



**RE\_PV\_0043\_003**

Sherwin Harris  
sherwin.harris@engie.com

**PER EMAIL**

Dear Sherwin,

**THE REPUBLIC OF SOUTH AFRICA - DEPARTMENT OF MINERAL RESOURCES AND ENERGY TENDER NO: DMRE/001/2021/22 FOR: NEW POWER GENERATION FACILITIES UNDER THE FIFTH BID SUBMISSION PHASE OF THE RENEWABLE ENERGY IPP PROCUREMENT PROGRAMME**

**LETTER OF APPOINTMENT FOR ENGIE-PELE SANNASPOS SOLAR PV CONSORTIUM**

1. The Department of Mineral Resources and Energy (the "**Department**") refers to the Request for Qualification and Proposals for New Generation Capacity under the Fifth Bid Submission Phase of the Renewable Energy IPP Procurement Programme issued under tender number DMRE/001/2021/22 (the "**RFP**").
2. The Department also refers to your Bid Response submitted on 16 August 2021, as well as your response to the clarification questions issued to you on 28 September 2021.
3. Capitalised terms used in this letter shall bear the meanings given to them in the RFP, unless they are separately defined in this letter or the context dictates otherwise.
4. **Appointment as a Preferred Bidder**
  - 4.1 The Department has completed its evaluation of the Bid Responses submitted on the Fifth Bid Submission Phase of the Renewable Energy IPP Procurement Programme.

- 4.2 The Department wishes to inform you that your Bid Response, in respect of the **Engie-Pele Sannaspos Solar PV Consortium** has satisfied the relevant requirements of the RFP in order for **Engie-Pele Sannaspos Solar PV Consortium** to be awarded Preferred Bidder status in terms of the RFP. The Contracted Capacity for your Project is **75 MW** (seventy five Megawatt) and the Technology for your Project is Solar PV.
- 4.3 In order for the appointment of **Engie-Pele Sannaspos Solar PV Consortium** as a Preferred Bidder to take effect, this letter must be returned to the Project Officer, counter-signed by the duly authorised representative of **Engie-Pele Sannaspos Solar PV Consortium**, by no later than close of business on the 5<sup>th</sup> (fifth) Business Day after the date of signature of this letter by the Department.
- 4.4 The Department draws your attention to the provisions of the RFP which continue to apply to **Engie-Pele Sannaspos Solar PV Consortium** as a Preferred Bidder, notwithstanding anything contained in the Bid Response of **Engie-Pele Sannaspos Solar PV Consortium**.
- 4.5 In particular, the Department wishes to confirm that:
- 4.5.1 in terms of paragraph 21.4 of Part A (*General Requirements, Rules and Provisions*) of the RFP, the terms of the draft PPA, Implementation Agreement, Direct Agreement, Independent Engineer Agreement and the Connection Agreements issued with the RFP ("**Transaction Agreements**") are not negotiable, notwithstanding anything stated by any Member, Lender, Contractor or other participant in **Engie-Pele Sannaspos Solar PV Consortium** Bid Response. In addition, **Engie-Pele Sannaspos Solar PV Consortium**, its Members, Lenders, Contractors and any other participant in **Engie-Pele Sannaspos Solar PV Consortium** Bid Response may not raise any comments in respect of or negotiate any of the terms of the Transaction Agreements, save for any comments to address errors or to provide information to the Department to enable it to prepare execution versions of your Transaction Agreements;
- 4.5.2 the execution versions of the Transaction Agreements will be provided to you by the Department on the basis of the information supplied by **Engie-Pele Sannaspos Solar PV Consortium** in its Bid Response, and shall be the basis upon which **Engie-Pele Sannaspos Solar PV Consortium** shall finalise its Project to reach Financial Close. In particular, please note that the schedules to the PPA

submitted by **Engie-Pele Sannaspos Solar PV Consortium** in its Bid Response will be used by the Department to populate and finalise the PPA prior to Financial Close. The Department accepts no responsibility and assumes no risk for delays which may be occasioned as a result of incorrect or incomplete information provided by **Engie-Pele Sannaspos Solar PV Consortium** in its Bid Response;

- 4.5.3 the Department's right to call on **Engie-Pele Sannaspos Solar PV Consortium** Preferred Bidder Guarantee in terms of and in the circumstances set out in paragraph 26.4.2 of Part A (*General Requirements, Rules and Provisions*) of the RFP, is in no way limited by or subject to any of the conditions contained in the letters of support and/or term sheets submitted by the Lenders, providers of Equity Finance and/or Corporate Finance. Therefore, notwithstanding all or any of the conditions to the provision of External Debt, Equity Finance or Corporate Finance imposed by any financier in the Bid Response; the Department reserves fully its right to call on **Engie-Pele Sannaspos Solar PV Consortium** Preferred Bidder Guarantee in the event that **Engie-Pele Sannaspos Solar PV Consortium** fails to reach Financial Close within the time period specified in paragraph 8.4 (*Timetable for REIPP Procurement Programme*) of Part A (*General Requirements, Rules and Provisions*) of the RFP in respect of the Fifth Bid Submission Phase, on account of the non-satisfaction of any such conditions;
- 4.5.4 the date by which Financial Close is to be achieved shall be as determined in accordance with paragraph 8.4 (*Timetable for REIPP Procurement Programme*) of Part A of the RFP;
- 4.5.5 there will be no upward movement in your Price at Financial Close, with the sole exception of an adjustment for foreign exchange rate movements, if applicable and subject to the limits provided for in paragraph 2.5.5.3.2.6 of Part B of the RFP, and interest rate movements, if applicable, read with **Engie-Pele Sannaspos Solar PV Consortium** Bid Response;
- 4.5.6 there will be no upward movement in equity IRR as a result of a movement in foreign exchange rates and interest rate at Financial Close against the benchmark rates set out in the RFP;
- 4.5.7 if the foreign exchange rate or interest rate at Financial Close is below the benchmark rates set out in Briefing Note 14 (27 July 2021 RFP), then the Price shall be reduced appropriately to take into account the lower foreign exchange rates and interest rate;

- 4.5.8 subject to clauses 4.5.5, 4.5.6 and 4.5.7 above, any changes to the Financial Model and or the Price resulting from fluctuation in foreign exchange rates and interest rate must be disclosed to, agreed with and effected in conjunction with the Department;
- 4.5.9 in terms of paragraph 26.6.1 of Part A (*General Requirements, Rules and Provisions*) of the RFP, the Project Company will pay a Development Fee calculated as 1.5% of the Total Project Cost within 10 (ten) Business Days of the date of signature of the Implementation Agreement, failing which the Department may call **Engie-Pele Sannaspos Solar PV Consortium** Preferred Bidder Guarantee;
- 4.5.10 **Engie-Pele Sannaspos Solar PV Consortium** attention is drawn to the warranties relating to Success Payments in clause 24.1.17 of the Implementation Agreement;
- 4.5.11 any costs relating to interest rate and/or foreign exchange hedging are at **Engie-Pele Sannaspos Solar PV Consortium** risk and there will be no subsequent impact on Price;
- 4.5.12 tax and accounting assumptions are a Preferred Bidder's risk and accordingly, there will be no impact on Price as a result of the adoption of an alternative tax or accounting treatment to that included within the Financial Model submitted as part of the Bid Response;
- 4.5.13 as indicated in paragraph 3.8 of Part C of the RFP, the Economic Development commitments made in response to the Economic Development Criteria will be migrated to the relevant portions of Schedule 2 to the Implementation Agreement (*Economic Development Obligations*); and
- 4.5.14 as indicated in Part A (*General Requirements, Rules and Provisions*) of the RFP, the Department reserves the right to seek additional information from **Engie-Pele Sannaspos Solar PV Consortium** in respect of its Bid Response as the Department may, in its sole discretion, determine, whether such information has been requested under this RFP or otherwise, and may, amongst other things, require the Bidder to provide the Department with supplementary information in respect of its Bid Response, if so required by the Department.
- 4.6 The appointment of **Engie-Pele Sannaspos Solar PV Consortium** as a Preferred

Bidder is also subject to **Engie-Pele Sannaspos Solar PV Consortium** demonstrating, pursuant to and in accordance with paragraph 8.6.3 of Part A (*General Requirements, Rules and Provisions*) of the RFP, to the satisfaction of the Department, that the application for all Land Use Consents and Environmental Consents, Which were not in place on Bid Submission Date, required for **Engie-Pele Sannaspos Solar PV Consortium's** proposed Facility to be lawfully developed, connected to a Distribution System or Transmission System and Operated in accordance with the PPA, has been made and has progressed sufficiently so as not to delay Financial Close.

- 4.7 The Department will communicate further with **Engie-Pele Sannaspos Solar PV Consortium** regarding the documentation and/or information that it requires pursuant to paragraph 8.6.3 of Part A (*General Requirements, Rules and Provisions*) of the RFP in due course. The Department shall be entitled, in its sole discretion, to terminate **Engie-Pele Sannaspos Solar PV Consortium's** status as a Preferred Bidder if **Engie-Pele Sannaspos Solar PV Consortium** fails to timeously comply with a request for documentation and/or information pursuant to paragraph 8.6.3 of Part A (*General Requirements, Rules and Provisions*) of the RFP, or fails to satisfy the Department that all applications contemplated in that paragraph have been made and have progressed sufficiently so as not to delay Financial Close.
- 4.8 Should **Engie-Pele Sannaspos Solar PV Consortium** fail to act in accordance with the requirements set out in clauses 4.6; 4.7 and 10 of this letter of appointment at any time, the Department reserves the right to terminate the appointment of **Engie-Pele Sannaspos Solar PV Consortium** as a Preferred Bidder, and to call its Preferred Bidder Guarantee.
- 4.9 **Engie - Pele Grootspuit Solar PV Consortium** is required to provide a Financial Model audit opinion confirming that the assumptions used to undertake any sensitivity analyses are consistent with the Department's requirements and the Financial Model has been optimized for each sensitivity such that the IRR remains unchanged; that when running the foreign exchange or interest rate sensitivity analysis set out in clauses 2.5.5.1.8 and 2.5.5.1.9 of Part B of the RFP, all input assumptions other than the exchange rate or interest rate remain unchanged and that the target IRR remains constant. Where the Financial Model auditor is unable to confirm this then no adjustment to the Price will be made at Financial Close for foreign exchange or interest rate sensitivities.

- 4.10 Please be advised that the Department is appointing **Engie-Pele Sannaspos Solar PV Consortium** as a Preferred Bidder on the basis of its FULLY indexed Price (as described in paragraph 2.5 (*Financial Criteria and Evaluation*) of Part B of the RFP) and, therefore, **Engie-Pele Sannaspos Solar PV Consortium's** FULLY indexed Price will be used by the Department for the purposes of finalising and executing the PPA.

#### **Preferred bidder Conditions – Economic Development**

- 4.11 **Engie - Pele Sannaspos Solar PV Consortium** has submitted Appendix 5G (*Declaration Certificate for Local Production and Content for Designated Sectors, Components and Products*) ("Local Content Declaration") in response to the Clarification Request issued by the Department. In the Local Content Declaration, **Engie - Pele Sannaspos Solar PV Consortium** has listed the relevant Designated Sector, Component or Products applicable to the Project, as well as Key Components and/or Equipment and Balance of Plant.
- 4.12 The Key Components and/or Equipment and Balance of Plant Components applicable to the Project were only to be listed under Appendix 5E (*Local Content Components and Exchange Rates Breakdown*) as part of the List of Key Components and/or Equipment and List of Balance of Plant Components and not under Appendix 5G (*Declaration Certificate for Local Production and Content for Designated Sectors, Components and Products*) and Appendix 5E1 (*Designated Local Content*).
- 4.13 Therefore, **Engie - Pele Sannaspos Solar PV Consortium** is required submit a Local Content Declaration which excludes the List of Key Components and/or Equipment and List of Balance of Plant Components.

#### **5. Preferred Bidder Guarantee**

In terms of paragraph 26.2 (*Preferred Bidder Guarantee*) of Part A (*General Requirements, Rules and Provisions*) of the RFP, in order for **Engie-Pele Sannaspos Solar PV Consortium** to continue in the REIPP Procurement Programme as a Preferred Bidder, **Engie-Pele Sannaspos Solar PV Consortium** is required to lodge a Preferred Bidder Guarantee (in the form provided in Appendix F of Volume 1, Part 2 of the RFP) with the Department's IPP Office in an amount equal to R200 000.00 (Two Hundred Thousand Rands) per MW of the Contracted Capacity, within 15 (fifteen) Business Days

of receipt of this letter. The Bid Guarantee of **Engie-Pele Sannaspos Solar PV Consortium** will be returned by the Department within 15 (fifteen) Business Days of delivery by **Engie-Pele Sannaspos Solar PV Consortium** of its Preferred Bidder Guarantee to the Department. Should **Engie-Pele Sannaspos Solar PV Consortium** fail to provide the Preferred Bidder Guarantee in accordance with the requirements in this clause 5, the Department reserves the right to terminate the appointment of **Engie-Pele Sannaspos Solar PV Consortium** as a Preferred Bidder.

6. **Preferred Bidder Fee**

In terms of clause 26.5 (*Preferred Bidder Fee*) of Part A (*General Requirements, Rules and Provisions*) of the RFP, in order for **Engie-Pele Sannaspos Solar PV Consortium** to continue in the Fifth Bid Submission Phase as a Preferred Bidder, **Engie-Pele Sannaspos Solar PV Consortium** is required to pay its Preferred Bidder Fee to the National Treasury into the Project Development Fund for the IPP Procurement Programmes in an amount equal to R50 000 (Fifty Thousand Rands) per MW of the Contracted Capacity within 5 (five) Business Days of receipt of the invoice from the IPP Office. An invoice will be sent by the IPP Office and such invoice will provide further details in this respect including the banking details.

7. **Proof of Application for Generation Licence**

In accordance with paragraph 19.5 of Part A (*General Requirements, Rules and Provisions*) of the RFP, **Engie-Pele Sannaspos Solar PV Consortium** is required to submit evidence to the Department that its generation licence application, together with all the required supporting documentation, has been submitted to and received by NERSA within 14 (fourteen) days of being appointed as a Preferred Bidder. The period of 14 (fourteen) days commences on the date on which this letter is returned to the Project Officer, counter-signed by the duly authorised representative of **Engie-Pele Sannaspos Solar PV Consortium**, as contemplated in clause 4.3 above. Should **Engie-Pele Sannaspos Solar PV Consortium** fail to act in accordance with this clause 7, the Department reserves the right to terminate the appointment of **Engie-Pele Sannaspos Solar PV Consortium** as a Preferred Bidder.

## 8. **Eskom Confirmation**

As a condition to the obtaining of Eskom Board approval of the PPA to be concluded between the Project Company and Eskom Holdings SOC Limited, **Engie-Pele Sannaspos Solar PV Consortium** is required to complete the letter attached hereto as Annexure A (*Confirmation regarding interests in Eskom Holdings SOC Limited*), confirming both its and its Members' interests in relation to Eskom Holdings SOC Limited. This letter must be returned to the Project Officer, signed by the duly authorised representative of the Project Company, by no later than close of business on the 5<sup>th</sup> (fifth) Business Day after the date of signature of this letter by the Department.

## 9. **Payment of budget quote fee**

As indicated in paragraph 8.4 (*Timetable for REIPP Procurement Programme*) of Part A (*General Requirements, Rules and Provisions*) of the RFP, **Engie-Pele Sannaspos Solar PV Consortium** is required to apply for a budget quotation from the Grid Provider and to pay the relevant budget quotation fee within 14 (fourteen) days of being appointed as Preferred Bidder. The period of 14 (fourteen) days commences on the date on which this letter is returned to the Project Officer, counter-signed by the duly authorised representative of **Engie-Pele Sannaspos Solar PV Consortium** as contemplated in clause 4.3 above. **Engie-Pele Sannaspos Solar PV Consortium** is required to submit evidence to the Department that it has applied for a budget quote and has paid the budget quotation fee within this 14 (fourteen) day period. Failure to comply with this requirement will entitle the Department to terminate the appointment of **Engie-Pele Sannaspos Solar PV Consortium** as a Preferred Bidder, and to call its Preferred Bidder Guarantee.

## 10. **Value for Money**

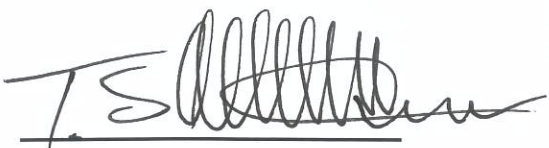
In order to ensure that the requirements of Regulation 9 of the Electricity Regulations on New Generation Capacity of 2011 as amended, are satisfied in respect of the Project, the Department reserves the right to negotiate with **Engie-Pele Sannaspos Solar PV Consortium**, and the appointment of **Engie-Pele Sannaspos Solar PV Consortium** as a Preferred Bidder is subject to the Department negotiating with it on whether the Project achieves value for money for the Government and the electricity consumer, as contemplated in paragraph 8.9 (*Value for Money*) of Part A (*General Requirements, Rules and Provisions*) of the RFP.



11. **Change Requests**

- 11.1 The Department draws the attention of **Engie-Pele Sannaspos Solar PV Consortium** to paragraphs 20.1 to 20.6 (inclusive) of Part A of the RFP in respect of changes to any aspect of a Bid Response of a Preferred Bidder.
- 11.2 As indicated in paragraph 20.1 of Part A of the RFP, **Engie-Pele Sannaspos Solar PV Consortium** is not permitted to change any aspect of its Bid Response without the prior written approval of the Department.
12. We look forward to the successful conclusion of your Project and to those interactions with **Engie-Pele Sannaspos Solar PV Consortium** that are necessary, and contemplated by the RFP, for that purpose.
13. Please note that the Department will communicate with **Engie-Pele Sannaspos Solar PV Consortium** as a Preferred Bidder on the date for Financial Close.
14. Please confirm the appointment of **Engie-Pele Sannaspos Solar PV Consortium** as a Preferred Bidder on the terms and conditions of this letter by having a copy of it signed and returned to the Project Officer, in accordance with clause 4.3 above.

Yours faithfully



**Adv. Thabo Mokoena**

**Director-General: Department of Mineral Resources and Energy**

Date: 28/10/2021

..... hereby accepts its appointment as a Preferred Bidder in respect of the Fifth Bid Submission Phase of the REIPP Procurement Programme, and confirms its acceptance of the terms and conditions of this letter of appointment.

\_\_\_\_\_  
**Signature of duly authorised representative of**

..... **(Company Name)**

\_\_\_\_\_  
**Name and Surname**

\_\_\_\_\_  
**Designation**

\_\_\_\_\_  
**Date**

**CONFIRMATION REGARDING INTERESTS IN ESKOM HOLDINGS SOC LIMITED**

Date: [●]

Department of Mineral Resources and Energy  
192 Visagie Street (corner Visagie Street and Paul Kruger Street)  
Pretoria  
0001  
South Africa

**THE REPUBLIC OF SOUTH AFRICA - DEPARTMENT OF MINERAL RESOURCES AND ENERGY TENDER NO: DMRE/001/2021/22 FOR: NEW POWER GENERATION FACILITIES UNDER THE FIFTH BID SUBMISSION PHASE OF THE RENEWABLE ENERGY IPP PROCUREMENT PROGRAMME**

Dear Sirs

1. Being duly authorised to represent and act on behalf of **Engie - Pele Sannaspos Solar PV Consortium** (the "**Preferred Bidder**"), hereby confirms the following:
  - 1.1 No director of the Preferred Bidder is currently, nor will be at the time of signature of the PPA, a director of Eskom Holdings SOC Limited or any of its subsidiary companies, other than as detailed below:
    - 1.1.1 [insert]
  - 1.2 No director of any Member of the Preferred Bidder is currently, nor will be at the time of signature of the PPA, a director of Eskom Holdings SOC Limited or any of its subsidiary companies, other than as detailed below:
    - 1.2.1 [insert]
  - 1.3 No director of Eskom Holdings SOC Limited nor any of its subsidiary companies currently have, nor will have at the time of signature of the PPA, a direct or indirect interest in the Preferred Bidder, other than as detailed below:

1.3.1 [insert]

Yours faithfully

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

For and on behalf of [Lead Member of the Bidder or the authorised representative of a Bidder which is a Project Company]