure for seeking feedback from customers is available however when feedback is received back from customers it is not used to improve e.g. analyse data.	NC	Major
4.8	Customer complaint		
16	Procedure for customer complaint was available however the complaints are not registered by the laboratory	NC	Major

Document no	Revision Status	Effective Date	Page no
SRF 001R	02	08/2014	4 of 8

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4.9,10,11,12	Control of non-conforming work, Improvement and preventive action		
17	The control of non-conforming work procedure was shown in the manual however there was no evidence that the lab will control non-conforming work effectively as there was no completed investigation.	NC	Major
4.13	Control of records		
18	The procedure for control of records was well documented and detailed and was followed Retention times, destroying of information stored in the secured place.		
4.14	Audits		
19	The audits are done by the lab in line with 9001 however these audits are not relevant to the activities of the laboratory as the methods are not covered and ISO 17025 is not covered.	NC	Major
4.15	Management review		
20	The management review does not cover the minimum requirement of ISO 17025	NC	Major
	Technical requirements		
21	It observed during the time of audit that the laboratory only verifies the analytical balance at one grams not covering the lower range of the analytical balance	NC	Major
22	At the time of the assessment no Mass pieces to verify balances were available	NC	Major
23	The laboratory does not have a procedure that stipulate how often the laboratory will verify it Furnaces and Oven	NC	Major
24	The competency criteria used by the laboratory	NC	Major

Document no	Revision Status	Effective Date	Page no
SRF 001R	02	08/2014	5 of 8

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	was not adequate as the training was not traceable to any known value samples		
25	Certificates of calibration were available for all furnaces and ovens and calibration was up to date	C	
26	The laboratory did not have thermometer and probe to verify ovens and temperature	NC	Major
27	During the time of the assessment it was discovered that the laboratory temperature and humidity was not monitored	NC	Major
28	The laboratory does not condition sample and does not have a conditioning area in the lab	NC	Major
29	It was discovered that during the time of the audit the laboratory did not verify CRM sample prior to using them to establish their own value	NC	Major
30	During the assessment the control chart for volatile was showed to be bias however no actions were taken by the laboratory to investigate	NC	Major
31	The stop watch used by the lab when doing volatile was not calibrated	NC	Major
32	During the time of the audit it was discovered that no crusher efficiency is done by the lab	NC	Major
33	It was discovered that the lab does not verify screens if they are not worn out	NC	Major
34	The laboratory participate on the Yanka round robin and all parameters were within the z-score of 2	C	
35	No procedure for stating when should the lab do Pulverizer efficiency	NC	Major
36	No method validation available for all method in the laboratory	NC	Major
37	No procedure available in the lab for assuring the quality of the results as per ISO 17025 clause 5.9	NC	Major
38	The test report issued by the laboratory do not	NC	Major

Document no	Revision Status	Effective Date	Page no
SRF 001R	02	08/2014	6 of 8

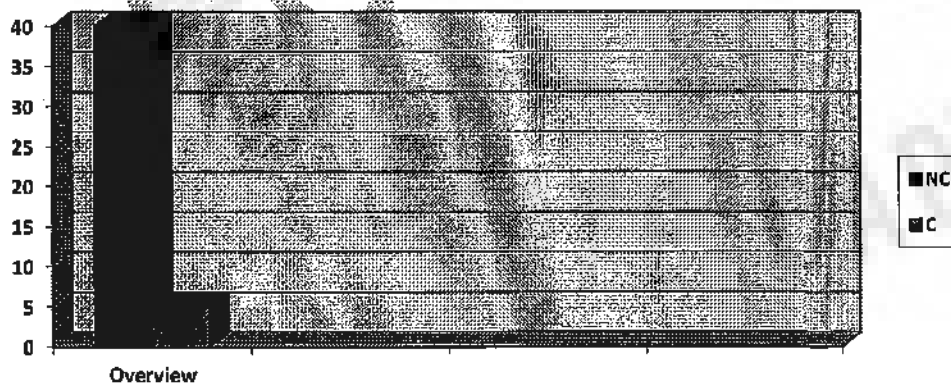
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	meet the requirements of ISO 17025:2005		
39	All the laboratory instrument were not uniquely identified/recorded as per IS 17025 clause 5.5.5	NC	Major
40	No procedure for handling of test item	NC	Major
41	The laboratory uses only 1% sulfur standard the upper and lower range sulfur is not covered	NC	Major
42	The procedure for total moisture state that samples will be dried at 105°C to 110°C however at the time of assessment the oven was 114°C	NC	Major
43	The laboratory does not have the sample splitter for general analysis samples and this could cause bias when taking the final split of the sample to the lab	NC	Major
44	No calibration records were available during the time of audit	NC	Major
45	The total moisture results were not traceable to the original raw data	NC	Major

- **MAJOR NON-COMPLIANCE:** Any finding that has direct impact harm and this can results on injuring the personnel and destroying the image of the company

APPRECIATION

The team would like to express their appreciation for co-operation given during the audit.



Document no	Revision Status	Effective Date	Page no
SRF 001R	02	08/2014	7 of 8

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Yours in Quality

Siboniso Masondo

Quality manager

SIZA COAL SERVICE- QUALITY DEPARTMENT



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Document no	Revision Status	Effective Date	Page no
SRF 001R	02	08/2014	8 of 8

Annexure “KKM6”



NOTE FOR THE RECORD

Date:
29 October 2015

Enquiries:
Miss. Maria Kgaphola
+27 11 800 3330

Our Ref:

KENDAL POWER STATION COAL LABORATORY GAP REPORT

1. INTRODUCTION

A site meeting was undertaken at Kendal Power Station (PS) by PED Technical Services and Coal Operation personnel on the 28th of October 2015.

The objective of the meeting was to address the contractual obligations and requirements for analyzing the contractual coal samples at Kendal PS laboratory.

The following topics were deliberated:

1. Coal contractual requirements (Coal Supply Agreement: CSA)
2. Compliance to the Coal Quality Management Procedure (CQMP)
3. Compliance to ISO 17025: Laboratory Accreditation System

2. OUTCOME OF THE DELIBERATION

The following gaps were identified:

2.1 COAL CONTRACTUAL REQUIREMENTS

It was found that Kendal PS laboratory does not meet the following Coal contractual requirements:

- The PS Coal Laboratory is not **ISO 17025** accredited.

2.2 COMPLIANCE TO THE CQMP (NON-COMPLIANCES)

- 2.2.1 There is contravention to the Tegeta Exploration CQMP Clause 3.9 requirements, stating that "*nominated laboratory means a 17025 accredited laboratory that is appointed by Eskom, and approved by both parties*". In this case, the sample preparation and physical analysis (Total Moisture and Abrasive Index) of the contractual sample (Pulverized Fuel samples) is conducted at Kendal Power Station coal laboratory.
- 2.2.2 Contractual chemical parameters (Ash, Inherent Moisture, Volatile matter, Calorific Value and Total Sulphur) are currently being analyzed at Duvha Power Station coal laboratory by Kendal PS representatives.
- 2.2.3 The contractual results are then reported simultaneously to both Eskom PED (Gert Opperman & Maria Kgaphola) and the Supplier by Kendal PS representative.

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K.K.

- 2.2.4 Size Grading has been outsourced to Siza Coal Laboratory due to unavailability of the required sieves to conduct the analysis.
- 2.2.5 The rotary splitter currently in use at Kendal PS coal laboratory is not big enough to accommodate the contractual bulk sample.
- 2.2.6 Sample preparation procedures are not in place.
- 2.2.7 Currently there is no quality management system in place, which is in-line with the ISO 17025 requirements, this is supported by the Gap analysis that was conducted at Kendal Power Station by Siza Coal Laboratory (Please see the report attached below).

2.3 THE MAIN RISKS ASSOCIATED WITH THE NON COMPLIANCES DETAILED ABOVE WERE AS FOLLOW:

- 2.3.1 Eskom is in breach of the contract it entered into with Tegeta Exploration as per Clause 3.9 of the Coal Quality Management Procedure (CQMP), Reference number: **722504**.
- 2.3.2 Laboratory does not have procedures in place to conduct both sample preparation and physical analysis; however, the laboratory personnel are conducting the analysis and sample preparation as per the CQMP flow sheet. This will thus compromise the credibility of the results reported by Kendal PS laboratory.
- 2.3.3 ISO 17025 requires that the analytical results shall be reported by SANAS appointed Technical Signatory; contrary to these requirements will result in Duvha Power Station Accreditation being compromised.
- 2.3.4 This is in contrary to ISO 17025 clause 4.5.2 of Sub-contracting, which states that *"the laboratory should inform its customer in writing and approval should be granted"* and Clause 4.5.3 further states that *"Except in the case where the customer or the regulatory authority specifies which subcontractors to be used"*.
- 2.3.5 The current practice compromises the contractual sample based on the mass loss during the sample preparation process and this can be confirmed from the analytical results reported by Kendal PS whereby the mass loss attained was approximately 20kg.
- 2.3.6 Credibility of the results is questionable.
- 2.3.7 The contractual requirements as agreed by both parties are not adhered to.

3. Recommendations

Based on the current practices detailed in this report, Duvha Power Station laboratory should be used for contractual analyses of the Tegeta Exploration samples; however, Duvha PS shall ensure that following are in place prior to commencement of the project:

- There is sufficient manpower to conduct the required analysis on a 24hr basis.
- Scope of work from PED shall be shared with Duvha Power Station coal laboratory. The details of the scope of work shall be:
 - Conditioning of the sample prior to commencing with the analysis
 - Analysis of chemical parameters (Ash, Inherent Moisture, Volatile matter, Calorific Value and Total Sulphur).
- Eskom PED shall have a mutual agreement with the Supplier to utilize Kendal PS sample preparation facilities with the current status (non-ISO 17025 accreditation of the laboratory).

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4. Conclusion

Based on the current practices as detailed in this report, it can be concluded that the laboratory's Quality Management System does not comply to the requirement of ISO 17025, therefore Eskom is in breach of the CSA with Tegeta Exploration.

Eskom PED and the supplier shall have a mutual agreement to utilize Kendal Power Station Coal Preparation Laboratory as the interim contractual Laboratory. The agreement thereof shall form part of the CSA.

Yours Sincerely,

Maria Kgaphola
SENIOR COAL QUALITY AND QUANTITY ADVISOR

Gert Opperman
COAL SUPPLY UNIT MANAGER

k.k.

Annexure KKM6



POWER STATION MANAGERS

Dear Power Station Manager

**ISO 17025:2005 ACCREDITATION OF ALL ESKOM GENERATION POWER STATION
COAL LABORATORIES – REF: 725298**

There is a coal quality mitigation initiative by PED to move the contractual sampling payment point for coal deliveries to the power station and as a result the power station laboratories are required to increase capacity and prepare to analyse the coal samples for contractual payment.

It is a contractual requirement that all nominated laboratories be ISO 17025:2005 accredited, and power station coal laboratories will also be required to obtain ISO 17025:2005 accreditation. Power station laboratories will be required to increase capacity with respect to laboratory expansion, equipment and manpower. Where power station laboratories are outsourced or contracted out, the power station coal laboratory is required to obtain accreditation and not the contractor.

It is expected that a quality manual be put in place by March 2016. The power station laboratories will be required to obtain ISO 17025 accreditation for preparation, proximate and CV analyses by March 2017 and accreditation for all contractual analytical parameters, including sampling for coal analyses should be achieved by March 2018. For assistance please contact Kwenzokuhle Magwaza, Senior Manager: Technical Services (Acting) on 011 800 4553; Email: MagwazKW@eskom.co.za.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Matshela Koko'.

Matshela Koko

GROUP EXECUTIVE: GENERATION

Date: 8/2/16


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Eskom Holdings SOC Ltd Reg No 2002/015527/30

Annexure “KKM7”



Annexure KKM7

 Eskom	Standard Operating Procedure	PED Technical Services
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Title: **TEGETA EXPLORATION
AND RESOURCES Coal
Quality Management
Procedure**

Unique Identifier: **240-44511970**

Reference Number: **722504**

Area of Applicability: **PED – Technical
Services**

Documentation Type: **Procedure**

Revision: **0**

Total Pages: **38**

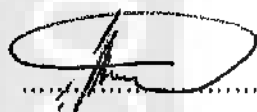
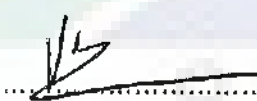
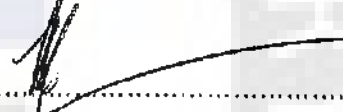
Next Review Date: **June 2017**

Compiled by

Functional Responsibility

Authorized by

PP

**Khulekani Dladla
Senior Engineer - Metallurgy**

**Viloshnee Moodley
Acting Coal Quality & Quantity
Assurance Manager**

**Kwenzokuhle Magwaza
Acting Senior Manager
Technical Services**

Date: **30/09/2015**

Date: **30/09/2015**

Date: **30/09/2015**

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Annexe A

COAL QUALITY MANAGEMENT PROCEDURE

TABLE OF CONTENTS

1	PURPOSE.....	2
2	SCOPE.....	2
3	DEFINITIONS	2
4	CONTRACTUAL APPLICATION OF ANALYTICAL RESULTS	4
5	SAMPLING.....	4
6	TRANSPORT OF BULK SAMPLE TO THE NOMINATED LABORATORY.....	12
7	SAMPLE PREPARATION.....	12
8	ANALYTICAL DETERMINATIONS.....	13
9	TURNAROUND TIME.....	14
10	ANALYTICAL DIFFERENCES AND RESOLUTION	14
11	COAL QUALITY REPORTING	16
12	TECHNICAL AUDITS.....	16
13	PRE-CERTIFIED STOCKPILE MANAGEMENT	16
14	TREATMENT OF COAL STOCKPILES.....	17
15	STOCKPILE MOISTURE MANAGEMENT	17
16	VERIFICATION SAMPLING	18
17	VARIABILITY TESTS.....	18
18	AMENDMENTS.....	18
19	COMPROMISE	18
20	APPENDIX 1: SCHEMATIC DIAGRAM SHOWING THE GENERAL ARRANGEMENT OF THE PROCESS FLOW.....	19
21	APPENDIX 2: AUTO SAMPLER SPECIFICATIONS.	19
22	APPENDIX 3: MANUAL SAMPLING PROCEDURE.	19
23	19	
24	APPENDIX 4: COAL QUALITY REPORT.....	20
25	APPENDIX 5: DISPUTE DECLARATION FORM.....	22
26	SAMPLE PREPARATION FLOWSHEET	23
27	SAMPLE PREPARATION FLOWSHEET	24
28	ROLES AND RESPONSIBILITIES: SUPPLIER, PRINCIPAL CONTRACTORS, ROVING SUPERVISOR AND OBSERVER.	25
29	REVISIONS.....	28



1 PURPOSE

The purpose of this document is to ensure that the quality results of Contract Coal dispatched, received and paid for in terms of the Agreement are measured and recorded, in accordance with the standards set out in this document and to ensure that coal is correctly pre-certified prior to dispatch to Eskom as well as responsibilities of Supplier, Principal Contractors, Roving Supervisor and Observer.

2 SCOPE

This document describes the procedures to be followed with respect to the preparation, sampling, analysis and pre-certification of Contract Coal stockpiles prior to dispatch to Eskom.

3 DEFINITIONS

Save as defined in this clause 3, the words and expressions defined in the Agreement, shall bear the same meanings herein. Unless the context indicates a contrary intention, the following words and expressions shall bear the meanings assigned to them below, and cognate expressions bear corresponding meanings:

- | | |
|-------------------------|--|
| 3.1. "Agreement" | means the agreement between the parties to which this document is annexed to; |
| 3.2. "Air-Dried" | means the physical condition of coal that has been dried at ambient temperature or at a temperature not exceeding 40°C (forty degrees Celsius) to remove surface moisture until constant mass is achieved; |
| 3.3. "As Received" | means the physical condition of the coal including both surface and residual moisture contents; |
| 3.4. "Bulk Sample" | means the aggregate of samples taken as a stockpile is created and composited to make a representative sample of such stockpile. |
| 3.5. "Consignment" | means the quantity of Contract Coal delivered in 1 (one) day; |
| 3.6. "General Analysis" | means the determination of calorific value, ash content, volatile matter content, inherent moisture content, ash |

fusion temperatures and total sulphur content;

- 3.7. **"Indicative Sampling"** means the sampling in the case of uncrushed coal, using front-end loader or equivalent to extract increments around a stockpile or from loads deposited by trucks from a specific source. Indicative Sampling shall also include channel sampling and borehole sampling for underground operations.
- 3.8. **"Moisture Free"** means the physical condition of the coal that has been dried at 105-110°C (between one hundred and five and one hundred and ten degrees Celsius) to remove both surface and residual moisture;
- 3.9. **"Nominated Laboratory"** means a 17025 accredited laboratory that is appointed by Eskom, and approved by both parties.
- 3.10. **"Payment Sampler"** means the auto-mechanical sampling device that will be used to extract the sample of the product during the production process or stockpile creation;
- 3.11. **"Physical Analysis"** means the determination of total moisture content, abrasiveness index and particle size grading;
- 3.12. **"Pre-certified Stockpiles"** means stockpile(s) of Contract Coal, approximately equivalent to a day's delivery, unless otherwise agreed, which have been sampled, tested and certified, in accordance with this **Annexe A: The Coal Quality Management Procedure and the Agreement**, as meeting the Quality Specification;
- 3.13. **"Repeatability"** means the results of duplicate determinations (carried out over a short period of time, but not simultaneously) in the same laboratory by the same operator with the same apparatus on 2 (two) representative portions taken from the same analysis sample
- 3.14. **"Reproducibility"** means the results of duplicate determinations in each of two laboratories, on representative portions taken from the same analysis sample;

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- 3.15. "Source" means the Mine or colliery or site at which the Pre-certified Stockpiles are produced prior to delivery to Eskom; and
- 3.16. "Verification Process" means sampling of a stockpile either at the Mine during creation or loading or at the Power Station during offloading to confirm the Pre-certified Stockpile results.

4 CONTRACTUAL APPLICATION OF ANALYTICAL RESULTS

The Nominated Laboratory's analytical results shall be used for payment purposes, subject to the dispute resolution procedure outlined in this document. Any deviation from the sampling process as specified hereunder shall mean that the stockpile has not been pre-certified.

5 Sampling

5.1 General Sampling

- 5.1.1 Within 3 (three) months of the Commencement Date of the Agreement, the Supplier shall ensure that the Payment sampling plant is available for sampling of coal.
- 5.1.2 The contractual sampling of coal shall be conducted in accordance with the latest relevant ISO Standards as tabulated in Table 1 below:

Table 1: ISO Standards for sampling coal

ISO STANDARD	DESCRIPTION
ISO 13909 Part 1	Hard coal and coke- Definitions
ISO 13909 Part 2	Hard coal and coke- Mechanical Sampling (Sampling from moving streams)
ISO 13909 Part 4	Hard coal and coke- Mechanical Sampling (Preparation of test samples)

ISO 13909 Part 7	Hard coal and coke- Mechanical Sampling (Methods for determining the precision of sampling, sample preparation and testing)
ISO 13909 Part 8	Hard coal and coke- Mechanical Sampling (Methods of testing for bias)
ISO 18283	Hard coal and coke — Manual sampling
ISO 21398	Hard coal and coke- Guidance to the inspection of mechanical sampling systems

5.2 Auto mechanical sampling

- 5.2.1 The Payment sampling plant shall be owned, operated and maintained by the Supplier.
- 5.2.2 The Payment sampling plant shall be located at the final product conveyor that transports coal to the product loading surge bin or the stockpile area and shall be interlocked with the final product conveyor. The general location of the Payment Sampling Plant in relation to the stockyard layout is set out in Addendum AA.
- 5.2.3 The GPRS co-ordinates of the Payment sampling plant are: (S26° 13.2691' E28° 50.8162)

5.3 Payment Sampling Plant Specifications

- 5.3.1 The Payment sampling plant shall be optimized to sample the material as shown in Table 2 below:

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Table 2: [Tegeta Exploration and Resources Mine] Material Characteristics

Parameter	Units	Results
Material type	-	Coal
Washed or un washed	-	unwashed
Maximum moisture	Wt%	10
Nominal top size	mm	50

5.3.2 The process flow diagram of the Payment sampling plant is set out in Addendum AB

5.3.3 The Payment sampling plant shall be designed for 2% precision on Ash.

5.3.4 The Payment sampling plant specifications are shown in Table 3 below.

Table 3: [Tegeta Exploration and Resources Mine] Summary of Sampling Plant Specifications

Plant unit	Description	Units	Specification
Primary cutter	Cutter type	-	
	Cutter width	mm	
	Cutter speed	m/s	
	Sampling interval	minutes	
Secondary cutter	Cutter type	-	
	Cutter width	mm	
	Cutter speed	m/s	
	Sampling interval	minutes	
Sample crusher	Crusher type	-	
	Feed grading	95% passing	
	Product grading	95% passing	
Tertiary cutter	Cutter type	-	
	Cutter width	mm	
	Cutter speed	m/s	
	Sampling interval	minutes	
Sample storage bins	Storage type	-	
	number of bins	number	
	Bin capacity	Litres	

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- 5.3.5 In the absence of the auto mechanical sampler being installed as per Clause 5.2, a sampler with specification to meet the sampling requirement on a conveyor specified in Table 4 below shall be installed within a period as specified in clause 5.1.1

Table 4: [Tegeta Exploration and Resources Mine] Summary of Conveyor Specifications

Process Specification	Units	Measurement
Belt Identification	MC1050	MC1050
Belt Speed	m/s	1.8
Belt Width	mm	1080
Through put (Max)	tph	500
Through put (Ave)	tph	500
Washed (16) or unwashed (32)	no	32
Top Size	mm	50
Lot determination		
Lot Period	Hrs	10
Lot Size	tons	5000
Primary Sampling		
Number of Primary Increments	number	72
Cutter Width	mm	150
Primary Increment (max tph)	kg/cut	11.5741
Sample Interval	min or tons	8.4
Primary Sample Size (total lot)	kg	828.2



- 5.3.6 The Payment sampling plant operation regime shall be evaluated annually to take into account changes in the variability of the coal.
- 5.3.7 The sample storage facility shall incorporate lockable sample bins. Both Supplier and Eskom representatives shall be present during the sample removal from the sampling plant.
- 5.3.8 Representatives from both Parties (the Supplier and Eskom) shall verify the Payment sampling plant specification shown in Table 3 above on a monthly basis. Each of the Parties' representatives will validate and sign a copy of the specification sheet. Deviations detected must be actioned by the Supplier and resolved timeously. Copies of specification sheets shall be kept by both Parties (the Supplier and Eskom).
- 5.3.9 No physical modifications or alterations in the operation of the Payment Sampling Plant shall be made without prior mutual agreement between both Parties (the Supplier and Eskom). The Supplier shall notify Eskom of the details of such modifications or alterations before they commence and Eskom shall be entitled to be present during the modifications or alterations.

5.4 Payment sampling plant availability

- 5.4.1 The Payment Sampling Plant shall have a target of 95% Availability. This Availability shall be reported on a monthly basis by the Supplier at the Technical Liaison meeting.
- 5.4.2 In the event of Unavailability of the Payment sampling plant, the reason and duration shall be recorded by the Supplier on a breakdown sheet and made available to Eskom if requested
- 5.4.3 Should the Payment sampling plant be out of operation, then permission shall be obtained from Eskom to perform manual sampling as described in clause 1.6 hereunder until such time as the Payment Sampler is back in operation.
- 5.4.4 If the Payment sampling plant is out of operation for 3 (three) consecutive days and more, then Eskom shall do verification sampling at the delivery point until such time when the Payment sampling plant is back in service
- 5.4.5 If manual sampling cannot be performed, Eskom shall be notified and both Parties shall agree to implement an alternative sampling procedure until the Payment sampling plant is back in operation..

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5.5 Bias testing of auto mechanical sampling plant

- 5.5.1 Bias tests shall be carried out after commissioning the Payment sampling plant and then annually thereafter. The bias tests shall be conducted after any physical changes to the Payment sampling plant as detailed in clause 1.36 within a period of two (2) months from the completion of such changes.
- 5.5.2 The bias test programme shall be initiated by the Supplier. The bias tests shall be carried out according to the procedures laid down in the relevant ISO Standards. The scope of the bias test programme shall be governed by the design and operation of the Payment sampling plant. The methodology for such tests shall be drawn up and agreed upon by both Parties (the Supplier and Eskom)
- 5.5.3 The Supplier shall carry the costs of sampling, transport and analysis of bias test samples.
- 5.5.4 Eskom operational personnel shall oversee the sampling process during all tests. Eskom (Primary Energy Division) shall be responsible for issuing a final Bias Test report.

5.6 Manual sampling

- 5.6.1 Manual sampling shall be carried out during the process of building each product stockpile in the event that the Payment sampling plant is not available as detailed in clause 1.4 above.
- 5.6.2 Manual sampling shall be conducted in a safe manner.
- 5.6.3 Sampling directly from the front-end-loader bucket is strictly prohibited.
- 5.6.4 An increment or scoop shall be taken representing each load of the front-end-loader bucket after the front-end-loader places the heap of coal on the base of the final product stockpile thereafter it shall be pushed into the main stockpile. The increment (2 scoops) shall be extracted from every 4th dumper truck (approximately 10m³).
- 5.6.5 A manual scoop shall be used to extract the increment. The aperture of the manual scoop shall be at least 3 (three) times the nominal top size of the coal being sampled.

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5.7 Handling of samples

Each increment (scoop) of coal shall be placed as quickly as possible into suitable containers and the sample shall be sealed immediately after each increment has been inserted. All increments collected for a specific stockpile shall be combined.

5.8 Minimum Mass of Bulk Sample

The minimum mass of the final Bulk Sample ready for delivery to the Nominated laboratory shall be in accordance with Table 2 above for the top size specified in the Agreement of the contract. The Supplier is required to have a calibrated bulk scale on site to weigh the sample as they build the stockpile to ensure that it complies with minimum mass requirement before the stockpile is closed. If the minimum sample mass requirements as per Table 2 are not met, then the sample shall not be picked up by the nominated transporter from the site.

In the event that the final bulk composite sample is below the minimum as per Table 2 and it can be verified that this relates to tonnage of coal produced, then that day's sample shall be retained and combined with the next day's sample of coal stacked on the same stockpile.

Table 2: Minimum requirements of Bulk Sample masses

Nominal top size of coal sampled (mm)	Minimum mass of bulk laboratory sample (kg)
50	470
40	355
10	90

5.9 Coal Quality and Quantity Monitoring and Control processes

The Supplier is required to implement quality monitoring and control processes before and while building a stockpile to ensure that the final product stockpile is homogenous. Samples of each blend constituent should be taken before the material goes through the plant to ensure that the quality of each blend is known to optimise mixing ratios. The Supplier shall make the daily quality control results available to Eskom.

The online mass meter shall be installed on the final product conveyor. The mass meter should be zeroed at the beginning of a new stockpile, and the total reading of the stockpile tonnage produced should be taken when the stockpile is closed. The stockpile tonnage should be recorded as part of the stockpile name and included on the last bag to be taken from the Payment Sampler when the stockpile is closed. The tonnage shall be recorded on



the delivery note and observer sheets. The laboratory shall record the stockpile tonnage on the final analytical report.

5.10 Sample Identification, Labelling and Storage

The sample container(s) shall be identified with waterproof tags, each marked by means of waterproof ink with adequate identifying information, as follows: PI 01/05/07A, where PI is the source abbreviation followed by the date that the stockpile was created and A represents the stockpile number for that day. Each sample container shall have 2 (two) tags one being placed on the outside of the container and the other one being placed inside the container.

The composite sample for each consignment shall be kept in a designated area and stored in lockable bins. The sample shall be protected from direct sunlight and precipitation during storage until collected by the Nominated Laboratory to preserve sample integrity.

5.11 Responsibilities

5.11.1 Mine

The Supplier shall be responsible at its own cost for all aspects of sampling as described in clause 5 above. Eskom may provide on-site representation. The Supplier shall ensure that Eskom's on-site representatives have access to verify the sampling and pre-certification process and that auditing personnel are allowed on site.

The Mine shall inform the nominated transporter to transport the contractual sample to the Nominated Laboratory within one hour of closing a stockpile.

The Supplier's on-site representative and the driver collecting the final bulk sample for delivery to the Nominated Laboratory shall sign off the sample prior to leaving site.

5.11.2 Nominated Transporter

The nominated transporter shall ensure all required information in the delivery note is accurately completed.

The Nominated Transporter shall collect samples from the Mine and deliver to the nominated laboratory within 2 hours.

All Eskom representatives shall comply with the Supplier's requirements in terms of the Mine Health and Safety Act and the Supplier's policies and procedures.

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5.11.3 Nominated laboratory

The Laboratory representative and the driver delivering the samples at the Nominated Laboratory shall verify the sample against the delivery note and sign-off.

The nominated laboratory shall prepare and analyse samples according to the procedures set-out in this document and report the results within 24 hours.

6 TRANSPORT OF BULK SAMPLE TO THE NOMINATED LABORATORY

Eskom is responsible for the transportation of the contractual bulk sample from the Mine to the Nominated Laboratory. The bulk sample shall be collected from the Mine under Eskom's oversight, transported to the Eskom Nominated Laboratory where the sample shall be prepared and analysed according to the procedures set out hereunder.

7 SAMPLE PREPARATION

Preparation and analysis of Eskom contractual samples shall only be performed at the Nominated Laboratory. The bulk sample shall be prepared for contractual analysis as described in this clause 7 hereunder in accordance with the guidelines set out in the relevant ISO 18283 and ISO 13909 part 4. The sample preparation shall be performed in line with the minimum requirements as indicated in Table 3 below.

Table 3: Minimum requirements of sample masses for specific analysis

Normal Top Size (mm)	Minimum Sample (kg)	Minimum Sub-sample A (kg)	Minimum Sub-sample B (kg)	Minimum Sub-sample C-A (kg)	Minimum Sub-sample C-B (kg)	Minimum Sub-sample D (kg)
50	470	65	170	30	35	170
40	355	50	125	30	25	125
10	90	2	6	30	5	45

Each sub-sample as listed in Table 3 above shall be prepared as follows

- **SUB-SAMPLE A: SIEVE ANALYSIS**, shall be carried out in accordance with the procedure outlined in ISO 1953:1994. The precision for the assumed nominal top size and sample mass indicated will be in 2% (two percent) - as shown in Table 1 of ISO 13909 part 4.
- **SUB-SAMPLE B: GENERAL ANALYSIS**, shall be prepared according to ISO 13909-4 and ISO 18283 for general analyses. The final prepared sample should be grounded for

all particles to pass through a sieve of 212µm, the sample shall then be divided into three 60g sub-samples. One 60g sample shall be conditioned at the Nominated Laboratory and analysed for calorific value, ash, volatile matter content, inherent moisture content (moisture content for general analysis), ash fusion temperatures (AFTs) and total sulphur. The second 60g (duplicate pulverised sample) is retained for the Supplier, the third sample is retained for reference purposes.

- **SUB-SAMPLE C-a: ABRASIVENESS INDEX SAMPLE** shall be prepared in accordance with the Eskom/Mining House Abrasiveness Index Procedure. The second 9kg sample may be analysed by the Supplier.
- **SUB-SAMPLE C-b: TOTAL MOISTURE SAMPLE** shall be prepared according to ISO 13909-4 or ISO 18283 procedures and analysed according to ISO 589 procedure.
- **SUB-SAMPLE D: BULK REFERENCE SAMPLE** shall be retained at the Nominated Laboratory for 14 (fourteen) working days. This sample shall be used to resolve disputes.

7.1 Sample Preparation Flow Sheet

Sample preparation flow sheets for -40mm and -50mm products in clauses 23 and 24 respectively are to be used at the Nominated Laboratory.

8 ANALYTICAL DETERMINATIONS

8.1 Standard Methods

The contractual analysis of the prepared sample will be performed at the Nominated Laboratory or any other approved Laboratory performing part of the contractual analysis in accordance with the latest ISO standards. The current standards are outlined in Table 4 hereunder.

Table 4: Standard Methods for Analysis

Heat Value (Gross Calorific Value)	SABS-ISO 1928 DDS Standard Operating Procedure
Ash	ISO 1171, SANS 131
Volatile Matter	ISO 562, SANS 50, SANS ISO 562
Ash Fusion Temperature (Initial Deformation)	ISO 540 (Reducing Atmosphere)
Total Moisture content	ISO 589, SANS 589, SABS 0135 part 2 (one or two step).
Moisture content in the Analysis Sample	ISO 331, SABS-ISO11722

Hardgrove Grindability Index	ISO 5074
Abrasiveness Index	Eskom/Mining Industry Methodology and Addendum 4.3
Bulk Density	ISO 567
Size Determination (dry method)	ISO 1953
Total Sulphur	ASTM D4239

9 Turnaround Time

The Nominated Laboratory shall ensure that the turnaround time from the time of collecting the bulk sample at the colliery to the reporting of the contractual analytical results, does not exceed 28 (twenty eight) hours. (a maximum of 2 (two) hours is allocated for transport of bulk sample from the Mine to the Nominated Laboratory. A contingency of 2 hours has been allocated to cover for cases of road delays in transport of bulk sample due to unforeseen circumstances as well as delayed call out by the Mine. 24 (twenty four) hours is allocated for analyses and reporting of results).

10 ANALYTICAL DIFFERENCES AND RESOLUTION

The nominated laboratory shall make available the duplicate PF sample within 24 (twenty four) hours of collection from source on request from Supplier. The Supplier shall at its own cost transport and analyse the duplicate PF sample for analysis at own laboratory that subscribes to the methods in this procedure.

10.1 Conditions for Declaring Disputes

Either party may declare a dispute under the following conditions:

1. The reproducibility limits as set out in Table 5 of this document are exceeded.
2. If reasonable grounds exist to suspect that the procedures and requirements as set out in this document were not adhered to, as per findings arising from a recent (conducted within a month) audit.

In the case of size grading where no reproducibility limits apply either party may declare a dispute. In such case the bulk reference sample shall be the referee sample and not the Supplier's sample for process and quality control.

10.2 Procedure to be followed when declaring a dispute

A dispute shall be declared in writing to the either party, using an agreed template.

The dispute shall be declared within five working days of the contractual and verification analytical results becoming available to both parties including supporting information.

After receipt of the dispute the other party should review if any condition in 31.1 is met and forward feedback to the original party.

The party raising the dispute shall organise transport of a bulk reference sample by as specified in clause 7 of this document to be submitted to a mutually agreed independent approved laboratory.

10.3 Analysis of the dispute sample

The analysis of the dispute sample shall be done as follows:

- Should a dispute be declared on any of the quality parameters in the case of the general analysis, then all such parameters (ash, volatile matter content, moisture in the analysis sample and Calorific Value) shall be re-analysed and reported for contractual purposes.
- If there is a dispute on total sulphur, the parameters to be analysed on the bulk reference sample shall be total sulphur and moisture content in the analyses, ash, volatile matter content and calorific value.
- If there is a dispute on abrasiveness index then only abrasiveness index shall be done on the bulk reference sample.
- If there is a dispute on ash fusion temperatures then only ash fusion temperatures shall be done on the bulk reference sample.
- Analytical results shall be reported to all parties concerned simultaneously.

The results of all the parameters analysed at the independent laboratory shall be final and binding.

10.4 Limits for Analytical Differences

The limits for Repeatability (Intra-laboratory) and Reproducibility (inter-laboratory) as specified in the respective methods listed in clause 8.1 of this document are summarised in Table 5 below.

Table 5: Limits for Analytical Differences

CONTRACTUAL Quality Parameter	LIMITS	
	Repeatability	Reproducibility
Total moisture content	0.5%	1.5%
Abrasiveness Index	7.5% of mean	15% of mean
Ash	> 10% : 2% of mean	3% of the mean
Volatile Matter	> 10% : 3% of mean	0.5% (absolute)
Moisture content in analysis sample	< 5% : 0.1% abs	N/A
	> 5% : 0.2% abs	N/A



CONTRACTUAL	LIMITS	
Calorific Value	0.12 MJ/kg (absolute)	0.3 MJ/kg (absolute)
AFT Initial Deformation in Reducing Atmosphere	30°C (absolute)	80°C (absolute)
Total Sulphur	0.05% (absolute)	0.1% (absolute)

11 COAL QUALITY REPORTING

The Nominated Laboratory shall, within 24 (twenty four) hours, simultaneously forward all daily coal quality results directly to Eskom's responsible Geologist, Quality Assurance Auditor, the power station representative and the Supplier. The results must be declared to all parties simultaneously in writing (e-mail or fax).

12 TECHNICAL AUDITS

12.1 Laboratory Audits

Audits of the Nominated Laboratory shall be carried out on at least a quarterly basis. Laboratory systems shall comply with ISO 17025 and all conditions in the Contract with either Supplier or Eskom. Eskom is responsible for issuing a summary report, a copy of which shall be forwarded to the Supplier.

12.2 Sampling Audits

The sampling procedure and / or pre-certification process shall be jointly audited at least on a monthly basis on 24 (twenty four) hour notice by Eskom. A copy of the report shall be forwarded to the Supplier and the Principal Roving and Observing Company.

13 PRE-CERTIFIED STOCKPILE MANAGEMENT

Prior to Delivery to Eskom, the Supplier shall ensure that coal contained in each separate stockpile is sampled and pre-certified to meet the Quality Specifications for Contract Coal and is identified as such in accordance with the processes and procedures set out in this document.

The capacity of each Pre-certified Stockpile shall be approximately x 000 (xxxx thousand) tons. The capacity of the Pre-certified Stockpiles may be increased subject to Eskom's agreement as specified in the Agreement.

The stockpile numbers shall be recorded on the weigh bill slips at the Mine and the Power Station.

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All stockpiles shall be identified with a fixed signboard indicating the stockpile status as follows:

Green	-	In specification	--	suitable to load
Yellow	-	Awaiting results	--	do not load
Red	-	Out of specification	--	not suitable to load (Discard or reprocess)

The Supplier shall ensure that the identification of stockpiles remain as agreed with Eskom, any deviation shall mean that the stockpile has not been pre-certified.

No stockpile that has qualities below the contractual specification, as tabled in the Agreement, or has violated the sampling and stockpile management processes as described in this document shall be dispatched to Eskom.

The control sheet linking the Pre-certified Stockpile qualities and the weighbridge tonnages shall be signed off by both parties for invoice verification.

14 TREATMENT OF COAL STOCKPILES

Where the sampling and stockpile management processes as set in this document are violated or where the product stockpile does not meet the quality specifications as set out in the Agreement, the stockpile shall be completely removed from Eskom designated stockpiling area.

15 STOCKPILE MOISTURE MANAGEMENT

If the product stockpile is out of specification for total moisture and in the event of rain after a stockpile is pre-certified, the stockpile shall be allowed to drain for a pre-determined drying time after creation of the stockpile to allow the total moisture to achieve equilibrium moisture prior to loading.

Where the drainage test is not conducted to determine the drainage period and the Equilibrium Moisture level then grab samples shall be taken by digging twice with a front end loader bucket covering all sides of the stockpile. The areas exposed by the front end loader shall be sampled by taking 4 (four) manual scoop increments. The samples from different sides of stockpiles shall be combined and labelled to maintain the original stockpile identity.

The total moisture content results shall be communicated to Eskom's responsible geologist for the tonnage adjustment. Eskom reserves the right, at its own discretion, to accept

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stockpiles for which the moisture content is out of specification, regardless of rain. The delivered tons shall be adjusted as described in the Agreement.

16 VERIFICATION SAMPLING

Eskom reserves the right to perform verification sampling of pre-certified stockpiles either during building of stockpile or during loading of coal from the Pre-certified Stockpile or as Delivered at the designated Delivery Point. The verification sampling procedure shall form part of the sampling procedure. At its own discretion and cost Eskom may request the Supplier to install truck auger/on-line analyser unit to sample/verify pre-certified coal leaving the Supplier's site to the designated Delivery Point.

17 VARIABILITY TESTS

The procedure is based on ISO 18283 guidelines. On each 30 (thirty) ton truck off load for a day's consignment/lot from the Supplier, sub-lot samples of 3kg representing each truck shall be sampled. Each sub-lot sample shall be split into pairs and analysed for ash %, CV MJ/kg, Inherent Moisture content %, Volatile Matter content % and Total Sulphur % following the latest ISO standard outlined in Table 4. The results obtained shall be used to implement sampling methodology and control measures to produce consistent Contract Coal to Eskom. Eskom is entitled to request the Supplier to install adequate mechanical mixing/blending capacity to ensure consistency within the product consignment and provide analyses of the individual sources making up the mix/blend.

18 AMENDMENTS

Any amendments to this document shall be proposed in writing and mutually agreed by both Parties and thereafter ratified in a meeting before implementation.

19 COMPROMISE

Both Parties understand and agree that the ISO standards prescribe that splitting of a bulk sample shall be preceded by crushing. However, in this procedure it is a compromised allowance that the bulk sample is split prior to crushing as it is not practical and is a bigger risk to take a separate sample for general analysis, size grading and total moisture content.

It must be noted that the sample preparation flow sheet is an interpretation of the ISO standards and therefore the ISO standards supersedes this CQMP.

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- 20 APPENDIX 1: SCHEMATIC DIAGRAM SHOWING THE GENERAL ARRANGEMENT OF THE PROCESS FLOW.
- 21 APPENDIX 2: AUTO SAMPLER SPECIFICATIONS.
- 22 APPENDIX 3: MANUAL SAMPLING PROCEDURE.



Revision: 0

Reference Number: 240-44511970



Page 20 of 30

23 APPENDIX 4: COAL QUALITY REPORT

Coal Supply and Off-Take Agreement between ESKOM HOLDINGS SOC Ltd and TEGETA EXPLORATION AND RESOURCES (Pty) Ltd executed at MEGAWATT PARK. Reference Number: Contract Number 460005841

Handwritten signature

Handwritten signature

BRAK-586



24 APPENDIX 5: Dispute Declaration Form

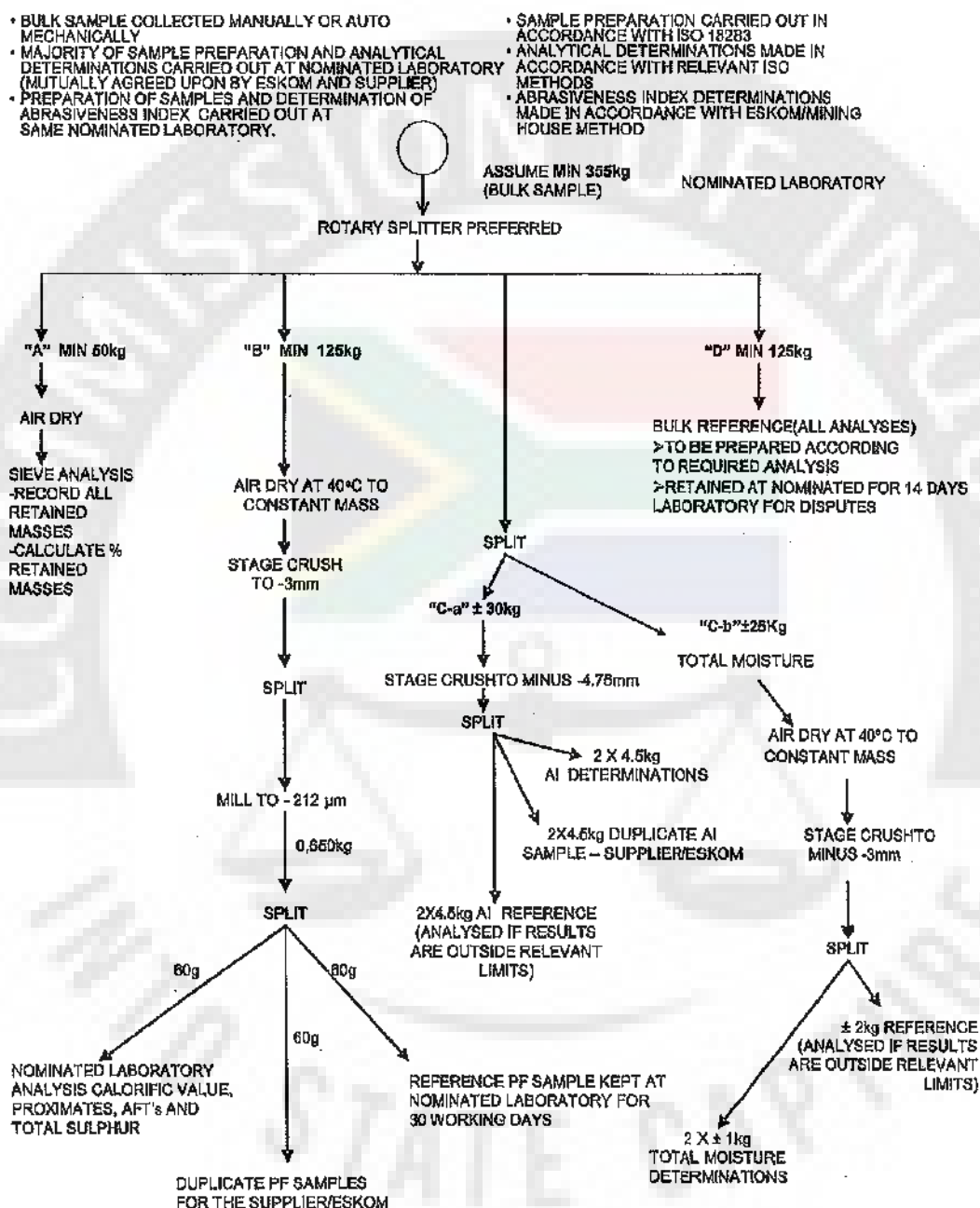
	PRIMARY ENERGY	Unique Identifier	
	QUALITY ASSURANCE DISPUTE DECLARATION REQUEST FORM	Revision	0
		Effective Date	March 2012

SECTION A: STOCKPILE NUMBER:							
Name of person declaring Dispute	PARAMETERS DISPUTED:						
Name of originating lab:							
Lab Sample Reference No.:							
SECTION B: REASONS FOR DECLARING THE DISPUTE							
<table border="1"> <tr> <td>Accept Dispute Declaration:</td> <td>Reject Dispute Declaration:</td> </tr> <tr> <td></td> <td>Reason:</td> </tr> </table>				Accept Dispute Declaration:	Reject Dispute Declaration:		Reason:
Accept Dispute Declaration:	Reject Dispute Declaration:						
	Reason:						
SECTION C: NAME OF DISPUTE LAB							
SECTION D: DISTRIBUTION LIST							
SECTION E: CONDITIONS FOR DISPUTE LAB							
<p>Should a dispute be declared on any of the quality parameters in the case of the general analysis, then all such parameters (Ash, volatiles, moisture in the analyses sample, and Calorific value) shall be re-analysed on the bulk reference sample and reported for contractual purposes.</p> <p>If there is a dispute on Total Sulphur, the parameters to be analysed on the bulk reference sample shall be total sulphur and moisture in the analyses sample, ash, volatiles and calorific value.</p> <p>If there is a dispute on abrasiveness index then only abrasiveness index shall be done on the bulk reference sample.</p> <p>If there is a dispute on ash fusion temperatures then only ash fusion temperatures shall be done on the bulk reference sample.</p>							
SECTION F: PAYMENT CONDITIONS							
<p>Where the independent laboratory's result is within the reproducibility limit of the disputed result, then the cost of the said analyses together with the costs of transporting and preparing and analysing the sample shall be borne by the Party declaring the analytical dispute.</p> <p>Where the independent laboratory's result is outside the reproducibility limits, then the cost of the said analyses together with the costs of transporting and preparing the sample shall be for the account of the Party whose analyses differs the most from those of the independent laboratory. Only one dispute shall be declared per pre-certified stockpile. The results from the independent laboratory will be final and binding.</p>							
SECTION G							
DATE THE ORIGINATING LAB RECEIVED DISPUTE REPORT:							
Supplier Representative	STATE CAP						
Name:							
Signature:							
Source/Mine:							
Date:							
PED Representative:							
Name:							
Signature:							
Date:							

K/c.

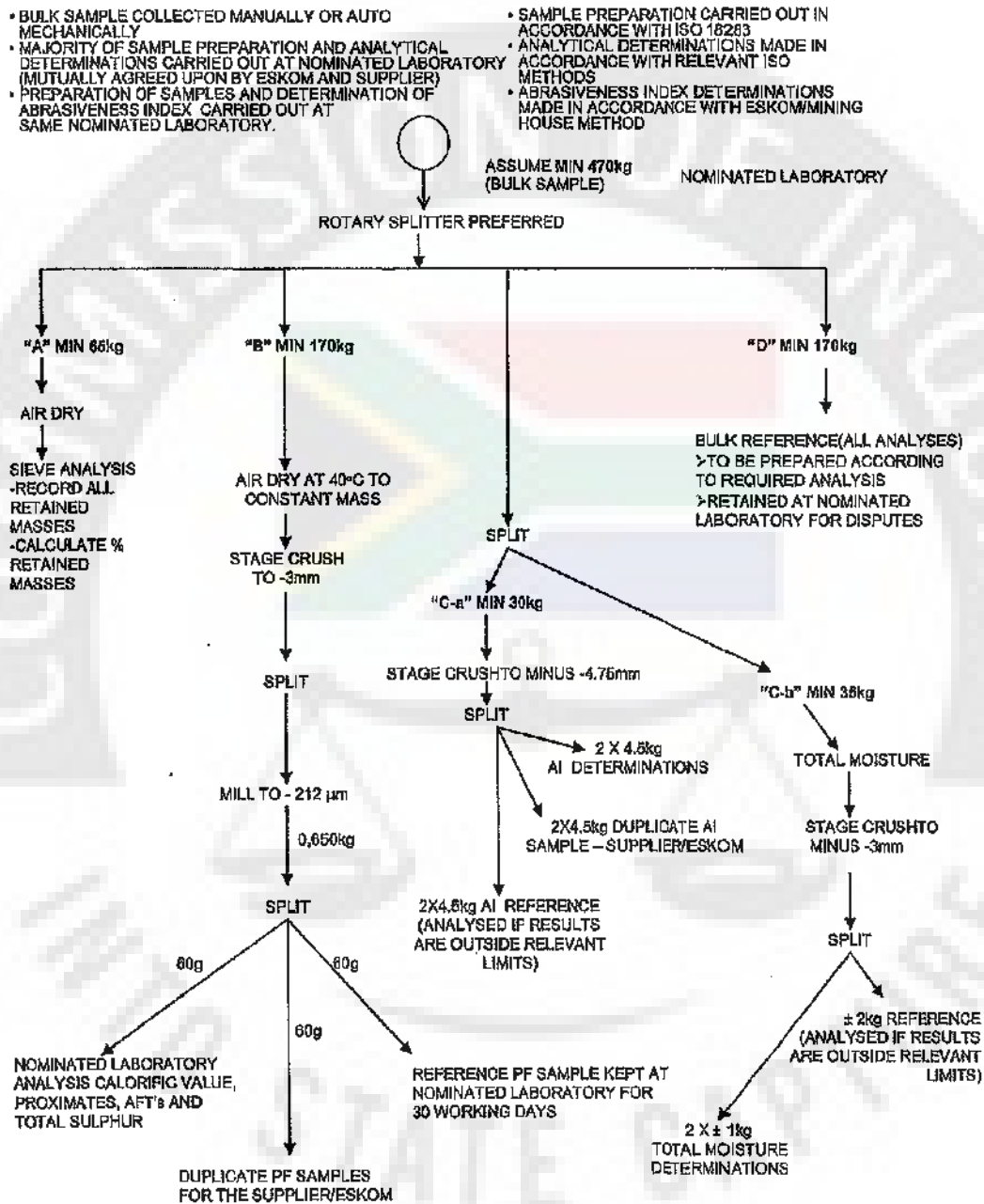
25 SAMPLE PREPARATION FLOWSHEET

Sample Preparation: Coal with 40mm Nominal Top Size



26 SAMPLE PREPARATION FLOWSHEET

Sample Preparation: Coal with 50mm Nominal Top Size





27 ROLES AND RESPONSIBILITIES: SUPPLIER, PRINCIPAL CONTRACTORS, ROVING SUPERVISOR AND OBSERVER.

27.1 26.1. Introduction

In terms of the Agreement between Eskom and the Supplier, stockpiles shall be pre-certified prior to delivery and Eskom shall provide on-site oversight of the sampling and pre-certification process.

27.2 26.2. Responsibilities

27.3 26.2.1 The Supplier

- The Roving Supervisor and Observers must be inducted according to the Mine Health and Safety regulations, and the Supplier's policies and procedures relating to the Colliery.
- To provide the necessary site specific documentation relating to safe working procedures.
- Clearly define the area of responsibility without compromising the roles as specified in Clause 4 of this document.
- Provide access to the defined area of responsibility.
- Ensure that the Roving Supervisor and Observers are not obstructed or prevented from performing their task as specified, unless they are performing such tasks in contravention of the Mine Health and Safety regulations and the Supplier's policies and procedures relating to the Colliery.
- Supply adequate shelter and ablution facilities.
- Ensure that the weighbridge certificate reflects the pre-certified stockpile from which the coal was loaded.

27.4 26.2.2 Eskom Contracted Roving and Observing Company

27.5 The appointed Eskom representatives shall ensure that:

- Ensure that necessary equipment (personal protective equipment (PPE), raincoats, thermal overalls for winter, stationary, etc) required by the Roving Supervisor and the Observer to perform duties are provided.
- All personnel are competent to perform the relevant tasks
- Relevant medical certification is provided, a copy to be given to the Supplier.
- Their personnel have access to the Mine Health and safety regulations and relevant standards as well as the relevant Supplier's policies and procedures.

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- Where a supplier does not provide shelter, the Company shall provide a site office in the form of a cost effective mini-container. The location of such office to be agreed with the Supplier.

27.6 26.4. Roles

27.7 26.4.1 The Roving Supervisor

- To ensure that all Observers per shift are on duty at all times.
- Ensures that all Observers wear applicable personal protective equipment and work safely.
- To receive all daily log-sheets and summarises the information.
- To provide guidance to Observers and maintain discipline.
- To prepare a daily reports and submit to Primary Energy Division (PED) representatives.
- To report gross deviations to relevant senior Mine and PED representatives immediately.
- Ensures the authenticity of the contractual sample, i.e. that the contractual sample is certified as per checklists.
- Ensure that the weighbridge certificate reflects the pre-certified stockpile from which the coal was loaded.

27.8 26.4.2 The Observer

The Observer shall oversee and record the following activities:

Signposting of product stockpiles according to clause 12 of this document

- Stockpile pre-certification process:
 - Stockpile creation, demarcation and proper labelling.
 - Stockpile retention time for equilibrium moisture attainment.
 - Placing of pre-certification signboards on stockpiles.
- Manual sampling, where no auto-sampler is installed:
 - Manual scoop sampling adheres to applicable standards / procedures: check scoop increments and scoop size.
 - Sample reduction and removal: quantity, labelling and sealing
- Loading of stockpiles:
 - Record of loaded stockpile/s
 - Number of truckloads from specific stockpile
 - Ensure that the weighbridge certificate reflects the pre-certified stockpile from which the coal was loaded.



- d) Treating of stockpiles not meeting specifications
 - Check compliance to applicable procedure
 - Comments on the process followed.
- e) Sampling for Total Moisture:
 - Record sample quantity or the number of bags
 - Record final moisture before loading.
- f) Keeping of daily log-sheets
 - Update daily log-sheets

27.9 24.4.3 The Sample transport

The transporter of the contractual sample shall maintain a delivery note that indicates;

- The name of the transporting company
- the stockpile number, failing which the laboratory shall not accept the sample
- ensure that the sample is labeled correctly, note condition and number of bags, mass of sample.
- note the date and time of receipt of the sample
- have the delivery note/receipt signed by the Supplier and Issue a copy to the Supplier
- have the laboratory sign the delivery note as evidence of sample receipt
- Issue the laboratory with a copy of the delivery note as supporting documentation

27.10 6.5. Indemnity / Third Party Insurance

Although the Supplier is the appointed and responsible manager with respect to liability in terms of the Mine Health and Safety Act, Eskom shall ensure that they provide adequate 3rd (third) party cover (insurance and workman's compensation) for the on-site representatives. The necessary documentation shall be provided to Eskom and the Supplier to demonstrate compliance.

X

[Handwritten signature]



28 REVISIONS

Date	Rev.	Complier	Remarks
2014 June 11	0	C Ramavhona	Initial



K.K.

Coal Supply and Off-Take Agreement between ESKOM HOLDINGS SOC Ltd and TEGETA EXPLORATION AND RESOURCES (Pty) Ltd executed at MEGAWATT PARK. Reference Number: Contract Number 4800056841



ADDENDUM A: ESKOM REPRESENTATIVE / AUTO-MECHANICAL AND MANUAL SAMPLING LOG-SHEET CONTINUED

Page 29 of 30

[illegible]

Coal Supply and Off-Take Agreement between ESKOM HOLDINGS SOC Ltd and TEGETA EXPLORATION AND RESOURCES (Pty) Ltd executed at MEGAWATT PARK. Reference Number: Contract Number 4600056841

4/c



21

Revision: 0 Reference Number: 240-44511970



Page 31 of 30

ADDENDUM C: PRE-CERTIFICATION STOCKPILE APPROVAL LOG SHEET



PRECERTIFICATION APPROVAL SHEET

PRECERTIFICATION APPROVAL SHEET		COMMENTS	
ID OF STOCKPILE			
PRODUCED:			
STOCKPILE START DATE AND TIME:			
DATE AND TIME			
STOCKPILE CLOSED:			
STOCKPILE TONNAGE:			
DATE AND TIME SAMPLE WAS COLLECTED			
NUMBER OF BAGS OF SAMPLE:			
STOCKPILE STATUS MARKED YELLOW (DATE/TIME)			
DATE SAMPLE RESULTS RECEIVED			
REFERENCE OF RESULTS RECEIVED			
DATE STOCKPILE APPROVED FOR DELIVERY			
DATE STOCKPILE STATUS MARKED GREEN / RED			
DATE STOCKPILE DELIVERY REJECTED			
ACTION TAKEN ON OUT OF SPECIFICATION STOCKPILE			
SIGNATURE OF MINE REPRESENTATIVE			
SIGNATURE OF ESKOM REPRESENTATIVE:			
OBSERVER/ROVER			

4-k.

Coal Supply and Off-Take Agreement between ESKOM HOLDINGS SOC Ltd and TEGETA EXPLORATION AND RESOURCES (Pty) Ltd executed at MEGAWATT PARK. Reference Number: Contract Number 4600056841

4-k.



ADDENDUM D: ROVER CHECKLIST to be completed daily

Page 32 of 30

Checklist (The Roving Supervisor)		Does it comply?	Does it comply?
The Roving Supervisor must check the following:			
All Observers per shift are on duty at all times.			
Did each shift observer sign the attendance register.			
Did the Rover sign the attendance register.			
All Observers wear applicable personal protective equipment and work safely.			
Does the Observer/Rover have hard hats, reflective vests, safety goggles, ear plugs.			
Are relevant medical, red tickets, inductions, access cards and other required certification provided are valid and a copy is given to the Supplier.			
Is the Observer/Rover authorized to be onsite.			
Did the contractor supply their personnel (observers and rovers) access to the Mine Health and safety regulations and relevant standards as well as the relevant Supplier's policies and procedures.			
Provide a site office in the form of a cost effective mini-container. The location of such office to be agreed with the Supplier.			
Did the Rover sign the observer report.			
Did the rover receive all daily log-sheets and summarises the information and report to the relevant QA's.			
Were major findings reported telephonically then via e-mail to PED CQA.			
Did rover perform daily random checks to verify recorded information, i.e. daily site visits (min 1 eight hour shift per site). A log of site visits and observations shall be kept. Did the Rover record his/her shifts that was worked. How long did the Rover stay at the site.			
Did the Rover randomly rotate his weekly shifts (morning, afternoon and night shifts worked).			
Did Rover provide guidance (on the job training) to Observers and maintain discipline.			
Did the rover provide the daily contractual stockpile qualities to on-site observers. Should have e-mail access to download such data supplied by the lab or responsible Eskom geologist.			
Did the Rover submit the daily / weekly / monthly report to Eskom and submit to PED representatives.			
Report gross deviations to relevant senior mine representatives immediately.			
Report gross deviations to relevant PED representatives immediately.			
Did the observer adequately fill in the stockpile log sheet, sampling log sheet and observer checklist and sign off reports.			
The authenticity of the contractual sample, i.e. that the integrity of the contractual sample (method of sample storage, correct bags and tags used, kept in observers view,) is maintained prior to sample collection by the transport company.			
Did the supplier sign and observer verify by co-signing that the stockpile was approved for delivery.			
Did the Rover receive training from employer.			
Did the Supplier supply employees with the Mine Health and Safety Act 1995/506C Ltd and TEGETA EXPLORATION AND RESOURCES (PTY) Ltd executed at MEGAWATT PARK. Reference Number: C/number 4600056841			

2

✱



Revision: 0

Reference Number: 240-44511970

Page 33 of 30

ADDENDUM E: LABORATORY CHECKLIST to be completed weekly

Checklist Laboratory	Does not	Does not
The Laboratory must check the following		
The laboratory receives the sample and signs the delivery note as evidence of receipt of sample.		
The delivery note states the condition of the sample received.		
The laboratory keeps a copy of the delivery note for audit purposes.		
The nominated laboratory shall make available the duplicate of sample within 24 hours of collection from source.		
The bulk sample shall be prepared for the contractual analysis at the Nominated Laboratory as per the CQMP.		
Check that the sample preparation regime shall be in accordance with the guidelines set out in the relevant ISO 18282 OR ISO 19909-4 and CQMP.		
Sample preparation is performed in line with the minimum mass requirements as specified in the CQMP.		
A) Analytical Determinations		
All contractual analysis is performed in accordance with the standards as indicated in the CQMP by an accredited laboratory.		
B) Turnaround Time		
The turnaround time from the time of collecting the bulk sample at the colliery to the reporting of the contractual analysis results does not exceed 28 hours.		
C) Analytical Differences and Resolution		
Should a dispute be declared on any of the quality parameters in the case of the general analysis, then all such parameters (Ash, volatiles, moisture in the analyses sample, and Calorific value) shall be re-analysed and reported for contractual purposes. If there is a dispute on Total Sulphur, the parameters to be analysed on the bulk reference sample shall be total sulphur and moisture in the analyses, ash, volatiles and calorific value. If there is a dispute on abrasiveness index then only abrasiveness index shall be done on the bulk reference sample. If there is a dispute on ash fusion temperatures then only ash fusion temperatures shall be done on the bulk reference sample.		
D) Limits for Analytical Differences		
The limits for analytical differences are based on table 4 limits of the CQMP.		
E) Coal Quality Reporting		
The Nominated Laboratory shall within 24 hours, simultaneously forward all daily coal quality results directly to Eskom's responsible Geologist and CQA.		
The results are declared to all parties simultaneously in writing.		
G) Sampling Audits		
A joint audit may be carried out on a bi-monthly basis.		
Eskom issues a summary report which is forwarded to the Supplier and laboratory.		
Major laboratory non-conformances are rectified within 24 hours.		
Minor laboratory non-conformances are rectified within 72 hours.		
Comply to relevant CQMP, ISO standards, including ISO 17025.		
Is ISO 17025 accreditation valid.		

K.K.



ADDENDUM F: DELIVERY NOTE FOR SAMPLE TRANSPORT

Name of Transport Company: Name of Source/Colliery:		Document Ref. No.
	Collected from Mine	Delivered at laboratory
Date		
Time		
Stockpile ID		
Sample ID		
Number of bags		
Sample Mass		
Sample Mass adequate (tick)	470kg (50mm)/ 355kg(40mm)	470kg (50mm)/ 355kg(40mm)
SAMPLE INTEGRITY: Condition of bags containing sample		
	YES	NO
Are bags sealed		
Are bags clearly labelled		
Are bags torn		
Are waterproof labels used		
All of the above requirements met		
Sample transported		
Sample returned to supplier		
TRANSPORTING REPRESENTATIVE		
NAME _____		SIGNATURE _____
MINE REPRESENTATIVE		
NAME _____		SIGNATURE _____
DESIGNATION: _____		
LABORATORY REPRESENTATIVE		
Is the sample labelled correctly YES <input type="checkbox"/> NO <input type="checkbox"/>		
Is the sample linked to a stockpile YES <input type="checkbox"/> NO <input type="checkbox"/>		
Is the sample mass adequate (470kg for 50 mm & 355kg for 40 mm) YES <input type="checkbox"/> NO <input type="checkbox"/>		
Is the lab being issued with a copy of the delivery note for attachment as sample supporting documentation? YES <input type="checkbox"/> NO <input type="checkbox"/>		
Is the lab continuing with analyses or returning the sample to Supplier		
NAME _____		SIGNATURE _____
Comments		

K.E.

*



ADDENDUM H: DAILY STOCKPILE STATUS REPORT

DAILY STOCKPILE STATUS REPORT



DATE	
SUPPLIER AND COLLIERY	
SHIFT	
NAME OF ROVER	
NAME OF OBSERVER	

STOCKPILE STATUS	Stockpile 1	Stockpile 2	Stockpile 3	Stockpile 4	Stockpile 5	Stockpile 6
Number of stockpiles on site						
Number of Stockpiles being built						
ID of stockpiles awaiting results						
ID of stockpiles pre-certified and capacity						
ID of stockpiles rejected and capacity						
ID of stockpiles being loaded						
ID out of spec stockpile being processed						
ID of stockpiles with lumps, rocks, stones, fine coal						

Signatures
Observer

Rover

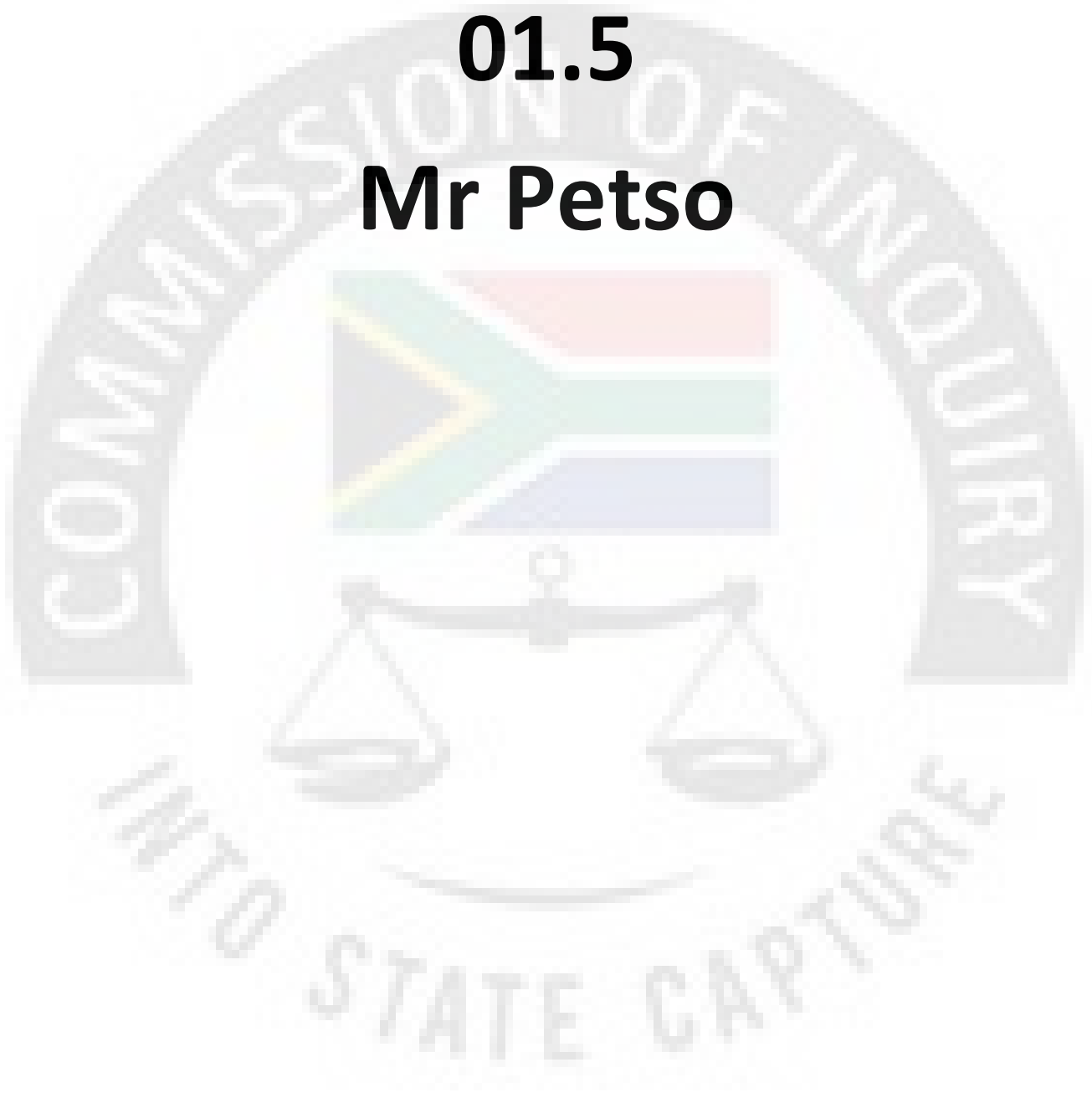
Mine representative

This checklist to be completed daily by the Observer and send to Eskom every Friday

k.k.

01.5

Mr Petso



AFFIDAVIT

I, THE UNDERSIGNED, TSHWARO PETSO

Hereby declare under oath as follows: -

1.

I am an adult male with ID 7005115870083. I am a Senior Geologist in the Technical services department. My work telephone number is 011 8005675 and mobile phone number is 0834400103

2.

My qualifications include MSc in Geology

3.

As part of my duties I provide technical support in terms of identifying risks that can impact on quantities and qualities and advising on potential mitigation. Prepare coal quality reports necessary for invoicing.

4.

The attached spreadsheet (**Annexure TP1**) shows a summary of the Brakfontein performance and contract labs. This spreadsheet was compiled from laboratory reports of the laboratories that were contracted to analyse contractual samples at the time. The spreadsheet indicates the following:

- Number of stockpiles analysed;
- The number of stockpiles that did not meet the minimum coal quality requirements;
- Coal quality parameters that failed to meet the quality specification;
- Number of stockpiles that failed and the results disputed by the Supplier; and

T.O.
T.B.

- The spreadsheet accurately reflects the stockpile failure rates as certified by external labs up to October 2015, and thereafter by the internal Kendal lab commencing sometime in October 2015.

5.

Laboratory reports from April 2015 to September 2015 were obtained from colleagues, Nonhlanhla Msibi, Viloshnee Moodley and Siphelele Gobeni. Laboratory reports from end of September 2015 to February 2018 were obtained from the respective laboratories.

6.

Stockpile BFK21/09/2016 S/PA reported by the laboratory on the 24/09/2016 did not meet the Volatile matter requirement. The Volatile result was subsequently changed to reflect a volatile that meets the contractual requirement. Reasons and basis for this change were not presented to me. The results were issued by Thamsanqa Sibanda from Kendal laboratory and I do not know who compiled them. This is attached as **(Annexure TP 2-3)**.

7.

Majuba Power station was complaining about coal qualities realized at the Power station from the various sources it received. As Geologists looking after sources going into Majuba we were asked as to why this could be the case when pre-certification results suggest that the qualities are well within the contractual coal quality parameters. Brakfontein was one of the sources going to Majuba and as a Geologist looking after that source I was explaining why there might be a discrepancy between pre-certification qualities and actual qualities realized.

8.

Based on the email thread **(Annexure TP 4)**, my understanding was that Kendal laboratory had the sampling capacity and not the capacity to carry out the analysis.

PO
A.B.

9.

Declaration by deponent regarding the taking of the oath:

I know and understand the contents of this declaration.

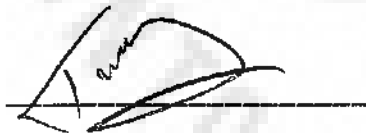
I have no objection to taking the prescribed oath.

I consider the prescribed oath to be binding on my conscience.


Signature of Deponent**CERTIFICATE BY COMMISSIONER OATHS:**

It is hereby certified that the aforesaid affidavit was signed and sworn to in my presence at 16 h. 15 on this 18 day of February at Sunninghill and the said deponent having confirmed and acknowledged: -

- (a) that he knows and understand the contents thereof;
- (b) that he confirms the truth thereof;
- (c) that he has no objection to taking the prescribed oath; and
- (d) that he regards the said oath as binding on his conscience.


Commissioner of OathsFULL NAMES Thembaile Donald MhosiDESIGNATION Senior InspectorPLACE SunninghillADDRESS NOT: Maxwell DR Eskom

Meerwald Park
Sunninghill


SIGNATURE OF DECLARANT

I certify that the deponent has acknowledged that he/she knows and understands that the content of this declaration which was sworn to affirmed before me and the deponent's signature/thumbprint/mark was placed therein in my presence

Thembaile Donald Mhosi
JUSTICE OF THE PEACE/COMMISSIONER OF OATHS
Designation(Rank) Senior Ex Officio Republic of

South Africa in Security
Security, Meerwald Park, Maxwell Drive, Sandton

Date: 18/02/19 Place: Sunninghill

Page 3 of 3

T.O
T.D

Annexure “TP1”



SGS		SGS & Sibonisiwe 24		Sibonisiwe		Sibonisiwe		SABSA		Kendal Lab 24		Kendal Lab		Kendal Lab -Kendal Lab		SGS/Sibonisiwe/SABS		Kendal	
Apr-15		May-15		Jun-15		Jul-15		Aug-15		Sep-15		Oct-15		Nov-15		Dec-15		2016 to Feb 2018	
17	18			27	38			41		32		17	10	28		13	344		
3	1			3	5			15		13		4	2	2		2	7		
18%	0%			11%	13%			37%		41%		24%							
1 - (CV)	0			0	0			4 - (Ash, CV, TS)		3		5 - (AI, Ash, TS)	1	1					
47831	78876			78022	108598			102681		180616		103421							
Ash, CV, TS, Ash				Ash, CV, TS	Ash, CV, TS, 50mm			Ash, CV, TS, 50mm, 1mm											

+50mm

T.O
7.6

Annexure “TP2”



[illegible]

Annexure “TP3”



TEST RESULTS

ANNEXURE 3

Received Date/Time	Prepared Date/Time	Lab. No	Sample Name	Sample Area	Sample Split Mass				Arrived				Dry basis				As received				Anti Fusion Temperature				Solid (Fractional)				Weighted																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																														
					GA	TM	Screen	AI	Residue	IN	TM	ISO	ASTM	ASTM	ASTM	ISO	ASTM	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO	ASTM	ISO

Annexure “TP4”



From: Gert Opperman
Sent: 20 February 2018 12:30 AM
To: Mabatho Mothapo; Tshwaro Petso
Cc: John Mamabolo; Petros Mazibuko
Subject: RE: Import coal verification

Halio Tshwaro,

Changing the Brakfontein laboratory was discussed amongst our seniors and I'm also awaiting the way forward on the matter.
 Thank you for the follow-up

Greetings
 Gert

From: Kutadaushe Manyukwi
Sent: 19 February 2018 11:34 PM
To: Mabatho Mothapo; Tshwaro Petso; Gert Opperman
Subject: Import coal verification

Hi Tshwaro,

Thanks for your valued input. It is much appreciated. I have copied the relevant contracts manager this email since this is his contract.

Regards
 Kuta

From: Tshwaro Petso
Sent: 14 February 2018 12:52 PM
To: Kutadaushe Manyukwi
Subject: RE: Import coal verification

Good Day

Please note the following with respect to Brakfontein. Coal from this source is analysed at Kendal Laboratory. This laboratory is not subjected to same scrutiny as other contractual laboratories that is, it has never been audited to give PED technical services some level of comfort that results generated from that laboratory are indeed accurate, reliable and reflect the qualities of the stockpile from which the sample was derived. Laboratories are a gate keeper because the decision to dispatch is based on results generated by the laboratory. For Brakfontein dispatch of stockpiles is currently based on results generated from a laboratory whose compliance to Eskom standards

Tshwaro Petso

From: Gert Opperman <OppermGJ@eskom.co.za>
Sent: 20 February 2018 10:26 AM
To: Mabatho Mothapo
Cc: John Mamabolo; Petros Mazibuko; Tshwaro Petso
Subject: RE: - Brakfontein Lab allocation
Attachments: Koorfontein Nominated Laboratory change

Hi Mabatho,

I have raise the concern with you on allocating this work to Noko. Tegeta had a very serious confidentiality breach and might push back on this. I kindly request a note, as mentioned in the attached email, on this proposed change to send it to the mine.

Thank you in advance
Gert

From: Mabatho Mothapo
Sent: 20 February 2018 09:46 AM
To: Gert Opperman
Cc: John Mamabolo; Petros Mazibuko; Tshwaro Petso
Subject: - Brakfontein Lab allocation
Importance: High

Good day Gert,

As per the telephonic discussion with John this morning, and the decision was that I allocate one of the Eskom contracted laboratory to analyse contractual samples for Brakfontein, and that Kendal will no longer be the contractual lab with effect from the 21st February 2018. All the contractual samples will be analysed at Noko Analytical Laboratory.

I will liaise with Kwenza for samples collection and delivery irt transportation.

Regards,
Mabatho

has not been audited and verified. Brakfontein's 4 Seam Upper is inherently contaminated with sandstone however results are not consistent with the actual coal being mined. Results often suggest a consistent product which can never be the case with the Brakfontein reserve.

It is proposed that Brakfontein analysis be conducted at one of the contracted laboratories. In that way PED will be in a position to ensure that results generated are accurate, reliable and meet the necessary standards and this will be done through auditing and other contractual remedies that govern contractual laboratories.

Regards
Tshwaro Petso

From: Gert Opperman
Sent: 13 February 2018 11:06 AM
To: Mabatho Mothapo
Cc: Maria Kgaphola; Tshwaro Petso
Subject: FW: Import coal verification

Hallo Mabatho,

Can you please assist with this request from Hendrina PS?

Thank you
Gert

From: Violet Selepe
Sent: 13 February 2018 08:46 AM
To: Gert Opperman
Cc: Lefumo Maswanganye; Derick Boonzaaler; Hendrick Ramarumo
Subject: Import coal verification

Morning Gert,

I will like to request for verification of all import coal sources coming to Hendrina by the contracted external lab.

Kindest regards,

Violet Selepe
Senior Supervisor - Chemistry
Operating Unit Coal 3
Generation Division-Hendrina Power Station

T.O.
F.L.

Blue Building
Impala Road, Pullenshope
Tel 013 296 3135
Fax 013 296 3026
E-mail : selepevr@eskom.co.za
"Coal 3 - Proud Passionate Eskomites"



01.6

Mr Maakana



Affidavit of Bennett Maakana

1.

I, the undersigned, Bennett Maakana, do hereby state under oath that:

2.

I am an adult male, with ID number 7402145477080. I am employed at Eskom Holding Limited. My work location is Megawatt Park - B3A36. My contact number is 0118002363.

3.

My qualifications include B.Com Accounting degree which I obtained from the University of Limpopo in the year 2000.

4.

I have been employed at Eskom as a Management accountant for the past eight years. I started working at Eskom in 01 February 2011 for PED Finance department.

5.

This affidavit confirms that I am the author of the attached excel spreadsheet reflecting a reconciliation of the coal supplied by Tegeta Brakfontein to Majuba Power Station for the financial years 2016, 2017 and 2018 (**Annexure BM1**).

6.

The information collated in the spreadsheet originates from the quality sheets signed by an Eskom geologist, the Eskom calculation / payment computed by myself and the supplier's invoices.

7.

The columns on the spreadsheet represents the following:

- Column A: Eskom's financial year and month;
- Column B: Tons of coal which were received by the Power station;
- Column C: Eskom Gigajoules calculated using the Eskom tons received;
- Column D: Tons of coal which were dispatched by the supplier to the Majuba Power Station;
- Column E: Supplier Gigajoules calculated using the supplier tons dispatched;
- Column F: The supplier's total invoiced amount, VAT inclusive;
- Column G: Eskom calculated payment amount;
- Column H: Represents the variance which is based on clause 27.2.3.3 of the CSA which provides for where there is a discrepancy of 2% or more between the mass of the coal supplied, then the lessor of the mass determined will apply for payment purposes if agreed to by both Parties, until such time that the source of the discrepancy is identified (**Annexure BM2**).

This was applied in the following months:

B.M.
N.E

- Aug 15 – Matla Quality greater than 2% Variance
- June 17-Majuba Road Quality greater than 2% Variance

8.

Below I set out a summary based on the spreadsheet that indicates months where coal was under supplied:

Month	Eskom Tons	Minimum Tons as per CSA	Under Supply
Apr- 15	47 288.82	52 000	- 4 711.18
Dec -15	65 824.94	90 400	- 24 575.06
Apr- 16	88 252.13	90 400	- 2 147.87
Aug 16	68 432.84	90 400	- 21 967.16
Nov- 16	83 223.16	90 400	- 7 176.84
Apr- 17	86 312.64	90 400	- 4 087.36
May- 17	83 501.32	90 400	- 6 898.68
Aug- 17	63 104.77	90 400	- 27 295.23
Sep - 17	84 292.38	90 400	- 6 107.62
Dec- 17	74 386.12	90 400	- 16 013.88
Feb- 18	64 605.50	90 400	- 25 794.50
Mar 18	26 858.72	90 400	- 63 541.28

9.

Below I set out a summary based on the spreadsheet that indicates months where coal was over supplied:

Month	Eskom Tons	Maximum Tons as per CSA	Over Supply
Jun- 15	78 674.04	78 000	674.04
July-15	107 839.24	78 000	29 839.24
Aug- 15	102 643.32	78 000	24 643.32
Sept- 15	121 670.48	78 000	43 670.48
Oct- 15	178 884.93	135 600	43 284.93
Nov -15	179 713.15	135 600	44 113.15
Jan -16	137 988.56	135 600	2 388.56
May -16	148 885.72	135 600	13 285.72

BWA
N.E

Annexure “BM1”



Tegeta
F2016

	Eskom Tons	Eskom GJ	Supplier Tons	Supplier GJ	Supplier Invoice	Eskom Payment	Variance	
Apr-15	47 288.82	955 822.21	47 830.94	966 229.42	15 013 465.97	15 013 465.97	-	Paid
May-15	77 605.72	1 586 421.32	78 875.61	1 615 787.51	25 106 429.49	25 106 429.49	-	Paid
Jun-15	78 674.04	1 583 238.11	78 022.08	1 626 278.02	25 362 131.60	25 362 131.60	-	Paid
July-15	107 839.24	2 251 713.83	108 595.66	2 265 181.33	35 325 955.88	35 325 955.88	-	Paid
Aug-15	102 643.32	2 142 569.50	102 680.82	2 141 769.91	33 205 000.69	33 205 563.78	436.91	Paid
Sept-15	121 670.48	2 695 327.98	124 582.64	2 756 683.71	42 596 010.60	42 551 067.07	44 943.53	Paid
Oct-15	178 884.93	3 953 892.05	180 616.39	3 979 816.10	61 703 068.81	61 703 068.81	-	Paid
Nov-15	179 713.15	3 772 327.69	180 415.54	3 785 189.94	58 663 007.07	58 663 007.06	0.01	Paid
Dec-15	65 824.94	1 472 152.20	66 224.74	1 478 104.39	46 040 273.64	46 040 272.71	0.93	Paid
Jan-16	137 988.56	3 038 764.90	141 620.78	3 119 144.44	48 039 191.18	48 039 191.18	-	Paid
Feb-16	112 195.43	2 531 842.60	111 214.88	2 512 052.76	38 488 667.57	38 488 667.57	-	Paid
Mar-16	115 346.38	2 415 392.47	116 101.76	2 429 654.35	36 881 351.25	36 881 351.25	-	Paid
	1 325 675.01	28 399 464.86	1 336 781.84	28 675 891.88	466 425 553.75	466 380 172.37	45 381.38	

Matla Quality 2 % Variance
Credit note issued

F2017

	Eskom Tons	Eskom GJ	Supplier Tons	Supplier GJ	Supplier Invoice	Eskom Payment	Variance	
Apr-16	88 252.13	1 946 532.95	89 398.64	1 972 060.72	32 148 533.86	32 148 533.86	-	Paid
May-16	148 885.72	3 110 314.91	150 134.12	3 137 996.11	51 155 612.59	51 155 612.59	-	Paid
Jun-16	77 429.74	1 596 639.44	79 139.18	1 631 536.08	26 746 097.27	26 746 097.27	-	Paid
July-16	109 853.64	2 242 112.99	110 882.46	2 265 344.12	37 265 363.83	37 265 363.83	-	Paid
Aug-16	68 432.84	1 413 553.82	69 070.76	1 427 048.06	23 345 079.21	23 345 079.21	-	Paid
Sept-16	131 182.75	2 789 263.38	131 864.42	2 806 029.88	45 743 899.10	45 743 899.10	-	Paid
Oct-16	91 877.87	1 920 927.61	93 381.52	1 960 427.85	32 003 592.56	32 003 592.57	-0.01	Paid
Nov-16	83 223.16	1 730 266.65	84 104.84	1 746 595.51	28 652 200.70	28 652 200.70	-	Paid
Dec-16	93 559.86	1 901 951.19	92 035.82	1 871 034.20	30 629 578.27	30 629 578.27	-	Paid
Jan-17	94 428.32	1 910 618.86	94 616.32	1 914 480.37	31 113 826.61	31 113 826.61	-	Paid
Feb-17	93 452.71	1 855 668.24	93 947.02	1 966 776.49	32 331 445.28	32 331 445.28	-	Paid
Mar-17	109 447.94	2 354 446.20	108 484.66	2 339 101.86	37 490 727.00	37 490 726.96	0.04	Paid
	1 190 026.68	24 772 296.24	1 197 059.76	25 038 431.25	408 625 956.28	408 625 956.25	-	

F2018

	Eskom Tons	Eskom GJ	Supplier Tons	Supplier GJ	Supplier Invoice	Eskom Payment	Variance	
Apr-17	86 312.64	1 873 609.74	85 179.46	1 848 921.39	31 565 969.28	31 565 969.28	-	Paid
May-17	83 501.32	1 848 184.45	84 557.00	1 871 196.14	32 850 719.44	32 850 719.43	0.01	Paid
Jun-17	93 704.99	2 073 149.71	96 485.76	2 130 847.03	37 336 277.15	36 567 032.90	769 244.25	Paid
Jul-17	103 570.69	2 242 118.11	103 199.74	2 227 770.28	38 882 165.80	38 882 165.91	-0.11	Paid
Aug-17	63 104.77	1 346 888.26	65 669.54	1 401 316.78	23 893 025.52	23 893 025.52	-	Paid
Sep-17	84 292.38	1 925 661.53	80 984.86	1 854 134.00	32 530 039.33	32 530 039.33	-	Paid
Oct-17	94 101.80	2 044 817.54	93 518.38	2 033 751.79	35 774 100.74	35 774 100.74	-	Paid
Nov-17	110 493.81	2 392 703.16	112 862.10	2 441 560.60	43 031 040.61	43 031 040.61	-	Paid
Dec-17	74 386.12	1 558 267.49	72 545.80	1 516 852.99	26 837 375.70	26 837 375.70	-	Paid
Jan-18	124 496.08	2 634 112.85	124 703.24	2 639 127.77	46 633 387.88	46 633 387.87	0.01	Paid
Feb-18	64 605.50	1 448 409.84	65 435.16	1 464 979.31	25 852 782.92	25 852 782.88	0.04	Paid
Mar-18	26 858.72	605 746.25	26 791.82	604 208.39	10 628 146.28	10 598 827.96	29 318.32	
	1 009 428.82	21 993 668.93	1 011 932.86	22 034 666.47	385 815 030.65	385 016 468.13	798 562.52	

Majuba Road quality 2% Variance

TOTAL

3 525 130.51 75 165 430.03 3 545 774.46 75 748 989.60 1 260 866 540.68 1 260 022 596.75 843 943.90

B.M

Annexure “BM2”





Contract Number [45...

Page 1 of 65

COAL SUPPLY AGREEMENT

in respect of coal from

BRAKFONTEIN COLLIERY AND BRAKFONTEIN COLLIERY EXTENSION

entered into by and between

ESKOM HOLDINGS SOC Ltd

registration number 2002/015527/30, a company incorporated in terms of the laws of the Republic of South Africa with its registered office at Megawatt Park, Maxwell Drive, Sunninghill
("Eskom")

and

TEGETA EXPLORATION AND RESOURCES (PROPRIETARY) LIMITED

registration number 2006/014492/07, a company incorporated in terms of the laws of the Republic of South Africa with its registered office at Grayston Ridge Office Park Block A, Lower Ground Floor, 144 Katherine Street, Sandton 2146
("the Supplier")

Eskom Vendor Number: 0011082687

Coal Supply Agreement between ESKOM HOLDINGS SOC LIMITED and TEGETA EXPLORATION AND RESOURCES PTY LTD executed at SUNNINGHILL on 10 March 2015
Ref:



Contract Number [46...

Page 2 of 65

TABLE OF CONTENTS

	Page No.
SECTION 1: INTRODUCTION, DEFINITIONS AND INTERPRETATION	4
1. Introduction.....	4
2. Definitions and Interpretation	4
SECTION 2: WARRANTIES, UNDERTAKINGS, LEGAL COMPLIANCE AND REVIEW	18
3. General.....	18
4. Warranties Applicable to both Parties.....	19
5. Warranties by the Supplier.....	19
6. Legal Compliance and Review.....	20
SECTION 3: COMMENCEMENT OF DELIVERIES, DURATION, RISK AND OWNERSHIP OF COAL	23
7. Commencement of Deliveries	23
8. Duration.....	23
9. Risk and Ownership of Contract Coal.....	23
SECTION 4: QUANTITIES, DELIVERY, OFF TAKE AND SUPPLY OF COAL	24
10. Coal Quantities	24
11. Planning and Supply of Contract Coal.....	25
12. Under Delivery.....	26
13. Under Off Take	28
SECTION 5: PRICE, ADJUSTMENTS, INVOICING AND PAYMENTS	30
14. Base Price	30
15. Annual Adjustment.....	31
16. Monthly Adjustment for Diesel Price Changes.....	32
17. Adjustments of Other Monetary Amounts	33
18. Review of Table 2: Price Adjustment Indices [NOTE: This entire clause is only applicable to contracts with duration of more than 5 years].....	Error Bookmark not defined.
19. Invoicing and Payment.....	33
SECTION 6: QUALITY OF COAL	34
20. Contract Coal Quality.....	34
21. Pre-Certification of Coal	36
22. Determination of Coal Quality.....	38
23. Adjustment for Moisture Content.....	39
SECTION 7: MODES OF TAKE OFF OF COAL	41
24. Modes of Take Off of Coal [Provisions must be adjusted carefully for each new contract and for any mixed FCA and Delivered Road contracts before sending out the first draft].....	41
25. Road Coal Transportation [FCA Contract].....	41
26. Road Coal Transportation [Delivered Contract]	42

Coal Supply Agreement between ESKOM HOLDINGS SOC LIMITED and TEGETA EXPLORATION AND RESOURCES PTY LTD executed at SUNNINGHILL on 10 March 2015
Ref:

Handwritten signatures and initials:
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 [Signature]
 [Signature]



Contract Number [46...

Page 3 of 65

27. Rail Coal Transportation	Error! Bookmark not defined.
28. Mass Determination	43
SECTION 8: REPORTING REQUIREMENTS AND PROVISION OF INFORMATION	45
29. Technical Liaison Meetings	45
30. Reports	46
31. Legislative Submissions associated with Compliance	47
SECTION 9: DISPUTE RESOLUTION AND BREACH	47
32. Dispute Resolution	47
33. Determination by an Independent Expert	50
34. Breach	53
SECTION 10: FORCE MAJEURE MATTERS	54
35. Force Majeure	54
SECTION 11: GENERAL PROVISIONS	57
36. Insolvency	57
37. Limitation of Liability	57
38. Insurance	58
39. Cession and Delegation	58
40. Confidentiality	58
41. Alienation or Disposal of an Interest	59
42. Entire Agreement	60
43. No Stipulation for the Benefit of a Third Person	60
44. No Representations	60
45. Variation, Cancellation and Waiver	60
46. Indulgences	60
47. Applicable Law	60
48. Jurisdiction of South African Courts	60
49. Service of Documents	61
50. Costs	63
51. Signature in Counterparts	63
52. Independent Advice	63
53. Good Faith and Co-Operation	63

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Contract Number [46...

Page 4 of 85

SECTION 1: INTRODUCTION, DEFINITIONS AND INTERPRETATION

1. Introduction

- 1.1 The Supplier is the holder of the Mining Right in respect of the Coal Resource and wishes, to sell to Eskom, Contract Coal produced from coal mined pursuant to the Mining Right in the quantities and qualities for the duration and for the purposes mentioned in this Agreement.
- 1.2 Eskom requires Contract Coal in the quantities, for the duration and for the purposes mentioned in this Agreement.
- 1.3 The Parties wish to enter into a coal supply and off take agreement on the terms and conditions recorded below.

2. Definitions and Interpretation

- 2.1 In this Agreement, the following words and expressions shall, unless otherwise stated or inconsistent with the context in which they appear, bear the following meanings and other words derived from the same origins as such words (that is, cognate words and expressions) shall bear corresponding meanings:

- | | | |
|-------|-------------------|--|
| 2.1.1 | "Agreement" | means this coal supply agreement and shall include all Annexes hereto, as amended from time to time; |
| 2.1.2 | "Air Dried" | means the physical condition of coal that has been dried at ambient temperature or at a temperature not exceeding 40 (forty) degrees Celsius to remove surface moisture until a constant mass is achieved; |
| 2.1.3 | "Annexe" | means an annexe attached to the Agreement, as amended or replaced from time to time; |
| 2.1.4 | "Annual Quantity" | means the quantity of Contract Coal, measured in GJ, which Parties target Supplying during each Year, as set out in the second column of Table 1; |

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Contract Number [45...

Page 5 of 55

2.1.5	"API#4 Price"	means the past month's average of API#4 index price of RB1 grade coal, Free on Board (FOB) Richards Bay and in US Dollars per ton as published by Argus/McCloskey;
2.1.6	"As Received"	means the physical condition of coal including both surface and residual moisture contents as received at the Delivery Point;
2.1.7	"Base Date"	means in respect of each cost component set out in Table 2, the base date set out in the fifth column of Table 2;
2.1.8	"Base Date Index Value (B)"	means in respect of each cost component set out in the first column of Table 2, the value of the relevant index on the Base Date of such cost component set out in the fourth column of Table 2;
2.1.9	"Base Price"	shall have the meaning ascribed to it in clause 15;
2.1.10	"Business Day"	means a day other than a Saturday, Sunday or gazetted public holiday in the Republic of South Africa;
2.1.11	"Calorific Value (CV)"	means the quantity of heat produced by the complete combustion of a given mass of coal, measured in MJ/kg;
2.1.12	"CV Adjustment Factor (CVAF)"	means the factor used to adjust the Calorific Value of coal from an Air Dried to an As Received basis and as set out more fully in clause 23;
2.1.13	"Coal Haulage Rates Model"	means the economic model used by Eskom to determine tariffs applicable to the road transportation of coal as amended from time to time;

27/03/15
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Contract Number [46...

Page 6 of 65

- 2.1.14 "Coal Line Tariff" means per Ton, being the indicative average tariff charged by TFR for main line services from Mpumalanga to Richards Bay inclusive of the port charges levied by the Richards Bay Coal Terminal as at which shall be escalated annually by PPI on 01 April of each subsequent year;
- 2.1.15 "Coal Quality Management Procedure (CQMP)" means the sampling analysis principles and procedures set out in Annexe A, as well as the procedures referred in clauses 20.4 and 22;
- 2.1.16 "Coal Reserve" means, at any time during the currency of this Agreement, so much of the Coal Resource from which a quantity of Contract Coal can be produced for Supply to Eskom in terms of this Agreement equal to at least the difference between 275 855 450 MGJ (being approximately 13 950 000 Tons (As Received) and the quantity of Contract Coal in the Coal Resource (expressed as an energy quantity) then actually Supplied to Eskom in terms of this Agreement;
- 2.1.17 "Coal Resource" means all in-situ coal occurring naturally in, on and under the land to which the Mining Right relates;
- 2.1.18 "Commencement Date" shall have the meaning ascribed to it in clause 7;
- 2.1.19 "Consignment" means:
- 2.1.19.1 in respect of Rail Coal, a train load;
- 2.1.19.2 in respect of Road Coal, the approximate quantity Delivered in 1 (one) day;

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- 2.1.20 "Container Trains" means trains typically consisting of 50 (fifty) wagon ISO-type 6 (six) meter open top containers on flat bed rail cars;
- 2.1.21 "Contract Coal" means the coal originating from Pre-Certified Stockpiles made up of a blend of the seam 4 upper and the seam 4 lower in respect of which the measurements of all coal quality parameters comply with the Quality Specifications and none of which is Reject Coal;
- 2.1.22 "Contract Period" means the period described in clause 7;
- 2.1.23 "Deliver" means the provision, and where applicable, the loading of Contract Coal by the Supplier at the respective Delivery Points, and "Delivery" shall have a corresponding meaning;
- 2.1.24 "Delivery Points" means:
- 2.1.24.1 in respect of Rail Coal, the weighbridge or the handover/departure point situated at the Rail Siding;
- 2.1.24.2 in respect of Road Coal, where the Supplier is responsible for road transportation, the weighbridge situated at the Power Station; and
- 2.1.24.3 in respect of Road Coal, where Eskom is responsible for the road transportation, the weighbridge situated at the Mine;
- 2.1.25 "Drawdown Order" means a written order issued by Eskom to the Supplier for the Delivery of Contract Coal as further described in clause 11.4;



Contract Number [46...

Page 8 of 66

- 2.1.26 "Equilibrium Moisture" means the total moisture content which is reached by the coal that has naturally drained until a relatively constant moisture has been reached;
- 2.1.27 "Eskom Trains" means trains operated by TFR or any other rail operator as may be appointed during the operation of this Agreement, for the purposes of transporting coal for Eskom, and shall include Jumbo Trains, Small Trains and/or Container Trains;
- 2.1.28 "FCA" means free carrier as defined in incoterms at the Delivery Point;
- 2.1.29 "GigaJoule (GJ)" one thousand million Joules (being the derived unit of energy in the International System of Units) and being the metric terms used for measuring energy;
- 2.1.30 "Incoterms" means the standard trade definitions used in sales contracts published by the International Chamber of Commerce as at 2000, as amended or replaced from time to time;
- 2.1.31 "Jumbo Trains" means trains capable of being operated on TFR's heavy haul rail system and typically consisting of 100 (one hundred) wagons having a rated payload of 83 (eighty three) Tons per wagon and an axle load of no more than 26 (twenty six) Tons per axle;
- 2.1.32 "Latest Index Value (L)" means, in relation to each cost component in Table 2, the latest available value for the relevant index for such cost component, as set out in the third column of Table 2 and at the time of calculating any price adjustment, which shall be:

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Contract Number 146...

Page 9 of 65

2.1.32.1

for Monthly price adjustments, the value of the relevant index for each cost component published for the Month prior to the most recent annual Price Adjustment Date except for diesel, which shall be the value of the diesel index published for the current Month; and

2.1.32.2

for annual price adjustments, the value of the relevant index for each cost component published for the Month prior to the relevant Price Adjustment Date except for diesel which shall be the value of the diesel index published for the current Month;

2.1.33

"Maximum Annual Quantity"

means the maximum quantity of Contract Coal, in GJ, which Eskom is entitled to Take Off and which the Supplier required to Deliver during each Year, being 110% (one hundred and ten percent) of the Annual Quantity;

2.1.34

"Maximum Monthly Quantity"

means the maximum quantity of Contract Coal, in Tons, which Eskom is entitled to Take Off and which the Supplier is required to Deliver during each Month, being 120% (one hundred and twenty percent) of the Monthly Quantity;

2.1.35

"Maximum Quarterly Quantity"

means the maximum quantity of Contract Coal, in Tons, which the Supplier is required to Deliver and which Eskom is required to Take Off during each Quarter, being 115% (one hundred and fifteen percent) of the Quarterly Quantity;

2.1.36

"MGJ"

means a million GigaJoules;



Contract Number [46...

Page 10 of 65

2.1.37 "Mine" means the Brakfontein Colliery and Brakfontein Colliery Extension coal mine(s) established to exploit the Coal Resource;

2.1.38 "Mining Right" means the mining right F/2009/07/30/001] granted to TEGETA EXPLORATION AND RESOURCES (PTY) LTD relating to coal in respect of various portions of the farm BRAKFORTEIN 264 IR PORTIONS 17 AND 27 (as more fully indicated on the sketch plan attached thereto), Registration Division IS, in the Magisterial District of DELMAS, in the province of MPUMALANGA, measuring 95.7972 hectares and registered in the Titles Office on 26 OCTOBER 2010 under registration number 200601449207;

and

TEGETA EXPLORATION AND RESOURCES (PTY) LTD relating to coal in respect of various portions of the farm BRAKFORTEIN 264 IR PORTIONS 2,3,4,5,16,22,24,25,28 and remaining extent of portion 29 (as more fully indicated on the sketch plan attached thereto), Registration Division IS, in the Magisterial District of DELMAS, in the province of MPUMALANGA, measuring 1.283.709 hectares and registered in the Titles Office on 6 MARCH 2014 under registration number 2010/10/19/001;

2.1.39 "Minimum Annual Quantity" means the minimum quantity of Contract Coal, in GJ, which Eskom is entitled to Take Off and which the Supplier is required to Deliver during each Year, being 90% (ninety percent) of the Annual Quantity;

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Contract Number [46...

Page 11 of 55

- 2.1.40 "Minimum Monthly Quantity" means the minimum quantity of Contract Coal, in Tons, which Eskom is entitled to Take Off and which the Supplier is required to Deliver during each Month, being 80% (eighty percent) of the Monthly Quantity;
- 2.1.41 "Minimum Quarterly Quantity" means the minimum quantity of Contract Coal, in Tons, which the Supplier is required to Deliver and which Eskom is required to Take Off during each Quarter, being 85% (eighty five percent) of the Quarterly Quantity;
- 2.1.42 "MJ/Kg" means MegaJoules (being 1,000,000 (one million) Joules) per kilogram;
- 2.1.43 "Month" means a calendar month;
- 2.1.44 "Monthly Quantity" means the quantity, in Tons, of Contract Coal which Parties target Supplying during each Month, as set out in the fifth column of Table 1;
- 2.1.45 "MPRDA" means the Mineral and Petroleum Resources Development Act, No. 28 of 2002, as amended or replaced from time to time, including all regulations promulgated in terms thereof;
- 2.1.46 "Nominated Laboratory" means the independent laboratory appointed by Eskom for the purpose of analysing coal samples in terms of this Agreement;
- 2.1.47 "Party" means Eskom or the Supplier, as the context in which the word appears requires and "Parties" means both Eskom and the Supplier;



Contract Number [48...

Page 12 of 65

- 2.1.48 "Power Station" means Majuba Power Station or any other Eskom owned or operated power station within the Republic of South Africa and which has been designated by Eskom as the destination of Contract Coal;
- 2.1.49 "PPI" means the producer price index for domestic output in South Africa, Table 1A (which is, at the Signature Date contained in Statistical Release P0142.1) as published by Statistics South Africa. In the event that the above producer price index ceases to be published or is replaced during the currency of this Agreement, then PPI shall mean an alternative index measuring substantially the same elements as that measured by the above mentioned producer price index;
- 2.1.50 "Pre-Certified Stockpile" means stockpile(s) of Contract Coal, approximately equivalent to a Day's delivery, unless otherwise agreed which have been sampled, analysed and certified, in accordance with this Agreement and Annexe A: The Coal Quality Management Procedure as meeting the Quality Specifications, or otherwise as accepted by Eskom;
- 2.1.51 "Price" shall have the meaning ascribed to it in clause 16.2;
- 2.1.52 "Price Adjustment Date" shall have the meaning ascribed to it in clause 16.1;
- 2.1.53 "Price Adjustment Factor (PAF)" means 1(one) plus [the sum of (L-B)/B for each applicable index in Table 2 multiplied by the corresponding proportion for that index as set out in the second column of Table 2], where 'L' is the Latest Index Value and 'B' is the Base Date Index Value;

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Contract Number [48...

Page 13 of 55

2.1.54	"Quality Rejection Limit"	means in respect of each coal quality parameter, the limit set out in the fifth column of Table 3;
2.1.55	"Quality Specification"	means in respect of each coal quality parameter set out in the first column of Table 3, the specification stipulated in the fourth column of Table 3, which coal Delivered by the Supplier to Eskom in terms of this Agreement must comply with;
2.1.56	"Quarter"	means a period which consists of 3 (three) consecutive Months, the first of such period to commence on 1 APRIL of each Year;
2.1.57	"Quarterly Quantity"	means the quantity, in Tons, of Contract Coal specified in the Drawdown Order for that Quarter, determined as set out in clause 11
2.1.58	"Rail Coal"	means Contract Coal which Eskom requires to be Taken Off by rail transport;
2.1.59	"Rail Siding"	means the railway siding identified by number 766186 (Hawerklip Station);
2.1.60	"Reject Coal"	means coal in respect of which one or more quality parameters does not meet the Quality Specification;
2.1.61	"Road Coal"	means Contract Coal which Eskom requires to be Taken Off by road transport;

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| 2.1.62 | "SAMREC Code" | means the 2007 edition of the South African Code for Reporting of Exploration Results, Mineral Resources and Mineral Reserves prepared by the South African Mineral Resources Committee Working Group under the joint auspices of the South African Institute of Mining and Metallurgy and the Geological Society of South Africa, as amended or replaced from time to time; |
| 2.1.63 | "Signature Date" | means the date on which this Agreement has been signed by both Parties hereto and if signed on different dates, the date of signature of the Party signing last in time; |
| 2.1.64 | "Small Trains" | means trains which shall operate primarily on TFR's general freight business rail system and which shall typically consist of 75(seventy five) wagons having a rated payload of no more than 58 (fifty eight) Tons and an axle load of no more than 20 (twenty) Tons per axle; |
| 2.1.65 | "Stockpile Retention Time" | means the period that a specific stockpile must be allowed to drain in order to reach Equilibrium Moisture as determined in clause 23.2.1; |
| 2.1.66 | "Supply" | means both when used as a noun and a verb, means the completed process of Delivery and Off Take which will take place more or less simultaneously, and "Supplied" shall have a corresponding meaning; |
| 2.1.67 | "Take Off" | when used as a verb, in respect of all Contract Coal Delivered, means the removal of such coal from the respective Delivery Points by Eskom in such quantities and at such rates as set out in this Agreement and the noun "Off Take", shall bear a corresponding meaning; |

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Contract Number [48...

Page 15 of 65

- 2.1.68 "Technical Liaison Meeting" means the meeting to be held between the Parties as set out in clause 28;
- 2.1.69 "TFR" means Transnet Freight Rail, a division of Transnet Limited, registered in terms of the company laws of the Republic of South Africa under registration number 1990/000900/06 and having its registered office at 47th floor, Carlton Centre, 150 Commissioner Street, Johannesburg, 2001;
- 2.1.70 "Titles Office" means the Mineral and Petroleum Titles Registration Office of South Africa;
- 2.1.71 "Ton" means a metric ton of 1 000 (one thousand) kilograms;
- 2.1.72 "Tonnage Adjustment Factor" means the factor used to adjust the tonnage of any Contract Coal that exceeds the maximum total moisture content, but which is accepted for Delivery in terms of clauses 23.3 and 23.4, for the moisture in excess of the Equilibrium Moisture;
- 2.1.73 "Total Energy Quantity" shall have the meaning ascribed to it in clause 10.4;
- 2.1.74 "Ultrafines" means material below 100 (one hundred) microns resulting from the thicker underflow process recovered either as filter cake, arising from the filter press process or harvested from slimes dams;
- 2.1.75 "Under Delivery" means Under Supply caused by the Supplier's failure to Deliver Contract Coal for any reason other than Force Majeure;
- 2.1.76 "Under Off Take" means Under Supply caused by Eskom's failure to Take Off Contract Coal Delivered for any reason other than force majeure;

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Contract Number [46...

Page 18 of 55

- 2.1.77 "Under Supply" means:
- 2.1.77.1 in respect of any Month, Supply of less than the Minimum Monthly Quantity applicable to that Month;
- 2.1.77.2 in respect of any Quarter, Supply of less than the Minimum Quarterly Quantity; or
- 2.1.77.3 in respect of any Year, Supply of less than the Minimum Yearly Quantity applicable to that Year,
- as a result of either Under Delivery and/or Under Off Take for any reason other than force majeure;
- 2.1.78 "USD:ZAR Exchange Rate" means at any point during each Month, the latest exchange rate for United States dollars and South African Rands ruling at financial close of the preceding Month as published by the South African Reserve Bank;
- 2.1.79 "VAT" means value added tax levied from time to time in terms of the Value Added Tax Act, No. 89 of 1991 or any similar tax levied on the supply of goods imposed in terms of any law passed in substitution of the Value Added Tax Act, No. 89 of 1991 and for which tax a purchaser of such goods will be liable in terms of such substituting law; and
- 2.1.80 "Year" means a 12 (twelve) Month period beginning on the Commencement Date and thereafter, each subsequent period of 12 (twelve) consecutive Months.

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Contract Number 46...

Page 17 of 66

- 2.2 In this Agreement:
- 2.2.1 references to a statutory provision include any subordinate legislation made from time to time under that provision and include that provision as modified or re-enacted from time to time;
- 2.2.2 notwithstanding anything to the contrary contained herein, all reference to legislation shall include a reference to such legislation as amended or replaced from time to time;
- 2.2.3 words importing the masculine gender include the feminine and neuter genders and vice versa; the singular includes the plural and vice versa; and natural persons include artificial persons and vice versa;
- 2.2.4 references to a "person" include a natural person, company, close corporation or any other juristic person or other corporate entity, a charity, trust, partnership, joint venture, syndicate, or any other association of persons;
- 2.2.5 a range of values indicated by the words "between...and..." or "from...to..." shall include both values that demarcate the range;
- 2.2.6 any definition, wherever it appears in this Agreement, shall bear the same meaning and apply throughout this Agreement unless otherwise stated or inconsistent with the context in which it appears. If there is any conflict between any definitions in this Agreement then, for purposes of interpreting any clause of the Agreement or paragraph of any Annex, the definition appearing in that clause or paragraph shall prevail over any other conflicting definition appearing elsewhere in the Agreement;
- 2.2.7 where any number of days is prescribed, those days shall be reckoned exclusively of the first and inclusively of the last day and shall refer to calendar days unless specifically stated otherwise;
- 2.2.8 any provision in this Agreement which is or may become illegal, invalid or unenforceable shall be ineffective to the extent of such prohibition or unenforceability and shall be treated as having not been written (i.e. *pro non scripto*) and severed from the balance of this Agreement, without invalidating the remaining provisions of this Agreement;
- 2.2.9 references to any amount shall mean that amount exclusive of VAT, unless the amount expressly includes VAT;



Contract Number [48...

Page 18 of 65

- 2.2.10 the rule of construction that if general words or terms are used in association with specific words or terms which are a species of a particular genus or class, the meaning of the general words or terms shall be restricted to that same class (i.e. the *ejusdem generis* rule) shall not apply, and whenever the word "including" is used followed by specific examples, such examples shall not be interpreted so as to limit the meaning of any word or term to the same genus or class as the examples given; and
- 2.2.11 each of the provisions of this Agreement has been negotiated by the Parties and drafted for the benefit of the Parties, and accordingly the rule of construction that the contract shall be interpreted against or to the disadvantage of the Party responsible for the drafting or preparation of the Agreement (i.e. the *contra proferentem* rule), shall not apply.

SECTION 2: WARRANTIES, UNDERTAKINGS, LEGAL COMPLIANCE AND REVIEW

3. General

- 3.1 The warranties contained in this Agreement shall be deemed to be representations and undertakings, material to the entering into of this Agreement, by the Supplier in favour of Eskom and by Eskom in favour of the Supplier where applicable;
- 3.2 Each warranty shall be a separate warranty and in no way limited or restricted by reference to, or inference from, the terms of any other warranty;
- 3.3 Each warranty is given as at the Commencement Date and shall endure for the duration of this Agreement; and
- 3.4 Insofar as any of the warranties are promissory or relate to a future event, they shall be deemed to have been given as at the due date for fulfilment of the promise or the happening of the event, as the case may be.
- 3.5 Where any warranty is qualified by the expression "the Supplier and/or Eskom is not aware", "to the best of the Supplier's and/or Eskom's knowledge and belief" or any similar expression, that expression shall be deemed to include an additional statement that it has been made after due enquiry.
- 3.6 Nothing contained in this Agreement shall relieve a Party from its obligations to make those disclosures which it is in law obliged to make but which are not recorded in this Agreement.

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Contract Number [46...

Page 19 of 65

4. Warranties Applicable to both Parties

Each Party hereby warrants unto and in favour of the other Party:

- 4.1 the Party and its representative(s), as applicable, have the requisite power, right and authority to enter into and perform the obligations to be assumed or performed by it in accordance with this Agreement and any other documents to be executed in accordance with this Agreement;
- 4.2 to the best of the Party's knowledge and belief, all facts and circumstances material to this transaction, or which would be material or would be reasonably likely to be material and which may affect the willingness of the Parties to enter into this Agreement or which may affect the Base Price and which are known to the Party, have been disclosed by the Party to the other Party; and
- 4.3 as at the Commencement Date, no legal proceedings of any kind or administrative proceedings in terms of any law, and which shall prevent either Party from fulfilling its obligations in terms of this Agreement, have been instituted against such Party, and at all times during the currency of this Agreement neither Party has any obligations/duties to third parties which, if discharged, shall prevent the Party from fulfilling its obligations in terms of this Agreement.

5. Warranties by the Supplier

The Supplier hereby warrants unto and in favour of Eskom that:

- 5.1 the Supplier is the holder of the Mining Right and has the un-encumbered right to dispose of the Contract Coal to Eskom in accordance with the provisions of this Agreement;
- 5.2 upon Delivery of the Contract Coal, Eskom will become the owner of the Contract Coal free of any encumbrances, liens, rights of pre-emption or similar rights in favour of any third party;
- 5.3 as at the Signature Date the Supplier has complied with all material terms, conditions and obligations, contractual and statutory, which apply to all rights, titles, permits and other authorisations held by it, or applicable to any of its operations;

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Contract Number [46...]

Page 20 of 65

- 5.4 the Supplier has and shall not pledge, mortgage, cede or grant any other security rights over the Mining Right or any coal produced pursuant thereto;
- 5.5 the Supplier is able to prove title to all rights held by it, including the Mining Right;
- 5.6 the Supplier is not aware of any facts or circumstances which may result in the withdrawal, suspension, cancellation, material alteration or non-renewal of any rights, titles, permits and other authorisations held by it, or applicable to any of its operations, as such matters relate to this agreement and/or the Coal Resource, as the case may be;
- 5.7 the Coal Resource has sufficient Coal Reserves to satisfy its Delivery obligations in terms of this Agreement;
- 5.8 to the best of its knowledge and belief, the Supplier has disclosed to Eskom all legal, environmental matters and rehabilitation obligations relating to the Coal Resource and the Mining Rights; and
- 5.9 The Supplier shall notify Eskom of any changes made to the documentation supplied to Eskom in terms of this Agreement, where such changes have an impact on the warranties provided by the Supplier in terms of this Agreement.
- 5.10 The supplier warrants that they shall comply with the Black Ownership targets as stipulated in Annex G, at no cost to Eskom. This Annex G is regarded as a material provision for purposes of this Agreement and any non-compliance to the Black Ownership targets as stipulated will result in a material breach and dealt with according to the provisions made in this Agreement.

6. Legal Compliance and Review

- 6.1 The Supplier warrants that it is complying and will continue to comply with all its obligations under all current and future applicable laws including but not limited to the Mining Right, including the environmental management plan, the social labour plan and the mining work programme relating thereto, the National Water Act, No. 36 of 1998 ("NWA"); the National Environmental Management Act, No. 107 of 1998 ("NEMA"); the Environment Conservation Act, No. 73 of 1989; the National Environmental Air Quality Act, No. 39 of 2004; the Water Services Act, No. 100 of 1989; the Hazardous Substances Act, No. 15 of 1973; the National Heritage Resources Act, No. 25 of 1989; the World Heritage Convention Act, No. 49 of 1999; the MPRDA and the Mine Health and Safety



Contract Number 44...

Page 21 of 65

Act, No. 29 of 1996, all statutory instruments, provincial ordinances and statutes, municipal government by-laws relating to the environment, government notices, circulars, codes of practice, guidelines, decisions, regulations, orders, demands, and criteria, injunctions or judgements of any court, administrative or regulatory authorities, central government, provincial government, municipal or any other body with responsibility for the protection of the environment (including but not limited to the health of the public, employees, flora and fauna).

- 6.2 Eskom shall be entitled to conduct reviews in respect of the provisions of this clause 6 to ensure the Supplier's compliance herewith and the Supplier agrees to co-operate with Eskom in this regard. To that end, Eskom and its designated representatives, including without limitation, its attorneys, auditors, environmental representatives engineers and geologists shall at all reasonable times, with reasonable prior notice to the Supplier, have access to the Mine and facilities utilised for the production and supply of coal under this Agreement and to all records, wherever located, pertaining to the supply of Coal in terms of this Agreement, which access will be at Eskom's expense and risk.
- 6.3 Eskom will provide feedback on risks identified from the reviews conducted in 6.2 above. The parties shall mutually agree how the risks will be addressed. Should the parties be unable to agree the risks that shall be addressed then the dispute will be resolved in terms of Section 9 of this Agreement.
- 6.4 The Supplier shall address the agreed risks as indicated in 6.3 and shall report on progress of addressing such risks during the scheduled technical meetings.
- 6.5 In the event that Eskom is approached by the State or any regulatory authority under NEMA and NWA with a view to remedying pollution relating to or resulting from the Parties' respective rights and obligations under this Agreement, the Supplier shall assist Eskom by making appropriate representations and taking appropriate steps to mitigate any statutory liability which Eskom may have under that legislation.
- 6.6 Eskom shall not at any time or for any reason be liable for any rehabilitation and/or closure costs incurred in connection with the Mine, save where Eskom caused the pollution, nor the possible cost of remedying pollution under the NEMA and the NWA. To the extent that, after taking the steps referred to in clauses 6.1 and 6.5, Eskom incurs any such costs, for which Eskom is not responsible, then the Supplier shall compensate Eskom for all reasonable costs

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Contract Number 146...

Page 22 of 65

and expenses incurred by it, provided that Eskom shall take all reasonable steps to mitigate its loss and shall be obliged to prove such loss.

- 6.7 Where either Party's employees, agents and/ or its representatives enter the premises of the other Party, they shall comply with any of the applicable legislation set out in clause 6.1 above.
- 6.8 The Supplier shall comply with the provisions detailed in **Annexe B: Environmental Legal Requirements**.
- 6.9 In the event of material changes to the legislation referred to in clause 6.1 or the introduction of new legislation which results in an increase or reduction of the direct cost of producing and Delivering Contract Coal at the Delivery Point ("the Cost Differential"), the then applicable Price shall (subject to clause 6.11 below) be increased or reduced as the case may be, by a pro rata portion of the Cost Differential.
- 6.10 The pro rata portion shall be equal to the proportion which the value (expressed in Rand) of the sales to Eskom in terms of this Agreement bears to the aggregate of all sales from the Mines.
- 6.11 Eskom shall at any time, upon reasonable notice to the Supplier, be entitled to audit the Supplier's costs related to the producing and delivering of such coal at the Delivery Point and financial information relating to the Supplier's income as a result of sales of coal. In the event that Eskom, as a result of its audit, disputes the Cost Differential, Eskom and the Supplier shall attempt to resolve the dispute amicably within 20 (twenty) days after a dispute being declared by either of them in this regard. Where Eskom and the Supplier are unable to resolve the dispute, either Eskom or the Supplier may then refer the dispute to an independent expert for determination in accordance with clause 32.
- 6.12 Where either Party's employees, agents and/ or its representatives enter the premises of the other Party they shall be required to comply, and each Party shall procure that they comply, with the relevant legislation set out in clause 6.1 above and other health and safety rules applicable to the premises of the other Party. Both Parties hereby agree, in terms of section 37(2) of the Occupational Health and Safety Act no. 85 of 1993 ("OHSA") (if applicable) that the other Party is relieved of any of its liabilities in terms of section 37(1) of the OHSA in respect of any act or omissions of either Party's employees, agents and/or its representatives to the extent permitted by the OHSA.

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SECTION 3: COMMENCEMENT OF DELIVERIES, DURATION, RISK AND OWNERSHIP OF COAL, SUSPENSIVE CONDITIONS

7. Commencement of Deliveries

Subject to clause 10 below, the Supply of Contract Coal shall commence on 1 April 2015 ("the Commencement Date") in accordance with clause 11 and subject to the coal meeting all of Eskom's technical and coal supply requirements.

8. Duration

The term of this Agreement shall be for a period commencing on the Commencement Date and expiring, unless extended or earlier terminated in accordance with the terms of this Agreement until the Total Energy Quantity has been Delivered.

9. Risk and Ownership of Contract Coal

- 9.1 The risk in, and ownership of, the Contract Coal Delivered in terms of this Agreement shall pass to Eskom upon Delivery, notwithstanding the provisions of clause 19.
- 9.2 Eskom shall be entitled to use all Contract Coal Supplied to it in terms of this Agreement for consumption at any power station owned and/or operated by Eskom from time to time and Eskom shall be entitled to use the Contract Coal in accordance with its sole requirements including selling or disposing of such coal to any third party.
- 9.3 The Supplier shall Deliver Contract Coal to the designated Delivery Point in the quantities and at the rates set out in this Agreement for Off Take by Eskom.

10. Conditions Precedent

10.1 The Parties agree that this Agreement will be subject to the fulfilment or waiver of the following Conditions Precedent:

10.2 in respect of the Supplier:

10.2.1 by no later than 16h00 on 31 March 2015, the Supplier had completed and reported a successful combustion test for coal supply to Majuba Power Station.

10.3 It is specifically recorded that if the Conditions Precedent are not fulfilled or waived on or prior to the applicable date referred to in clause 10.2.1 the remaining provisions of this Agreement



Contract Number 46...

Page 24 of 85

shall never become effective. In such event, neither Party shall have any claim of any nature against the other.

SECTION 4: QUANTITIES, DELIVERY, OFF TAKE AND SUPPLY OF COAL

10. Coal Quantities

- 10.1 The Supplier shall at all times throughout the duration of this Agreement ensure that the Coal Resource remains sufficient to enable the Supplier to comply with all its obligations in terms of this Agreement.
- 10.2 The Supplier shall Deliver and Eskom will Take Off in each Month, a quantity of Contract Coal between the Minimum Monthly Quantity and the Maximum Monthly Quantity in accordance with clause 11 at an expected CV of 20.15 MJ/kg on an As Received basis.
- 10.3 The Supplier shall Deliver and Eskom will Take Off in each Year, a quantity of Contract Coal between the Minimum Annual Quantity and the Maximum Annual Quantity in accordance with clause 11, at an expected CV of 20.15 MJ/kg on an As Received basis.
- 10.4 The total quantity of Contract Coal to be supplied under this Agreement shall equal an energy quantity of 275 855 450 MJ ("the Total Energy Quantity"), being approximately 13 950 000 Tons (As Received) at an expected CV of 20.15 MJ/kg on an As Received basis.

Table 1 Contract Coal Supply Schedule

Year	Annual Quantity	Minimum Annual Quantity	Maximum Annual Quantity	Monthly Quantity	Minimum Monthly Quantity	Maximum Monthly Quantity
April 2015 – Sep 2015 (Tons)	380 000	351 000	429 000	65 000	52 000	76 000
Energy (MJ)	7 858 500	7 072 650	8 644 350	1 308 750	1 047 800	1 571 700
Oct 2015 – Sep 2020 (Tons)	1 356 000	1 220 400	1 491 600	113 000	90 400	135 600
Energy (MJ)	27 323 400	24 591 060	30 055 740	2 276 950	1 821 560	2 732 340
Oct 2020 – Sep 2025 (Tons)	1 356 000	1 220 400	1 491 600	113 000	90 400	135 600
Energy (MJ)	27 323 400	24 591 060	30 055 740	2 276 950	1 821 560	2 732 340
Total Contract Quantity (Tons)	13 950 000					
Energy (MJ)	275 855 450					

Coal Supply Agreement between ESKOM HOLDINGS SOC LIMITED and TEGETA EXPLORATION AND RESOURCES PTY LTD executed at SUNNINGHILL on 10 March 2015
Ref:

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Contract Number [48...

Page 25 of 65

- 10.5 Any quantities of Contract Coal not be Delivered in a Year and for which the Supplier has paid a penalty in terms of clause 12.3, shall not be carried over to the next Year.

11. Planning and Supply of Contract Coal

- 11.1 The Parties shall use their reasonable endeavours to ensure that all Delivery and Off Take of Contract Coal is spread evenly across each day and Month and so as to comply with the limits stipulated in clauses 10.1 to 10.4.

- 11.2 Eskom shall, before the end of the second week of the last Month of each Quarter specify, in the Technical Liaison Meeting, the quantity of Contract Coal that shall be Supplied for each Month of the subsequent Quarter such that:

- 11.2.1 the quantity specified in respect of each Month will not be:

- 11.2.1.1 less than the Minimum Monthly Quantity; and

- 11.2.1.2 not more than the Maximum Monthly Quantity; and

- 11.2.2 the quantity to be Supplied each Year will not be:

- 11.2.2.1 less than the Minimum Annual Quantity stipulated in Table 1; and

- 11.2.2.2 more than the Maximum Annual Quantity stipulated in Table 1; and

- 11.2.3 it takes into account the provisions of any Rectification Plans agreed to by the Parties.

- 11.3 Either Party may request at the Technical Liaison Meeting to Deliver or Take Off less than the Minimum Monthly Quantity and/or Minimum Annual Quantity or in excess of the Maximum Monthly Quantity and/or the Maximum Annual Quantity applicable to any Month or Year, provided that the other Party shall not be obliged to agree to such quantity below the minimum quantities or above the maximum quantities as set out in Table 1, save in order to make up an Under Supply in terms of a Rectification Plan approved by the other Party. Should the Parties not agree the Monthly Quantity and/or Annual Quantity shall apply.

- 11.4 Once the Monthly Quantity for each month of the subsequent Quarter has been determined in terms of clause 11.2, Eskom shall issue written order for the Delivery of Contract Coal for each Month in the subsequent Quarter (the

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Contract Number [48...

Page 28 of 65

Drawdown Order") in respect of the quantities so determined. The Supplier shall Deliver and Eskom shall Take Off:

- 11.4.1 not less than the Minimum Monthly Quantity and not more than the Maximum Monthly Quantity during each Month of the subsequent Quarter; and
- 11.4.2 not less than the Minimum Quarterly Quantity and not more than the Maximum Quarterly during the subsequent Quarter;
- 11.5 For avoidance of doubt, the quantities set out in each Drawdown Order shall expressly exclude any quantities planned for Supply under any agreed Rectification Plan. Where applicable, such quantities shall be noted separately in the Drawdown Order.

12. Under Delivery

- 12.1 In the event of an actual or expected Under Delivery:
 - 12.1.1 the Supplier shall, within 7 (seven) days, submit a rectification plan to Eskom, which plan shall set out a schedule of how the Supplier shall make up the actual or expected shortfall in the shortest time reasonably possible, but in any event before the end of the Quarter;
 - 12.1.2 the Supplier shall consult with Eskom on the rectification plan and, Eskom undertakes, within 7 (seven) days after submission to it of the rectification plan, to advise whether the plan is acceptable, which acceptance will not be unreasonably withheld or delayed; and
 - 12.1.3 on Eskom's acceptance, the Supplier shall implement the rectification plan in the form and on the terms acceptable to Eskom and make up the actual or expected shortfall in accordance with the rectification plan.
- 12.2 Where, as a result of the Under Delivery, Eskom takes coal from its own stockpiles to manage the shortfall, Eskom shall be entitled to recover from the Supplier its reasonably incurred and demonstrable costs for additional direct handling and stockpiling.
- 12.3 In the event of:
 - 12.3.1 the Supplier failing to submit and implement the rectification plan in terms of clause 12.1; or

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- 12.3.2 Eskom's rejection of the rectification plan; or
- 12.3.3 the Supplier's failure to make up the Under Delivery,

Eskom shall be entitled to purchase coal to make up for the shortfall, and to recover from the Supplier its proven costs for purchasing such coal. Where Eskom is unable to purchase coal to make up the shortfall within 1 month the conditions in clauses 12.3.1, 12.3.2 and 12.3.3 occurring, Eskom shall be entitled to recover from the Supplier a financial penalty calculated as:

$$P = \left[(API\#4 \times ZAR - CLT) \times 0.77 \times \frac{[x]}{23} \right] - CP$$

where:

- P*: is the effective penalty in Rand per ton;
- API#4*: is the API#4 Price;
- ZAR*: is the USD:ZAR Exchange Rate;
- CLT*: is the Coal Line Tariff;
- 0.77*: represents a yield factor that accounts for the combined yield of the primary and secondary washes, and for any lost earnings on middlings product;
- 21.10*: is the expected Calorific Value of Contract Coal in MJ/kg on an Air Dried basis;
- 23.0*: is a typical Calorific Value of run-of-mine export coal in MJ/kg on an Air Dried basis;
- CP*: is the Price of Contract Coal in Rand per ton assuming a Calorific Value of 21.10 on an Air Dried basis.

- 12.4 The quantity of any Under Delivery shall be measured:
- 12.4.1 in any Month, as the Minimum Monthly Quantity in respect of that Month less the quantity of Contract Coal actually Delivered in that Month;
- 12.4.2 in any Quarter, as the difference between the Minimum Quarterly Quantity in respect of that Quarter and the quantity of Contract Coal actually Delivered in that Quarter; and
- 12.4.3 in any Year, as the difference between the Minimum Annual Quantity applicable to that Year and the quantity of Contract Coal actually Delivered in that Year.



Contract Number [46...

Page 29 of 65

12.4.4 For avoidance of doubt, when calculating the quantity of an Under Delivery, the Supplier must first meet the Minimum Quarterly Quantity each Quarter before any quantity of Contract Coal Delivered in terms of a Supplier Rectification Plan is credited against that Rectification Plan.

12.5 Any Under Delivery shall, unless otherwise agreed to in writing between the Parties, only constitute a material breach of a material term for purposes of clause 33 if such Under Delivery:

12.5.1 occurred more than 3 (three) times during any rolling 12 (twelve) Months; and

12.5.1.1 in any Month, is less than 50% (fifty percent) of the Monthly Quantity in respect of that Month; or

12.5.1.2 in any Quarter, is less than 60% (sixty percent) of the Minimum Quarterly Quantity in respect of that Quarter; or

12.5.1.3 in any Year, is in excess of 70% (seventy percent) of the Minimum Annual Quantity in respect of that Year.

12.6 Where Eskom is responsible for the transportation of Contract Coal from the Mine to the Power Station, Eskom shall be entitled, but not obliged to recover from the Supplier any penalties for the cancellation and/or underutilisation of rail and road transport resulting from any rectification plan accepted by Eskom or any Under Delivery, determined in accordance with Annexure C1: The Rules of Road Transportation for FCA Contracts and Annexure D: The Rules of Rail Transportation, as the case may be.

13. Under Off Take

13.1 In the event of an actual or expected Under Off Take, Eskom shall, within 3 (three) Business Days thereof submit a rectification plan to the Supplier, consult with the Supplier thereon and obtain the Supplier's reasonable acceptance of the rectification plan (which may not be unreasonably withheld or delayed), implement the rectification plan and make up the Under Off Take in accordance with the rectification plan by Taking Off additional Contract Coal in order to make up the Under Off Take within the shortest time reasonably possible, but in any event within 3 (three) Months after the date on which the Under Off Take arose.

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Contract Number [48...

Page 29 of 66

- 13.2 Should Eskom fail to submit a rectification plan to the Supplier's reasonable satisfaction, fail to implement such rectification plan, fail to make up the Under Off Take within a reasonable period pursuant to any of the aforesaid effort, Eskom shall make full payment of any Under Off Take not made up within 3 (three) Months after the date on which the Under Off Take arose without applying premiums or penalties to the Price.
- 13.3 Eskom shall remain entitled to Take Off the Contract Coal so paid for within the applicable quantity limitations, unless otherwise agreed. When Taken Off, appropriate adjustments to the Price paid shall be made for quality premiums and/or penalties in accordance with the qualities of the Contract Coal actually Taken Off.
- 13.4 Eskom shall further be liable for the payment of any reasonable demonstrable additional direct handling and stockpiling costs incurred by the Supplier occasioned by any Under Off Take subsequently made up, provided that the Supplier shall notify Eskom in writing before incurring any additional costs and shall seek Eskom's involvement in minimising such additional costs.
- 13.5 The quantity of any Under Off Take shall be measured:
- 13.5.1 in any Month, as the Minimum Monthly Quantity less the quantity of Contract Coal actually Taken Off in that Month;
- 13.5.2 in any Quarter, as the difference between the Minimum Quarterly Quantity in respect of that Quarter and the quantity of Contract Coal actually Taken Off in that Quarter; and
- 13.5.3 in any Year, as the difference between the Minimum Annual Quantity in respect of that Quarter and the quantity of Contract Coal actually taken Off in that Year.
- 13.5.4 For avoidance of doubt, when calculating the quantity of an Under Off Take, Eskom must first meet the Minimum Quarterly Quantity each Quarter before any quantity of Contract Coal Taken Off in terms of an Eskom Rectification Plan is credited against that Rectification Plan.
- 13.6 Any Under Off Take shall, unless otherwise agreed to in writing between the Parties, and unless paid for in terms of clause 13.2, only constitute a material breach of a material term for purposes of clause 33 of this Agreement if such Under Off Take:

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Contract Number [46...

Page 30 of 65

- 13.6.1 has not been made up as set out in clause 13.1 above within 90 calendar days after the Under Off Take first occurred;
 - 13.6.2 occurred more than 3 (three) times during any rolling 12 (twelve) Months; and
 - 13.6.3 in any Month, is less than 50% (fifty percent) of the Monthly Quantity; or
 - 13.6.4 in any Quarter, is less than 60% (sixty percent) of the Minimum Quarterly Quantity; or
 - 13.6.5 in any Year, is less than 70% (seventy percent) of the Minimum Annual Quantity.
- 13.7 Where the Supplier is responsible for the transportation of Contract Coal from the Mine to the Power Station, the Supplier shall be entitled to recover from Eskom any penalties it incurs for the cancellation and/or underutilisation of road transport resulting from any rectification plan accepted by the Supplier or any Under Off Take, determined in accordance with Annexure C2: The Rules of Road Transportation for Delivered Contracts.

14. Eskom Technical Compliance

The Contract Coal to be supplied from both Brakfontein and Brakfontein Colliery Extension must at all times comply with Eskom's technical and coal supply requirements. For the avoidance of any doubt if these requirements do not render compliance for supply to Majuba Power Station, Eskom reserves the sole and exclusive right to call upon a material breach as more fully provided for in this Agreement and exercise its rights accordingly. **SECTION 5: PRICE, ADJUSTMENTS, INVOICING AND PAYMENTS**

15. Base Price

- 15.1 The price for Contract Coal on the Base Date ("the Base Price") shall be R 13.50 (thirteen rands and fifty cents) excluding VAT per GJ, Free Carrier (FCA) at the Delivery Point for Rail Coal and Road Coal
- 15.2 For the avoidance of doubt, the Base Price excludes any consideration due to the Supplier by Eskom for Road Transportation where the Supplier is responsible for road transportation. Such consideration shall be determined in accordance with clause 26.
- 15.3 The Base Price and Price adjustments have been negotiated on an arms length basis and the Supplier accepts all risks of cost elements, cost increases other than provided for in clauses 16 and 17.

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Contract Number [46...

Page 31 of 65

15. Annual Adjustment

- 15.1 The Base Price stipulated in clause 15, shall be adjusted upwards or downwards as the case may be on the 1st of April and annually thereafter on the 1st of April of each subsequent Year ("the Price Adjustment Date"), by the Price Adjustment Factor.
- 15.2 The Base Price as adjusted in terms of clause 15.1 on the 1st of April of each Year shall be the price ("the Price") of Contract Coal applicable until the 31st of March of that Year, subject to any Monthly price adjustments determined in accordance with clause 17.
- 15.3 If the published value of any index in the third column of Table 2 is changed after it has been used in calculating a Price Adjustment Factor, the calculation shall be repeated and a correction included in the Supplier's next invoice.
- 15.4 If the value of any index in the third column of Table 2 for the applicable Month is not yet published and available for the calculation of the Price Adjustment Factor in any Year, the most recent published index shall be used. The calculation of the Price Adjustment Factor shall then be repeated when the applicable index is published and made available, and a correction shall be included in the Supplier's next invoice.
- 15.5 In the event that any index in the third column of Table 2 is no longer published and the Parties are unable to agree on a replacement index, the matter shall be referred for expert determination in accordance with clause 32.1.
- 15.6 In the event that the matters referred to in clauses 15.3 to 15.5 are disputed by any Party, the matter shall, notwithstanding the provisions of clause 31, be referred to an independent expert for determination in accordance with clause 32.1 at least 6 (six) Months before the commencement of the next Year.
- 15.7 Should Parties have not resolved any dispute as set out in clause 15.6 above before the commencement of the next Year, the escalation sources in use before the dispute was declared shall be applied on a provisional basis until the dispute has been resolved, where after the determination of the Independent expert as referred to in clause 15.6 shall be applied retrospectively and any necessary adjustment payments shall be made.

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Contract Number [48...

Page 32 of 65

Table 2: Contract Price Adjustment Indices

Cost Component	Proportion	Index and Source Table	Base Date Index (B)	Base Date	Frequency of Adjustments
Labour	28%	SEIPSA Labour Index		March 2015	Annually
Diesel	8%	OME 0.05% Sulphur		March 2015	Monthly
Electricity	4%	Electricity PPI		March 2015	Annually
Mining Supplies	15%	20% Mechanical engineering Index 40% PPI Mining Machinery 20% Imported Rubber index 20% Structural and fabricated metal products index		March 2015	Annually
Overheads	15%	50% CPI headline items 50% PPI		March 2015	Annually
Profit & Capital Recovery	22%	50% CPI headline items 50% PPI Coal and Gas		March 2015	Annually
Fixed	10%	Fixed			Not applicable
Total	100%				

16.8 For the avoidance of doubt, the Parties note that the calculation of the Price Adjustment Factor each Year automatically adjusts the proportions set out in the second column Table 2 in line with the changes in the values of the indices.

16.9 For the avoidance of doubt, the annual price adjustment each Year shall be based on the Base Price and disregarding the monthly Price adjustments.

17. Monthly Adjustment for Diesel Price Changes

17.1 The Price determined in accordance with clause 16.1 shall be adjusted upwards or downwards on the first Business Day of each Month to reflect the change in

21



Contract Number [45...

Page 33 of 86

the price of diesel only, during the previous Month, by multiplying the Base Price by the Price Adjustment Factor.

- 17.2 The provisions of clause 16.3 and 16.4 shall apply *mutatis mutandis* to this clause 17.

18. Adjustments of Other Monetary Amounts

Unless specified otherwise, any other monetary amount used in this Agreement and which is expressed in South African Rand shall also be adjusted annually, by the Price Adjustment Factor, on the Price Adjustment Date.

19. Invoicing and Payment

- 19.1 The Supplier shall render a tax invoice to Eskom on or before the third Business Day of each Month together with a statement reflecting the Delivery dates; the mass of the coal on an As Received basis; the mass of the coal on an Air Dried basis; the As Received CV; the Price in respect of each Consignment and the total Contract Coal Supplied during the immediately preceding Month.
- 19.2 Subject to clause 19.3, the amount payable in respect of each invoice shall, in the absence of manifest error and without set off, and provided that it has been timely rendered, be payable within 30 (thirty) days of receipt of the Invoice by Eskom, provided that disputed items or amounts on an invoice shall only be payable when the dispute has been resolved.
- 19.3 In terms of clause 13.7 of this Agreement, Eskom shall be entitled, but not obliged to recover from the Supplier any penalties for the cancellation and/or underutilisation of rail and road transport resulting from any Rectification Plan accepted by Eskom or any Under Delivery. In the event that Eskom elects to recover any such penalties, Eskom shall be entitled to set-off the said penalties against any invoice rendered by the Supplier.
- 19.4 Without prejudice to any other of its remedies in law and/or this Agreement, the Supplier shall be entitled to recover interest on any amount payable by Eskom in terms of this Agreement which is overdue, at the prime overdraft lending rate charged from time to time by First National Bank of Southern Africa Limited. The amount of such prime rate shall prima facie be proved by a certificate signed by any manager or accountant (whose appointment need not be proved) of any branch of such bank.

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Contract Number [46...

Page 34 of 65

SECTION 8: QUALITY OF COAL

20. Contract Coal Quality

- 20.1 The Supplier shall ensure that each quality parameter of the Contract Coal Delivered to Eskom in terms of this Agreement shall comply with the Quality Specifications for Contract Coal set out in Table 3 hereunder.

Table 3: Coal Quality Specifications and Rejection Limits

Quality parameter	Unit	Quality Expected	Quality Rejection Limit	Measurement basis
Calorific Value	MJ/kg	21.10	<20.0	Air Dried
Total Moisture	%	<8.0	>10.0	As Received
Inherent Moisture	%	4.4	N/A	As Received
Ash	%	27.9	>30.0	Air Dried
Abrasive Index (Eskom Mining House Method)	mgFe/4kg	<450	>450	Air Dried
Sulphur	%	1.0	>1.3	Air Dried
Volatiles	%	21.3	<20.0	Air Dried
AFT (Initial deformation)	°C	1300	<1220	N/A
Sizing				
+50mm	%	<5.0	>5.0	N/A
-3mm (cumulative)	%	<30.0	>35.0	
-1mm	%	<10.0	>15.0	

All parameters are measured to 1 (one) decimal place, except AI and AFT, which shall be measured to the nearest integer.

*Hard grove index should be within Eskom acceptable limit of <56 in order to achieve the desired milling and coal fineness during combustion.

**Full combustion tests will be conducted on all proposed coal prior to delivery and acceptance by Eskom. The objective of the combustion test is to ascertain suitability of the coal for use by Eskom.

*****mathematical blending limits to be advised by Eskom

- 20.2 The Supplier shall ensure that no Ultrafines are blended into the coal to be Delivered to Eskom and that each Consignment of Contract Coal is substantially free from impurities and extraneous materials related to the proper mining and processing of coal.

- 20.3 Where the Supplier wishes to Deliver coal of a higher quality than the Quality Specifications, the Supplier shall make a written request to Eskom and the acceptance of such request shall be at Eskom's sole discretion. For the

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Contract Number[46...

Page 35 of 65

purposes of determining the energy delivered for payment purposes, unless otherwise agreed, the CV of such coal shall be the maximum CV as set out in the Quality Specification.

- 20.4 In the event that coal is Supplied which does not meet the Quality Specifications, Eskom shall treat such coal as Reject Coal, and such Reject Coal will be burned or disposed of, and
- 20.4.1 If the relevant quality parameter is within 10% (ten percent) of the applicable reject level for that parameter, Eskom shall pay the Supplier an amount of R30.00 (thirty Rand) per Ton for such coal; or
- 20.4.2 If the relevant quality parameter deviates from the applicable reject level by more than 10% (ten percent), Eskom shall not be liable to pay the Supplier for such coal.
- 20.5 Where Eskom decides, at its sole discretion, to dispose of the Reject Coal, the Supplier shall be liable for any demonstrable and reasonable additional costs occasioned by the disposal of such coal, including the cost of transporting the coal to the Power Station.
- 20.6 Reject Coal supplied shall not constitute Supply or Delivery and shall not reduce the Monthly, Yearly or Total Energy Quantity to be supplied in terms of this Agreement.
- 20.7 Coal Delivered from a Pre-Certified stockpile cannot be Reject Coal, provided that the Supplier has complied with the provisions of the Coal Quality Management Procedure.
- 20.8 The following clauses, to ensure assurance on the quality precertification process, shall be applicable:
- 20.8.1 Mix / Blending Process
- 20.8.1.1 The Supplier shall install/have adequate mechanical mixing/blending capacity to ensure blending and consistency within the product consignment.
- 20.8.1.2 The Supplier shall be required to provide Eskom with a schematic flow diagram/procedure diagram outlining the mix/blending process that shall be adhered to for the duration of the Agreement. The flow diagram shall be agreed to between the Parties and shall form part of the final Agreement.

Coal Supply Agreement between ESKOM HOLDINGS SOC LIMITED and TEGETA EXPLORATION AND RESOURCES PTY LTD executed at SUNNINGHILL on 10 March 2018
Ref:



Contract Number [45...

Page 36 of 65

Variability tests will be performed to determine the sampling implement frequency.

21. Pre-Certification of Coal

In order to ensure compliance with the provisions of clause 20:

- 21.1 Prior to Delivery to Eskom, the Supplier shall ensure that coal contained in each separate stockpile is sampled and pre-certified to meet the Quality Specifications for Contract Coal and is identified as such in accordance with the processes and procedures set out in Annex A: The Coal Quality Management Procedure;
- 21.2 Only coal that has been sampled, pre-certified and identified in accordance with the provisions of clause 21.1, may be placed on the Pre-Certified Stockpile. The Supplier shall only Deliver Contract Coal to Eskom from Pre-Certified Stockpiles allocated for Delivery to Eskom in terms of this Agreement; and
- 21.3 Where the pre-certification process indicates that a product stockpile does not meet the Quality Specifications set out in Table 3, the Supplier shall blend/reprocess and re-sample such stockpile to meet the Quality Specification at the Supplier's own cost and risk.
- 21.4 The Supplier shall be required to provide Eskom with a flow diagram/procedure indicating the auto-mechanical sampling process that shall be adhered to for the duration of the Agreement. The flow diagram shall be agreed to between the Parties and shall form part of the final Agreement.
- 21.5 For assurance purposes the following is required:

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Contract Number 46...

Page 37 of 66

- 21.5.1 Eskom will observe whether the existing dome cameras provide enough coverage and may require a different camera system covering the auto-sampler, sample collection, preparation and sampling and placement in the lockable bin.
- 21.5.2 Eskom would like camera coverage of the sample from the point of the cross belt sampler to splitting in the laboratory. Eskom shall require the Supplier to provide a solution within the first month of signing of the short term contract.
- 21.5.3 No manual resampling of stockpiles shall be allowed – including re-processed/out of specification stockpiles.
- 21.6 The Supplier shall be required to provide Eskom with a flow diagram/procedure indicating the load out control process that shall be adhered to for the duration of the Agreement. The flow diagram shall be agreed to between the Parties and shall form part of the final Agreement.
- 21.7 The Supplier shall be required to implement the following:
- 21.7.1 A traffic management system. There shall be clear separation of in and outgoing traffic. Strict adherence to the prescribed consignment size, which shall be equal to the agreed consignment size. Mini "transit" stockpiles shall not be allowed.
- 21.7.2 A weighbridge identity system must be implemented. The approved system shall be required to include the stockpile identity on the weighbridge certificate. A vehicle tracking system. For Delivered Agreements the vehicle tracking system shall be required to be compatible to Eskom's DX250 vehicle tracking system. Eskom may, on an ad-hoc basis, request information from the vehicle tracking system. The Supplier shall make such information available to Eskom by the requested date.
- 21.7.3 The existing dome camera covering the stockpile load-out area. Eskom will observe whether the dome cameras provide enough coverage and may require a different camera system and Eskom shall have access to the information as and when required.
- 21.7.4 Supply Eskom with a daily stockpile status report showing a reconciliation of pre certified tonnages. $(\text{Tons closing stock} = \text{Tons Opening stock} + \text{Tons Added} - \text{Tons Despatched})$. The format of the status report shall be agreed to by the parties and included in the agreement. The Supplier will provide survey reports on request, for audit purposes.

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Contract Number [49...

Page 33 of 55

- 21.7.5 Adequate supervision shall be demonstrated. The Supplier shall be required to provide a signed supervisory structure to Eskom, such structure shall form part of the Agreement.
- 21.8 Eskom shall be entitled to:
- 21.8.1 At any time, with reasonable notice, audit the site in terms of adherence to the above requirements relating to precertification.
- 21.8.2 Request the Supplier to provide pre-qualification analysis of the individual sources that make up the blend for the Contract Coal.
- 21.8.3 At Eskom's cost, conduct verification sampling at the source (as loaded) and at the Power Station.
- 21.8.4 Eskom shall have the right to view and access the footage of the dome camera observing the automatic sampler, the auto sampler, sample collection, preparation and sampling placement in the lockable bin, as and when required.
- 21.9 The Supplier shall be entitled to:
- 21.9.1 Have access to the verification results. All verification sampling results will be supplied to the Supplier 24 hours after the analysis results have been issued to Eskom.
- 21.9.2 The supplier shall be notified of any precertification sampling and will witness the precertification sampling.

22. Determination of Coal Quality

- 22.1 The Parties shall implement the provisions of Annex B: The Coal Quality Management Procedure, for the purpose of sampling, analysis, reporting and resolution of disputes relating to the qualities and quantities of coal Supplied in terms of this Agreement.
- 22.2 The Supplier shall be responsible for the sampling of coal and associated costs. In this regard, the Supplier shall ensure that acceptable auto-mechanical sampling equipment is available for sampling of coal and shall be responsible for the maintenance thereof.

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- 22.3 Eskom shall, at its cost and including the cost of transport, procure the analysis of such samples by the laboratory defined as the "Nominated Laboratory" in **Annexe A**.
- 22.4 The Supplier shall submit a daily report to Eskom in the format set out in **Annexe A**. Eskom reserves the right to amend **Annexe A** from time to time in order to align same with its operational arrangements and shall notify the Supplier in writing of any such amendments within 7 (seven) days of the amendments being effected.
- 22.5 Eskom shall procure that the Nominated Laboratory shall submit a daily report simultaneously to Eskom and the Supplier of the analysis results.
- 22.6 Eskom may provide on-site representatives for the verification of the sampling and pre-certification processes. The Supplier consents that Eskom's on-site representatives shall have full access to verify the sampling and the pre-certification process.
- 22.7 The Supplier undertakes to grant to Eskom and its representatives, on request, access to all available geological information relating to the Coal Reserve and the Coal Resource.
- 22.8 Eskom shall further be entitled to conduct pit visits on reasonable notice to the Supplier, to monitor the Supplier's application of effective grade and contamination controls.
- 22.9 Disputes in respect the analytical results shall, notwithstanding the provisions of clause 30, be dealt with in terms of the dispute resolution procedure included in **Annexe A: The Coal Quality Management Procedure**.

23. Adjustment for Moisture Content

- 22.10 Eskom and the Supplier shall jointly and in consultation with each other and no later than 30 (thirty) days after first Delivery of Contract Coal, conduct drainage tests to determine the Equilibrium Moisture content and the stockpile drainage period required for coal to attain such Equilibrium Moisture, which Stockpile Retention Time will then be reduced to writing and signed off by duly authorised representatives of both Parties to be used for evidentiary purposes. The Supplier shall bear the cost of sampling and Eskom shall bear the cost of the analysis;






Contract Number [46...

Page 40 of 55

- 23.1.1 upon completion of the drainage tests to determine the Equilibrium Moisture and the Stockpile Retention Time in accordance with clause 23.1 above, the Supplier shall procure that all coal stockpiled for the purposes of this Agreement, with Total Moisture content that exceeds the Rejection Limit set out in the fifth column of Table 3, is drained for a period of at least the Stockpile Retention Time before Delivery and the Equilibrium Moisture value shall be used in the CV Adjustment Factor (CVAF) applicable to this Agreement; and
- 23.1.2 until such time as the results of the drainage tests become available and have been provided by Eskom to the Supplier, and until the Equilibrium Moisture and the Stockpile Retention Time have been determined, the Supplier shall procure that all coal stockpiled for the purposes of this Agreement, with Total Moisture content that exceeds the Rejection Limit set out in the fifth column of Table 3, is drained for a period of at least 24 (twenty four) hours prior to Delivery, and a deemed Equilibrium Moisture value of 10% (ten percent) shall be used in the CV Adjustment Factor (CVAF) applicable to this Agreement. Examples and the formulae used for this calculation are provided in **Annexe E: Example Calculations for Adjustments for Moisture Content.**
- 23.2 For invoicing purposes, the mass of any Contract Coal accepted by Eskom and Delivered in terms of clause 23.3 shall be adjusted by multiplying the mass of such coal, as determined in accordance with clause 27, by the Tonnage Adjustment Factor. The Total Moisture content as stated in the Supplier's request in terms of clause 23.3 shall be used in the calculation of the Tonnage Adjustment Factor. Examples and the formulae used for this calculation are provided in **Annexe E: Example Calculations for Adjustments for Moisture Content.**
- 23.3 In the event of high rainfall at the Mine, such that only the Total Moisture content of the coal exceeds the Rejection Limit set out in the fifth column of Table 3, the Supplier must make a formal request in writing for approval to Deliver such coal. The Supplier's request must state the quantity (in millimetres per 24 (twenty four) hour period) of rain that has fallen as well as the Total Moisture content of the coal at the time of the request being made. Eskom may, at its sole discretion, give the Supplier such approval and coal so accepted shall not be classified as Reject Coal and accordingly the provisions of clauses 20.4 to 20.6 of this Agreement shall not apply to such coal, but will be subject to the moisture adjustment in terms of clause 23.2. Eskom's acceptance or rejection of such request must be in writing and provided no later than the day following such request from the Supplier.
- 23.4 For the purposes of converting the Calorific Value (CV) of coal from an Air Dried to an As Received Basis in order to determine the energy Delivered for invoicing purposes, the

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Contract Number [46...

Page 41 of 65

Calorific Value (CV) of coal measured on an Air Dried basis by the Nominated Laboratory shall be adjusted by multiplying the Air Dried Calorific Value (CV) by the CV Adjustment Factor (CVAF). Examples and the formulae used for this calculation are provided in Annexure E: Example Calculations for Adjustments for Moisture Content.

SECTION 7: MODES OF TAKE OFF OF COAL

24. Modes of Take Off of Coal

- 24.1 Eskom shall use [1 (one)/2 (two)] modes of Take Off of Contract Coal, namely [rail and/or road].
- 24.2 Eskom shall, not less than 30 (thirty) calendar days before each anniversary of the Commencement Date for the currency of this Agreement, notify the Supplier in writing of the provisional estimates of the relevant portions of the Annual Quantity which it requires to be Delivered for Take Off by rail and road respectively during each Month of the following Year.
- 24.3 The Supplier shall Deliver the quantities stipulated by Eskom in the notice contemplated in clause 24.2 at the Delivery Points for Road Coal and Rail Coal respectively, provided that the Parties shall liaise with each other:
- 24.3.1 on a Monthly basis at the Technical Liaison Meetings to confirm the quantities Eskom requires to be Delivered for Take Off by [rail and/or by road]; and
- 24.3.2 in order to be responsive to Eskom's operational needs which may arise from time to time, Eskom may request a variation to the mode of transport previously agreed to by requesting a change to the Delivery Point. The additional reasonable and demonstrable direct costs which the Supplier may incur to comply with such variation request from Eskom will be borne by Eskom.

25. Road Coal Transportation [FCA Contract]

- 25.1 Where Eskom is responsible for the transportation of Road Coal (i.e. an FCA Contract), Eskom will ensure that sufficient road trucks are available at the Delivery Point to Take Off Road Coal.
- 25.2 The Supplier shall, at its own cost, provide, maintain and operate Pre-Certified Stockpiles with a total capacity of no less than 3 ("three") days Consignment, an access road, equipped with a weighbridge, terminating on the R50 road, and truck loading equipment such that a maximum of 1 491 600 Tons of coal per



Contract Number [45...

Page 42 of 65

annum can be uniformly loaded into trucks and transported to the Power Station by road.

- 25.3 The Supplier shall ensure that Contract Coal sufficient for a minimum of 3 (three) days' Delivery is available at all times on Pre-Certified Stockpiles.
- 25.4 The Supplier shall comply with Eskom's Rules of Road Transportation pertaining to coal loading operations, as amended or replaced from time to time, and which, in their present form, are contained in Annexure C1: Eskom's Rules of Road Transportation for FCA Contracts.

26. Road Coal Transportation (Delivered Contract)

- 26.1 Where the Supplier is responsible for the transportation of Contract Coal by Road (ie a Delivered Contract) to a designated Power Station, the Supplier shall ensure that sufficient road trucks are available to transport coal from the Mine to the Delivery Point.
- 26.2 The Supplier shall be responsible for ensuring that all road transportation under its control complies with the provisions of Annexure C2: Eskom's Rules of Road Transportation for Delivered Contracts.
- 26.3 Where the Supplier is responsible for the transportation of Road Coal from the Mine to any Eskom Power Station, the transport tariff per Ton payable by Eskom to the Supplier (and which shall be in addition of the Price payable for the Contract Coal so Delivered) shall be determined using the Coal Haulage Rates Model. For the avoidance of doubt, the transport tariff payable in terms of the Coal Haulage Rates Model shall be reviewed each Month and the Price adjustment provisions as set out in clause 16 and 17 shall not apply to the said tariff.
- 26.4 Eskom reserves the right to require the Supplier to Deliver Contract Coal to any alternative Power Station, and the Supplier shall co-operate with Eskom in relation to such alternatives. Unless otherwise provided elsewhere in this Agreement, Eskom shall be liable for any reasonable and demonstrable additional costs incurred by the Supplier as a result of an Eskom request in terms of this clause 26.4 and shall be entitled to any reasonable and demonstrable additional savings resulting from such request.

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Contract Number 146...

Page 43 of 65

27. Mass Determination

27.1 general responsibilities

27.1.1 Each Party shall ensure that its mass measuring equipment is inspected assized and certified every 12 (twelve) Months or more regularly if necessary in the case of recurring discrepancies, by a company certified to assize mass measuring equipment in accordance with the Trade Metrology Act, No. 77 of 1973, as amended or replaced from time to time and prevailing South African Bureau of Standards specifications. Each Party shall procure that a certificate signed by the assizing company which is no more than 12 (twelve) Months old is available for inspection by the other Party at all times.

27.1.2 In the event that the Supplier's mass measuring equipment is not operational, the Supplier must inform Eskom within 24 (twenty four) hours of becoming aware of any such problems and Eskom's mass measurements shall be used for invoicing purposes until such time as the Supplier's mass measuring equipment has been repaired. Where Eskom does not have mass measuring equipment installed for rail transportation, Parties shall estimate the mass based on the number of rail wagons and the nominal carrying capacity of each rail wagon.

27.2 mass determination of Road Coal

27.2.1 The Supplier shall measure the mass of Road Coal Delivered by weighing same at the Mine. Each truck transporting the Road Coal shall be weighed full and empty at the relevant weighbridge located at the Delivery Point, and the mass thereof shall be recorded on a waybill issued in triplicate.

27.2.2 The Supplier shall deliver the original waybill to Eskom with every truck load, retain 1 (one) copy, and forward 1 (one) copy to the transport contractor. The Supplier shall on a daily basis, forward to Eskom, a schedule depicting the waybills, the waybill number, vehicle registration number, dispatch and delivery time, total number of trucks loaded and the mass of each truck, and stockpile reference number (as further detailed in the CQMP), together with the said waybill.

27.2.3 Eskom shall weigh each truck received on a full and empty basis and the Parties shall reconcile their respective mass measurements on a weekly basis or no later than the date of the next Technical Liaison Meeting and the following shall apply:

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Contract Number [46..]

Page 44 of 55

- 27.2.3.1 where Eskom is responsible for the transportation of Coal from the Delivery Point, then, in the event of a discrepancy of less than 2% (two percent) between the Supplier's mass determination and that of Eskom, the mass recorded on the waybill and/or the tonnage information supplied by the Supplier in terms of clause 27.2.2, as the case may be, will be accepted as final and binding;
- 27.2.3.2 where the Supplier is responsible for the transportation of Coal to a Power Station, then, in the event of a discrepancy of less than 2% (two percent) between the Supplier's mass determination and that of Eskom, the mass recorded on the waybill and/or the tonnage information supplied by Eskom in terms of clause 27.2.2, as the case may be, will be accepted as final and binding, subject to clause 27.4; and
- 27.2.3.3 In the event of a discrepancy of 2% (two percent) or more, and if the Parties agree that such discrepancy is due to a mass determination fault of either Party, the lesser of the two masses will temporarily be used for the purposes of this Agreement, until the source of the fault has been identified and corrective measures implemented, which shall, in any event, not be for a period of more than 30 (thirty) days, subject to clause 27.4.
- 27.3 mass determination of Rail Coal
- 27.3.1 The Supplier shall measure the mass of Rail Coal Delivered at the load out flask situated at the Rail Siding.
- 27.3.2 The mass of each rail wagon load of Rail Coal shall be determined by the Supplier's load out flask, and the mass thereof shall be recorded on a waybill issued in triplicate, which recorded mass shall be applicable to this Agreement.
- 27.3.3 The Supplier shall deliver the original waybill to Eskom with every train load, retain one copy, and forward one copy to TFR. The Supplier shall on a daily basis, forward to Eskom, a schedule depicting the waybills, the train number, dispatch and delivery time, total number of rail wagons loaded and the mass of each rail wagon and where applicable, the stockpile reference number (as further detailed in the CQMP), together with the said waybill.
- 27.3.4 The Supplier shall on a daily basis, forward to Eskom a schedule depicting the waybills for that day.

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Contract Number [45...

Page 45 of 65

27.3.5 Eskom shall be entitled to weigh each rail wagon received on a full and empty basis and the Parties shall reconcile their respective mass measurements on a weekly basis or no later than the date of the next Technical Liaison Meeting and the following shall apply:

27.3.5.1 in the event of a discrepancy of less than 2% (two percent) between the Supplier's mass determination and that of Eskom, the mass recorded on the waybill and/or the tonnage information supplied by the Supplier in terms of clause 27.3.3, shall be accepted as final and binding.

27.3.5.2 In the event of a discrepancy of 2% (two percent) or more, and if the Parties agree that such discrepancy is due to a mass determination fault of either Party, the lesser of the two masses shall temporarily be used for the purposes of this Agreement, until the source of the fault has been identified and corrective measures implemented, which shall not be for a period of more than 30 (thirty) days, subject to clause 27.4.

27.4 disputes regarding mass measurement

27.4.1 Where there are persistent discrepancies or other disputes regarding mass or the mass measurement of Contract Coal, the Parties shall ensure that they use their best efforts to reach agreement within 20 (twenty) days after a dispute being declared by either Party in this regard.

27.4.2 Where the Parties are unable to reach agreement within the time period set out in clause 27.4.1 above either Party may then refer the dispute for an independent expert determination in terms of clause 32 of this Agreement.

27.4.3 The Parties shall retain records of all printouts in respect of mass measurement for a period of at least 3 (three) years after the date of Delivery, or any legislated period, whichever is the greater. In the event that there is an unresolved dispute between the Parties, such records shall be retained until such time as the dispute has been resolved.

SECTION 8: REPORTING REQUIREMENTS AND PROVISION OF INFORMATION

28. Technical Liaison Meetings

At least once per Month during the currency of this Agreement, a Technical Liaison Meeting shall be held and be attended by authorised representatives of Eskom and the Supplier to report on, *inter alia*:



Contract Number [46...

Page 46 of 66

- 28.1 the Delivery and Take Off of Contract Coal (including Under Delivery/Under Off Take and planning of the Monthly Quantity, Quarterly Quantity and Yearly Quantity);
- 28.2 any incident where Delivery or Off Take deviated from the Drawdown Order and/or from the quantities set out in clause 11;
- 28.3 quality issues;
- 28.4 any weight/mass determination issues;
- 28.5 transport and mode of transport of Contract Coal;
- 28.6 safety;
- 28.7 environmental and water related matters;
- 28.8 general information sharing; and
- 28.9 any other material matter not referred to herein and/or referred to in Annexe F: The Technical Liaison Meeting Agenda.
29. Reports
- 29.1 The Supplier shall within 3 (three) days of the end of each Month, provide Eskom on a Monthly basis with a summary of the qualities, quantities and dates of dispatch of each Consignment of coal Delivered in the previous Month.
- 29.2 The Supplier shall supply Eskom with the following information on an annual basis, within 30 (thirty) days after publication of the Suppliers annual report:
- 29.2.1 summary of the qualities, quantities and dates of dispatch of Contract Coal Delivered during the previous Year;
- 29.2.2 the reserve and resource statements, in accordance with the SAMREC Code, relating to the remaining coal to be mined at the Mine;
- 29.2.3 progress on long term issues dealt with in this Agreement;
- 29.2.4 latest tax clearance certificates;
- 29.2.5 its broad based black economic empowerment status;
- 29.2.6 its employment equity status; and

Coal Supply Agreement between ESKOM HOLDINGS SOC LIMITED and TEGETA EXPLORATION AND RESOURCES PTY LTD executed at SUNNINGHILL on 10 March 2015
Ref:

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Contract Number [46...

Page 47 of 55

29.2.7 its latest audited financial statements.

30. Legislative Submissions associated with Compliance

The Supplier will provide Eskom, upon Eskom's request, with copies of all legislated submissions submitted to all competent authorities required pursuant to legislation aimed at protecting the environment and water resources, and regulating health and safety, prospecting and mining and black economic empowerment, including but not limited to, the Mining Right and the related the Mining Work Program, Environmental Management Programme, compliance submissions in respect of the said programmes and legislative black economic empowerment compliance.

SECTION 9: DISPUTE RESOLUTION AND BREACH

31. Dispute Resolution

- 31.1 This clause is a separate, divisible agreement from the rest of this Agreement and shall:
 - 31.1.1 not be or become void, voidable or unenforceable by reason only of any alleged misrepresentation, mistake, duress, undue influence, impossibility (initial or supervening), illegality, immorality, absence of consensus, lack of authority or other cause relating in substance to the rest of the Agreement and not to this clause. The Parties intend that any such issue shall at all times be and remain subject to arbitration in terms of this clause;
 - 31.1.2 remain in effect even if this Agreement terminates or is cancelled.
- 31.2 If a dispute (hereinafter collectively referred to as a "Dispute") has arisen between the Parties out of, in relation to, or in connection, with this Agreement, or in regard to:
 - 31.2.1 the interpretation and meaning of;
 - 31.2.2 the effect of;
 - 31.2.3 the respective rights or obligations of the Parties under;
 - 31.2.4 the termination of; and/or
 - 31.2.5 any matter arising out of or following the termination of;



Contract Number [46...

Page 48 of 85

this Agreement then and in such event the Dispute will be settled in accordance with the following procedures:

31.3 step one

The Disputing Party must give a written notice ("the Dispute Notice") to the other Party ("the Receiving Party") recording the nature of the Dispute as perceived by the Disputing Party, the performance required by the Disputing Party from the Receiving Party in order to resolve the Dispute and/or the manner in which the Disputing Party believes the Dispute must be resolved, and the time period within which such performance is required. The time period, which may not be shorter than seven days and not longer than 14 days, is referred to herein as the "first period".

31.4 step two

In the event of the Receiving Party not performing in a manner demanded in the Dispute Notice or the Dispute not being resolved within the first period (or such further period as may be agreed to in writing by the Parties), then authorised representatives of the Parties will meet within a period ("the Second Period") of no more than seven days after the end of the first period to attempt to settle such dispute in an amicable manner, the outcome of which meeting will be reduced to writing.

31.5 step three

If, irrespective of whether the Parties have met or concluded any meeting, no written agreement recording the resolution of the Dispute is signed by the Parties within the Second Period, then the Dispute shall within a period of seven days calculated from the end of such Second Period, be referred in writing by the Disputing Party to each of the Chief Executive Officers of the Supplier and Eskom.

31.6 step four

31.6.1 If, irrespective of whether the senior executives (or their appointed nominee) have met or concluded any meeting, no written agreement is signed by the Parties resolving the Dispute within a period of 30 (thirty) days calculated from the day upon which the Dispute was referred to the senior executives, or within such an extended period as may be agreed to in writing by the Parties, then:

31.6.1.1 either Party may refer the Dispute to be finally resolved in accordance with the rules of the Arbitration Foundation of Southern Africa ("AFSA") or its successor body by an arbitrator appointed by AFSA. "Refer" in this sub-

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Contract Number [46...

Page 49 of 65

clause means delivering or transmitting electronically a written notice to AFSA requesting the appointment of an arbitrator to determine the Dispute. Referral of the Dispute shall be completed on delivery to and acknowledgement of receipt by AFSA of the notice. The Party referring the Dispute shall thereafter deliver or electronically transmit a copy of the referral notice to the other Party;

- 31.6.1.2. the arbitration will be held in Johannesburg in private at a venue as determined by the AFSA Rules or the arbitrator appointed as envisaged in clause 31.6.1.1;
- 31.6.1.3. the arbitrator will have regard to the desire of the Parties to dispose of such Dispute expeditiously, economically and confidentially and shall be obliged to provide written reasons for his/her decision, together with reasons for such decision which shall be delivered in writing to the Parties within 21 (twenty one) days after the conclusion of the arbitration hearing;
- 31.6.1.4. the arbitrator will determine the liability for his/her charges and the costs of the arbitration will be paid accordingly by the Parties;
- 31.6.1.5. subject to the provisions of clause 31.6.2, the Parties irrevocably agree that the decision in any such arbitration proceedings will be final and binding on them, will forthwith be put into effect and may be made an order of any court of competent jurisdiction.
- 31.6.2. Either Party has the right to appeal against the decision of the arbitrator appointed in terms of clause 31.6.1.1 provided that this is done within 30 (thirty) days of receipt by the Parties of the arbitrator's award. The appeal shall be heard by three arbitrators, in accordance with a procedure determined by them, who shall be appointed as follows:
 - 31.6.2.1. the Party appealing will appoint 1 (one) arbitrator from the ranks of retired High Court Judges or Senior Advocates;
 - 31.6.2.2. the other Party will nominate 1 (one) arbitrator from the ranks of retired High Court Judges or Senior Advocates; and
 - 31.6.2.3. the 2 (two) arbitrators so nominated must nominate a third arbitrator from the ranks of retired High Court Judges or Senior Advocates.



Contract Number 46...

Page 50 of 65

- 31.6.3 Nothing contained in this clause 31 will preclude any Party from applying for, or obtaining, interim relief on an urgent basis from a court of competent jurisdiction pending the decision of the arbitrator on the merits of the Dispute.
- 31.6.4 The provisions of this clause 31 will continue to be binding on the Parties notwithstanding any termination or cancellation of the Coal Supply Agreement.
- 31.6.5 Notwithstanding the provisions of clauses 31.3, 31.4, 31.5 and 31.6, a Disputing Party shall be entitled to refer any Dispute to be finally resolved by an arbitrator as contemplated in clause 31.3 above, without having commenced, or completed, the procedures prescribed in clauses 31.3, 31.4, 31.5 and 31.6 when in the view of the Disputing Party the prescribed procedures may not have been completed before any claim of the Disputing Party may have become prescribed. In this case the other Party shall be precluded from raising in the arbitration and/or any other forum a special plea or defence to the effect that the Disputing Party is precluded from proceeding immediately to arbitration because of the provisions of clauses 31.3, 31.4, 31.5 and 31.6.
- 31.6.6 The provisions of this clause 31 shall not apply in regard to the matters to be determined by an independent expert in terms of clause 32.

32. Determination by an Independent Expert

32.1 applicability of indices to measure changes in cost factors

The resolution of any Dispute between the Parties arising from this Agreement and relating to the applicability of the indices stipulated in Table 2 as actual measurement of the actual cost movement in respect of that cost element in the South African coal mining industry and if necessary an appropriate replacement index, must be determined by an independent expert who must:

- 32.1.1 have at least a bachelors degree in statistics, economics or equivalent qualifications; and
- 32.1.2 have proper practical knowledge and at least 10 (ten) years' experience of statistics, indexing, finance and economics and application in South African Mining Industry.



Contract Number [46...

Page 61 of 65

32.2 quality and quantity disputes

The resolution of any Dispute between the Parties arising from this Agreement and which is of a technical nature relating to coal qualities and quantities, must be determined by an independent expert who must:

- 32.2.1 have a bachelors degree in metallurgy or equivalent qualifications; and
- 32.2.2 have proper practical knowledge and at least 10 (ten) years' experience of coal mining, coal processing, quality and quantity determination and the use of coal in heat generation applications.

32.3 mining related disputes

The resolution of any Dispute between the Parties arising from this Agreement and which is of a technical nature relating to coal mining and the coal resources in terms of the Mining Right, including the information furnished by the Supplier in respect of the coal resources, all warranties furnished by the Supplier and a replacement code for reporting reserves if the SAMREC Code no longer exists, must be determined by an independent expert who must:

- 32.3.1 have a bachelors degree in Geology and/or Mining Engineering; and
- 32.3.2 have proper practical knowledge and at least 10 (ten) years' experience of coal geology, reserve determination and coal mining.

32.4 disputes relating to nature of dispute

Should the Parties be unable to reach agreement on the nature of a Dispute in terms of this clause 32 the Chairperson for the time being of the South African Institute of Mining and Metallurgy, or its successor body, may, at the request of either of the Parties, determine in his/her absolute discretion the nature of the Dispute for purposes of this paragraph 32.

32.5 appointment of expert

If the Parties are unable to agree upon an acceptable independent expert pursuant to this clause 32 within 15 (fifteen) Business Days after a request by a Party for the appointment of such expert then, within 5 (five) Business Days after the lapse of such period, the Parties shall jointly request the head of the relevant professional body under which the independent expert falls, or if such professional body does not exist, the President for the time being of AFSA or its successor body to appoint an



Contract Number [46...

Page 52 of 65

independent person, who satisfies the requirements an expert, to act as an independent expert to make the relevant expert determination in terms of this clause 32.10, provided, however, that if one party fails or refuses to join the other in making such request, then the latter may apply for such appointment.

32.6 procedure

The independent expert shall determine the procedures to be followed, including the manner in which the expert shall receive written, and if so required by the expert, oral submissions on behalf of each Party. The independent expert shall likewise determine the place where the expert shall meet the Parties, provided that such place must be in Johannesburg or Pretoria. The independent expert may, if the expert deems this necessary, conduct an inspection of any plant, mine, facilities and/or other area that is the subject of the Dispute. The independent expert shall act as an expert and not as an arbitrator or mediator.

32.7 costs

The Parties shall share any costs of AFSA and the costs of the independent expert equally, unless otherwise directed by the expert.

32.8 reasons

The independent expert shall in each case be obliged to give written reasons and motivation for his/her determination.

32.9 binding effect

In the absence of grounds for review, the relevant expert's determination shall be binding on both Parties.

32.10 review

32.10.1 Subject to the provisions of clause 32.9, any Party may take the independent expert's determination on review.

32.10.2 In the event that any Party wishes to take the independent expert's determination on review in terms of clause 32.10.1 above, the said Party must notify the other Parties and the independent expert thereof in writing within 60 (sixty) days after receipt of the independent expert's determination and reasons failing which the right to review shall lapse.



Contract Number [48...

Page 53 of 65

- 32.10.3 In the event of a review, the independent expert's determination shall be suspended, pending finalisation of the review procedure.
- 32.10.4 Any review as envisaged must be conducted by a practising senior counsel with not less than ten years standing or a retired High Court Judge agreed between the Parties.
- 32.10.5 If the Parties cannot agree upon a particular person to conduct the review within 7 (seven) Business Days after notice has been given in terms of clause 32.10.1, then either Party may request, within seven Business Days after the Parties have so failed to agree, the Chairperson of the Johannesburg Bar Council (or any replacement body) to appoint a person to conduct the review.
- 32.10.6 The person conducting the review shall determine the procedures to be followed, provided that such proceedings must be held in Johannesburg or Pretoria. The powers of the person conducting the review shall be those of the High Court conducting a review as envisaged in Rule 53 of the High Court rules, as amended or replaced from time to time.

33. Breach

33.1 breach of a warranty

If a Party breaches a warranty under clauses 3, 4 or 5 of this Agreement, and remains in breach of such warranty for 30 (thirty) Business Days after written notice to that Party requiring that Party to rectify that breach of warranty, the aggrieved Party shall be entitled, without derogating from any of its other specific rights or remedies provided for under this Agreement or which it is entitled to in law, at its option:

- 33.1.1 to sue for immediate specific performance of any of the defaulting Party's obligations under this Agreement; or
- 33.1.2 to cancel this Agreement in which case written notice of the cancellation must be given to the defaulting Party, and the cancellation shall take effect on the giving of the notice.

33.2 breach of other material provisions

If a Party breaches any other material provision of this Agreement and remains in breach of such material provision for 30 (thirty) Business Days after written notice to that Party requiring that Party to rectify that breach, the aggrieved Party shall be



Contract Number [46...

Page 54 of 65

entitled, without derogating from any of its other specific rights or remedies provided for under this Agreement, at its option:

- 33.2.1 to sue for immediate specific performance of any of the Defaulting Party's obligations under this Agreement; or
- 33.2.2 to cancel this Agreement in which case written notice of the cancellation must be given to the defaulting Party, and the cancellation shall take effect from the date of the notice.
- 33.3 breach of general provisions

If a Party breaches any other general provision of this Agreement and remains in breach of such material provision for 30 (thirty) Business Days after written notice to that Party requiring that Party to rectify that breach, the aggrieved Party shall be entitled, without derogating from any of its other specific rights or remedies provided for under this Agreement to sue for immediate specific performance of any of the Defaulting Party's obligations under this Agreement.

SECTION 10: FORCE MAJEURE MATTERS

34. Force Majeure

34.1 general

34.1.1 For the purposes of this Agreement, an exceptional event or circumstance:

34.1.1.1 which prevents or restricts either Party directly or indirectly from performing all or any of that Party's ("the Affected Party") obligations in terms of this Agreement;

34.1.1.2 beyond the reasonable control of the Affected Party;

34.1.1.3 not the direct or indirect result of a breach by the Affected Party of any of its obligations under this Agreement; and

34.1.1.4 could not have been (including by reasonable anticipation) avoided or overcome by the Affected Party, acting reasonably and prudently,

subject to clause 34.1.2 shall constitute a "Force Majeure Event" for the purposes of this Agreement.



Contract Number [46...

Page 55 of 65

- 34.1.2 A "Force Majeure Event" shall, subject to the conditions in clauses 34.1.1 to 34.1.1.4 being satisfied, include, without limitation:
- 34.1.2.1 war, hostilities (whether war to be declared or not), invasion, act of foreign enemies;
- 34.1.2.2 rebellion, terrorism, revolution, insurrection, military or usurped power or civil war;
- 34.1.2.3 riot, commotion, disorder, any blockade or embargo, strikes or lock outs that are on a national scale and directly affects the construction, energy and coal mining industry of South Africa, but shall not include any such action that is solely by the Supplier's personnel and other employees of the Supplier or its subcontractors;
- 34.1.2.4 natural catastrophes such as earthquake, hurricane, typhoon, volcanic activity floods (other than heavy rains), fire, 'Acts of God', or explosions.*
- 34.1.3 An event which satisfies the requirements of clause 34.1, but is the direct or indirect result of any third party fulfilling contractual, statutory or other obligations to the Affected Party (for reasons which would not in themselves constitute a "Force Majeure Event") shall not constitute a "Force Majeure Event" for purposes of this Agreement.
- 34.1.4 The Affected Party shall be relieved of performance of its obligations in terms of this Agreement during the period that a Force Majeure Event occurs and its consequences continue (but only to the extent it is so delayed or prevented from performing partially or at all by the Force Majeure Event), and, provided that notice has been given in terms of clause 34.1.5, shall not be liable for any delay or failure in the performance of any of its obligations in terms of this Agreement or losses or damages whether general, special or consequential which the other Party ("the Unaffected Party") may suffer due to or resulting from any such delay or failure.
- 34.1.5 The Affected Party shall give written notice to the Unaffected Party at the earliest possible opportunity in writing of the occurrence of the event constituting the Force Majeure Event, together with details thereof and a good faith estimate of the period of time for which it shall endure.

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Contract Number [46...

Page 55 of 55

34.2 proportionate reduction

Should a Force Majeure Event affect the production capacity of the Mine and/or the Supplier's ability to Deliver coal for Supply to Eskom in terms hereof or should such Force Majeure Event affect Eskom's ability to Take Off coal in terms of this Agreement, each of the Parties' respective obligations to Deliver and to Take Off coal in terms hereof shall be reduced in proportion to the reduction in the capacity to Deliver or capacity to Take Off as the case may be.

34.3 consequences

At all times whilst a Force Majeure Event continues, the Parties shall meet at regular intervals to discuss and investigate, and if possible, to implement other practical ways and means to overcome the consequences of such a Force Majeure Event, with the objective of achieving the import and intent of this Agreement without unreasonable delay. In this regard the Parties shall explore the possibility of concluding alternative arrangements for the supply or purchase of coal as the case may be. These alternative arrangements may include but are not limited to quantity, quality and penalty amendments; and supply from any source for such periods of time as may be reasonable under the circumstances with due regard to the nature and anticipated duration of the Force Majeure Event.

34.4 termination of Force Majeure Event

The Affected Party shall use all reasonable endeavours to mitigate the effects of the Force Majeure Event on its ability to perform under this Agreement and to terminate the circumstances giving rise to a Force Majeure Event as soon as reasonably possible (provided that nothing in this clause shall require the Affected Party to settle any strike, lock-out or other industrial or labour dispute, whether it is a party thereto or not) and upon termination of the event giving rise thereto, shall forthwith give written notice thereof to the Unaffected Party.

34.5 extension of this Agreement

34.5.1 In the event that a Force Majeure Event occurs as contemplated herein, the Parties shall, on cessation of the Force Majeure Event, or prior thereto, agree on the period, if any, by which the duration of this Agreement should be extended to take account of interruptions caused by such Force Majeure Event. The price payable for Contract Coal during such extension, shall be the Price determined under this Agreement as being that applicable for the period in which Contract



Contract Number [49...

Page 57 of 86

Coal is actually Supplied, taking into account all adjustments as set out in this Agreement.

34.5.2 In the event of a Force Majeure Event affecting Eskom in terms of this Agreement which is expected to endure for a period of more than 30 (thirty) days, the Supplier may sell Contract Coal, to third Parties for as long as such Force Majeure Event continues. In this event the Agreement shall be extended in terms of clause 34.5.1 above.

34.5.3 In the event of that the Supplier is prevented by a Force Majeure Event from Delivering Contract Coal to Eskom in terms of this Agreement and for as long as such Force Majeure Event continues, Eskom shall not be under any obligation pursuant to this Agreement to purchase coal for use from the Supplier exclusively. Without derogating from that principle, Eskom shall be entitled to source all coal or any shortfall of coal from other sources.

34.6 Termination of this Agreement due to Force Majeure Events

Unless otherwise unanimously agreed to in writing between the Parties, this Agreement shall be terminable by either Party if either Party is wholly prevented by a Force Majeure Event from fulfilling its obligations in terms of the agreement and where such prevention endures for a continuous period of at least 24 (twenty four) Months. Neither Party shall have any claim against the other for any loss suffered as a result of such termination.

SECTION 11: GENERAL PROVISIONS

35. Insolvency

Should either Party commit an act of insolvency, make an offer of compromise or composition, become the subject of a liquidation or business rescue proceedings then the other Party shall be entitled, but not obliged, without prejudice to any other rights which it may have, to terminate this Agreement.

36. Limitation of Liability

Notwithstanding any other provision in this Agreement, neither Party shall be liable in contract or in law or otherwise for any indirect, consequential, punitive and/or special damages or loss of profits or anticipated savings, whether foreseeable or not, and even if a Party has been advised of the possibility of such damages arising, incurred by the other Party arising out of or in connection with this Agreement.

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Contract Number [48...

Page 58 of 55

37. Insurance

In order for it to fully comply with its obligations under this Agreement, for the duration of the Contract Period, the Supplier shall:

- 37.1 adequately insure, and keep insured, itself and, *inter alia*, the Mine (including the equipment acquired, and to be acquired, and the infrastructure established and to be established to enable the Supplier to comply with its obligations in terms of this Agreement) against the risks which are in line with, and on terms which are in line with, common mining practice in South Africa;
- 37.2 forthwith apply the proceeds of any insurance policy to replace or repair, as is reasonable in the circumstances, the Mine (including the equipment acquired, and to be acquired, and the infrastructure established and to be established to enable the Supplier to comply with its obligations in terms of this Agreement) in the event of an insurable incident which may cause it to be damaged, lost or destroyed; and
- 37.3 to provide written proof of such insurance at the written request of Eskom.

38. Cession and Delegation

- 38.1 This Agreement shall be binding upon and shall be for the benefit of the Parties and, to the extent permitted by the provisions of this clause, their respective successors and assigns.
- 38.2 Neither Party may delegate this Agreement including to its holding company, an affiliated company, another company wholly and or partially owned by the Parties, to an entity acquiring all or substantially all of the assets of that Party, or for purposes of securing indebtedness and no such assignment shall release the delegating Party from the obligation to perform in terms of this Agreement unless the other Party consents thereto in writing. A Party requesting such consent shall provide the other Party with all the necessary information to conduct a reasonable assessment of the request.

39. Confidentiality

- 39.1 The Parties acknowledge that any information supplied in connection with this Agreement or in connection with each other's technical, industrial or business affairs which has or may in any way whatsoever be transferred or come into the possession or knowledge of any other of them ("the Receiving Party") may

[Handwritten signatures and initials]



Contract Number [46...

Page 59 of 65

consist of confidential or proprietary data, disclosure of which to or use by third parties might be damaging to the Party concerned.

- 39.2 The Receiving Party therefore agrees to hold such material and information in the strictest confidence, to prevent any copying thereof by whatever means and not to make use thereof than for the purposes of this Agreement and to release it only to such properly authorised directors, employees or third parties requiring such information for the purposes of this Agreement and agree not to release or disclose it to any other Party who has not signed an agreement expressly binding himself not to use or disclose it other than for the purposes of this Agreement.
- 39.3 The undertaking and obligations contained in this clause do not apply to information which is publicly available at the date of disclosure or thereafter becomes publicly available from sources other than the Parties.
- 39.4 The Receiving Party demonstrates that if was already in its possession prior to its receipt by or disclosure to such Receiving Party; is required by law or any regulatory authority to be disclosed after being disclosed to the Receiving Party is disclosed by any other person to the Receiving Party otherwise than in breach of any obligation of confidentiality.
- 39.5 The Parties shall take such precautions as may be necessary to maintain the secrecy and confidentiality of such material and information in respect of its directors, employees, agents, and/or director or employees or agents of any assignee, sub-contractor or distributor or any other person to whom any such confidential or proprietary data may have been or shall be disclosed.
- 39.6 Save as may be required by law or any regulatory authority, no announcement or publicity of the existence of this Agreement or its content or transaction embodied in this Agreement shall be made or issued by or on behalf of any Party without the prior written agreement of the other Party.

40. Alienation or Disposal of an Interest

Where any proposed transaction shall result in a change in control of the holder of the Mining Right, Eskom shall forthwith be notified in writing within 7 (seven) days of such decision and provided with a copy of the application to amend the Mining Right, in terms of the provisions of the MPRDA and written confirmation that the intended transaction shall not affect the Supplier's ability to carry out and comply with the obligations of this Agreement and the terms and conditions of the right as conferred.



Contract Number [46...

Page 60 of 65

41. Entire Agreement

This Agreement contains all the express provisions agreed on by the Parties with regard to the subject matter of the Agreement and supersedes and novates in its entirety any previous understandings or agreements between the Parties in respect thereof, and the Parties waive the right to rely on any alleged provision not expressly contained in this Agreement.

42. No Stipulation for the Benefit of a Third Person

Save as expressly provided for in this Agreement, no provision of this Agreement constitutes a stipulation for the benefit of a third person (i.e. a *stipulatio alteri*) which, if accepted by the person, would bind any Party in favour of that person.

43. No Representations

A Party may not rely on any representation which allegedly induced that Party to enter into this Agreement, unless the representation is recorded in this Agreement.

44. Variation, Cancellation and Waiver

No contract varying, adding to, deleting from or cancelling this Agreement, and no waiver of any right under this Agreement, shall be effective unless reduced to writing and signed by or on behalf of all the Parties.

45. Indulgences

The grant of any indulgence, extension of time or relaxation of any provision by a Party under this Agreement shall not constitute a waiver of any right by the grantor or prevent or adversely affect the exercise by the grantor of any existing or future right of the grantor.

46. Applicable Law

This Agreement is to be governed, interpreted and implemented in accordance with the laws of the Republic of South Africa.

47. Jurisdiction of South African Courts

The Parties consent to the non-exclusive jurisdiction of the High Court of South Africa, South Gauteng High Court, Johannesburg for any proceedings arising out of or in connection with this Agreement.

[Handwritten signatures and initials]



Contract Number [48...

Page 61 of 65

48. Service of Documents

48.1 The Parties choose the following addresses at which documents and notices in legal proceedings in connection with this Agreement shall be served (i.e. their *domicilia citandi et executandi*) and at which notices shall be received:

48.1.1 in the case of Eskom to: The Divisional Executive – Primary Energy

physical address Eskom Holdings SOC Limited
Megawatt Park
Maxwell Drive
Sunninghill

postal address PO Box 1091
Johannesburg
2000

fax no +27 11 800 5555

48.1.2 in the case of the Supplier to: The Chief Executive Officer

physical address: Grayston Ridge Office Park
Block A, Lower Ground Floor 144 Katherine
Street
Sandton, 2146

postal address

fax no

NETNET SUITE 458
PRIVATE BAG X9
BENMORE 2010
086 3770457

48.2 The Parties choose the following address at which invoices and Drawdown Order may be received:

48.2.1 in the case of Eskom, invoices shall be submitted to: Finance Manager – Primary Energy

physical address Eskom Holdings SOC Limited
Megawatt Park
Maxwell Drive

Sunninghill

Fax no: 011 800 6566

e-mail address: snehal.nagar@eskom.co.za

[Handwritten signatures and initials]



Contract Number [46...

Page 62 of 85

48.2.2 In the case of the Supplier, Drawdown Orders shall be submitted to:

The Chief Executive

physical address: Grayston Ridge Office Park
Black A, Lower Ground Floor
144 Katherine Street
Sandton, 2146

Fax no: 086 3770457

e-mail address: nath@oakbay.co.za

- 48.3 Any legal or other notice shall be deemed to have been duly given:
- 48.3.1 on the fifth Business Days after posting (14 (fourteen) Business Days if the address is not in the Republic of South Africa), if posted by registered post (airmail, if available) to the Party's address in terms of this clause 48;
 - 48.3.2 on delivery, if delivered to the Party's physical address in terms of this clause 48 between 08h30 and 17h00 on a Business Day (or on the first Business Day after that if delivered outside such hours);
 - 48.3.3 on despatch, if sent to the Party's then fax number or e-mail address between 08h30 and 17h00 on a Business Day (or on the first Business Day after that if despatched outside such hours) in terms of this clause 48;
 - 48.3.4 unless the addressor is aware, at the time the notice would otherwise be deemed to have been given, that the notice is unlikely to have been received by the addressee through no act or omission of the addressee.
- 48.4 A Party may change that Party's address or fax number or e-mail address for this purpose by notice in writing to the other Party, such change to be effective only on and with effect from the seventh Business Day after the giving of such notice.
- 48.5 Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by a Party shall be an adequate service of



Contract Number [46...

Page 63 of 65

such written notice or communication to that Party notwithstanding that it was not sent to or delivered or served at that Party's chosen *domicilium citandi et executandi*.

49. Costs

- 49.1 Each Party shall bear that Party's own legal costs and disbursements of and incidental to the negotiation, preparation, settling, signing and implementation of this Agreement.
- 49.2 Any costs, including all legal costs on an attorney and own client basis and VAT, incurred by a Party arising out of or in connection with a breach by another Party shall be borne by the Party in breach.

50. Signature In Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed to be an original and which together shall constitute one and the same agreement.

51. Independent Advice

Each of the Parties hereby respectively agrees and acknowledges that:

- 51.1 it has been free to secure independent legal advice as to the nature and effect of each provision of this Agreement and that it has either taken such independent legal advice or has dispensed with the necessity of doing so; and
- 51.2 each provision of this Agreement (and each provision of the Annexes) is fair and reasonable in all the circumstances and is part of the overall intention of the Parties in connection with this Agreement.

52. Good Faith and Co-Operation

- 52.1 The Parties shall, at all times, act in good faith towards each other and shall not bring any of the other Parties into disrepute.
- 52.2 Each of the Parties undertakes at all times to do all such things, perform all such acts and take all such steps, and to procure the doing of all such things, within its power and control, as may be open to it and necessary for and incidental to the putting into effect or maintenance of the terms, conditions and import of this Agreement.

K
M
CHAB
A



Contract Number [46...

Page 64 of 85

SIGNED AT SUNNINGHILL ON THIS 10 DAY OF March 2015

[Signature]
 For and on behalf of
 ESKOM HOLDINGS SOC LIMITED
 (who warrants that he is duly authorized hereto)

Name:

V Mboweni

Capacity:

DE (PED) Acting

AS WITNESSES:

1.

2.

SIGNED AT SUNNINGHILL ON THIS 10TH DAY OF MARCH 2015

[Signature]
 For and on behalf of Tegeta Exploration and Resources (Pty) Ltd
 (who warrants that he is duly authorized hereto)

Name:

RAVINDRA NATH

Capacity:

DIRECTOR.

AS WITNESSES:

1.

2.

LIST OF ANNEXES

- i. **Annexe A: The Coal Quality Management Procedure**
- ii. **Annexe B: Environmental Legal Requirements**
- iii. **Annexe C1: The Rules of Road Transportation (FCA)**
- iv. **Annexe C2: The Rules of Road Transportation (Delivered Contract)**
- v. **Annexe D: The Rules of Rail Transportation**
- vi. **Annexe E: Example Calculations for Adjustments for Moisture Content**
- vii. **Annexe F: Technical Liaison Meeting Agenda**
- viii. **Annexe G: Black Ownership Plan**



AFFIDAVIT

I, THE UNDERSIGNED, **HAPPING MASUKU**

Hereby declare under oath as follows: -

1.

I am an adult male with ID 6104295691087. I am the sole member of Sibonisiwe Coal Laboratory Services CC with registration number 2005/129913/23 of 74a Hoog Street, Middelburg, 1015. My work telephone number is 013 246 1102 and mobile phone number is 082 419 5803.

2.

I have reviewed the extracts (pages 85 – 88) of the report titled *"National Treasury: Final Report: Forensic Investigation into various allegations at Transnet and Eskom, Chapter III: Report relating to Eskom Investigations"* which was prepared by Fundudzi Forensic Services and dated November 2018 (**Annexure HM1**).

3.

Except for the physical alterations manually indicated and initialled by myself on the attached annexure (**Annexure HM1**), I confirm the correctness of the content of the report in so far as they relate to my interactions with Mr Koko.




4.

Declaration by deponent regarding the taking of the oath:

I know and understand the contents of this declaration.

I have no objection to taking the prescribed oath.

I consider the prescribed oath to be binding on my conscience.

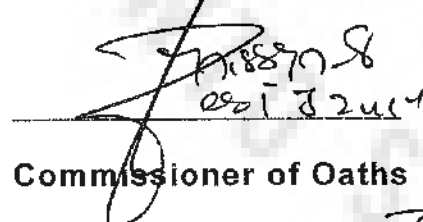


Signature of Deponent

CERTIFICATE BY COMMISSIONER OATHS:

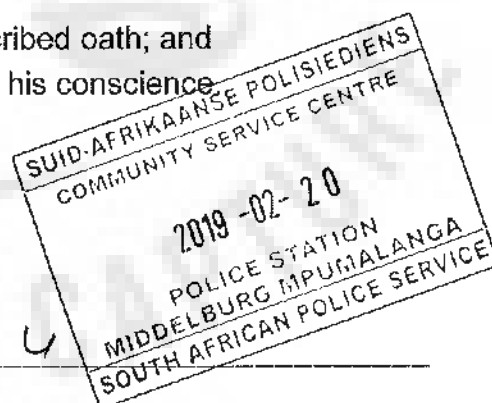
It is hereby certified that the aforesaid affidavit was signed and sworn to in my presence at Middelburg 15:30 on this 20 day of February 2019 at Middelburg and the said deponent having confirmed and acknowledged: -

- (a) that he knows and understand the contents thereof;
- (b) that he confirms the truth thereof;
- (c) that he has no objection to taking the prescribed oath; and
- (d) that he regards the said oath as binding on his conscience



Commissioner of Oaths

FULL NAMES : J. J. J. J.
 DESIGNATION : Constable
 PLACE : Middelburg
 ADDRESS : 21 Janbark Street Middelburg 1050



("Goberi") and Sam Phetla ("Phetla"), to investigate the above complaint and to provide findings on same.

Alleged solicitation of a bribe by an Eskom's nominated laboratory

- 6.16.6.4. During our consultation with Van der Riet, he indicated that on 25 August 2015, he received a phone call from Mboweni who informed him about an alleged solicitation of a bribe, by an Eskom's nominated laboratory, from Brakfontein's representatives.
- 6.16.6.5. According to Van der Riet, Mboweni indicated to him that there is a certain white woman, employed by an Eskom nominated laboratory, who allegedly demanded a bribe from Brakfontein's representatives in order to change their coal analysis results.
- 6.16.6.6. During our follow up consultation with Masuku, he indicated that Sibonisiwe did not have an employee that fits the description referred to above. According to Masuku, the only official that may have fit the description was an Elzabe Truter ("Truter") who was an independent consultant responsible for SANAS quality assurance services relating to Sibonisiwe's lab equipment. *Responsible for Quality Management System.*
- 6.16.6.7. According to Masuku, Truter could not have solicited a bribe from the Brakfontein representatives as she was not involved in the operations related to coal analysis.
- 6.16.6.8. Van der Riet indicated that Mboweni informed him that he received the above allegation from Koko.
- 6.16.6.9. According to Koko's written response to our questions, he confirmed that he was approached by Roux to raise the said allegations of corruption in the coal mining sampling analysis and the reporting of the results by Sibonisiwe Laboratories.

Meeting of 28 August 2015 between Masuku and Koko

- 6.16.6.10. Masuku indicated that on 28 August 2015, he received a call from Koko who requested a meeting at the Eskom's Megawatt Park office. Masuku indicated that he met with Koko at Eskom's Megawatt Park offices on 28 August 2015. Masuku further

* He called on the 27th around 9:00 pm and said
I must confirm in the morning.

indicated that he was accompanied to the said meeting by Jimmy Sindane ("Sindane") who was one of Sibonisiwe's employees.

- 6.16.6.11. According to Masuku, Koko requested that Sindane should wait outside his office and not be part of their meeting. Masuku indicated that Koko started the meeting by introducing himself as Eskom's Group Executive and asked Masuku why he was fighting with the Gupta family, to which Masuku responded by stating that he did not understand Koko's question and further that he did not know who the Guptas were.
- 6.16.6.12. According to Masuku, at the said meeting, Koko made a phone call to Roux relating to Brakfontein's Sulphur quality parameter results for stockpile 26B and 27A.
- 6.16.6.13. Masuku further indicated that during the telephone discussion between Koko and Roux, there was a suggestion to resample Brakfontein's stockpiles which had failed the precertification process. Masuku further indicated that it was during the said discussion it was suggested that Sibonisiwe would also be involved in the said precertification. *analysis / testing*
- 6.16.6.14. Masuku stated that Sibonisiwe was not involved in the said resampling, as discussed by Koko and Roux, and that no samples were delivered to his lab for testing.
- 6.16.6.15. Masuku stated that during the meeting Koko enquired from him whether he knew the owners of Brakfontein Colliery and Masuku responded by stating that he did not know them.
- 6.16.6.16. He further stated that Koko informed him that Brakfontein Colliery was owned by the Gupta family and that he, Masuku, was fighting with them by providing unfavourable coal analysis results performed on Brakfontein's coal.
- 6.16.6.17. Masuku stated that he was informed by Koko that he was providing unfavourable coal analysis results in respect of Brakfontein's coal analysis in order to solicit a bride from the Gupta family. Masuku responded to Koko by informing him that




- he is not soliciting any bribe from anyone and reiterated that he did not know the Gupta family.
- 6.16.6.18. Masuku indicated that he had never accepted any bribe from the Gupta family and further that he had never met them before.
- 6.16.6.19. Masuku stated that he informed Koko that he did not provide unfavourable coal analysis results to any mine and further that Sibonisiwe was appointed, by Eskom, for coal transportation and analysis services. He further stated that he had no knowledge of the coal quality specification parameters which were detailed in the contracts between Eskom and its coal suppliers.
- 6.16.6.20. He further stated that Koko requested that they break from the meeting, while they wait for the comparison of Sibonisiwe's coal analysis results to those of SGS's and reconvene at 03h00 PM to discuss same.
- 6.16.6.21. Masuku indicated that when the meeting reconvened at the agreed time, Koko made a phone call to Phetla and requested that he brought brings the comparison results to his office. Masuku stated that Phetla brought the results which were hand written on a piece of paper to Koko's office.
- 6.16.6.22. According to Masuku, the aforesaid comparison was only in respect of the total Sulphur parameter. He further indicated that the aforesaid comparison indicated that Sibonisiwe's total Sulphur results were similar to those of SGS. Furthermore, Masuku indicated that Koko seemed unhappy about the aforesaid results.
- 6.16.6.23. In his response to our questions relating to the above allegations, Koko indicated that *"I deny making any threats to Mr Happing Masuku. Dr Van der Riet, Ms Charlotte Ramavhona and I meet (sic) with Mr Happing Masuku of Sibonisiwe. The meeting took place on or around 28 August 2015 in my office. We agreed that samples from the stockpiles at Brakfontein mine that had failed the prior tests had to be taken under controlled circumstance for separate analysis at Eskom, Sibonisiwe and SABS laboratories"* (Annexure E55).



- 6.16.6.24. We provided Van der Riet and Ramavhona with Koko's response as reflected above, however as the date of this report we had only obtained Van der Riet's response. In his response, Van der Riet stated *inter alia* that "I can confirm that I did not meet with Mr Happing Masuku of Sibonisiwe. Although requested to do so by Mr Matshela Koko on 26 August 2015, I explained to Mr Koko on 27 August 2015 that we needed to compile evidence with which to confront Mr Masuku. Mr Koko undertook to call Mr Masuku himself. I was not involved in any communication between them, and only heard from Ms Charlotte Ramavhona that they had actually met. I was therefore not party to what they agreed. I can however comment that as per the Eskom Coal Quality Management Procedure (CQMP), Sibonisiwe laboratories only did coal analyses for Eskom, and were not involved in coal sampling. It would therefore have been highly irregular for them to have been involved in sampling, as their contract did not allow for this service. Eskom has a separate contract with other parties for sampling" (Annexure E56).
- 6.16.6.25. We had not received Ramavhona's version as the time of this report.
- 6.16.6.26. During our follow up consultation with Masuku he indicated that the said meeting between himself and Koko was never attended by Van der Riet and Ramavhona as stated above by Koko. He further indicated that, as previously discussed, the other person who was part of the meeting was Phetla, who brought the coal analysis results.

Meeting between Koko, Daniels, Ramavhona and Van Der Riet

- 6.16.6.27. During our consultation with Van der Riet, he indicated that Koko requested a meeting in Koko's office to discuss the investigation into allegations against Sibonisiwe on 28 August 2015
- 6.16.6.28. According to Van der Riet, he requested Ramavhona to accompany him to Koko's office. Ramavhona confirmed that she accompanied Van der Riet to the feedback meeting with Koko. Ramavhona further stated that Daniels was also part of the said



meeting. During our consultation with Daniels she confirmed being part of the said meeting.

6.16.6.29. Ramavhona indicated that, Koko introduced himself to her and requested that she explains the Eskom coal analysis results dispute process. Ramavhona further indicated that she explained the said process to Koko.

6.16.6.30. Ramavhona further indicated that Koko requested that all Brakfontein's laboratory samples for the month of August should be retrieved from Eskom's storage and kept aside until he provides further instructions on same.

6.16.6.31. Ramavhona indicated that Koko requested he be provided, with all Brakfontein's laboratory coal analysis results reported by various laboratory services from inception of the CSA by close of business.


Analysis of Tegeta's previous results

6.16.6.32. Ramavhona indicated that she duly retrieved Brakfontein's coal analysis results which were submitted by both SGS and Sibonisiwe from inception of the CSA.

6.16.6.33. She further indicated that Gobeni provided her with the contractual coal quality parameter specifications stipulated in the CSA. According to Ramavhona she and Gobeni, analysed the contractual coal quality parameter specifications and compared them to the submitted laboratory results.

6.16.6.34. Ramavhona stated that the purpose of the said comparison was to establish, *inter alia*, the following:

- 6.16.6.34.1. The number of laboratory results which did not comply with the CSA quality parameters:
- 6.16.6.34.2. The specific parameters which the aforesaid results did not comply with; and
- 6.16.6.34.3. The total coal quantity that was delivered by Tegeta from inception of the CSA.





Affidavit of Eshari Singh

1.

I, the undersigned, Eshari Singh, do hereby state under oath that:

2.

I am an adult female, with ID number 8602280096087. I am employed at Eskom Holding Limited. My work location is Megawatt Park - B3A36. My contact number is 011 800 3431.

3.

I am qualified Management Accountant registered with the Chartered Institute of Management Accounting (CIMA). I obtained the professional designation in 2017.

4.

I have been employed at Eskom as a Manager Management Accountant for the past year. I started working at Eskom in 2008 for PED Finance.

5.

This affidavit confirms that I have reviewed the attached excel spreadsheet (**Annexure ES1**) which was prepared by Mr. Bennett Maakana. I have verified the data on which the spreadsheet was compiled. This data incorporates the following:

- 5.1 API#4 Average Price (**Annexure ES2**);
- 5.2 Coal Line Tariff (**Annexure ES3**);
- 5.3 Yield Factor of 0.77;
- 5.4 Expected CV of 21.10;
- 5.5 CV Export Coal of 23.00;
- 5.6 Price per Contract Coal (**Annexure ES4**);
- 5.7 Rand/Rate per ton;
- 5.8 Shortfall tons (**Annexure ES5**);
- 5.8 The total penalty; and
- 5.9 The total penalty amount inclusive of VAT.

I hereby confirm that:

- I know and understand the contents of this statement;
- I have no objection in taking the prescribed oath;
- I know that the oath is binding on my conscience; and
- I believe the statement gives a fair account of the events that happened.

BH

Signature (Deponent)

CERTIFICATE BY COMMISSIONER OATHS:

It is hereby certified that the aforesaid affidavit was signed and sworn to in my presence at on this..... day of atand the said deponent having confirmed and acknowledged: -

- (a) that he knows and understand the contents thereof;
- (b) that he confirms the truth thereof;
- (c) that he has no objection to taking the prescribed oath; and
- (d) that he regards the said oath as binding on his conscience.

BH — One

Commissioner of Oaths

FULL NAMES :

ABBOT MOKONE

DESIGNATION :

PRINCIPAL INSPECTOR

PLACE :

SUNNINSHILL

ADDRESS :

01 MAXWELL DRIVE ESKOM

BH

SIGNATURE OF DECLARANT

I certify that the deponent has acknowledged that he/she knows and understands that the content of this declaration which was sworn to affirmed before me and the deponent's signature/thumbprint/mark was placed thereon in my presence

BH — One

JUSTICE OF THE PEACE / COMMISSIONER OF OATHS
Designation(Rank) P.I. Ex Officio Republic of
South Africa

Security, Megawatt Park, Maxwell Drive, Sandton

Date: 22/02/19 Place: SUNNINSHILL

Brakfontein Claim

$$P = [(APH4 \times ZAR \cdot CLT) \times 0.77 \times Y / 23.0] \cdot CP$$

Month	APH4	Exchange Rate	Coal Line Tariff (CLT)	Yield Factor	Expected CV (AD)	CV Export Coal (AD)	Price of Contract Coal (CP)	Rpt	Shortfall Tons	Total Penalty	Total Ind VAT
Feb 18	97.31	11.88	165.64	0.77	21.10	23.00	326.63	372.66	7 296	2 719 026.41	
Mar 18	94.53	11.77	165.64	0.77	21.10	23.00	325.57	343.59	74 014	25 430 971.94	
Apr 18	91.40	11.81	172.93	0.77	21.10	23.00	340.98	299.55	104 000	31 153 122.99	
May 18	94.14	12.37	172.93	0.77	21.10	23.00	342.24	357.87	104 000	37 218 984.35	
June 18	102.29	12.48	172.93	0.77	21.10	23.00	344.14	435.50	104 000	45 292 131.37	
July 18	104.46	13.74	172.93	0.77	21.10	23.00	344.77	547.17	104 000	56 906 034.57	
Aug 18	107.89	13.16	172.93	0.77	21.10	23.00	344.56	536.17	104 000	55 761 405.26	
Sept 18	98.76	14.65	172.93	0.77	21.10	23.00	344.56	555.62	104 000	57 784 852.27	
Oct 18	98.25	14.16	172.93	0.77	21.10	23.00	347.52	512.94	104 000	53 945 607.48	
Nov 18	99.45	14.65	172.93	0.77	21.10	23.00	348.57	556.48	104 000	58 082 268.60	
Dec 18	92.39	13.71	172.93	0.77	21.10	23.00	345.20	427.71	90 400	38 565 427.93	531 432 308.16

Please note that the April 18 - Dec 18 GI rate applied does not include the annual escalation on the replacement indices (Mechanical Engineering Index, PPI Mining Machinery and Imported Rubber Index).

A.m

E.S

<https://direct.argusmedia.com>

API#4 Average Prices

Jan 18	97.31
Feb 18	94.58
March 18	91.40
April 18	94.14
May 18	102.29
June 18	104.46
July 18	107.89
Aug 18	98.76
Sep 18	98.25
Oct 18	99.45
Nov 18	92.39
Dec 18	95.84

"API#4 Price"

2.1.5

means the past month's average of API#4 index price of RB1 grade coal, Free on Board (FOB) Richards Bay and in US Dollars per ton as published by Argus/McCloskey;

A.m

E.S

http://www.statssa.gov.za/publications/P01421/Final_manufactured_goods.pdf?i=1528806786

Coal One Tariff (CLT)

Month	CLT	PPI % Change	Escalated CLT
April 15	148.00		
April 16		7%	158.36
April 17		4.6%	165.64
April 18		4.4%	172.93

Index numbers (December 2016=100) and percentage changes

Product=PPI for final manufactured goods - Final manufactured goods

Year and Type	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Average
2014 Index	84.7	86.1	87.2	88.1	88.2	88.6	89.0	89.3	89.0	89.2	89.2	89.1	88.1
2014 Rate	7.0	7.7	8.2	8.6	8.7	8.1	4.0	7.2	6.9	0.7	0.5	5.8	7.5
2015 Index	88.1	89.4	88.0	89.7	91.1	91.7	91.8	92.0	92.7	93.0	93.1	93.3	91.3
2015 Rate	3.6	2.8	3.1	2.0	2.5	3.7	3.3	3.4	3.6	4.2	4.3	4.8	3.6
2016 Index	94.8	95.6	96.3	97.1	97.4	97.9	98.1	98.5	98.3	98.1	97.9	100.0	97.8
2016 Rate	7.8	8.1	7.1	7.0	6.5	6.8	7.4	7.2	6.8	0.6	0.9	2.1	7.0
2017 Index	100.4	101.0	101.3	101.8	102.1	101.8	101.3	102.7	103.4	104.1	104.5	105.2	102.9
2017 Rate	5.9	5.5	5.2	4.8	4.8	4.0	3.6	4.2	5.2	5.0	5.1	5.2	4.8
2018 Index	105.5	105.2	105.0	104.1	102.8	107.8	108.5	-	-	-	-	-	-
2018 Rate	0.1	4.2	3.7	4.4	4.6	5.9	6.1	-	-	-	-	-	-

A.m

E.S

Annexure ES4

CP : Price of contract coal in Rpt assuming a CV of 21.10 air dried

Month	Rand per GJ	Expected CV (AD)	Rpt
Feb 18	15.48	21.10	326.63
Mar 18	15.43	21.10	325.57
Apr 18	16.16	21.10	340.98
May 18	16.22	21.10	342.24
June 18	16.31	21.10	344.14
Jul 18	16.34	21.10	344.77
Aug 18	16.33	21.10	344.56
Sep 18	16.33	21.10	344.56
Oct 18	16.47	21.10	347.52
Nov 18	16.52	21.10	348.57
Dec 18	16.36	21.10	345.20

A.m

E.S

Annexure ES5

Months	Minimum		Actual		Shortfall	
	Minimum Monthly Quantity GJs	Minimum Monthly Quantity Tons (80%)	Actual Deliveries GJs	Actual Deliveries Tons	Shortfall GJs	Shortfall Tons
Feb 18	1.612	80 000	1.465	72 704	0.147	7 296
Mar 18	2.096	104 000	0.604	29 986	1.491	74 014
Apr 18	2.096	104 000	-	-	2.096	104 000
May 18	2.096	104 000	-	-	2.096	104 000
June 18	2.096	104 000	-	-	2.096	104 000
Jul 18	2.096	104 000	-	-	2.096	104 000
Aug 18	2.096	104 000	-	-	2.096	104 000
Sep 18	2.096	104 000	-	-	2.096	104 000
Oct 18	2.096	104 000	-	-	2.096	104 000
Nov 18	2.096	104 000	-	-	2.096	104 000
Dec 18	1.822	90 400	-	-	1.822	90 400
Total	22.294	1 106 400	2.069	102 689	20.225	1 003 711

A.M

E.S

SUPPLEMENTARY AFFIDAVIT

I, THE UNDERSIGNED, **TSHWARO PETSO**

Hereby declare under oath as follows: -

1.

I am an adult male with ID 7005115870083. I am a Senior Geologist in the Technical Services Department. My work telephone number is 011 800 5675 and mobile phone number is 083 440 0103.

2.

My qualifications include a MSc degree in Geology which I obtained in 2017 at the University of Free State.

3.

This affidavit is made as a supplementary affidavit to my first affidavit I deposed to on 18 February 2019 (**Annexure TP1**).

4.

In my first affidavit I had attached a spreadsheet (**Annexure TP2**) indicating the lab results for the coal in respect of the Brakfontein CSA. The first column of the spreadsheet was however cut off. I reviewed the spreadsheet that I had originally attached to my affidavit that is identified in the bundle as BRAK-609 and agree to the fact that the first column is missing.

5.

Furthermore, the spreadsheet that is identified in the bundle as BRAK-963 (**Annexure TP3**) accurately reflects the information as it should have been attached in my original affidavit.

6.

Declaration by deponent regarding the taking of the oath:

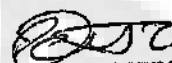
I know and understand the contents of this declaration.

I have no objection to taking the prescribed oath.

I consider the prescribed oath to be binding on my conscience.



Signature of Deponent



SIGNATURE OF DECLARANT

I certify that the deponent has acknowledged that he/she knows and understands that the content of this declaration which was sworn to affirmed before me and the deponent's signature/thumbprint/mark was placed therein in my presence

Makwena Phazopus Selepe

JUSTICE OF THE PEACE / COMMISSIONER OF OATHS
Designation(Rank) *ASS OFFICER*
South Africa

Security, Megawatt Park, Maxwell Drive, Sandton
Date: *2019/03/05* Place: *MWP*

CERTIFICATE BY COMMISSIONER OATHS:

It is hereby certified that the aforesaid affidavit was signed and sworn to in my presence at *11:20* h..... on this *05th* day of *FEB* 2019 at *Sunninghill*..... and the said deponent having confirmed and acknowledged: -

- (a) that he knows and understand the contents thereof;
- (b) that he confirms the truth thereof;
- (c) that he has no objection to taking the prescribed oath; and
- (d) that he regards the said oath as binding on his conscience.



Commissioner of Oaths

FULL NAMES :

Makwena Phazopus Selepe

DESIGNATION :

Assistant Officer

PLACE :

Megawatt Park

ADDRESS :

1 Maxwell Dr Sunninghill

Annexure TP1

AFFIDAVIT

I, THE UNDERSIGNED, TSHWARO PETSO

Hereby declare under oath as follows: -

1.

I am an adult male with ID 7005115870083. I am a Senior Geologist in the Technical services department. My work telephone number is 011 8005675 and mobile phone number is 0834400103

2.

My qualifications include MSc in Geology

3.

As part of my duties I provide technical support in terms of identifying risks that can impact on quantities and qualities and advising on potential mitigation. Prepare coal quality reports necessary for invoicing.

4.

The attached spreadsheet (**Annexure TP1**) shows a summary of the Brakfontein performance and contract labs. This spreadsheet was compiled from laboratory reports of the laboratories that were contracted to analyse contractual samples at the time. The spreadsheet indicates the following:

- Number of stockpiles analysed;
- The number of stockpiles that did not meet the minimum coal quality requirements;
- Coal quality parameters that failed to meet the quality specification;
- Number of stockpiles that failed and the results disputed by the Supplier; and

T.O.
T.D.

Annexure TP 1.1

- The spreadsheet accurately reflects the stockpile failure rates as certified by external labs up to October 2015, and thereafter by the internal Kendal lab commencing sometime in October 2015.

5.

Laboratory reports from April 2015 to September 2015 were obtained from colleagues, Nonhlanhla Msibi, Viloshnee Moodley and Siphelele Gobeni. Laboratory reports from end of September 2015 to February 2018 were obtained from the respective laboratories.

6.

Stockpile BFK21/09/2016 S/PA reported by the laboratory on the 24/09/2016 did not meet the Volatile matter requirement. The Volatile result was subsequently changed to reflect a volatile that meets the contractual requirement. Reasons and basis for this change were not presented to me. The results were issued by Thamsanqa Sibanda from Kendal laboratory and I do not know who compiled them. This is attached as *(Annexure TP 2-3)*.

7.

Majuba Power station was complaining about coal qualities realized at the Power station from the various sources it received. As Geologists looking after sources going into Majuba we were asked as to why this could be the case when pre-certification results suggest that the qualities are well within the contractual coal quality parameters. Brakfontein was one of the sources going to Majuba and as a Geologist looking after that source I was explaining why there might be a discrepancy between pre-certification qualities and actual qualities realized.

8.

Based on the email thread *(Annexure TP 4)*, my understanding was that Kendal laboratory had the sampling capacity and not the capacity to carry out the analysis.

Annexure TP 1.2


9.

Declaration by deponent regarding the taking of the oath:

I know and understand the contents of this declaration.

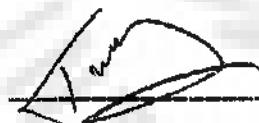
I have no objection to taking the prescribed oath.

I consider the prescribed oath to be binding on my conscience.


Signature of Deponent**CERTIFICATE BY COMMISSIONER OATHS:**

It is hereby certified that the aforesaid affidavit was signed and sworn to in my presence at 16 h 15 on this 18 day of February at Sunninghill and the said deponent having confirmed and acknowledged: -

- (a) that he knows and understand the contents thereof;
- (b) that he confirms the truth thereof;
- (c) that he has no objection to taking the prescribed oath; and
- (d) that he regards the said oath as binding on his conscience.


Commissioner of OathsFULL NAMES Thembaile Dorcas MziniDESIGNATION Senior inspectorPLACE SunninghillADDRESS NOT: Maxwell DR Estate
Megawatt Park
Sunninghill

SIGNATURE OF DECLARANT

I certify that the deponent has acknowledged that he/she knows and understands that the content of this declaration which was sworn to affirmed before me and the deponent's signature/thumbprint/mark was placed therein in my presence


JUSTICE OF THE PEACE/COMMISSIONER OF OATHS
 Designation (Rank) Senior Ex Officio Republic of South Africa Inspector

Security, Megawatt Park, Maxwell Drive, Sandton

 Date: 18/02/19 Place: Sunninghill

Page 3 of 3

 T.O
 T.D.

Annexure TP2

SGS	SGS & Sibonisiwe 24	Sibonisiwe	Sibonisiwe	Sibonisiwe	SABS	SABS	Oct-15	Oct-15	Nov-15	Dec-15	2016 to Feb-2016	SGS/Sibonisiwe/SABS	Kendal
Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	SABS	Oct-15	Oct-15	Nov-15	Dec-15	2016 to Feb-2016	SGS/Sibonisiwe/SABS	Kendal
17	18	27	38	41	32	17	10	28	13	344		190	395
3	1	3	5	15	13	4	2	2	2	7		44	13
18%	6%	11%	13%	37%	41%	24%						23%	3%
1-(CV)	0	0	0	4-(Ash, CV, TS)	3	6-(Ash, TS)	1	1				13	2
47831	78576	78022	108596	102687	190516	103421							
Ash, CV, TS	Ash	Ash, CV, TS	Ash, CV, TS	Ash, CV, TS, 50mm, 1mm									

+50mm

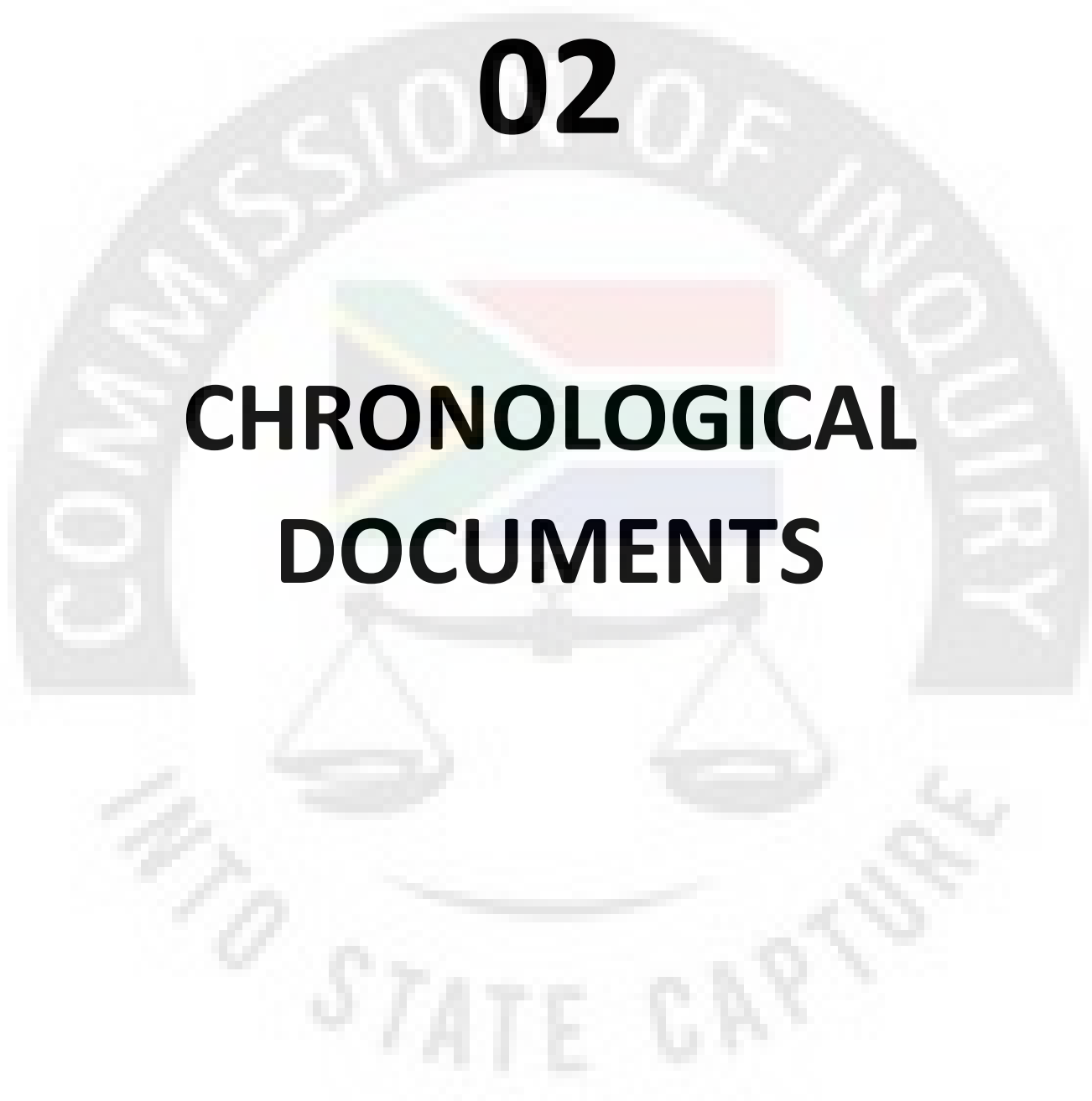
T.O
7.0

SSG	SSG & Specimen 24			Specimens			SSG5			Hospital Lab			Zentral Lab	
	Apr 15	May 15	Jun 15	Jul 15	Aug 15	Sept 15	Oct 15	Nov 15	Dec 15	Jan 15	Feb 15	Mar 15	Apr 15	May 15
17	15	27	38	41		32	17		10	28	15	344		
3	1	3	5	15		13	4		2	2	2	7		
18%	39%	11%	13%	37%		41%	24%					11		
1-4(1)	0	0	0	4 (Ash, CV, TS)		3	5- (Ash, TB)		1	1		28		
47630.14	778775.61	78822.16	108595.68	1026807.8302		1400116.3102	1734201.7502					13		
Ash, CV, TS	Ash	Ash, CV, TS	Ash, CV, TS, 50mm	Ash, CV, TS, 50mm		Ash, CV, TS, 50mm								

10.01

02

**CHRONOLOGICAL
DOCUMENTS**



STRICTLY CONFIDENTIAL



Revision 3 – November 2007
Annexure A

EXECUTIVE SUMMARY

SUBMISSION TO P-E-T-C
SUBMISSION TO EXCO-PS
SUBMISSION TO BOD-TC

12 AUGUST 2008
20 AUGUST 2008
11 SEPT 2008

1. TITLE OF THE SUBMISSION

To obtain a mandate to negotiate and conclude contracts on a medium term basis for the supply and delivery of coal to various Eskom power stations for the period October 2008 to March 2018.

2. RESOLUTION REQUIRED

The following resolution is requested:

IT IS RESOLVED THAT:

- 2.1 Approval be and is hereby given to negotiate and conclude contracts on a medium term basis for the supply and delivery of coal to various Eskom power stations for the period October 2008 to March 2018. Contracting period starting from October 2008 and includes the beneficiation of coal by supplier or their contractors.

The required volume of coal will be 490,8 MT.

The maximum value of the contracts will be R164 418 M (excluding CPA, VAT and Quality Price Adjustments) at real base rates of R335/T delivered (R18.21/GJ at an average CV of 18,4 MJ/kg, on an as-received basis) in 2008 money values.

- 2.2 The Chief Officer (Generation Business) is authorised herewith, with the power to delegate further, to take all the necessary steps to give effect to the above, including the signing of any agreements, consents or other documentation necessary or related therewith.

3. SUMMARY OF FACTS

3.1 Salient Facts

In terms of Corporate and Generation Directives "Procurement & Supply Chain Management Procedure (32-188)" and "Emergency Short Term Coal Sourcing Procedure GGP 1194", the Managing Director (Generation Division) declared an emergency at affected power stations on 08 January 2008.

At the time of declaring emergency, the total coal stock at the affected stations was below the acceptable minimum of 20 days with some stations below 5 days.

A mandate was therefore requested for the procurement and inter-station transfers of up to a maximum of 53,582 MT of coal for Eskom power stations over a minimum two year period, commencing February 2008, with an option to extend for a further period. Approval was granted by the Eskom Holdings Chairman on a round-robin basis in accordance with the recommendation of the Chief Officer (Generation Business), Financial Director and the Chief Executive.

In an effort to mitigate the occurrence of another emergency, the supply and demand for future coal supplies was assessed and a long term strategy developed. To ensure the sustainable supply of electricity, it was determined that a shortfall of coal exists when comparing the burn requirement to the existing and planned long term coal supply contracts. This shortfall must be addressed with medium term supplies.

This submission requests for a new mandate to enter into contracts for the supply of coal from October 2008 until March 2018, at a maximum tonnage of 490,8 MT.

3.2 Key assumptions

- Long term contracts will materialise as per plan
- Companies supplying coal through contracts concluded under the emergency mandate will perform as reported
- The quantities will be delivered as estimated for each contract

3.3 Financial implications

The total monetary value of the proposed coal contract and transport is R164 418 M (Real base) at a total combined tonnage of 490,8 MT at an average cost of R335/T delivered. The prices are based on current prevailing prices, current estimates and future estimated prices. The real and aspiration bases are shown on table 3.

3.4 Human Resource implications
None

3.5 Risks (including Environment, Legal or Contractual risks)

- Delays in suppliers obtaining mining permits,
- Delays in the acquisition of surface rights for mining purposes
- Rail transportation availability,
- Suppliers delivering to their undertaking
- Deteriorating road conditions

4. OTHER APPROVALS REQUIRED

None

SIGNED

BA Dames
CHIEF OFFICER
(GENERATION BUSINESS)

29/8/2008
DATE

Who hereby represents that the above
information is correct.

Submission prepared by: Della von Fickartz
Contact Number: 011 800 4840



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Revision 2 – November 2007
Annexure B

CHECKLIST 1

		N/A	Yes	No
1.	INTERNAL PROCESS			
1.1	BUSINESS PLAN Has the project/issue been included in the business plan?		✓	
1.2	BUDGET If financial approval is required, is the project/matter within the approved budget?		✓	
1.3	HUMAN RESOURCE IMPLICATIONS Does the project have any HR implications? (If yes, Information/explanation to be highlighted in documentation/presentation/attachment.)			✓
1.4	FINANCIAL EVALUATION - Has the project/issue undergone a financial evaluation? (Shenaz Naidoo) - Has the evaluation been verified? - Treasury report attached.		✓ ✓	
1.5	LEGAL/CONTRACTUAL ISSUES - Are there legal implications? Yes - Has Corporate legal department input been obtained? - If so, is the approval sought consistent with the legal input? Dave Davies supports this submission.		✓ ✓ ✓	
1.6	TAX IMPLICATIONS - Are there tax implications? - Has Corporate tax department input been obtained? - If so, is the approval sought consistent with the tax input? (Corporate Tax → Natasha Singh)		✓ ✓ ✓	
1.7	CAPITAL PROJECTS If the project is of a capital nature the checklist 2 (attached) for the evaluation of capital projects should be completed as well.	✓		
1.8	TECHNICAL EVALUATION	N/A	Yes	No

	<ul style="list-style-type: none"> - Has the project/issue undergone a technical evaluation? (If yes, by whom) M Mochubele, PE - Has the evaluation been verified? - By whom (internally or independent)? - JH Jordaan, PE - AA de Clercq, PE 		✓	✓
1.9	BLACK ECONOMIC EMPOWERMENT IMPLICATIONS			
	Does the project have any BEE implications?		✓	
1.10	EMPLOYMENT EQUITY			
	Was due consideration given to employment equity in terms of the following:			
	<ul style="list-style-type: none"> - Project team - Drafting of submission documentation - Individual(s) presenting to EXCO 		✓	✓
2.	ADDITIONAL APPROVALS			
2.1	NERSA			
	<ul style="list-style-type: none"> - Is NERSA approval/consultation required? - If approval or consultation is required, provide details and also highlight the time lines, deadlines, etc. 	✓		✓
2.2	PUBLIC FINANCE MANAGEMENT ACT (PFMA)			
	- Is any PFMA approval required?			✓
2.3	ARE THERE ANY OTHER APPROVALS REQUIRED? IN PARTICULAR			
	<ul style="list-style-type: none"> - Reserve Bank - Competition Commission - National Treasury 			✓

SIGNATURE:


BA Dames
CHIEF OFFICER
(GENERATION BUSINESS)

DATE:

29/8/2008

Who hereby confirms that all of the above requirements have been complied with.



**CHAIRPERSON
BOARD OF DIRECTORS TENDER COMMITTEE**

Date: 27 July 2008
Enquiries: Della Von Pickartz
+27 (011) 800-4840
Our Ref:

PRIMARY ENERGY DIVISION

TO OBTAIN A MANDATE TO NEGOTIATE AND CONCLUDE CONTRACTS ON A MEDIUM TERM BASIS FOR THE SUPPLY AND DELIVERY OF COAL SUPPLIES OF 490,8 MT TO MEET BURN REQUIREMENTS AT VARIOUS ESKOM POWER STATIONS FOR THE PERIOD : OCTOBER 2008 TO MARCH 2018.

TOTAL COMBINED MONETARY VALUE: R164 418 M

1. INTRODUCTION

After an emergency mandate granted by the Board of Directors in February 2008 to negotiate and conclude contracts with various suppliers for the emergency supply and delivery of 53,582 MT of coal to Eskom power stations for a period commencing February 2008 until March 2010, an assessment was done on the long term strategy of the anticipated coal burn requirement and the current contractual supply to assess the potential shortfall of coal required to ensure that the burn demand can be met.

This submission requests a mandate to conclude contracts for the supply and delivery of 490,8 MT of coal to Eskom various power stations to meet the shortfall and burn requirements from October 2008 to March 2018. Where contractual options to extend contracts with current suppliers exist, such options will be exercised depending on quality, price and the supplier's ability to supply.

The total combined monetary value of the proposed coal contracts (delivered) is R164 418 M (real base, excluding GPA, VAT, fuel price adjustment and quality price adjustments) for the period October 2008 to March 2018.

Primary Energy
Lobedu House 3 Simba road, Sunninghill, Sandton PO Box 1091 Johannesburg 2000 SA
Tel +27 11 800 8111 Fax +27 11 800 6566 www.eskom.co.za

Directors: RM Gadsell (Chairman) PJ Maroga (Chief Executive) LCZ Cele SD Dube LG Josefsson (Swedish)
HB Lee (Korean) WE Lucas-Elli PM Makwana E Marshall J Mirenge (Rwandan) JRD Modise AJ Morgan U Nene
B Ngwababa* (*Executive Director) Company Secretary: M Adam
Eskom Holdings Limited Reg No 2002/015527/06



2. SCOPE OF WORK

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In accordance with Eskom's Procurement & Supply Chain Management Procedure (32-188) a mandate is hereby requested to negotiate and conclude contracts for the purchase of coal on a short and medium term basis totaling 490,8 MT.

An assessment was done on the anticipated coal burn requirement and the current contractual supply to assess the potential shortfall of coal required to ensure that the burn demand at coal fired stations can be met. A shortfall exists between the required burn, current contracts and estimated new long term supplies.

2.1 Tonnage requirement

The maximum tonnage required to meet burn requirements during October 2008 to March 2018 is 490,8 MT. This was derived by comparing current coal sources, estimated new long term contracts and high burn as per ISEP 11 plans.

Refer table 1 for the quantities.

2.2 Transportation

Due to the length of the supply period it is endeavored that the transport solution, at the time, will be considered based on the available method of transport. In the event that rail capacity is available that would be the first choice of transport in an attempt to reduce road traffic.

With the current limited rail transport options available this mandate assumes road transport will be used.

Eskom would only negotiate delivered price contracts, where coal is transported by coal suppliers or their appointed transporters.

In the event that rail capacity is available that would be the first choice of transport in an attempt to reduce road traffic.

2. BACKGROUND

In terms of Corporate and Generation Directives "Procurement & Supply Chain Management Procedure (32-188)" and "Emergency Short Term Coal Sourcing Procedure GGP 1194", the Managing Director (Generation Division) declared an emergency at affected power stations on 09 January 2008. At the time of declaring emergency, the total coal stock at the affected stations was below the acceptable minimum of 20 days with some stations below 5 days.

A mandate was therefore requested for the procurement and inter-station transfers of up to a maximum of 53,582 MT of coal for Eskom power stations over a minimum two year period, commencing February 2008, with an option to extend for a further period.

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Approval was granted by the Eskom Holdings Chairman on a round-robin basis in accordance with the recommendation of the Chief Officer (Generation Business), Financial Director and the Chief Executive.

In order to mitigate risk and to prevent any such emergencies in future, a long term strategy was formulated to assess the impact of future supplies to Eskom. It is proposed that the mandate be approved to extend the short and medium term procurement. The major reasons for this recommendation are the following:

- **Security of supply**

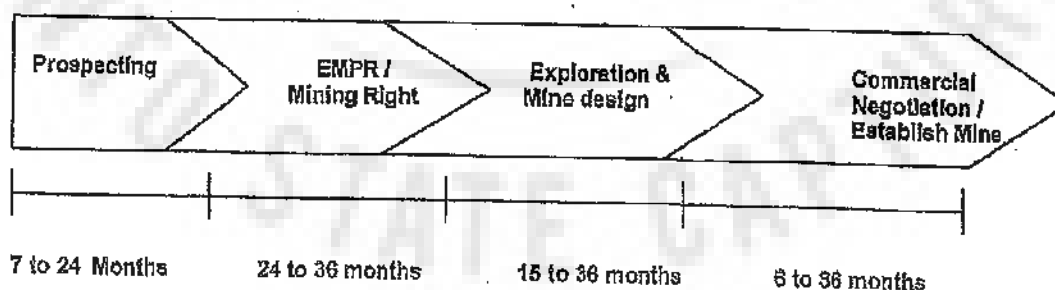
Historically, emergencies were declared in 2004 and 2006, and now in 2008. Whilst the emergencies may have been precipitated by varying factors, it is evident that an emergency existed every two year cycle over the past 5 years. One common reason in all these situations is that emergency contracts expire prior to the full implementation of an alternative supply solution. This suggests that while two year contracts are long enough to abate the effects of an emergency situation, they do not go far enough to prevent one from materialising shortly afterwards.

Thus in order to prevent future emergencies and to ensure security of supply it is recommended to enter into supply contracts that will ideally cover the current estimated shortfall volume of coal required until March 2018.

- **Long Term Strategy**

Current indications are that the time frame for negotiating a contract and the subsequent establishment of a mine for long term is in excess of 8 years. This is due to the complexity involved in structuring a high risk profile contract and the current rate of delays as experienced by the DME.

Apart from the lengthy negotiation period, it is experienced that the lead times to open mines have increased. The following illustrates the timelines for establishment of a mine.



Historical delays experienced with the DME vary between 440 to 1040 days which contributes to the lead period of mine establishment to a period of up to 8 years.

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Primary Energy division has developed a comprehensive long term coal supply strategy. The strategy addresses the burn requirements by entering into long term contracts. Long term contracts aim to deliver supply for a period from 15 years to 50 years. As part of the long term strategy, assumptions are used. Part of the strategy involves that targeted sources would be available to Eskom. However, this is only to be confirmed in future when the long term strategy is implemented and possible suppliers contacted. The process can therefore be affected by the fact that suppliers do not intend to supply Eskom, mining rights might be delayed and quality parameters of coal might be different from the current estimates.

Due to the timing constraints of the negotiating period and mine establishment, short to medium term procurement will have to be incurred to ensure that the burn requirements are met. Thus this request to enter into new contracts and / or to extend concluded contracts to March 2010 to maintain the acceptable stock pile days and the required burn rate to ensure sustainability of electricity supply.

Refer to graph 1 for an illustration of the current coal supply status and burn requirement. It also illustrates that the current projected supply will ensure burn is met until 2010.

- Risk

- Long term projects may experience delays;
- A competitive export market could lead to lower tonnage available for Eskom's use, as majority of coal could be exported;
- Mining houses may not be in the position to open up all the mines simultaneously, due resource constraints;

- Assumptions

In determining the tonnage requirement the following assumptions were used:

- The latest 5 year burn plan as at 8 February 2008
- ISEP 11 projections on burn used at a high burn rate
- Long term coal supply agreements currently being negotiated will materialize and yield the desired results for Eskom
- High burn requirements will be met, refer graph 2, indicating coal burn was consistently underestimated; resulting in delayed and emergency contracting
- Due to the nature of certain mining operations, some are designed such that they would have to function for a certain period to be economically feasible. To enable some suppliers to supply under the emergency conditions now, contract negotiations were conducted in the spirit of good faith on the express understanding that the team would seek approval for the extension of certain contacts from the mandating authority at a later stage. Therefore in certain cases these options will have to be exercised.

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This submission requests a mandate to conclude contracts for the supply and delivery of 490,8 MT of coal to Eskom various power stations commencing October 2008 up to March 2018.

4. OBJECTIVES OF THE MANDATE**4.1 Contract duration**

The duration of the contracts would accommodate for the supply of coal to meet the required burn for the period October 2008 to March 2018.

4.2 Quantities

The supply and delivery of up to a maximum of 490,8 MT of coal over the contract period. This includes the processing of coal to the desired quality specifications and inter power station transfers.

4.3 Escalation

For the purposes of price adjustment (escalation), the price base date would be August 2008, and for Diesel July 2008.

The prices would be escalated by appropriate escalation formulae based on published indices. This includes:

- Producer Price Index for Mining and Quarrying as published by Statistics South Africa,
- Producer Price Index, all commodities
- Seifsa labour tables
- Eskom "cost plus" index,
- Diesel prices as published by the DME, current estimates are that 35% to 45% of both FOT and transport components are subject to diesel fluctuations.

In the event that legislation changes are made, the most appropriate escalation formulae will be applied accordingly to accommodate these changes.

4.4 Terms and Conditions

The terms and conditions of the supply contract will be drafted by the Contracts Department within Primary Energy Division and reviewed by Corporate Legal Department.

The terms and conditions of the negotiated extension options in current contracts will lapse if not exercised on or before October 2008.

STRICTLY CONFIDENTIAL**4.5 BEE/SMME**

The Eskom BEE requirements and that of the Mining Charter will be taken into account when contracting with relative parties.

4.6 Coal Qualities

Coal would be supplied at the existing quality specifications for power stations, or at qualities specifically approved by the power station. Coal will also be beneficiated to the highest quality when required.

4.7 SARS Certificate and Employment Equity Documents

Updated employee equity documents and Tax Clearance Certificate(s) from the successful supplier(s) prior to conclusion of the contract will be requested.

4.8 Insurance

The coal suppliers would be required to make provision for their own insurance and this would be included in the coal price.

4.9 Transportation

Eskom would only negotiate delivered price contracts, where coal is transported by coal suppliers or their appointed transporters. Coal would be hauled in terms of the relevant coal transportation mandate. Currently approved by the BoD on 30 March 2006, and amended by the BoD on 30 March 2007. In the event that the transport mandate needs to be altered it would be presented to the BoD as and when required. Current estimation is that the mandate will be completed by March 2009 at the current rate.

Coal would also be transported by rail, where possible.

4.10 Parties to the contract

Negotiations would be held with the suppliers that have the ability to supply during the required period.

Eskom will not contract with traders of coal but only with the owners of a source or where valid contractual joint ventures between parties exist. This is done in an attempt to ensure that the mining right holders mine and rehabilitate the areas according to law, and that Eskom therefore contract with responsible parties. It is also aspired that broker fees that increase cost can be avoided.

5. COST COMPARISON ON A COMMON BASE

Current short to medium term contracts for the supply of coal to various Eskom power stations have been used for purposes of comparison. The proposed average rate is higher than the current average rate for medium term contracts. See Table 2 attached.

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The ex-pit head cost comparison was based on the following:

- The export price currently experienced during contracting in the emergency phase
- The current price of high grade coal available experienced during contracting in the emergency phase
- The current price of high strip opencast available
- The estimated price by long term strategy in a high mark up environment
- The estimated price by long term strategy in a low mark up environment
- Prices as estimated by Anglo for new sources for possible long term sources
- Prices on options available on current short term contracts experienced during contracting in the emergency phase, the emergency procurement process allowed for this.
- Prices on dumps and discard purchased for the emergency situation and not expected to be available as a source for future supply
- The current Medupi price as negotiated
- The estimated price as per the Khutala optimization study

Delivered prices are subject to transport distances, and an average of R85 was used for quantification as sources and distances have not been identified and finalised.

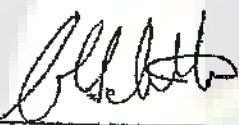
Medupi and Khutala do not have any transport components as coal will be transported by conveyor.

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RECOMMENDATION

In accordance with Eskom's Procurement & Supply Chain Management Procedure (32-188), it is recommended that a mandate be given:

- o To negotiate and conclude medium term coal supply and delivery contracts of 490,8 MT to meet coal burn requirements for the period October 2008 to March 2018.
- o The maximum value of the proposed contracts will be R164 418 M (real base, excluding CPA, VAT, fuel price adjustment and quality price adjustments).
- o The Chief Officer (Generation Business) is authorised, with the power to delegate further, to take all the necessary steps to give effect to the above, including the signing of any agreements, consents or other documentation necessary or related thereto.


CE Schutte
ACTING MANAGING DIRECTOR
(PRIMARY ENERGY)

GENERATION BUSINESS

STRICTLY CONFIDENTIAL

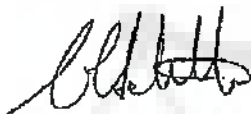
PRIMARY ENERGY DIVISION

A MANDATE IS REQUESTED TO:

NEGOTIATE AND CONCLUDE CONTRACTS ON A MEDIUM TERM BASIS FOR THE SUPPLY AND DELIVERY OF COAL SUPPLIES OF 490,8 MT TO MEET BURN REQUIREMENTS AT VARIOUS ESKOM POWER STATIONS FOR THE PERIOD OCTOBER 2008 TO MARCH 2018

TOTAL COMBINED MONETARY VALUE: R164 418 M

SUPPORTING SIGNATURE



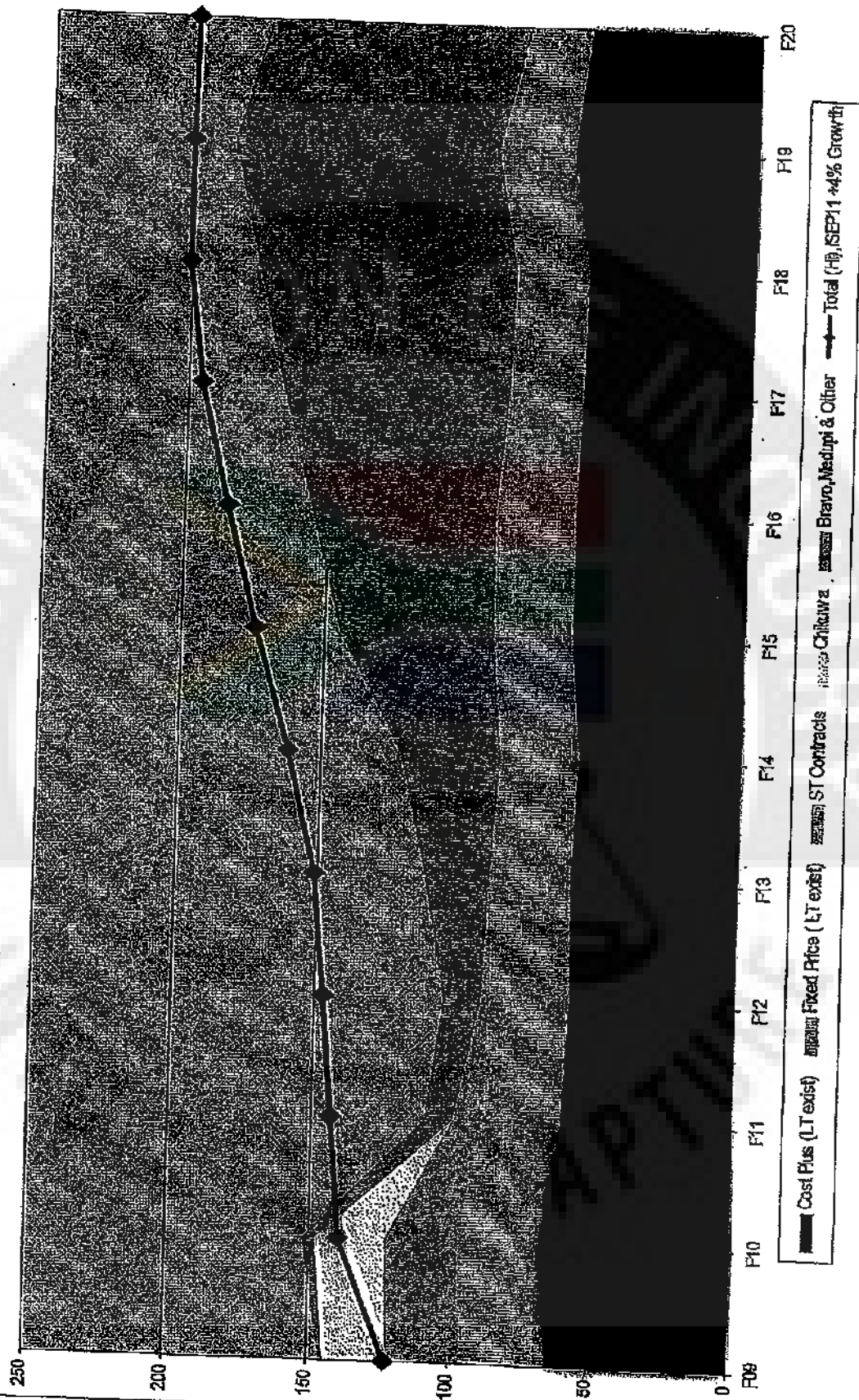
CE Schutte
CHAIRMAN – PRIMARY ENERGY DIVISION TENDER COMMITTEE

29/9/08
DATE

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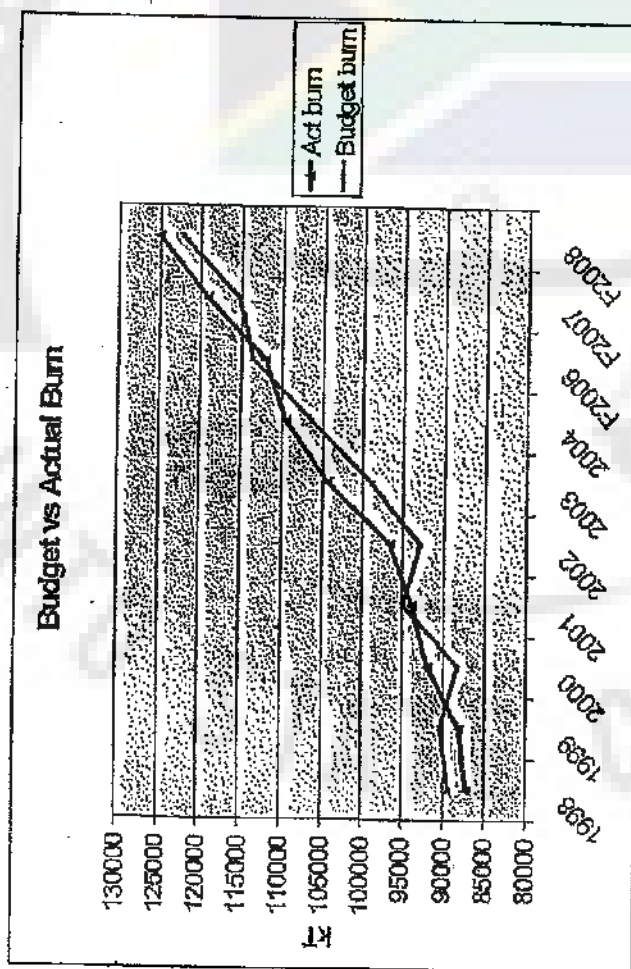
12

GRAPH 1: SHORTFALL WINDOW APR 2010 -- MAR 2018



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GRAPH 2: Current budget vs actual burn, indicating coal burn was consistently underestimated; resulting in delayed and emergency contracting



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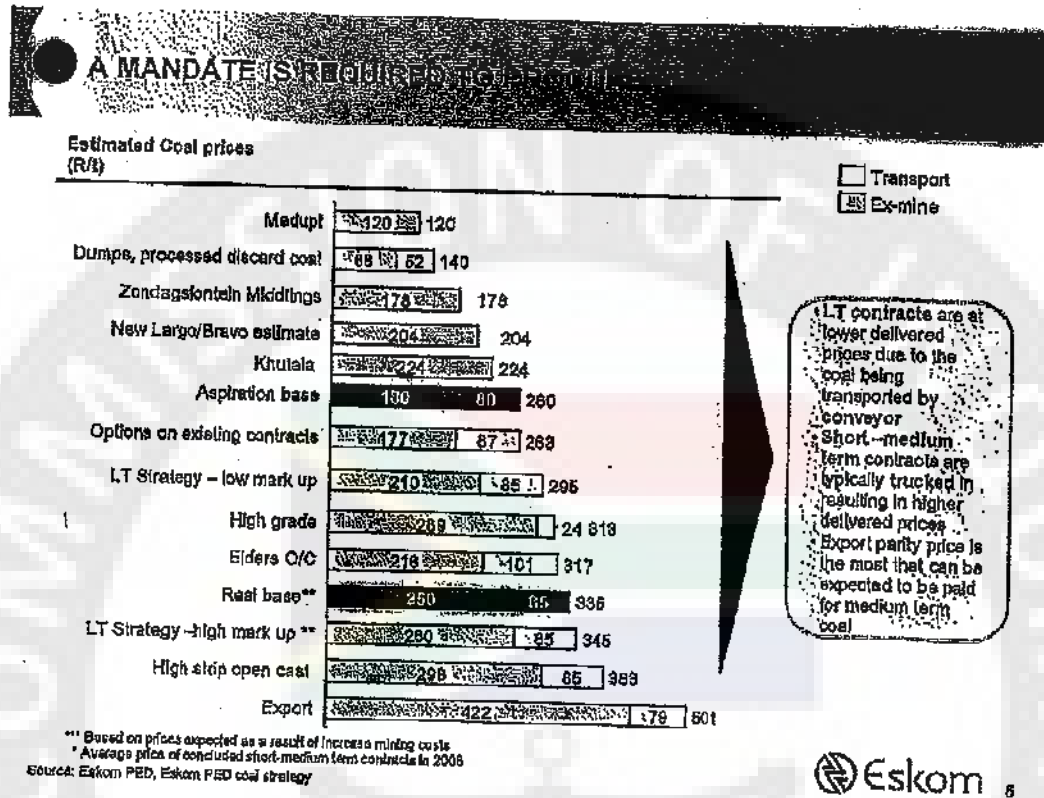
TABLE 1

Required supply for the period October 2008 to March 2018

	M tons per fiscal year									
	F08 - F10	F11	F12	F13	F14	F15	F16	F17	F18	Total
(a)										
High Burn requirement		143.3	146.8	151.2	162.1	174.5	185.0	195.4	201.1	1359.3
Coal supply		108.3	98.9	101.1	97.9	107.1	116.1	124.2	127.7	881.2
Short term contracts		10.2	2.8	0.6	0.0	0.0	0.0	0.0	0.0	13.7
Fixed price contracts		31.0	31.0	31.0	31.0	31.0	31.0	28.8	28.8	243.4
Cost - plus contracts		67.1	65.1	66.1	63.5	67.4	67.6	65.6	63.7	526.2
Potential low risk supplies		0.0	0.0	3.4	3.4	8.7	17.5	29.8	35.1	98.0
Short fall in supply		35.0	47.9	50.1	64.2	67.4	68.9	71.2	73.4	478.1
Coal not covered in emergency		7.3								7.3
Contingency - under performance of contracts		5.4								5.4
		12.7	35.0	47.9	50.1	64.2	67.4	68.9	71.2	490.8
Shortfall as % of high burn		24%	33%	33%	40%	39%	37%	36%	37%	35%

(a) Assume high burn is likely to be met, refer graph 3 indicating actual burn vs budgeted burn relationship
 (b) These stations were not accommodated in the emergency mandate as there was no emergency at the time

TABLE 2: DELIVERED PRICES (Estimated Coal prices (R/t))



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TABLE 3 : COST CALCULATION

		Real base	Aspiration base
Delivered price	R / ton	335.00	280.00
Maximum required tons	Mt	490.8	490.8
	R million	164 418	127 608
FOT Coal cost	R / ton	250.00	180.00
Maximum required tons	Mt	490.8	490.8
	R million	122 700	88 344
Transport	R / ton	85.00	80.00
Maximum required tons	Mt	490.8	490.8
	R million	41 718	39 264
TOTAL MANDATE			
- Delivered coal	R million	164 418	127 608
		164 418	127 608

ANNEXURE D

CHECKLIST 2

DIVISION: Generation

REGION/BU: Primary Energy

DESCRIPTION: A MANDATE TO NEGOTIATE AND CONCLUDE CONTRACTS FOR 490,8 MT OF COAL ON A SHORT AND MEDIUM TERM BASIS FOR THE PERIOD October 2008 TO MARCH 2018

	YES	NO
1. Was the correct purchasing mechanism followed?	Yes	
2. Were the most appropriate contract format, main and secondary options selected?		N/A Note 1
3. Where applicable, is the necessary Delegation of Consent form attached?		N/A
4. If tender mechanism selected: <ul style="list-style-type: none"> • Has the hierarchy of Procurement been followed? • How many Suppliers approached? • How many responses received? 		N/A
5. Is it a Sole supplier, i.e. requests for mandate to negotiate? <ul style="list-style-type: none"> • Is sufficient motivation provided on the Eskom Sole Source Justification Form? • Is this form attached? 		No N/A N/A
6. Were all responses/requests for a mandate evaluated? <ul style="list-style-type: none"> • Technically, by whom? • Financially, by whom? <ul style="list-style-type: none"> - Were the calculation sheets verified and, - Are they attached? • Commercially, by whom? • Has the financial analysis of the supplier been done? 		No No No No No No No Note 2
7. Did all respondents submit: <ul style="list-style-type: none"> • SARS certificates? • Employment Equity documents? 		N/A N/A Note 3
8. Was the enquiry clear on: <ul style="list-style-type: none"> • SMME/BEE involvement? • Criteria? 		

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<ul style="list-style-type: none"> • Set aside portion? • Price matching? 		N/A
9. List of Directors 9.1 Recommended Suppliers: <ul style="list-style-type: none"> • <u>BEE Representations</u> • Shareholding %..... • Management %..... • Directors %..... 9.2 Recommended BEE Subcontractors 9.3 Any apparent conflict of interest?	Yes	
10. Is the lowest price, technically, commercially and financially acceptable tender recommended? If not, brief reasons to be given in the report:- <ul style="list-style-type: none"> • Price • Technical • Commercial • Financial 		No
11. Is the purchase duly budgeted for?		N/A
12. Health and Safety Requirements Does the recommended supplier fully comply with: <ul style="list-style-type: none"> 12.1 The Occupational Health and Safety Act 85 of 1993 (as amended)?, 12.2 Eskom's Safety, Health and Environmental Requirements for Contractors?, and 12.3 Eskom's Safety Regulations? 		No
13. Shipping (Imported Goods/Costs) <ul style="list-style-type: none"> 13.1 Will this be arranged by the Supplier? or 13.2 Will this be arranged by the Eskom Generation Shipping Department? and 13.3 Is the cost shown separately in the Calculation Sheet (Attached to Report)? or 13.4 Is the cost shown separately in the report? 		N/A
14. Are Forex commitments properly addressed?		N/A
15. National Industrial Participation Programme <ul style="list-style-type: none"> 15.1 Does the contract value/expenditure with overseas companies (directly or indirectly) fall within the stated criteria? 15.2 If Yes, was the Department of Trade and Industry 		N/A

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informed?

All the above mentioned issues are adequately addressed in the report.

Note 1:

The NEC family of contracts is not suitable for coal purchasing. The contract documents will be prepared by the Contracts Section within GPE, and reviewed by Corporate Legal.

Note 2:

This work will be done on an ongoing basis once negotiations commence.

Note 3:

Tax Clearance Certificates and employment equity documents will be requested once negotiations commence.

Note 4:

This aspect will be dealt with during negotiations.

Signed by:



CE Schutte
ACTING MANAGING DIRECTOR
(PRIMARY ENERGY)



TO: THE MANAGING DIRECTOR
GENERATION DIVISION

Date: 18 August 2008

FROM: TREASURY FINANCIAL EVALUATIONS

Enquiries: S Ngcobo
(011) 800 4732
Reviewed by: G Molokoane

Date notified: 07/08/2008
Date received: 11/08/2008
Date completed: 18/08/2008
CONFIDENTIAL
FINANCIAL REVIEW
GENERATION DIVISION: PRIMARY ENERGY
SUPPLY AND DELIVERY OF COAL TO VARIOUS POWER STATIONS
REQUEST FOR A MANDATE

The Treasury Department was requested to review the financial aspects of the following, amongst others:

- A request for a mandate to negotiate and conclude contracts on a short term and medium term basis, for the supply and delivery of coal to various Eskom power stations to meet burn requirements during April 2010 until March 2018.
- Approval to make advance payments to the suppliers to the value of R500 M to enable them to increase their plant capacity, thereby enabling them to provide Eskom with the required quantities.
- Approval to make advance payments to the suppliers to the value of R200 M for refurbishment of certain wash plants.

BACKGROUND

Following an emergency of coal supply being declared at affected power stations in January 2008 and an approval to procure 53,582 MT of coal in February 2008, it was determined that a shortfall of coal still exists when comparing the burn requirements to the existing and planned long term contracts which must be addressed with the short and medium term supplies.

MANDATE

The negotiation parameters of the mandate are as follows:

Treasury
Megawatt Park, Maxwell Drive, Sunninghill, P.O. Box 6841, Johannesburg 2000, South Africa
Tel: +27 (0)11 800 8111 Fax: +27 (0)11 800 2308 Web Address: www.eskom.co.za/treasury

Directors: RM Gossell (Chairman) PJ Maroga (Chief Executive) LOZ Oele SD Dube LO Josselson (Swedish) HB Lee (Korean)
WE Lucas-Dill PM Mkwana E Marshall J Mrengwa (Rwandan) JRD Modise AJ Morgan U Nene B Ngwenyane* (*Executive Director)
Company Secretary: M Adani
Eskom Holdings Limited Reg No 2002/015627/06



The contracts value

The maximum tonnage required to meet burn requirements during April 2010 to March 2018 is 490.8 MT at a delivered real base of R338 / ton and an average CV of 18.4 MJ / kg, on an as received basis, in 2008 money values. The total delivered real base amount is R164,418 M with an aspiration base of R127,608 M (R260/ton).

The tonnage required is an estimate derived by comparing current coal sources, estimated new long term contracts and high burn as per ISEP 11 plans. The real base and the aspiration base rates were determined based on estimates and assumptions as decided by the Primary Energy Division in conjunction with Anglo and McKinsey consultants.

The R500 M and R200 M proposed advance payments to fund increase in plant capacity and refurbishment of wash plants respectively, will enable suppliers to provide Eskom with the increased quantities as well as high quality coal as required. These advance payments are pure estimates by the Primary Energy Division mining engineers.

The total combined monetary value of the proposed contracts is R166,118 M excluding CPA, VAT, fuel price adjustments and quality price adjustments.

Contract Price Adjustment

The base date for CPA purposes is August 2008. Prices will be adjusted based on specified Statistics South Africa, Eskom "cost plus", SEIFSA indices and diesel prices as published by the DME.

Terms and Conditions

The terms and conditions of the supply contract will be drafted by the Contracts Section within Primary Energy Department and reviewed by Corporate Legal Department.

Coal suppliers will be required to make provision for their own insurance and this will be included in their coal price.

COMMENTARY

The calculation of the real base and aspiration base amounts as well as the tonnages required was based on assumptions and estimates as determined by the Primary Energy mining engineers and long term planning division based on the existing contracts rates as well as the latest high burn per ISEP 11 plans.

We were informed that the proposed advance payments amounts of R500 M and R200 M are pure estimates made by the mining engineer, thus we cannot comment on the validity or the reasonableness of the values.

We have done a limited spot check of the calculations and obtained clarifications where necessary. We have also looked at the principles used to arrive at the negotiation parameters and we do not have any reason to doubt that the calculations are based on sound principles. However, we do not have the necessary expertise to comment on the reasonableness or the validity of these estimates, thus we rely on the work of the Primary Energy Division mining engineers and long term planning division in this regard.

We would also like to highlight our concern regarding the significant advance payments being made to suppliers, even though there's a plan to recover these amounts during the contract period, we believe that adequate guarantees should be obtained from these suppliers to ensure that Eskom is not exposed to unnecessary risks.

Transportation costs are included in the real base amount as the delivered price is negotiated with the suppliers, alternatively where the supplier is unable to deliver, coal will be delivered by Eskom appointed transporters in terms of the relevant coal transportation mandate approved by the BoD on 30 March 2006, and amended by the BoD on 30 March 2007.

CONCLUSION

Based on the information provided to us and the work described in this report, in our opinion, from a purely financial point of view, we have no reason to believe that the request for a mandate to negotiate and conclude contracts, with suitable suppliers, for the supply and delivery of coal to various power stations should not be approved, subject to the following provisos:

- Our reliance on the Primary Energy Division's expertise regarding the validity of the calculations and estimates provided to us by them.
- We cannot comment on the reasonableness or the validity of the proposed advance payments and would like to draw your attention to our concern regarding significant advance payments being made to suppliers with no performance guarantees from them to limit Eskom's exposure to financial loss risks.

Please do not hesitate to contact Sthembele Ngoobo at (011) 800-4732 if you have any queries or comments with regard to this review.


ESKOM TREASURY

18/08/2008
Date

MEDIUM TERM COAL PROCUREMENT MANDATE 2008 – 2018

PRESENTATION TO THE EXCO-PS
AUGUST 2008



 Eskom

KEY TOPICS FOR DISCUSSION

Shortfall in coal supplies

- ① Short term coal purchasing has increased significantly in the last four years
- ② Total cost of coal for Eskom has increased over the past years driven primarily by short term contracts
- ③ Significant medium term buying will be required until the long term strategy comes into effect, resulting in longer sustained supplies of coal

Increase in price of coal

- ① Higher prices of medium term coal is driven by increase risk due to exports and due to the transport cost for the coal
- ② PED would need a mandate to purchase coal for up to a weighted average cost of R335/t

 Eskom

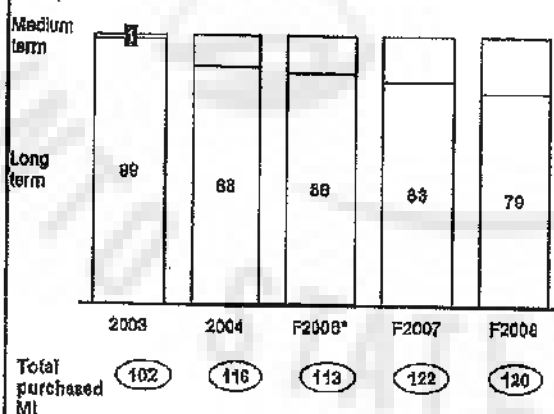
SETTING THE CONTEXT FOR ESKOM'S COAL SUPPLY SITUATION - COAL PURCHASES

- In FY2008, Eskom purchased 119.6 million tons of coal, for a total value of R12.24 Bn
 - Budget allowed for a purchase of 129.6 million tons (value of R13.3 Bn)
 - Actual burn was 125.3 million tons, above the budgeted burn of 122.1 million tons
- In FY2008, Eskom purchased from three types of contracts - in value terms, short term contracts represented 21% (although only 17% in tonnage terms), cost plus contracts and fixed price represented 79%

Eskom 2

MEDIUM TERM COAL PURCHASING HAS INCREASED SIGNIFICANTLY OVER THE LAST FOUR YEARS

Total coal purchased by Eskom
% of contracts

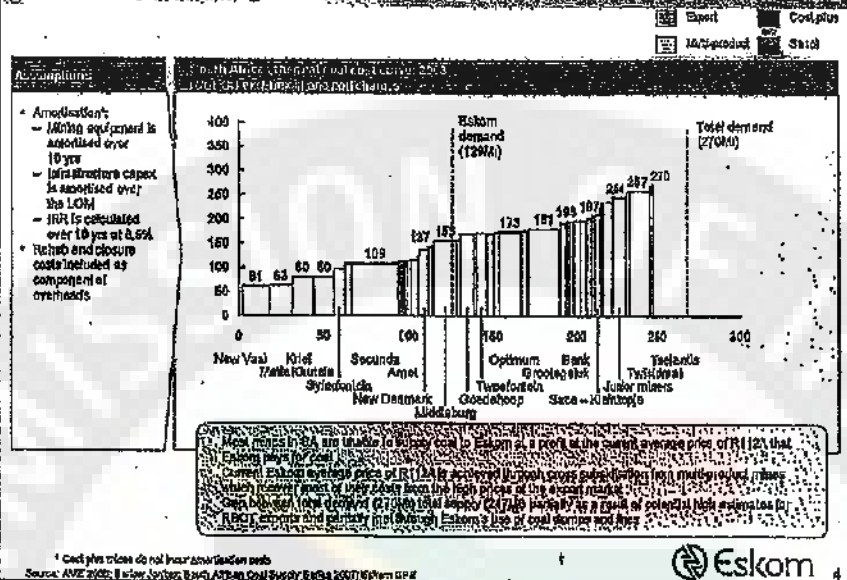


- Initial supply mainly from long-term contracts, which have been increased above contractual maximum
- Long term mines under-delivery has resulted in increased need for short term contracting
- The delay in new capacity had a knock on effect on coal purchases, when existing (swing) power stations had to burn more coal
- Higher than expected burn also resulted in planning for lower volumes than needed
- Short-medium term purchases have also increased due to other unplanned external events

* Reporting period changed in 2005 from calendar year Jan-Dec to the financial year April-March
Source: Eskom Primary Energy Division

Eskom 2

Most mines in SA are unable to supply coal to Eskom at a profit at the current average price of R112/t that Eskom pays for coal, according to the thermal coal cost curve



A MANDATE IS REQUIRED TO PROCURE COAL AT R335/t

Estimated Coal prices
(R/t)

Medupi	120	120
Dumps, processed discard coal	86	140
Zongedronlein Middlings	178	178
New Largo/Bravo estimate	204	204
Khuthale	224	224
Aspiration base	180	260
Options on existing contracts	177	263
LT Strategy - low mark up	210	265
High grade	269	313
Elders O/C	216	317
Real base**	230	335
LT Strategy - high mark up**	230	345
High strip open cast	298	353
Export	422	601

Transport
Ex-mine

• LT contracts are at lower delivered prices due to the coal being transported by conveyor
• Short-medium term contracts are typically trucked in resulting in higher delivered prices
• Export parity price is the most that can be expected to be paid for medium term coal

** Based on prices expected as a result of increasing mining costs
* Average price of concluded short-medium term contracts in 2003

Source: Eskom PED, Eskom PED coal strategy

Eskom

RESOLUTION REQUIRED

- To negotiate and conclude short and medium term coal supply and delivery contracts of 490,8 MT to meet coal burn requirements for the period OCT 2008 to March 2018
- The maximum value of the contracts will be R164 418 M (excluding CPA, VAT and Quality Price Adjustments) at real base rates of R336/T delivered (R18,20/GJ at an average CV of 18,4 MJ/kg, on an as-received basis) in 2008 money values.
- The Chief Officer (Generation Business) is authorised, with the power to delegate further, to take all the necessary steps to give effect to the above, including the signing of any agreements, consents or other documentation necessary or related thereto.

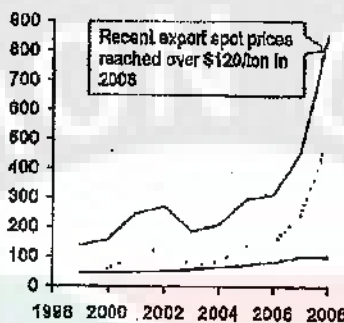
**BACK UP**

PRICE DIFFERENTIAL BETWEEN LOCAL AND EXPORT PRICES HAVE BEEN INCREASING STEADILY

Anomalies leading to current price disparity

- Australian port handling capacity not increasing as expected
- Adverse weather conditions leading to reduced output from Australian (Opencast) operations
- Temporary cap on exports from China
- Low production capacity in India resulting in high imports

Coal price
R/ton, year average, FOB RBOT
(Saleable tonnage)



Implications for Eskom

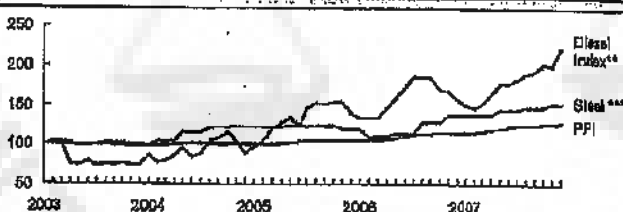
- The disparity between the local price and the export price for thermal coal incentivises the mines to export coal
- Current export prices allows for coal to be washed to lower yields and still be exported profitably
- The spot price has been a good indicator of the evolution of the long-term export price and hence the export parity price can be expected to be higher as the spot prices increase

* Excludes price including freight, port charges and royalties
Source: Primary Energy Division Price, Price Research Team Analysis

Eskom 10

KEY COMMODITIES THAT CONTRIBUTE TO THE COST OF COAL HAVE BEEN GOING UP SIGNIFICANTLY MORE THAN NORMAL INFLATION

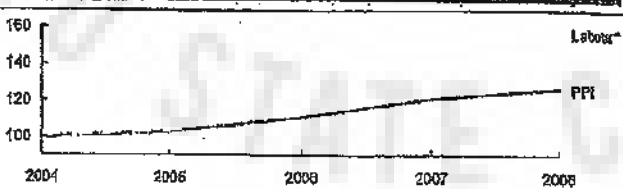
Estimated annual increase in key commodities contributing to the cost of coal (2003-2008)



Diesel = 3-8% of total mining cost

Steel = 15-20% of total mining cost

Estimated annual increase in labour costs contributing to the cost of coal (2004-2008)



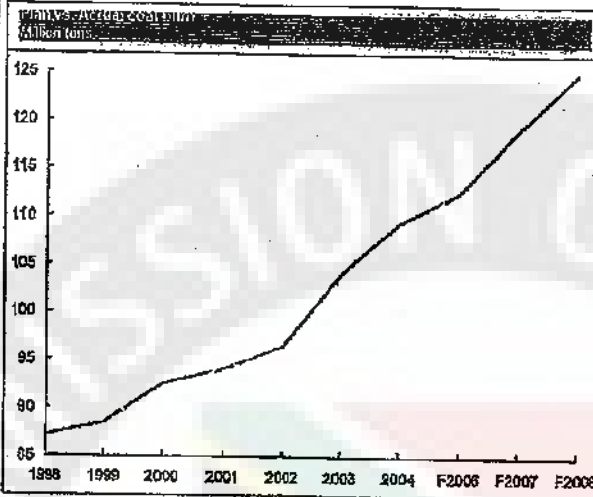
Labour = 48% of total mining cost

* Estimated using labour costs from Eskom cost-plus mines
** Calculated using the SA Diesel 0.05% supplier oil price

*** Calculated using the Bestco Iron and Steel prices
Source: Eskom Primary Energy Division, Price Research Team Analysis, Statistics South Africa

Eskom 11

ACTUAL COAL BURN HAS BEEN CONSISTENTLY UNDERESTIMATED



- Coal burn was consistently underestimated; resulting in delayed and emergency contracting
- More power stations now used as base-load stations
- Medupi and Tutuka used heavily as swing stations to:
 - Manage impact of external impacts such as Koeberg Incident
 - Manage the higher than expected demand growth
 - Manage planned and unplanned load losses at other power stations

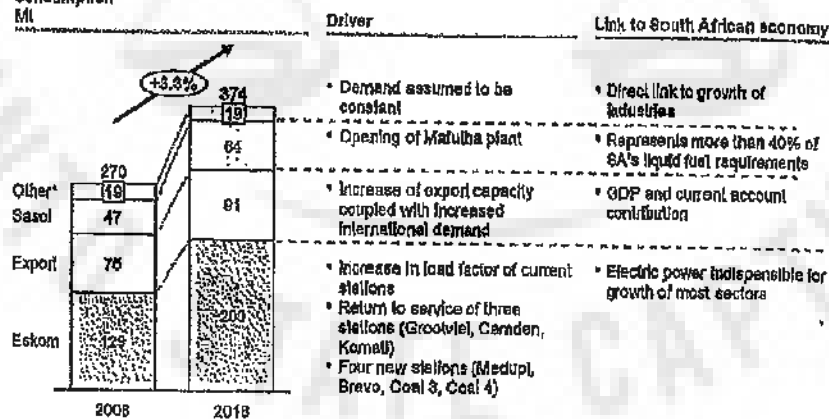
* 2006 figures assume just April 2004 to March 2007. Prior to 2003, figures are for calendar year. After 2003, figures are for financial years.
Source: Eskom Primary Energy Division; Team Analysis; Statistics South Africa

Eskom 12

GROWTH OF SOUTH AFRICAN ECONOMY IS LINKED TO SIGNIFICANT INCREASE OF COAL CONSUMPTION

South African thermal coal consumption
Mt

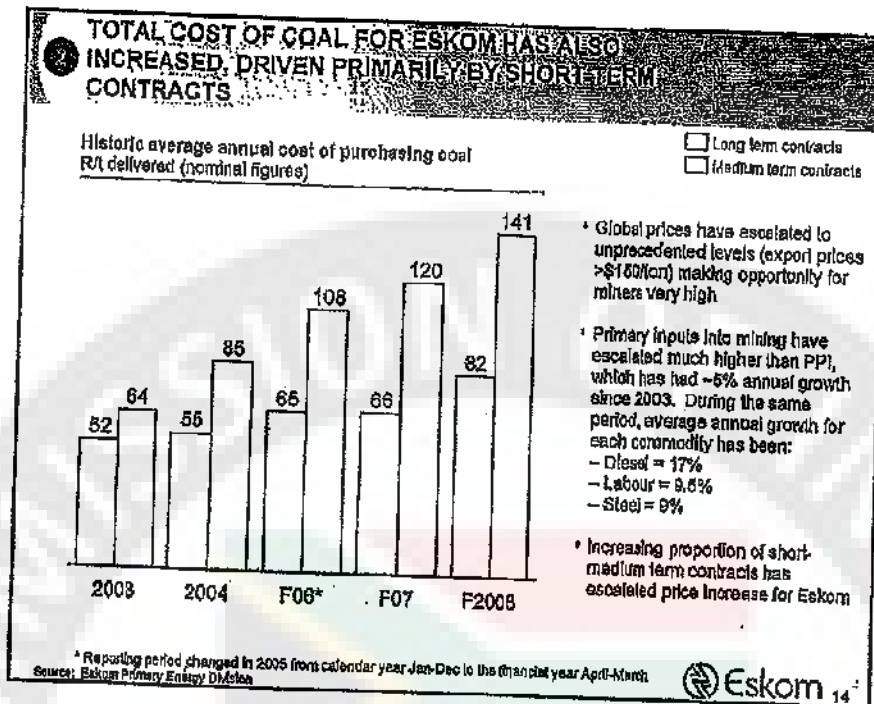
OAGR



* Other electricity producers (Eskom, steel industry (SAG), cement (SAG), mineral and chemical (SAG), other industries (SAG))

Source: Barloworld - South African Coal Statistics 2007; Eskom P&E; Eskom Media

Eskom 13





FOR COLLECTION

Date: 29 October 2009

To Whom It May Concern
Eskom Holdings Limited

Enquiries: N MSOMI

Dear Sir/Madam

EXTRACT OF MINUTES

The minutes of the BOARD TENDER meeting (5/2008-09) held on 11 September 2008:

"8.8 PRIMARY ENERGY DIVISION:

TO OBTAIN A MANDATE TO NEGOTIATE AND CONCLUDE CONTRACTS ON A MEDIUM TERM BASIS FOR THE SUPPLY AND DELIVERY OF COAL SUPPLIES OF 490.8 MT TO MEET BURN REQUIREMENTS AT VARIOUS ESKOM POWER STATIONS FOR THE PERIOD : OCTOBER 2008 TO MARCH 2018

Reference Document Item 8.8 (a) (b)

A submission, dated 29 August 2008, by the Chief Officer (Generation Business), was considered and discussed.

RESOLVED that:

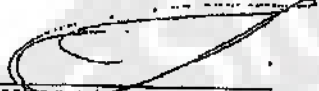
1. Approval was granted to negotiate and conclude contracts, on a medium term basis, for the supply and delivery of coal to various Eskom power stations for the period October 2008 to March 2018. The contracting period includes the beneficiation of coal by supplier or their contractors.

- The required volume of coal will be 490.8 million tons.
- The maximum value of the contracts will be R164 418 million (real base excluding CPA, VAT, fuel price and Quality Price Adjustments) at real base rates of R335/T delivered (R18.21/GJ at an average CV of 18.4 MJ/kg, on an as-received basis) in 2008 money values.

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Eskom Holdings Limited Reg No 2002/015627/08

2. The Chief Officer (Generation Business) be authorised, with the power to delegate further, to take all the necessary steps to give effect to the above, including the signing of any agreements, consents or other documentation necessary or related thereto.
3. That the results of the negotiations must be reported to the mandating authority."


N MSONI (Ms)
COMPANY SECRETARY





EXECUTIVE SUMMARY

SUBMISSION TO:

R300 M PED TENDER COMMITTEE ON 28 SEPT 2010

EXCO PROCUREMENT SUB-COMMITTEE ON 17 NOV 2010

BOARD OF DIRECTORS TENDER COMMITTEE ON JAN 2011

1. TITLE OF THE SUBMISSION

Interim feedback on negotiations and contracts concluded with suppliers for the supply and delivery of coal to various Eskom power stations for the period 1 October 2008 to 31 March 2018.

2. RESOLUTION REQUIRED

The following resolution is requested:

IT IS RESOLVED THAT:

The results of negotiations and contracts concluded with suppliers to date for the supply and delivery of coal to various Eskom power stations for the period 1 October 2008 to 31 March 2018 is supported by the Board of Directors Tender Committee (BoD-TC) and further additional resolutions are hereby approved by the BoD-TC:

- 2.1** The following results of negotiations and contracts concluded to date is hereby supported by the Board of Directors Tender Committee (BoD-TC).

2.1.1 The total quantity of coal contracted is 192.72 Million tons (Mt)

2.1.2 The weighted average price for coal contracted is R262.78 per ton (comprising a coal portion of R8.17 per GJ at a calorific value (CV) of 20.28 MJ/kg (As Received) and a transport portion of R97.32 per ton).

2.1.3 The total value of contracts concluded is R50 561 Million (see Table 3)

2.1.4 The Divisional Executive has taken all steps necessary to give effect to the above including the signing of contracts or all other documentation or consents related herewith.

The average delivered price is within the mandate approved by the BoD-TC; however the average transport price is outside the approved mandate.

2.2 The Divisional Executive is granted herewith, with the power to delegate further, the following contingencies to be executed by delegation consent forms (DCFs) :

2.2.1 To extend duration of individual contracts by not more than six months when necessary

2.2.2 To increase the value of individual contracts concluded by not more than 10% of the original value when necessary capped at R500 Million, and will not exceed the approved mandate parameters

2.2.3 To increase coal quantities contracted by not more than 10% of the maximum contracted quantity totaling 19 Million tons

2.2.4 To relax contractual coal qualities temporarily when necessary

2.3 The team negotiate and conclude contracts for the life of mines with suppliers that have coal resources that extend beyond the original mandate period of 31 March 2018 within the pricing parameters of the approved mandate and aligned with Eskom's long-term coal strategy

2.4 The team continues to negotiate and conclude contracts with suppliers that have contracts concluded before the new quality regime within prices determined by the "Coal Quality Effects Model" but not to exceed the parameters of the approved mandate

2.5 The Divisional Executive, Primary Energy Division (PED), be authorised, with the power to delegate further, to take all the necessary steps to give effect to the above including the signing of any

agreements, consents or other documentation necessary or related hereto

3. SUMMARY OF FACTS

3.1 Sallent Facts

At its meeting of 11 September 2008, the Board of Directors Tender Committee (BoD-TC) approved a mandate to negotiate and conclude contracts on a medium term basis for the supply and delivery of coal to various Eskom power stations for the period October 2008 to March 2018 and this included the beneficiation of coal by suppliers or their contractors.

3.1.1 The required quantity of coal was 490,8 Mt

3.1.2 The weighted average real base rate was R335 per ton (delivered) (R250 per ton FOT plus R85 per ton for transport) or R18.21 per GJ at an average calorific value (CV) of 18,4 MJ/kg, on an as-received basis (2008 money values).

3.1.3 The maximum value of contracts was R164 418 Million excluding CPA, VAT and quality price adjustments. (2008 money values)

3.1.4 The Chief Officer (Generation Business) was authorised, with the power to delegate further, to take all the necessary steps to give effect to the above, including the signing of any agreements, consents or other documentation necessary or related herewith

The following contingencies to be executed through delegation consent forms (DOFs) are required to facilitate the management of the Coal Supply and Off take agreements:

- The Divisional Executive or his delegated representative be authorised to extend contract durations by not more than six months where contractual coal quantities have not been delivered due to
 - Inclement weather

- Road and rail transportation constraints such as strikes, theft of cables,
 - Tippler problems at power stations.
 - Change in delivery points as requested by Eskom thereby resulting in lower volumes being delivered over the contractual period
- The Divisional Executive or his delegated representative to be authorised to increase the value of individual contracts by not more than 10% of the contractual value due to
 - Additional coal becoming available but at no more than contracted prices
 - Burn shifting from one power station to another due to reasons such as unplanned outages
 - Problems with other coal supply contracts
- The Divisional Executive or his delegated representative be authorised to increase coal quantities on individual contracts by not more than 10% of maximum contracted quantities due to
 - Additional coal becoming available but at no more than contracted R/t prices (excluding quality price adjustments)
 - Burn shifting from one power station to another due to a variety of reasons such as unplanned outages
 - Poorer qualities being supplied
 - Problems with other coal supply contracts
- The Divisional Executive or his delegated representative be authorised to relax contracted coal qualities temporarily when necessary due to
 - Mining conditions resulting in poorer qualities being mined temporarily
 - Inclement weather resulting to higher than expected moisture content
- Negotiate and conclude contracts with suppliers that have resources that extend beyond the mandate period ending March 31, 2018

- During the negotiations it became apparent that some suppliers have resources that extend beyond 2018 and that it will be economically beneficial to Eskom contract for the life of mine.
- Negotiate and conclude contracts with suppliers that have contracts concluded before the new quality regime within prices determined by the "Coal Quality Effects Model".
 - PED has developed a model that draws a relationship between coal qualities and power station operations and maintenance. This relationship points to the price limits to be paid for improvements to coal quality that will reduce the total cost of ownership to Eskom.

3.2 KEY ASSUMPTIONS

- 3.2.1 Long term contract will materialise as per plan
- 3.2.2 Companies supplying coal through contracts concluded will ramp up to the expected quantities as agreed
- 3.2.3 The quantities will be delivered as estimated for each contract

3.3 Financial Implications

The total value of contracts concluded to date is R50 561 Million

	Mandate		MTS Target	*Actual
	2008	2010	2010	2010
Tonnages	490.8 Mt	n/a	188 Mt	192.72 Mt
CV AR (M/kg)	18.40	n/a	n/a	20.28
FOT (R/GJ)	R13.59	R14.62	< R9.00	R8.17
DEL (R/GJ)	R18.21	n/a	n/a	n/a
FOT (R/ton)	R250.00	R268.95	R187.96	R165.47
Transport (R/ton)	R85.00	R87.44^	R79.51	R97.32
DEL (R/ton)	R335.00	R356.28	R267.47	R262.78

TABLE 1: COMPARISON OF ACTUAL AND MANDATE VALUES

3.4 Human Resource implications

Kiren Maharaj (Senior General Manager, Production Unit 2) was Project Leader for the sourcing process. Kiren was supported by a core team:

- o Sagie Chetty Commercial Manager PED
- o Denis Hegarty P&SCM Corporate Consultant,
- o Melody McCurrach P&SCM Commodity Manager
- o Vuylsile Ncube P&SCM Commodity Manager
- o Kwanele Mthembu Buying, team leader Commercial PED
- o Erika Du Plessis Business Analyst P&SCM
- o Chelna Nana Corporate Finance
- o Shenaaz Naidoo, Finance PED
- o Sunjay Andhee Technical Services PED,
- o Sibusiso Kumalo Contracts PED
- o Marumo Lekota Contracts PED
- o Louis Gumbi Contract PED
- o Preshnee Moodley Corporate Legal
- o Judy Carpenter Documentation Control PED
- o Thabani Mashego Commercial PED
- o Kebone Skosana Commercial PED
- o Andre Riekstins Business Development P&SCM

3.5 Risks (including Environment, Legal or Contractual risks)

- Signing of Coal Supply and Off-Take agreements taking longer than anticipated.
- Some suppliers do not yet have their new order mining rights
- Some suppliers do not possess new Integrated Water Use Licenses (IWULA).
- Some medium term suppliers fail to perform
- Road and road transport contracts underperforming
- Lack of contract management skills

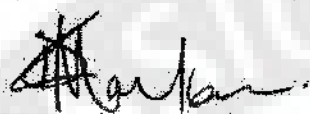
3.6 Verification by independent party (if applicable)

None

4. **OTHER APPROVALS REQUIRED**

N/A

SIGNED



21/10/2010

Date

DAN MAROKANE
CHIEF COMMERCIAL OFFICER

Who hereby represents that the above
Information is correct.

Submission prepared by: S.Chetty
Contact Number: (011) 800 - 6148

STRICTLY CONFIDENTIAL**STRICTLY CONFIDENTIAL****Revision 2 – November 2007****Annexure B****CHECKLIST 1**

INTERIM FEEDBACK ON NEGOTIATIONS AND CONTRACTS CONCLUDED WITH SUPPLIERS, FOR THE SUPPLY AND DELIVERY OF COAL TO VARIOUS ESKOM POWER STATIONS FOR THE PERIOD 1 OCTOBER 2008 TO 31 MARCH 2018.

1. INTERNAL PROCESS**1.1 BUSINESS PLAN**

Has the project/issue been included in the business plan?

1.2 BUDGET

If financial approval is required, is the project/matter within the approved budget?

1.3 HUMAN RESOURCE IMPLICATIONS

Does the project have any HR implications?

1.4 FINANCIAL EVALUATION

- Has the project/issue undergone a financial evaluation? (by Shenaaz Naidoo – PED Finance)
- Has the evaluation been verified?

By whom (internally or independent)? Chetna Nana of Corporate Finance

1.5 LEGAL/CONTRACTUAL ISSUES

- Are there legal implications?

N/A	Yes	No
	✓	
	✓	
	✓	
	✓	
	✓	

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- *Marumo Lekoto of PED Contracts Department and Preshnee Moodley of Corporate Legal have been involved throughout the process.*
- Has Corporate Legal Department Input been obtained?
- If so, is the approval sought consistent with the legal input?

1.6 TAX IMPLICATIONS

- Are there tax implications?
- Has Corporate tax department input been obtained?
- If so, is the approval sought consistent with the tax input? *A tax review has been obtained.*

1.7 CAPITAL PROJECTS

If the project is of a capital nature the checklist 2 (attached) for the evaluation of capital projects should be completed as well. *No capital is required for this contract.*

1.8 TECHNICAL EVALUATION

- Has the project/issue undergone a technical evaluation? (If yes, by whom)

Yes, Sunjay Andhee of PED Technical Services

- Has the evaluation been verified? Yes

By whom (Internally or Independent)? *Tony Cumming*

1.9 BLACK ECONOMIC EMPOWERMENT IMPLICATIONS

Does the project have any BEE implications?

1.10 EMPLOYMENT EQUITY

Was due consideration given to employment equity in terms of the following:

- Project team
- Drafting of submission documentation

	✓	
	✓	
	✓	
	✓	
	✓	
N/A	Yes	No
		✓
	✓	
	✓	
	✓	

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- Individual(s) presenting to EXCO

2. ADDITIONAL APPROVALS**2.1 NERSA**

- Is NERSA approval/consultation required?

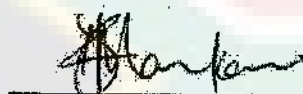
2.2 PUBLIC FINANCE MANAGEMENT ACT (PFMA)

- Is any PFMA approval required?

**2.3 ARE THERE ANY OTHER APPROVALS REQUIRED?
IN PARTICULAR**

- Reserve Bank
- Competition Commission
- National Treasury

	✓	
		✓
		✓
		✓
		✓
		✓
		✓
		✓

SIGNATURE:


21/10/2016

Date**DAN MAROKANE****CHIEF COMMERCIAL OFFICER**

Who hereby confirms that all of the above requirements have been complied with.

	MINUTES OF THE ESKOM HOLDINGS BOARD TENDER COMMITTEE	Unique Identifier	221-209
		Document Type	CCGTE
		Revision	0
		Effective Date	November 2008
		Regulation & Governance	

MINUTES OF A SPECIAL BOARD TENDER COMMITTEE MEETING 9/2010-11 HELD ON FRIDAY, 3 DECEMBER 2010 FROM 09:00 IN THE HUVU NKULU BOARD ROOM, EXECUTIVE FLOOR, MEGAWATT PARK

STRICTLY CONFIDENTIAL

PRESENT: MEMBERS

Ms LCZ Cele	Chairman
Mr D Dube	Member (via telephone)
Mr MJ Husain	Member

OFFICIALS

Dr SJ Lennon	Chairman EXCOPS
Mr D Marokane	Group Commercial
Mr V Nemukula	Group Commercial (co-ordinator)

APOLOGIES

Dr B Mehlomakulu	Member
Mr P O'Flaherty	Member

IN ATTENDANCE

Ms B Mbomvu	Company Secretary
Ms N Kambule	Committee Secretary

1. OPENING AND WELCOME

The Chairman, Ms Cele, opened the meeting and welcomed all those present. She also thanked the Committee for availing themselves for this special meeting.

2. APOLOGIES

The apologies as indicated above were noted.

3. QUORUM

With a quorum of members present, the Chairman declared the meeting duly constituted.

4. DECLARATION OF INTERESTS

Members declared that they did not have a conflict of interest on the matters to be discussed.

5. SAFETY/EVACUATION

The Secretariat explained the safety procedure and the emergency evacuation route in the event of an emergency.

6. CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

Since this was a special meeting, no minutes were tabled.

7. ACTION LIST

	MINUTES OF THE ESKOM HOLDINGS BOARD TENDER COMMITTEE	Unique Identifier	221-209
		Document Type	CCGTE
		Revision	0
		Effective Date	November 2008
		Regulation & Governance	

Since this was a special meeting, no action list was tabled.

8. OUTSTANDING LIST

Since this was a special meeting, no outstanding list was tabled.

9. MATTERS FOR APPROVAL BY BOARD TENDER COMMITTEE

9.1 GROUP COMMERCIAL DIVISION

MANDATE FOR THE RENEGOTIATION OF THE MATLA AND KRIEL COAL SUPPLY AGREEMENTS TO ENABLE RESOURCE SWAP BETWEEN EXXARO COAL (PTY) LTD AND ANGLO INYOSI (PTY) LTD

Reference Document: Kriel-Matla Swap

A submission, dated 23 November 2010, signed by the Chief Commercial Officer, Group Commercial, was considered and discussed.

Messrs T. Sebola, R. Anderson, W. Needham and J. Bester joined the meeting to facilitate the discussion.

Matters of note were:

- It was pointed out that the Kriel and Matla collieries were adjacent to each other and in the interest of optimising the mining plan and increasing the reserves; it had become necessary to swap a portion of the mine areas.
- It was mentioned that the submission was to cater for the swap taking into account that each colliery has a separate agreement.
- In response to a question, the Committee was informed that the consumption of more coal than stipulated on the agreement had been as a result of the stretching of the power stations performance. The Committee was also reminded that the contracts were a take or pay cost plus mine. If the coal had not been available to cater for the maximum electricity generation, Eskom would have had to truck in the additional coal required.
- It was confirmed that the swap would result in a saving of R180 million for Eskom in interest fees.
- It was further clarified that the collieries would be applying for approval from the Minister for the swap of the portions of the mines once Eskom has signed the agreements.
- In response to a question, the Committee was informed that the approval could be secured within thirty days because the collieries already had mining rights.
- It was requested that the Committee ratify the swapping of other contracts due to PED not realising that the swap should have been approved at Board Tender level as the previous contract had been approved by Board Tender. The Committee accepted the apology for not adhering to the correct approval protocol.
- The Committee was assured that changes to the existing contracts should be tabled to the mandating authority. The Committee urged that the team should seek legal opinion from the Legal Department whenever the team was in doubt.

Resolved that, subject to the collieries securing a Ministerial approval as required by Section 102 of the Mineral and Petroleum Resources Development Act:

	MINUTES OF THE ESKOM HOLDINGS BOARD TENDER COMMITTEE	Unique Identifier	221-209
		Document Type	CCGTE
		Revision	0
		Effective Date	November 2008
		Regulation & Governance	

1. approval is granted for Exxaro and AIC to enter into the contemplated resource swap agreements to enable AIC to continue underground operations at Kriel North Western Shaft.
2. approval is granted to negotiate and conclude amendments to the existing CSAs held with Exxaro and AIC to modify the contractual mining areas as described in the mining rights in order to give effect to the resource swap.
3. approval is granted to negotiate and conclude an agreement for the payment of royalty on a Rand per Ton basis to Exxaro for ceding part of its mining area to AIC within the following financial parameters:
 - a. aspiration base – R8.37 per ton (2010 money values excluding VAT at a total contract value of approximately R33.5 million)
 - b. real base – R12.62 per ton (2010 money values excluding VAT at a total contract value of approximately R50.5 million)
4. that ratification is granted in respect of permission given by PED for the conclusion of a similar initial reserve swap agreement between Exxaro and AIC during November 2009 for a total of 4.5Mt of coal.
5. the Chief Commercial Officer, Group Commercial, is authorised with the power to delegate further, to take all the necessary steps to give effect to the above, including the signing of any agreements, consents or other documentation necessary or related thereto.
6. a feedback report on the results of the ministerial application be submitted.
7. results of the negotiations be tabled at a future meeting.

9.2 GROUP COMMERCIAL DIVISION

INTERIM FEEDBACK ON NEGOTIATIONS AND CONTRACTS CONCLUDED WITH SUPPLIERS FOR THE SUPPLY AND DELIVERY OF COAL TO VARIOUS ESKOM POWER STATIONS FOR THE PERIOD 1 OCTOBER 2008 TO 31 MARCH 2018

Reference Document: Audit Report MTCS

A submission, dated 11 November 2010, signed by the Chief Commercial Officer, Group Commercial Division, was considered and discussed.

Mr S. Chetty accompanied by Ms P. Mfete from Compliance and Gobodo auditors represented by Messrs B. Cinnamon and S. Mkhawane joined the meeting to facilitate the discussion.

Audit finding:

The overall audit finding was that the procurement process was fair, transparent and open.

Matters of note:

- The Committee was informed that the team had identified two risks arising from the conclusion of the contracts namely, the time it took to sign contracts and the water use licences.

	MINUTES OF THE ESKOM HOLDINGS BOARD TENDER COMMITTEE	Unique Identifier	221-209
		Document Type	CCGTE
		Revision	0
		Effective Date	November 2008
		Regulation & Governance	

- It was pointed out that there could be a coal shortage in the Waterberg area and it was recommended that the time was right to engage new coal suppliers. This would enable Eskom to develop a relationship with new suppliers and to improve competitiveness and advance junior BBBEE suppliers. The Committee highlighted that the introduction of new and junior suppliers should not be to the detriment of Eskom.
- In response to a question, the Committee was assured that where there has been an extension of the life of a power station, these did not necessarily tie in with the life of the mine supplying the life-extended power station.
- The Committee was informed that there were two options either to give Exxaro the balance of the required coal (their coal cost was reportedly low) or to introduce new suppliers. However, the risk for Eskom as a business might result in a need to truck in coal to the Witbank area.
- The Committee was assured that the new contracting principles would be used including:
 - o legislative compliance,
 - o coal quantities (however these would also cater for flexibility to accommodate changes on Eskom's burn plan),
 - o coal qualities which would be pre-certified by an independent laboratory that the coal pile meets Eskom quality standard,
 - o pricing would be approached on an efficient cost plus fair return basis,
 - o contract price adjustment – has a basket of indicators that flag the actual mining operations of which 10% of the pricing would remain fixed, and
 - o logistics – this would be used to ensure that the best transport option to Eskom would be used including conveyor and rail.
- The Committee was informed that the team had achieved a rate of R262/ton however, the team over spent the transport component which could be as a result of where the coal was sourced from. However, the overall cost achieved was within the mandate in terms of the rand per ton.
- It was reported that 50% of the coal contracts had been signed. The standard contracts introduced had necessitated that the suppliers' lawyers go through the contracts comprehensively. The Committee requested that the risk of unsigned contracts be minimised as soon as possible. The Committee was assured that in the absence of a signed contract, the team had to utilise a Summary Record of Negotiations which clearly indicates the commercial arrangement, qualities and mode of transport. The limitation would be the inability to apply the penalties that would be introduced in the new agreements.
- It was recommended that a specific window period be allowed for the negotiations and signing of the new coal contracts, however, it should be stipulated that at the end of the window period the contract would be deemed to be effective.
- It was reported that some suppliers were reluctant to commit to the quality of coal that Eskom requires.
- The water use licenses were pointed out as a risk. It was also mentioned that 85% of the suppliers did not have the required water use licence. The team undertook to monitor the progress on the acquisition of the water use licence. To mitigate the inherent risk in case the supplier did not secure the water use licence, Eskom does have an exit clause in the contract.
- The latitude requested would be to ensure that the Divisional Executive could exercise some flexibility in the quantity and quality of the coal to mitigate volume requirements and to allow for weather conditions, e.g. moisture in winter amongst others. The extension of the contract would be to allow for the supplier to deliver the contracted

	MINUTES OF THE ESKOM HOLDINGS BOARD TENDER COMMITTEE	Unique Identifier	221-209
		Document Type	CCGTE
		Revision	0
		Effective Date	November 2008
		Regulation & Governance	

tonnage beyond the expiry date of the contract. This would be for suppliers who might have failed to deliver the contracted tonnage within the duration of the contract.

- In response to a question, the Committee was informed that the value increase would be to take additional tonnage.
- The Committee was assured that the quality of coal would be within a 10% range taking into account the risks to the power station equipment and ensuring that the power station would never be placed in a distressed position. The relaxation would be done in consultation with the DE Generation. It was agreed that the team should supply a Checklist of the processes to be followed for the relaxation.

Resolved that:

1. The Committee notes the following results of negotiations and contracts concluded to date which are within the mandate approved:
 - 1.1 The total quantity of coal contracted is 192.72 Mt;
 - 1.2 The weighted average price for coal contracted is R262.78/t (R8.17 GJ at a calorific value (CV) of 20.28 MJ/kg (as received) and a transport portion of R97.32/t);
 - 1.3 The total value of contracts concluded is R50 561 million;
 - 1.4 The Divisional Executive has taken all steps necessary to give effect to the above including the signing of contracts or all other documentation or consents related thereto; and
 - 1.5 The Committee ratifies the transport component (R/t) which is not within the approved mandate.
2. The Divisional Executive is granted the power to delegate further, the following contingencies to be executed by means of delegation consent forms (DCFs) for contracts already agreed:
 - 2.1 extend duration of individual contracts by not more than six months when necessary;
 - 2.2 increase the value of individual contracts concluded by not more than 10% of the original contract value capped at R500 million, and will not exceed the overall approved mandate;
 - 2.3 increase coal quantities contracted by not more than 10% of the maximum contracted quantity totaling 19 Mt, and
 - 2.4 relax contractual coal qualities temporarily when necessary without compromising plant performance or integrity and in consultation with the DE Generation.
- 3 Approval is granted to negotiate and conclude contracts with suppliers for the life of mines that have resources that extend beyond the original mandate period ending 31 March 2018 within the pricing parameters of the approved mandate and Eskom's long-term coal strategy;
- 4 Approval is granted to continue to negotiate and conclude contracts with suppliers that have contracts concluded before the new quality regime within prices determined by the "Coal Quality Effects Model" and within the approved mandate parameters;

	MINUTES OF THE ESKOM HOLDINGS BOARD TENDER COMMITTEE	Unique Identifier	221-209
		Document Type	CCGTE
		Revision	0
		Effective Date	November 2008
		Regulation & Governance	

- 5 The Divisional Executive, Primary Energy, is authorised, with the power to delegate further, to take all the necessary steps to give effect to the above including the signing of any agreements, consents or other documentation necessary or related thereto; and
- 6 A Checklist of the processes to be followed for the relaxation be made available to the mandating authority.

9.3 GROUP COMMERCIAL DIVISION

KUSILE POWER STATION

ELECTRICAL AND AUXILIARY POWER CONSTRUCTION (PACKAGE 20)

Reference Document: Kusile Aux P20

A submission, dated 26 November 2010, signed by the Chief Commercial Officer, Group Commercial Division, was considered and discussed.

Messrs P. le Roux, A. Mohamed, B. Naidoo and G. Palacios accompanied by Gobodo auditors represented by Messrs B. Cinnamon and S. Mkhawane joined the meeting to facilitate discussion.

Audit report

The overall report was that the tender process was run in a fair, transparent and equitable manner. However, the auditors pointed out the high risk issues around Siemens and the procurement team would closely monitor and manage the contract if awarded to Siemens.

In response to a question, the auditors clarified that the default judgement was referred to as improper management and/or governance breakdowns with respect to companies controlled by the Chairman of Dynamic Instruments. Some were still under legal process and had been reported due to the Dynamic Instrument Chairperson being the Deputy Chairperson of Siemens. There would be exposure at both personal and company levels and both companies were the top two on the evaluation.

Matters of note:

- that the resolution was in two fold due to legal complications with the national enabling agreement on sourcing of cables and on the preferred source to be engaged by Siemens.
- The Committee was concerned that a resolution granted to Strategic Sourcing, mainly to enter into enabling agreements and not exclusive agreements for the supply of cabling, had been captured incorrectly on the SAP system as well as the fact that the agreements had been drafted incorrectly and that this could result in monetary losses and legal implications for Eskom.
- In response to a question, the Committee was informed that the resolution had been clear that cheaper sourcing should be followed and means be made to encourage local suppliers to enter into enabling agreements.
- The Committee was assured that as part of risk management, there would be sign off on resolutions by ensuring that the intent of the resolutions was captured.
- The Committee recommended that the Legal Department together with the relevant custodians of these contracts should engage the three national cabling suppliers to ratify



MINUTES OF THE ESKOM HOLDINGS BOARD TENDER COMMITTEE

Unique Identifier	221-209
Document Type	CCGTE
Revision	0
Effective Date	November 2008
Regulation & Governance	

the contract to the intended purpose. The suppliers knew that Eskom had been looking to enter into enabling agreements.

- It was further recommended that the suppliers be informed that the contract had not been concluded with the requisite authority as the relevant mandate had not been given its force in the contract. The fact that the Board Tender Committee did not approve an exclusive contract and as such the contract should be terminated should the suppliers in question not agree with the agreed conditions. The team should use every endeavour to re-negotiate the national enabling contract as soon as possible. If consensus is not reached, the team should take the matter to Court as a matter of urgency.
- The Committee was concerned that the resolution should have been handed over to the Legal Department and the intention should have been interpreted by the Procurement & Supply Chain Department to ensure that the instruction was properly catered for in the contract.
- It was pointed out that as soon as there was a realisation of the incorrectness of the contract signed, Eskom should have applied for ratification by a Court of Law.
- The Committee recommended that Ms G Palacios and Mr W du Plessis apply for ratification by a Court of Law as soon as possible whilst the negotiations with the three suppliers were going ahead.
- The Committee pointed out that the reason for the Procurement Department seeking legal opinion was due to an identified error in the capturing of the resolution on the enabling agreement.
- The Committee recommended that there should be a review of the process followed to capture the resolutions mandated.

Resolved that:

approval is granted:

1. to negotiate but not to conclude a contract with Siemens Limited (Option 1 with the international supplier) if legally permissible, for the electrical and auxiliary power construction for the Kusile Power Station Project to a value not exceeding R1 088 811 909.95 (Foreign portion of US\$ 17 828 435.82) excluding Value Added Tax (VAT), Contract Price Adjustment (CPA), Rate of Exchange Rate Adjustments (ROE) and Contingency over a period of seven (7) years;
2. a 15% contingency (R163 321 786.49) based on the contract value;
3. a six (6) month time contingency

The total approval value is R1 252 133 696.44 excluding VAT, CPA & ROE;

OR

4. should resolution 1 not be legally possible, to negotiate but not to conclude a contract with Siemens Limited (Option 2 with the South African supplier as per the enabling agreement) with the cost aspiration of Option 1 for the electrical and auxiliary power construction for the Kusile Power Station Project to a value not exceeding R1 088 811 909.95 (Foreign portion of US\$ 17 828 435.82) excluding Value Added Tax (VAT), Contract Price Adjustment (CPA), Rate of Exchange Rate Adjustments (ROE) and Contingency over a period of seven (7) years;

	MINUTES OF THE ESKOM HOLDINGS BOARD TENDER COMMITTEE	Unique Identifier	221-209
		Document Type	CCGTE
		Revision	0
		Effective Date	November 2008
		Regulation & Governance	

5. a 15% contingency (R163 321 786.49) based on the contract value;

6. a six (6) month time contingency

The total approval value is R1 252 133 696.44 excluding VAT, CPA & ROE;

7. that the Finance Director be consulted prior to concluding the contract.

8. that the Acting Divisional Executive, Group Capital, is authorised with the power to delegate further, to take all necessary steps to give effect to the above including the signing of any agreements, consents or other documentation necessary or related thereto.

9. feedback of the results of the application for a ratification of the enabling agreements should be tabled at a future meetings.

10. Ms G Palacios and Mr W du Plessis apply for ratification as soon as possible whilst the negotiations for ratification with the three suppliers are going ahead.

9.4 GROUP COMMERCIAL DIVISION

FEEDBACK AND APPROVAL TO UTILISE THE CURRENT ENABLING CONTRACT WITH MASANA PETROLEUM SOLUTIONS (PTY) LTD FOR SUPPLY, DELIVERY, OFF-LOADING AND STORAGE OF HOMEBASED DIESEL, INCLUDING MAINTANANCE OF RELATED ASSETS FOR A PERIOD OF SIX MONTHS FOR ESKOM TO TAKE OVER THE EXISTING ASSETS AND FOR ESKOM OR MASANA TO REPLACE OR REFURBISH THESE ASSETS
Reference Document: Liquid Fuels Risks

A submission, dated 17 Sept 2010, signed by the Chief Commercial Officer, Group Commercial Division, was considered and discussed.

Mr E Khanda accompanied by Ms P. Mfete of Compliance and Gobodo Auditors represented by Messrs B. Cinnamon and S. Mkhawane joined the meeting to facilitate discussion.

Audit report

- the auditors highlighted the following risks:
 - a) The tender documents were received by a PED employee as opposed to the documents being delivered to the Tender Office.
 - b) The threshold scores had not been defined prior to the evaluation of the tenders.
 - c) A threshold was set at 90% subsequent to the evaluation of tenders. Those bidders who did not qualify would have legal recourse in that only Sasol was given an opportunity to renegotiate their prices.
 - d) Masana had quoted for diesel only even though volumes were also indicated for petrol and no pricing was given for petrol. A clarification meeting was held with Masana and pricing information for petrol was submitted. This put the fairness of the process at risk.
- The overall finding was that the process was not supported by the auditors.

	MINUTES OF THE ESKOM HOLDINGS BOARD TENDER COMMITTEE	Unique Identifier	221-209
		Document Type	CCGTE
		Revision	0
		Effective Date	November 2008
		Regulation & Governance	

Matters of note were:

- The Committee was informed that a number of issues were picked up one of which was the exclusion of internal audit and their recommendations thereof.
- EXCOPS was concerned that there were process flaws on the evaluation of this tender; as such the Committee did not support the continuation of the tender evaluation. On further investigation in order to ensure continuity of supply, it became apparent that there had been no need to go on tender in the first place because the existing 10-year contract with Masana provided the best discounts and has sufficient capacity to cater for volume needs.
- EXCOPS stopped the tender process and the resolution tabled at this meeting was to ensure that the fuel requirements would be met in the short term. The consequences were underway.
- In response to a question, the Committee was informed that the existing contract with Masana did not cater for petrol supply. The existing contract for the supply of petrol would expire on 31 December 2010.
- In response to a question, the Committee was informed that the existing assets should belong to Eskom because none of the fuel suppliers would use competitor's tanks/assets. Taking back the assets, refurbishing and maintaining them in order to allow flexibility should a different supplier be engaged in the future would make these assets available for use.
- In response to a question, the Committee was informed that the costs cover all other auxiliaries. It was confirmed that the cost of acquiring new assets would far exceed the refurbishment costs.
- It was clarified that a part of the R14 million would be utilised to ensure that the assets comply with the relevant legislation. Owning the assets allows Eskom to terminate the suppliers' contract should there be poor performance.

Resolved that:

Taking note of the problems experienced with the process followed, as an interim measure, approval is granted:

1. for Masana to supply and deliver home-based diesel for Generation and Corporate Divisions to the value of R35.1 million (July 2010 Wholesale Price) for a period of six months starting 1 January 2011, based on the existing contract to supply diesel to Ankerlig at a delivered price calculated as the published Wholesale Price minus a discount of 33 cents per litre;
2. for Eskom to procure the existing home-based storage assets from Econ Oil for an estimated value of R3.5 million (2010 Rand values);
3. for Eskom to replace and refurbish, as appropriate, the existing assets and auxiliaries at an estimated cost of R13.9 million (2010 Rand values);
4. for Masana to provide maintenance services over the 6 months period on an actual cost recovery basis, plus 8% administration fee. The estimated value for this service is R0.4 million;
5. to issue out a tender document to the market for the supply of petrol for a period of six (6) months at an estimated value of R7million; and

	MINUTES OF THE ESKOM HOLDINGS BOARD TENDER COMMITTEE	Unique Identifier	221-209
		Document Type	CCGTE
		Revision	0
		Effective Date	November 2008
		Regulation & Governance	

6. the Chief Commercial Officer, Group Commercial Division, is authorised with the power to delegate further to take all steps necessary to give effect to the above including the signing of any agreements, consents or other documentation necessary or related thereto .

9.5 DISTRIBUTION DIVISION

MODIFICATION BY FIVE MONTHS OF THE CONTRACT FOR THE MANUFACTURE AND SUPPLY OF DISTRIBUTION POLE TOP AND GROUND MOUNT TRANSFORMERS FROM 1 FEBRUARY 2011 TO 30 JUNE 2011

Reference Document: Modification report dxpole

A submission, dated 5 November 2010, signed by the Divisional Executive, Distribution Division, was considered and discussed.

The matter was taken as read.

Resolved that:

1. Approval is granted to extend the existing contract with Revive Electrical (4600032064), Electro Inductive Industries (EII) (4600032160), Actom Distribution Transformers (4600032161) and Powertech Transformers (4600032165) for the manufacture and supply of pole top and ground mount transformers by 5 months from 1 February 2011 to 30 June 2011 at no additional value.
2. That the Divisional Executive, Distribution Division, is authorized with the power to delegate further, to take the necessary steps to give effect to the above, including the signing of any agreement, consent or other documentation necessary or related thereto.

9.6 GROUP COMMERCIAL DIVISION

ESKOM'S COST PLUS MINES' OPTIMISATION (CPMO) PROJECT STRATEGY AND APPROACH

Reference Document: CPMO

A submission, dated 15 October 2010, signed by the Chief Commercial Officer, Group Commercial, was considered and discussed.

Dr A. Monadjem and Messrs A. de Clerq and L. Mabula joined the meeting to facilitate discussion.

Matters of note were:

- The Committee was informed that this would be a collaborative partnership with the cost plus mines to improve productivity in terms of tonnage and to try and contain the cost escalation. The Committee was also reminded of NERSA's ruling that PED should work on getting more out of the cost plus mine. Instead of re-negotiating the contracts, the team aimed to engage consultants to ensure that there would be operational intervention with the aim of improving tonnage and cost escalation. Any wastage would be passed to Eskom.
- The Committee was concerned that the R240 million salary bill for 30 consultants was very expensive and recommended that a risk sharing ratios should be built upfront. The

	MINUTES OF THE ESKOM HOLDINGS BOARD TENDER COMMITTEE	Unique Identifier	221-209
		Document Type	CCGTE
		Revision	0
		Effective Date	November 2008
		Regulation & Governance	

Committee would have preferred paying the consultants a percentage of the savings which would result in no payment should there be no savings.

- The Committee felt that an estimated 30% loss of the consultants' fees was not adequate.
- The Committee was also concerned that the team was recommending the engagement of external consultants as opposed to utilising Eskom's employees. It was clarified that the strategy was to utilise the skill at the mining houses whilst building internal skills.
- The Committee was in favour of the concept of achieving the savings but was concerned about the salary costs that provided no guarantee on the possible savings.
- In response to a question, it was pointed out that Eskom has obligations to achieve savings and was currently operating within the MYPD 3 period. The performance by the mines was reported to be deteriorating. However, the team undertook to ensure that the premise was solid and would yield results.

Resolved that:

1. the submission is not approved;
2. the submission be re-tabled at a future meeting reflecting the formula to be used to ensure that Eskom would receive guaranteed savings;
3. the team should re-look at the cost structure and benchmark against consultants in the mining industry; and
4. the contract should clearly indicate the risk sharing ratios and minimise Eskom's financial exposure as far as possible.

10. MATTERS FOR INFORMATION

None

11. GENERAL

None

12. CLOSING

The Chairman thanked the members for their contribution and closed the meeting.

APPROVED



CHAIRMAN

DATE



mineral resources

Department
Mineral Resources
REPUBLIC OF SOUTH AFRICA

DMR 10

MINING RIGHT

Granted in terms of Section 23(1) of the Mineral and Petroleum Resources
Development Act, 2002 (Act No. 28 of 2002)

Tegeta Exploration and Resources (Pty) Ltd

Wm Rm
Wm

TABLE OF CONTENTS

Heading	Clause
Preamble	
Definitions	
Description of the Mining Area	1
Granting of Mining Right	2
Commencement, Duration and Renewal	3
Amendment, Variation and Abandonment	4
Payment of Royalties	5
Payment of Interest	6
Restrictions and Obligations Imposed on the Holder	7
Conditions on disposal of minerals and or products derived from mining	8
Mortgage, Cession, Transfer, and Alienation	9
Protection of Boreholes, Shafts, Adits, Openings and Excavations	10
Holder's liability for Compensation for Loss or Damage	11
Inspection of Mining Area	12
Cancellation or Suspension of Mining Right	13
Records and Returns	14
Minister's liability for payment of Compensation	15
Compliance with the Laws of the Republic	16
Provisions relating to Section 2(d) and (f) of the Act	17
Social and Labour Plan	18
Severability	19
Domicilia citandi et executandi	20
Costs	21



Protocol No: 1036 /2010

File Ref No F/2009/07/30/001

Application No 435 MR

LET IT HEREBY BE MADE KNOWN:

THAT on this 26 day of October in the year 2010, before me, Matsiepane Titus Mphela a Notary Public, duly sworn and admitted, residing and practising at Witbank, in the Mpumalanga Province of South Africa, and in the presence of the subscribing competent witnesses, personally came and appeared:

Martha Mmakgaga Mokonyane, Acting, Regional Manager, Mpumalanga Region of the Department of Minerals and Energy, and as such in his / her capacity as the duly authorised representative of:

THE MINISTER OF MINERALS AND ENERGY

The said Regional Manager, being duly authorised thereto under and by virtue of a Power of Attorney granted by the **DIRECTOR-GENERAL** of the Department of Minerals and Energy on the 05 day of July in the year 2010 in terms of the powers delegated by the Minister on the 12th day of May 2004 in terms of section 103 (1) of the Act,

RM
K L May
2010

AND

Ravindra Nath in his personal capacity as the company's representative and as such, the duly authorised representative of Tegeta Exploration and Resources (Pty) Ltd, Identification/ Registration number:

2	0	0	8	/	0	1	4	4	8	2	/	0	7	
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(Hereinafter together with his/her/its successors in title and assigns referred to as "the Holder", he/she, the said representative, being duly authorised thereto under and by virtue of a power of attorney/resolution of directors/members of the Holder, signed or passed at Sandton on the 10th day of August in the year 2010 which power of attorney or a certified copy of a resolution has this day been exhibited to me, the notary, and remain filed of record in my protocol with the minutes hereof.)

AND THE MINISTER AND HOLDER DECLARED THAT:

WHEREAS The State is the custodian of the Nation's mineral and petroleum resources in terms of section 3 of the Act.

AND WHEREAS The Holder has applied for a mining right in terms of section 22 of the Act,

AND WHEREAS The **DIRECTOR-GENERAL** of the Department of Minerals and Energy has by virtue of powers delegated to him, granted to the Holder, a mining right in terms of section 23(1) of the Act.

NOW THEREFORE THE MINISTER GRANTS A MINING RIGHT SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

Definitions

In this mining right, the following words and expressions shall have the meanings assigned to them:

'Act' means the Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002) and includes the Regulations, guidelines, circulars, directives and orders made in terms of that Act;

'Effective date' means 26 day of October in the year 2010 (being the date on which the environmental management programme is approved in terms of section 39(4) of the Act);

'Environmental Management Programme' is as defined in the Act and includes any other Environmental Management Programme approved in terms of the previous mining legislation;

'Financial year' means a complete financial year of the Holder which, at the time of the granting of this mining right, commences on 01 day of March in the year 2010; and ends on 28 day of February in the year 2011;

'Holder' is as defined in the Act, and specifically in relation to this right, it means Tegeta Exploration and Resources (Pty) Ltd, Registration No/Identification No 200601449207;

'Mineral' is as defined in the Act; and specifically in relation to this right means Coal;

'Mining Area' is as defined in the Act and includes any additional area of environmental liability as may be reflected on the Environmental Management Programme relating to this right;

'Mining right' is as defined in the Act and includes all the Annexures to it, agreements and inclusions by reference;

'Mining Work Programme' is as defined in the Act and as reflected in the attached Annexure B to this mining right;

'Minister' means the Minister of Minerals and Energy and includes the successors in title, the assignee or any person duly authorised to act in the Minister's place and stead;

'Regional Manager' is as defined in the Act and specifically in relation to this right means the Regional Manager for the Mpumalanga Region of the Department of Minerals and Energy; and

'Social and Labour Plan', is as contemplated in regulation 46 of the Regulations to the Act and is as reflected in the attached Annexure C to this mining right.

* 1 May 2010
WRO

1. Description of the Mining Area

The Mining Area shall comprise the following:

Certain: Portions 17 and 27 of the farm Brakfontein 264 IR
 Situated: Mpumalanga Magisterial/Administrative District of Delmas
 Measuring: 95.7972 hectares in extent.

(In the case of various farms being involved, a list can be attached and referred to as Annexure N/A);
 Which Mining Area is described in detail on the attached Diagram/plan marked Annexure A.

2. Granting of Mining Right

Without detracting from the provisions of sections 5 and 25 of the Act, the Minister grants to the Holder the sole and exclusive right to mine, and recover the mineral/s in, on and under the mining area for the Holder's own benefit and account, and to deal with, remove and sell or otherwise dispose of the mineral/s, subject to the terms and conditions of this mining right, the provisions of the Act and any other relevant law in force for the duration of this right.

3. Commencement, Duration and Renewal

3.1. This mining right shall commence on **26 October 2010** and, unless cancelled or suspended in terms of this clause 13 of this right and or section 47 of the Act, will continue to be in force for a period of **10 (ten) years** ending on **25 October 2020**.

3.2. The Holder must commence with the mining operations within a year from the date on which the mining right becomes effective in terms of section 23 (5) of the Act, or any later date as may, upon a written request by the Holder, be authorised in writing by the Minister in terms of the Act, failing which this right may be cancelled or suspended.

3.3. Any application for renewal must be submitted to the Regional Manager not later than 60 working days prior to the date of expiry of this right.

4. Amendments, Variation and Abandonment

4.1. The terms of this right (including by extension of the area covered by it or by the addition of minerals or a share or shares or seams, mineralized bodies, or strata, which are not at the time the subject thereof) may not be amended or varied without the written consent of the Minister.

4.2. The Holder shall be entitled to abandon or relinquish the right or the area covered by the right entirely or in part. Upon abandonment or relinquishment of the mining area or any portion thereof, the Holder must:

4.2.1. Furnish the Regional Manager with all prospecting and /or mining results and/or information, as well as the general evaluation of the geological, geophysical and borehole data in respect of such abandoned area in so far as it applies to the mineral or any other mineral/s obtained in respect of this right and,

4.2.2. Apply for a closure certificate in terms of section 43 (3) of the Act.

4.3 With effect from the date the Holder has abandoned or relinquished a portion or portions of the mining area, and subject to section 43 of the Act, the Minister is entitled to grant any right, permit, or permission referred to in the Act in, on, or under the portion/s, so abandoned or relinquished, to any person/s.

5. Payment of Royalties

5.1. The Holder shall as contemplated in section 25 (2) (g) pay to the State throughout the duration of this mining right, royalties payable in terms of any Act or Amendment to an Act of Parliament implemented.

6. Payment of Interest

If mining fees, any fees, any levy, royalties or consideration referred to in clause 5 are not paid punctually, the Holder shall be in mora and shall pay interest thereon at the rate prescribed in terms of section 80 of the Public Finance Management Act, 1999 (Act 1 of 1999) reckoned from the date on which payment is due and payable, to the date of actual payment.

7. Restrictions and Obligations Imposed on the Holder

7.1 The Holder is entitled to the rights referred to in section 5(2), (3) and section 25 of the Act, and such other rights as may be contained in this mining right or such other right as may be granted to, acquired by or conferred upon the Holder by any other applicable law.

7.2 Mining operations in the mining area must be conducted in accordance with the Mining Work Programme, and any amendment to such Mining Work Programme and an approved Environmental Management Plan.

7.3 The Holder shall not trespass or enter into any homestead, house or its curtilage nor interfere with or prejudice the interests of the occupiers and/or owners of the surface of the Mining Area except to the extent to which such interference or prejudice is necessary for the purposes of enabling the Holder to properly exercise the Holder's rights under this mining right.

8. Conditions on disposal of Minerals and/ or Products Derived from Mining

It is a condition of the granting of this mining right that the Holder shall dispose of all minerals and/ or products derived from the exploitation of the mineral at competitive market prices which shall mean in all cases, non-discriminatory prices or non-export parity prices. If the minerals are sold to any entity, which is an affiliate or non-affiliated agent or subsidiary of the Holder, or is directly or indirectly controlled by the Holder, such purchaser must unconditionally undertake in writing to dispose of the minerals and any products produced from the minerals, at competitive market prices.

9. Mortgage, Cession, Transfer, Alienation

9.1 This mining right, a shareholding, an equity, an interest or participation in the right or joint venture, or a controlling interest in a company, close corporation or joint venture, may not be encumbered, ceded, transferred, mortgaged, let, sublet, assigned, alienated or otherwise disposed of without the written consent of the Minister, except in the case of a change of controlling interest in listed companies.

9.2 Any transfer, encumbrance, cession, letting, sub-letting, assignment, alienation or disposal of this right or any interest therein or any share or any interest in the Holder, without the consent of the Minister referred to in section 11(1) is of no force, no effect and is invalid.

10. Protection of Boreholes, Shafts, Edits and Openings.

All boreholes, shafts, edits, excavations, and openings sunk or made, by the Holder during the currency of this mining right shall be sealed, closed, fenced, made safe by the Holder in accordance with the approved Environmental Management Programme, the Mine Health and Safety Act, 1996 or any other applicable laws and Regulations.

11. Holder's liability for payment of Compensation for Loss or Damage

11.1. Subject to section 43 of the Act, the Holder shall, during the tenure of this right while carrying out the mining operations under this right, take all such necessary and reasonable steps to adequately safeguard and protect the environment, the mining area and any person/s using or entitled to use the surface of the mining area from any possible damage or injury associated with any activities on the mining area.

- 11.2. Should the holder fail to take reasonable steps referred to above, and to the extent that there is legal liability, the holder shall compensate such person or persons for any damage or losses, including but not limited to damage to the surface, to any crops or improvements, which such person or persons may suffer as a result of, arising from or in connection with the exercise of his/her rights under this mining right or of any act or omission in connection therewith.

12. Inspection of Mining Area

The Minister and/or any person duly authorised thereto in writing by the Minister shall be entitled to inspect the mining area, the Holder's mining operations and the execution of the approved Environmental Management Programme on the Mining Area as provided for in the Act, and any instruction conveyed in writing by the Minister to the Holder requiring the proper performance by the Holder of the Holder's obligations under this mining right shall be put into effect by the Holder in terms of the Act.

13. Cancellation or Suspension

- 13.1 Subject to section 47 of the Act, this mining right may be cancelled or suspended if the Holder:
- 13.1.1 Submits inaccurate, incorrect and or misleading information in connection with any matter required to be submitted under the Act;
 - 13.1.2 Fails to honour or carry out any agreement, arrangement, or undertaking, including the undertaking made by the Holder in terms of the Broad Based Socio Economic Empowerment Charter and Social and Labour plan, on which the Minister relied for the granting of this right;
 - 13.1.3 Breaches any material term and condition of this mining right;
 - 13.1.4 Conducts mining operations in contravention of the provisions of the Act;
 - 13.1.5 Contravenes the requirement of the approved Environmental Management Programme; or
 - 13.1.6 Contravenes any provisions of this Act in any other manner.
- 13.2 Before the Minister cancels or suspends this right, the Minister shall:
- 13.2.1 Give written notice to the Holder indicating the intention to suspend or cancel this right;
 - 13.2.2 Give reason/s why the Minister is considering the suspension or cancellation of this right;
 - 13.2.3 Give the Holder 30 days to show reasons why the right should not be suspended or cancelled;
 - 13.2.4 Notify, the mortgagee [if any], of the intention to suspend or cancel this right; and
 - 13.2.5 Direct the Holder, where it is possible to remedy any contravention, breach or failure, to comply or to take such specified measures to remedy any contravention, breach or failure to comply.
- 13.3 If the Holder does not take the measures as specified by the Minister to remedy a contravention, breach or failure, the Minister may cancel or suspend this right after considering representations made by the Holder in terms of clause 13.2.3.

14. Records and Returns

- 14.1. The Holder shall maintain all such books, plans and records in regard to mining on the Mining Area as may be required by the Act and shall furnish to the office of the Regional Manager such reports and documents as may be relevant under this right.
- 14.2. The Holder shall furnish to the Regional Manager all such monthly returns contemplated in section 28 (2) A of the Act not later than the 15th day of the month following the month in respect of which it was reported.
- 14.3. The Holder shall furthermore at the end of each year following commencement of this mining right, inform the Regional Manager in writing of any new developments and of the future mining activities planned in connection with the exploitation/mining of the minerals on the Mining Area.

15. Minister's liability for Compensation

The Minister shall not at any time be liable or responsible for the payment of compensation of whatever nature to the Holder, the Holder's successors-in-title or assignee, or any person whomsoever as a result of the granting of this right.

16. Compliance with the Laws of the Republic

The granting of this Right, does not exempt the Holder and its successors in title and/or assigns from complying with the relevant provisions of the Mine Health and Safety Act, (Act No.29 of 1996) and any other law in force in the Republic of South Africa.

17. Provisions relating to section 2(d) and (f) of the Act

In the furthering of the objects of this Act, the Holder is bound by the provisions of an agreement or arrangement dated N/A N/A N/A entered into between the Holder/ empowering partner and N/A (the empowerment partner) which agreement or arrangement was taken into consideration for purposes of compliance with the requirements of the Act and or Broad Based Economic Empowerment Charter developed in terms of the Act and such agreement shall form part of this right.

18. Social and Labour Plan

- 18.1 The holder must annually, not later than three months before the end of its financial year, submit detailed Implementation plan to give effect to Regulation 46(e)(i),(ii) and (iii) in line with the Social and Labour Plan.

- 18.2 The holder must annually, not later than three months after finalisation of its audited annual report, submit a detailed report on the implementation of the previous year's social and labour plan.

19. **Severability**

Notwithstanding anything to the contrary, any provision of this mining right which is contrary to any provision of the Act or which is otherwise ultra vires, null and void, voidable, or unenforceable, shall be severable from the rest of this right, such rest thus being and remaining of full force, effect and enforceable.

20. **Domicilia citandi et executandi**

- 20.1. The parties hereto choose the following addresses as their *domicilia citandi et executandi* and for all purposes arising from this mining right, in particular for the purposes of serving of any notice in terms of this mining right, and any notice properly addressed to the under mentioned postal addresses of the parties shall be deemed to have been received by the addressee within 14 days if given in writing and posted by prepaid registered post addressed to the addressee at the relevant postal address:

- 20.1.1. In the case of the Minister:

Physical Address	Postal Address
Province House Cnr Botha and Paul Kruger Street WITBANK Code 1035 Tel 013 656 1448 Fax 013 656 0932	Private Bag X7279 WITBANK 1035 013 656 1448 013 656 0932

- 20.1.2. In the case of the Holder:

Physical Address	Postal Address
Lower Ground Floor Grayston Ridge 144 Katherine street Sandown, Sandton	Post net Suite 458 Private Bag X 9 Benmore

Code 2010	2010
Tel 011 384 7000	011 384 7000
Fax 011 262 3868	011 262 3868

20.2. Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by a party at any place other than the chosen *domicilia citandi et executandi* shall constitute adequate notice or communication to the party notwithstanding that it was not sent to or delivered at such party's chosen *domicilium citandi et executandi*.

20.3 Either party shall be entitled from time to time to change the *domicilia citandi et executandi* or postal address furnished above after giving at least 14 days prior written notice of such change to the other party, failing which the above mentioned addresses will remain in force.

20.4. Any written notice or communication contemplated in this clause which is forwarded by one party to the other by registered post will be presumed to have been received by the addressee on the fourteenth day following the date of posting from an address within the Republic of South Africa to the addressee at the postal address of the addressee for the time being as determined in accordance with the provisions of this clause.

21. Costs

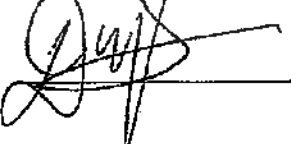
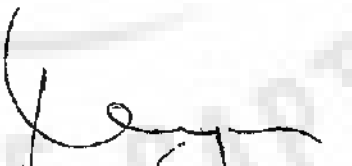
The Holder shall pay all costs and charges incurred in connection with the execution and registration of this prospecting right.


Thus done and signed at Witbank on the 26th day of October in the year 2010 in the presence of the undersigned witnesses:

AS WITNESS:

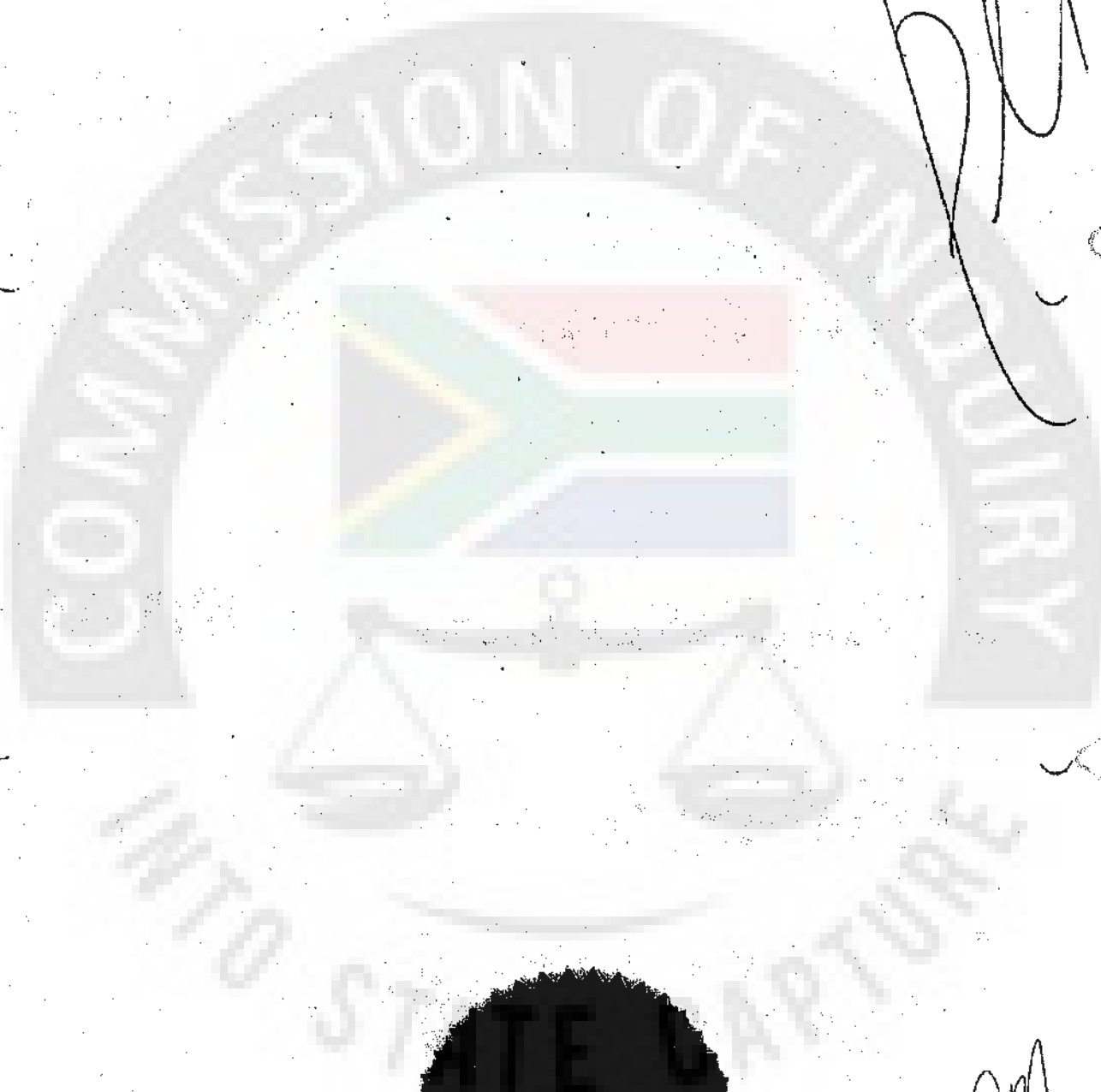


AS WITNESS:



 For and on behalf of the Minister


 For and on behalf of the Holder

Notary Public



*Handwritten initials: DM and *mm*

Feb 06, 2019

NATIONAL (HTTPS://MG.CO.ZA/SECTION/NEWS-NATIONAL)

Illegal Gupta coal mine accused of polluting crop irrigation water

Sipho Kings (HTTPS://MG.CO.ZA/author/sipho-kings-mcdormott) 07 Feb 2014 00:00



In Mpumalanga, crops grow alongside the coal mines that pollute the rivers and render the ground infertile. (Madeleine Cronjé, M&G)

(HTTPS://MG.CO.ZA/ARTICLE/2014-02-06-ILLEGAL-GUPTA-COAL-MINE-ACCUSED-OF-POLLUTING-CROP-IRRIGATION-WATER)

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The modern story of Mpumalanga is of the war between farming and mining. Its rich soil, crisscrossed by streams and rivers, is one of South Africa's breadbaskets. Exports from here go around the world. But beneath the green grass and red soil are deep deposits of coal.



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These feed the power stations that dot the province and power the economy.

Down a rutted and potholed tar road crushed down by the constant procession of coal-laden trucks, the Brakfontein Colliery is causing problems for farmers around the small town of Delmas, 60km east of Johannesburg. The mine is run by a company with links to the politically connected Gupta family, which also runs the company that owns the land being mined.

The first thing local farmers mention is the Guptas, before constantly reiterating that they cannot speak on the record. They do not want to become known as "troublemakers".

One of them, pausing to cough deeply as he talks, says: "You can smell the coal when it burns, and in the evening it looks like an oven."

~~Smoke and fire~~

By day, the black piles of coal intermittently emit smoke. Unlike the neighbouring mines – there are mines in every direction, creating small mountains of grey rock and brown sand – this one does not have trucks coming and going. Everything is quiet. A small, wooden hut with a boom and a guard prevent entry.

The mine is on a slope, with fields of mealies on two sides and "Dis mos mielies [Now that's mealies]" signs indicating that this is farming country.

The third side, at the bottom of the mine, has a wetland, green and muddy from the heavy rains the area has had. The fourth side hosts the rutted dirt road that passes the mine, and the Wilge River.

The wetland drains into this river, and locals say when it rains the water mixes with coal in the mine – the result is that this polluted water flows into the wetland and the river. The Wilge flows into the province's most important river, the Olifants.

This is a recurring problem in Mpumalanga. Its rivers provide irrigation for farms and water for communities. When it goes wrong – as in Carolina where acid mine water left people sick and without water (/mg.co.za/article/2013-01-18-00-funny-water-still-plagues-carolina) – the impact is widespread.

~~Global warnings~~

The European Union has given a final warning that it will stop imports from crops irrigated with water from the Olifants because of the level of health-threatening pollutants from mines seeping into the river.

The Brakfontein mine admits in its July 2013 scoping report, which it compiled to ask the department of mineral resources to allow it to expand its operations, that its operations are illegal.

It is relying on the 24G provision in the National Environmental Management Act, which allows companies to ask the department of environment affairs to give them retrospective permission for activities they began without the required permits.

During a public meeting in Delmas last year, the mine said it intended to submit a 24G application because "various listed activities have commenced" while "the necessary environmental authorisations under the Act are not in place".

Sputnik Ratau, spokesperson for the department of water affairs, says a notice of intention to issue a directive was issued to the mine for "failing to take reasonable measures to prevent pollution and for using water without authorisation". The mine had responded and water affairs was deciding what to do next, he says.

~~Is Eskom supplier~~

The scoping report says that "about 46%" of the coal will go to Eskom for power supply – the stacks at Kendal, the world's largest operating coal power station, are visible in the distance – with the export grade being sent to Richmond in KwaZulu-Natal.

But locals say the mine stopped selling coal in November. The mountain of coal has been building up. It caught fire early last month and has been burning ever since.

Three weeks ago, workers from the mine tried to stop the fire by dumping the burning coal on one side. This happened to be on Johannes Potgieter's mealie crops. He says he has been compensated.

Another farmer says they tried negotiating but were forced to turn to the minerals department because Brakfontein was unresponsive. The other mines, they say, respond quickly and fix their problems.

"But these okes are difficult," one of the farmers says.

The mining department did not respond to questions in time, citing the Mining Indaba as taking up too much of its attention.

~~Compensation~~

Normally a mine operates on people's land and compensates them.

In this case, the scoping report says the land is owned by a company called Confident Concept. It says the applicant and mineral rights holder is Tegeta Resources and Exploration.

Ravindra Nath is the company's chief executive. His LinkedIn profile shows that he was the chief financial officer at Sahara Computers until 2010. This is a Gupta-owned company.

Records at the companies and intellectual property registration office show that he started as a Tegeta director when it was registered in 2007. One of Tegeta's other three directors, Ashu Chawla, is a director of Sahara Systems, another Gupta firm.

Nath is also the director of Idwala Coal outside eMalahleni. Last year it was accused of environmental damage and applied for the 24G provision.

Non-compliance

Idwala is about 50km from Brakfontein. The *Sunday Times* reported that the mine admitted in its application that it had diverted a public road and a river, and had mined without a water licence.

Despite earlier complaints and warnings of action from the department of water affairs, the newspaper reported, nothing had happened to the mine for more than two years.

Nath says that the mine has all the required authorisations for operations at Brakfontein.

"The environment is okay at our mine. It has been inspected. There is no requirement for a 24G [permission to allow activities that have begun without authorisation retrospectively]."

The water affairs department was satisfied with the mine, he says.

He is not aware of any complaints by farmers, and says coal fires are a common phenomenon because of a chemical reaction when it rains in summer. The land is being leased from Confident Concept, he says.

Gupta directors

Confident Concept comes up as two companies at the companies registration office. The directors of these are all Guptas: Atul, Chetali, Rajesh, Arti and Varun.

Until now, directors of companies were not liable for environmental damage. But a court decision in Limpopo on January 30 has set a precedent that changes this.

Matome Maponya, the director of a clay-mining company outside Tzaneen, was given a suspended five-year sentence on condition that his company rehabilitate the damage it had caused to the environment. If this was not done to the court's satisfaction within three months, the sentence would kick in.

Future farming

Whatever happens in Brakfontein in the short term, it is the future that worries the farmers. One of them uses his hands to make a circle in the air to illustrate his point.

"If you dig a mine you destroy all this area. For 10 years [the lifespan of the Brakfontein mine] you have money. But even if you rehabilitate it, that ground will never grow anything again. It is dead."

He is worried that the whole province is being destroyed this way.

"If you plant crops you have meales for 200 years and more."

But he says it is the quick buck that triumphs because "people want money".

The Gupta family spokesperson, Gary Naidoo, had not responded to requests for comment by the time of going to press.



Sipho Kings

Sipho Kings is the Mail & Guardian's environment reporter. Broken ecosystems, bad corporations and mean people are the order of the day. This means his shoes are caked in all sorts of dodgy material.

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33
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RECOMMENDED

By **NEWSROOM AI** (http://www.news.ai)

	Approval of a Negotiated Outcome	Unique Identifier	240-53463053
		Revision	Rev. 1
		Revision Date	August 2015
		Group Technology and Commercial	

TO: The Chairman
EXCO Procurement Sub-Committee
Board Tender Committee

Date: 07 March 2014

Tel: + 27 800 2660

Rev: 1

COMPILER: Melody McCurrach
BUSINESS UNIT & Primary Energy Division
NAME OF END-USER Eskom Power Stations
DESCRIPTION

Feedback on the results of negotiations and Coal Supply Agreements concluded to date with various suppliers for the supply and delivery of coal to various Eskom Power Stations for the period October 2008 to 31 March 2018 and relevant Coal Supply Agreements that have been contracted for the Life of the Mine.

ENQUIRY NO.: N/A

PR NO.: N/A

1. INTRODUCTION

1.1. Board Tender Committee Approval obtained on 11 September 2008


At its meeting on the 11 September 2008, the Board of Directors Tender Committee (BTC) approved a mandate to negotiate and conclude Coal Supply Agreements with various suppliers on a medium term basis for the supply and delivery of coal to meet the burn requirements at Eskom Power Stations for the period October 2008 to March 2018, this included the beneficiation of coal by suppliers or their contractors.

The mandate provided was as follows:

- 1.1.1. The required volume of coal was 490.8 million tons.
- 1.1.2. The maximum value of the contracts was R164 418 million excluding CPA, VAT, fuel price and Quality Price Adjustments (2008 money terms).
- 1.1.3. The weighted average real base rate was R335 per Ton (delivered) (R250 per ton FCA plus R85 per ton for transport) or R18.21 per GJ at an average CV of 18.4 MJ/kg, on an as received basis (2008 money values).
- 1.1.4. The Chief Officer (Generation Business) (New Title: DE Primary Energy) was authorized, with the power to delegate further, to take all the necessary steps to give effect to the above, including the signing of any agreements, consents or other documentation necessary or related thereto.
- 1.1.5. That the results of the negotiations must be reported to the mandating authority.

1.2. Interim Feedback to Board Tender Committee on the 03 December 2010

In accordance with the resolution granted on the 11 September 2008, Primary Energy returned to the BTC on the 03 December 2010 to provide interim feedback on negotiations and Coal Supply Agreements concluded with suppliers for the Supply and Delivery of coal to Eskom Power Stations for the period 1 October 2008 to 31 March 2018 and also to obtain additional resolutions.


	Approval of a Negotiated Outcome	Unique Identifier	240-53463053
		Revision	Rev. 1
		Revision Date	August 2015
		Group Technology and Commercial	

The committee noted that the following results of negotiations and Coal Supply Agreements concluded to date were within the mandate approved:

- 1.2.1 The total quantity of coal contracted was 192.72 Mt;
- 1.2.2 The weighted average price for coal contracted was R262.78/t (R8.17 GJ at a calorific value (CV) of 20.28 MJ/kg (as received) and a transport portion of R97.32/t;
- 1.2.3 The total value of contracts concluded was R50 561 million;
- 1.2.4 The Divisional Executive Primary Energy had taken all steps necessary to give effect to the above including the signing of contracts or all other documentation or consents related thereto; and
- 1.2.5 The Committee ratified the transport component (R/t) which was not within the approved mandate.

The additional resolutions approved were as follows:

- 1.2.6 The Divisional Executive Primary Energy was granted the power to delegate further, the following contingencies, by means of delegation consent forms (DCF's), for contracts already agreed:
 - 1.2.6.1 extend duration of individual contracts by not more than six months when necessary;
 - 1.2.6.2 increase the value of individual contracts concluded by not more than 10% of the original contract value capped at R500 million, and would not exceed the overall approved mandate;
 - 1.2.6.3 increase coal quantities contracted by not more than 10% of the maximum contracting quantity totaling 19MT, and
 - 1.2.6.4 relax contractual coal qualities temporarily when necessary without compromising plant performance or integrity and in consultation with the DE Generation.
- 1.2.7 Approval was granted to negotiate and conclude contracts with suppliers for the life of mines that have resources that extend beyond the original mandate period ending 31 March 2018 within the pricing parameters of the approved mandate and Eskom's long-term coal strategy;
- 1.2.8 Approval was granted to continue to negotiate and conclude contracts with suppliers that have contracts concluded before the new quality regime within prices determined by the "Coal Quality Effects Model" and within the approved mandate parameters;
- 1.2.9 The Divisional Executive Primary Energy was authorized with the power to delegate further, to take all the necessary steps to give effect to the above including the signing of any agreements, consents or other documentation necessary or related thereto;
- 1.2.10 A Checklist of the processes to be followed for the relaxation of coal qualities was to be made available to the mandating authority.

	Approval of a Negotiated Outcome	Unique Identifier	240-53463053
		Revision	Rev. 1
		Revision Date	August 2015
		Group Technology and Commercial	

1.3. Feedback to Board Tender Committee on current status of Medium Term Mandate

The purpose of this submission is as follows:

- to provide updated feedback to the BTC on the results of the negotiations and contracts concluded to date;
- request the Medium Term Mandate awarded in 2008 remain open until 2018.

The Medium Term Mandate provides the mechanism required to procure coal in order to fill the gap between burn plans and supply from existing long term sources. This flexibility is critical in maintaining responsiveness to changes in the internal and external coal supply environments. It is therefore imperative that this Medium Term Mandate remains open until 31 March 2018 to enable the prompt procurement of any additional coal that is required.

The Supply Plan of March 2014 and CSOM have confirmed that there is, over the next four years, still an estimated shortage of 39:31 Mt. The Medium Term Mandate is seen as the optimum mechanism to source this need until long term contracts are put into place and to fill future gaps between changing burn plans and existing supply. The Medium Term Mandate also provides an opportunity for Emerging Miners to be identified and developed and for Eskom to provide support for Emerging Miners in this complex environment.

Financial Year (FY)	Total Estimated Shortfall (Mtpa)
FY2015*	3.47
FY2016	10.62
FY2017	14.09
FY2018	11.13
FY2019	13.09
FY2020	21.26
FY2021	17.02

TABLE 3: SHORTFALL OF COAL STILL TO BE PROCURED

Source: Supply Plan of February 2014 and Short Fall as identified by CSOM.


* FY2015 and FY2016 include the stockpile reductions as proposed by BPP.

Actual contractual commitments made are monitored against the latest burn plans and supply plans.


2. APPROVED MANDATE PARAMETERS AND NEGOTIATION RESULTS

Table 2 below reflects the approved mandate parameters and the results of the negotiations.


Approved Mandate Objectives	Results Achieved
Conditions of contract: Coal Supply Agreement for Medium Term	Negotiated Terms and Conditions: As per the Coal Supply Agreement including:

	Approval of a Negotiated Outcome	Unique Identifier	240-53463053
		Revision	Rev. 1
		Revision Date	August 2015
		Group Technology and Commercial	

Approved Mandate Objectives	Results Achieved
Supply	<ul style="list-style-type: none"> Legislative Requirements Duration Contractual Tonnages Coal Quality Management Procedure Escalation Percentage Breakdown Mode of Transport Technical Issues around Analysis of Coal
Other Mandate Objectives:	Other Negotiated Mandate Objectives:
1. Pricing and Qualities	<p>1. As per Table 5 below.</p> <ul style="list-style-type: none"> The total value of the coal procured is still well within the total value that was mandated by BTC during 2008. The weighted average price of the coal at R344.45 is still well within the escalated mandated price, this includes the transport portion of R119.06 and a coal portion of R225.38 per GJ. Qualities achieved were higher than the original mandate requested, the main reason for this being that the original mandate was based on a significantly increased burn at Kendal and Duvha Power Stations. This resulted in a lower planned coal quality to match the station requirements. Subsequently burn at these stations has reduced, whilst increased burn at the RTS and Arnot Power Stations have made up the balance. This accounts for the increased coal quality procured. The improved coal quality delivered has increased the Power Station thermal efficiency and mitigates against coal related load losses.
<p>2 The Divisional Executive is granted the power to delegate further, the following contingencies to be executed by means of delegation consent forms (DCF's) for contracts already agreed:</p> <p>2.1 extend duration of individual contracts by not more than six months when necessary;</p> <p>2.2 increase the value of individual contracts concluded by not more than 10% of the original contract value capped at R500 million, and will not exceed the overall approved mandate;</p>	No DCF's were signed.

	Approval of a Negotiated Outcome	Unique Identifier	240-53463053
		Revision	Rev. 1
		Revision Date	August 2015
		Group Technology and Commercial	

Approved Mandate Objectives	Results Achieved
2.3 increase coal qualities contracted by not more than 10% of the maximum contracted quality totaling 19 Mt, and 2.4 relax contractual coal qualities temporarily when necessary without compromising plant performance or integrity and in consultation with the DE Generation.	
2. Approval is granted to negotiate and conclude contracts with suppliers for the life of mines that have resources that extend beyond the original mandate period ending 31 March 2018 within the parameters of the approved mandate and Eskom's long term strategy.	3. Contracts were concluded with Keaton, Kuyasa and Universal Coal.
4. Approval is granted to continue to negotiate and conclude contracts with suppliers that have contracts concluded before the new quality regime within prices determined by the "Coal Quality Effects Model" and within the approved mandate parameters.	4. See Table 5 below, the negotiation teams concluded contracts with qualities with an average expected CV of 20.15 ("As Received").
5. The Divisional Executive, Primary Energy is authorized, with the power to delegate further, to take all the necessary steps to give effect to the above including the signing of an agreements, consents or other documentation necessary or related thereto;	5. Duly done. All CSA's, short term orders and Modifications to existing CSA's were approved by either the Divisional Executive or the Acting Divisional Executive.
6. A checklist of the processes to be followed for the relaxation to be mandating authority.	6. A checklist of the processes to be followed for the relaxation of qualities was developed by the PED Technical Services Department, however the checklist was not approved as PED Management agreed to a principle that contractual coal qualities would not be temporarily relaxed on a stock pile basis.
Approved Negotiation Team:	Negotiation Team Participants:
1. Lead Negotiators: <ul style="list-style-type: none"> • Denis Hegarty • Sagie Chetty • Vuyisile Ncube • Melody McCurrach 	1. Lead Negotiators: <ul style="list-style-type: none"> • Denis Hegarty • Sagie Chetty • Vuyisile Ncube • Melody McCurrach • Siphwe Dladla • Mudzielwana Marageni • Nqabakazi Tetyana
2. Commercial: <ul style="list-style-type: none"> • Kwanele Mtembu 	2. Commercial: <ul style="list-style-type: none"> • Thabani Mashego

	Approval of a Negotiated Outcome	Unique Identifier	240-53463053
		Revision	Rev. 1
		Revision Date	August 2015
		Group Technology and Commercial	

Approved Mandate Objectives	Results Achieved
<ul style="list-style-type: none"> Thabani Mashego Kebone Skosana 	<ul style="list-style-type: none"> Kebone Skosana Khanyisa Tyala
3. Financial: <ul style="list-style-type: none"> Chetna Nana Shenaaz Naidoo 	3. Financial: <ul style="list-style-type: none"> Rehana Moola Christo Kruger
4. Technical: <ul style="list-style-type: none"> Sunjay Andhee 	4. Technical: <ul style="list-style-type: none"> Sunjay Andhee Rakgomo Setshedi Vukani Mbatha Philip Mostert
3. Legal: <ul style="list-style-type: none"> Sibusiso Kumalo Marumo Lakota Louis Gumbi Preshnee Moodley 	5. Legal: <ul style="list-style-type: none"> Sibusiso Kumalo Marumo Lakota Louis Gumbi *** Preshnee Moodley*** Andrea Williams
4. Business Analyst: <ul style="list-style-type: none"> Erika du Plessis 	6. Business Analyst: <ul style="list-style-type: none"> Erika du Plessis Siphiwe Dladla
5. Business Development <ul style="list-style-type: none"> Andre Riekstins 	7. Business Development: <ul style="list-style-type: none"> Refer to note below
6. Health and Safety	8. Health and Safety: <ul style="list-style-type: none"> Melissa Bhagwanth***
7. Environmental	9. Environmental: <ul style="list-style-type: none"> Mirenda Moremedi Shumani Mavhungu Thabang Matsoboli
8. Documentation Control <ul style="list-style-type: none"> Judy Carpenter 	10. Documentation Control <ul style="list-style-type: none"> Refer to note below

TABLE 4: APPROVED MANDATE AND RESULTS ACHIEVED

*** Have since left Eskom's Employment

The following members of the approved negotiation team were not available as a result of:

Lead Negotiator:

- Willem Needham – Mr Needham has left Eskom's employment.


Commercial:

- Kwanele Mthembu – MS Mthembu left Fuel Sourcing to join another Department within Group Commercial.

240-53463053
Effective 20 August 2012

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Page 6 of 9

	Approval of a Negotiated Outcome	Unique Identifier	240-53463053
		Revision	Rev. 1
		Revision Date	August 2015
		Group Technology and Commercial	

Business Development:

- Andre Riekstins – Mr Riekstins services were replaced by those of Supplier Development and Localisation (SD&L), a department within Group Commercial.

Health and Safety:

- Melissa Bhagwanth – Ms Bhagwanth has left Eskom's employment.

Documentation Control:

- Ms Carpenter was employed on a short term contract, on conclusion of her contract, it was not extended. The teams are making use of internal resources to provide the duties that were fulfilled by Ms Carpenter.

	Medium Term Mandate			
	2008 Values	Medium Term Mandate Actual 2010 Values	MTS Mandate (2013 Values)	MTS* (Contracted FY 2013)
Tonnages	490.8 Mt	192.72	N/A	298.08 Mt
CV AR (MJ/kg)	18.40	20.28	N/A	20.15
FCA (R/GJ)	R13.59	R8.17	R18.57	R11.19
FCA (R/ton)	R250.00	R 165.47	R341.64	R225.38**
Transport (R/ton)	R85.00	R97.32	R125.81	R119.06**
Del Price (R/ton)	R335.00	R 262.78	R 467.45	R 344.45**
Total Value (RM)	R164 418.00	R 50 642.96	R 229 424.02	R102 671.82

TABLE 5: COMPARISON OF ACTUAL AND MANDATE VALUES

* Escalation Date: December 2013


** Weighted Average Price

The negotiation teams have concluded CSA's and short term orders for the supply and delivery of coal at qualities and prices that are substantially better than mandated in 2008. This has been achieved amidst increasing competition for the coal we buy from India.

The teams have furthermore ensured that the modes of transport that are negotiated in the CSA's are in line with PED's Shareholders Compact by ensuring that agreements are negotiated with delivery by conveyor as a first option, secondly rail then Delivered by the Supplier and lastly FCA.

3. FEEDBACK ON THE STATUS OF THE EMERGING MINERS STRATEGY

Eskom's spend on Black Emerging Miners (BEM) has increased by approximately R3 280M from FY2013 to FY2014. This increase has been mainly due to a concerted effort to source additional coal requirements from BEMs as part of the Emerging Miner Strategy, as announced by the Minister of the Department of Public Enterprises, the Honourable MKN Gigaba MP. Though there is a decrease in the coal requirements for FY2015, Eskom has identified a pipeline of BEMs with potential to supply coal at an estimated value of R1 525M. This would forecast coal spend with Black Owned entities to R15 000M for this upcoming financial year. In addition, other Emerging Miners have undertaken to increase Black Ownership from the current levels to 50% +1 in the next two years.

	Approval of a Negotiated Outcome	Unique Identifier	240-53463053
		Revision	Rev. 1
		Revision Date	August 2015
		Group Technology and Commercial	

4. FINANCIAL EVALUATION OF NEGOTIATED CONTRACT PRICE

The negotiated prices has been evaluated and signed-off by Niniza Sithole from the Treasury Evaluation Department and Philiswa Nongalo from Corporate Finance. The Treasury Evaluation Department confirmed that there is no need to issue a report as the analysis had concluded that the actual spend is still way below the approved quantities and this is an interim feedback report, the actual quantities are still due to change.

Corporate Finance have confirmed that the prices offered by the suppliers are financially acceptable taking into account the agreed CPA movements, and therefore concurs with the recommendation made herein.

The Financial Evaluation Report is attached hereto.

5. RECOMMENDATION

It is recommended that the results of negotiations and Coal Supply Agreements concluded with suppliers for the supply and delivery of coal to various Eskom Power Stations for the period October 2008 to 31 March 2018 be supported by the BTC:

The following results of negotiations and contracts concluded to date is hereby noted by the (BTC).


5.1. The total quantity of coal contracted to date is 298.08 Million Tons (Mt).

5.2. The weighted average price of coal contracted is R344.45 per ton (comprising a coal portion of R225.38 per GJ at a calorific value (CV) of 20.15 MJ/kg (As Received) and a transport portion of R119.06 per ton.

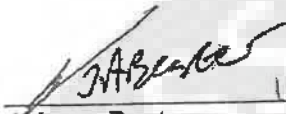
5.3. The total value of contracts concluded is R102 671.82 Million (Refer to Table 3)

5.4. The Divisional Executive Primary Energy has taken all the steps necessary to give effect to the above including the signing of Coal Supply Agreements and all other documentation and consents related herewith.


5.5. The team continues to negotiate and conclude contracts with suppliers within the parameters of the approved pricing and quantities as approved by the BTC on the 11 September 2008 and the additional resolutions approved by the same Committee on the 3 December 2010. There will continue to be a shortfall of coal when comparing the burn requirements to the existing contracted supply of coal, there is therefore a continued need for flexibility in supply which will be met through medium term supplies, hence the need to keep the mandate open.

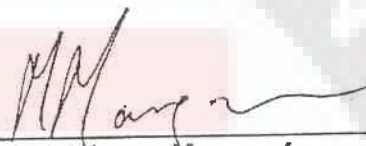
	Approval of a Negotiated Outcome	Unique Identifier	240-53463053
		Revision	Rev. 1
		Revision Date	August 2015
		Group Technology and Commercial	


5.6. The Divisional Executive Primary Energy (PED), be authorised with the power to delegate further, to take all the necessary steps to give effect to the above including the signing of any Coal Supply Agreements, consents or other documentation necessary.


Johann Bester
 ACTING DIVISIONAL EXECUTIVE
 PRIMARY ENERGY DIVISION

Date: 12 March 2014


Melody McCurrach
 BUYER


Mudzielwana Marageni
 PROCUREMENT MANAGER
 Date: March 2014osln

 Eskom	P&SCM (Commercial) Checklist Appendix B	Unique Identifier	240-59386153
		Revision	Rev. 0
		Revision Date	April 2016
		Group Technology & Commercial	

Title of submission:

Feedback on the results of negotiations and Coal Supply Agreements concluded to date with various suppliers for the supply and delivery of coal to Eskom Power Stations for period October 2008 to 31 March 2018 and relevant Coal Supply Agreements that have been contracted for the Life of the Mine.

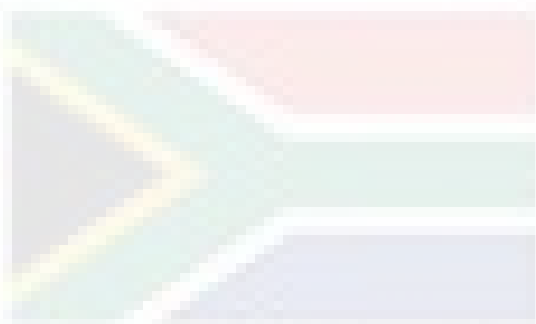
Name/s of supplier/s:

Refer to Annexure "A" for full list of suppliers

Commercial criteria	Applicable option [Mark applicable option with an 'x']		Notes/Comments [complete if applicable]
1. Budgetary / Investment Committee Approval			
1.1 Proposed expenditure	Capital	Operational x	[Explain the category of expenditure and provide details of budget / investment committee approval]
1.2 Funds approved as	Part of an allocated budget x		Relevant Investment Committee
2. Vendor Registration			
2.1 Recommended supplier registered & pre-qualified on Eskom database of suppliers against receipt of a completed Supplier Application Form?	Yes [include vendor registration number] <i>Refer to Annexure "A"</i>		No
3. Panel of Service Providers			
3.1 Existing Eskom-approved panel of service providers for this service?	Yes		No x
3.2 Does the recommended supplier form part of an Eskom-approved panel of service providers?	Yes		No x
4. Consolidated Requirements			
4.1 The anticipated end-users will be	A single BU in Eskom	Across a Division x	Eskom-wide



DEPARTMENT: MINERAL RESOURCES
REPUBLIC OF SOUTH AFRICA



MINING RIGHT

Granted in terms of section 23(1) of the Mineral and Petroleum Resources Development Act, 2002
(Act No. 28 of 2002)

Handwritten marks and signatures in the bottom right corner, including the letters 'NL' and a signature.

TABLE OF CONTENTS

Heading	Clause
Preamble	
Definitions	
Description of the Mining Area	1
Granting of Mining Right	2
Commencement, Duration and Renewal	3
Amendment, Variation and Abandonment	4
Payment of Royalties	5
Payment of Interest	6
Restrictions and Obligations Imposed on the Holder	7
Conditions on disposal of minerals and or products derived from mining	8
Mortgage, Cession, Transfer, and Alienation	9
Protection of Boreholes, Shafts, Adits, Openings and Excavations	10
Holder's liability for Compensation for Loss or Damage	11
Inspection of Mining Area	12
Cancellation or Suspension of Mining Right	13
Records and Returns	14
Minister's liability for payment of Compensation	15
Compliance with the Laws of the Republic	16
Provisions relating to Section 2(d) and (f) of the Act	17
Social and Labour Plan	18
Severability	19
Domicilia citandi et executandi	20
Costs	21



Protocol No: 3802 /2014
File Ref No 2010/10/19/001
Application No 488MR

LET IT HEREBY BE MADE KNOWN:

THAT on this 5 day of **March** in the year **2014**, before me, **Matsiepane Titus Mphela** a Notary Public, duly sworn and admitted, residing and practising at **Witbank**, in the **Mpumalanga** Province of South Africa, and in the presence of the subscribing competent witnesses, personally came and appeared:

Aubrey Tshivandekano, Regional Manager, **Mpumalanga** Region of the Department of Mineral Resources, and as such in his / her capacity as the duly authorised representative of:

THE MINISTER OF MINERAL RESOURCES

The said Regional Manager, being duly authorised thereto under and by virtue of a Power of Attorney granted by the **DIRECTOR-GENERAL** of the Department of Mineral Resources on the 31 day of **January** in the year **2013** in terms of the powers delegated by the Minister on the 12th day of May 2004 in terms of section 103 (1) of the Act,

AND

Ravindra Nath as the company's representative, the duly authorised representative of Tegeta Exploration and Resources (Pty) Ltd, Identification/ Registration number:

2	0	0	6	/	0	1	4	4	9	2	/	0	7	
---	---	---	---	---	---	---	---	---	---	---	---	---	---	--

(Hereinafter together with his/her/its successors in title and assigns referred to as "the Holder", he/she, the said representative, being duly authorised thereto under and by virtue of a power of attorney/resolution of directors/members of the Holder, signed or passed at Sandton on the 4 day of September in the year 2013 which power of attorney or a certified copy of a resolution has this day been exhibited to me, the notary, and remain filed of record in my protocol with the minutes hereof.)

AND THE MINISTER AND HOLDER DECLARED THAT:

WHEREAS The State is the custodian of the Nation's mineral and petroleum resources in terms of section 3 of the Act.

AND WHEREAS The Holder has applied for a mining right in terms of section 22 of the Act,

AND WHEREAS The **DIRECTOR-GENERAL** of the Department of Mineral Resources has by virtue of powers delegated to him, granted to the Holder, a mining right in terms of section 23(1) of the Act.

NOW THEREFORE THE MINISTER GRANTS A MINING RIGHT SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

Definitions

In this mining right, the following words and expressions shall have the meanings assigned to them:

'Act' means the Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002) and includes the Regulations, guidelines, circulars, directives and orders made in terms of that Act;

'Effective date' means 5 day of **March** in the year **2014** (being the date on which the environmental management programme is approved in terms of section 39(4) of the Act);

'Environmental Management Programme' is as defined in the Act and includes any other Environmental Management Programme approved in terms of the previous mining legislation;

'Financial year' means a complete financial year of the Holder which, at the time of the granting of this mining right, commences on **01** day of **July** in the year **2014**; and ends on **30** day of **June** in the year **2015**;

'Holder' is as defined in the Act, and specifically in relation to this right, it means **Tegeta Exploration & Resources (Pty) Ltd**, Registration No/Identification No **200601449207**;

'Mineral' is as defined in the Act, and specifically in relation to this right means **Coal**;

'Mining Area' is as defined in the Act and includes any additional area of environmental liability as may be reflected on the Environmental Management Programme relating to this right;

'Mining right' is as defined in the Act and includes all the Annexures to it, agreements and inclusions by reference;

'Mining Work Programme' is as defined in the Act and as reflected in the attached **Annexure C** to this mining right;

'Minister' means the Minister of Mineral Resources and includes the successors in title, the assignee or any person duly authorised to act in the Minister's place and stead;

'Regional Manager' is as defined in the Act and specifically in relation to this right means the Regional Manager for the **Mpumalanga** Region of the Department of Mineral Resources; and

'Social and Labour Plan', is as contemplated in regulation 46 of the Regulations to the Act and is as reflected in the attached **Annexure D** to this mining right.

1. Description of the Mining Area

The Mining Area shall comprise the following:

Certain: **Portions 2, 3, 4, 5, 16, 22, 24, 25, 28 and Remaining Extent of Portion 29 of the farm Brakfontein 264 IR**

Situated: **Mpumalanga Magisterial/Administrative District of Delmas**

Measuring: **1.283.709 hectares in extent.**

(In the case of various farms being involved, a list can be attached and referred to as **Annexure A**);

Which Mining Area is described in detail on the attached Diagram/plan marked **Annexure B**.

2. Granting of Mining Right

Without detracting from the provisions of sections 5 and 25 of the Act, the Minister grants to the Holder the sole and exclusive right to mine, and recover the mineral/s in, on and under the mining area for the Holder's own benefit and account, and to deal with, remove and sell or otherwise dispose of the mineral/s, subject to the terms and conditions of this mining right, the provisions of the Act and any other relevant law in force for the duration of this right.

3. Commencement, Duration and Renewal

3.1. This mining right shall commence on **6 March 2014** and, unless cancelled or suspended in terms of this clause 13 of this right and or section 47 of the Act, will continue to be in force for a period of **ten (10) years ending on 5 March 2024**.

3.2. The Holder must commence with the mining operations within a year from the date on which the mining right becomes effective in terms of section 23 (5) of the Act, or any later date as may, upon a written request by the Holder, be authorised in writing by the Minister in terms of the Act, failing which this right may be cancelled or suspended.

3.3. Any application for renewal must be submitted to the Regional Manger not later than 60 working days prior to the date of expiry of this right.

4. Amendments, Variation and Abandonment

4.1. The terms of this right (including by extension of the area covered by it or by the addition of minerals or a share or shares or seams, mineralized bodies, or strata, which are not at the time the subject thereof) may not be amended or varied without the written consent of the Minister.

4.2. The Holder shall be entitled to abandon or relinquish the right or the area covered by the right entirely or in part. Upon abandonment or relinquishment of the mining area or any portion thereof, the Holder must:

- 4.2.1. Furnish the Regional Manager with all prospecting and /or mining results and/or information, as well as the general evaluation of the geological, geophysical and borehole data in respect of such abandoned area in so far as it applies to the mineral or any other mineral/s obtained in respect of this right and,
- 4.2.2. Apply for a closure certificate in terms of section 43 (3) of the Act.
- 4.3 With effect from the date the Holder has abandoned or relinquished a portion or portions of the mining area, and subject to section 43 of the Act, the Minister is entitled to grant any right, permit, or permission referred to in the Act in, on, or under the portion/s, so abandoned or relinquished, to any person/s.

5. Payment of Royalties

- 5.1. The Holder shall as contemplated in section 25 (2) (g) pay to the State throughout the duration of this mining right, royalties payable in terms of any Act or Amendment to an Act of Parliament implemented.

6. Payment of Interest

If mining fees, any fees, any levy, royalties or consideration referred to in clause 5 are not paid punctually, the Holder shall be in mora and shall pay interest thereon at the rate prescribed in terms of section 80 of the Public Finance Management Act, 1999(Act 1 of 1999) reckoned from the date on which payment is due and payable, to the date of actual payment.

7. Restrictions and Obligations Imposed on the Holder

- 7.1 The Holder is entitled to the rights referred to in section 5(2), (3) and section 25 of the Act, and such other rights as may be contained in this mining right or such other right as may be granted to, acquired by or conferred upon the Holder by any other applicable law.
- 7.2 Mining operations in the mining area must be conducted in accordance with the Mining Work Programme and any amendment to such Mining Work Programme and an approved Environmental Management Plan.
- 7.3 The Holder shall not trespass or enter into any homestead, house or its curtilage nor interfere with or prejudice the interests of the occupiers and/or owners of the surface of the Mining Area except to the extent to which such interference or prejudice is necessary for the purposes of enabling the Holder to properly exercise the Holder's rights under this mining right.

8. Conditions on disposal of Minerals and/ or Products Derived from Mining

It is a condition of the granting of this mining right that the Holder shall dispose of all minerals and/ or products derived from the exploitation of the mineral at competitive market prices which shall mean in all cases, non-discriminatory prices or non-export parity prices. If the minerals are sold to any entity, which is an affiliate or non-affiliated agent or subsidiary of the Holder, or is directly or indirectly controlled by the Holder, such purchaser must unconditionally undertake in writing to dispose of the minerals and any products produced from the minerals, at competitive market prices.

9. Mortgage, Cession, Transfer, Alienation

9.1 This mining right, a shareholding, an equity, an interest or participation in the right or joint venture, or a controlling interest in a company, close corporation or joint venture, may not be encumbered, ceded, transferred, mortgaged, let, sublet, assigned, alienated or otherwise disposed of without the written consent of the Minister, except in the case of a change of controlling interest in listed companies.

9.2 Any transfer, encumbrance, cession, letting, sub-letting, assignment, alienation or disposal of this right or any interest therein or any share or any interest in the Holder, without the consent of the Minister referred to in section 11(1) is of no force, no effect and is invalid.

10. Protection of Boreholes, Shafts, Edits and Openings.

All boreholes, shafts, edits, excavations, and openings sunk or made, by the Holder during the currency of this mining right shall be sealed, closed, fenced, made safe by the Holder in accordance with the approved Environmental Management Programme, the Mine Health and Safety Act, 1996 or any other applicable laws and Regulations.

11. Holder's liability for payment of Compensation for Loss or Damage

11.1. Subject to section 43 of the Act, the Holder shall, during the tenure of this right while carrying out the mining operations under this right, take all such necessary and reasonable steps to adequately safeguard and protect the environment, the mining area and any person/s using or entitled to use the surface of the mining area from any possible damage or injury associated with any activities on the mining area.

- 11.2. Should the holder fail to take reasonable steps referred to above, and to the extent that there is legal liability, the holder shall compensate such person or persons for any damage or losses, including but not limited to damage to the surface, to any crops or improvements, which such person or persons may suffer as a result of, arising from or in connection with the exercise of his/her rights under this mining right or of any act or omission in connection therewith.

12. Inspection of Mining Area

The Minister and/or any person duly authorised thereto in writing by the Minister shall be entitled to inspect the mining area, the Holder's mining operations and the execution of the approved Environmental Management Programme on the Mining Area as provided for in the Act, and any instruction conveyed in writing by the Minister to the Holder requiring the proper performance by the Holder of the Holder's obligations under this mining right shall be put into effect by the Holder in terms of the Act.

13. Cancellation or Suspension

- 13.1 Subject to section 47 of the Act, this mining right may be cancelled or suspended if the Holder:

- 13.1.1 Submits inaccurate, incorrect and or misleading information in connection with any matter required to be submitted under the Act;
- 13.1.2 Fails to honour or carry out any agreement, arrangement, or undertaking, including the undertaking made by the Holder in terms of the Broad Based Socio Economic Empowerment Charter and Social and Labour plan, on which the Minister relied for the granting of this right;
- 13.1.3 Breaches any material term and condition of this mining right;
- 13.1.4 Conducts mining operations in contravention of the provisions of the Act;
- 13.1.5 Contravenes the requirement of the approved Environmental Management Programme; or
- 13.1.6 Contravenes any provisions of this Act in any other manner.

- 13.2 Before the Minister cancels or suspends this right, the Minister shall:

- 13.2.1 Give written notice to the Holder indicating the intention to suspend or cancel this right;
 - 13.2.2 Give reason/s why the Minister is considering the suspension or cancellation of this right;
 - 13.2.3 Give the Holder 30 days to show reasons why the right should not be suspended or cancelled;
 - 13.2.4 Notify, the mortgagee [if any], of the intention to suspend or cancel this right; and
 - 13.2.5 Direct the Holder, where it is possible to remedy any contravention, breach or failure, to comply or to take such specified measures to remedy any contravention, breach or failure to comply.
- 13.3 If the Holder does not take the measures as specified by the Minister to remedy a contravention, breach or failure, the Minister may cancel or suspend this right after considering representations made by the Holder in terms of clause 13.2.3.

14. Records and Returns

- 14.1. The Holder shall maintain all such books, plans and records in regard to mining on the Mining Area as may be required by the Act and shall furnish to the office of the Regional Manager such reports and documents as may be relevant under this right.
- 14.2. The Holder shall furnish to the Regional Manager all such monthly returns contemplated in section 28 (2) A of the Act not later than the 15th day of the month following the month in respect of which it was reported.
- 14.3 The Holder shall furthermore at the end of each year following commencement of this mining right, inform the Regional Manager in writing of any new developments and of the future mining activities planned in connection with the exploitation/mining of the minerals on the Mining Area.

15. Minister's liability for Compensation

The Minister shall not at any time be liable or responsible for the payment of compensation of whatever nature to the Holder, the Holder's successors-in-title or assignee, or any person whomsoever as a result of the granting of this right.

16. Compliance with the Laws of the Republic

The granting of this Right, does not exempt the Holder and its successors in title and/or assigns from complying with the relevant provisions of the Mine Health and Safety Act, (Act No.29 of 1996) and any other law in force in the Republic of South Africa.

17. Provisions relating to section 2(d) and (f) of the Act

In the furthering of the objects of this Act, the Holder is bound by the provisions of an agreement or arrangement dated **NIA NIA N/A** entered into between the Holder/ empowering partner and **N/A** (the empowerment partner) which agreement or arrangement was taken into consideration for purposes of compliance with the requirements of the Act and or Broad Based Economic Empowerment Charter developed in terms of the Act and such agreement shall form part of this right.

18. Social and Labour Plan

- 18.1 The holder must annually, not later than three months before the end of its financial year, submit detailed implementation plan to give effect to Regulation 46(e)(i),(ii)and (iii) in line with the Social and Labour Plan.

- 18.2 The holder must annually, not later than three months after finalisation of its audited annual report, submit a detailed report on the implementation of the previous year's social and labour plan.

19. Severability

Notwithstanding anything to the contrary, any provision of this mining right which is contrary to any provision of the Act or which is otherwise ultra vires, null and void, voidable, or unenforceable, shall be severable from the rest of this right, such rest thus being and remaining of full force, effect and enforceable.

20. Domicilia citandi et executandi

- 20.1. The parties hereto choose the following addresses as their *domicilia citandi et executandi* and for all purposes arising from this mining right, in particular for the purposes of serving of any notice in terms of this mining right, and any notice properly addressed to the under mentioned postal addresses of the parties shall be deemed to have been received by the addressee within 14 days if given in writing and posted by prepaid registered post addressed to the addressee at the relevant postal address:

20.1.1. In the case of the Minister:

Physical Address	Postal Address
Province House	Private Bag X7279
Cnr Botha and Paul Kruger Street	
WITBANK	WITBANK
Code 1035	1035
Tel 013 656 1448	013 656 1448
Fax 013 656 0932	013 656 0932

20.1.2. In the case of the Holder:

Physical Address	Postal Address
Lower Ground Floor,	Postnet Suite 458
Grayston Ridge Block A,	Private Bag X9
144 Katherine Street, Sandown	
Sandton	BENMORE
Code 2010	2010

Tel	011 430 7640	011 430 7640
Fax	011 262 4951	011 262 4951

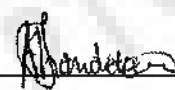
- 20.2. Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by a party at any place other than the chosen *domicilia citandi et executandi* shall constitute adequate notice or communication to the party notwithstanding that it was not sent to or delivered at such party's chosen *domicilium citandi et executandi*.
- 20.3. Either party shall be entitled from time to time to change the *domicilia citandi et executandi* or postal address furnished above after giving at least 14 days prior written notice of such change to the other party, failing which the above mentioned addresses will remain in force.
- 20.4. Any written notice or communication contemplated in this clause which is forwarded by one party to the other by registered post will be presumed to have been received by the addressee on the fourteenth day following the date of posting from an address within the Republic of South Africa to the addressee at the postal address of the addressee for the time being as determined in accordance with the provisions of this clause.

21. Costs

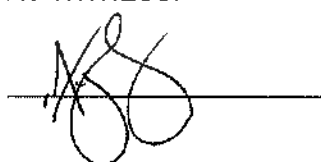

The Holder shall pay all costs and charges incurred in connection with the execution and registration of this prospecting right.

Thus done and signed at Witbank on the 6 day of March in the year 2014 in the presence of the undersigned witnesses:

AS WITNESS:

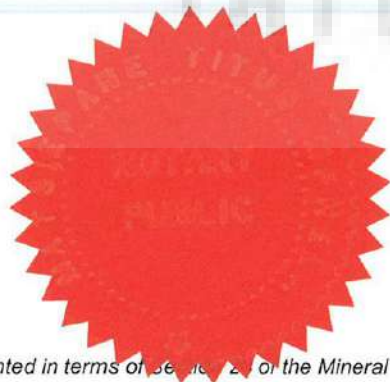


 For and on behalf of the **Minister**

AS WITNESS:



 For and on behalf of the **Holder**

13

Notary Public



Handwritten initials and a signature.

Annexure E 37



Tegeta Exploration & Resources Pty Ltd.

Lower Ground Floor,
Grayston Ridge Block A,
144 Katherine Street, Sandown,
Sandton, South Africa.
www.tegeta.com

Postal Address: Postnet Suite 458,
Private Bag X9, Berea, 2010

Tel: +27 11 262 3670
Email: info@tegeta.com; joym@tegeta.com

Directors:
Ronika Govender
Ravindra Nath
Registration No.:
2008/014492/07



COAL, COPPER & PGM

The General Manager (Fuel Sourcing)
Primary Energy Division
Megawatt Park
Maxwell Drive, Sunninghill
Sandton

Attn: Mr J Bester

Date: 3rd February 2015

Dear Sir,

COAL SUPPLY OFFER- TEGETA (BRAKFONTAIN COLLIERY)

We kindly refer to your letter No.722981 dated 30th January 2015. We humbly thank Eskom for its support in accepting our offer of supply. We would like to move to contract at the soonest, however we submit the following request for your kind consideration:

- We are happy to supply 65 000 Tonnes per month from 1 April 2015, we would however like Eskom to consider increasing this volume to 100 000 tonnes a month from 1 October 2015 as the Extension of Brakfontein Colliery would be operational by then. We would offer the product subject to the same specs as per your above referred letter and at the same price of R13.50 per Joule.
- In our numerous interactions we have requested Eskom to allow us to increase our black ownership to 50% plus 1 share in a phased manner over a period of 3 years. We therefore once again request that the supply agreement reflect and accept that term as it is to enable us to transform the Company in a sustainable manner.
- Due to our commitment to the increased ownership coupled with Eskom's and the DPE's commitment to support the sustainable growth of majority owned junior miners, we seek your favourable consideration for a 10 year supply agreement as our reserves support the supply of volumes required for this period,
- We are in the process of the vendor registration and shall provide the vendor number soonest.

Yours sincerely


(Authorised Signatory)

Annexure E 33



Sibongile Mbeje

From: Ayanda Ntshanga <NtshanAK@eskom.co.za>
Sent: Thursday, 05 February 2015 14:00
To: Luyanda Mlonzi
Subject: Re: Vendor Registration

Good day, A contract to supply coal has been awarded commencing 1 April 2015. Regards, Ayanda On 05 Feb 2015, at 1:06 PM, Luyanda Mlonzi <MlonziL@eskom.co.za> wrote: Good Day Ayanda I just want to find out if is there a contract awarded or specific motivation for registering this supplier. I will need that information before proceeding as registration is now done on a need basis. Regards Luyanda Mlonzi From: Ayanda Ntshanga Sent: 03 February 2015 04:44 PM To: Luyanda Mlonzi Subject: FW: Vendor Registration From: Ayanda Ntshanga Sent: Tuesday, February 3, 2015 4:42 PM To: Babalwa Mhlophe Cc: 'Ravindra Nath'; Thabani Mashego; Portia Ndlovu; Satish Mudaliar Subject: Vendor Registration Good Day, Please can you arrange for vendor registration for Tegeta Exploration and Resources Pty Ltd. For documentation required, please liaise with: Mr Satish Mudaliar AGM Commercial Tegeta Exploration and Resources 011 430 7640 083 279 8617 satishm@goldridge.co.za Thank you. regards, Ayanda Ntshanga Fuel Sourcing Primary Energy Division Tel: 011 800 2936 Fax: 086 600 8057 ntshanak@eskom.co.za

Antoinette A. Griffiths

From: Ravindra Nath <nath@oakbay.co.za>
Sent: Thursday, 12 February 2015 16:26
To: Tony Gupta
Subject: RE: 722983 COAL SUPPLY OFFER - TEGETA (BRAKFONTEIN COLLIERY AND EXTENSION)

Dear Tony ji,

My recommendation:

- a. Para two should read as "Eskom has agreed to initially take 65,000 tons from Brakfontein Colliery and shall increase the quantity to 100,000 tons on the same commercial terms once Tegeta starts their Brakfontein Extension Colliery. Each of the tranches are subject to the terms hereunder.;
- b. Para 2 (lower portion); " A maximum price of R13.50 per gigajoule for a total of 100,000 tones per month from Brakfontein Colliery or Brakfontein Extension Colliery or from any one of them."
- c. Para 3 " the proposed volumes are 65,000 tons per month from Brakfontein Colliery. The volumes shall be increased to 100,000 per month from October 2015 once Tegeta's Brakfontein Colliery becomes operational.
- d. Para 5 " an initial five year duration with an option on the part of Tegeta to extend it for an additional period of 5 years.

Further, they are tagging the contract to the supply to Majuba power Station only.

Regards,
 Ravindra

-----Original Message-----

From: Ravindra Nath [mailto:nath@oakbay.co.za]
Sent: 12 February 2015 03:26 PM
To: 'Salim Essa'
Cc: Tony Gupta <tony@sahara.co.za> (tony@sahara.co.za)
Subject: FW: 722983 COAL SUPPLY OFFER - TEGETA (BRAKFONTEIN COLLIERY AND EXTENSION)

Dear Tony ji,

The letter from Eskom enclosed. I am not very happy with the wording "Eskom shall an option to enter into an offtake agreement for the additional coal".

Further, "option to extend for further 5 years".

This shows that there is no commitment on the part of Eskom.

Regards,
 R. Nath

-----Original Message-----

From: Ayanda Ntshanga [mailto:NtshanAK@eskom.co.za]
Sent: 12 February 2015 02:32 PM
To: Ravindra Nath; Satish Mudaliar
Cc: Johann Bester
Subject: 722983 COAL SUPPLY OFFER - TEGETA (BRAKFONTEIN COLLIERY AND EXTENSION)

Good day,

Please find attached letter for your consideration.

Should you wish to discuss or collect the original, please advise accordingly.

Regards,

Ayanda Ntshanga
Fuel Sourcing
Primary Energy Division
Tel: 011 800 2936
Fax: 086 600 8057
ntshanak@eskom.co.za

I'm part of the 49Million initiative.
<http://www.49Million.co.za>

NB: This Email and its contents are subject to the Eskom Holdings SOC Limited EMAIL LEGAL NOTICE which can be viewed at http://www.eskom.co.za/Pages/Email_Legal_Spam_Disclaimer.aspx

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This message has been scanned for viruses and dangerous content by MailScanner, and is believed to be clean.



Antoinette A. Griffiths

From: Ravindra Nath <nath@oakbay.co.za>
Sent: Friday, 13 February 2015 09:55
To: Tony Gupta
Subject: RE: 722983 COAL SUPPLY OFFER - TEGETA (BRAKFORTEIN COLLIERY AND EXTENSION)

Dear Tony ji,

My recommendation:

a. Para two should read as "Eskom has agreed to initially take 65,000 tons from Brakfontein Colliery and shall increase the quantity to 100,000 tons on the same commercial terms once Tegeta starts their Brakfontein Extension Colliery. Each of the tranches are subject to the terms hereunder.

b. Para 2 (lower portion); "A maximum price of R13.50 per gigajoule for a total of 100,000 tones per month from Brakfontein Colliery or Brakfontein Extension Colliery or from any one of them."

c. Para 3 " the proposed volumes are 65,000 tons per month from Brakfontein Colliery. The volumes shall be increased to 100,000 per month from October 2015 once Tegeta's Brakfontein Extension Colliery becomes operational.

d. Para 5 " **Ten year duration subject to review after 5 years to ensure that the Brakfontein Extension Colliery meets Eskom's technical requirements and could produce 100,000 tons per month.**

(or)

"an initial five year duration and shall automatically be extended for an additional period of 5 years provided that Eskom's technical requirements are met and the Brakfontein Extension Colliery could produce 100,000 tons per month".

e. **Para 6 Conditions. Para 6 (C) to be deleted.**

Further, they are tagging the contract to the supply to Majuba power Station only.

Regards,
 Ravindra

-----Original Message-----

From: Ravindra Nath [mailto:nath@oakbay.co.za]
 Sent: 12 February 2015 03:26 PM
 To: 'Salim Essa'
 Cc: Tony Gupta <tony@sahara.co.za> (tony@sahara.co.za)
 Subject: FW: 722983 COAL SUPPLY OFFER - TEGETA (BRAKFORTEIN COLLIERY AND EXTENSION)

Dear Tony ji,

The letter from Eskom enclosed. I am not very happy with the wording "Eskom shall an option to enter into an offtake agreement for the additional coal". Further, "option to extend for further 5 years". This shows that there is no commitment on the part of Eskom.

Regards,
 R. Nath

-----Original Message-----

From: Ayanda Ntshanga [mailto:NtshanAK@eskom.co.za]
 Sent: 12 February 2015 02:32 PM
 To: Ravindra Nath; Satish Mudalliar
 Cc: Johann Bester

Subject: 722983 COAL SUPPLY OFFER - TEGETA (BRAKFORTEIN COLLIERY AND EXTENSION)

Good day,

Please find attached letter for your consideration.

Should you wish to discuss or collect the original, please advise accordingly.

Regards,

Ayanda Ntshanga
Fuel Sourcing
Primary Energy Division
Tel: 011 800 2936
Fax: 086 600 8057
ntshanak@eskom.co.za

I'm part of the 49Million initiative.

<http://www.49Million.co.za>

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Antoinette A. Griffiths

From: Ravindra Nath <nath@oakbay.co.za>
Sent: Monday, 16 February 2015 16:46
To: Tony Gupta
Subject: FW: 722983 COAL SUPPLY OFFER - TEGETA (BRAKFORTEIN COLLIERY AND EXTENSION)

Dear Tony ji,
 Reply from Ayanda placed below.
 Regards,
 R. Nath

From: Ayanda Ntshanga [mailto:NtshanAK@eskom.co.za]
Sent: 16 February 2015 03:14 PM
To: Ravindra Nath
Subject: RE: 722983 COAL SUPPLY OFFER - TEGETA (BRAKFORTEIN COLLIERY AND EXTENSION)

Good day,

We have had a look at your comments in line with the most recent letter we have sent. I think there may be a misunderstanding in interpretation. I would like to suggest a meeting with the team on Friday, 20th February 2015, at 14h00, at Eskom offices to go through the issues highlighted below.

Please advise if this date and time suits you.

Regards,

Ayanda Ntshanga
 Fuel Sourcing
 Primary Energy Division
 Tel: 011 800 2936
 Fax: 086 600 8057
ntshanak@eskom.co.za

From: Ravindra Nath [mailto:nath@oakbay.co.za]
Sent: Friday, February 13, 2015 1:18 PM
To: Ayanda Ntshanga
Subject: RE: 722983 COAL SUPPLY OFFER - TEGETA (BRAKFORTEIN COLLIERY AND EXTENSION)

Hello Madam,

Kindly refer to your letter Ref. 722983 dated 12th February 2015. Kindly recollect our discussions in which I mentioned that we want a 10 years' contract to satisfy our funders as the loan period is going to be more than 7 years. Further, I also explained you that in the initial 5 years or so we would be supplying 65,000 tons from Brakfontein Colliery and the remaining coal will come from Brakfontein Extension Colliery and afterwards once the resources of Brakfontein colliery are depleted the whole 100,000 would be supplied from Brakfontein Extension Colliery. If we have 2 different contracts then this purpose would not be solved. In the light of these facts and for the sustainability of the mines we request you to kindly consider the following changes favourably:

- a. Para two should read as "Eskom has agreed to initially take 65,000 tons from Brakfontein Colliery and shall increase the quantity to 100,000 tons on the same commercial terms once Tegeta starts their Brakfontein Extension Colliery. Each of the tranches are subject to the terms hereunder.
- b. Para 2 (lower portion); "A maximum price of R13.50 per gigajoule for a total of 100,000 tons per month from Brakfontein Colliery or Brakfontein Extension Colliery or from any one of them."
- c. Para 3 " the proposed volumes are 65,000 tons per month from Brakfontein Colliery. The volumes shall be increased to 100,000 per month from October 2015 once Tegeta's Brakfontein Extension Colliery becomes operational.
- d. Para 5 "Ten year duration".
- e. Para 6 Conditions. Para 6 (C) to be deleted.

With kind Regards,
R. Nath

I'm part of the 49Million initiative.
<http://www.49Million.co.za>

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Annexure E 42



 Eskom	BRIEFING NOTE	Reference: 723688
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CLASSIFICATION	CONFIDENTIAL	DATE	10 MARCH 2015
FOR ATTENTION	VUSI MBOWENI	ACTION REQUIRED	NOTING
FROM	JOHANN BESTER	CONTACT	011 800 3729
SUBJECT	COAL SUPPLY AGREEMENT WITH TEGETA EXPLORATION AND RESOURCES		

INTRODUCTION

Eskom has negotiated a contract for the supply of coal from Tegeta Exploration and Resources.

1. Negotiation Outcomes

These negotiation outcomes are within the mandate parameters of the Medium Term (2008) in respect of price, volume and duration.

- a. **Price:** The price from Tegeta for a combination of seam 4 upper and lower from Brakfontein Colliery and Brakfontein Colliery Extension is R13.50 per gigajoule.
- b. **Volume:** The proposed volume is commencing at 65 000 per month from 1 April 2015 increasing to 100 000 per month from 1 October 2015 when coal from Brakfontein Colliery is available and the contract conditions have been met.
- c. **Duration:** 1 April 2015 for a ten year duration.

2. Contract Conditions

The contract contains two suspensive conditions due to Eskom's technical and environmental conditions for the full resource offered not being fulfilled at this time of signature of the agreement. These are in the process of being attended to and will continue to be addressed over the following months as mining operations move to the Brakfontein Extension.

The suspensive conditions are:

- a. The supplier must meet the conditions of the Black Ownership target within three years.
- b. Prior to acceptance of the supplier coal for both Brakfontein and Brakfontein Extension, the supplier must meet Eskom's environmental and technical requirements, which include but not limited to a full combustion test.

3. Contract Management Issues

- a. The technical blending limits will be included once the full combustion test result and recommendation is made available. Clause 20 sets out the standard clauses in respect of the blending process but the technical proportions will only be finalised once the results of the combustions test are known.
- b. The base rate for the escalation will be included in April 2015 into the contract, once these are made publicly available.
- c. The double verification clause will be included once finalized internally for all Eskom contracts commencing 1 April 2015.
- d. The Black Ownership targets have not been signed off by Supplier Development and Localisation, however, these have been included as a suspensive clause within the contract to ensure that Tegeta is in a position to contribute to Eskom's Black Ownership targets by 2018. These will need to be monitored as part of the management of the contract. It has been included as a warranty on the part of the Supplier and therefore will be subject to the materiality provisions of the Agreement.

Eskom's legal advisor has reviewed the contract.

Yours sincerely



Johann Bester
GENERAL MANAGER: FUEL SOURCING

Annexure E 45



From: Ayanda Nteta
Sent: 23 March 2015 10:56 AM
To: Mabatho Mothapo
Cc: Thabani Mashego
Subject: Feedback on Full Combustion Test - Brakfontein Colliery

Hi Mabatho,


Please can you provide feedback on the full combustion test for Brakfontein Colliery.

Thank you.

Regards,

Ayanda Nteta
Fuel Sourcing
Primary Energy Division
Tel: 011 800 2936
Fax: 086 600 8057
ntshanak@eskom.co.za



	Financial Evaluation Report of TEGETA EXPLORATION AND RESOURCES (PTY) LTD		Unique Identifier	322-26
			Revision	0
	Corporate Reporting			

Please note that this financial analysis was performed solely for the purpose of deciding whether TEGETA EXPLORATION AND RESOURCES (PTY) LTD is financially sound enough to be awarded a contract to the value of R4.3 billion for the Supply of Coal to Majuba Power Station over a period of 10 years, per reference number Medium Term Mandate.

1. Background to the company

TEGETA EXPLORATION AND RESOURCES (PTY) LTD

TEGETA EXPLORATION AND RESOURCES (PTY) LTD is involved in mining and exploration activities.

2. Comments on financial statements

TEGETA EXPLORATION AND RESOURCES (PTY) LTD

Approved financial statements for the 12 months ended 28 February 2014 and 2013 comparative figures were obtained and analysed.

A signed Independent Auditor's Report issued by KPMG Inc., Chartered Accountants (S.A.), Registered Auditors, accompanied the financial statements.

3. Analysis (refer to Appendix)


TEGETA EXPLORATION AND RESOURCES (PTY) LTD

Current Ratio: The ratio of current assets to current liabilities indicates that the company might be in a position to meet its short-term obligations if creditors request payment on demand.

Debt / Equity: The debt to equity ratio indicates that the company might have difficulty raising long-term finance, if required. The negative ratio of 2.21 results from the negative equity the company recorded for the period under review.

Profit Ratios: The profitability ratios were unfavourable during the period under review.

Return Ratios: The asset return ratio was unfavourable and the return on equity ratio was favourable during the period under review.

	Financial Evaluation Report of TEGETA EXPLORATION AND RESOURCES (PTY) LTD		Unique Identifier	322-20
			Revision	0
	Corporate Reporting			

which resulted from the accumulated loss of R20.8 million that the company recorded.

Interest Cover: The negative interest cover ratio of 0.33 indicates that the company is not generating enough revenue to cover its interest commitments.

4. Other Considerations

TEGETA EXPLORATION AND RESOURCES (PTY) LTD

The contract value is R4.3 billion over a period of 10 years which is equivalent to R432.6 million. The company's 2014 turnover of R5.9 million indicates that, given the information at our disposal, the company might have difficulty to deliver on this contract.


At the time of this financial analysis, the company did not have any outstanding contracts with Eskom.

The company had negative cash generated from operations of R4.3 million and cash on hand at the end of the year of R7.4 million. These cash reserves might not be sufficient to enable TEGETA EXPLORATION AND RESOURCES (PTY) LTD to finance incremental working capital requirements to deliver on this contract.

5. Area of concern

The following are areas of concern:

- Accumulated Loss and Loss for the year**
 The company recorded an accumulated loss of R20.8 million and loss for the year of R17.7 million.
- Negative Debt to Equity Ratio**
 The company recorded negative debt to equity ratio for the period under review. This indicates that this company might find it difficult to raise additional finance, if required.
- Profit ratios**
 The profitability ratios were unfavourable at the end of the year. This poses a risk that the company might not be operating efficiently, and that the fixed costs might be too high for its operations.

	Financial Evaluation Report of TEGETA EXPLORATION AND RESOURCES (PTY) LTD	Unique Identifier	322-20
		Revision	0
		Corporate Reporting	

- Return on Assets ratio**
 The return on assets ratio was unfavourable at the end of the year. This poses a risk that the company might not be effectively utilising its assets to generate profit.
- Negative Interest Cover ratio**
 The recorded negative interest cover ratio indicates that the company is not generating enough revenue to cover interest commitments.
- Negative Cash generated from operations**
 The company recorded negative cash generated from operations of R4.3 million. This means that this company cannot cover operations solely from running its business. The negative cash flows indicate a collections problem or poor debt structure.
- Contract size vs. Cash flow**
 Based on the company's working capital, it may face cash flow challenges as a result of the magnitude of this contract. This contract award will require additional financial resources in terms of, amongst other things, its direct employees and will also increase its operational gearing.


Recommendation

We are of the opinion, based on the above-mentioned concerns, that TEGETA EXPLORATION AND RESOURCES (PTY) LTD might face difficulty in financing the incremental working capital requirements that will result from this contract.

It is therefore recommended that the company provide the following:

- A funding model that indicates how it will finance the incremental working capital requirements associated with this contract, or
- Guarantees from its financiers or parent company to cover the incremental cash flows associated with this contract, and
- A written undertaking that, should this contract be awarded, the company will be able to honour this contract and all other existing contracts

Furthermore, in order to reduce Eskom's risk, payments should only be made as work is performed and approved in terms of the contract.


	Financial Evaluation Report of TEGETA EXPLORATION AND RESOURCES (PTY) LTD	Unique Identifier	322-20
		Revision	0
		Corporate Reporting	

6. Conclusion


In our opinion, based on the issues raised under Note 5 above **TEGETA EXPLORATION AND RESOURCES (PTY) LTD is relatively NOT sound enough financially** to be awarded a contract to the value of R4.3 billion for the Supply of Coal to Majuba Power Station over a period of 10 years, per reference number Medium Term Mandate.

However, subject to the satisfactory resolution of the issues raised under Note 5 above, the company might be considered should this contract be awarded.


NB! If a contract is to be awarded, the above-mentioned recommendation needs to be enforced.


Compiled by
Sibusiswe Dube
011 800 4303
Finance Project Services

Date: 29/4/2015.....


Reviewed by
Arthur Sebudi
011 800 4411
Finance Project Services

Date: 30/4/2015.....


Approved by
Berniece Tzanakakis
011 800 2191
Finance Project Services

Date: 30/4/2015.....

Project number: 2864



CONFIDENTIAL

Ravindra Nath
Chief Executive
Tegeta Exploration and Resources (Pty) Ltd
Grayston Ridge Office Park
Block A, Lower Ground Floor
144 Katherine Street
SANDTON
2146

Date:
11 May 2015

Enquiries:
A Nteta
+27 (011) 800 2936
Our Ref: 723862

Dear Ravindra

**AMENDMENT OF SPECIFICATION FOR COAL SUPPLY CONTRACT (4600056841)
FROM TEGETA (BRAKFORTEIN COLLIERY)**

We refer to our discussion on the 16th April 2015 and amend the contract specification as indicated below. The coal supplied from the Brakfontein Colliery shall comply with the specification below.

Quality parameter	Unit	Quality Expected	Quality Rejection Limit	Measurement basis
Calorific Value	MJ/kg	21.10	<20.3MJ/kg	Air Dried
Total Moisture	%	<8.0	>10.0	As Received
Inherent Moisture	%	4.4	N/A	As Received
Ash	%	27.9	>29.7	Air Dried
Abrasive Index (Eskom Mining House Method)	mgFe/4kg	<450	>450	Air Dried
Sulphur	%	1.0	>1.3	Air Dried
Volatiles	%	21.3	<20.0	Air Dried
AFT (Initial deformation)	°C	1300	<1220	N/A
Sizing				
+50mm	%	<5.0	>5.0	N/A
-3mm (cumulative)	%	<30.0	>35.0	
-1mm	%	<10.0	>15.0	

* Hard grove Index should be within Eskom acceptable limit of >50 in order to achieve the desired milling and coal fineness during combustion.

Yours sincerely

J. A. Bester
12 May 2015
Johann Bester
GENERAL MANAGER: FUEL SOURCING

Primary Energy Division
Megawatt Park Maxwell Drive Sunninghill Sandton
PO Box 1091 Johannesburg 2000 SA
Tel +27 11 800 3729 Fax +27 11 800 5555 www.eskom.co.za

Eskom Holdings SOC Ltd Reg. No 2002/015627/30



Primary Energy Division Minutes

Meeting : Monthly Technical Liaison Meeting – Brakfontein
Date : 13 May 2015
Time : 10:30 - 11:15
Venue : Smokey Mountains – TC Boardroom, Room 307
Chairperson : Gert Opperman

Item	Summary of discussion	Action													
1.	Opening and welcome The Chairperson opened the meeting and welcomed all present. The evacuation process was confirmed with everyone present.	All													
2.	Attendance register (Present) <table><tr><td>Satish Mudaliar</td><td>Brakfontein</td></tr><tr><td>Siphelele Gobeni</td><td>Eskom - PED Geologist</td></tr><tr><td>Ditha Nkoga</td><td>Eskom - PED Rail Logistics</td></tr><tr><td>Dean Manilall</td><td>Eskom - Majuba Power Station</td></tr><tr><td>Leepile Moseleng</td><td>Eskom - PED Road Logistics</td></tr><tr><td>Nico Singh</td><td>Eskom - PED Road Logistics</td></tr><tr><td>Andile Khumalo</td><td>Eskom - PED Road Logistics</td></tr></table>		Satish Mudaliar	Brakfontein	Siphelele Gobeni	Eskom - PED Geologist	Ditha Nkoga	Eskom - PED Rail Logistics	Dean Manilall	Eskom - Majuba Power Station	Leepile Moseleng	Eskom - PED Road Logistics	Nico Singh	Eskom - PED Road Logistics	Andile Khumalo
Satish Mudaliar	Brakfontein														
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Nico Singh	Eskom - PED Road Logistics														
Andile Khumalo	Eskom - PED Road Logistics														
3.	Attendance register (Apologies) <table><tr><td>Eshari Singh</td><td>Eskom - PED Finance</td></tr><tr><td>George vd Merwe</td><td>Brakfontein</td></tr><tr><td>Ajay Upadhyay</td><td>Brakfontein</td></tr><tr><td>Sam Phetla</td><td>Eskom - PED Quality Assurance</td></tr><tr><td>Esther Appleyard</td><td>Eskom- Environmental</td></tr></table>	Eshari Singh	Eskom - PED Finance	George vd Merwe	Brakfontein	Ajay Upadhyay	Brakfontein	Sam Phetla	Eskom - PED Quality Assurance	Esther Appleyard	Eskom- Environmental				
Eshari Singh	Eskom - PED Finance														
George vd Merwe	Brakfontein														
Ajay Upadhyay	Brakfontein														
Sam Phetla	Eskom - PED Quality Assurance														
Esther Appleyard	Eskom- Environmental														
4.	Approval and changes to minutes No previous minutes were available since this is the first meeting.														

Item	Summary of discussion	Action																																				
5.	Safety Brakfontein: <ul style="list-style-type: none">No incidents from 15 February when operations commenced Eskom <ul style="list-style-type: none">FCA = 16 & DEL 2 fatality free days FCA fatality was on 26 April on the R25 near Bronkhorstspuit when a public vehicle collided with the back of the FCA truck. The truck was stationary at a stop-and-go at the time of the accident. DEL fatality was on 10 May on the R50 when a non-Eskom business truck collided head-on with an Eskom business truck which was on its way back to the yard following being off-loaded at Hawerklip siding.																																					
6.	Previous Month Planned deliveries vs Actual deliveries <table border="1"><thead><tr><th colspan="2">Brakfontein</th><th colspan="2">April 2015</th></tr><tr><th></th><th></th><th>Actual</th><th>Plan</th></tr></thead><tbody><tr><td>Majuba via Hawerklip Siding</td><td>Rail</td><td></td><td>0</td></tr><tr><td>Majuba directly</td><td>FCA</td><td>48</td><td>65</td></tr><tr><td>Total</td><td></td><td>48</td><td>65</td></tr></tbody></table> The reason for the deliveries being below plan was due to challenges on the processing plant.	Brakfontein		April 2015				Actual	Plan	Majuba via Hawerklip Siding	Rail		0	Majuba directly	FCA	48	65	Total		48	65																	
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7.	Forecast Deliveries for the next 6 months <table border="1"><thead><tr><th colspan="2">Shanduka</th><th>May</th><th>Jun</th><th>Jul</th><th>Aug</th><th>Sep</th><th>Oct</th><th>Nov</th></tr></thead><tbody><tr><td>Majuba via Hawerklip Siding</td><td>Rail</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr><tr><td>Majuba directly</td><td>FCA</td><td>56</td><td>78</td><td>78</td><td>65</td><td>65</td><td>113</td><td>113</td></tr><tr><td>Total</td><td></td><td>56</td><td>78</td><td>78</td><td>65</td><td>65</td><td>113</td><td>113</td></tr></tbody></table> <ul style="list-style-type: none">For the period April to September the contractual minimum volume is 52kT and the maximum 78kT. For the remainder of the contract the contractual minimum volume is 90.4kT, the nominal 113kT and the maximum 135.8kT.	Shanduka		May	Jun	Jul	Aug	Sep	Oct	Nov	Majuba via Hawerklip Siding	Rail								Majuba directly	FCA	56	78	78	65	65	113	113	Total		56	78	78	65	65	113	113	
Shanduka		May	Jun	Jul	Aug	Sep	Oct	Nov																														
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Total		56	78	78	65	65	113	113																														
8.	Qualities General <ul style="list-style-type: none">No quality rejections for AprilAsh 28%, 22.5 Vol & CV 20.8 average for April Timing of receipt of qualities: <ul style="list-style-type: none">Reporting should be daily Quality projection: <ul style="list-style-type: none">Three day buffer stockpile (pre- certified) to be kept.	Info																																				

Item	Summary of discussion	Action																																																																																																																		
9.	<p>Key Transporter's Indicators</p> <p>Rail matters</p> <ul style="list-style-type: none"> The interim solution stage 1 is planned to be completed by end July to discharge at the silo and stage 2 by end October to link with the boiler Incline conveyors. <p>Majuba Power Station Tippler Outage Dates FY 2015 - 2016</p> <table border="1"> <thead> <tr> <th>Month</th><th>Start</th><th>Comp</th><th>Duration</th><th>Comments</th></tr> </thead> <tbody> <tr> <td>May</td><td>18</td><td>18</td><td>12hrs</td><td>Natcor Double Line Occupation</td></tr> <tr> <td>May</td><td>26</td><td>26</td><td>10hrs</td><td>Tippler maintenance opportunity</td></tr> <tr> <td>June</td><td>14</td><td>14</td><td>12hrs</td><td>Natcor Double Line Occupation</td></tr> <tr> <td>June</td><td>30</td><td>30</td><td>10hrs</td><td>Tippler maintenance opportunity</td></tr> <tr> <td>July</td><td>13</td><td>24</td><td>12 days</td><td>Tippler Long Outage</td></tr> <tr> <td>July</td><td>14</td><td>23</td><td>10 days</td><td>Natcor Double Line Shutdown</td></tr> <tr> <td>Aug</td><td>9</td><td>9</td><td>12hrs</td><td>Natcor Double Line Occupation</td></tr> <tr> <td>Aug</td><td>25</td><td>25</td><td>10hrs</td><td>Tippler maintenance opportunity</td></tr> <tr> <td>Sept</td><td>13</td><td>13</td><td>12hrs</td><td>Natcor Double Line Occupation</td></tr> <tr> <td>Sept</td><td>29</td><td>29</td><td>10hrs</td><td>Tippler maintenance opportunity</td></tr> <tr> <td>Oct</td><td>11</td><td>11</td><td>12hrs</td><td>Natcor Double Line Occupation</td></tr> <tr> <td>Oct</td><td>27</td><td>27</td><td>10hrs</td><td>Tippler maintenance opportunity</td></tr> <tr> <td>Nov</td><td>15</td><td>15</td><td>12hrs</td><td>Natcor Double Line Occupation</td></tr> <tr> <td>Dec</td><td>1</td><td>1</td><td>10hrs</td><td>Tippler maintenance opportunity</td></tr> <tr> <td>Dec</td><td>13</td><td>13</td><td>12hrs</td><td>Natcor Double Line Occupation</td></tr> <tr> <td>Jan</td><td>5</td><td>5</td><td>10hrs</td><td>Tippler maintenance opportunity</td></tr> <tr> <td>Jan</td><td>17</td><td>17</td><td>12hrs</td><td>Natcor Double Line Occupation</td></tr> <tr> <td>Feb</td><td>2</td><td>2</td><td>10hrs</td><td>Tippler maintenance opportunity</td></tr> <tr> <td>Feb</td><td>14</td><td>14</td><td>12hrs</td><td>Natcor Double Line Occupation</td></tr> <tr> <td>March</td><td>1</td><td>1</td><td>10hrs</td><td>Tippler maintenance opportunity</td></tr> <tr> <td>Mar</td><td>13</td><td>13</td><td>12hrs</td><td>Natcor Double Line Occupation</td></tr> </tbody> </table> <table border="1"> <tbody> <tr> <td>Tippler maintenance opportunity</td></tr> <tr> <td>Natcor Double Line Occupation</td></tr> <tr> <td>Natcor Double Line Shutdown</td></tr> <tr> <td>Tippler Long Outage</td></tr> </tbody> </table>	Month	Start	Comp	Duration	Comments	May	18	18	12hrs	Natcor Double Line Occupation	May	26	26	10hrs	Tippler maintenance opportunity	June	14	14	12hrs	Natcor Double Line Occupation	June	30	30	10hrs	Tippler maintenance opportunity	July	13	24	12 days	Tippler Long Outage	July	14	23	10 days	Natcor Double Line Shutdown	Aug	9	9	12hrs	Natcor Double Line Occupation	Aug	25	25	10hrs	Tippler maintenance opportunity	Sept	13	13	12hrs	Natcor Double Line Occupation	Sept	29	29	10hrs	Tippler maintenance opportunity	Oct	11	11	12hrs	Natcor Double Line Occupation	Oct	27	27	10hrs	Tippler maintenance opportunity	Nov	15	15	12hrs	Natcor Double Line Occupation	Dec	1	1	10hrs	Tippler maintenance opportunity	Dec	13	13	12hrs	Natcor Double Line Occupation	Jan	5	5	10hrs	Tippler maintenance opportunity	Jan	17	17	12hrs	Natcor Double Line Occupation	Feb	2	2	10hrs	Tippler maintenance opportunity	Feb	14	14	12hrs	Natcor Double Line Occupation	March	1	1	10hrs	Tippler maintenance opportunity	Mar	13	13	12hrs	Natcor Double Line Occupation	Tippler maintenance opportunity	Natcor Double Line Occupation	Natcor Double Line Shutdown	Tippler Long Outage	Info
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	<p>Road matters</p> <ul style="list-style-type: none">• Leepile requested that the mines please focus on the dispatch rates• 2015 road embargo days as currently proposed: <table><tr><td></td><td colspan="3">2015 Proposal</td></tr><tr><td></td><td>Date</td><td>Day</td><td>Time</td></tr><tr><td></td><td colspan="3">Christmas</td></tr><tr><td>Stop loading at mines</td><td>24-Dec</td><td>Thu</td><td>06:00</td></tr><tr><td>Start loading at mines</td><td>27-Dec</td><td>Sun</td><td>06:00</td></tr><tr><td></td><td colspan="3">New Year</td></tr><tr><td>Stop loading at mines</td><td>31-Dec</td><td>Thu</td><td>06:00</td></tr><tr><td>Start loading at mines</td><td>04-Jan</td><td>Mon</td><td>06:00</td></tr></table>		2015 Proposal				Date	Day	Time		Christmas			Stop loading at mines	24-Dec	Thu	06:00	Start loading at mines	27-Dec	Sun	06:00		New Year			Stop loading at mines	31-Dec	Thu	06:00	Start loading at mines	04-Jan	Mon	06:00	Info
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10.	<p>CQMP</p> <ul style="list-style-type: none">• Brakfontein to confirm the date of the sampler installation where after the bias test date need to be scheduled.• The drainage test date need to be scheduled• Until September the average daily dispatch rate is $\pm 3kT$ per day and then $\pm 5kT$ per day. The maximum stockpile size agreed to is 5000tons.• The laboratory audit schedule for Sibonisiwe will be shared at the next meeting in order for the mine to accompany Eskom for these audits.	Satish Sam Info Sam																																
11.	<p>Finance</p> <ul style="list-style-type: none">• Eskom requested the weighbridge document with the invoice. Gert to clarify the need for this.	Gert																																
12.	<p>Environmental</p> <ul style="list-style-type: none">• Should the mine receive any directive Eskom must be informed immediately and it must be noted at this meeting.• All mining activities should be compliant with water use licence.	Info																																
13.	<p>Coal Supply Agreement</p> <ul style="list-style-type: none">• The initial phase of the contract is until September 2015 where after the Brakfontein extension will be signed which will take the contract until September 2025	Info																																
14.	<p>Risk</p> <ul style="list-style-type: none">• Misty conditions• Industrial action from the Road Freight Industry with regards to wage negotiations. The previous agreement in 2013 covered two years• The intersection of the mine access into R50 needs urgent attention both in terms of awareness, nigh operation, widening the off-ramp	Info Info Satish																																
15.	<p>General</p> <ul style="list-style-type: none">• A higher quality specification is currently under negotiation. Implementation date to be confirmed.• Road to Rail split to be considered going forward• Hawerklip reconciliation contact details to be shared with Satish.	Info Gert																																

16.	Closure	
	The meeting was closed. The next meeting will take place on 10 June 2015 @ 10:30 – 11:15. The venue will be at Smokey Mountains in the TC boardroom, Room 307.	



	Health and Safety Due Diligence Evaluation Report	Document ID No	
		Revision No	0
		Effective Date	May 2015
		PRIMARY ENERGY DIVISION	

Subject:	Health and Safety Due Diligence Report
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Supplier Name:	Tegeta Brakfontein
Supplier Representative:	Kobus Kotze and Jacques Bentley
Mine Name:	Tegeta Brakfontein
Blending Site:	N/A
PED Sourcing Manager:	Ayanda Nteta and Thabani Mashego
PED Safety Representative:	Pulane Raophala
Date of Evaluation:	26 May 2015

1. Background

Tegeta Brakfontein is a coal colliery mine, which entered into a contract with Eskom to supply coal. Coal will be mined at the colliery and will be transported to the allocated power stations by trucks.

2. Section A: Document Evaluation Feedback

The first evaluation (SHE Non-negotiables evaluation and file evaluation) was completed on the 18 March 2015. Evaluation is based on the submission of the eight SHE Non-negotiables Requirements and result of evaluation is as follows:

- Acknowledgement of the Eskom's SHE rules and requirements,
- Valid letter of Good Standing,
- Company's SHE policy,
- Health and Safety Plan based on the scope/proposal,
- Baseline Risk Assessment of activities based on the scope/proposal,
- Medical Fitness plan,
- Health and Safety costing,
- Legally required appointments and supporting competency certificates.

Final result: The supplier has satisfactorily complied with all of the above requirements. Supporting record has been completed and has been forwarded to the sourcing manager as part of this report.

	Health and Safety Due Diligence Evaluation Report	Document ID No	
		Revision No	0
		Effective Date	May 2015
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3. Section B: Site Assessment Feedback

- The site assessment was conducted on the 26 May 2015.
- Operations commenced in March 2015 and there are 92 employees working full time on site.
- Kobus Kotze and Jacques Bentley and the Site Safety Officer were present during the assessment.
- The assessment was based on compliance with the Mine Health and Safety Act requirements; documents and records verifications plus site walk-about were conducted.
- The workshop was not ready and will be evaluated once they have completed the building process.

4. Compliance Summary

In total 16 requirements were evaluated and results are as follows:

Requirement	Result	Comments
1. Letter of good standing	Did not comply	The letter of good standing to be send to PED SHERQ as it was not available during the site visit.
2. Statutory appointments	Comply	
3. Employer to ensure safety	Comply	
4. Annual medical report	Comply	The Annual Medical Report will be presented after a year as they started operating in March 2015.
5. Employer to assess and respond to risk	Did not comply	The mine does not have a control / management process in place to ensure that persons who are not employees are not exposed to any hazards while at the mine? A Visitors Induction programme needs to be developed.
6. Employer to maintain a health and safe mine environment	Comply	
7. Ensure adequate supply of health and safety equipment	Comply	


 Eskom	Health and Safety Due Diligence Evaluation Report	Document ID No	
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8. Employer to staff the mine with due regard to health and safety	Comply	
9. Employer must establish a health and safety policy	Do not comply	A copy of the Health and Safety Policy need to be provided to each health and safety representative and displayed in a place where it can be seen at all time.
10. Codes of practice	Do not comply	Only a few Codes of Practice have been reviewed and signed off and they are in the process of finalising the rest of the Code of Practice.
11. Employer to provide health and safety training	Comply	
12. Employer to conduct occupational hygiene measures	Comply	
13. Employer to establish a system of medical surveillance	Comply	
14. Records of hazardous work	Comply	
15. Health and safety representatives and committees	Comply	The employees are below 100 and the act specifies that only when the employees are above 100 that they should have such committees.
16. Other requirements	Do not comply	First aiders certificates need to be provided.

Final Result: The results in terms of compliance have been indicated above where there is no total compliance plans need to be put in place to address the gaps. However the supplier has demonstrated that safety system has been established and implemented, with several areas of improvement identified and discussed with the team.


5. Section C: Conclusion and Recommendations

The supplier has demonstrated duty of care for safety, by evidence of compliance with the set out requirements and it is therefore recommended for supply of coal.

 Eskom	Health and Safety Due Diligence Evaluation Report	Document ID No	
		Revision No	0
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Recommendations:

- A Visitors Induction programme needs to be developed in order to make sure that visitors are aware of the risk that they will be exposed to.
- Fire extinguishers date of evaluation needs to be written on the fire extinguisher to indicate if they are still valid.
- First aid boxes need to be mounted and access controlled at all time.
- Network problems need to be looked at as we could access system used to monitor medical surveillance.

Prepared by: 
Pulana Raophata
Middle Manager SHERQ
Date: 08 June 2015

Antoinette A. Griffiths

From: Ravindra Nath <nath@oakbay.co.za>
Sent: Friday, 19 June 2015 18:21
To: Tony Gupta
Subject: FW: Contract Update Meeting
Attachments: 20150619161557.pdf

Sorry, 1st email had no enclosure.

Regards,
Ravindra

From: Ravindra Nath [mailto:nath@oakbay.co.za]
Sent: 19 June 2015 18:20
To: 'Ayanda Nteta'
Subject: RE: Contract Update Meeting

Hello Madam,

Kindly refer to the meeting we had with your team today. In this connection please find enclosed our offer letter for 200,000 tons of coal from October 2015. I am not mentioning about the combustion test etc in the letter as it is already incorporated in our agreement with Eskom. We shall be glad to receive your confirmation letter in this regard.

Regards,
R. Nath

--

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Tegeta Exploration & Resources Pty Ltd.

Lower Ground Floor,
Grayston Ridge Block A,
144 Katherine Street, Sandown,
Sandton, South Africa.
www.tegeta.com

Postal Address: Postnet Suite 458,
Private Bag X9, Benmore, 2010

Tel: +27 11 262 3870
Email: info@tegeta.com; joym@tegeta.com

Directors :
Ronica Govender
Ravindra Nath
Registration No.:
2006/014492/07



COAL, COPPER & PGM

The General Manager (Fuel Sourcing)
Primary Energy Division
Megawatt Park
Maxwell Drive, Sunninghill
Sandton

Attn. Ms Ayanda

Date: 19th June 2015

Dear Sir,

COAL SUPPLY OFFER- TEGETA**(BRAKFORTEIN & BRAKFORTEIN EXTENSION COLLIERY)**

We kindly refer to the meeting we had with Eskom today. In this connection after revisiting our Mining Plans of the captioned mines we would like to confirm that we would be ready to supply 200,000 tons (two hundred thousand tons) of coal to Eskom from the month of October 2015. We therefore request you to kindly advise Eskom's acceptance for our offer to supply 200,000 tons (two hundred thousand tons) of coal from the month of October 2015 onwards for the whole period of our contract to facilitate us to order for the required equipment and develop infrastructure accordingly.

Yours sincerely

(Authorised Signatory)

Antoinette A. Griffiths

From: Ravindra Nath <nath@oakbay.co.za>
Sent: Wednesday, 24 June 2015 10:07
To: Tony Gupta
Subject: Fwd: Coal Supply Letter for Additional Tonnes
Attachments: 20150624092035015.pdf; Draft Letter- Eskom.docx

Dear Tony ji,
Please find enclosed the letter from Eskom and draft letter as discussed.
Regards,
Ravindra

----- Forwarded message -----

From: Ayanda Nteta <NtshanAK@eskom.co.za>
Date: Wed, Jun 24, 2015 at 9:27 AM
Subject: Coal Supply Letter for Additional Tonnes
To: Ravindra Nath <nath@oakbay.co.za>

Good Day,

Please find attached letter for your attention.

Regards,

Ayanda Nteta
Fuel Sourcing
Primary Energy Division
Tel: 011 800 2936
Fax: 086 600 8057
ntshanak@eskom.co.za

I'm part of the 49Million initiative.
<http://www.49Million.co.za>

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Ravindra Nath
Chief Executive
Tegeta Exploration and Resources (Pty) Ltd
Grayston Ridge Office Park
Block A, Lower Ground Floor
144 Katherine Street
SANDTON
2146

Date:
24 June 2015

Enquiries:
A Nteta
+27 (011) 800 2936
Our Ref: 724515

Dear Ravindra

COAL SUPPLY OFFER – TEGETA (BRAKFORTEIN COLLIERY EXTENSION)

We refer to the above and wish to thank you for your offer to supply an additional 100 000 tonnes per month of coal to Eskom from your Brakfontein Colliery Extension with effect from October 2015. This would potentially increase your supply to Eskom to a total 200 000 tonnes per month. Following our meeting on the 19th June 2015 Eskom wishes to record some of the material terms the parties agreed on:

1. Coal Specification

The coal supplied from the Brakfontein Colliery Extension must comply with the relevant Eskom specifications and will be determined once the full combustion test is successfully completed for the proposed product.

2. Volumes

The proposed volume is 200 000 tonnes per month, from October 2015, subject to all the required Eskom approvals, including a requirement for the volume at the relevant power station/s.

3. Contract Conditions

All contract conditions, and subsequent modifications, as per the current contract 4600056841 remain.

Further to the above it is important to note that the record of discussions on the abovementioned material terms are all subject to a duly signed modification to the current coal supply agreement (4600056841) between the parties and compliance with the following:

- a. The coal proposed to be supplied from Brakfontein Colliery Extension, must comply with Eskom's technical requirements and Eskom's coal supply

Primary Energy Division
Megawatt Park, Maxwell Drive, Sunninghill, Sandton
PO Box 1091, Johannesburg, 2000 SA
Tel +27 11 800 3729 Fax +27 11 800 5555 www.eskom.co.za

Eskom Holdings SOC Ltd Reg. No 2002/015527/30

requirements, including but not limited to Eskom's full combustion test. For the avoidance of any doubt if these requirements do not render compliance for supply to Eskom, Eskom shall outright reject the proposal and no modification of the coal supply agreement shall be entered to.

- b. The contracting entity complies with all Eskom's requirements which shall include all Eskom policies and procedures.
- c. That all Eskom's governance processes have been complied with.

Eskom shall bear no liability for any costs or liabilities incurred by the supplier on the basis of this offer.

Yours sincerely

24 June 2015
Johann Bester

GENERAL MANAGER: FUEL SOURCING

COAL SUPPLY OFFER: TEGETA EXPLORATION & RESOURCES
BRAKFORTEIN AND BRAKFORTEIN EXTENSION COLLIERIES

We refer to the above and wish to thank you for your offer to supply an additional 100,000 tonnes per month of coal to Eskom from your Brakfontein and Brakfontein Extension collieries with effect from 1st October 2015. This would increase your supply to Eskom to a total of 200,000 tonnes per month. Following our meeting on the 19th June 2015 Eskom wishes to record some of the material terms the parties agreed on:

1. Coal Specification

The additional coal supplied must comply with the relevant specifications contained in the current contract;

2. Volumes

The proposed volume is 200,000 tonnes per month from 1st October 2015;

3. Contract Conditions

All conditions and subsequent modifications thereof as per the current contract 4600056841 remains.

Antoinette A. Griffiths

From: Ravindra Nath <nath@oakbay.co.za>
Sent: Wednesday, 24 June 2015 10:20
To: Ayanda Ntshanga
Subject: Coal Supply Letter for additional tonnes
Attachments: Draft Letter- Eskom.docx

Hello Madam,
thank you for the letter. However, from our bankers' purposes we need letter on the enclosed lines. Kindly help in this regard.
Regards,
R.Nath

—
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COAL SUPPLY OFFER: TEGETA EXPLORATION & RESOURCES
BRAKFONTEIN AND BRAKFONTEIN EXTENSION COLLIERIES

We refer to the above and wish to thank you for your offer to supply an additional 100,000 tonnes per month of coal to Eskom from your Brakfontein and Brakfontein Extension collieries with effect from 1st October 2015. This would increase your supply to Eskom to a total of 200,000 tonnes per month. Following our meeting on the 19th June 2015 Eskom wishes to record some of the material terms the parties agreed on:

1. Coal Specification

The additional coal supplied must comply with the relevant specifications contained in the current contract;

2. Volumes

The proposed volume is 200,000 tonnes per month from 1st October 2015;

3. Contract Conditions

All conditions and subsequent modifications thereof as per the current contract 4600056841 remains.

Antoinette A. Griffiths

From: Ravindra Nath <nath@oakbay.co.za>
Sent: Thursday, 25 June 2015 17:03
To: Tony Gupta
Subject: Fwd: Letter
Attachments: 20150625160125827.pdf

Dear Tony ji,
FYI
Regards,
Ravindra

----- Forwarded message -----

From: Ayanda Nteta <NtshanAK@eskom.co.za>
Date: Thu, Jun 25, 2015 at 4:25 PM
Subject: Letter
To: Ravindra Nath <nath@oakbay.co.za>

Good day,

Please find attached letter for your attention.

Regards,

Ayanda Nteta
Fuel Sourcing
Primary Energy Division
Tel: 011 800 2936
Fax: 086 600 8057
ntshanak@eskom.co.za

I'm part of the 49Million initiative.
<http://www.49Million.co.za>

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Ravindra Nath
Chief Executive
Tegeta Exploration and Resources (Pty) Ltd
Grayston Ridge Office Park
Block A, Lower Ground Floor
144 Katherine Street
SANDTON
2146

Date:
25 June 2015

Enquiries:
A Nteta
+27 (011) 800 2936
Our Ref: 724515

Dear Ravindra

COAL SUPPLY OFFER – TEGETA (BRAKFORTEIN COLLIERY EXTENSION)

We refer to the above and wish to thank you for your offer to supply an additional 100 000 tonnes per month of coal to Eskom from your Brakfontein Colliery Extension with effect from October 2015. This would potentially increase your supply to Eskom to a total 200 000 tonnes per month. Following our meeting on the 19th June 2015 Eskom wishes to record some of the material terms the parties agreed on:

1. Coal Specification

The coal supplied from the Brakfontein Colliery Extension must comply with the relevant Eskom specifications as contained in the current contract as modified in letter (reference 723862) dated 11 May 2015.

2. Volumes

The proposed volume is 200 000 tonnes per month, from October 2015 at the same technical requirements as reflected in existing contract (4600056841) and letter (723862).

3. Contract Conditions

All contract conditions as per the current contract 4600056841 remain.

Eskom shall bear no liability for any costs or liabilities incurred by the supplier on the basis of this letter.

Yours sincerely

JABESTER
Johann Bester

GENERAL MANAGER: FUEL SOURCING

Primary Energy Division
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PO Box 1091, Johannesburg, 2000 SA
Tel +27 11 800 3729 Fax +27 11 800 5555 www.eskom.co.za

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Antoinette A. Griffiths

From: Ravindra Nath <nath@oakbay.co.za>
Sent: Friday, 28 August 2015 16:56
To: Ayanda Nteta
Subject: Offer to supply coal
Attachments: Eskom Coal Supply offer.pdf

Hello Madam,

Please find enclosed our offer letter to supply 150 000 additional coal for next 10 years for your favourable consideration.

Regards,
R. Nath

—
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Directors:
Ronica Govender
Ravindra Nath
Registration No.:
2006/014492/07



COAL, COPPER & PGM

The General Manager (Fuel Sourcing)
Primary Energy Division
Megawatt Park
Maxwell Drive, Sunninghill
Sandton
Attn. Ms Ayanda

Date: 28th August 2015

Dear Sir,

COAL SUPPLY OFFER- TEGETA

In the captioned matter we are willing to supply additional 150,000 (One hundred and fifty thousand) tonnes of coal to Eskom of the similar specs as we are supplying presently for a period of 10 years. The Run of Mine (ROM) coal shall be procured from other local mines and shall be supplied to Eskom after value addition by blending, crushing & screening and if necessary by beneficiating (washing) to ensure that the coal supplied shall meet the desired quality requirement of Eskom.

The value addition shall be done at our Brakfontein mine or at the mine site from where the ROM coal is procured and shall be supplied directly to the designated power station.

Yours sincerely

(Authorised Signatory)



Tegeta Exploration and Resources (Pty) Ltd
Attention: Mr Ravi Nath

By E-mail: nath@oakbay.co.za

Dear Sir

SUSPENSION OF COAL SUPPLY: BRAKFORTEIN COLLIERY AND BRAKFORTEIN COLLIERY EXTENSION

The above matter has reference.

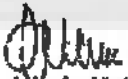
Eskom notes the significant increase in the number of out-of-specification coal stockpiles from July to August 2015. During August 2015, 50% of the stockpiles have been out of specification resulting in rejection. Further, Eskom notes the inconsistency in the laboratory results as the outcome of coal samples provided by the mine.

This is of great concern to Eskom as it now calls into question the exact nature and quality of the coal that Brakfontein Colliery and Brakfontein Colliery Extension supplies to Eskom in terms of the coal supply agreement.

Therefore as a precautionary measure, Eskom hereby notify you of the suspension of offtake from the mines in order to investigate the root cause of the inconsistency in the coal quality management process.

The suspension will come into effect by 16h00 today.

Yours sincerely


Mafahela Koko
GROUP EXECUTIVE
Date: 31/8/15

Group Technology and Commercial
Mogamat Park Maxwell Drive Sunninghill Sandton
PO Box 1091 Johannesburg 2000 SA
Tel +27 11 800 4852 Fax +27 86 668 2072 www.eskom.co.za

Eskom Holdings SOC Ltd Reg No 2002/016527/30

013/9

Annexure E 67



Sibongile Mbeje

From: server-12.tower-213@notification.messagelabs.com on behalf of Ravindra Nath
<nath@oakbay.co.za>
Sent: Friday, 04 September 2015 13:08
To: Ayanda Nteta
Subject: Draft
Attachments: Draft.eml (19.0 KB)

Sender: nath@oakbay.co.za

Subject: Draft

Message-Id: <4f84f1f5dcc189dac180a756852cf659@mail.gmail.com>

Recipient: NtshanAK@eskom.co.za



Sibongile Mbeje

From: Ravindra Nath <nath@oakbay.co.za>
Sent: Friday, 04 September 2015 13:07
To: Ayanda Nteta
Subject: Draft
Attachments: Document6.docx

Hello Madam,FYIRegards,R. Nath



The General Manager (Fuel Sourcing)
Primary Energy Division
Megawatt Park
Maxwell Drive, Sunninghill
Sandton
Attn. Ms Ayanda

Date: 28th August 2015

Dear Sir,

COAL SUPPLY OFFER- TEGETA

In the captioned matter we are willing to supply additional 200,000 (Two hundred thousand) tonnes of coal to Eskom of the similar specs as we are supplying presently for a period of 3 (three) years subject to extension thereof. The Run of Mine (ROM) coal shall be procured from other local mines or traders and shall be supplied to Eskom after value addition by blending, crushing and screening to ensure that the coal supplied shall meet the desired quality requirement of Eskom. We shall provide full details of the site from which the coal is being procured and where the value addition is being done to enable Eskom to satisfy itself with the technical requirements for supply of coal including full combustion test.

The value addition shall be done at our Brakfontein mine or at the mine site from where the ROM coal is procured and shall be supplied to the designated power station directly.

Yours sincerely

(Authorised Signatory)



Tegeta Exploration and Resources (Pty) Ltd
Attention: Mr Ravi Nath

By E-mail: nath@oakbay.co.za

Dear Sir

**UPLIFTMENT OF THE SUSPENSION OF COAL SUPPLY: BRAKFONTAIN COLLIERY
AND BRAKFONTAIN COLLIERY EXTENSION**

The above matter and our letter dated 31 August 2015 refer.

Eskom hereby lifts the suspension of coal supply from the Brakfontein Colliery and Brakfontein Colliery Extension effective immediately whilst it continues its investigation into the inconsistency in the coal quality management process.

Eskom's rights are fully reserved.

Yours sincerely

Matshela Koko
GROUP EXECUTIVE

Date: 5/9/15

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Eskom Holdings SOC Ltd Reg No 2002/016527/30

84147



TO ALL : ACCOUNTING OFFICERS OF DEPARTMENTS AND CONSTITUTIONAL INSTITUTIONS

ACCOUNTING AUTHORITIES OF PUBLIC ENTITIES

HEAD OFFICIALS OF PROVINCIAL TREASURIES

NATIONAL TREASURY INSTRUCTION SCM INSTRUCTION NOTE 3 OF 2016/17

PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM

1. OBJECTIVE

The objective of the *SCM Treasury Instruction* is to provide guidance on measures to prevent and combat abuse in the Supply Chain Management System.

2. BACKGROUND

- 2.1 The Public Finance Management Act (PFMA), 1999 (Act No. 1 of 1999) promotes economy, efficiency, effectiveness and transparency in the use of state resources. A key objective is to establish and maintain a responsive and credible Supply Chain Management System.
- 2.2 In terms of section 6 (2) (a), (b), (f) and (g) and section 18 (2) a), (b), (g) and (i) of the PFMA, the National Treasury and provincial treasuries have an obligation to ensure that proper norms and standards are set to prevent abuse of the Supply Chain Management System and enforce the prescribed measures.
- 2.3 The National Treasury therefore considered it prudent to introduce and enhance measure to prevent and combat abuse of the SCM System.

3. REGISTER OF COMPLAINTS

- 3.1 The Accounting Officer/Accounting Authority must establish a system that deals with the management of complaints and or allegations of abuse in the Supply Chain Management System.
- 3.2 The system must provide for:
 - 3.2.1 Written, verbal or anonymous reporting of the complaint.
 - 3.2.2 The establishment of a register of all allegations of abuse in the Supply Chain Management System in the format as per Annexure A attached to this *SCM Treasury Instruction*.

National Treasury Instruction 3 of 2016/2017

Preventing and Combating Abuse in the Supply Chain Management System

- 3.3 Complaints that implicate the Accounting Officer/Accounting Authority must be reported to the relevant Treasury within 14 calendar days of the receipt of the complaint, by the delegated official in relevant institutions.

4. INVESTIGATE¹ COMPLAINTS

- 4.1 The Accounting Officer/Accounting Authority must:

- 4.1.1 Initiate an investigation within 14 calendar days of receipt of the complaint and or allegation of abuse;
- 4.1.2 The investigation must be completed within 30 calendar days from date of initiation unless an extension was approved by the relevant treasury;
- 4.1.3 Ensure that the investigation reports are securely stored;
- 4.1.4 Inform the relevant treasury of the outcome of the investigation, together with the proposed actions within 7 calendar days of receiving the investigation report.

- 4.2 The relevant treasury must initiate an investigation into complaints that implicate the Accounting Officer/Accounting Authority, within 14 calendar days from the receipt of the complaint and or allegation of abuse.

- 4.3 The relevant treasury must inform the Executive Authority of the outcome of the investigation, together with the proposed actions within 7 calendar days of receiving the investigation report.

- 4.4 The Executive Authority will thereafter handle the financial misconduct process, if applicable.

5. IMPLEMENT REMEDIAL ACTION

- 5.1 The Accounting Officer/Accounting Authority must:

- 5.1.1 Initiate disciplinary proceedings if the investigation report confirms the allegations of financial misconduct.
- 5.1.2 Report such allegations to the South African Police Services within 7 working days if the investigation report confirms the allegations of a criminal nature.
- 5.1.3 Inform the relevant treasury, in writing, of any criminal complaint within 7 working days of the complaint being lodged with the South African Police Services.
- 5.1.4 Initiate the implementation of the recommended remedial actions against the supplier within 14 calendar days of the receipt of the investigation report. Such remedial actions may include:
 - 5.1.4.1 rejecting the bid;
 - 5.1.4.2 cancelation of the contract;

¹ Investigate in the context of this Instruction means to carry out a systematic or formal probe to examine or analyse the particulars of an allegation or incident or occurrence so as to establish the reality and may include one or more of the following:

- 1. Compliance review by the procuring entity or the relevant Treasury
- 2. Internal audit review by the procuring entity or the relevant Treasury
- 3. Forensic audit review by a relevant authorised institution
- 4. Any other probity check conducted by the relevant authorised institution

National Treasury Instruction 3 of 2016/2017

Preventing and Combating Abuse in the Supply Chain Management System

- 5.1.4.3 restricting the supplier from doing business with the state; and/or
- 5.1.4.4 claiming damages (if any).
- 5.2 If the Accounting Officer/ Accounting Authority fail to initiate the remedial actions against the supplier within 14 calendar days of receiving the investigation report, the National Treasury or the relevant provincial treasury must initiate the implementation of the remedial actions.
- 5.3 The National Treasury or the relevant provincial treasury must recover all costs for initiating the implementation of the remedial actions from the Accounting Officer/ Accounting Authority.
- 5.4 The relevant treasury must publish an investigation report which confirms the abuse of supply chain management on the website.
- 5.5 The relevant treasury must publish a list of all SCM related criminal cases opened by various enforcement agencies on the website.
- 5.6 The relevant treasury must publish a list of irregular expenditure applications processed on the website on a quarterly basis.

6. REPORT OUTCOMES

- 6.1 The Accounting Officer/Accounting Authority of provincial institutions must table the reports on the allegations received, outcome of the investigations and the remedial actions at the Provincial Legislatures on a quarterly basis.
- 6.2 The Accounting Officer/Accounting Authority of National Institutions must table the reports on the allegations received, outcome of the investigations and the remedial actions in Parliament on a quarterly basis.
- 6.3 The Accounting Officer/Accounting Authority must submit reports to the Provincial Legislatures/ Parliament by the 15th of the month following the end of the quarter.
- 6.4 Relevant Legislature/Parliament Committees must ensure that the Accounting Officer/ Accounting Authority are held accountable to enhance efficiencies in the SCM System.

7. RESTRICTION OF SUPPLIERS, SHAREHOLDERS AND DIRECTORS

- 7.1 The Accounting Officer/Accounting Authority must:
 - 7.1.1 Notify the supplier and any other person of the intention to restrict by registered mail. The letter of restriction must provide for:
 - 7.1.1.1 the grounds for restriction;
 - 7.1.1.2 the period of restriction which must not exceed 10 years;
 - 7.1.1.3 A period of 14 calendar days for the supplier to provide reasons why the restriction should not be imposed.

National Treasury Instruction 3 of 2016/2017

Preventing and Combating Abuse in the Supply Chain Management System

- 7.2 The Accounting Officer/Accounting Authority:
- 7.2.1 May regard the intended penalty as not objected to and may impose such penalty on the supplier, should the supplier fail to respond;
 - 7.2.2 Must assess the reasons provided by the supplier and take the final decision.
- 7.3 If the penalty is imposed, the Accounting Officer/Accounting Authority must inform National Treasury of the restriction within 7 calendar days and must furnish the following information:
- 7.3.1 The name and address of the person to be restricted;
 - 7.3.2 The identity number of individuals and the registration number of the entity;
 - 7.3.3 Period of restriction.
- 7.4 National Treasury will load the details on the Database of Prohibited Suppliers after ensuring that the Accounting Officer/Accounting Authority has complied with Supply Chain Management legal framework.
- 7.5 A supplier who refuses to cooperate with a government institution must be suspended from the Central Supplier Database until it fully complies.

8. DEVIATIONS FROM NORMAL BIDDING PROCESS

- 8.1 The Accounting Officer/Accounting Authority must only deviate from inviting competitive bids in cases of emergency and sole supplier status.
- 8.2 An emergency procurement may occur when there is a serious and unexpected situation that poses an immediate risk to health, life, property or environment which calls an agency to action and there is insufficient time to invite competitive bids.
- 8.3 Sole source procurement may occur when there is evidence that only one supplier possesses the unique and singularly available capacity to meet the requirements of the institution.
- 8.4 The Accounting Officer/Accounting Authority must invite as many suppliers as possible and select the preferred supplier using the competitive bid committee system.
- 8.5 Any other deviation will be allowed in exceptional cases subject to the prior written approval from the relevant treasury.

9. EXPANSIONS OR VARIATION OF ORDERS

- 9.1 The Accounting Officer/Accounting Authority must ensure that contracts are not varied by more than 20% or R 20 million (including VAT) for construction related goods, works and or services and 15% or R15 million (including VAT) for all other goods and or services of the original contract value.
- 9.2 Any deviation in excess of the prescribed thresholds will only be allowed in exceptional cases subject to prior written approval from the relevant treasury.

National Treasury Instruction 3 of 2016/2017

Preventing and Combating Abuse in the Supply Chain Management System

10. BID COMMITTEE MEETINGS

The relevant Treasury may, at its sole discretion, choose to attend Bid Committee meetings in an advisory capacity or prescribe which bid evaluation/adjudication process must be open to the public.

Every member of the Bid Committee is jointly and severally liable for the improper evaluation and adjudication of the bid.

11. PROCUREMENT WITHOUT A BUDGET

The Accounting Officer/ Accounting Authority must not advertise a bid for which no provision has been made in the budget.

12. CONDONATION OF IRREGULAR EXPENDITURE

Irregular expenditure may be condoned if there is evidence that the Accounting Officer/ Accounting Authority took effective and appropriate steps against any person found to have caused it.

13. INFORMATION TO BE SUBMITTED

The Accounting Officer/ Accounting Authority must submit such information, returns, documents, explanations and motivations as prescribed or required by the relevant treasury.

Any application from the Accounting Officer/ Accounting Authority who fail to submit the required information must not be processed by the relevant treasury until they fully comply.

14. APPLICABILITY

This *SCM Treasury Instruction* applies to all institutions and public entities.

15. WITHDRAWAL OF CIRCULAR DATED 24 APRIL 2012

Circular on the postponement of paragraph 3.9.4 dated 24/04/2012 of Instruction Note 32 of 2011 is hereby withdrawn.

16. EFFECTIVE DATE

This *SCM Treasury Instruction* takes effect from the 1 May 2016.

17. DISSEMINATION OF INFORMATION CONTAINED IN THIS INSTRUCTION

17.1 Head officials of provincial treasuries must bring the contents of this *SCM Treasury Instruction* to the attention of all Accounting Officers/Accounting Authorities.

17.2 Accounting Officers and Accounting Authorities at National level must bring the contents of this *SCM Treasury Instruction* to the attention of the relevant officials.

National Treasury Instruction 3 of 2016/2017
Preventing and Combating Abuse in the Supply Chain Management System

18 AUTHORITY FOR THIS SCM INSTRUCTION

This *SCM Treasury Instruction* is issued in terms of section 76(4) (c) of the PFMA.

19 CONTACT INFORMATION

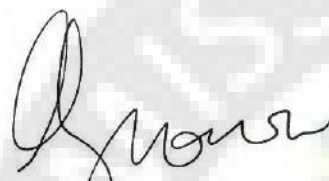
Enquiries related to this *SCM Treasury Instruction* may be directed to:

Egendri Nanakan

Director: SCM Governance

Tel 012 315 5452

Email: Knowledge.Ndou@Treasury.gov.za or Lebo.Molefe@Treasury.gov.za



KENNETH BROWN
CHIEF PROCUREMENT OFFICER

DATE: 19/4/2016



SUSTAINABILITY DIVISION

Research, Testing and Development

CONFIDENTIAL


Technical Memorandum

Title : Brakfontein Extension OC Coal Assessment
 Date Compiled : 27th June 2016
 Memorandum No : RP_FUEL_QS_16_43
 Revision : 1
 Project/Activity/Task No : N.GX00010
 Author : Chris van Alphen
 Section : Fuel and Combustion
 Functional Area : Plant Performance & Optimisation

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Keywords: Brakfontein, Extension, Opencast, Tegeta

REVISION	DESCRIPTION/COMMENT	AUTHOR	DATE
A	Draft	Chris van Alphen	27 June 2016
1	Review by Bonny Nyangwa	Chris van Alphen	28 June 2016

 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No RP_FUEL_QS_16_43	Rev. 1	Page 2/14

1 INTRODUCTION

During 2014, numerous Brakfontein S4U, S4L and blends of S4U:S4L were combusted in the Pilot Scale combustion test facility (PSCTF), analysed chemically and by QEMSCAN (RP_FUEL_QS_14_121 and RP_FUEL_QS_15_04). In these reports it has been recommended that separating S4L from the poorer quality S4U is preferable as blending S4L:S4U will produce variable results. Borehole assessment has confirmed that S4U is a notably poorer quality of S4L (RP_FUEL_QS_15_31). The difference in quality is attributed to geological conditions and the proximity of S4U to a paleo-river which deposit minerals into the surrounding swamp which is now S4U. Variations in Brakfontein qualities have been observed and Majuba power station has in the past rejected Brakfontein.

Since, 2014/2015 Brakfontein have opened a box cut on “Brakfontein” Extension. A sample of the box cut derived from seam was combusted in the Pilot Scale Combustion Test facility.

The objective of this investigation is to mineralogically validate Brakfontein Extension S4 boxcut Pilot Scale Combustion Test results, confirm the slagging propensity, determine if the coal is abrasive or not and to determine which power station can combustion Brakfontein Extension S4 opencast coal.

2 METHODOLOGY


Pilot scale combustion test pulverised fuel and fly ash were prepared and analysed by QEMSCAN.

Brakfontein 2014 and 2015 pilot scale combustion test data, chemical data and QEMSCAN analysis of S4U, S4L and blends of S4U:S4L and the 2015 Brakfontein borehole assessment will be referred to in this report (RP_FUEL_QS_14_121, RP_FUEL_QS_15_04 and RP_FUEL_QS_15_31).

3 RESULTS

Brakfontein Extension Opencast box cut sample is a relatively low ash coal characterised by a low dry base volatile matter (Figure 3-1). Boxcut dry base volatile matter and ash is comparable to S4L in boreholes BFN11, BFN28, BF34, BF37 and BF45. The 2014 and 2015 Brakfontein S4U:S4L blends and 2014 S4U and S4L samples had a comparatively high ash than Brakfontein Extension box cut sample.

Brakfontein extension dry base ash is within Tutuka, Majuba and Matla 240 dry base ash specification (Figure 3-1).

 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No RP_FUEL_QS_16_43	Rev. 1	Page 3/14

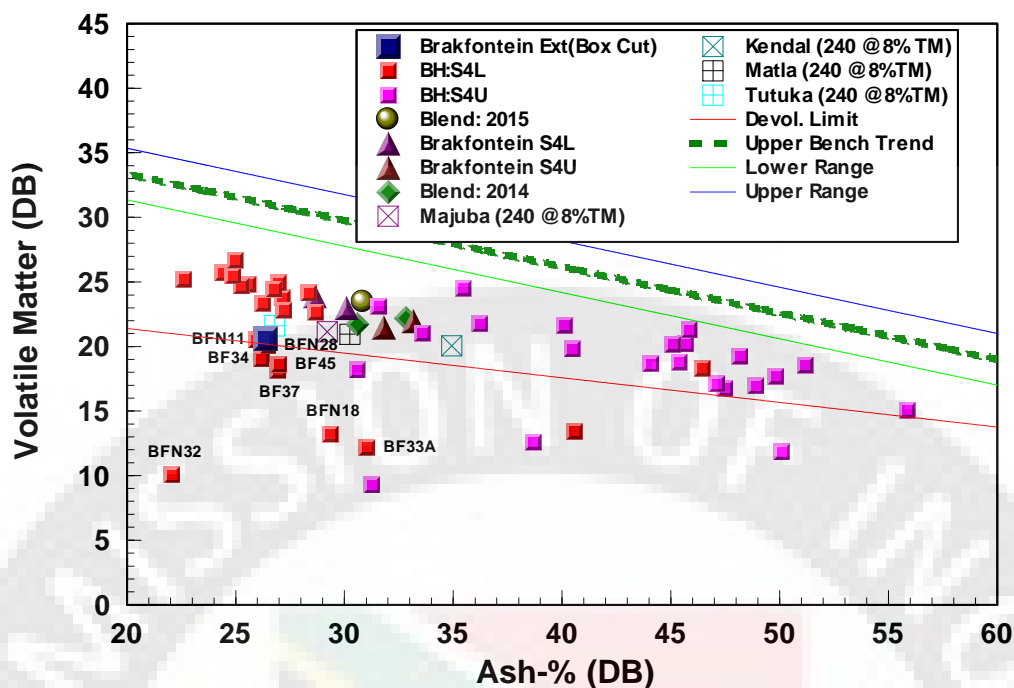


Figure 3-1: Variation in Brakfontein dry base ash and volatile matter. Power station based on ideal 240 dry base volatile matter and ash.

Brakfontein extension box cut measured burnout time is 2.3s which is comparable to DI predicted burnout time of 2.06s (Figure 3-2, Appendix E and Appendix A). Previously analysed Brakfontein blends, S4U and S4L had burnout times ranging from 1s to 1.63s (Figure 3-2).

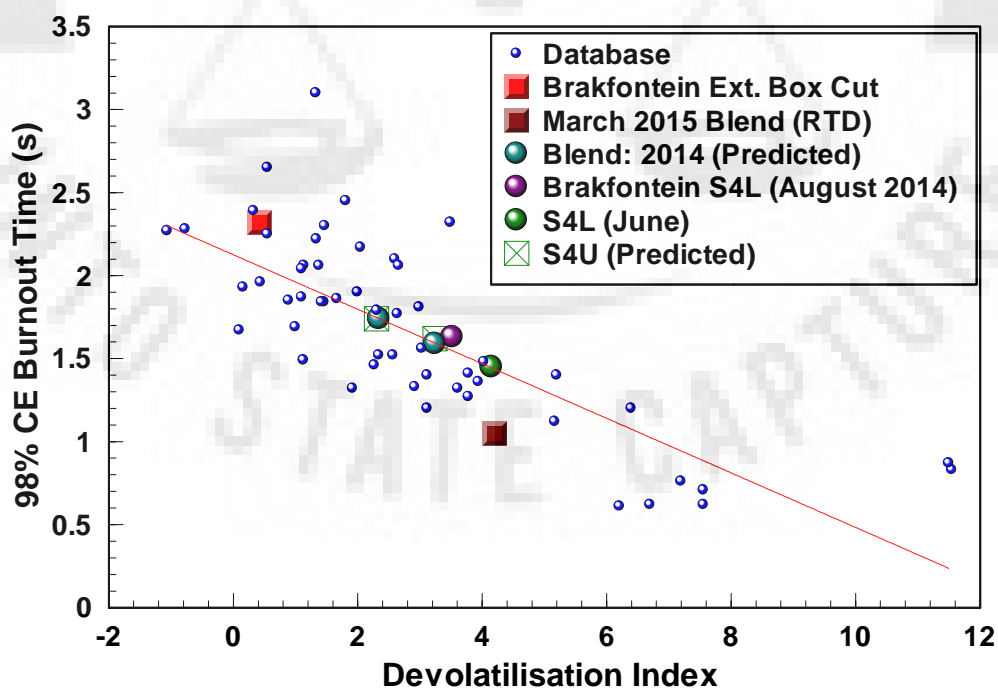



Figure 3-2: Devolatilisation index relative to burnout time.

 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No	Rev.	Page
	RP_FUEL_QS_16_43	1	4/14

Brakfontein Extension box cut sample has similar particle characteristics as previously analysed Brakfontein samples. Brakfontein is characterised by (Appendix C and Figure 3-3):

- High proportion of reactive vitrite and reactive intermediate coal relative to dull fusinite and inert intermediate particles,
- high proportion of mudstone, siltstone and sandstone contamination,
- high proportion of calcite/dolomite cleats,
- occurrence of anhydrite/gypsum which is indicative of weathering and acid mine drainage.

The relatively high proportion of reactive vitrite particles in Brakfontein extension box cut sample and the low volatile matter would suggest that S4 in this area was originally a relatively good coal which has been partially devolatilised or weathered (Figure 3-3 and Appendix C). The March 2015 selected S4L:S4U 2:1 blend has comparable proportion of reactive particles as Brakfontein Extension (Figure 3-3).

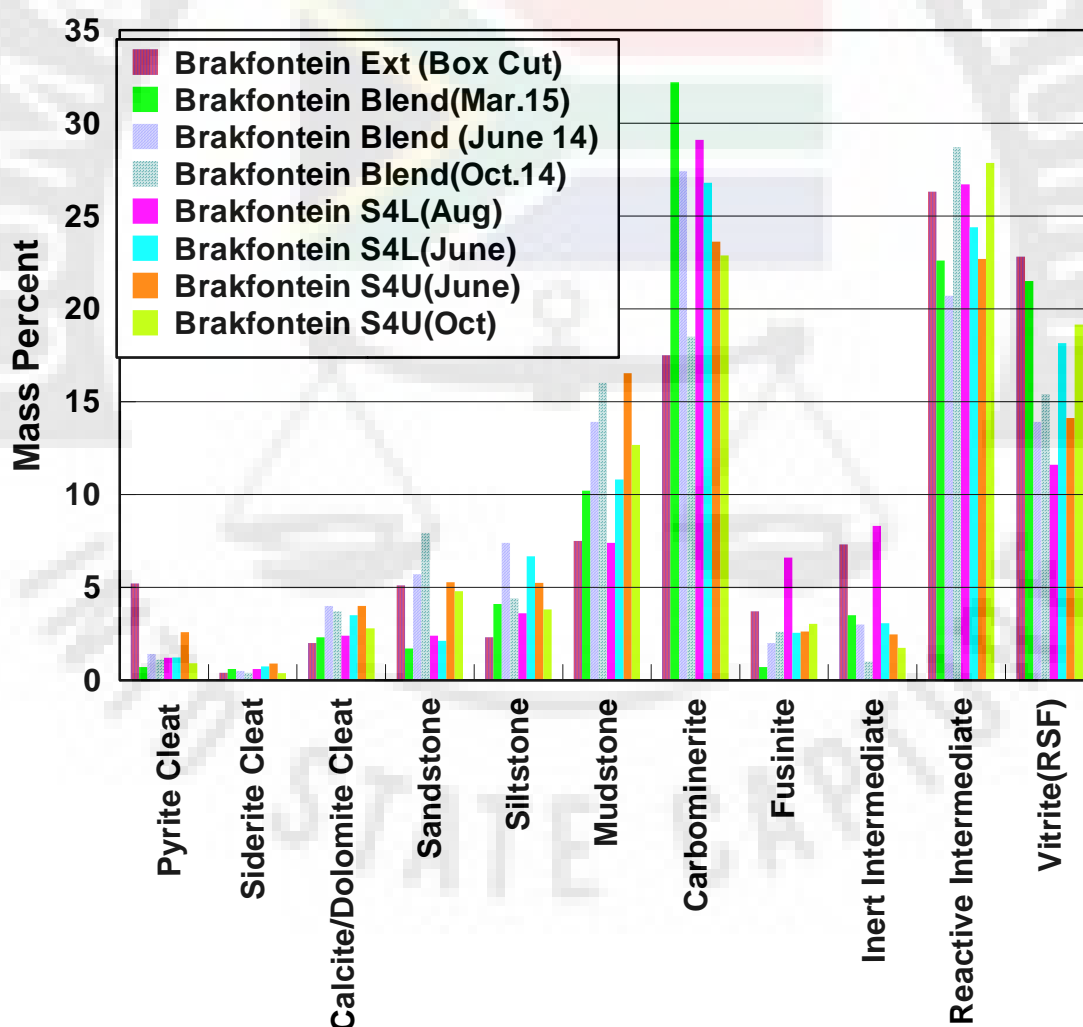



Figure 3-3: Brakfontein particle characteristics

 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No	Rev.	Page
	RP_FUEL_QS_16_43	1	5/14

The elevated proportion of sandstone and pyrite cleats has increased the abrasive index to 397 mg/Fe, which is comparable to the previously analysed 2014/2015 blend samples (Appendix B and Figure 3-3). Previously analysed S4U had a higher proportion of sandstone relative to S4L. The high proportion of stone (mudstone, siltstone and sandstone) is expected for an opencast box cut sample.

Brakfontein Extension box cut sample had an unusually high proportion of pyrite cleats which is not reflected by air dried total sulphur of 1.38% (Appendix B and Figure 3-3). PSCTF measured SO₂ emissions at 6% O₂ ranged from 821 to 922 ppm (Appendix E) is significantly lower than the calculated SO₂ emissions of 1287 ppm. This discrepancy is attributed to pyrite cleat segregation during sample preparation and sample analysis. Extraneous pyrite cleats are likely to report to PSCTF Loesche mill reject stream, which will also reduce the sulphur content of the pulverised fuel. The majority of the pyrite in Brakfontein Extension box cut samples occurs as extraneous pyrite.

Brakfontein Extension box cut slagging propensity is moderate ranging from 8.9 to 9.7 kg/hr 1MWt (Figure 3-4 and Appendix D).

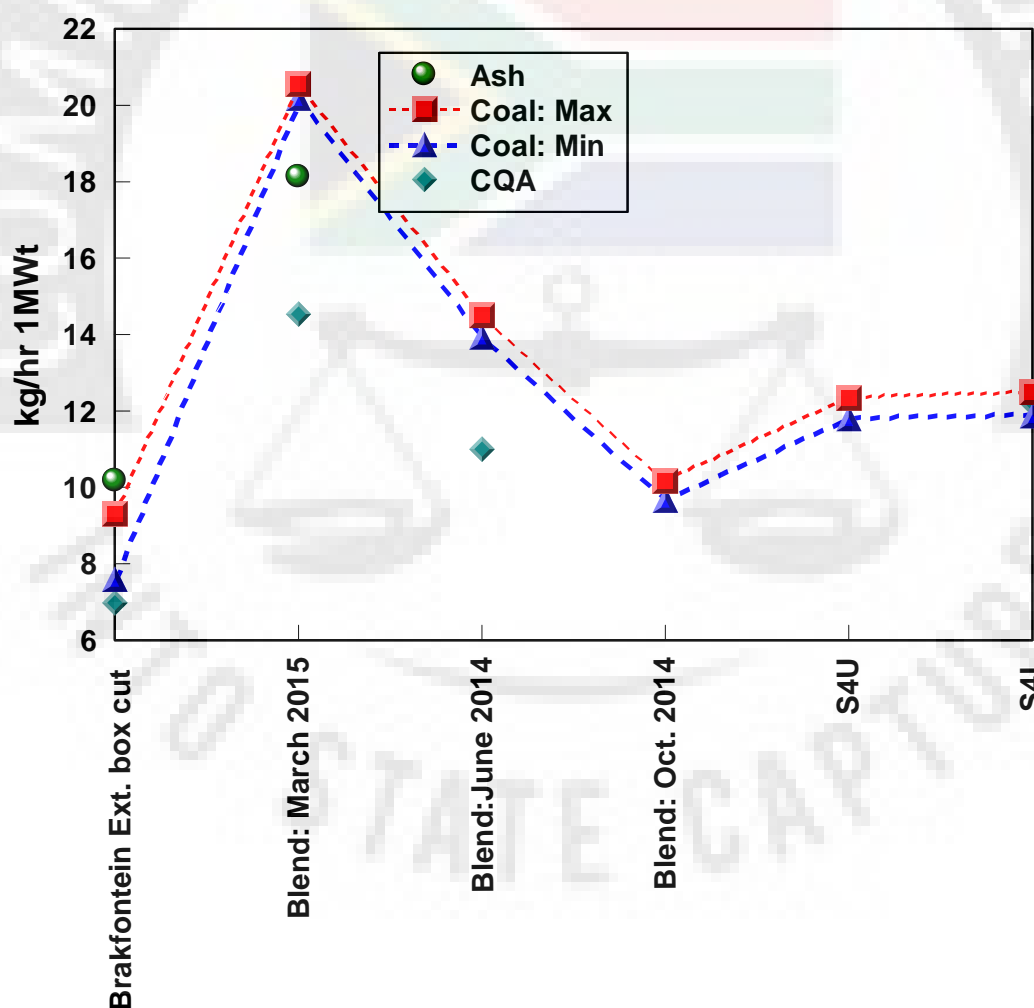



Figure 3-4: Brakfontein Extension slagging propensity.

 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No	Rev.	Page
	RP_FUEL_QS_16_43	1	6/14

4 DISCUSSION

Brakfontein Extension box cut sample has similar characteristics as previously analysed Brakfontein samples. This sample is characterised by a relatively high proportion of reactive vitrite and intermediate particles to the proportion of dull fusinite and inert intermediate particles.

The high PSCTF burnout time of 2.3s is not attributed to a high proportion of dull particles, but due to the partial devolatilisation of an originally reactive coal. It is an unusual coal and appears to be regional characteristic as Leeupan Colliery (RP_FUEL_QS_11_08) and Moabsvelden (RP_FUEL_QS_15_48) also has areas of devolatilised coal. The occurrence of anhydrite/gypsum is indicative of acid mine drainage and weathering which could also reduce the volatile matter.

Brakfontein Extension box cut sample has similar dry base ash and volatile matter as S4L sampled from previously analysed boreholes BFN11, BFN28, BF34, BF37 and BF45 (Figure 3-1, RP_FUEL_QS_15_31). BF45, BFN28, BF37 and BF34 occur along the outer limit of the main mining area, whereas BFN11 is a single borehole towards the North below BFN04, which has no S4 (Figure 4-1). It would make sense to open a box cut where the coal outcrops. There is limited borehole information around BFN11.

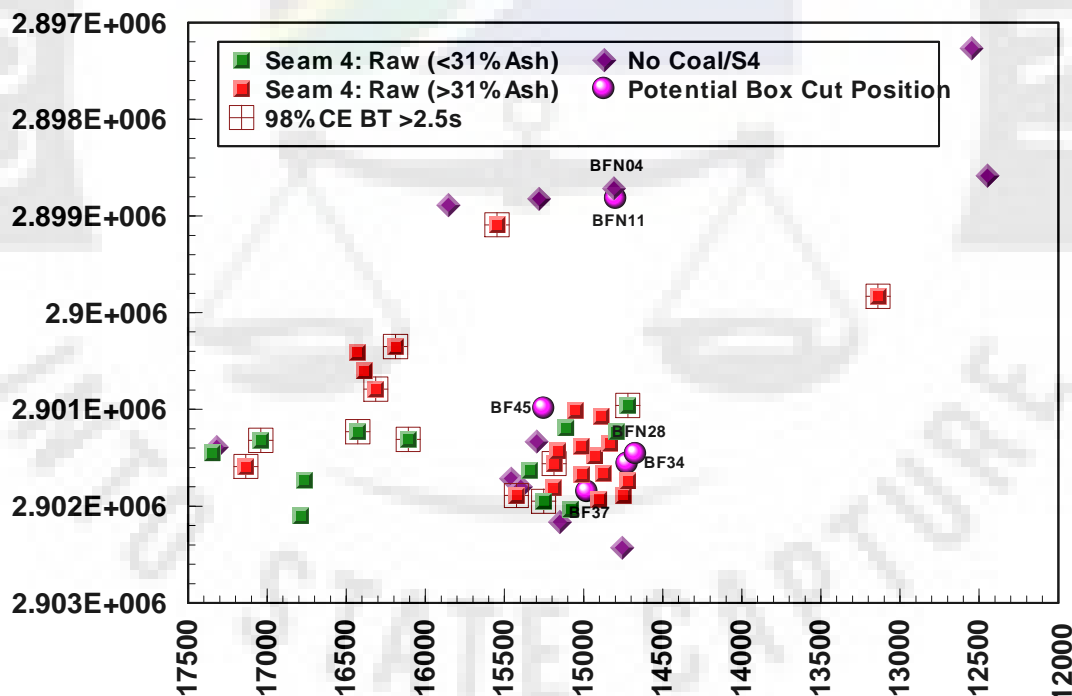



Figure 4-1: Potential borehole positions of Brakfontein Extension box cut.

Brakfontein Extension opencast coal has a high proportion of sandstone which has increased the abrasive index of Brakfontein.

 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No RP_FUEL_QS_16_43	Rev. 1	Page 7/14

There is a high proportion of pyrite cleats in Brakfontein Extension, which influence the total sulphur content of the coal and the SO₂ emissions. Any coal with a high proportion of pyrite will increase the risk of the total sulphur content exceeding 240 total sulphur specifications. Accurate sample preparation and analysis is required to ensure that the total sulphur content is managed.


If total sulphur and hard grove index is improved and the degree of devolatilisation is determined, then Brakfontein Extension **could potentially** be considered for Tutuka, Majuba, Duvha and Matla power stations.

5 CONCLUSION

Brakfontein Extension box cut sample has comparable mineralogical and combustion properties as the previous Brakfontein S4U:S4L blends and S4U and S4L samples analysed. Partial devolatilisation of Brakfontein Extension has increased the burnout time and the elevated proportion of pyrite could severely influence the total sulphur content. Borehole data and information is required before procuring Brakfontein Extension for any power station.

6 RECOMMENDATIONS


- If BFN11 (Figure 4-1) is the locality of the box cut, then new borehole data from the Brakfontein extension is essential to determine the degree of devolatilisation, S4 raw qualities, sandstone distribution and the vertical and lateral sulphur distribution. It is important to determine the proportion S4U to S4L in Brakfontein extension as previous reports have highlighted the problems of blending the better quality S4L with the poorer quality S4U. Brakfontein must clarify the position of the Brakfontein extension and supply new borehole data before any decision should be taken to procure Brakfontein Extension coal.
- Float and sink analysis is required to determine the upgrade potential of Brakfontein Extension. Is it possible to manage total sulphur and abrasive index by processing the coal?
- Blending will not necessarily reduce the burnout time by removing the devolatilised coal or will it necessarily manage the predicted and observed total sulphur and ash variations.
- Previous recommendation of producing either S4L raw product or a blend of S4L and washed S4U is probably still valid for Brakfontein Extension.

 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No RP_FUEL_QS_16_43	Rev. 1	Page 8/14

7 REFERENCES

- [1] Van Alphen, C., Brakfontein S4L assessment, RP_FUEL_QS_14_121, 12th March 2015.
- [2] Van Alphen, C., Brakfontein S4L and S4U blend, RP_FUEL_QS_15_04, 17th April 2015.
- [3] Van Alphen, C., Brakfontein Borehole Assessment, RP_FUEL_QS_15_31, 18th June 2015.
- [4] Van Alphen, C., Moabsvelden borehole assessment, RP_FUEL_QS_15_58, 16th September 2015.
- [5] Van Alphen, C., Leeupan combustion trials, RP_FUEL_QS_11_08, 13th May 2011

Submitted by:  Chris van Alphen Chief Advisor Fuel Date: 27 June 2016	Accepted by:  Bonny Nyangwa Fuels and Combustion Manager Date: 28 June 2016	
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 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No RP_FUEL_QS_16_43	Rev. 1	Page 9/14

APPENDIX A ESKOM “DEVOLATILISATION” INDEX

The volatile matter of any coal is governed by the ash content, proportion of volatile matter rich macerals (vitrinite) and the extent of devolatilisation or weathering. Eskom have defined a “devolatilisation” index, which is based on the dry base volatile matter and ash content of the coal (Figure A.1). The devolatilisation index is the difference between the measured dry base volatile matter and the calculated “devolatilised” limit volatile matter as defined by the “devolatilised” line.

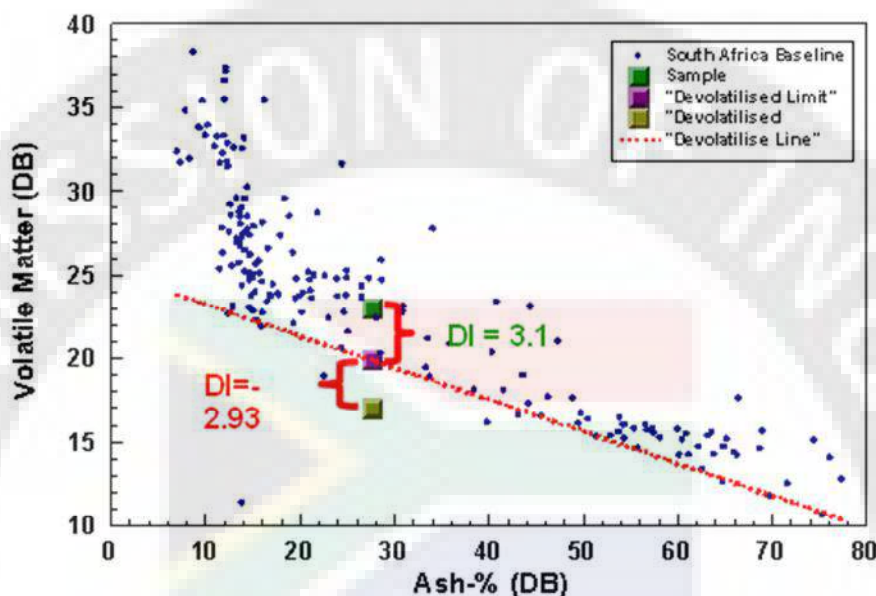


Figure A-0-1: Dry base ash volatile matter

In this example, the coal with a DI of -2.93 is devolatilised, whereas the coal with a devolatilised index of 3.1 is typical of a middlings product. The magnitude of the devolatilisation index is indicative of reactivity is DI is positive and the extent of devolatilisation is the DI is negative.

The devolatilisation index has been correlated to PSCTF and DTF 98% combustion efficiency burnout times (Figure A-2)

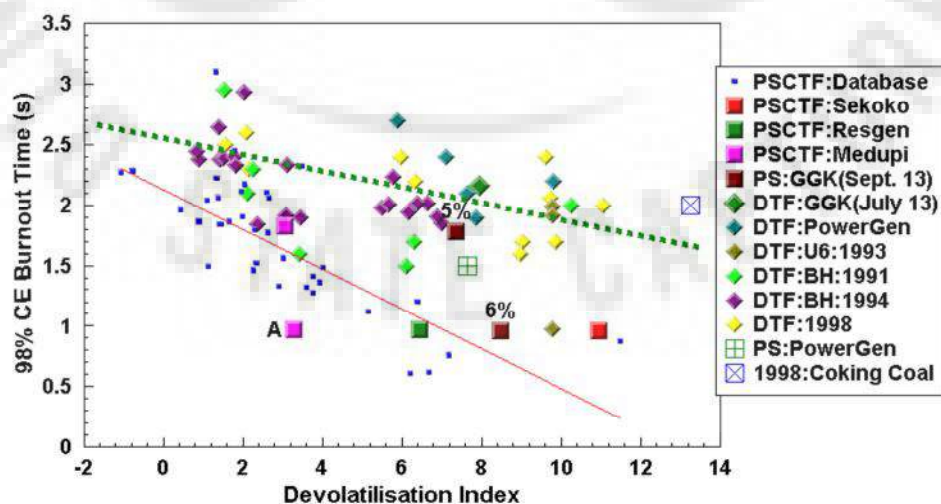



Figure A-2: Predicted 98% CE BT(s)


 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No RP_FUEL_QS_16_43	Rev. 1	Page 10/14

APPENDIX B

CHEMICAL ANALYSIS

Table B-1: Chemical Analysis

Sample Name	Brak. Ext 2016 S4 Boxcut	Blend March 2015	Blend October 2014	Blend June 2014	S4L (Aug. 14)	S4L (June 14)	S4U (June 14)	S4U (Oct.14)
Inherent Moisture (%)	4.40	5.00	4.20	4.00	5.60	5.00	4.40	4.10
Ash-%	25.20	29.30	29.30	31.50	28.40	27.20	31.70	30.50
Volatile Matter (%)	19.70	22.30	20.80	21.30	21.70	22.70	21.00	20.60
Fixed Carbon	50.70	43.40	45.70	43.20	44.30	45.10	42.90	44.80
Total sulphur	1.38	0.77	1.05	0.79	0.85	0.83	1.03	0.94
Total CO ₂	2.85	2.78	2.66	2.65	2.62	2.85	2.78	2.77
Calorific Value (MJ/kg)	22.68	20.14	20.64	19.62	19.97	20.90	19.38	20.03
Carbon	54.89	54.83		51.74	51.59	54.78	52.21	50.47
Hydrogen	2.90	2.66		2.54	2.67	2.65	3.00	2.47
Nitrogen	1.45	1.16		1.19	1.17	1.27	1.17	1.23
Oxygen	6.93	3.50		5.59	6.47	5.42	4.20	3.88
SiO ₂	57.60	48.00		55.20	51.70	52.00	53.80	
Al ₂ O ₃	28.20	27.50		26.50	26.60	27.60	26.50	
Fe ₂ O ₃	4.80	4.50		3.60	4.00	4.00	4.40	
TiO ₂	1.60	1.50		1.60	1.60	1.60	1.60	
P ₂ O ₅	0.53	0.89		0.55	0.66	0.64	0.52	
CaO	4.70	8.50		5.90	8.40	7.60	6.10	
MgO	0.90	2.50		1.50	2.10	2.10	1.60	
Na ₂ O	0.10	0.80		0.10	0.10	0.10	0.20	
K ₂ O	0.50	0.80		0.80	0.70	0.70	0.90	
SO ₃	2.00	5.00		2.60	2.20	2.00	2.30	
Mn	0.03	0.02		0.01	0.02	0.02	0.01	
Def (°C)		1370		1350				
Hem (°C)		1350		1440				
Flow (°C)		1340		1460				
Abrasive index (mg/Fe)	397	353	496	333	278	228	349	593
Hardgrove Index	57	31	52	29	49.	28	35	54

 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No RP_FUEL_QS_16_43	Rev. 1	Page 11/14

APPENDIX C
Table C-1: QEMSCAN MASS PERCENT MODAL PROPORTIONS

Sample Unit	Brakfontein Ext. S4 Boxcut		Brakfontein March 2015 S4U:S4L Blend		Brakfontein June 2014 S4U:S4L Blend		QS	CQA
	QS	CQA	QS	CQA	QS	CQA		
Gypsum	0.3		0.9					
Pyrite	6.6	1.9	0.5	1.5		1.5		
Siderite	0.4	0.0	0.7	0.7		0.3		
Calcite	1.7	1.3	1.7	2.2		1.9		
Dolomite	0.9	1.1	2.6	3.6		2.3		
Apatite	0.4	0.3	0.6	0.7		0.4		
Kaolinite	14.6	18.9	21.2	22.3		22.6		
Quartz	6.9	6.4	5.5	4.9		8.0		
Illite/Muscovite	0.6	0.3	2.6	0.5		0.5		
Muscovite	0.2	0.3	1.2	0.5		0.5		
Microcline	1.0	0.5	0.4	1.0		1.0		
Rutile	0.1	0.4	0.2	0.5		0.5		
Vitrinite	23.4	68.6	8.0	61.7		60.3		
Reactive S-Fusinite	21.1		28.0					
Fusinite	18.5		25.7					
Fusinite(HC)	3.0		0.0					
Other	0.5		0.0	0.0		0.0		
Total	100.0	100.0	100.0	100.0		100.0		
Mineral Matter	34.1	31.4	38.3	38.3		39.7		
Mineral Volatiles	7.1	4.8	6.1	7.0		6.1		
Ash-% (DB) - calculated	27.0	26.6	32.2	31.4		33.6		
Ash-% (DB) - measured	26.4	26.4	30.8	30.8		32.8		

Table C-2: QEMSCAN PARTICLE CHARACTERISTICS

	Brakfontein Box Cut	Brakfontein March Blend	
Dolerite	5.2	0.0	
Pyrite Cleat	0.4	0.7	
Siderite Cleat	2.0	0.6	
Calcite/Dolomite Cleat	5.1	2.3	
Sandstone	2.3	1.7	
Siltstone	7.5	4.1	
Mudstone	17.5	10.2	
Carbominerite	3.7	32.2	
Fusinite	7.3	0.7	
Inert Intermediate	26.3	3.5	
Reactive Intermediate	22.8	22.6	
Vitrite(RSF)	5.2	21.5	



 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No RP_FUEL_QS_16_43	Rev. 1	Page 12/14

Table C-3: Brakfontein S4U and S4L modal proportions

Sample Unit	Brakfontein S4L August 2014		Brakfontein S4L June 2014		Brakfontein S4U June 2014		Brakfontein S4U Oct. 2014	
	QS	CQA	QS	CQA	QS	CQA	QS	CQA
Gypsum/Gibbsite	0.2		0.3		0.6		1.1	
Pyrite	1.3	1.7	1.5	1.6	2.7	2.0	1.3	
Siderite	0.4	0.2	0.7	0.2	0.6	0.3	0.4	
Calcite	1.9	2.6	2.4	2.1	2.7	2.0	1.7	
Dolomite	2.3	2.9	2.8	2.8	2.1	2.4	1.5	
Apatite	0.6	0.5	0.6	0.5	0.8	0.4	0.6	
Kaolinite	17.5	20.8	21.1	20.5	22.6	22.8	18.8	
Quartz	6.5	6.2	7.4	5.7	9.6	7.6	7.1	
Illite/Muscovite	1.8	0.4	2.3	0.4	3.3	0.6	3.6	
Muscovite	0.5	0.4	0.8	0.4	0.9	0.6	1.4	
Microcline	0.4	0.8	0.2	0.8	0.7	1.2	1.2	
Rutile	0.3	0.5	0.3	0.5	0.3	0.6	0.3	
Vitrinite	12.4	62.8	12.7	64.7	11.1	59.5	17.5	
Reactive S-Fusinite	18.2		22.1		19.5		22.7	
Fusinite	32.6		24.6		22.1		20.3	
Fusinite(HC)	2.9		0.3		0.2		0.4	
Other	0.1		0.1		0.1		0.1	
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	
Mineral Matter	34.0	37.2	40.4	35.3	47.1	40.5	39.2	
Mineral Volatiles	5.6	6.5	6.7	6.1	7.7	6.5	5.8	
Ash-% (DB) - calculated	28.4	30.7	33.6	29.2	39.4	34.0	33.5	
Ash-% (DB) - measured	30.1	30.1	28.6	28.6	33.2	33.2	31.8	

Table C-4: Brakfontein S4L and S4U modal proportions


Stone Contamination	S4L(Aug. 14)	S4L (June 14)	S4U (June 14)	S4U (Oct. 14)
Dolerite	0.0	0.0	0.00	0.1
Pyrite Cleat	1.2	1.2	2.6	0.9
Siderite Cleat	0.6	0.7	0.9	0.4
Calcite/Dolomite Cleat	2.4	3.5	4.0	2.8
Sandstone	2.4	2.1	5.3	4.8
Siltstone	3.6	6.7	5.2	3.8
Mudstone	7.4	10.8	16.5	12.7
Carbominerite	29.1	26.8	23.6	22.9
Fusinite	6.6	2.5	2.6	3.0
Inert Intermediate	8.3	3.1	2.5	1.7
Reactive Intermediate	26.7	24.4	22.7	27.9
Vitrite(RSF)	11.6	18.2	14.1	19.1

 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No RP_FUEL_QS_16_43	Rev. 1	Page 13/14

APPENDIX D FLY ASH PROPORTION

Table D-1: QEMSCAN mass% fly ash proportions and slagging propensity

Ash Phases	Brakfontein Ext Boxcut 2016		Brakfontein March 2015 Blend					
	T15	T16	T1	T2				
Iron Oxide/Pyrite	3.0	3.1	1.6	1.8				
Calcium Oxide/Anhydrite	5.4	5.4	4.8	5.5				
CaMg-Oxide	0.4	0.4	0.3	0.6				
Quartz	10.4	9.7	6.4	9.9				
Aluminosilicate (kaolinite)	53.1	51.1	44.3	48.8				
Microcline	0.6	0.5	0.4	0.5				
Muscovite/illite	1.8	1.8	2.9	1.9				
Rutile	0.0	0.0	0.0	0.0				
Aluminosilicate glass	22.6	25.0	36.3	28.0				
Silica rich glass	1.5	1.7	2.4	2.4				
Char	0.8	1.0	0.4	0.3				
Other	0.2	0.2	0.2	0.2				
Predicted Slagging Propensity								
Total Slagging - Mass%	24.1	26.7	38.7	30.4				
Total Slagging - kg/hr 1MWt	9.6	10.7	20.3	15.9				

 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No RP_FUEL_QS_16_43	Rev. 1	Page 14/14

APPENDIX E

Table E-1: Pilot Scale Combustion Test data

	Brakfontein Ext. Boxcut 2016		Brakfontein S4L August 2014		Brakfontein S4LS4U Blend March 2015	
	Operation Conditions					
Test	PF1606 PED015	PF1606 PED016	PF1408P ED073	PF1408 PED074	PF1504 PED001	PF1504P ED002
Coal Flow (kg/hr)	163	163	180	180	179	179
Load (MW)	1.0	1.0	1.00	1.00	1.00	1.00
Grind Size – Passing 75 microns	69.1	65.3	68.6	70.4	64.7	66.1
Furnace Pressure (Pa)	-162.0	-143.7	-154	-147	-178	-174
Oxygen (Ziconia) wet basis (%)	5.0	5.3	6.16	6.17	5.20	5.05
Oxygen (dry basis) (%)	5.5	5.6	6.22	6.32	6.32	6.09
	Flue Gas Temperature Distribution (°C)					
Gas Temp 0.13m	1494	1494				
Gas Temp 0.25m	1595	1440				
Gas Temp 0.37m	1605	1548				
Gas Temp @ 0.4M	1420	1423	1092	1087	1292	1275
Gas Temp @ 1.15M	1405	1408	1456	1446	1434	1428
Gas Temp @ 1.8M	1294	1294	1326	1323	1318	1322
Gas Temp P28	1131	1132	1150	1114	947	950
	Average Temperatures (°C)					
Average gas Temperature	1421	1391	1256	1243	1261	1256
Average Wall Temperature	1062	1065	1021	1023	968	964
Convective Exit Temperature	274	271	222	221	174	173
	Emissions (ppm) normalised to 6% O ₂					
Carbon Monoxide	30	27	38	36	10	10
CO ₂	13.3	13.3	13.4	13.4	14.0	14.0
SO ₂	821	922	646	636	560	567
NO	1147	1166	1001	1001	1259	1274
NO _x	1163	1187	1026	1024	1284	1299
NO ₂	16	20	25	24	25	25
N ₂ O						
	Combustion Efficiency (%)					
RTDPort15(2015),Port9(2009&2016)	94.0	92.9	97.61	97.66	99.02	99.13
RTDPort21(2016),Port15(2009&2012)	97.1	97.0	99.41	99.41	99.62	99.51
RTDPort27(2016),Port21(2009&2012)	99.6	99.5	99.51	99.51	99.79	99.84
	Residence Times (s)					
RTDPort15(2015),Port9(2009&2016)	0.597	0.605	1.579	1.568	1.530	1.560
RTDPort21(2016),Port15(2009&2012)	1.942	1.949	2.056	2.042	2.022	2.061
RTDPort27(2016),Port21(2009&2012)	2.925	2.930	2.920	2.900	3.156	3.214
Burnout Times @98%	2.3	2.3	1.636	1.612	1.065	1.042



Mr Jacques Roux
Special Advisor: Brakfontein Colliery
Tegeta Exploration and Mining Resources
Postnet Suite 458
Private Bag X9
BENMORE
2010

Dear Mr Roux,

**REQUEST FOR INDEPENDENT AUDIT OF COAL PRE-CERTIFICATION PROCESS –
REF 724951**

Eskom is reviewing its pre-certification process and has appointed an independent service provider to assist with conducting an audit. The audit will comprise:

- Auditing the entire coal processing value chain from the point when Run of Mine coal is processed through to the creation of pre-certified stockpiles.
- A collection and analysis of a representative sample.
- A video recording of the entire process.

Please indicate when the auditing team may be accommodated as well as any safety requirements.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Vuyisile Ncube'.

Vuyisile Ncube
SENIOR MANAGER: COAL SUPPLY OPERATIONS (ACTING)

Date: 07 / 10 / 2015



MEMORANDUM

To : Vuyisile Ncube
From : Gert Opperman
Date : 22 October 2015
SUBJECT : **NARRATIVE INFORMATION RELATING TO THE CANCELLATION OF THE PRE-CERTIFICATION AUDIT**

PURPOSE

To provide you with narrative information relating to the management of the coal supply from Brakfontein Colliery with the Commencement date of 01 April 2015.

BACKGROUND

Brakfontein Colliery is located in the Delmas area approximately eight kilometre east of Hawerklip Siding on the R50.

A Coal Supply Agreement (CSA) 4600056841 exists between Eskom Holdings SOC Ltd ("Eskom") and Tegeta Exploration and Resources (Pty) Ltd ("the Supplier") for the supply of coal from Brakfontein Colliery.

The total quantity of Contract Coal is 13.95mT at a Base Price of R13.50/GJ and will end when the full energy value is reached which is expected to be in 2025. This is at a nominal delivery rate of 1.356mT's per annum.

The rejection value for CV is <20 MJ/kg (Ash rejection of >30%) on an Air Dried basis which was modified on 12 May 2015 to be <20.3MJ/kg (Ash rejection of >29.7%) on an Air Dried basis, with all other parameters remaining unchanged.

In the event that coal is supplied that does not meet the Quality Specification this coal will be treated as Reject Coal in which case Eskom shall pay the Supplier R30.00 (thirty Rand) per Ton for coal where the relevant quality parameter is within 10% (ten percent) of the applicable reject level for that parameter, and where the relevant quality parameter deviates from the applicable reject level by more than 10% (ten percent), Eskom shall not be liable to pay the Supplier for such coal.

From: Gert Opperman <OppermGJ@eskom.co.za>
Sent: 19 October 2015 17:51
To: JacquesR@Jic.co.za
Cc: Vuyisile Ncube
Subject: RE: INDEPENDENT AUDIT OF COAL PRE-CERTIFICATION PROCESS

Good afternoon Jacques,

This correspondence confirm that the pre-certification audit that was scheduled for Wednesday has been postponed. Thank you for your continued support and efforts and I also assure you of our support.

Kind Regards

Gert Opperman
Coal Supply Unit Manager
Majuba & Hendrina Power Stations
Glencore Group & Tegeta Exploration
011 800 6146
086 537 4699
082 870 4989



From: JacquesR@Jic.co.za [mailto:JacquesR@Jic.co.za]
Sent: 17 October 2015 04:18 PM
To: Gert Opperman
Cc: Vuyisile Ncube
Subject: Re: INDEPENDENT AUDIT OF COAL PRE-CERTIFICATION PROCESS

Hi Gert

Following our telephone conversation yesterday can you please just confirm what we need to have ready for you and the audit team on Wednesday morning when the audit is scheduled for?

I would like to have my team fully ready to complete this process.

Regards
Jacques

Sent from my Samsung Galaxy smartphone.

----- Original message -----

From: Gert Opperman <OppermGJ@eskom.co.za>
Date: 07/10/2015 11:01 PM (GMT+02:00)

To: Jacques Roux <JacquesR@Jic.co.za>
Cc: Vuyisile Ncube <NcubeV@eskom.co.za>
Subject: INDEPENDENT AUDIT OF COAL PRE-CERTIFICATION PROCESS

Hallo Jacques,

At this moment the team is only available to do the audit on this Friday.
Cn you please accommodate us?

Kind Regards

Gert Opperman
Coal Supply Unit Manager
Majuba & Hendrina Power Stations
Glencore Group & Tegeta Exploration
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From: Gert Opperman <OppermGJ@eskom.co.za>
Sent: 19 October 2015 18:21
To: JacquesR@Jic.co.za
Cc: Vuyisile Ncube
Subject: RE: INDEPENDENT AUDIT OF COAL PRE-CERTIFICATION PROCESS

Hallo Jacques,

I need to correct my previous correspondence to read that the pre-certification audit has been cancelled.

Best Regards
Gert

From: Gert Opperman
Sent: 19 October 2015 05:51 PM
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Cc: Vuyisile Ncube
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Cc: Vuyisile Ncube <NcubeV@eskom.co.za>

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Can you please accommodate us?

Kind Regards

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I'm part of the 49Million initiative...

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Paper accounts for 20-30 % of all municipal solid waste?

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NARRATIVE

The Coal Supply Agreement was signed on 10 March 2015 with the first coal delivered at Majuba Power Station on 07 April 2015 and the first deliveries to Hawerklip Siding on 15 May 2015 which was then railed to Majuba.

Between May and September the mode of delivery was split on a 50/50 basis between Majuba Power Station and Hawerklip Siding and from October onwards 66/33 between Majuba Power Station and Hawerklip Siding.

Around June a discussion with Fuel Sourcing took place where Tegeta was approached to increase the monthly nominal volumes from 113kT to 200kT. This was in an effort to reduce the shortfall coal required at Majuba Power Station. The Brakfontein team responded positively to the request and the plan for October was agreed at 200kT and remaining at this volume going forward. The formalisation of this change through a modification to the contract is still underway.

Since the inception of this contract the single biggest challenge of this operation was the sustainable processing of coal. Several contractors were contracted to build the processing plant but it was only fully operational around 20 September. The daily production is still made up by the processing of coal utilising mobile equipment as well as the main processing plant. These delays have resulted in the delay in the installation of the on-line automatic sampler. According to the CQMP clause 5.1.1 the auto-mechanical sampler was supposed to be installed within 3 months of the Commencement date. To date, even after numerous requests the mine has not provided an official date when the sampler will be installed although it has been shared that an official order was placed with Multotech for the sampler.

The CSA clause 21.5 also requires the installation of dome camera's in order to assist with the assurance process. Eskom have raised this requirement with the mine and is awaiting their response on the delivery and installation of the cameras.

Since the inception of the contract several site visits took place which included both Eskom and Roshcon personnel. The technical services team, which are the person responsible for quality assurance (Sam Phetla) and/or the Geologist (Siphelele Gobeni) have visited the mine independently.

Visits by the Contract Manager (Gert Opperman) to the mine will cover logistics requirements, a basic pit visit, visit to the Run Of Mine (ROM) and processing area and a discussion about operational challenges. The initial visit to the mine on 29 April was to discuss the logistics requirements and to assist the mine management with guidance on operational constraints. On 23 June an extended logistics team including the Head of Road (Nico Singh) and Head of Rail (Mzimkulu Fatyi) visited Brakfontein for a logistics discussion relating to the Brakfontein extension and the haulage of coal to Hawerklip Siding. During this visit Tegeta offered to avail a section of the surface area, that will not be mined, as an additional stockpile area in order to extend the capacity of Hawerklip siding. Discussions even took place around the possibility of constructing a conveyor system from this stockpile at Brakfontein directly to Hawerklip Siding. The Contract Manager indicated that this offer needs to be made official through a communication with Fuel Sourcing. On 21 August the Contract Manager took the Coal Manager of Majuba Power Station (Sanjay Manilal) to the mine to have a better understanding and insight into the Brakfontein operation).



On 31 August deliveries was suspended and again reinstated on 05 September. This followed the report of out-of-spec coal delivered from Brakfontein. This very same allegation resulted in four employees from the Technical Services department being suspended, the suspension of the transport and analysis services of Sibonisiswe Laboratory which was the contractual laboratory responsible for sampling the coal for pre-certification and payment purposes. This service was replaced with the transport and analysis services from SABS Laboratory. This matter is currently under investigation by Eskom Audit and Forensic with the assistance of PWC and Hindsight.

On Tuesday 13 October 2015 the Eskom Contract Manager became aware, through PED logistics department, that coal was allegedly loaded from a stockpile that was not pre-certified. The Mine Manager later clarified the matter by sharing the weighbridge report, which indicated that the truck left the mine empty. On Wednesday 14 October 2015 the Mine Manager also shared an email, describing the incident and the measures taken to avoid a repeat of the incident.

Since the inception of this contract and up to 21 October there have been close to 150 stockpiles created at Brakfontein Colliery. Of these 150 stockpiles around 29 (twenty nine) failed to meet the Coal Quality Specification. Of these 29 (twenty nine) stockpiles around 15 (fifteen) disputes were declared which resulted in the reference sample being analysed by the mutually agreed reference laboratory. Of the 15 (fifteen) disputes 13 (thirteen) of them the results return to meet the Coal Quality specification and these stockpiles were dispatched, the other 2 (two) stockpiles which remained in rejection which were reprocessed, resampled and analysed. This number of stockpiles failing seems unusual and on 22 October Eskom reallocated the analyses on the Payment sample to the coal laboratory at Kendal Power Station.

From a finance perspective official order have been raised in SAP for the supply until December 2015. All payment are up to date from April until July. In August Eskom's payment was R436.91 short as a result of outstanding reconciliation. Teams are currently working on this reconciliation and will be resolved soon.

Generation

Megawatt Park, Maxwell Drive, Sunninghill, Sandton
PO Box 1091, Johannesburg, 2000, SA
Tel +27 11 800 2054 Fax +27 086 663 5892 www

Eskom Holdings SOC Ltd Reg No 2002/015527/30



Mr Jacques Roux
Special Advisor: Brakfontein Colliery
Tegeta Exploration and Mining Resources
Postnet Suite 458
Private bag X9
BENMORE
2010

Dear Mr Roux,

**REQUEST FOR INDEPENDENT AUDIT OF COAL PRE-CERTIFICATION PROCESS –
REF 724974**

The above refers;

With reference to our letter, REF 724951, dated 07 October 2015 Eskom hereby formally cancels the requested independent audit of the coal pre-certification process at Brakfontein Colliery.

Thank you for your co-operation.

Yours sincerely

A handwritten signature in black ink, appearing to read 'V. Ncube'.

Vuyisile Ncube
SENIOR MANAGER: COAL SUPPLY OPERATIONS (ACTING)

Date: 26/10/2015

Gert Opperman

From: Sanjay Manilall
Sent: 07 September 2015 05:24 PM
To: Gert Opperman
Cc: Vuyisile Ncube; Viloshnee Moodley
Subject: RE: BRAKFORTEIN RESULTS

Good afternoon Gert,

Further to our conversation, and after an evaluation of the laboratory results pertaining to stockpile BKF S/P B (06-09-2015) from Brakfontein Colliery, Majuba Coal Management gives approval on the size grading which has exceeded the acceptable limit of 5% by .4 % and allows the stockpile to be delivered to the power station.

Thanking you

Kind regards

Dean Manilall
 Coal Manager
 Majuba Power Station
 Generation
 Tel +27 17 799 3694
 Cell +27 83 785 3903
 Fax +27 86 660 8044
 E-mail sanjay.manilall@eskom.co.za



From: Gert Opperman
Sent: 07 September 2015 01:16 PM
To: Sanjay Manilall
Cc: Vuyisile Ncube; Viloshnee Moodley
Subject: FW: BRAKFORTEIN RESULTS

Hallo Dean,

Following our telephonic discussion this email seeks your written support to dispatch stockpile BKF S/P B (06-09-2015) from Brakfontein to Majuba PS.
 We'll appreciate your earliest response.

Greeting
Gert

From: Satish Mudalliar [<mailto:satish.mdlr02@gmail.com>]
Sent: 07 September 2015 01:10 PM
To: Gert Opperman
Cc: Jacques Roux
Subject: Fwd: BRAKFORTEIN RESULTS

Hi please find attached results as required by you.
 Looking forward to hear from you.

Regards
 Satish

----- Forwarded message -----

From: "Satish Mudaliar" <satishm@goldridge.co.za>
Date: 07 Sep 2015 1:08 PM
Subject: Fwd: BRAKFORTEIN RESULTS
To: "Satish Mudaliar" <satish.mdlr02@gmail.com>
Cc:

----- Forwarded message -----

From: "Zenzi Banda" <Zenzi.Banda@sabs.co.za>
Date: 07 Sep 2015 12:24 PM
Subject: BRAKFORTEIN RESULTS
To: "Nath@oakbay.co.za" <Nath@oakbay.co.za>, "satishm@goldridge.co.za" <satishm@goldridge.co.za>, "jacquesr@jic.co.za" <jacquesr@jic.co.za>, "adityam@goldridge.co.za" <adityam@goldridge.co.za>, "pat.mavuso@yahoo.com" <pat.mavuso@yahoo.com>
Cc: "Frans Wolters" <frans.wolters@sabs.co.za>, "Tumo Molatuli" <tumo.molatuli@sabs.co.za>, "MADELAW" <WISEMANNHLAKANIPHO.Madela@sabs.co.za>, "Ronel Jordaan" <ronel.jordaan@sabs.co.za>, "Middelburg Central Laboratory" <MCL@sabs.co.za>

Good day

Please find attached report,

Regards

Zenzi Banda.

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For more information please visit <http://www.is.co.za>



From: Gladman Mkwai <MkwaiMG@eskom.co.za>
Sent: 04 November 2015 13:28
To: Sanjay Manilall; Gert Opperman
Cc: Vuyisile Ncube
Subject: RE: Brakfontein delivery of BKF 27/10/15 S/PA

Hi All,

I suppose this is the end of this coal!

Regards

From: Sanjay Manilall
Sent: 03 November 2015 01:45 PM
To: Gert Opperman; Gladman Mkwai
Cc: Vuyisile Ncube
Subject: RE: Brakfontein delivery of BKF 27/10/15 S/PA

Good day Gert,

Majuba has received, over the weekend, the 7.5 kT of coal from Brakfontein Colliery.

Regards
Dean


From: Gert Opperman
Sent: 02 November 2015 02:14 PM
To: Sanjay Manilall; Gladman Mkwai
Cc: Vuyisile Ncube
Subject: Brakfontein delivery of BKF 27/10/15 S/PA

Good day Dean,

Following our discussion on Friday afternoon regarding the delivery of stockpile BKF 27/10/15 S/PA kindly acknowledge receipt of the 7.5kT in order for us to be able to process payment thereof.

Kind Regards

Gert Opperman
Coal Supply Unit Manager
Majuba & Hendrina Power Stations
Glencore Group & Tegeta Exploration
011 800 6146
086 537 4699
082 870 4989

	SUBMISSION DOCUMENT	Unique Identifier	221-222
		Document Type	OCSDTE
		Revision	0
		Review Date	July 2015
		Office of the Company Secretary	

EXECUTIVE SUMMARY

SUBMISSION TO THE BOARD TENDER COMMITTEE (BTC) ON 08 AUGUST 2016

1. TITLE OF THE SUBMISSION

Second Addendum of the Coal Supply Agreement number 4600056841 between Eskom Holdings SOC Ltd ("Eskom") and Tegeta Exploration and Resources (Pty) Ltd ("the Supplier").

2. RESOLUTION REQUIRED

RESOLVED THAT:

- 2.1 Approval is hereby granted for the Second Addendum to the existing contract 4600056841 with Tegeta Exploration and Resources (Pty) Ltd Reg no: 2006/014492/07 for the supply of coal from Brakfontein Colliery and Brakfontein Colliery Extension ("Brakfontein") to Majuba Power Station ("Majuba") to be amended to add 10 800 000 (ten million eight hundred thousand) tons of coal to the contract quantity;
- 2.2 All agreements are subject to approval by the National Treasury in line with the PFMA requirements;
- 2.3 The Chief Procurement Officer is hereby authorised to take all the necessary steps to give effect to the above, including the signing of any consents, or any other documentation necessary or related thereto.


3. SUMMARY OF FACTS

3.1 Salient Facts

On 10 March 2015 Eskom and the Supplier ("the Parties") entered into a coal supply and offtake agreement 4600056841 ("the CSA") for the supply of approximately 13.95 (thirteen point nine five) million tons of coal from Brakfontein to Majuba or any other Eskom nominated power station for the period commencing 1 April 2015 and ending 30 September 2025.

The Supplier is currently supplying coal to Eskom on a Free Carrier (FCA) basis at Brakfontein Colliery. Eskom uses its contracted Coal Transporters to take off the coal by road mainly to the nearby Hawerklip rail siding for rail haulage to Majuba and occasionally directly to Majuba.

On 25 June 2015 (ref 724515) the Parties agreed to increase monthly supply from Brakfontein Colliery Extension by additional 100 000 (one hundred thousand) tons with effect from October 2015.

	SUBMISSION DOCUMENT	Unique Identifier	221-222
		Document Type	OCSDTE
		Revision	0
		Review Date	July 2015
		Office of the Company Secretary	

The Supplier has commissioned the Brakfontein Colliery Extension and is ready to supply coal from this resource. Eskom has since validated the reserve base in the Brakfontein Colliery Extension and has confirmed that the offer from the Supplier meets its coal quality and quantity requirements for the duration of the CSA.

It is recommended that the existing contract 4600056841 with Tegeta Exploration and Resources (Pty) Ltd Reg no: 2006/014492/07 for the supply of coal from Brakfontein Colliery and Brakfontein Colliery Extension ("**Brakfontein**") to Majuba Power Station ("**Majuba**") be amended to add 10 800 000 (ten million eight hundred thousand) tons of coal to the contract quantity.

3.2 Key assumptions

The submission and decision required set out herein, is based on the following key assumptions:

- 3.2.1 The qualities as agreed in the existing First Addendum to the CSA will continue to be delivered;
- 3.2.2 The Terms and Conditions of the new Master Coal Supply Agreement will be agreed with the Supplier;

3.3 Financial implications


3.3.1 To date the cost of coal is follows:

The Base Price of the coal is R13.50 (thirteen Rand and fifty cents) per GJ. This has been the price of coal paid since the commencement in April 2015, and is subject to annual and monthly adjustments made as per the CSA.

The table below shows a cost comparison of coal being delivered to Majuba:

Supplier – Mine	Mode	CV (AR)	R/GJ	FCA Coal Price(R/t)	Road / Rail Transport (R/t)	Delivered Coal Price (R/t)
Stuart Coal - East Block	Road	21.07	11.48	241.95	232.68	474.63
Tegeta - Brakfontein	Rail	21.95	14.30	313.96	209.08	523.03
Shanduka - Graspan	Road	21.27	13.42	285.41	242.89	528.30
Ntshovelo - Vlakvarkfontein	Road	21.04	13.24	278.55	304.53	583.07
Tegeta - Brakfontein	Road	22.16	14.30	316.91	269.57	586.47

3.3.2 The cost comparison above indicates that delivered price paid for Brakfontein coal by rail is in line with supplies going into Majuba, while the by road it is marginally on the high side.


	SUBMISSION DOCUMENT	Unique Identifier	221-222
		Document Type	OCSLTE
		Revision	0
		Review Date	July 2015
		Office of the Company Secretary	

3.4 Human Resource implications

None

3.5 Risks (including Environment, Legal or Contractual risks)

RISK	MITIGATING FACTORS	LEVEL (HIGH/MEDIUM/LOW)
Cost:	The base price of coal will remain unchanged for the duration of the CSA. The base price adjustment will remain below NERSA determinants and the transport costs will be according to the Eskom Coal Haulage Model.	Low
Scope:	The only variation in the scope will be that the coal may be swung from Majuba Power Station to another Power Station.	Medium
People:	No Risk.	N/A
Suppliers:	The Supplier will remain unchanged for the duration of this CSA.	N/A
Time:	This is an extension to an existing CSA, it is not anticipated that there is any risk to time.	Low
Safety:	PED Health and Safety have confirmed that the Supplier meets the legislative requirements and a review will be conducted within 3 (three) months of signing this Addendum.	Low
Environment:	PED Environmental Department have confirmed that the Supplier meets the legislative requirements and a review will be conducted within 3 (three) months of signing this Addendum.	Low
Quality:	The coal is suitable for Majuba as per the Report received from the Primary Energy Technical Services .	Low
Other:	N/A	N/A

	SUBMISSION DOCUMENT	Unique Identifier	221-222
		Document Type	OCSDTE
		Revision	0
		Review Date	July 2015
		Office of the Company Secretary	

3.6 Verification by independent party (if applicable)

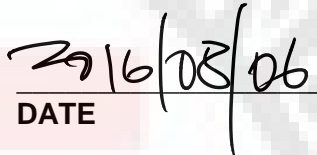
Not Applicable


4. OTHER APPROVALS REQUIRED

This is also subject to approval by the National Treasury in line with the PFMA requirements.

SIGNED


 EDWIN MABELANE
 CHIEF PROCUREMENT OFFICER
 GROUP COMMERCIAL


 DATE


 MATSHELE KOKO
 GROUP EXECUTIVE
 GENERATION


 DATE

ANOJ SINGH
 CHIEF FINANCIAL OFFICER

DATE

Who hereby represents that the above Information is correct.

	Modification Report		Unique Identifier	240-66554879
			Revision	Rev. 3
			Revision Date	May 2019
			Group Technology and Commercial	

To	Board Tender Committee (BTC) August 2016			Date	08 August 2016
Business Unit	Primary Energy	End-user name	Petros Mazibuko	PR No	
Compiler	Vuyisile Ncube			Enquiry number	N/A
Buying / Sourcing Department	Primary Energy: Fuel Sourcing				
Description of works/goods/services	Second Addendum of the Coal Supply Agreement number 4600056841 between Eskom Holdings SOC Ltd ("Eskom") and Tegeta Exploration and Resources (Pty) Ltd ("the Supplier")				
Contract No	4600056841				
Modification No	Second Addendum				

1. RECOMMENDATION

It is recommended that the existing contract 4600056841 with Tegeta Exploration and Resources (Pty) Ltd Reg no: 2006/014492/07 for the supply of coal from Brakfontein Colliery and Brakfontein Colliery Extension ("**Brakfontein**") to Majuba Power Station ("**Majuba**") be amended to add 10 800 000 (ten million eight hundred thousand) tons of coal to the contract quantity.

Note: all amounts reflected in the table below exclude VAT and CPA

Option number	Effect on contract duration		Effect on contract value	
	Extend contract period by additional months or years	Combined contract period (including addendum)	Extend contract value by an additional amount	Combined contract value (including addendum)
1.	Not applicable	10 (ten) years 5 (five) months	R2 937 870 000.00	R6 732 618 750.00

2. SCOPE OF MODIFICATION

This addendum is as a result of an increase in the following quantities:

- Quantity: additional 10 800 000 (ten million eight hundred thousand) tons at a rate of 100 000 (one hundred thousand) tons per month to be procured
- Value: increase in value by R2 937 870 000.00

Other than the scope of this Second Addendum mentioned above, most of the terms and conditions of the existing Coal Supply Agreement (**CSA**) together with modification thereto, will be in effect from 01 September 2016 until 30 September 2025.

	Modification Report	Unique Identifier	240-66554879
		Revision	Rev. 3
		Revision Date	May 2019
		Group Technology and Commercial	

3. REASONS FOR MODIFICATION

The Supplier is currently supplying coal to Eskom on a Free Carrier (FCA) basis at Brakfontein Colliery. Eskom uses its contracted Coal Transporters to take off the coal by road mainly to the nearby Hawerklip rail siding for rail haulage to Majuba and occasionally directly to Majuba.

On 25 June 2015 (ref 724515) Eskom and the Supplier ("**the Parties**") agreed to increase monthly supply from Brakfontein Colliery Extension by additional 100 000 (one hundred thousand) tons with effect from October 2015.

The Supplier has commissioned the Brakfontein Colliery Extension and is ready to supply coal from this resource. Eskom has since validated the reserve base in the Brakfontein Colliery Extension and has confirmed that the offer from the Supplier meets its coal quality and quantity requirements for the duration of the CSA.

It is therefore recommended that the CSA be extended to add 10 800 000 (ten million eight hundred thousand) tons at a rate of 100 000 (twenty thousand) tons per month for 9 (nine) years in order to supply coal to Majuba or any other Eskom nominated power station.

4. PROGRESS TO DATE

On 10 March 2015 the Parties entered into a coal supply and offtake agreement 4600056841 ("the CSA") for the supply of approximately 13.95 (thirteen point nine five) million tons of coal from Brakfontein to Majuba or any other Eskom nominated power station for the period commencing 1 April 2015 and ending 30 September 2025.


On 12 May 2015, the Parties concluded the First Addendum of the CSA, amending the qualities, in clause 20.

As agreed on 25 June 2015 the Supplier has offered an additional 10 800 000 (ten million eight hundred thousand) tons from the Brakfontein Colliery Extension coal resource, which coal resource is provided for in the original CSA.

5. COST BREAKDOWN OF THE MODIFICATION VALUE

The Base Price of the coal is R13.50 (thirteen Rand and fifty cents) per GJ. This has been the price of coal paid since the commencement in April 2015, except for annual and monthly adjustments made as per the CSA. The table below shows the breakdown of the modification value:

	AR CV (MJ/kg)	Price (R/GJ)	Price (R/ton)	Quantity (tons)	Total Value (R)
Second Addendum Coal	20.15	13.50	272.03	10 800 000	2 937 870 000.00

	Modification Report	Unique Identifier	240-66554879
		Revision	Rev. 3
		Revision Date	May 2019
		Group Technology and Commercial	

The table below shows a cost comparison of coal being delivered to Majuba:

Supplier – Mine	Mode	CV (AR)	R/GJ	FCA Coal Price(R/t)	Road / Rail Transport (R/t)	Delivered Coal Price (R/t)
Stuart Coal - East Block	Road	21.07	11.48	241.95	232.68	474.63
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Tegeta - Brakfontein	Road	22.16	14.30	316.91	269.57	586.47

The cost comparison above indicates that delivered price paid for Brakfontein coal by rail is in line with supplies going into Majuba, while the by road it is marginally on the high side.

6. CONTRACT STATUS WITH MODIFICATION

Original approved contract value	R3 794 748 750.00
Original contract duration	10 years 5 months
Original contingency amount	N/A
Original contingency time	None
Value of First Addendum (excluding contingency and T&S)	R 0.00
Additional time - First Addendum (excluding contingency)	None
Value of Second Addendum (excluding contingency and T&S)	R2 937 870 000.00
Additional time - Second Addendum (excluding contingency)	None
New combined contract value (excluding contingency and T&S)	R6 732 618 750.00
New combined contract duration (excluding contingency)**	10 years 5 months
Value spent to date (excluding contingency and T&S)	R590 534 403.70
Amount available (excluding contingency)	R3 204 214 346.30

7. COMMERCIAL COMMENTS AND/OR CONSIDERATIONS

Most of the terms and conditions of the existing contract, being the CSA will remain unchanged and will apply to this Second Addendum. However, to minimize risk to Eskom, the new terms and conditions of the revised master coal supply agreement will be adopted.

How was the original mandate obtained?	The original mandate, the Medium Term Coal Procurement mandate, was obtained from BTC in 2008. However, the Medium Term Shortfall mandate will be used for this Second Addendum.
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Addendum Number	Second
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The Base Price will be firm for the duration of the CSA; subject to annual and monthly adjustments based on movements in published CPI and PPI indices and the diesel price.

	Modification Report	Unique Identifier	240-66554879
		Revision	Rev. 3
		Revision Date	May 2019
		Group Technology and Commercial	

8. TECHNICAL COMMENTS AND/OR CONSIDERATIONS

The technical evaluation of the additional scope was conducted and signed-off by **Mabatho Mothapo** from the Eskom **Primary Energy Technical Services**, who fully supports this Addendum.

9. SHE AND Q COMMENTS AND/OR CONSIDERATIONS

The SHE and Q evaluation for the additional scope was conducted and signed-off by **Pulane Roaphala and Thabang Ntjoboko** from the **Safety and Environmental** departments respectively, who concur with the recommendation contained herein.

10. SD&L COMMENTS AND/OR CONSIDERATIONS

The following are indicative SD&L targets and will be finalised and signed off prior to conclusion of this Addendum:

- The Supplier is to spend 70% of the total contract value within the Mpumalanga province.
- Subcontracting of goods and services in each work package, shall be distributed across all preferred groups of Black People with Disability (BPwD), Black Youth Owned (BYO), Black Woman Owned (BWO) and Black Owned (BO) suppliers.
- Skills development targets shall address Eskom's core, scarce and critical skills and the mining qualification authority sector scarce and critical skills.
- The Supplier shall be required to submit its plans for developing the capability and capacity of their black owned subcontractors.

11. MANDATE OBJECTIVES



Mandate Parameter	Medium Term Mandate	Medium Term Mandate contracted
Price per ton (FCA) – May 2016	R 373.16	R 262.55
Price per ton (DAT) – May 2016	R 503.01	R 389.05
Quantity (Mt)	490.80	421.63
Quality (Expected AR CV (MJ/kg))	18.4	20.2

	Modification Report	Unique Identifier	240-66554879
		Revision	Rev. 3
		Revision Date	May 2019
		Group Technology and Commercial	

12. NEGOTIATION TEAM

No.	Designation	Department
1.	Senior Manager: Fuel Sourcing	Lead Negotiator
2.	Middle Manager: Fuel Sourcing	Commercial
3.	Senior Geologist Technical Services	Technical
4.	Senior Advisor: Finance	Finance

12. SIGNATORIES

Name	Designation	Signature	Date
Edwin Mabelane	Chief Procurement Officer (Procurement Officer)		2016/05/06
Matshela Koko	Group Executive: Generation (End User)		6/5/16
Anoj Singh	Chief Financial Officer		



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

Private Bag X115, Pretoria, 0001 - Tel: (+27 12) 315 5111

Enquiries: Jostina Molaiwa Tel: (012) 315-5221 Fax: (012) 326 5445 Email: jostina.molaiwa@treasury.gov.za

TR/IN1 1/2/5/2 - 186

Mr B. Molefe
Chief Executive Officer
Eskom Holdings SOC Ltd
P.O. Box 1091
JOHANNESBURG
2000

Dear Mr Molefe

**REPORT ON VARIATION OF CONTRACT IN EXCESS OF THE 15% THRESHOLD:
SUPPLY OF COAL TO MAJUBA POWER STATION BY TEGETA EXPLORATION AND
RESOURCES (PTY) LTD.**

1. The National Treasury acknowledges receipt of your letter dated 19 August 2016 and received on 26 August 2016.
2. Your institution has varied the contract of Tegela Exploration and Resources (Pty) Ltd to supply coal to Majuba Power Station. The initial contract amount was R3, 794,748,750.00. The variation amounts to R2, 937,870,000.00 which is 77.42% increase in the original contract value in the second year of the contract period.
3. The extension of contract was recommended by the Chief Procurement Officer on 22 August 2016.
4. The reason for the variation is that Majuba Power Station needs additional tons of coal. Tegela Exploration and Resources (Pty) Ltd is the current supplier of coal appointed for a period of 10 years effective 10 March 2015 to supply coal to Majuba Power Station. The supplier has since agreed to offer additional tons of coal from the Eskom Brakfontein Colliery.
5. The reason provided for this extension is valid however the question of the quality of the coal is not yet cleared.
6. The National Treasury does not support extension of this contract until the question of quality of coal is cleared.
7. Eskom has an obligation to ensure that any contract for goods and services is in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.
8. Please be advised that this award must be published on the e-tender portal.

Kind regards,

M. Tshitangano
SOLLY TSHITANGANO

CHIEF DIRECTOR: SCM GOVERNANCE, MONITORING AND COMPLIANCE

DATE: 11/9/2016



SUSTAINABILITY DIVISION

Research, Testing and Development

CONFIDENTIAL


Technical Memorandum

Title : Brakfontein Extension OC Coal Assessment
 Date Compiled : 23 November 2016
 Memorandum No : RP_FUEL_QS_16_148
 Revision : 1
 Project/Activity/Task No : N.CGEN026
 Author : Chris van Alphen
 Section : Fuel and Combustion
 Functional Area : Plant Performance & Optimisation

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Keywords: Boreholes, Brakfontein, Extension, Opencast, Tegeta

REVISION	DESCRIPTION/COMMENT	AUTHOR	DATE
A	Draft	Chris van Alphen	23 November 2016
1	Review by Bonny Nyangwa	Chris van Alphen	24 November 2016


 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No RP_FUEL_QS_16_148	Rev. 1	Page 2/16

1 INTRODUCTION

During June 2016, a box cut sample from Brakfontein opencast extension was combusted in the 1MW_t Pilot Scale combustion test facility (RP_FUEL_QS_16_43). Brakfontein Extension burnout time of 2.3s was marginally higher than the previous Brakfontein S4U:S4L combustion trials (Appendix E, RP_FUEL_QS_14_121 and RP_FUEL_QS_15_04). The relatively high burnout time is attributed to the partially devolatilisation of originally reactive coal. It is a feature of the coal in the surrounding Leeupan and Moabsvelden collieries (RP_FUEL_QS_15_58 and RP_FUEL_QS_11_08). Brakfontein Extension combustion report recommended an assessment of the Brakfontein Extension borehole data before recommending the acquisition of the coal. Borehole assessment had to determine the following:

- Extend of devolatilisation and the impact devolatilisation has on burnout time. Burnout time prediction will be based on the devolatilisation index (Appendix A).
- In all previous Brakfontein reports, it has been recommended that the poorer quality S4U must not be blended with better quality S4L if the coal is contracted to Majuba power station. Previous borehole assessment has confirmed that S4U is consistently poor (RP_FUEL_QS_15_31). The difference in quality is attributed to geological conditions and the proximity of S4U to a paleo-river which deposit sediments into the surrounding "S4U" swamp. This is particularly important as Brakfontein Extension is an opencast mine. Quality is controlled by selective mining and not by washing or destoning the coal. If effective management is not in place then variability in dry ash, abrasive index and total sulphur is expected. Variations in Brakfontein qualities have been observed and Majuba power station has in the past rejected Brakfontein (RP_FUEL_QS_15_95). This borehole assessment must determine if quality of S4U is still poor and whether mixing S4U with S4L is viable.
- During August 2015, Brakfontein supply to Majuba power station was stopped because the total sulphur and dry base ash content of the pre-certified stockpile exceeded the contractual specifications (RP_FUEL_QS_15_95). Brakfontein has a characteristically high proportion of pyrite, which increases the total sulphur content. QEMSCAN analysis of Brakfontein Extension sample confirmed the high proportion of pyrite cleats, which accounted for the high total sulphur of 1.4% (Appendix B and Appendix C). It is important to determine the total sulphur distribution across Brakfontein Extension and whether the total sulphur exceeds Majuba 240 rejection limit of 1.33%.

The objective of this investigation is to review Brakfontein Extension borehole data provided by Primary Energy Department (Gert Opperman) and to determine if Brakfontein Extension is viable for Majuba power station.

 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No	Rev.	Page
	RP_FUEL_QS_16_148	1	3/16

2 METHODOLOGY

Borehole data submitted included the borehole coordinates, depths and chemical data for thirteen boreholes drilled in Brakfontein “block 2” Extension. Chemical data included proximate, total sulphur and calorific value. Abrasive index and relative density was not included.

Brakfontein 2014 and 2015 pilot scale combustion test data, chemical data and QEMSCAN analysis of S4U, S4L and blends of S4U:S4L and the 2015 Brakfontein borehole assessment will be referred to in this report (Appendix B to Appendix E, RP_FUEL_QS_14_121, RP_FUEL_QS_15_04 and RP_FUEL_QS_15_31).

3 GEOLOGY

In this assessment the previous S4U is referred to as S4L and previous S4L as S4S.

Brakfontein extension is South West of the original Brakfontein opencast (Figure 3-1). The thirteen boreholes plotted inside “block 2” boundary (Figure 3-1).

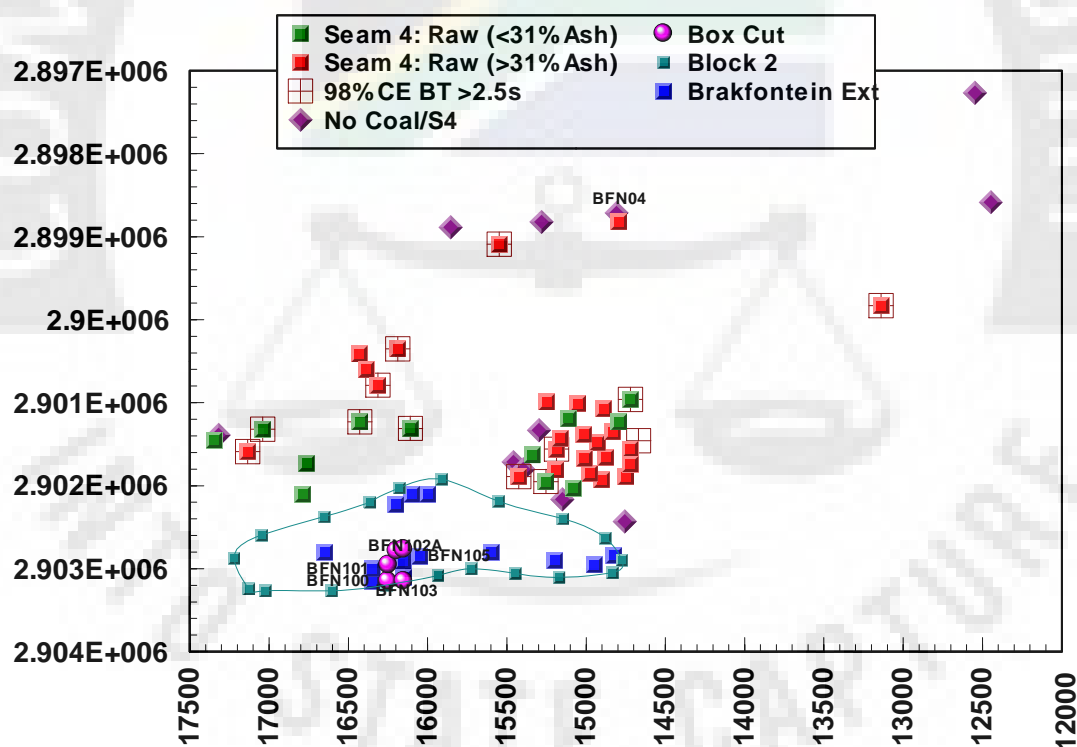



Figure 3-1: Position of Brakfontein extension and box cut relative to the original Brakfontein opencast pit.

The five box cuts are centred on boreholes, BFN100, BFN101, BFN102A, BFN103 and BFN105 (Figure 3-1). The Brakfontein Extension OC samples combusted in June was derived from the five box cut samples.

 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No	Rev.	Page
	RP_FUEL_QS_16_148	1	4/16

The boreholes drilled were focused along the boundary of block 2 in three main areas – northern section, southern section around the box cuts and in the eastern section. Only three boreholes of the thirteen were drilled in the centre of block 2. This is surprising as previous borehole assessment has highlighted dry base ash, total sulphur and devolatilisation variability (refer to Figure 3-1). A regular grid of boreholes across block 2 would have provided a better insight into coal variability in Brakfontein “block 2” extension.

Seam 5, seam 4 and seam 2 are present in Brakfontein extension (Figure 3-2).



Figure 3-2: Idealised stratigraphic column

Average thickness of seam 5, S4L, S4S and S2 are 1.2m, 1.8m, 3.5m and 5.4m, respectively. Excluding BFN101, S4S were intersected in all the boreholes (Figure 3-3).

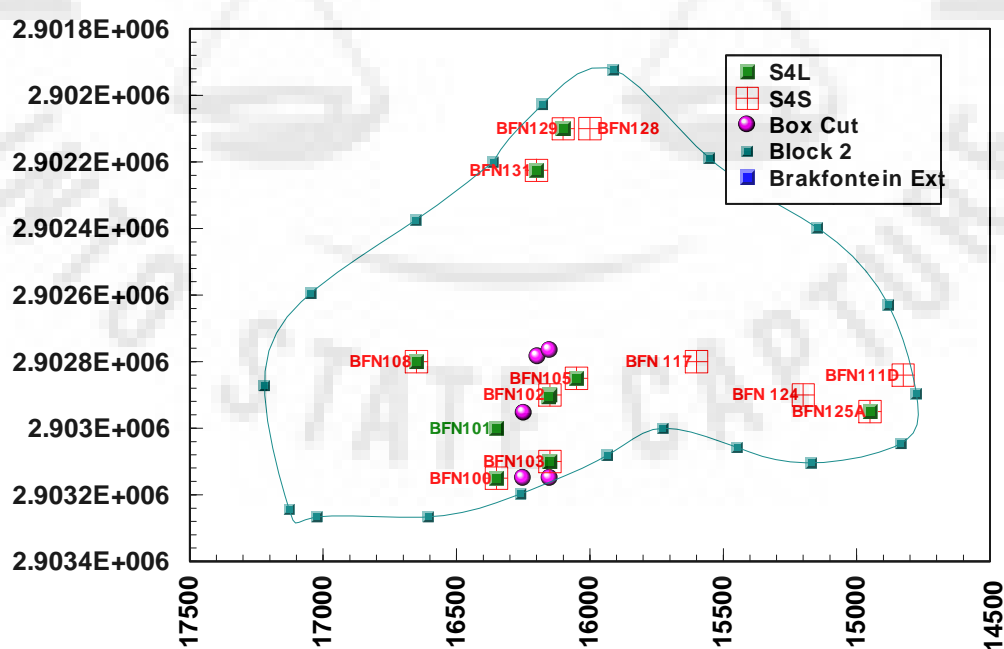



Figure 3-3: S4L and S4S distribution

 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No	Rev.	Page
	RP_FUEL_QS_16_148	1	5/16

S4L was not intersected in boreholes BFN111, BFN117, BFN124 and BFN128.

In previous borehole assessment, poorer quality S4L accounted for approximately 52% of the reserve, whereas in Brakfontein extension it is estimated that S4L accounts for 32% of the reserve. This has to be confirmed as Brakfontein Extension ratio is based on seam thickness only as the relative densities were not provided.

4 DATA ASSESSMENT

Newly defined S4L is comparable in quality to previously defined S4U and newly defined S4S is comparable to previously defined S4L (Figure 4-1).

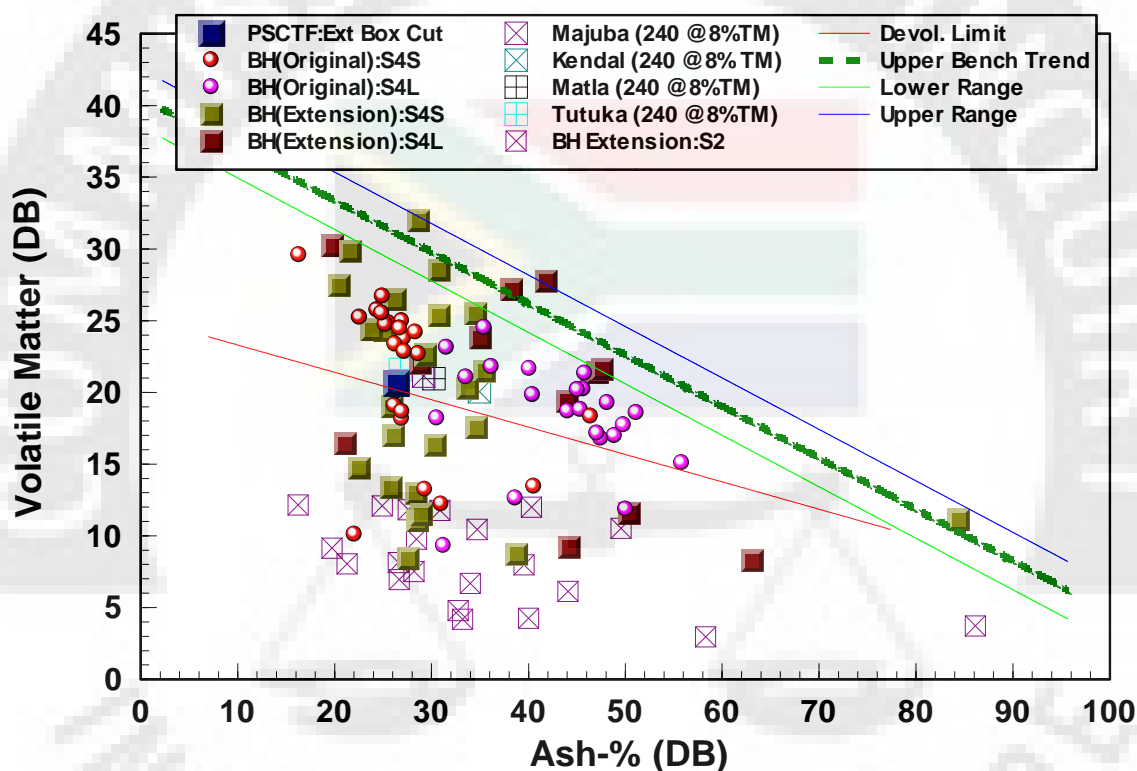



Figure 4-1: Variation in Brakfontein dry base ash and volatile matter. Power station based on ideal 240 dry base volatile matter and ash.

There are a number of notable dry base ash and volatile matter trends (Figure 4-1):

- All of seam 2 in Brakfontein Extension is partially devolatilised and must not be included in the reserve statement. This is a consistent feature of Brakfontein and surrounding collieries.
- There is partially devolatilised S4L and S4S in Brakfontein Extension. This is consistent with the previous Brakfontein borehole assessment. Partial devolatilisation would account for Brakfontein Extension (OC) combustion test

 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No	Rev.	Page
	RP_FUEL_QS_16_148	1	6/16

sample relatively low dry base volatile matter and associated high burnout time of 2.3s (Appendix E).

- A high proportion of S4L dry base ash content exceeds Majuba 240 reject dry base ash of 31%. This is a consistent Brakfontein trend.
- S4L and S4S dry base ash and dry base volatile matter in Brakfontein Extension is extremely variable. S4S dry base volatile matter can range from less than 10% to as high as 35% for S4S for the same ash content. In comparison S4L dry base volatile matter can range from 10% to 30% for the same ash content. S4L dry base ash can range from 20% to greater than 60%, whereas S4S dry base ash ranges from 20% to 40%. Quality of the original Brakfontein S4L and S4S is consistent compared to Brakfontein Extension.

In a number of boreholes (BFN103, BFN125, BFN100, BFN108, BFN101 and BFN105) the dry base calorific value is significantly higher than expected relative to the dry base ash and the South African ash/calorific value trend (Figure 4-2).

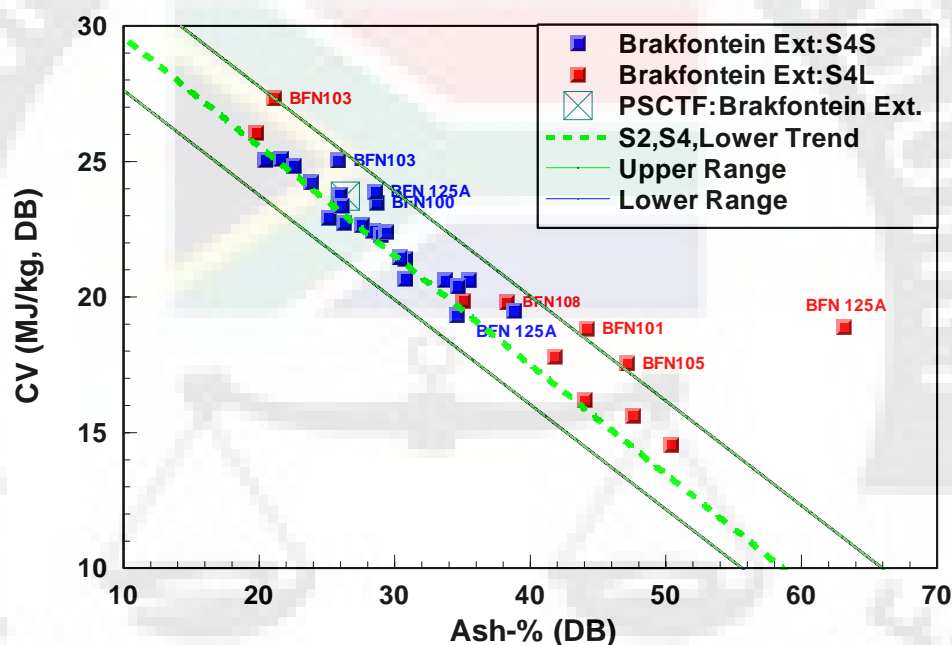


Figure 4-2: Dry base ash and calorific value correlation.

Based on raw dry base ash and predicted burnout time boreholes BFN100, BFN101, BFN103, BFN105, BFN111 and BFN125 either exceed Majuba dry base 240 reject limit or have a burnout time exceeding Majuba residence time of 3.1s (Figure 4-3).

If the better quality plies were selectively mined and the poorer quality coal is not mined then only BFN105 of the originally rejected boreholes is within Majuba specifications (Figure 4-2). BFN100, BFN101, BFN103 and BFN105, which were not within Majuba specifications, are four of the five boreholes around the five box cuts (Figure 3-3). BFN102 is the only borehole near the box cut, which is within Majuba specifications. It is notable that Brakfontein Extension combustion test sample has a lower dry base ash and a higher burnout time relative to BFN102 (Appendix B and Figure 4-3).

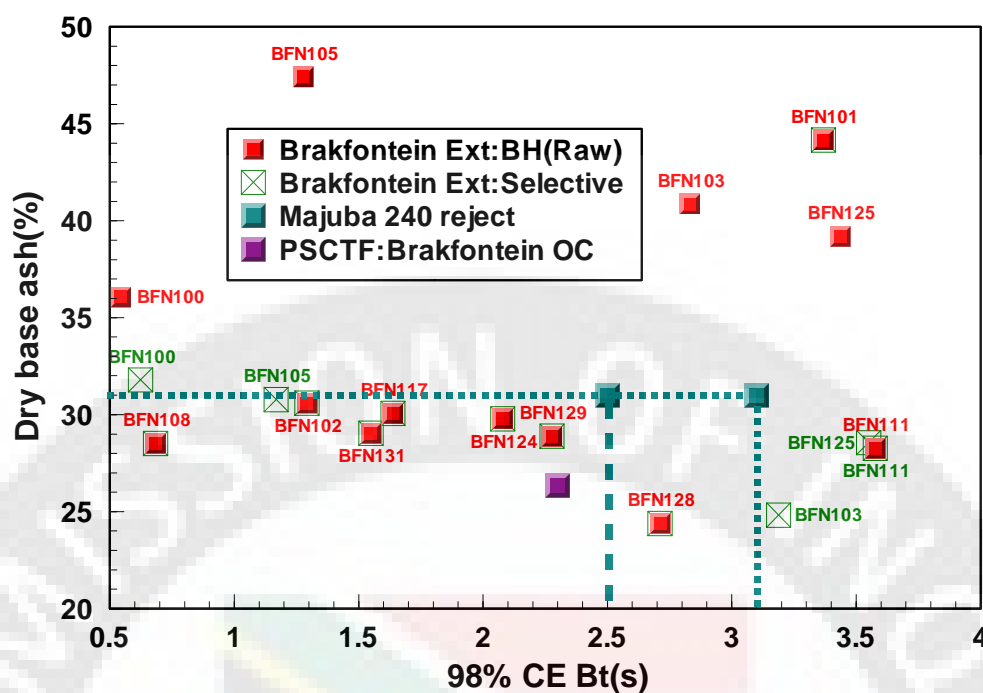


Figure 4-3: Brakfontein extension borehole dry base ash and burnout times relative to Majuba 240 reject dry base ash and residence time.

The noted variation in Brakfontein S4 dry base volatile matter is reflected by the variation in burnout time from 0.6s to greater than 3.5s. Previously analysed Brakfontein blends, S4U and S4L had burnout times ranging from 1s to 1.63s (Appendix E and Figure 4-4).

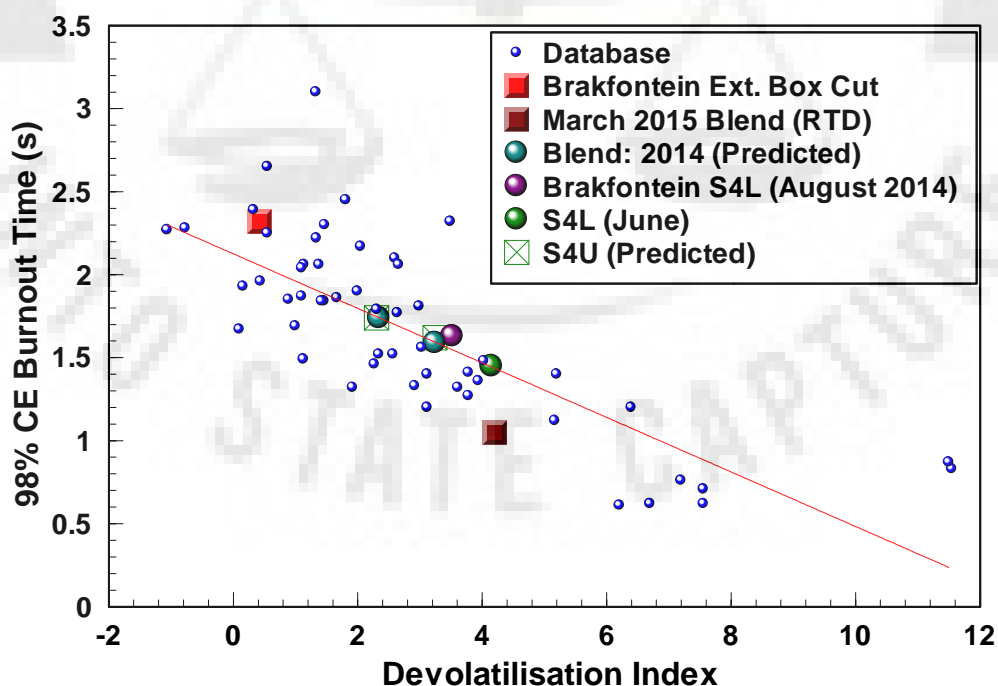



Figure 4-4: Devolatilisation index relative to burnout time.

 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No	Rev.	Page
	RP_FUEL_QS_16_148	1	8/16

A number of the boreholes had total sulphur contents exceeding Majuba 240 reject specification of 1.33% (Figure 4-5). Unfortunately, Majuba Power station has tube mills and therefore there is no rejection of extraneous pyrite to a reject stream as would occur if Majuba power station had vertical spindle mills.

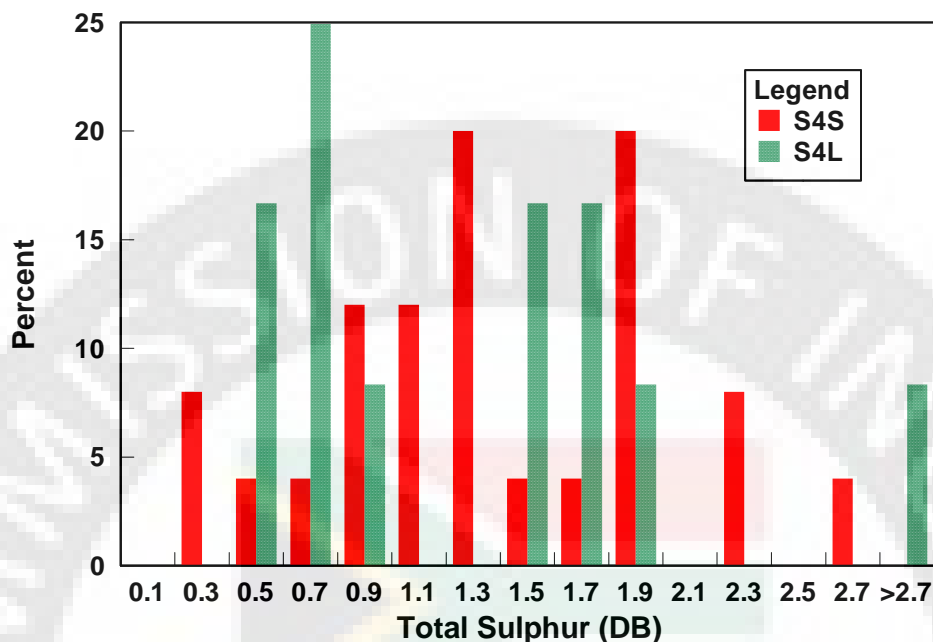


Figure 4-5: Dry base total sulphur distribution

If dry base ash, total sulphur and burnout time were considered assuming good selective mining and no stone contamination then only BFN108, BFN105, BFN117 and BFN124 predicted Eskom product would be suitable for Majuba power station (Figure 4.6)

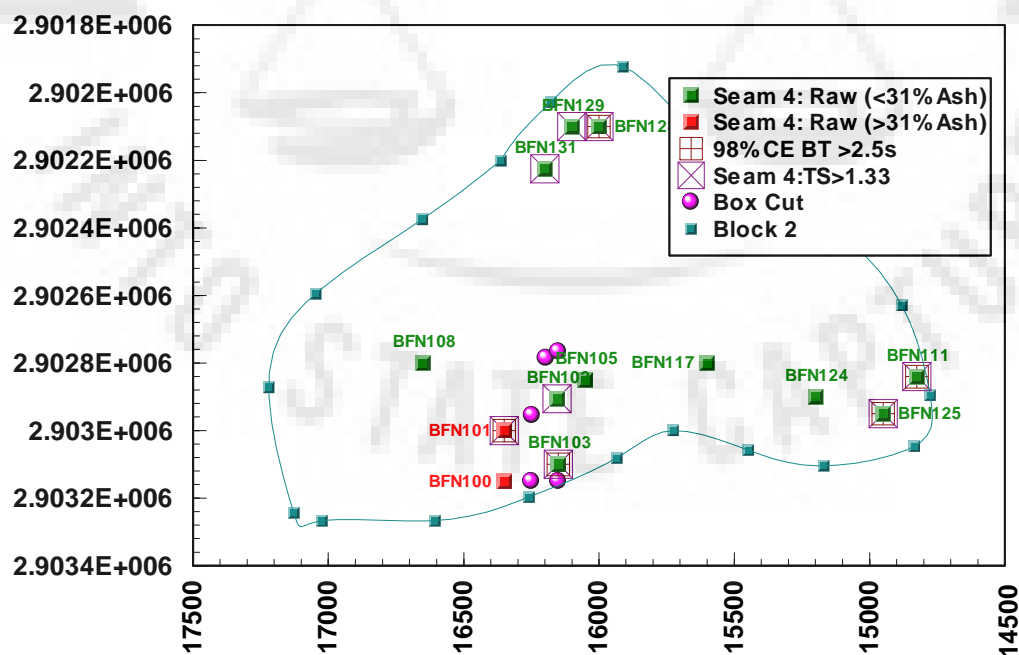



Figure 4-6: Borehole quality distribution.

 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No	Rev.	Page
	RP_FUEL_QS_16_148	1	9/16

It is notable that the four acceptable boreholes are concentrated along an east-west trending line across the centre of Brakfontein Extension and not along the boundary of “block 2”.

The impact of sandstone and abrasive index could not be ascertained as there was no abrasive index or geological logs describing the lithology of the in-seam partings.

5 DISCUSSION

A feature of Brakfontein Extension is the variability of dry base ash, total sulphur, burnout times and the discrepancy between dry base ash and calorific value. If Brakfontein Extension is contracted for Majuba power station the probability of pre-certified stockpiled coal exceeding Majuba dry base ash, total sulphur and residence time is high, especially considering the variability, it is opencast mining and selective mining will be practiced.


The large centre portion of the reserve has not been drilled and is therefore no indication of the quality in the centre proportion. Assessing an extremely variable coal based on thirteen boreholes concentrated in three areas along the boundary is not advisable or good practice.

6 CONCLUSION

Recommending Brakfontein Extension for Majuba, Tutuka and Matla power station based on the borehole data provided is not advisable. If Eskom is already contractually obliged to take this coal, then PED must expect pre-certified stockpiles to exceed Majuba dry base ash, calorific value, total sulphur and probably abrasive index. This contract has to be carefully managed to mitigate the risk of contractual disputes and Majuba power station stopping the delivery of the coal.

7 RECOMMENDATIONS


- Additional boreholes have to be drilled to ensure a proper assessment of Brakfontein Extension. It is recommended that a regularly spaced grid across the centre of Brakfontein Extension be established.
- If Eskom are contractually obliged to take this coal, it is recommended that RT&D chemical laboratory be involved to analyse randomly PED selected pre-certified stockpile coal. This will ensure that the coal DNA database created for the correlation between ash and calorific value is maintained for this source, trending of data this will assist when disputes occur.

 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No RP_FUEL_QS_16_148	Rev. 1	Page 10/16

8 REFERENCES

- [1] Van Alphen, C., Brakfontein S4L assessment, RP_FUEL_QS_14_121, 12th March 2015.
- [2] Van Alphen, C., Brakfontein S4L and S4U blend, RP_FUEL_QS_15_04, 17th April 2015.
- [3] Van Alphen, C., Brakfontein Borehole Assessment, RP_FUEL_QS_15_31, 18th June 2015.
- [4] Van Alphen, C., Moabsvelden borehole assessment, RP_FUEL_QS_15_58, 16th September 2015.
- [5] Van Alphen, C., Leeupan combustion trials, RP_FUEL_QS_11_08, 13th May 2011
- [6] Van Alphen, C., Brakfontein Extension OC Coal Assessment, RP_FUEL_QS_16_43, 27th June 2016.
- [7] Van Alphen, C., Brakfontein Coal Quality dispute, RP_FUEL_QS_15_95, 5th October 2015

Submitted by:  Chris van Alphen Chief Advisor Fuel Date: 23 November 2016	Accepted by:  Bonny Nyangwa Fuels and Combustion Manager Date: 24 November 2016	
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 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No	Rev.	Page
	RP_FUEL_QS_16_148	1	11/16

APPENDIX A ESKOM “DEVOLATILISATION” INDEX

The volatile matter of any coal is governed by the ash content, proportion of volatile matter rich macerals (vitrinite) and the extent of devolatilisation or weathering. Eskom have defined a “devolatilisation” index, which is based on the dry base volatile matter and ash content of the coal (Figure A.1). The devolatilisation index is the difference between the measured dry base volatile matter and the calculated “devolatilised” limit volatile matter as defined by the “devolatilised” line.

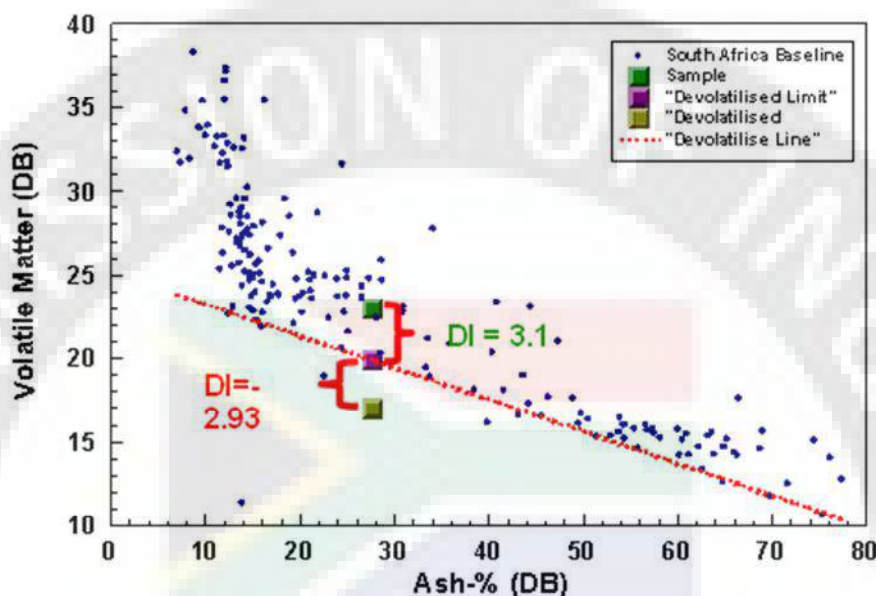


Figure A-0-1: Dry base ash volatile matter

In this example, the coal with a DI of -2.93 is devolatilised, whereas the coal with a devolatilised index of 3.1 is typical of a middlings product. The magnitude of the devolatilisation index is indicative of reactivity is DI is positive and the extent of devolatilisation is the DI is negative.

The devolatilisation index has been correlated to PSCTF and DTF 98% combustion efficiency burnout times (Figure A-2)

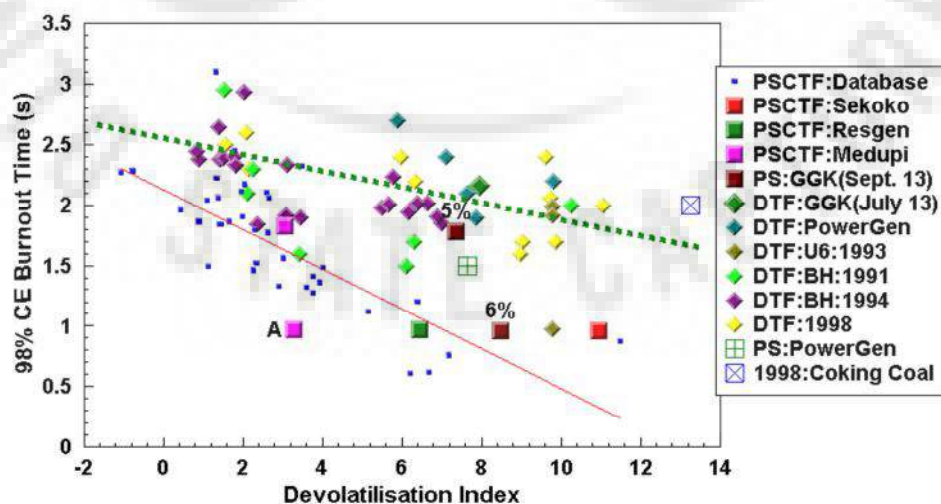



Figure A-2: Predicted 98% CE BT(s)


 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No RP_FUEL_QS_16_148	Rev. 1	Page 12/16

APPENDIX B

CHEMICAL ANALYSIS

Table B-1: Chemical Analysis

Sample Name	Brak. Ext 2016 S4 Boxcut	Blend March 2015	Blend October 2014	Blend June 2014	S4L (Aug. 14)	S4L (June 14)	S4U (June 14)	S4U (Oct.14)
Inherent Moisture (%)	4.40	5.00	4.20	4.00	5.60	5.00	4.40	4.10
Ash-%	25.20	29.30	29.30	31.50	28.40	27.20	31.70	30.50
Volatile Matter (%)	19.70	22.30	20.80	21.30	21.70	22.70	21.00	20.60
Fixed Carbon	50.70	43.40	45.70	43.20	44.30	45.10	42.90	44.80
Total sulphur	1.38	0.77	1.05	0.79	0.85	0.83	1.03	0.94
Total CO ₂	2.85	2.78	2.66	2.65	2.62	2.85	2.78	2.77
Calorific Value (MJ/kg)	22.68	20.14	20.64	19.62	19.97	20.90	19.38	20.03
Carbon	54.89	54.83		51.74	51.59	54.78	52.21	50.47
Hydrogen	2.90	2.66		2.54	2.67	2.65	3.00	2.47
Nitrogen	1.45	1.16		1.19	1.17	1.27	1.17	1.23
Oxygen	6.93	3.50		5.59	6.47	5.42	4.20	3.88
SiO ₂	57.60	48.00		55.20	51.70	52.00	53.80	
Al ₂ O ₃	28.20	27.50		26.50	26.60	27.60	26.50	
Fe ₂ O ₃	4.80	4.50		3.60	4.00	4.00	4.40	
TiO ₂	1.60	1.50		1.60	1.60	1.60	1.60	
P ₂ O ₅	0.53	0.89		0.55	0.66	0.64	0.52	
CaO	4.70	8.50		5.90	8.40	7.60	6.10	
MgO	0.90	2.50		1.50	2.10	2.10	1.60	
Na ₂ O	0.10	0.80		0.10	0.10	0.10	0.20	
K ₂ O	0.50	0.80		0.80	0.70	0.70	0.90	
SO ₃	2.00	5.00		2.60	2.20	2.00	2.30	
Mn	0.03	0.02		0.01	0.02	0.02	0.01	
Def (°C)		1370		1350				
Hem (°C)		1350		1440				
Flow (°C)		1340		1460				
Abrasive index (mg/Fe)	397	353	496	333	278	228	349	593
Hardgrove Index	57	31	52	29	49.	28	35	54

 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No RP_FUEL_QS_16_148	Rev. 1	Page 13/16

APPENDIX C
Table C-1: QEMSCAN MASS PERCENT MODAL PROPORTIONS

Sample Unit	Brakfontein Ext. S4 Boxcut		Brakfontein March 2015 S4U:S4L Blend		Brakfontein June 2014 S4U:S4L Blend			
	QS	CQA	QS	CQA	QS	CQA	QS	CQA
Gypsum	0.3		0.9					
Pyrite	6.6	1.9	0.5	1.5		1.5		
Siderite	0.4	0.0	0.7	0.7		0.3		
Calcite	1.7	1.3	1.7	2.2		1.9		
Dolomite	0.9	1.1	2.6	3.6		2.3		
Apatite	0.4	0.3	0.6	0.7		0.4		
Kaolinite	14.6	18.9	21.2	22.3		22.6		
Quartz	6.9	6.4	5.5	4.9		8.0		
Illite/Muscovite	0.6	0.3	2.6	0.5		0.5		
Muscovite	0.2	0.3	1.2	0.5		0.5		
Microcline	1.0	0.5	0.4	1.0		1.0		
Rutile	0.1	0.4	0.2	0.5		0.5		
Vitrinite	23.4	68.6	8.0	61.7		60.3		
Reactive S-Fusinite	21.1		28.0					
Fusinite	18.5		25.7					
Fusinite(HC)	3.0		0.0					
Other	0.5		0.0	0.0		0.0		
Total	100.0	100.0	100.0	100.0		100.0		
Mineral Matter	34.1	31.4	38.3	38.3		39.7		
Mineral Volatiles	7.1	4.8	6.1	7.0		6.1		
Ash-% (DB) - calculated	27.0	26.6	32.2	31.4		33.6		
Ash-% (DB) - measured	26.4	26.4	30.8	30.8		32.8		

Table C-2: QEMSCAN PARTICLE CHARACTERISTICS

	Brakfontein Box Cut	Brakfontein March Blend	
Dolerite	5.2	0.0	
Pyrite Cleat	0.4	0.7	
Siderite Cleat	2.0	0.6	
Calcite/Dolomite Cleat	5.1	2.3	
Sandstone	2.3	1.7	
Siltstone	7.5	4.1	
Mudstone	17.5	10.2	
Carbominerite	3.7	32.2	
Fusinite	7.3	0.7	
Inert Intermediate	26.3	3.5	
Reactive Intermediate	22.8	22.6	
Vitrite(RSF)	5.2	21.5	



 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No RP_FUEL_QS_16_148	Rev. 1	Page 14/16

Table C-3: Brakfontein S4U and S4L modal proportions

Sample Unit	Brakfontien S4L August 2014		Brakfontein S4L June 2014		Brakfontein S4U June 2014		Brakfontein S4U Oct. 2014	
	QS	CQA	QS	CQA	QS	CQA	QS	CQA
Gypsum/Gibbsite	0.2		0.3		0.6		1.1	
Pyrite	1.3	1.7	1.5	1.6	2.7	2.0	1.3	
Siderite	0.4	0.2	0.7	0.2	0.6	0.3	0.4	
Calcite	1.9	2.6	2.4	2.1	2.7	2.0	1.7	
Dolomite	2.3	2.9	2.8	2.8	2.1	2.4	1.5	
Apatite	0.6	0.5	0.6	0.5	0.8	0.4	0.6	
Kaolinite	17.5	20.8	21.1	20.5	22.6	22.8	18.8	
Quartz	6.5	6.2	7.4	5.7	9.6	7.6	7.1	
Illite/Muscovite	1.8	0.4	2.3	0.4	3.3	0.6	3.6	
Muscovite	0.5	0.4	0.8	0.4	0.9	0.6	1.4	
Microcline	0.4	0.8	0.2	0.8	0.7	1.2	1.2	
Rutile	0.3	0.5	0.3	0.5	0.3	0.6	0.3	
Vitrinite	12.4	62.8	12.7	64.7	11.1	59.5	17.5	
Reactive S-Fusinite	18.2		22.1		19.5		22.7	
Fusinite	32.6		24.6		22.1		20.3	
Fusinite(HC)	2.9		0.3		0.2		0.4	
Other	0.1		0.1		0.1		0.1	
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	
Mineral Matter	34.0	37.2	40.4	35.3	47.1	40.5	39.2	
Mineral Volatiles	5.6	6.5	6.7	6.1	7.7	6.5	5.8	
Ash-% (DB) - calculated	28.4	30.7	33.6	29.2	39.4	34.0	33.5	
Ash-% (DB) - measured	30.1	30.1	28.6	28.6	33.2	33.2	31.8	

Table C-4: Brakfontein S4L and S4U modal proportions


Stone Contamination	S4L(Aug. 14)	S4L (June 14)	S4U (June 14)	S4U (Oct. 14)
Dolerite	0.0	0.0	0.00	0.1
Pyrite Cleat	1.2	1.2	2.6	0.9
Siderite Cleat	0.6	0.7	0.9	0.4
Calcite/Dolomite Cleat	2.4	3.5	4.0	2.8
Sandstone	2.4	2.1	5.3	4.8
Siltstone	3.6	6.7	5.2	3.8
Mudstone	7.4	10.8	16.5	12.7
Carbominerite	29.1	26.8	23.6	22.9
Fusinite	6.6	2.5	2.6	3.0
Inert Intermediate	8.3	3.1	2.5	1.7
Reactive Intermediate	26.7	24.4	22.7	27.9
Vitrite(RSF)	11.6	18.2	14.1	19.1

 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No RP_FUEL_QS_16_148	Rev. 1	Page 15/16

APPENDIX D FLY ASH PROPORTION

Table D-1: QEMSCAN mass% fly ash proportions and slagging propensity

Ash Phases	Brakfontein Ext Boxcut 2016		Brakfontein March 2015 Blend					
	T15	T16	T1	T2				
Iron Oxide/Pyrite	3.0	3.1	1.6	1.8				
Calcium Oxide/Anhydrite	5.4	5.4	4.8	5.5				
CaMg-Oxide	0.4	0.4	0.3	0.6				
Quartz	10.4	9.7	6.4	9.9				
Aluminosilicate (kaolinite)	53.1	51.1	44.3	48.8				
Microcline	0.6	0.5	0.4	0.5				
Muscovite/illite	1.8	1.8	2.9	1.9				
Rutile	0.0	0.0	0.0	0.0				
Aluminosilicate glass	22.6	25.0	36.3	28.0				
Silica rich glass	1.5	1.7	2.4	2.4				
Char	0.8	1.0	0.4	0.3				
Other	0.2	0.2	0.2	0.2				
Predicted Slagging Propensity								
Total Slagging - Mass%	24.1	26.7	38.7	30.4				
Total Slagging - kg/hr 1MWt	9.6	10.7	20.3	15.9				

 Eskom	RT&D TECHNICAL MEMORANDUM		
Brakfontein Extension OC Coal Assessment	Memorandum No RP_FUEL_QS_16_148	Rev. 1	Page 16/16

APPENDIX E

Table E-1: Pilot Scale Combustion Test data

	Brakfontein Ext. Boxcut 2016		Brakfontein S4L August 2014		Brakfontein S4LS4U Blend March 2015	
	Operation Conditions					
Test	PF1606 PED015	PF1606 PED016	PF1408P ED073	PF1408 PED074	PF1504 PED001	PF1504P ED002
Coal Flow (kg/hr)	163	163	180	180	179	179
Load (MW)	1.0	1.0	1.00	1.00	1.00	1.00
Grind Size – Passing 75 microns	69.1	65.3	68.6	70.4	64.7	66.1
Furnace Pressure (Pa)	-162.0	-143.7	-154	-147	-178	-174
Oxygen (Ziconia) wet basis (%)	5.0	5.3	6.16	6.17	5.20	5.05
Oxygen (dry basis) (%)	5.5	5.6	6.22	6.32	6.32	6.09
	Flue Gas Temperature Distribution (°C)					
Gas Temp 0.13m	1494	1494				
Gas Temp 0.25m	1595	1440				
Gas Temp 0.37m	1605	1548				
Gas Temp @ 0.4M	1420	1423	1092	1087	1292	1275
Gas Temp @ 1.15M	1405	1408	1456	1446	1434	1428
Gas Temp @ 1.8M	1294	1294	1326	1323	1318	1322
Gas Temp P28	1131	1132	1150	1114	947	950
	Average Temperatures (°C)					
Average gas Temperature	1421	1391	1256	1243	1261	1256
Average Wall Temperature	1062	1065	1021	1023	968	964
Convective Exit Temperature	274	271	222	221	174	173
	Emissions (ppm) normalised to 6% O ₂					
Carbon Monoxide	30	27	38	36	10	10
CO ₂	13.3	13.3	13.4	13.4	14.0	14.0
SO ₂	821	922	646	636	560	567
NO	1147	1166	1001	1001	1259	1274
NO _x	1163	1187	1026	1024	1284	1299
NO ₂	16	20	25	24	25	25
N ₂ O						
	Combustion Efficiency (%)					
RTDPort15(2015),Port9(2009&2016)	94.0	92.9	97.61	97.66	99.02	99.13
RTDPort21(2016),Port15(2009&2012)	97.1	97.0	99.41	99.41	99.62	99.51
RTDPort27(2016),Port21(2009&2012)	99.6	99.5	99.51	99.51	99.79	99.84
	Residence Times (s)					
RTDPort15(2015),Port9(2009&2016)	0.597	0.605	1.579	1.568	1.530	1.560
RTDPort21(2016),Port15(2009&2012)	1.942	1.949	2.056	2.042	2.022	2.061
RTDPort27(2016),Port21(2009&2012)	2.925	2.930	2.920	2.900	3.156	3.214
Burnout Times @98%	2.3	2.3	1.636	1.612	1.065	1.042



Mr Solly Tshitangano
Chief Director: SCM Governance, Monitoring and Compliance
National Treasury
Private Bag X115
PRETORIA
0001

Dear Mr Tshitangano

RESPONSE FROM ESKOM ON REPORT ON VARIATION OF CONTRACT IN EXCESS OF THE 15% THRESHOLD – SUPPLY OF COAL TO MAJUBA POWER STATION

I refer to your letter dated 01 September 2016, reference TR/IN1 1/2/5/2 – 186, and our subsequent correspondence pertaining to this matter dated 14 October 2016 (both attached for ease of reference).

All the coal that is supplied to Eskom from Brakfontein Colliery is pre-certified as per the provisions of the coal supply agreement that exists between Eskom and Tegeta Exploration and Resources (Pty) Ltd. Pre-certification is a process that involves the creation, sampling, testing, certification and management of coal stockpiles at Brakfontein Colliery. The coal stockpiles are classified as pre-certified if laboratory results show that the coal meets the specified coal quality. Through this process Eskom ensures that coal that meets the quality specification is delivered to Eskom and that coal that does not meet the coal quality specification does not get dispatched from the mine.

In order to enhance the pre-certification process, coal is sampled using auto-mechanical samplers instead of manual sampling to improve sampling accuracy and minimise human intervention. In this regard, an auto-mechanical sampling system has been installed at Brakfontein Colliery and is currently being commissioned.

In your letter you indicated that you do not support the extension of the contract until the question of quality of coal is cleared. Eskom trusts that the above mentioned answers the question cited in your letter with regards to the issues on coal quality.

Yours sincerely

Edwin Mabelane

CHIEF PROCUREMENT OFFICER

Date: 2017/01/06

Head office

Megawatt Park Maxwell Drive Sunninghill Sandton
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Eskom Holdings SOC Ltd Reg No 2002/015527/30



Mr George van der Merwe
Chief Operations Officer
Optimum Coal Holdings
Suite No 19
Private Bag X1
MELROSE ARCH
2076

Dear Mr van der Merwe

BRAKFONTEIN COLLIERY AND BRAKFONTEIN EXTENSION COLLIERY SUPPLY AND OFF-TAKE AGREEMENT ("BRAKFONTEIN CSA") BETWEEN ESKOM HOLDINGS SOC LIMITED ("ESKOM") AND TEGETA EXPLORATION AND RESOURCES (PTY) LIMITED ("THE SUPPLIER") ("PARTIES") –REQUEST FOR RECTIFICATION OF BRAKFONTEIN COLLIERY – REF NUMBER 727360

We refer to the abovementioned matter.

Eskom hereby gives notice of the Brakfontein Colliery (period) 2017 under performance as reflected in table 1 below. Brakfontein Colliery had committed to supply 27 323 400GJ's (1 356 000 tons) but only supplied 23 132 602GJ's (1 091 064 tons) resulting in a shortfall of 4 109 798GJ's (264 936 tons).

Year	Month	Monthly Quantity (1/12 of Annual Quantity)		Minimum Monthly Quant (80%)	Maximum Monthly (120%)	Quarterly Quantity				Annual Quantity				Cumulative Variance Actual vs Contractual (tOM)
		Contractual	Actual			Contractual	Actual	Min Quarterly Quant (90%)	Max Quarterly Quant (110%)	Contractual	Actual	Min Annual Quant (90%)	Max Annual Quant (110%)	
2016-2017	October	2 276 550	1 900 428	1 821 560	2 732 340	6 830 850	5 578 038	5 464 680	8 197 020	27 323 400	23 132 602	24 591 060	30 055 760	-4 150 758
	November	2 276 550	1 756 596	1 821 560	2 732 340									
	December	2 276 550	1 871 034	1 821 560	2 732 340									
	January	2 276 550	1 914 460	1 821 560	2 732 340	6 830 850	6 220 359	5 464 680	8 197 020					
	February	2 276 550	1 966 776	1 821 560	2 732 340									
	March	2 276 550	2 339 102	1 821 560	2 732 340									
	April	2 276 550	1 848 921	1 821 560	2 732 340	6 830 850	5 850 965	5 464 680	8 197 020					
	May	2 276 550	1 871 156	1 821 560	2 732 340									
	June	2 276 550	2 130 847	1 821 560	2 732 340									
	July	2 276 550	2 227 770	1 821 560	2 732 340									
	August	2 276 550	1 401 317	1 821 560	2 732 340									
	September	2 276 550	1 854 134	1 821 560	2 732 340									

Eskom hereby requests Brakfontein Colliery to submit a rectification plan to remedy this short supply, which remedy must be detailed in a written response within seven (7) working days of receipt of this letter.

Please be advised that your failure to submit the same to Eskom on or before 11 December 2017, will leave Eskom with no choice but to invoke the provisions of clause 12.3.3 of the Coal Supply Agreement entered into by the parties on or about 10 March 2015.

Yours sincerely

John Mamabolo
GENERAL MANAGER: COAL OPERATIONS (ACTING)

Date: 29/11/2017

Primary Energy
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Tel +27 11 800 6343 Fax +27 86 663 9855 www.eskom.co.za

Eskom Holdings SOC Ltd Reg No 2002/015527/30

Annexure E 55





FUNDUDZI

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 Braamfontein, 2017
 PO Box 30780
 Braamfontein, 2017
 Tel: (011) 403-2526
 Fax: (011) 403-2135
 Registration No: 2009/010757/07
 info@fundudzi.co.za

Ernest Nkjavhambe

our ref

13 July 2018

Dear Mr Koko,

RE: FORENSIC INVESTIGATION INTO VARIOUS CONTRACTS AT ESKOM SOC LTD

Please find attached questions relating to the investigations referred to above for your attention. We would really appreciate it if you can respond to the questions by 19 July 2018.

1. Coal Supply Agreement

- What was your involvement in the conclusion of the Coal Supply Agreement;
- Why was the contract period extended from 5 to 10 years; and
- Why did Eskom allow the Coal Supply Agreement to commence before the supplier had completed and reported a successful combustion test for coal supply to Majuba Power Station;

2. Tegeta Resources and Exploration (Pty) Ltd ("Tegeta") Coal Quality Dispute

We understand that you were approached by Jacques Roux of Brakfontein mine alleging corruption in the sampling, analysis and reporting of the results by Sibonisiwe Laboratories. It is further alleged that Sibonisiwe was failing the Brakfontein colliery coal samples in order to solicit a bribe from them;

- Can you please confirm that Jacques Roux approached you relating to the allegations above; if so:
 - o What date did Jacques Roux approached you?
 - o Where did the meeting take place; and
 - o What exactly did Jacques Le Roux say to you?
- Did you instruct Mark Van Der Riet to investigate the Brakfontein colliery coal quality issues and the aforesaid alleged solicitation of a bribe; if an investigation into the allegations was conducted, what was the outcome of the said investigation.

Forensic Investigation into various contracts at ESKOM

We understand that you contacted Happening Masuku from Sibonisiwe and requested a meeting relating to the allegations above:

- Did you contact Happening Masuku from Sibonisiwe on 27 August 2015 relating to the allegations made against Sibonisiwe's labs;
- Did you meet at your office with Happening Masuku on 28 August 2015; if so what was the purpose of the meeting;
- Did you make threats to Happening Masuku that you will terminate Sibonisiwe's contract with Eskom if Sibonisiwe continues to fail the coal samples from the Brakfontein colliery;
- Were you aware that Mark Van Der Riet, Charlotte Ramavhona and her team were arranging to visit Brakfontein mine on 29 August 2015 to observe coal sampling to be sent to SABS for testing;
- It is alleged that you issued an instruction to Mark Van Der Riet and the team not to go to Brakfontein to observe the sampling process. If it is true, why did you issue the instruction;
- If you issued the instruction, was the instruction in accordance to Eskom's policies and procedures taking into consideration that there was already a crisis in terms of allegations of bribery against Sibonisiwe,
- Did you investigate why the September 2015 SABS test results differed from the August 2015 results

3. Suspension of Tegeta's Coal Supply Agreement

- What was the reason for the suspension of Brakfontein Coal Supply Agreement on the 31 August 2015;
- Was the suspension based on the results of the tests conducted by the labs contacted to Eskom; if so, on which tests results did you base your decision to suspend;

4. Observation of coal analysis process by the Brakfontein colliery personnel

- Are you aware that, on 29 August 2015, Satish and Jacque from the Brakfontein mine observed, the coal analysis process of the Brakfontein colliery coal which was performed by SABS;
- Are you aware that none of Eskom Employees were present at the time of the said lab tests at SABS;
- Did you stop the Eskom Employees from going to Brakfontein and SABS to perform observation duties during the coal sampling and testing on 29 August 2015;

Forensic Investigation into various contracts at ESKOM

- If so why did you do so

5. *Delivery of coal by Tegeta*

- Please advise whether or not you permitted Tegeta to deliver coal to Eskom's Majuba power station on the basis of coal assessment results which were issued by SAES on 30 August 2015;

6. *Suspension of other service provider*

- Please confirm whether, on 31 August 2015, you issued letters to suspend the services of the following service providers:
 - SGS Services South Africa (Pty) Ltd ("SGS");
 - Mpumamanziz; and
 - Sibonisiwe.
- Please provide the reasons, if you confirm the above, for the suspension of the services of the aforesaid service providers;
- Were the companies suspended given an opportunity to present their case before they were suspended;

7. *Upliftment of SGS' suspension*

- On 11 December 2015 you uplifted SGS suspension, based on what did you uplift the suspension.
- Why was Sibonisiwe's suspension not uplifted?

8. *Upliftment of Tegeta's suspension of the Coal Supply Agreement ("CSA")*

- We understand that on 5 September 2015, you uplifted the suspension of Tegeta's Coal Supply Agreement, if so what led to the decision to uplift;
- Did you establish reasons for the serious and repeated non-compliant deliveries of coal during July and August 2016 prior to uplifting the suspension of the CSA entered between Eskom and Tegeta;

Forensic Investigation into various contracts at ESKOM

- Were you influenced by anyone internal/external of Eskom to uplift the Coal Supply Agreement between Eskom and Tegeta;
- We understand that Primary Energy Division fell under Vusi Mboweni who was the Executive in charge at the time of the suspension and upliftment of the Coal Supply Agreement. Why was Mr Mboweni not the one running with the suspension and upliftment of the Coal Supply Agreement.

9. Suspension of various officials at Eskom

We understand that the officials listed below were suspended by Eskom on 1 September 2015:

- o Charlotte Ramavhona;
- o Mark Van Riet;
- o Siphelele Goberi; and
- o Sam Phetla.

- a) What was the reason for the suspensions?
- b) What role did you play in the said suspensions?
- c) Did you issue the instruction to have the above mentioned officials suspended;
- d) Did you sign the said individuals' suspension letters;
- e) Were the employees not suspended because they questioned the processes followed in the testing of the Tegeta coal;
- f) As far as you know was there a dispute in the coal test conducted by Sibonisiwe;
- g) What is your understanding of the processes to be followed when there is a dispute in the testing of coal;
- h) When the test samples were taken to SGS, was that process according to the procedures that needed to be followed;
- i) When the resampling of the same disputed stock pile was taken to SABS for further testing was that in accordance with approved procedure;

10. Delivery of inferior quality coal

We determined that on 7 September 2015, you made a phone call to Gert Opperman to instruct him to request that Eskom's Majuba power station accepts a coal delivery from the Brakfontein colliery. The said coal delivery was in respect of stockpile B06/09/2015 and was initially rejected by Eskom's Majuba power station as it did not comply with the quality requirements stipulated in the aforesaid CSA;

Forensic Investigation into various contracts at ESKOM

- Did you instruct Gert Opperman to request Eskom's Majuba Power Station to accept a stock pile that did not comply with the quality requirements,
- If you gave Gert Opperman the instruction, what informed the decision to accept a stock pile that did not comply with the quality requirements;

11. Appointment of Kendal power station and Mpumamanzi Group cc

- We determined that on 21 October 2015, you instructed Kwerzokuhle Magwaza to make the following appointments:
 - Appointment of Kendal power station to be a contractual laboratory to analyse the Brakfontein colliery coal samples; and
 - Appointment of Mpumamanzi Group cc to provide transport and analysis services in respect of Eskom's contractual coal samples from the Brakfontein colliery to Kendal power station.
- Please provide the reasons, if you confirm the above, for the above appointments.

12. Allegations of leak of Eskom confidential information to third parties

We identified various instances where you sent emails communication to an email address styled infoportal1@zoho.com.

The emails sent to infoportal1@zoho.com included the following and were sent on the following dates:

- 21 September 2015 at 16:32; - intention to suspend Phetla;
- 30 September 2015 at 14:47 - you sent a letter from Ben Ngubane to Lynn Brown relating to the suspension of contract in any form what so ever and or Commercial Relationship with the Mail and Guardian, City Press and Sunday Times;
- 14 November 2015 at 10:36 - sent document titled electricity load shedding review and way forward;
- 25 November 2015 at 15:47 - spread sheet total cost plus mines investments by Eskom (future fuel);
- 8 August 2015 at 22:50 - online vending PDF to be table at BTC and the Board
 - Was it not illegal to disclose Eskom confidential information to third parties?
 - Whose email address is infoportal1@zoho.com;
 - The Gupta leaks as well as media searches revealed that the email belong to Salim Issa;
 - Were you aware that this email address belongs to Salim Issa;
 - If you knew that it belonged to Salim Issa, why did you send the said emails to him;
 - If you did not know who the email belong to; why would you send Eskom information to someone you do not know?

Forensic Investigation into various contracts at ESKOM

13. Allegations of Dubai trips sponsored by the Guptas or their associates

It is alleged that in January 2016, you flew to Dubai and stayed at the Oberoi Hotel for two nights at the Guptas's expense.

- Did the Guptas or their associates pay for your accommodation at the Oberoi Hotel during January 2016;
- If so, what were the circumstances that lead to the Guptas or their associates paying of your accommodation?
- Did you receive any benefit from Gupta family or their associates?
- Did declare such benefits?

14. The Special Board Tender Committee authorised you to approve the basis for prepayment on condition that there is a discount in the price, the supplier offers a guarantee in favour of Eskom and that the Chief Financial Officer can provide assurance to the committee that the transaction are economically viable for Eskom.

What role did you play during the pre-payment of R659 558 079.00 which was made by Eskom to Tegeta Exploration and Resources Pty Ltd?

15. Advance payment to Tegeta Exploration and Resources

We obtained and analysed emails belonging to inter alia yourself, Ayanda Nteta, Brian Molefe, Vusi Mboweni and Suzanne Daniels and Edwin Mabelane.

The said email communication reflects amongst others that Eskom made a prepayment of about R659 million to Tegeta on 14 April 2016:

- What was your involvement in the said prepayment;
- What was the pre-payment for;

You received an email from Nteta on 11 April 2016 at around 8:00 am, to sign submission that were going to be made to the BTC at 21:00,

- who drafted the said submission,
- what was the purpose of the said submission,

One of the items in the submission was that the CFO must negotiate the reduction of 3.5% on the selling price of coal from Tegeta Exploration and Resources Pty Ltd to Supply Arnot Power Station; is this correct

Forensic Investigation into various contracts at ESKOM

Communication in our possession indicates that the 3.5% reduction was in fact offered by Tegeta and not negotiated by the CFO,

- What is your response to that

Were you aware that this was an offer from Tegeta and not negotiated by the CFO, if you were aware,

- Were you then not party to an effort to mislead the BTC as well as Eskom Management into believing that it was Eskom who negotiated the said discount;
- If you were not aware, what is your view now that you are aware.

In the email of the 11 April 2016 from Ravindra Nath to Nteta the former indicated that Tegeta was offering a 3.5 % discount. In the email of 12 April 2016 from Nteta to Ravindra Nath she wrote the following "Hi please see my comments, the discount will be negotiated with the CFO, Regards Ayanda". The attached document reflected that item C (Tegeta is ready to offer a 3.5 % discount on the selling price to Eskom in lieu of prepayment) was track changed and deleted by Ayanda Nteta. We further determined that on 11 April 2016 Nteta requested Nath to delete the said item from the letter. The formal letter on Tegeta's letter requesting a prepayment did not have item C. Paragraph 114 of your submission to Parliament states the following "a 3.5% discount was negotiated with Tegeta for the 5 month early payment that was agreed"

- Taking the above into consideration, would you agree that the 3.5% was not negotiated with Tegeta but was in fact offered by Tegeta and later made as if it was negotiated with Tegeta.

Consultations between us and various stake holders including Piers Marsden from the Business Rescue Practitioner of Glencore (OCH and OCM) indicate that you were involved in the discussion between Glencore and Eskom and later Tegeta for the latter company to purchase OCH and its subsidiaries, is this true,

The said consultations further indicate that in the process of Tegeta purchasing Optimum Coal Holding, Tegeta was about R600 million short of the purchase price, it is therefore alleged that the prepayment of R659 million to Tegeta was to assist Tegeta with the shortfall of the purchase price of Optimum Coal Holdings,

- what is your response to this.

In your written submission to Parliament signed by yourself on 21 January 2018, paragraph 109, you indicate that you learnt from Ayanda Nteta that Tegeta had requested a pre-payment in respect of the "to be extended short term coal supply agreement":

- When did you learn about this;
- How was this communicated to you;

Forensic Investigation into various contracts at ESKOM

In paragraph 111 of your written submission, you wrote "R659 million prepayment (R578 million exclusive of VAT) was authorised by the BTC on 11 April 2016 on the basis of and in accordance with the 2008 mandate which was updated in March 2014, you further "it eventually did so in the form of a limited guarantee and pledge on the issued shares of Tegeta"

From email communication we determined that Tegeta sent an invoice of R659 million on 12 April 2016.

- Did Tegeta provide adequate appropriate security before they issued the said invoice for payment

You reflected in your submission that Tegeta eventually provided adequate and appropriate security in the form of a limited guarantee and pledge of the issued shares.

From email communication we determined that the resolutions by Tegeta to apply for prepayment and for the said issued shares was done after the BTC of the 11 April 2016, this effectively means that you signed a submission to the BTC to approve a prepayment to Tegeta before Tegeta shareholders even approved the request for the said prepayment.

- what is your comment on the above statement.

Paragraph 118 of your submission states the following "Cost plus coal mines also enjoy upfront investment of Eskom capital in mining plant and equipment infrastructure at their mining operations – the future investment requirement as at this time is R38 billion that Eskom must pay upfront to secure future coal supply from cost plus mine"

With reference to the above, our understanding is that Brakfontein and Optimum coal mines are not cost plus mines,

- what is your answer to the above statement,
- If you agree that Brakfontein and Optimum coal mines are not cost plus mines why did you make the above statement

16. Dr Alphen report and PWC reports

- Were you given a copy of the above reports?
- Were the reports discussed in the executive management meetings?
- Were the recommendations from these reports implemented by management?

17. Remuneration outside of Eskom

- Did you receive any remuneration or payment i.e. from Tegeta or any related companies outside of Eskom?

Forensic Investigation into various contracts at Eskom

- Did you request permission from Eskom to render such services?
- Did you declare such remuneration?
- Did you run any business with your daughter whilst working for Eskom.
- Did you manage any bank account with your daughter?
- Did the bank account receive money from Tegeta, its subsidiaries or any supplier who rendered services for Eskom.

Should you require clarity in respect of the questions above, please do not hesitate to contact Ernest Nekhavhambe on 011 403 2526 or ernestn@fundudzi.co.za

Your Sincerely



Ernest Nekhavhambe ICFP
Managing Director
Fundudzi Forensic Services (Pty) Ltd

ASGER GANI

ATTORNEY

(JPROC, LLB)

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Your Ref:

Our Ref: GANI/K18

Date: 2017-07-23

FUNDUZDI FORENSIC SERVICES
(PTY) LIMITED

E-mail: ernestn@fundudzi.co.za

Sir/Madam

**FORENSIC INVESTIGATION INTO VARIOUS CONTRACTS AT ESKOM SOC LTD
OUR CLIENT: MATSHELA MOSES KOKO**

1. We act on behalf of Mr M.M. Koko.
2. Your letter dated the 13th July 2018 addressed to our client refers.
3. Our client's response to your questions are attached hereto. We trust that you will find this in order.
4. Kindly acknowledge receipt hereof.

Yours faithfully


ASGER GANI

Mr MM KOKO'S RESPONSES TO THE WRITTEN QUESTIONS SUBMITTED TO HIM
BY FUNDUDZI FORENSIC SERVICES (PTY) LTD BY LETTER, DATED 13 JULY 2018

1. Coal Supply Agreement

- 1.1. The Coal Supply Agreement between Eskom and Tegeta was concluded on 10 March 2015. It was concluded pursuant to negotiations which took place from May 2014 to January 2015.
- 1.2. The delegated authority in terms of the Eskom's Supply Chain Management Policy and Procedure was with the Divisional Head of Primary Energy. The Divisional Head of Primary Energy in 2014 was Ms Kiren Maharaj and In 2015 it was Mr Vusi Mboweni. The delegation of authority was approved by the Board of Directors of Eskom and it gave effect to the 2008, 2012 and 2014 Coal Procurement Mandates.
- 1.3. Mr Mboweni signed the Coal Supply Agreement on 10 March 2015. An addendum to the Coal Supply Agreement was signed by the then General Manager of Coal Sourcing, Mr Johann, on 11 March 2015. I referred all queries about this transition to the delegated authority.
- 1.4. I was not directly involved in the management of this coal supply contract and am unable to comment on whether and, if so, why Eskom allowed the contract to commence before the supplier had completed and reported a successful combustion test for coal supply to Majuba Power Station.

2. Resources and Exploration (Pty) Ltd ("Tegata") Coal Quality Dispute

- 2.1. I confirm that I was approached by Mr Jacques Roux of Brakfontein mine alleging corruption in the coal sampling analysis and the reporting of the results by Sibonisiwe Laboratories. This happened on more than one occasion in or towards the month of August 2015. I do not remember the exact dates.
- 2.2. Mr Jacques Roux told me that their own laboratory results showed that they complied and that they felt prejudiced by Eskom not complying with its own coal quality management processes.
- 2.3. I received the Brakfontein mine coal results of 01 -23 August 2015 on or around 27 August 2015. The results were from two sources, SABS and Sibonisiwe Laboratories. The results from the two sources were significantly different and from my analytical science experience, this difference was unacceptable. In these circumstances, I requested a meeting with Dr Mark van der Riet, Eskom's Coal Quality Assurance Manager and Sibonisiwe's management.
- 2.4. Dr Van der Riet, Ms Charlotte Ramavhona and I did meet with Mr Happing Masuku of Sibonisiwe. The meeting took place on or around 28 August 2015 in my office. We agreed that samples from the stockpiles at Brakfontein mine that had failed the prior tests had to be taken under controlled circumstances for separate analysis at Eskom, Sibonisiwe and SABS laboratories.
- 2.5. I made it clear to all parties that the analytical process had to be transparent and above board. I directed them to have hold points and witness points where all parties were

- present and instructed that the traceability of the prepared coal samples should not be compromised.
- 2.6. Dr Van der Riet proposed a letter for me to sign, which was sent to Brakfontein mine on 28 August 2015 informing them of the discrepancies.
 - 2.7. I was not aware that Dr Van der Riet and Ms Charlotte Ramavhona were to visit Brakfontein mine on 29 August 2015 to witness the sampling process. Had I been aware, I would have supported the visit. I did not issue any instruction that Dr Van der Riet, Ms Ramavhona and their team should not visit Brakfontein mine for such purpose.
 - 2.8. I deny making any threats to Mr Happling Masuku.
 - 2.9. I reported the matter (i.e. the discrepancies in the testing that became apparent) to Eskom's Assurance and Forensic Department. It was as a result of my doing that Assurance and Forensic appointed PwC to conduct a review of Eskom's coal quality management practices and those of Eskom's contracted laboratories.
 - 2.10. I met with Mr Trevor Hills of PwC in September 2015. I gave him a full briefing regarding what I knew and what had been reported to me and made suggestions to him on what I thought should be investigated. The PwC reports, dated 5 November 2015 and 14 November 2015, were later submitted to Mr Molefi Nkhabu.

3. Suspension of Tegeta's Coal Supply Agreement

- 3.1. The reason for the suspension of the Brakfontein Coal Supply Agreement on 31 August 2015 can be found in my letter to Mr Ravi Nath of Tegeta, dated 31 August 2015.
- 3.2. Eskom noted the significant increase in the number of out-of-specification coal stockpiles that had been found from July to August 2015. During August 2015, 50% of the stockpiles were out of specification resulting in rejections. Eskom also noted the inconsistencies in the laboratory coal results between Sibonisiwe Laboratory and the SABS.
- 3.3. Eskom notified the mine of the suspension as a precautionary measure, to enable us to investigate the causes of the apparent inconsistencies in the coal quality management processes that had become apparent.

4. Observation of coal analysis process by Brakfontein Colliery personnel

- 4.1. As referred to already, I had made it clear that the sampling and testing analytical process had to be transparent and above board. I had directed that there should be hold points and witness points where all parties were present and that the traceability of the prepared coal samples had to be assured. I gave this directive because I did not want a dispute of facts when the results became available. From my perspective we had to investigate what was going on in relation to the reliability of the coal quality management procedures. Ms Charlotte Ramavhona was to oversee this process. She did so because she was the Services Manager responsible for laboratory services contracts.
- 4.2. I did not know when the sampling and the testing was going to take place. I was not directly involved in the sampling and analytical processes. I have since had sight of a letter dated 31 August 2015 from Ms Charlotte Ramavhona to Mr Frans Wolters of SABS. In that letter Ms Charlotte Ramavhona requests SABS to "provide Eskom with the transport and analysis of Eskom contractual samples from Tegeta Brakfontein Colliery". This had to be done "as per the Eskom Contract with SABS to render Services on as and when required

basis". It, in other words suggest that was there was an existing Eskom Contract with SABs to render analytical services to Eskom for coal samples.

4.3. I received the results on 31 August 2015 which meant that the sampling and the testing took place between 28 and 30 August 2015. This is perfectly normal given that Eskom laboratories operate 24/7. I say this because as a Chemical Engineer I worked in the laboratories at Kriel, Arnot, Majuba and Duvha Power Stations.

4.4. I am not aware that none of Eskom employees were present at the time of the laboratory tests. I expected them to be there as per what I had expressed on 28 August 2015. I expected both Eskom and Brakfontein's people to be present at all witness and hold points.

4.5. As referred to already, I did not stop Eskom's people from being there. It does not make sense that I would have done so.

5. Delivery of coal by Tegeta

5.1. I lifted the suspension of coal supply from the Brakfontein Colliery in a letter dated 5 September 2015.

5.2. My decision was based on the SABs results dated 30 August 2015

6. Suspension of other service providers

6.1. I do not recall a company called Mpumamazi and cannot comment on it.

6.2. SGS Services and Sibonisiwe were both suspended around 31 August 2015, without prejudice, pending the investigations into the inconsistencies of the coal quality management process. The suspensions were appropriate in the circumstances.

6.3. I was assured by Ms Charlotte Ramavhona that both suppliers had been engaged and were given the opportunity to comment. Over and above this, I personally engaged Sibonisiwe Laboratories on 28 August 2015.

7. Upliftment of SGS suspension

7.1. A joint technical audit was conducted at Sibonisiwe laboratory on 12 and 13 October 2015 by representatives from Eskom Primary Energy and PwC. The Lead Auditor from Eskom's side was Ms Maria Kgaphola. Mr Frans Lekubo was the Lead Auditor from PwC.

7.2. The objective of the technical assessment was to evaluate the Sibonisiwe laboratory's Quality Management System and to verify compliance with the coal quality management system. A total of 13 non-conformances were identified and 11 of the non-conformances were major. The audit report concluded that *"the laboratory management system at Sibonisiwe was poorly maintained and required full attention"*. It further concluded that

"Eskom contractual samples that may be prepared and analysed at Sibonisiwe laboratory may be compromised".

7.3. It was based on the above conclusions that Sibonisiwe's suspension was not uplifted.

7.4. A similar audit on SGS had no material adverse findings.

8. Upliftment of Tegeta's suspension of the Coal Supply Agreement

8.1. The non-compliance to the coal quality management system was the root cause of what transpired. It is not unusual during mining operations for the coal stockpiles to be out of specification. What is important is that non-compliant stockpiles are detected and red flagged so that corrective action can be implemented. That happens at all Eskom supply mines.

8.2. I lifted the suspension of coal supply from the Brakfontein Colliery in a letter dated 5 September 2015. This was based on the SABS results dated 30 August 2015

8.3. I was not influenced by anyone. I discharged my duties without fear, favour or prejudice.

8.4. I refer to the Assurance and Forensic Report prepared by Mr Molefi Nkhabu, the Eskom Chief Audit Officer. The objective of this report was to ascertain whether any payment was made by Eskom to Tegeta in relation to the out-of-specification coal supplied to Eskom. The audit scope was limited to Tegeta stockpiles highlighted in the SABS Test Report as not complying with the contractual sulphur limits during the September month.

8.5. After verifying the rejected stockpiles against the payments for the months of September to November 2015, no evidence was found of payments made for the coal stockpiles that were out of specification.

8.6. Mr Vusi Mboweni was at the time not well. He was in and out of the office for medical treatment.

9. Suspension of various officials

9.1. The officials listed were suspended without prejudice pending forensic investigations.

9.2. Siphelele Gobeni and Sam Phetla's suspensions were lifted based on the results of the investigations.

9.3. Dr Van der Riet and Ms Charlotte Ramavhona were charged in disciplinary enquiries. In both cases the external independent chairpersons of the tribunal recommended dismissals. The recommendation for Dr Van der Riet took place after I left the employ of Eskom.

9.4. I refer you to the records of their cases for the rest of your questions. Eskom should be able to supply these.

10. Delivery of inferior quality coal

- 10.1. I deny that I instructed Mr Gert Opperman to accept a stockpile that did not comply with the Eskom quality requirements

11. Appointment of Kendal Power Station

- 11.1. I do not have knowledge of or recall a supplier called Mpumamanzi Group CC. I deny giving Mr Kwenzokuhle Magwaza such an instruction.
- 11.2. My instructions to Mr Kwenzokuhle Magwaza and his team were that Eskom's own coal laboratories had to be accredited with SANAS and once they were accredited Eskom had to use them for the coal analysis.
- 11.3. I was perturbed that while Eskom has world class coal laboratory facilities, the team elected to use third parties for the analysis of coal purchased. My view was that Eskom had to use its own facilities.

12. Allegations of leaks of Eskom confidential information to third parties

- 12.1. I deny that I distributed confidential Eskom documents via my Eskom email account, or via my personal email, to a person or entity that was a "third party" as referred to in your letter.
- 12.2. I deny, that the email address inforportal1@zoho.com was the email of a "third party". The address had been given to me by Ms Suzanne Daniels (at the time, Senior Manager in the office of the Chairman of Eskom's Board of Directors and previously Senior Manager responsible for Legal & Administration in my office, in my capacity as Group Executive: Technology & Commercial). She provided the email address to me on the basis that I had to use it for the purpose of assisting her to provide information on a day to day to the Chairman regarding topical operational aspects of Eskom business. I used the address for that purpose.
- 12.3. I do not accept that the email address belonged to Mr Salim Essa.

13. Allegations of Dubai trips sponsored by the Guptas or their associates

- 13.1. I deny that my visiting Dubai with my wife and son and my not making any declaration to Eskom in terms of its Declaration of Interest Procedure in relation to the visit were contrary to any obligation that I owed Eskom as referred to in your letter.
- 13.2. I on 4 January 2016 paid for the accommodation, meals and services in relation to our stay at the Oberoi Hotel. It is reflected in the invoice that Oberoi Hotel issued, a copy of which has been provided to Eskom and the Eskom Parliamentary Portfolio Committee enquiry. The Guptas or their associates did not pay for our accommodation etc.

- 13.3. I, accordingly, deny that I had any obligation to declare anything regarding the Dubai visit in terms of Eskom's Code of Ethics Procedure or its Conflict of Interest Policy.

14. The pre-payment to Tegeta

- 14.1. The role I played regarding the pre-payment of R659 558 079 which was made by Eskom to Tegeta Exploration and Resources Pty Ltd was fully addressed and presented to the Eskom Parliamentary Portfolio Committee Enquiry on 24 January 2018. I stand by the submission I made then.
- 14.2. The advance payment of R659 558 079 was made by Eskom for 1 250 000Mt of coal supply in terms of the coal supply agreement that existed at the time. It related to coal to be supplied in the period from 16 April 2016 to 30 September 2016.
- 14.3. The submission to the Board Tender Committee of 11 April 2016 is complete and stands on its own. You will find the purpose of the submission in section 2 of the document. Ms Ayanda Nteta prepared the submission. It was presented to me and dealt with as referred to in paragraph 110 of my parliamentary submission.
- 14.4. I had and have no knowledge of whether the prepayment would have assisted Tegeta to buy Optimum Coal Holdings, or whether the money received was used for that purpose. That was not what was put across in Ms Nteta's submission, which specified that the prepayment would serve to enable Tegeta to meet "production requirements".
- 14.5. It was not stated in the submission of 11 April 2015 that the CFD was to negotiate a reduction of 3.5% on the selling price of coal from Tegeta to Eskom. The request for the discount came from the Board Tender Committee, although it seems that Tegeta had offered a discount. I was not party to the deliberations of the Board Tender Committee but refer in this regard to the minutes of the Board Tender Committee meeting of 11 April 2016.
- 14.6. The minutes read:
"Umsimbithi (the other potential supplier) was limited by its current labour unrest and would be able to supply from July while Tegeta was willing to continue with supply but indicated that it would request upfront payment and was willing to offer a discount plus a guarantee for performance".
- 14.7. The Board Tender Committee then approved the basis for the prepayment to secure the fixed coal price for the 5 months period of extension on condition that there is a discount in price and that the supplier provide a performance guarantee in favour of Eskom.
- 14.8. As far as I am aware, the 3.5% discount was negotiated with Tegeta for the 5-months early payment that was approved by the Board Tender Committee. I cannot comment on whether this occurred on the basis that the percentage had, actually, been negotiated earlier during discussions prior to the matter serving before the Board Committee. It is possible, but I have no knowledge thereof.

- 14.9. I stand by my parliamentary submission that the advance payment of R659 558 079 was made by Eskom for 1 250 000Mt of future coal supply in terms of an extension of the coal supply agreement that existed at the time. The pre-payment was to be for the period from 16 April 2016 to 30 September 2016. The 1 250 000Mt was delivered in full between 16 April 2016 and 30 September 2016.
- 14.10. Tegeta provided security before the pre-payment was done. The agreement regarding coal supply, performance guarantees, cession and pledge in security can be found attached as MMK 30 to my parliamentary submission of 25 January 2015.
- 14.11. Brakfontein and Optimum are not cost-plus mines. I mentioned Eskom's R38 billion upfront investment in cost plus mines in my parliamentary submission to give context to the pre-payment to Tegeta.
- 14.12. Eskom paid R659 558 079 to Tegeta and in return, Tegeta provided appropriate security to Eskom. It is immaterial whether the mines are a cost plus or not.
- 14.13. I refer to note 18 of the Eskom Annual Financial Statement of 2017. It reflects the aggregate of the advance payments made by Eskom to its suppliers and service providers. The balance at the end of FY2017 for the payments made in advance at a company level stood at R3.8 billion. It is simply wrong to suggest that payments in advance are not normal in Eskom business. Moreover, coal is not readily comparable with items of merchandise. The coal is either in the ground or in stockpile and is supplied on a continuous, day to day, basis. Within limits, advance payments for coal to regular suppliers do not expose Eskom to substantial risk. Eskom is able to monitor the situation on an ongoing basis.
15. **Dr Alphen report and PWC Reports**
- 15.1. I did not have sight of Dr Van Alphen's report.
- 15.2. I was the initiator of all the PwC reports of November 2015. I required independent assurance regarding our coal quality management system. That's why I requested Eskom's Assurance and Forensic Department to address the matter. They then appointed PwC. I personally briefed Mr Trevor Hills of PwC on what he needed to be investigated.
- 15.3. Once the PwC investigations were completed, Assurance and Forensic shared the findings with me.
- 15.4. The then Group Chief Financial Officer requested PwC to provide an independent assessment of management's implementation of actions insofar as they relate to the findings extracted from the PwC November 2015 Reports.
- 15.5. The results were published in the PwC report dated November 2016. The report speaks for itself.

- 15.6. All investigations by Assurance and Forensic are reported to the Board Risk Committee by the Chief Audit Officer via EXCO. I cannot confirm whether this was done in this instance or not. The Chief Audit Officer is the appropriate person to respond to this question

16. Remuneration outside of Eskom

- 16.1. I did not receive any remuneration or payment from Tegeta or any related companies outside Eskom.
- 16.2. I complied with Eskom's conflict of interest policy and procedures.
- 16.3. I did not run any other business while working for Eskom.
- 16.4. I did not manage any bank account with my step-daughter.

MATSHELA MOSES KOKO

23 July 2018

