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GENERAL NOTICE

NOTICE 338 OF 2002



INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

Notice of publication of documents relating to access of information on the businesses of Eskom Enterprises and Transtel by Black Economic Empowerment groups in terms of the Invitation to Apply for the 19% stake of the SNO issued by the Minister of Communications under government gazette number 23010.

In terms of the Invitation to Apply issued by the Minister of Communication in terms of section 34 (2) read with section 32B and 35(4) of the Telecommunications Act as amended the Independent Communications Authority of South Africa hereby publishes in the attached schedule a list of documents that Black Economic Empowerment groups would have to comply with and adhere to in order to access any information relating to the businesses of Eskom Enterprises and Transtel in so far as such information relates to the intended participation of these entities in the Second National Operator to be licensed in terms of the Telecommunications Act as amended.

Mandla Langa
Chairperson
ICASA

Schedule

Preamble

Transtel (a division of Transnet Limited) and Eskom Enterprises (Pty) Ltd (a wholly owned subsidiary of Eskom) have compiled detailed information which they believe will be of assistance to Black Economic Empowerment ("BEE") bidders in preparing their applications for an economic interest in the Second National Operator ("SNO"). This information will be made available to all BEE bidders in a management workshop as well as in data rooms at Transtel and Eskom Enterprises. The list of information has been compiled after taking into account the criteria for the bids as published in the Invitation To Apply ("ITA") released by the Independent Communications Authority of South Africa ("ICASA") for BEE bidders in the SNO, as well as after viewing questions raised by potential BEE bidders with ICASA.

List of Information

1 SNO information:

- 1.1 Macroeconomics;
- 1.2 Telecommunications sector;
- 1.3 Key business plan assumptions;
- 1.4 Regulatory environment;
- 1.5 Market dynamics;
- 1.6 Forecasted SNO market share;
- 1.7 SNO product range;
- 1.8 Description of the Full Services Network ("FSN"); and
- 1.9 SNO financial model

2 Private Telecommunication Networks ("PTNs"):

- 2.1 Information memorandum
- 2.2 Description of technology incorporated in PTNs
- 2.3 Key financial statistics

Registration for the Due Diligence Process

In order to facilitate the process, Transtel and Eskom Enterprises, have committed themselves to participation in a management workshop wherein the above information can be presented and discussed to the interested BEE bidders. This information will then be made available in the data rooms of the respective entities as governed by the "Data Room Procedures". All applicants who have had access to the data room shall be required to sign a declaration

confirming that they have had access to the information contained in the data room for the purposes of the preparation of their bids.

BEE applicants interested in attending the management workshop must express their intention by immediately contacting either in writing and/or via email:

Cecil Ramonotsi (Tel) 27 11 871 2943
(Cel) 27 83 395 5150
(Fax) 27 11 871 3674
(email) cecil.ramonotsi@eskom.co.za

OR

Jacob Rakgoathe (Tel) 27 11 359 2796
(Cel) 27 83 414 3641
(Fax) 27 11 359 2587
(email) jacobra@transtel.co.za

A management workshop registration form and Confidentiality and Non-Disclosure Agreement (as gazetted) will be forwarded to all interested parties. Upon the satisfactory completion and return of the above-mentioned documents to Cecil Ramonotsi OR Jacob Rakgoathe by 17:00 on the 15th March 2002, the respondents will be advised of the time, date and venue of the management workshop. (Venue is dependant on the number of responses from BEE participants)



TRANSTEL

**CONFIDENTIALITY AND
NON-DISCLOSURE
AGREEMENT**

Entered into by and between:

TRANSTEL
a division of **TRANSNET LIMITED**

AND

("the Recipient")

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1. PARTIES

1.1 TRANSTEL, a division of TRANSNET LIMITED [Registration No. 1990/000900/06], a public company with limited liability and duly incorporated in compliance with the company laws of the Republic of South Africa, with its registered address at Forum III, Braampark, 33 Hoofd Street, Braamfontein

1.2 The Recipient is an entity / person(s) listed in Appendix A.

2. INTERPRETATION

2.1 The headnotes to the clauses of this Agreement are inserted for reference purposes only and shall in no way govern or affect the interpretation hereof.

2.2 Unless inconsistent with the context, the expressions set forth below shall bear the following meanings:

"the/this Agreement"

This Agreement together with any schedules hereto and any agreed amendments thereto.

"BEE"

refers to an applicant in terms of Government Gazette, General Notice, 287 of 2002 issued by Independent Communications Authority of South Africa, pursuant an Invitation To Apply issued by the Minister of Communications in terms of section 34(2) read with sections 32B and 35(4) for the 19% (nineteen percent) stake in the SNO, on the 25th February 2002;

"Confidential Information"

information which is indicated, marked and considered by Transtel to be confidential, including but not limited to, information relating to business plans, technological plan, roll-out plans, financial results, technologies, operations, technical specifications and details, business strategies, clients lists, trade secrets, software, licences, whether relating to its current business or in contemplation of its participation in the Second Network Operator ("SNO");

"Due Diligence"

refers to examination by the Recipient of Transtel's Proprietary and Confidential Information;

"ICASA"

refers to Independent Communications Authority of South Africa;

"ITA"

refers to Invitation To Apply issued by ICASA to BEE under Government Gazette, General Notice 287 of 2002;

"Recipient"

means the Party referred to in subclause 1.2 above, who is a BEE, an agent, representative, advisor or consultant of a BEE;

- | | |
|---------------------------|---|
| "Parties" | refers to both Transtel and the Recipient jointly. "Party" refers to either of them. |
| "Proprietary Information" | Any and all information relating to the business of Transtel which are proprietary and have economic value developed by, owned by, possessed or in custody of Transtel and disclosed by Transtel to the Recipient; verbally or in material, document form (including, without limitation, any written document and any information contained in electronic format). |
| "Signature Date" | The date of signature of this Agreement by the last Party signing. |
| "the Specified Period" | A period of 12 (twelve) months commencing on the Signature Date. |
| "Transtel" | The Party referred to in subclause 1.1 above. |
- 2.3 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision of this Agreement.
- 2.4 Unless inconsistent with the context, an expression which denotes -
- 2.4.1 any gender includes the other genders;
 - 2.4.2 a natural person includes an artificial person and vice versa;
 - 2.4.3 the singular includes the plural and vice versa.

3. INTRODUCTION

- 3.1 Transtel has been set aside an unspecified equity interest in the Second National Operator ("SNO"), in terms of Section 32B of the Telecommunications Amendment Act 64 of 2001.
- 3.2 The Recipient wishes to gain access into Proprietary Information and/or Confidential Information for purposes of Due Diligence exercise ("Due Diligence"). Transtel is willing to provide such access subject to the conditions and terms that follows.
- 3.3 The Recipient acknowledges that the unauthorised disclosure or use of the Proprietary Information and/or the Confidential Information may result in Transtel suffering irreparable financial and/or other harm.
- 3.4 The Parties agree to regulate the disclosure of the Proprietary Information and/or Confidential Information in accordance with the terms and conditions of this Agreement.
- 3.5 The Recipient acknowledges the Data Room Procedures in Appendix C and warrants their compliance thereto, upon signing of this Agreement.

4. DURATION

This Agreement shall commence on the Signature Date and shall endure, for the Specific Period or for such longer period as may be agreed in writing between the Parties.

5. DISCLOSURE OF INFORMATION

5.1 Transtel agree to disclose the Proprietary Information and the Confidential Information to the Recipient relating to the Due Diligence to the extent deemed necessary or desirable and to enable the Recipient to achieve the purpose set forth in the ITA

5.2 The Recipient acknowledges that the Proprietary Information and the Confidential Information has an economic and financial value to Transtel and it is special and unique asset confidential to Transtel.

5.3 The Recipient undertakes that it/he/she will not, during the course of the due diligence or thereafter, disclose the Proprietary Information and/or Confidential Information to any third party (including but not limited to the competitors or potential competitors of Transtel or the SNO, for any reason or purpose whatsoever at all and/or without the express prior written consent of Transtel.

5.4 Notwithstanding anything to the contrary contained in this Agreement, Transtel agrees that the Recipient may disclose Proprietary Information and/or the Confidential Information to its employees, advisors, agents and consultants (on a strict need-to-know basis) provided the Recipient takes all necessary steps and ensures that its employees, advisers, agents and consultants and takes all steps necessary steps and abide by the terms of this Agreement to prevent the (unauthorised) disclosure of the Proprietary Information and/or the Confidential Information to third parties.

5.5 The Recipient agrees that the unauthorised disclosure of the Proprietary Information and/or the Confidential Information to a third party may cause irreparable loss, harm and damage to the other Party. Accordingly, the Recipient will indemnify and hold Transtel harmless against any loss, action, expense, claim, harm or damage, of whatever nature, suffered or sustained by the Recipient pursuant to a breach by the Recipient, its employees, agents, advisers and consultants, whether arising negligently or intentionally, of the provisions of this Agreement.

5.6 The Recipient shall be jointly and severally liable in respect of any wilful or negligent action or omission, whatsoever arising, caused by itself, its employees, agents, advisers or consultants, in breach of the provisions of this Agreement.

5.7 The Recipient agrees that Transtel makes no representations or warranties as to the accuracy or completeness of the Confidential Information disclosed.

6. TITLE

All the Proprietary Information and the Confidential Information disclosed by Transtel to the Recipient is acknowledged by the Recipient -

- 6.1 to be confidential ; and
- 6.2 not to confer any rights to the Recipient or its agents, employees, advisers or consultants of whatever nature in such Proprietary Information or Confidential Information.

7. RESTRICTIONS ON DISCLOSURE AND USE OF THE PROPRIETARY INFORMATION AND THE CONFIDENTIAL INFORMATION

Notwithstanding the provisions of subclause 5.4, the Recipient undertakes not to use the Proprietary Information and/or the Confidential Information for any purpose other than -

- 7.1 that for which it is disclosed; and
- 7.2 in accordance with the provisions of this Agreement.

8. STANDARD OF CARE

8.1 The Recipient agrees that they shall protect the Proprietary Information and the Confidential Information disclosed pursuant to the provisions of this Agreement using the same standard of care that the Recipient applies to safeguard its own Confidential, secret or Proprietary Information and that the Proprietary Information and Confidential Information shall be stored and handled in such a way as to prevent any unauthorised disclosure thereof.

8.2 Upon the Recipient suspecting, becoming aware or detecting any form of breach or threatened breach of the provisions of subclause 8.1, then the Recipient shall forthwith notify Transtel in writing of the said breach or threatened breach and co-operate with Transtel in taking whatever steps that Transtel deems necessary to protect the Confidential and/or Proprietary information or its interests under this Agreement.

9. RETURN OF MATERIAL CONTAINING OR PERTAINING TO THE PROPRIETARY INFORMATION AND/OR THE CONFIDENTIAL INFORMATION

9.1 Transtel may, at any time, request the Recipient to return any material containing, pertaining to or relating to information disclosed pursuant to the terms of this Agreement.

9.2 The Recipient also agrees to return any material containing, pertaining to or relating to information disclosed pursuant to the terms of this Agreement if the Recipient decides not to participate in the SNO, negotiations with the Recipient are terminated, the SNO process is abandoned or the Recipient is unsuccessful

9.3 Recipient to furnish a written statement to the effect that, upon such return described in subclauses 9.1 and 9.2, the Recipient has not retained in its possession, or under its control, either directly or indirectly, any such material.

9.4 As an alternative to the return of the material contemplated in subclause 9.3 above, the Recipient shall, at the instance of Transtel, destroy such material and furnish Transtel with a written statement to the effect that all such material has been destroyed or if requested by Transtel, furnish such proof as is reasonably necessary to satisfy Transtel that the material has indeed been destroyed.

9.5 The Recipient shall comply, in terms of this clause 9, within 7 (seven) days of date of such a request or the occurrence of events noted in subclause 9.2.

10. EXCLUDED INFORMATION

The obligations of the Parties pursuant to the provisions of this Agreement shall not apply to any information that -

10.1 is known to, or is in the possession of the Recipient prior to disclosure thereof by Transtel;

10.2 is or becomes publicly known, otherwise than pursuant to a breach of this Agreement by the Recipient;

10.3 is developed independently of Transtel by the Recipient in circumstances that do not amount to a breach of the provisions of this Agreement;

10.4 is disclosed by the Recipient to satisfy an order of a court of competent jurisdiction or to comply with the provisions of any law or regulation in force from time to time; provided that in these circumstances, the Recipient shall advise Transtel to take whatever steps it deems necessary to protect its interests in this regard; provided further that the Recipient will disclose only that portion of the information which it is legally required to disclose and the Recipient will use its best endeavours to protect the confidentiality of such information to the widest extent possible in the circumstances;

10.5 is disclosed to a third party pursuant to the prior written authorization of the other Party;

10.6 is received from a third party in circumstances that do not result in a breach of the provisions of this Agreement.

11. EXCLUSIVITY

The Recipient hereby undertakes that it/he/she will not, for the duration of this Agreement, either as principal, agent, partner, representative, shareholder, consultant, advisor, financier, demonstrator, employee or in any other like capacity, and whether alone or jointly with or as agent for any other person -

11.1 use or reveal or benefit from the Proprietary Information and/or the Confidential Information other than for the Due diligence and in their capacities as participants in the possible business relationship between the Parties. The Recipient will only use the Proprietary Information and/or the Confidential Information exclusively for the purposes of the Due diligence and the Parties' business relationship;

- 11.2 enter into negotiations or in any way be involved in any activity similar to or relating to the proposed business relationship between the Parties, without the prior written consent of the other Party.

12. REPRESENTATION AND WARRANTY

Each Party represents and warrants that it has the authority necessary to enter into this Agreement and to do all things necessary to procure the fulfilment of its obligations in terms of this Agreement.

The Recipient warrants that all individuals disclosed in Appendix A are authorised to act on the Recipients behalf for the Due Diligence exercise.

13. BREACH

Should the Recipient ("the Defaulting Party") commit a breach of any of the provisions hereof, then Transtel ("the Aggrieved Party") shall be obliged to give the Defaulting Party 24 (twenty-four) hours written notice to remedy the breach. If the Defaulting Party fails to comply with such notice, the Aggrieved Party shall be entitled to cancel this Agreement against the Defaulting Party or to claim specific performance (whether or not the due date for performance shall have arrived) in either event without prejudice to the Aggrieved Party's rights to claim damages. The foregoing is without prejudice to such other rights as the Aggrieved Party may have at law.

14. DISPUTE RESOLUTION

- 14.1 Any dispute arising out of or in connection with this Agreement shall in the first instance be referred for consideration and possible resolution to the representative of each Party who shall be duly authorised to act in its place in that matter.

- 14.2 Should the officers referred to in subclause 14.1 not be able to resolve the dispute within 7 (seven) days of it being referred to them, then they shall by agreement, appoint a third party to act as a mediator, and not as an arbitrator, to mediate in the resolution of the dispute. Should they not be able to agree on the mediator, then the mediator shall be selected by the Chairman for the time being of the Arbitration Foundation of Southern Africa ("AFSA").

- 14.3 Should the mediation referred to in subclause 14.2 fail to resolve the dispute within 7 (seven) days after the appointment of the mediator in terms of subclause 14.2, then either Party shall have the right to require that the dispute be referred to arbitration and that Party shall notify the other Party in writing identifying the disputes and setting out the relief required.

- 14.4 Any dispute referred to in subclause 14.3, shall be submitted to and determined by arbitration in accordance with AFSA Rules ("the Rules"). Such arbitration shall be held in Sandton unless otherwise agreed and shall be held in a summary manner with a view of it being completed as soon as possible.

- 14.5 There shall be one arbitrator, who shall be, if the question in issue is -

- 14.5.1 primarily an accounting matter, an independent chartered accountant of not less than 10 (ten) years standing; and
 - 14.5.2 primarily a legal matter, a practicing Senior Counsel or Commercial attorney of not less than 10 (ten) years standing; and
 - 14.5.3 any other matter, a suitably qualified person.
- 14.6 The appointment of the arbitrator shall be agreed upon between the Parties, but failing agreement between them within a period of 14 (fourteen) days notice in writing to the other in terms of subclause 14.3, either of the Parties shall be entitled to request the Chairman for the time being of AFSA to make the appointment of the arbitrator who, in making the appointment, shall have regard to the nature of the dispute, and shall have regard to the Parties' requirement of a speedy arbitration.
- 14.7 The arbitrator shall have powers conferred upon an arbitrator under the Rules.
- 14.8 The decision resulting from such arbitration shall be made by the arbitrator as an expert and not an arbitrator and shall be final and binding on the Parties, and may be made an order of any court of competent jurisdiction. Each of the Parties hereby submits itself to the Division of the High Court of South Africa in the area in which the arbitration is held should the other Party wish to make the arbitrator's decision an order of that Court.
- 14.9 Proceedings are to be held in camera and are confidential.
- 14.10 The provisions of this clause 14 shall not preclude any other Party from access to an appropriate court of law for –
- 14.10.1 interim relief in the form of an interdict, mandamus or order for specific performance pending the outcome of an arbitration in terms hereof or in respect of such arbitration or expert determination, as the case may be;
 - 14.10.2 any other form of relief on the basis of facts which are not disputed, provided that if a *bona fide* dispute arises in the courts of the proceedings they shall be stayed pending an arbitration or on the dispute in terms hereof; or
 - 14.10.3 an order for the payment of liquidated damages money on the basis of facts which are not *bona fide* in dispute at the commencement of such proceedings.
- 14.11 The provisions of this clause 14 shall survive the invalidity and/or termination from whatever cause arising of any or all the terms of this Agreement.

15. ADDRESSES

- 15.1 Each Party chooses the address set out opposite its name below as its address at which all notices, legal processes and other communications must be delivered for the purposes of this Agreement.

15.1.1 As regards Transtel:

Physical Address	Postal Address
Forum 111, Braampark	PO Box 2504
33 Hoofd street	Joubert Park
Braamfontein	2044
Gauteng Province	
Telefax No. : 27 11 359-2587	
Attention : Jacob Rakgoathe	

15.1.2 As regards the Recipient:

Physical Address	Postal Address
------------------	----------------

Telefax No. :

Attention :

- 15.2 Any notice or communication required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing but it shall be competent to give notice by telefax.

- 15.3 Any Party may by written notice to the other Party change its chosen address to another physical address, provided that the change shall become effective on the 14th (fourteenth) day after the receipt of the notice by the addressee.

- 15.4 Any notice to a Party contained in a correctly addressed envelope; and

15.4.1 sent by prepaid registered post to it at its chosen address; or

15.4.2 delivered by hand to a responsible person during ordinary business hours at its chosen address;

shall be deemed to have been received in the case of subclause 16.4.1, on the 14th (fourteenth) business day after posting (unless the contrary is proved) and, in the case of subclause 16.4.2 on the day of delivery.

- 15.5 Any notice by telefax to a Party at its telefax number shall be deemed, unless the contrary is proved, to have been received within 2 (two) hours of transmission where it is transmitted during normal business hours or within 12 (twelve) hours of the first business day after it is transmitted where it is transmitted outside those business hours.

16. JURISDICTION

The Parties irrevocably and unconditionally consent to the non-exclusive jurisdiction of the Witwatersrand Local Division of the High Court of South Africa in regard to all matters arising from this Agreement.

17. SEVERABILITY

In the event of any one or more of the provisions of this Agreement being held for any reason to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any of the provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision was not a part of this Agreement, and the Agreement shall be carried out as nearly as possible in accordance with its original terms and intent.

18. GENERAL

18.1 This document constitutes the sole record of the Agreement between the Parties in regard to the subject matter thereof.

18.2 No Party shall be bound by any express or implied term, representation, warranty, promise or the like, not recorded herein.

18.3 No addition to, variation or consensual cancellation of this Agreement shall be of any force or effect unless in writing and signed by or on behalf of all the Parties.

18.4 No indulgence which one Party may grant to another Party shall constitute a waiver of any of the rights of the Parties, who shall not thereby be precluded from exercising any rights against the other Party which might have arisen in the past or which might arise in the future.

19. OWNERSHIP AND NO CONFLICT OF INTEREST

19.1 The Recipient and Recipient's shareholders or members warrants that it has no equity interest, stake or financial or economic value based interest at all in any company, corporation, joint venture or partnership whatsoever, or personal capacity (whether as a proprietor, partner, director, shareholder, employee, member, consultant, contractor, financier, agent, representative, assistant, trustee or beneficiary of a trust or otherwise and whether for reward or not, directly or indirectly) in a licensee in terms of the Telecommunications Act, 103 of 1996 as amended;

19.2 In the event that the Recipient has such interest, stake or value the Recipient agrees and undertakes to disclose same to Transtel in Appendix B; and

19.3 The Recipient warrants that its participation in the Due Diligence and the SNO will not constitute a conflict of interest. In the case that it does, it will indemnify Transtel against any loss, claim, expenses, damages or action from any third party, however arising.

- 19.4 Should a conflict of interest arise after Confidential Information has been disclosed to the Recipient, Transtel must be advised in writing when such conflict occurs and Confidential Information must be returned as contemplated in clause 9 of this agreement.

Thus done and signed at _____ on this _____ day of
_____ 2002

AS WITNESSES :

1. _____

for and on behalf of
TRANSNET LIMITED

2. _____

Name : _____

Capacity : _____

Who warrants his authority hereto

Thus done and signed at _____ on this _____ day of
_____ 2002

AS WITNESSES :

1. _____

Recipient/for and on behalf of the
Recipient

2. _____

Full Name : _____

Capacity, if any : _____

Who warrants his authority hereto

APPENDIX A

DETAILS/PARTICULARS OF THE RECIPIENT AND/OR THEIR REPRESENTATIVES

1. Full Names:
2. Identity Number:
3. Address:
4. Capacity :
5. Name of the entity you represent:
6. Your Company and Designation:
7. Your entity's Registration Number:
8. Please state your interest in the Due Diligence:

PLEASE NOTE THAT THIS APPENDIX MUST BE SIGNED OFF BY ALL THE
REPRESENTATIVES WHO WILL FORM PART OF THE DUE DILIGENCE TEAM

APPENDIX B

DECLARATION OF INTEREST

I the Recipient hereby state that I represent myself/my company, corporation or partnership, being _____ . I / my company, corporation or partnership and related members thereof hold an interest, stake or value in _____ to the value of _____ . or

I confirm that to the best of my knowledge that I/my company, corporation or partnership and related members thereof do not hold any interest, stake or value, except as stated above.

APPENDIX C

March 2002

STRICTLY PRIVATE AND CONFIDENTIAL

Name of recipient
Address

Dear Madam or Sir:

TRANSTEL & TRANSTEL - DATA ROOM PROCEDURES

The following procedures will apply to you and your team when attending the data rooms prepared in relation to Eskom Enterprises (Pty) Limited ("Eskom Enterprises"), Transtel, a division of Transnet Limited ("Transtel") in connection with the award of the Second National Operator licence in South Africa (the "Project").

1. OVERVIEW

The data rooms are located at the offices of Eskom Enterprises, Maxwell Drive Megawatt Park, Sunninghill, South Africa, and Transtel, Forum III, Braampark, Braamfontein, Johannesburg, South Africa. Further documents may be added, and documents may be removed from the data room during the course of the process by Eskom Enterprises and Transtel. Should this happen, a revised or supplementary index may be distributed.

No warranty will be given as to the accuracy of these documents.

2. ACCESS & CHECK-IN TO DATA ROOM

Access to the data rooms is conditional upon compliance at all times with the terms of this letter and the terms of the Confidentiality and Non-Disclosure Agreement with Eskom Enterprises and Transtel, signed by you (the "Confidentiality and Non-Disclosure Agreement").

The data rooms will be in operation as from the 25th of March 2002 and will be open at 08:00 and close at 19:00 from Monday to Friday. The data rooms accommodate a maximum of 12 people.

Appointments to visit the data rooms can be made by contacting Cecil Ramonotsi (+27 11 871 2943, +27 83 395-5150) or, in his absence, Fiks Dlamini (+27 11 784 9292, +27 83 442 4880).

Before your visit, you should provide Cecil Ramonotsi with a list of those authorised to attend, their titles, identity numbers and, where appropriate, their respective employers or consultancy firms, in the form set out in Appendix A of the Confidentiality and Non-Disclosure Agreement and with any special dietary requirements, if applicable. Such list may be amended during the data rooms opening period by means of an amendment to be faxed to Cecil Ramonotsi, with a minimum 24 (twenty-four) -hour period prior to the arrival of any new representative, in all instances subject to the provisions of the Confidentiality and Non-Disclosure Agreement.

Check-in for entry into the data rooms will be at the pre-arranged time. You should check-in with the receptionist and all members of your team will be required to sign in, supplying proof of identification. During your visit, you must comply with any security/safety regulations imposed by Eskom Enterprises and Transtel. Members of your team will be allowed to bring in mobile telephones and lap top computers.

Members of your team will only be admitted to the data rooms on condition that Eskom Enterprises and Transtel are satisfied that each member is covered by the terms of the Confidentiality and Non-Disclosure Agreement. The right to refuse entry to any member of your team, without assigning any reason for such exclusion, is expressly reserved.

3. DATA ROOM PROCEDURES

Tea, coffee, soft drinks, and lunch will be supplied. Both data rooms are equipped with a telephone.

During your visit, questions of an administrative nature may be raised with the data room co-ordinators. Any matters which cannot be resolved will be noted in writing, and passed on to the appropriate party who will endeavour to deal with the matter raised as soon as is practical.

You are asked to co-operate in maintaining information in the data rooms in an orderly fashion. All information must be returned to its original location by 19:00 each day and you will be responsible for confirming to the data room co-ordinator prior to leaving the data rooms that all information has been so returned.

4. COPIES OF DATA ROOM INFORMATION

No photocopies of any documents contained in the data rooms will be made or made available for copying..

UNDER NO CIRCUMSTANCES MAY ANY DOCUMENTS BE REMOVED FROM THE DATA ROOMS.

The documents are available in English and no translation will be provided.

5. SECURITY

Appropriate measures will be effected to ensure the security of the data rooms. CCTV cameras will be installed and will not be recording voice.

6. CHECK-OUT

Visitors must sign out with the data room co-ordinators upon leaving the data rooms at the end of each day. Visitors return all documents when they sign out.

7. CONFIDENTIALITY

You are reminded that the information contained in the data rooms is confidential and is to be used by you and your representatives solely for the purpose of evaluating the Project and should not be used in a manner which is directly or indirectly detrimental to Eskom Enterprises and Transtel. The provisions of the Confidentiality and Non-Disclosure Agreement apply to the documents contained in the data rooms.

**CONFIDENTIALITY AND
NON-DISCLOSURE
AGREEMENT**

Entered into by and between:

ESKOM ENTERPRISES
a wholly owned subsidiary of ESKOM
AND

(" the Recipient")

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1. PARTIES

1.1 ESKOM ENTERPRISES (PTY) LTD, a wholly owned subsidiary of ESKOM [Registration No. 1999/002761/07], a private company with limited liability and duly incorporated in compliance with the company laws of the Republic of South Africa, with its registered address at Maxwell drive, Megawatt Park, Sunninghill. Herein represented by the Telecommunications division.

1.2 The Recipient is an entity / person(s) listed in Appendix A.

2. INTERPRETATION

2.1 The headnotes to the clauses of this Agreement are inserted for reference purposes only and shall in no way govern or affect the interpretation hereof.

2.2 Unless inconsistent with the context, the expressions set forth below shall bear the following meanings:

"the/this Agreement" This Agreement together with any schedules hereto and any agreed amendments thereto.

"BEE" refers to an applicant in terms of Government Gazette, General Notice, 287 of 2002 issued by Independent Communications Authority of South Africa, pursuant an Invitation To Apply issued by the Minister of Communications in terms of section 34(2) read with sections 32B and 35(4) for the 19% (nineteen percent) stake in the SNO, on the 25th February 2002;

"Confidential Information" Information which is indicated, marked and considered by Eskom Enterprises to be confidential, including but not limited to, information relating to business plans, technological plan, roll-out plans, financial results, technologies, operations, technical specifications and details, business strategies, clients lists, trade secrets, software, licences, whether relating to its current business or in contemplation of its participation in the Second Network Operator ("SNO");

"Due Diligence" refers to examination by the Recipient of Eskom Enterprises' Proprietary and Confidential Information;

"ICASA" refers to Independent Communications Authority of South Africa

"ITA" refers to Invitation To Apply issued by ICASA to BEE under Government Gazette, General Notice 287 of 2002

"Recipient" means the Party referred to in clause 1.2 above, who is a BEE, an agent, representative, advisor or consultant of a BEE;

"Parties" refers to both Eskom Enterprises and the Recipient jointly. "Party" refers to either of them.

" Proprietary Information"

Any and all information relating to the business of Eskom Enterprises which are proprietary and have economic value developed by, owned by, possessed or in custody of Eskom Enterprises and disclosed by Eskom Enterprises to the Recipient; verbally or in material, document form (including, without limitation, any written document and any information contained in electronic format).

"Signature Date"

The date of signature of this Agreement by the last Party signing.

"the Specified Period"

A period of 12 (twelve) months commencing on the Signature Date.

"Eskom Enterprises"

The Party referred to in clause 1.1 above.

2.3 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision of this Agreement.

2.4 Unless inconsistent with the context, an expression which denotes -

2.4.1 any gender includes the other genders;

2.4.2 a natural person includes an artificial person and vice versa;

2.4.3 the singular includes the plural and vice versa.

3. INTRODUCTION

3.1 Eskom Enterprises has been set aside an unspecified equity interest in the Second National Operator ("SNO"), in terms of Section 32B of the Telecommunications Amendment Act 64 of 2001.

3.2 The Recipient wishes to gain access into Proprietary Information and/or Confidential Information for purposes of Due Diligence exercise ("Due Diligence"). Eskom Enterprises is willing to provide such access subject to the conditions and terms that follows.

3.3 The Recipient acknowledges that the unauthorised disclosure or use of the Proprietary Information and/or the Confidential Information may result in Eskom Enterprises suffering irreparable financial and/or other harm.

3.4 The Parties agree to regulate the disclosure of the Proprietary Information and/or Confidential Information in accordance with the terms and conditions of this Agreement.

- 3.5 The Recipient acknowledges the Data Room Procedures in Appendix C and warrants their compliance thereto, upon signing of this Agreement.

4. DURATION

This Agreement shall commence on the Signature Date and shall endure, for the Specific Period or for such longer period as may be agreed in writing between the Parties.

5. DISCLOSURE OF INFORMATION

- 5.1 Eskom Enterprises agree to disclose the Proprietary Information and the Confidential Information to the Recipient relating to the Due Diligence to the extent deemed necessary or desirable and to enable the Recipient to achieve the purpose set forth in the ITA
- 5.2 The Recipient acknowledges that the Proprietary Information and the Confidential Information has an economic and financial value to Eskom Enterprises and it is special and unique asset confidential to Eskom Enterprises.
- 5.3 The Recipient undertakes that it/he/she will not, during the course of the due diligence or thereafter, disclose the Proprietary Information and/or Confidential Information to any third party (including but not limited to the competitors or potential competitors of Eskom Enterprises or the SNO, for any reason or purpose whatsoever at all and/or without the express prior written consent of Eskom Enterprises.
- 5.4 Notwithstanding anything to the contrary contained in this Agreement, Eskom Enterprises agrees that the Recipient may disclose Proprietary Information and/or the Confidential Information to its employees, advisors, agents and consultants (on a strict need-to-know basis) provided the Recipient takes all necessary steps and ensures that its employees, advisers, agents and consultants and takes all steps necessary steps and abide by the terms of this Agreement to prevent the (unauthorised) disclosure of the Proprietary Information and/or the Confidential Information to third parties.
- 5.5 The Recipient agrees that the unauthorised disclosure of the Proprietary Information and/or the Confidential Information to a third party may cause irreparable loss, harm and damage to the other Party. Accordingly, the Recipient will indemnify and hold Eskom Enterprises harmless against any loss, action, expense, claim, harm or damage, of whatever nature, suffered or sustained by the Recipient pursuant to a breach by the Recipient, its employees, agents, advisers and consultants, whether arising negligently or intentionally, of the provisions of this Agreement.
- 5.6 The Recipient shall be jointly and severally liable in respect of any wilful or negligent action or omission, whatsoever arising, caused by itself, its employees, agents, advisers or consultants, in breach of the provisions of this Agreement.

- 5.7 The Recipient agrees that Eskom Enterprises makes no representations or warranties as to the accuracy or completeness of the Confidential Information disclosed.

6. TITLE

All the Proprietary Information and the Confidential Information disclosed by Eskom Enterprises to the Recipient is acknowledged by the Recipient -

- 6.1 to be confidential ; and

- 6.2 not to confer any rights to the Recipient or its agents, employees, advisers or consultants of whatever nature in such Proprietary Information or Confidential Information.

7. RESTRICTIONS ON DISCLOSURE AND USE OF THE PROPRIETARY INFORMATION AND THE CONFIDENTIAL INFORMATION

Notwithstanding the provisions of subclause 5.4, the Recipient undertakes not to use the Proprietary Information and/or the Confidential Information for any purpose other than -

- 7.1 that for which it is disclosed; and

- 7.2 in accordance with the provisions of this Agreement.

8. STANDARD OF CARE

- 8.1 The Recipient agrees that they shall protect the Proprietary Information and the Confidential Information disclosed pursuant to the provisions of this Agreement using the same standard of care that the Recipient applies to safeguard its own Confidential, secret or Proprietary Information and that the Proprietary Information and Confidential Information shall be stored and handled in such a way as to prevent any unauthorised disclosure thereof.

- 8.2 Upon the Recipient suspecting, becoming aware or detecting any form of breach or threatened breach of the provisions of subclause 8.1, then the Recipient shall forthwith notify Eskom Enterprises in writing of the said breach or threatened breach and co-operate with Eskom Enterprises in taking whatever steps that Eskom Enterprises deems necessary to protect the Confidential and/or Proprietary information or its interests under this Agreement.

9. RETURN OF MATERIAL CONTAINING OR PERTAINING TO THE PROPRIETARY INFORMATION AND/OR THE CONFIDENTIAL INFORMATION

- 9.1 Eskom Enterprises may, at any time, request the Recipient to return any material containing, pertaining to or relating to information disclosed pursuant to the terms of this Agreement.

- 9.2 The Recipient also agrees to return any material containing, pertaining to or relating to information disclosed pursuant to the terms of this Agreement if the Recipient decides not to participate in the SNO, negotiations with the Recipient are terminated, the SNO process is abandoned or the Recipient is unsuccessful
- 9.3 Recipient to furnish a written statement to the effect that, upon such return described in 9.1 and 9.2, the Recipient has not retained in its possession, or under its control, either directly or indirectly, any such material.
- 9.4 As an alternative to the return of the material contemplated in subclause 9.3 above, the Recipient shall, at the instance of Eskom Enterprises, destroy such material and furnish Eskom Enterprises with a written statement to the effect that all such material has been destroyed or if requested by Eskom Enterprises, furnish such proof as is reasonably necessary to satisfy Eskom Enterprises that the material has indeed been destroyed.
- 9.5 The Recipient shall comply, in terms of this clause 9, within 7 (seven) days of date of such a request or the occurrence of events noted in subclause 9.2.

10. EXCLUDED INFORMATION

The obligations of the Parties pursuant to the provisions of this Agreement shall not apply to any information that -

- 10.1 is known to, or is in the possession of the Recipient prior to disclosure thereof by Eskom Enterprises;
- 10.2 is or becomes publicly known, otherwise than pursuant to a breach of this Agreement by the Recipient;
- 10.3 is developed independently of Eskom Enterprises by the Recipient in circumstances that do not amount to a breach of the provisions of this Agreement;
- 10.4 is disclosed by the Recipient to satisfy an order of a court of competent jurisdiction or to comply with the provisions of any law or regulation in force from time to time; provided that in these circumstances, the Recipient shall advise Eskom Enterprises to take whatever steps it deems necessary to protect its interests in this regard; provided further that the Recipient will disclose only that portion of the information which it is legally required to disclose and the Recipient will use its best endeavours to protect the confidentiality of such information to the widest extent possible in the circumstances;
- 10.5 is disclosed to a third party pursuant to the prior written authorization of the other Party;
- 10.6 is received from a third party in circumstances that do not result in a breach of the provisions of this Agreement.

11. EXCLUSIVITY

The Recipient hereby undertakes that it/he/she will not, for the duration of this Agreement, either as principal, agent, partner, representative, shareholder, consultant, advisor, financier, demonstrator, employee or in any other like capacity, and whether alone or jointly with or as agent for any other person -

11.1 use or reveal or benefit from the Proprietary Information and/or the Confidential Information other than for the Due diligence and in their capacities as participants in the possible business relationship between the Parties. The Recipient will only use the Proprietary Information and/or the Confidential Information exclusively for the purposes of the Due diligence and the Parties' business relationship;

11.2 enter into negotiations or in any way be involved in any activity similar to or relating to the proposed business relationship between the Parties, without the prior written consent of the other Party.

12. REPRESENTATION AND WARRANTY

Each Party represents and warrants that it has the authority necessary to enter into this Agreement and to do all things necessary to procure the fulfilment of its obligations in terms of this Agreement.

The Recipient warrants that all individuals disclosed in Appendix A are authorised to act on the Recipients behalf for the Due Diligence exercise.

13. BREACH

Should the Recipient ("the Defaulting Party") commit a breach of any of the provisions hereof, then Eskom Enterprises ("the Aggrieved Party") shall be obliged to give the Defaulting Party 24 (twenty four) hours written notice to remedy the breach. If the Defaulting Party fails to comply with such notice, the Aggrieved Party shall be entitled to cancel this Agreement against the Defaulting Party or to claim specific performance (whether or not the due date for performance shall have arrived) in either event without prejudice to the Aggrieved Party's rights to claim damages. The foregoing is without prejudice to such other rights as the Aggrieved Party may have at law.

14. DISPUTE RESOLUTION

14.1 Any dispute arising out of or in connection with this Agreement shall in the first instance be referred for consideration and possible resolution to the representative of each Party who shall be duly authorised to act in its place in that matter.

14.2 Should the officers referred to in subclause 14.1 not be able to resolve the dispute within 7 (seven) days of it being referred to them, then they shall by agreement, appoint a third party to act as a mediator, and not as an arbitrator, to mediate in the resolution of the dispute. Should they not be able to agree on the mediator, then the mediator shall be selected by the Chairman for the time being of the Arbitration Foundation of Southern Africa ("AFSA").

- 14.3 Should the mediation referred to in subclause 14.2 fail to resolve the dispute within 7 (seven) days after the appointment of the mediator in terms of subclause 14.2, then either Party shall have the right to require that the dispute be referred to arbitration and that Party shall notify the other Party in writing identifying the disputes and setting out the relief required.
- 14.4 Any dispute referred to in subclause 14.3, shall be submitted to and determined by arbitration in accordance with AFSA Rules ("the Rules"). Such arbitration shall be held in Sandton unless otherwise agreed and shall be held in a summary manner with a view of it being completed as soon as possible.
- 14.5 There shall be one arbitrator, who shall be, if the question in issue is -
- 14.5.1 primarily an accounting matter, an independent chartered accountant of not less than 10 (ten) years standing; and
- 14.5.2 primarily a legal matter, a practicing Senior Counsel or Commercial attorney of not less than 10 (ten) years standing; and
- 14.5.3 any other matter, a suitably qualified person.
- 14.6 The appointment of the arbitrator shall be agreed upon between the Parties, but failing agreement between them within a period of 14 (fourteen) days notice in writing to the other in terms of subclause 14.3, either of the Parties shall be entitled to request the Chairman for the time being of AFSA to make the appointment of the arbitrator who, in making the appointment, shall have regard to the nature of the dispute, and shall have regard to the Parties' requirement of a speedy arbitration.
- 14.7 The arbitrator shall have powers conferred upon an arbitrator under the Rules.
- 14.8 The decision resulting from such arbitration shall be made by the arbitrator as an expert and not an arbitrator and shall be final and binding on the Parties, and may be made an order of any court of competent jurisdiction. Each of the Parties hereby submits itself to the Division of the High Court of South Africa in the area in which the arbitration is held should the other Party wish to make the arbitrator's decision an order of that Court.
- 14.9 Proceedings are to be held in camera and are confidential.
- 14.10 The provisions of this clause 14 shall not preclude any other Party from access to an appropriate court of law for -
- 14.10.1 interim relief in the form of an interdict, mandamus or order for specific performance pending the outcome of an arbitration in terms hereof or in respect of such arbitration or expert determination, as the case may be;

- 14.10.2 any other form of relief on the basis of facts which are not disputed, provided that if a *bona fide* dispute arises in the courts of the proceedings they shall be stayed pending an arbitration or on the dispute in terms hereof; or
- 14.10.3 an order for the payment of liquidated damages money on the basis of facts which are not *bona fide* in dispute at the commencement of such proceedings.
- 14.11 The provisions of this clause 14 shall survive the invalidity and/or termination from whatever cause arising of any or all the terms of this Agreement.

15. ADDRESSES

- 15.1 Each Party chooses the address set out opposite its name below as its address at which all notices, legal processes and other communications must be delivered for the purposes of this Agreement.

15.1.1 As regards Eskom Enterprises:

Physical Address	Postal Address
Maxwell drive, Megawatt Park Sunninghill	PO Box 40712 Cleveland 2022

Gauteng Province

Telefax No. : 27 11 800 3289

Attention : Ashley Busse

15.1.2 As regards the Recipient:

Physical Address	Postal Address
------------------	----------------

Telefax No. :

Attention :

- 15.2 Any notice or communication required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing but it shall be competent to give notice by telefax.
- 15.3 Any Party may by written notice to the other Party change its chosen address to another physical address, provided that the change shall become effective on the 14th (fourteenth) day after the receipt of the notice by the addressee.

- 15.4 Any notice to a Party contained in a correctly addressed envelope; and
- 15.4.1 sent by prepaid registered post to it at its chosen address; or
- 15.4.2 delivered by hand to a responsible person during ordinary business hours at its chosen address;
- shall be deemed to have been received in the case of subclause 16.4.1, on the 14th (fourteenth) business day after posting (unless the contrary is proved) and, in the case of subclause 16.4.2 on the day of delivery.
- 15.5 Any notice by telefax to a Party at its telefax number shall be deemed, unless the contrary is proved, to have been received within 2 (two) hours of transmission where it is transmitted during normal business hours or within 12 (twelve) hours of the first business day after it is transmitted where it is transmitted outside those business hours.

16 JURISDICTION

The Parties irrevocably and unconditionally consent to the non-exclusive jurisdiction of the Witwatersrand Local Division of the High Court of South Africa in regard to all matters arising from this Agreement.

17. SEVERABILITY

In the event of any one or more of the provisions of this Agreement being held for any reason to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any of the provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision was not a part of this Agreement, and the Agreement shall be carried out as nearly as possible in accordance with its original terms and intent.

18. GENERAL

- 18.1 This document constitutes the sole record of the Agreement between the Parties in regard to the subject matter thereof.
- 18.2 No Party shall be bound by any express or implied term, representation, warranty, promise or the like, not recorded herein.
- 18.3 No addition to, variation or consensual cancellation of this Agreement shall be of any force or effect unless in writing and signed by or on behalf of all the Parties.
- 18.4 No indulgence which one Party may grant to another Party shall constitute a waiver of any of the rights of the Parties, who shall not thereby be precluded from exercising any rights against the other Party which might have arisen in the past or which might arise in the future.

19 OWNERSHIP AND NO CONFLICT OF INTEREST

- 19.1 The Recipient and Recipient's shareholders or members warrants that it has no equity interest, stake or financial or economic value based interest at all in any company, corporation, joint venture or partnership whatsoever, or personal capacity (whether as a proprietor, partner, director, shareholder, employee, member, consultant, contractor, financier, agent, representative, assistant, trustee or beneficiary of a trust or otherwise and whether for reward or not, directly or indirectly) in a licensee in terms of the Telecommunications Act, 103 of 1996 as amended;
- 19.2 In the event that the Recipient has such interest, stake or value the Recipient agrees and undertakes to disclose same to Eskom Enterprises in Appendix B; and
- 19.3 The Recipient warrants that its participation in the Due Diligence and the SNO will not constitute a conflict of interest. In the case that it does, it will indemnify Eskom Enterprises against any loss, claim, expenses, damages or action from any third party, however arising.
- 19.4 Should a conflict of interest arise after Confidential Information has been disclosed to the Recipient, Eskom Enterprise must be advised in writing when such conflict occurs. and Confidential Information must be returned as contemplated in clause 9 of this agreement.

Thus done and signed at _____ on this _____ day of
_____ 2002

AS WITNESSES :

1. _____

_____ for and on behalf of
ESKOM ENTERPRISES (PTY) LTD

2. _____

Name : _____

Capacity : _____

Who warrants his authority hereto

Thus done and signed at _____ on this _____ day of
_____ 2002

AS WITNESSES :

1. _____

_____ Recipient/for and on behalf of the
Recipient

2. _____

Full Name : _____

Capacity, if any : _____

Who warrants his authority hereto

APPENDIX A

**DETAILS/PARTICULARS OF THE RECIPIENT AND/OR THEIR
REPRESENTATIVES**

1. Full Names:
2. Identity Number:
3. Address:
4. Capacity :
5. Name of the entity you represent:
6. Your Company and Designation:
7. Your entity's Registration Number:
8. Please state your interest in the Due Diligence:

**PLEASE NOTE THAT THIS APPENDIX MUST BE SIGNED OFF BY ALL THE
REPRESENTATIVES WHO WILL FORM PART OF THE DUE DILIGENCE TEAM**

APPENDIX B

DECLARATION OF INTEREST

I the Recipient hereby state that I represent myself/my company, corporation or partnership, being _____, I / my company, corporation or partnership and related members thereof hold an interest, stake or value in _____ to the value of _____, or

I confirm that to the best of my knowledge that I/my company, corporation or partnership and related members thereof do not hold any interest, stake or value, except as stated above.

APPENDIX C

STRICTLY PRIVATE AND CONFIDENTIAL

Name of recipient
Address

Dear Madam or Sir:

Eskom Enterprises & Transtel – Data Room Procedures

The following procedures will apply to you and your team when attending the data rooms prepared in relation to Eskom Enterprises (Pty) Limited ("Eskom Enterprises") and Transtel, a division of Transnet Limited ("Transtel") in connection with the award of the Second National Operator licence in South Africa (the "Project")

1. Overview

The data rooms are located at the offices of Eskom, Maxwell drive Megawatt Park, Sunninghill, South Africa, and Transtel, Forum 3 Braampark, Braamfontein, Johannesburg, South Africa. Further documents may be added, and documents may be removed from the data room during the course of the process by Transtel and Eskom Enterprises. Should this happen, a revised or supplementary index may be distributed.

No warranty will be given as to the accuracy of these documents.

2. Access & Check-in to Data Room

Access to the data rooms is conditional upon compliance at all times with the terms of this letter and the terms of the Confidentiality and Non-Disclosure Agreement with Eskom Enterprises and Transtel, signed by you (the "Confidentiality and Non-Disclosure Agreement").

The data rooms will be in operation as from the 25th of March 2002 and will be open at 08:00 and close at 19:00 from Monday to Friday. The data rooms accommodate a maximum of 12 people.

Appointments to visit the data rooms can be made by contacting Cecil Ramonotsi (+27 11 871 2943, +27 83 395 5150) or, in his absence, Fiks Dlamini (+27 11 784 9292, +27 83 442 4880).

Before your visit, you should provide Cecil Ramonotsi with a list of those authorised to attend, their titles, identity numbers and, where appropriate, their respective employers or consultancy firms, in the form set out in Appendix A of the Confidentiality and Non-Disclosure Agreement and with any special dietary requirements, if applicable. Such list may be amended during the data rooms opening period by means of an amendment to be faxed to Cecil Ramonotsi, with a minimum 24 (twenty four) -hour period prior to the arrival of any new representative, in all instances subject to the provisions of the Confidentiality and Non-Disclosure Agreement.

Check-in for entry into the data rooms will be at the pre-arranged time. You should check-in with the receptionist and all members of your team will be required to sign in, supplying proof of identification. During your visit, you must comply with any security/safety regulations imposed by Eskom Enterprises and Transtel. Members of your team will be allowed to bring in mobile telephones and lap top computers.

Members of your team will only be admitted to the data rooms on condition that Eskom Enterprises and Transtel are satisfied that each member is covered by the terms of the Confidentiality and Non-Disclosure Agreement. The right to refuse entry to any member of your team, without assigning any reason for such exclusion, is expressly reserved.

3. Data Room Procedures

Tea, coffee, soft drinks, and lunch will be supplied. Both data rooms are equipped with a telephone.

During your visit, questions of an administrative nature may be raised with the data room co-ordinators. Any matters which cannot be resolved will be noted in writing, and passed on to the appropriate party who will endeavour to deal with the matter raised as soon as is practical.

You are asked to co-operate in maintaining information in the data rooms in an orderly fashion. All information must be returned to its original location by 19:00 each day and you will be responsible for confirming to the data room co-ordinator prior to leaving the data rooms that all information has been so returned.

4. Copies of Data Room Information

No photocopies of any documents contained in the data rooms will be made or made available for copying..

UNDER NO CIRCUMSTANCES MAY ANY DOCUMENTS BE REMOVED FROM THE DATA ROOMS.

The documents are available in English and no translation will be provided.

5. Security

Appropriate measures will be effected to ensure the security of the data rooms. CCTV cameras will be installed and will not be recording voice.

6. Check-out

Visitors must sign out with the data room co-ordinators upon leaving the data rooms at the end of each day. Visitors return all documents when they sign out.

7. Confidentiality

You are reminded that the information contained in the data rooms is confidential and is to be used by you and your representatives solely for the purpose of evaluating the Project and should not be used in a manner which is directly or indirectly detrimental to Eskom Enterprises and Transtel. The provisions of the Confidentiality and Non-Disclosure Agreement apply to the documents contained in the data rooms.

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