



NEC3 Supply Contract (SC3)

Between **ESKOM HOLDINGS SOC Ltd**
(Reg No. 2002/015527/30)

and [Insert at award stage]
(Reg No. _____)

for The supply and delivery of Plastic bird perch
diverters and stainless steel strap for various lines in
the North Grid

Contents:	No of pages
Part C1 Agreements & Contract Data	[•]
Part C2 Pricing Data	[•]
Part C3 Scope of Work	[•]

CONTRACT No. [Insert at award stage]

PART C1: AGREEMENTS & CONTRACT DATA

Contents:	No of pages
C1.1 Form of Offer and Acceptance	[•]
[to be inserted from Returnable Documents at award stage]	
C1.2a Contract Data provided by the <i>Purchaser</i>	[•]
C1.2b Contract Data provided by the <i>Supplier</i>	[•]
[to be inserted from Returnable Documents at award stage]	
C1.3 Proforma Guarantees	[•]

C1.1 Form of Offer & Acceptance

Offer

The Purchaser, identified in the Acceptance signature block, has solicited offers to enter into a contract for the procurement of:

THE SUPPLY AND DELIVERY OF PLASTIC BIRD PERCH DIVERTERS AND STAINLESS STEEL STRAP FOR VARIOUS LINES IN THE NORTH GRID

The tenderer, identified in the Offer signature block, has

<i>either</i>	Examined the documents listed in the Tender Data and addenda thereto as listed in the Returnable Schedules, and by submitting this Offer has accepted the Conditions of Tender.
<i>or</i>	Examined the draft contract as listed in the Acceptance section and agreed to provide this Offer.

By the representative of the tenderer, deemed to be duly authorised, signing this part of this Form of Offer and Acceptance the tenderer offers to perform all of the obligations and liabilities of the *Supplier* under the contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the *conditions of contract* identified in the Contract Data.

	The offered total of the Prices exclusive of VAT is	R [●]
	Value Added Tax @ 15% is	R [●]
	The offered total of the amount due inclusive of VAT is ¹	R [●]
	(in words) [●]	

This Offer may be accepted by the Purchaser by signing the Acceptance part of this Form of Offer and Acceptance and returning one copy of this document including the Schedule of Deviations (if any) to the tenderer before the end of the period of validity stated in the Tender Data, or other period as agreed, whereupon the tenderer becomes the party named as the *Supplier* in the *conditions of contract* identified in the Contract Data.

Signature(s)

Name(s)

Capacity

For the tenderer:

.....
(Insert name and address of organisation)

Name & signature of witness

Date

¹ This total is required by the *Purchaser* for budgeting purposes only. Actual amounts due will be assessed in terms of the *conditions of contract*.

Acceptance

By signing this part of this Form of Offer and Acceptance, the Purchaser identified below accepts the tenderer's Offer. In consideration thereof, the Purchaser shall pay the Supplier the amount due in accordance with the *conditions of contract* identified in the Contract Data. Acceptance of the tenderer's Offer shall form an agreement between the Purchaser and the tenderer upon the terms and conditions contained in this agreement and in the contract that is the subject of this agreement.

The terms of the contract, are contained in:

- Part C1 Agreements and Contract Data, (which includes this Form of Offer and Acceptance)
- Part C2 Pricing Data
- Part C3 Scope of Work: Goods Information including Supply Requirements

and drawings and documents (or parts thereof), which may be incorporated by reference into the above listed Parts.

Deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Returnable Schedules as well as any changes to the terms of the Offer agreed by the tenderer and the Purchaser during this process of offer and acceptance, are contained in the Schedule of Deviations attached to and forming part of this Form of Offer and Acceptance. No amendments to or deviations from said documents are valid unless contained in this Schedule.

The tenderer shall within two weeks of receiving a completed copy of this agreement, including the Schedule of Deviations (if any), contact the Purchaser's agent (whose details are given in the Contract Data) to arrange the delivery of any securities, bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the *conditions of contract* identified in the Contract Data at, or just after, the date this agreement comes into effect. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this agreement.

Notwithstanding anything contained herein, this agreement comes into effect on the date when the tenderer receives one fully completed and signed original copy of this document, including the Schedule of Deviations (if any).

Signature(s)

Name(s)

Capacity

for the
Purchaser

Eskom Holdings SOC Ltd, Megawatt Park, Maxwell Drive, Sandton, Johannesburg, 2199

(Insert name and address of organisation)

Name &
signature of
witness

Date

Note: If a tenderer wishes to submit alternative tenders, use another copy of this Form of Offer and Acceptance.

Schedule of Deviations to be completed by the *Purchaser* prior to contract award

Note:

1. This part of the Offer & Acceptance would not be required if the contract has been developed by negotiation between the Parties and is not the result of a process of competitive tendering.
2. The extent of deviations from the tender documents issued by the Purchaser prior to the tender closing date is limited to those permitted in terms of the Conditions of Tender.
3. A tenderer's covering letter must not be included in the final contract document. Should any matter in such letter, which constitutes a deviation as aforesaid be the subject of agreement reached during the process of Offer and Acceptance, the outcome of such agreement shall be recorded here and the final draft of the contract documents shall be revised to incorporate the effect of it.

No.	Subject	Details
1	[•]	[•]
2	[•]	[•]
3	[•]	[•]
4	[•]	[•]
5	[•]	[•]
6	[•]	[•]
7	[•]	[•]

By the duly authorised representatives signing this Schedule of Deviations below, the Purchaser and the tenderer agree to and accept this Schedule of Deviations as the only deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Tender Schedules, as well as any confirmation, clarification or changes to the terms of the Offer agreed by the tenderer and the Purchaser during this process of Offer and Acceptance.

It is expressly agreed that no other matter whether in writing, oral communication or implied during the period between the issue of the tender documents and the receipt by the tenderer of a completed signed copy of this Form shall have any meaning or effect in the contract between the parties arising from this Agreement.

For the tenderer:

For the Purchaser

Signature _____

Name _____

Capacity _____

On behalf of *(Insert name and address of organisation)* _____

**Eskom Holdings SOC Ltd, Megawatt
 Park, Maxwell Drive, Sandton,
 Johannesburg, 2199**

Name & signature of witness _____

Date _____

C1.2 SC3 Contract Data

Part one - Data provided by the *Purchaser*

Completion of this data in full, according to the Options chosen, is essential to create a complete contract.

Clause	Statement	Data				
1	General					
	The <i>conditions of contract</i> are the core clauses and the clauses for Options					
		<p>X2 Changes in the law</p> <p>X7: Delay damages</p> <p>Z: Additional conditions of contract</p>				
	of the NEC3 Supply Contract (April 2013) ²	(If the December 2009 edition is to be used delete April 2013 and replace by December 2013)				
10.1	The <i>Purchaser</i> is (name):	Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state owned company incorporated in terms of the company laws of the Republic of South Africa				
	Address	Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg				
	Tel No.	011 871 3751				
10.1	The <i>Supply Manager</i> is (name):	Mr Steven Mafela				
	Address	39 Hans Van Rensburg Polokwane 0700				
	Tel	015 230 1303				
	e-mail	MafelaST@eskom.co.za				
11.2(13)	The <i>goods</i> are	Plastic bird perch diverters and Stainless Steel (304 Grade) Straps				
11.2(13)	The <i>services</i> are	<p>Supply and delivery goods to North Grid as follows:</p> <p>1. Foskor Substation coordinates: [-24.0276510, 31.1264221]</p> <table border="1"> <thead> <tr> <th>Bird Guards</th> <th>Straps</th> </tr> </thead> <tbody> <tr> <td>10 980</td> <td>32 940</td> </tr> </tbody> </table>	Bird Guards	Straps	10 980	32 940
Bird Guards	Straps					
10 980	32 940					

² Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 539 1902, www.ecs.co.za.

**2. Spitskop Substation Coordinates:
 [-24.967198, 27.230354]**

Bird Guards	Straps
3 240	9 720

**3. Pluto Substation Coordinates:
 [-26.217258, 27.455615]**

Bird Guards	Straps
10 920	32 760

11.2(14)	The following matters will be included in the Risk Register	Refer to Baseline Risk Assessment								
11.2(15)	The Goods Information is in	Part 3: Scope of Work and all documents and drawings to which it makes reference. See Spec Document: 240-147885960								
11.2(15)	The Supply Requirements as part of the Goods Information is in	Annexure A to this Contract Data								
12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa								
13.1	The <i>language of this contract</i> is	English								
13.3	The <i>period for reply</i> is	2 Weeks								
2	The <i>Supplier's</i> main responsibilities	Data required by this section of the core clauses is provided by the <i>Supplier</i> in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data.								
3	Time									
30.1	The <i>starting date</i> is.	01 October 2022								
30.1	The <i>delivery date</i> of the <i>goods and services</i> is:	<table border="1"> <thead> <tr> <th><i>goods and services</i></th> <th><i>delivery date</i></th> </tr> </thead> <tbody> <tr> <td colspan="2">Supply and deliver as follows:</td> </tr> <tr> <td> 1 <ul style="list-style-type: none"> 6120 of Plastic Bird Perch Diverters and 18360 of Stainless Steel Strap for Mercury Midas 1 400kV Line </td> <td>30 April 2023</td> </tr> <tr> <td> 2 <ul style="list-style-type: none"> 4800 of Plastic Bird Perch Diverters and 14400 of Stainless Steel Strap for Pluto Thuso 1 400kV Line </td> <td>30 June 2023</td> </tr> </tbody> </table>	<i>goods and services</i>	<i>delivery date</i>	Supply and deliver as follows:		1 <ul style="list-style-type: none"> 6120 of Plastic Bird Perch Diverters and 18360 of Stainless Steel Strap for Mercury Midas 1 400kV Line 	30 April 2023	2 <ul style="list-style-type: none"> 4800 of Plastic Bird Perch Diverters and 14400 of Stainless Steel Strap for Pluto Thuso 1 400kV Line	30 June 2023
<i>goods and services</i>	<i>delivery date</i>									
Supply and deliver as follows:										
1 <ul style="list-style-type: none"> 6120 of Plastic Bird Perch Diverters and 18360 of Stainless Steel Strap for Mercury Midas 1 400kV Line 	30 April 2023									
2 <ul style="list-style-type: none"> 4800 of Plastic Bird Perch Diverters and 14400 of Stainless Steel Strap for Pluto Thuso 1 400kV Line	30 June 2023									

		<p>3</p> <ul style="list-style-type: none"> • 6720 of Plastic Bird Perch Diverters and • 20160 of Stainless Steel Strap <p>for Acornhoek Foskor 3 275kV Line</p>	<p>30 August 2023</p>
		<p>4</p> <ul style="list-style-type: none"> • 4260 of Plastic Bird Perch Diverters and • 12780 of Stainless Steel Strap <p>for Foskor Merensky 1 275kV Line</p>	<p>30 October 2023</p>
		<p>5</p> <ul style="list-style-type: none"> • 3240 of Plastic Bird Perch Diverters and • 9720 of Stainless Steel Strap <p>for Medupi Spitskop 3 400kV Line</p>	<p>30 December 2023</p>
30.2	The <i>Supplier</i> does not bring the <i>goods</i> to the Delivery Place more than one week before the Delivery Date.	As per Eskom's request	
31.1	The <i>Supplier</i> is to submit a first programme for acceptance within	One week after the Contract Start Date.	
32.2	The <i>Supplier</i> submits revised programmes at intervals no longer than	One week.	
4	Testing and defects		
42	The <i>defects date</i> is	52 weeks after Delivery.	
43.2	The <i>defect correction period</i> is	Four weeks	
42.2	The <i>defects access period</i> is	Determined by defect correction impact.	
5	Payment		
50.1	The <i>assessment interval</i> is	As per delivered goods.	
51.1	The <i>currency of this contract</i> is the	South African Rand	
51.4	The <i>interest rate</i> is	the publicly quoted prime rate of interest (calculated on a 365 day year) charged from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands and	

(ii) the LIBOR rate applicable at the time for amounts due in other currencies. LIBOR is the 6 month London Interbank Offered Rate quoted under the caption "Money Rates" in The Wall Street Journal for the applicable currency or if no rate is quoted for the currency in question then the rate for United States Dollars, and if no such rate appears in The Wall Street Journal then the rate as quoted by the Reuters Monitor Money Rates Service (or such service as may replace the Reuters Monitor Money Rates Service) on the due date for the payment in question, adjusted *mutatis mutandis* every 6 months thereafter and as certified, in the event of any dispute, by any manager employed in the foreign exchange department of The Standard Bank of South Africa Limited, whose appointment it shall not be necessary to prove.

6	Compensation events	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
7	Title	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
8	Risks, liabilities, indemnities and insurance	
84.1	The <i>Purchaser</i> provides these insurances from the Insurance Table	See notes about <i>Purchaser</i> provided insurance in Annexure B to this Contract Data
	1. Insurance against	Loss of or damage to the <i>goods</i>, plant and materials.
	Cover / indemnity is	Overseas shipment / transit insurance (only) to cover events at the <i>Supplier's</i> risk (if any) after the <i>goods</i> have left the <i>Supplier's</i> overseas premises. See notes in Annexure B
		If this contract includes the supervision of installation, testing, commissioning or building work at the <i>Purchaser's</i> premises, the <i>Purchaser</i> also provides cover for physical loss of or damage to the <i>Purchaser's</i> surrounding property including any temporary work required to complete the Delivery.
	The deductibles are	See notes in data for clause 88.2 below and Annexure B
84.1	The <i>Supplier</i> provides these additional insurances	See notes in Annexure B
84.2	The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the <i>Supplier</i> arising out of and in the course of their	As prescribed by the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 and the <i>Contractor's</i> common law liability for people falling outside the scope of

	employment in connection with this contract for any one event is:	the Act with a limit of Indemnity of not less than R500 000 (five hundred thousand Rand).
88.1	The <i>Supplier's</i> liability to the <i>Purchaser</i> for indirect or consequential loss, including loss of profit, revenue and goodwill is limited to	Replacement cost of defective product
88.2	For any one event, the <i>Supplier's</i> liability to the <i>Purchaser</i> for loss of or damage to the <i>Purchaser's</i> property is limited to	(1) for the <i>Purchaser's</i> existing and surrounding property in the care, custody and control of the <i>Supplier</i> the amount of the deductible (first amount payable) relevant to the event described in the "Format A" / "Format B" / "Format Dx" {choose the applicable format, then delete the others and this note}, insurance policy available on http://www.eskom.co.za/live/content.php?ItemID=9248 and (2) for all other existing <i>Purchaser's</i> property the highest applicable deductible (first amount payable) namely: <ol style="list-style-type: none"> 1. R15 million (fifteen million Rand) for Generation Division property; 2. R7.5 million (seven million five hundred thousand Rand) for Transmission Division property and; 3. R1 million (one million Rand) for Distribution Division and all other <i>Purchaser's</i> property
		See notes in Annexure B
88.3	The <i>Supplier's</i> liability for Defects due to his design which are not notified before the last <i>defects date</i> is limited to:	Total Amount of Contract
88.4	The <i>Supplier's</i> total liability to the <i>Purchaser</i> , for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	Total Amount of Contract
88.5	The <i>end of liability date</i> is	20 years after Delivery of the whole of the goods and services.

9 Termination and dispute resolution

94.1	The <i>Adjudicator</i> is	The person selected from the Panel of Adjudicators listed in Annexure C to this Contract Data by the Party intending to refer a dispute to him.
94.2(3)	The <i>Adjudicator nominating body</i> is:	the Chairman of ICE-SA, a Division of the South African Institution of Civil Engineering, or its successor body (See www.ice-sa.org.za)
94.4(2)	The <i>tribunal</i> is:	arbitration

94.4(5)	The <i>arbitration procedure</i> is	the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.
94.4(5)	The place where arbitration is to be held is	Johannesburg - South Africa
	The person or organisation who will choose an arbitrator	the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.
	- if the Parties cannot agree a choice or - if the arbitration procedure does not state who selects an arbitrator, is	

10 Data for Option clauses

X2	Changes in the law	No data is required for this Option	
X7	Delay damages		
X7.1	Delay damages for Delivery are	Delivery of Supply and delivery 25 140 of plastic bird perch diverters and 75420 of Stainless Steel Strap TOTAL ESTIMATED QUANTITIES MAY CHANGE AND WILL BE BASED ON ESKOM REQUIREMENTS	amount per day Delay damages are 0.1% of the order placed.
Z	The <i>additional conditions of contract</i> are	Z1 to Z12 always apply for Eskom	

Z1 Cession delegation and assignment

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

Z2 Joint ventures

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

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

- Z3.1 Where a change in the *Supplier's* legal status, ownership or any other change to his business composition or business dealings results in a change to the *Supplier's* B-BBEE status, the *Supplier* notifies the *Purchaser* within seven days of the change.
- Z3.2 The *Supplier* is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the *Supply Manager* within thirty days of the notification or as otherwise instructed by the *Supply Manager*.
- Z3.3 Where, as a result, the *Supplier's* B-BBEE status has decreased since the Contract Date the *Purchaser* may either re-negotiate this contract or alternatively, terminate the *Supplier's* obligation to Provide the Goods and Services.
- Z3.4 Failure by the *Supplier* to notify the *Purchaser* of a change in its B-BBEE status may constitute a reason for termination. If the *Purchaser* terminates in terms of this clause, the procedures on termination are P1, P2 and P3 as stated in clause 92, and the amount due is A1 and A3 as stated in clause 93.

Z4 Ethics

- Z4.1 Any offer, payment, consideration, or benefit of any kind made by the *Supplier*, which constitutes or could be construed either directly or indirectly as an illegal or corrupt practice, as an inducement or reward for the award or in execution of this contract constitutes grounds for terminating the *Supplier's* obligation to Provide the Goods and Services or taking any other action as appropriate against the *Supplier* (including civil or criminal action).
- Z4.2 The *Purchaser* may terminate the *Supplier's* obligation to Provide the Goods and Services if the *Supplier* (or any member of the *Supplier* where the *Supplier* constitutes a joint venture, consortium or other unincorporated grouping of two or more persons or organisations) is found guilty by a competent court, administrative or regulatory body of participating in illegal or corrupt practices.

Such practices include making of offers, payments, considerations, or benefits of any kind or otherwise, whether in connection with any procurement process or contract with the *Purchaser* or other people or organisations and including in circumstances where the *Supplier* or any such member is removed from the an approved vendor data base of the *Purchaser* as a consequence of such practice.

- Z4.3 Notwithstanding the provisions of core clause 90.2, the procedures on termination in terms of this clause are P1, P2 and P3 as stated in the core clause 92 and the amount due is A1 and A3 as stated in core clause 93.

Z5 Confidentiality

- Z5.1 The *Supplier* does not disclose or make any information arising from or in connection with this contract available to Others. This undertaking does not, however, apply to information which at the time of disclosure or thereafter, without default on the part of the *Supplier*, enters the public domain or to information which was already in the possession of the *Supplier* at the time of disclosure (evidenced by written records in existence at that time). Should the *Supplier* disclose information to Others in terms of clause 23.1, the *Supplier* ensures that the provisions of this clause are complied with by the recipient.
- Z5.2 If the *Supplier* is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the *Supply Manager*.
- Z5.3 In the event that the *Supplier* is, at any time, required by law to disclose any such information

which is required to be kept confidential, the *Supplier*, to the extent permitted by law prior to disclosure, notifies the *Purchaser* so that an appropriate protection order and/or any other action can be taken if possible, prior to any disclosure. In the event that such protective order is not, or cannot, be obtained, then the *Supplier* may disclose that portion of the information which it is required to be disclosed by law and uses reasonable efforts to obtain assurances that confidential treatment will be afforded to the information so disclosed.

Z5.4 The taking of images (whether photographs, video footage or otherwise) of the *goods* or any portion thereof, in the course of Providing the Goods and Services and after Delivery, requires the prior written consent of the *Supply Manager*. All rights in and to all such images vests exclusively in the *Purchaser*.

Z5.5 The *Supplier* ensures that all his subcontractors abide by the undertakings in this clause.

Z6 Waiver and estoppel: Add to core clause 12.3:

Z6.1 Any extension, concession, waiver or relaxation of any action stated in this contract by the Parties, the *Supply Manager* or the *Adjudicator* does not constitute a waiver of rights, and does not give rise to an estoppel unless the Parties agree otherwise and confirm such agreement in writing.

Z7 Health, safety and the environment: Add to core clause 25.4

Z7.1 The *Supplier* undertakes to take all reasonable precautions to maintain the health and safety of persons in and about the provision of the *goods* and execution of the *services*.

Without limitation the *Supplier*:

- warrants that the total of the Prices as at the Contract Date includes a sufficient amount for proper compliance with all applicable health & safety laws and regulations and the health and safety rules, guidelines and procedures provided for in this contract and generally for the proper maintenance of health & safety in and about the execution of supply and
- undertakes, in and about the execution of the supply, to comply with all applicable health & safety laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his Subcontractors, employees and others under the *Supplier's* direction and control, likewise observe and comply with the foregoing.

Z7.2 The *Supplier*, in and about the execution of the supply, complies with all applicable environmental laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his Subcontractors, employees and others under the *Supplier's* direction and control, likewise observe and comply with the foregoing.

Z8 Provision of a Tax Invoice and interest. Add to core clause 51

Z8.1 Within one week of receiving a payment certificate from the *Supply Manager* in terms of core clause 51.1, the *Supplier* provides the *Purchaser* with a tax invoice in accordance with the *Purchaser's* procedures stated in the Goods Information, showing the amount due for payment equal to that stated in the payment certificate.

Z8.2 If the *Supplier* does not provide a tax invoice in the form and by the time required by this contract, the time by when the *Purchaser* is to make a payment is extended by a period equal in time to the delayed submission of the correct tax invoice. Interest due by the *Purchaser* in terms of core clause 51.2 is then calculated from the delayed date by when payment is to be made.

Z8.3 The *Supplier* (if registered in South Africa in terms of the companies Act) is required to comply with the requirements of the Value Added Tax Act, no 89 of 1991 (as amended) and to include the *Purchaser's* VAT number 4740101508 on each invoice he submits for payment.

Z9 Notifying compensation events

- Z9.1 Delete from the last sentence in core clause 61.3 the words, “unless the event arises from the *Supply Manager* giving an instruction, changing an earlier decision or correcting an assumption”.

Z10 Purchaser’s limitation of liability

- Z10.1 The *Purchaser’s* liability to the *Supplier* for the *Supplier’s* indirect or consequential loss is limited to R0.00 (zero Rand)

- Z10.2 The *Supplier’s* entitlement under the indemnity in 83.1 is provided for in 60.1(12) and the *Purchaser’s* liability under the indemnity is limited.

Z11 Termination: Add to core clause 91.1, at the second main bullet point, fourth sub-bullet point, after the words "against it":

- Z11.1 or had a business rescue order granted against it.

Z12 Addition to secondary Option X7 Delay damages (if applicable in this contract)

- Z12.1 If the amount due for the *Supplier’s* payment of delay damages reaches the limits stated in this Contract Data for Option X7, the *Purchaser* may terminate the *Supplier’s* obligation to Provide the Goods and Services using the same procedures and payment on termination as those applied for reasons R1 to R15 or R18 stated in the Termination Table.

Annexure A: Supply Requirements

[Notes: The example given in the NEC3 Supply Contract Guidance Notes pages 15 to 20 inclusive is based on Incoterms 2000. However users will probably wish to use Incoterms 2010 which the details below are based on. Users may need to adjust the information to comply with actual requirements. First decide whether Incoterms will be used or not, then delete the arrangement below which does not apply and delete these notes]

The Supply Requirements for this contract are based on the use of INCOTERMS:

The *Supplier* supplies the *goods* in accordance with INCOTERMS 2010³ as follows:

[Select the group and then term within the group which applies and state the applicable delivery place. Delete all the other groups and this note]

Group	Category	Term	Delivery Place
E	departure	EXW	
F	main carriage unpaid	FCA, FAS, FOB	
C	main carriage paid	CFR, CIF, CPT, CIP	
D	arrival	DAT, DAP, DDP	

The Parties obligations described in Incoterms for the category and term selected are now incorporated into this contract as part of the Supply Requirements and hence the Goods Information.

The obligations of seller and buyer for the selected Incoterm determine each Party's costs, risks and insurance requirements incidental to the supply and transport of the *goods* from *Supplier* to *Purchaser*.

For each of the thirteen terms, Incoterms set out obligations of the seller (the *Supplier*) in ten paragraphs identified as A1 to A10 and the corresponding obligations of the buyer (the *Purchaser*) in paragraphs B1 to B10. These obligations cover the following subjects:

A	The <i>Supplier's</i> obligations	B	The <i>Purchaser's</i> obligations
A1	Provision of goods in conformity with contract	B1	Payment of the price
A2	Licences, authorisations and formalities	B2	Licences, authorisations and formalities
A3	Contracts of carriage and insurance	B3	Contracts of carriage and insurance
A4	Delivery	B4	Taking delivery
A5	Transfer of risks	B5	Transfer of risks
A6	Division of costs	B6	Division of costs
A7	Notice to the buyer	B7	Notice to the seller
A8	Proof of delivery, transport document or equivalent electronic message	B8	Proof of delivery, transport document or equivalent electronic message
A9	Checking - packing - marking	B9	Inspection of goods
A10	Other obligations	B10	Other obligations

[Should there be a need to amplify any of the published obligations listed above for the chosen INCOTERM, add them here.]

All other information NOT pertinent to the above is given in the balance of the Goods Information

³ International Chamber of Commerce, Incoterms 2010, Paris, January 2011

The Supply Requirements for this contract are as follows:

[Use these when INCOTERMS do not apply].

1. The requirements for the supply are	As per attached Eskom specification, Scope of Work, Total quantity ordered subject to Eskom requirements and delivery time to Eskom sites.	
2. The requirements for transport are	Minimum quantity of 25140 of plastic bird perch diverters and 75420 of Stainless Steel Straps delivered directly to various sites. The supplier must bring necessary and relevant equipment for offloading material	
3. The delivery place is	<ul style="list-style-type: none"> • Foskor Substation [-24.0276510, 31.1264221] 10980 Plastic bird perch diverters and 32940 Stainless Steel Straps • Spitskop Substation [-24.967198, 27.230354] 3240 Plastic bird perch diverters and 9720 Stainless Steel Straps • Pluto Substation [-26.217258, 27.455615] 10920 Plastic bird perch diverters and 32760 Stainless Steel Straps 	
4. Actions of the Parties during supply	Action	Party which does it
	Giving notice of Delivery	Supplier
	Checking packing and marking before dispatch	Supplier
	Contracting for transport	Supplier
	Pay costs of transport	Supplier
	Arrange access to delivery place	Eskom Central Grid
	Loading the <i>goods</i>	Supplier
	Unloading the <i>goods</i>	Supplier
For international procurement	Undertake export requirements	Not Applicable
	Undertake import requirements	Not Applicable
5. Information to be provided by the Supplier	Title of document	
	Packing lists for cases and their contents	
	Copy of invoice for the <i>goods</i>	
	Delivery Note	
	Test results and maintenance manuals	

All other information NOT pertinent to the above is given in the balance of the Goods Information

Annexure B: Insurance provided by the Purchaser

These notes are provided as guidance to tendering suppliers and the Supplier about the insurance provided by the Purchaser. These notes are not part of this contract. The Supplier must obtain its own advice.

Transit insurance of goods originating from outside the borders of the Republic of South Africa

For the purpose of supply contracts, the only insurance provided by Eskom (the *Purchaser*) is transit shipment cover, commonly known as Marine Insurance for air, sea, rail and road freight (including local land arrangements) for conveyance of *goods* originating outside RSA. Please consult the website stated below to ascertain whether Format A, Format B or Format Dx is applicable to this contract and then the

- Marine Insurance Policy wording;
- Eskom Shipment Policies and Procedures – note a pre-shipment survey form has to be completed under certain circumstances;
- Marine Claims Handling Procedures – for important shipment actions and claims forms in event of damages to cargo freight via sea, barge, air, road or rail.

For EXW (Ex Works collections) this is of no concern to the *Supplier* but for any other Supply Requirement (such as CIF, DDU, or DDP) the *Supplier* need not provide such insurance even if the INCOTERM requires it and tendering suppliers should 'discount' their prices when tendering to allow for this provision by the *Purchaser* (Eskom).

Supplier's liability for damage to the Purchaser's property

Whilst this is a liability the *Supplier* carries and should cover (if he is required to deliver the *goods* to the *Purchaser's* premises) his liability is limited to the amount of cover provided to the *Purchaser* within his assets policy. This amount varies depending on the Division within Eskom to which the *Supplier* is making the delivery. For any one occurrence or series of occurrences arising out of one event but unlimited during the period of insurance the *Supplier's* liability would be:

- R15million for Generation Division projects,
- R7.5million for Transmission Division projects or
- R1.0million for Distribution Division projects

All other insurance

As required by clause 84, the *Supplier* provides all other insurance for his risks. The *Supplier* should give further consideration to providing for these additional insurance concepts [for amounts and periods of insurance the *Supplier* deems fit and necessary].

Professional Indemnity: The insurance provided shall indemnify the *Supplier* (and/or his professional consultant) for those sums which the *Supplier* or his consultant shall become legally liable to pay as damages arising from any claim first made against the *Supplier* / consultant and reported to their insurers during the Period of Insurance, directly arising out of any negligent act, error or omission committed or alleged to have been committed by the *Supplier* / consultant in the conduct of **professional services** (for example, design) in connection with this contract.

Products Liability: A special General Liability extension for liability arising out of the *Supplier's* **defective:**

- production and manufacturing process (workmanship or material), or
- product design, or
- warnings, instructions, usage and maintenance manuals and specifications.

For any further explanation of insurance requirements tendering suppliers are advised to consult their brokers or insurers who may in turn contact Eskom Insurance Management Services per contact details provided on the following website:

http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx

C1.2 Contract Data

Part two - Data provided by the *Supplier*

[Instructions to the contract compiler: (delete this note before issue to tenderers with an enquiry)

Whenever a cell is shaded in the left hand column it denotes this data is optional and would be required in relation to the option selected. In the event that the option is not required select and delete the whole row.]

Notes to a tendering supplier:

1. Please read both the NEC3 Supply Contract (SC3)⁴ and the relevant parts of its Guidance Notes (SC3-GN)⁵ in order to understand the implications of this Data which the tenderer is required to complete.
2. The number of the clause which requires the data is shown in the left hand column for each statement however other clauses may also use the same data
3. Where a form field like this [] appears, data is required to be inserted relevant to the option selected. Click on the form field **once** and type in the data. Otherwise complete by hand and in ink.

Completion of the data in full, according to Options chosen, is essential to create a complete contract.

Clause	Statement	Data						
10.1	The <i>Supplier</i> is (Name): Address Tel No. Fax No.							
11.2(8)	The Goods Information for the <i>Supplier's</i> design is in:							
11.2(11)	The tendered total of the Prices is	R (in words)						
11.2(12)	The <i>price schedule</i> is in:	As stated on the NEC price schedule						
11.2(14)	The following matters will be included in the Risk Register	As stated on the NEC						
25.2	The restrictions to access for the <i>Supply Manager</i> and Others to work being done for this contract are	As stated on the NEC						
30.1	The <i>delivery date</i> of the goods and services is:	<table border="1"> <thead> <tr> <th></th> <th><i>goods and services</i></th> <th><i>delivery date</i></th> </tr> </thead> <tbody> <tr> <td>1</td> <td> <ul style="list-style-type: none"> • 6120 of Plastic Bird Perch Diverters and • 18360 of Stainless Steel Strap for Mercury Midas 1 400kV Line </td> <td>30 April 2023</td> </tr> </tbody> </table>		<i>goods and services</i>	<i>delivery date</i>	1	<ul style="list-style-type: none"> • 6120 of Plastic Bird Perch Diverters and • 18360 of Stainless Steel Strap for Mercury Midas 1 400kV Line 	30 April 2023
	<i>goods and services</i>	<i>delivery date</i>						
1	<ul style="list-style-type: none"> • 6120 of Plastic Bird Perch Diverters and • 18360 of Stainless Steel Strap for Mercury Midas 1 400kV Line 	30 April 2023						

⁴ Either April 2013 or December 2009 Edition as stated by *Purchaser* in Contract Data part 1.

⁵ Available from Engineering Contract Strategies Tel 011 803 3008, Fax 086 539 1902, or www.ecs.co.za

	2	<ul style="list-style-type: none"> • 4800 of Plastic Bird Perch Diverters and • 14400 of Stainless Steel Strap for Pluto Thuso 1 400kV Line	30 June 2023
	3	<ul style="list-style-type: none"> • 6720 of Plastic Bird Perch Diverters and • 20160 of Stainless Steel Strap for Acornhoek Foskor 3 275kV Line	30 August 2023
	4	<ul style="list-style-type: none"> • 4260 of Plastic Bird Perch Diverters and • 12780 of Stainless Steel Strap for Foskor Merensky 1 275kV Line	30 October 2023
	5	<ul style="list-style-type: none"> • 3240 of Plastic Bird Perch Diverters and • 9720 of Stainless Steel Strap for Medupi Spitskop 3 400kV Line	30 December 2023
31.1	The programme identified in the Contract Data is contained in:		NEC Supply Contract/Ms Programme
63.2	The <i>percentage for overheads and profit</i> added to the Defined Cost is		%

C1.3 Forms of Securities

Pro formas for Bonds & Guarantees

For use with the NEC3 Supply Contract (SC3)

[Note to contract compiler:

Once it has been decided which securities are required for this contract delete from this file the ones not required, revise the notes below accordingly and delete this note.]

The *conditions of contract* stated in the Contract Data Part 1 may include the following Options:

- Option X4: Parent company guarantee
- Option X13: Performance bond
- Option X14 : Advanced payment to the *Supplier*

These Options require a bond or guarantee “in the form set out in the Goods Information”.

Pro forma documents for these bonds and guarantees are provided here for convenience but are to be treated as part of the Goods Information.

The organisation providing the bond / guarantee does so by copying the pro forma document onto its letterhead without any change to the text or format and completing the required details. The completed document is then given to the *Purchaser* within the time stated in the contract.

Pro forma Parent Company Guarantee (for use with Option X4)

(to be reproduced exactly as shown below on the letterhead of the Supplier's Parent Company)

**Eskom Holdings SOC Ltd
Megawatt Park
Maxwell Drive
Sandton
Johannesburg**

Date:

Dear Sirs,

Parent Company Guarantee for Contract No

With reference to the above numbered contract made or to be made between

**Eskom Holdings SOC Ltd, Megawatt Park, Maxwell Drive, Sandton
Johannesburg** (the *Purchaser*) and

[Insert registered name and address of the *Supplier*] (the *Supplier*), for

[Insert details of the *goods* and *services* from the Contract Data] (the *goods* and *services*).

I/We the undersigned

on behalf of the *Supplier's*
parent company (name)

of physical address

and duly authorised thereto do hereby unconditionally guarantee to the *Purchaser* that the *Supplier* shall Provide the Goods and Services in accordance with the above numbered Contract.

1. If for any reason the *Supplier* fails to Provide the Goods and Services, we hereby agree to cause to Provide the Goods and Services at no additional cost to the *Purchaser*.
2. If we fail to comply with the terms of this Deed of Guarantee, the *Purchaser* may itself procure such performance (whether or not the Agreement be formally determined). The *Purchaser* is to notify us and we shall indemnify the *Purchaser* for any additional cost or expense it incurs.
3. Our liability shall be as primary obligor and not merely as surety and shall not be impaired or discharged by reason of any arrangement or change in relationship made between the *Supplier* and the *Purchaser* and/or between us and *Supplier*, nor any alteration in the obligations undertaken by the *Supplier* or in the terms of the Agreement; nor any indulgence, failure, delay by you as to any matter; nor any dissolution or liquidation or such other analogous event of the *Supplier*.
4. The *Purchaser* shall not be obliged before taking steps to enforce the terms of this Deed of Guarantee to obtain judgement against the *Supplier* in any court or other tribunal, to make or file any claim in liquidation (or analogous proceedings) or to seek any remedy or proceed first against the *Supplier*.
5. This Deed of Guarantee shall be governed by and construed in accordance with the laws of the Republic of South Africa and we hereby submit to the non-exclusive jurisdiction of the High Court of South Africa.

Signed at _____ on this _____ day of _____ 20__

Signature(s)

Name(s) (printed)

Position in parent company

Signature of Witness(s)

Name(s) (printed)

Pro forma Performance Bond – Demand Guarantee (for use with Option X13)

(to be reproduced exactly as shown below on the letterhead of the Bank providing the Bond / Guarantee)

Eskom Holdings SOC Ltd
Megawatt Park
Maxwell Drive
Sandton
Johannesburg

Bank reference No.

Date:

Dear Sirs,

Performance Bond – Demand Guarantee for [insert name of *Supplier*] required in terms of contract [insert *Supplier's* contract reference number or title]

1. In this Guarantee the following words and expressions shall have the following meanings:-

1.1	“Bank” means	[Insert name of Bank], [●] Branch, Registration No. [●]
1.2	“Bank’s Address” means	[Insert physical address of Bank]
1.3	“Contract” means	the written agreement relating to providing the <i>goods</i> and <i>services</i> , entered into between the <i>Purchaser</i> and the <i>Supplier</i> , on or about the [●] day of [●] 200[●] (Contract Reference No. [●]) as amended, varied, restated, novated or substituted from time to time;
1.4	“ <i>Supplier</i> ” means	[●] a company registered in accordance with the laws of [●] under Registration No [●].
1.5	“ <i>Purchaser</i> ” means	Eskom Holdings SOC Ltd a company registered in accordance with the laws of the Republic of South Africa under Registration Number [●]
1.6	“Expiry Date” means	the earlier of <ul style="list-style-type: none"> • the date that the Bank receives a notice from the <i>Purchaser</i> stating that all amounts due from the <i>Supplier</i> as certified in terms of the contract have been received by the <i>Purchaser</i> and that the <i>Supplier</i> has fulfilled all his obligations under the Contract, or • the date that the Bank issues a replacement Bond for such lesser or higher amount as may be required by the <i>Purchaser</i>.
1.7	“Guaranteed Sum” means	the sum of R[●], ([●] Rand)
1.8	“ <i>goods</i> and <i>services</i> ” means	[insert details from Contract Data part 1]

2. At the instance of the *Supplier*, we the undersigned _____ and _____, in our respective capacities as _____ and _____ of the Bank, and duly authorized thereto, confirm that we hold the Guaranteed Sum at the disposal of the *Purchaser* as security for the proper performance by the *Supplier* of all of its obligations in terms of and arising from the Contract and hereby undertake to pay to the *Purchaser*, on written demand from the *Purchaser* received prior to the Expiry Date, any sum or sums not exceeding in total the Guaranteed Sum.

3. A demand for payment under this guarantee shall be made in writing at the Bank’s address and shall:

- be signed on behalf of the *Purchaser* by a Group Executive, Divisional Executive, Senior General Manager, General Manager or its delegate;
- state the amount claimed (“the Demand Amount”);

- state that the Demand Amount is payable to the *Purchaser* in the circumstances contemplated in the Contract.
4. Notwithstanding the reference herein to the Contract the liability of the Bank in terms hereof is as principal and not as surety and the Bank's obligation/s to make payment:
- is and shall be absolute provided demand is made in terms of this bond in all circumstances; and
 - is not, and shall not be construed to be, accessory or collateral on any basis whatsoever.
5. The Bank's obligations in terms of this Guarantee:
- shall be restricted to the payment of money only and shall be limited to the maximum of the Guaranteed Sum; and
 - shall not be discharged and compliance with any demand for payment received by the Bank in terms hereof shall not be delayed, by the fact that a dispute may exist between the *Purchaser* and the *Supplier*.
6. The *Purchaser* shall be entitled to arrange its affairs with the *Supplier* in any manner which it sees fit, without advising us and without affecting our liability under this Guarantee. This includes, without limitation, any extensions, indulgences, release or compromise granted to the *Supplier* or any variation under or to the Contract.
7. Should the *Purchaser* cede its rights against the *Supplier* to a third party where such cession is permitted under the Contract, then the *Purchaser* shall be entitled to cede to such third party the rights of the *Purchaser* under this Guarantee on written notification to the Bank of such cession.
8. This Guarantee:
- shall expire on the Expiry Date until which time it is irrevocable;
 - is, save as provided for in 7 above, personal to the *Purchaser* and is neither negotiable nor transferable;
 - shall be returned to the Bank upon the earlier of payment of the full Guaranteed Sum or expiry hereof;
 - shall be regarded as a liquid document for the purpose of obtaining a court order; and
 - shall be governed by and construed in accordance with the law of the Republic of South Africa and shall be subject to the jurisdiction of the Courts of the Republic of South Africa.
 - will be invalid and unenforceable if any claim which arises or demand for payment is received after the Expiry Date.
9. The Bank chooses domicilium citandi et executandi for all purposes in connection with this Guarantee at the Bank's Address.

Signed at _____ on this _____ day of _____ 20__

For and on behalf of the Bank

Bank Signatories(s)

Name(s) (printed)

Witness(s)

Bank's seal or stamp

Pro forma Advanced Payment Bond (for use with Option X14)
(to be reproduced exactly as shown below on the letterhead of the Bank providing the Bond)

Eskom Holdings SOC Ltd
Megawatt Park
Maxwell Drive
Sandton
Johannesburg

Bank ref no. [●]

Date: [●]

Dear Sirs,

Advanced Payment Bond for Contract No. [●]

With reference to the above numbered contract made or to be made between

Eskom Holdings SOC Ltd (the *Purchaser*) and
{Insert registered name and address of the *Supplier*} (the *Supplier*), for
{Insert details of the *goods and services* from the Contract Data} (the *goods and services*).

I/We the undersigned [●]
on behalf of the Surety [●]
of physical address [●]

and duly authorised thereto do hereby bind ourselves as Surety and co-principal debtors in solidum for the due and proper repayment by the *Supplier* to the *Purchaser* of the advanced payment made by the *Purchaser* to the *Supplier* under the Contract, and for all losses and expenses that may be suffered or incurred by the *Purchaser* as a result of non-payment by the *Supplier*, subject to the following conditions

1. The terms *Purchaser*, *Supplier*, and the *goods and services* have the meaning as assigned to them by the *conditions of contract* listed in the Contract Data for the aforesaid Contract.
2. We renounce all benefits from the legal exceptions "Benefit of Excussion and Division", "No value received" "Revision of Accounts", "Cession of Action" and any other exceptions which might or could be pleaded against the validity of this bond, with the meaning and effect of which exceptions we declare ourselves to be fully acquainted.
3. The *Purchaser* has the absolute right to arrange his affairs with the *Supplier* in any manner which the *Purchaser* deems fit and without being advised thereof the Surety shall not have the right to claim his release on account of any conduct alleged to be prejudicial to the Surety. Without derogating from the foregoing compromise, extension of the supply period, indulgence, release or variation of the *Supplier's* obligation shall not affect the validity of this Advance Payment bond.
4. This bond expires on the date when the Surety receives a notice from the *Supply Manager* stating that the advanced payment has been repaid to the *Purchaser* in terms of the Contract, or liquidated by deductions from other payments due to the *Supplier*.
5. The amount of the bond shall be payable to the *Purchaser* upon the *Purchaser's* demand and no later than 7 days following the submission to the Surety of a certificate signed by the *Supply Manager* stating the amount of the *Purchaser's* losses, damages and expenses incurred as a result of the non-performance aforesaid. The signed certificate shall be deemed to be conclusive proof of the extent of the *Purchaser's* loss, damage and expense.
6. Our total liability hereunder shall not exceed the sum of (R) which is equal to the advance payment.

7. This Advanced Payment Bond is neither negotiable nor transferable and is governed by the laws of the Republic of South Africa.

Signed at _____ on this _____ day of _____ 200_

Signature(s)	_____
Name(s) (printed)	_____
Position in Surety company	_____
Signature of Witness(s)	_____
Name(s) (printed)	_____

PART 2: PRICING DATA

NEC3 Supply Contract

Document reference	Title	No of pages
C2.1	Pricing assumptions	2
C2.2	The <i>price schedule</i>	[•]

C2.1 Pricing assumptions

How goods and services are priced and assessed for payment

Clause 11 in NEC3 Supply Contract, (SC3) core clauses states:

Identified and defined terms	11 11.2	(11) The Prices are the amounts stated in the amount column of the Price Schedule. Where a quantity is stated for an item in the Price Schedule, the Price is calculated by multiplying the quantity by the rate. (12) The Price Schedule is the <i>price schedule</i> unless later changed in accordance with this contract.
Assessing the amount due	50.2	The amount due is <ul style="list-style-type: none">the Price for each lump sum item in the Price Schedule which the <i>Supplier</i> has completed,where a quantity is stated for an item in the Price Schedule, an amount calculated by multiplying the quantity which the <i>Supplier</i> has completed by the rate,plus other amounts to be paid to the <i>Supplier</i>,less amounts to be paid by or retained from the <i>Supplier</i>. <p>Any tax which the law requires the <i>Purchaser</i> to pay to the <i>Supplier</i> is included in the amount due.</p>

This confirms that the Supply Contract is a priced contract where the Prices are derived from a list of items of *goods* and *services* which can be priced as lump sums or as expected quantities of *goods* and *services* multiplied by a rate, or a mix of both.

Function of the Price Schedule

Clause 53.1 states: "Information in the Price Schedule is not Goods Information". This confirms that instructions to do work or how it is to be done are not included in the Price Schedule but in the Goods Information. This is further confirmed by Clause 20.1 which states, "The *Supplier* Provides the Goods and Services in accordance with the Goods Information". Hence the *Supplier* does **not** Provide the Goods and Services in accordance with the Price Schedule. The Price Schedule is only a pricing document.

Preparing the *price schedule*

Items in the *price schedule* may have been inserted by the *Purchaser* and the tendering supplier should insert any additional items which he considers necessary. Whichever party provides the items in the *price schedule* the total of the Prices is assumed to be fully inclusive of everything necessary to Provide the Goods and Services as described at the time of entering into this contract.

It will be assumed that the tendering supplier has

- Read Pages 8, 11, 12 and Appendix 5 of the SC3 Guidance Notes before preparing the *price schedule*;
- Included in his Prices and rates for correction of Defects (core clause 43.1) as there is no compensation event for this unless the Defect is due to a *Supplier's* risk;
- Spread the cost of doing work he chooses not to list as separate items in the *price schedule* across other Prices and rates in order to fulfil the obligation to Provide the Goods and Services for the tendered total of the Prices;

- Understood that there is no adjustment to lump sum prices in the *price schedule* if the amount, or quantity, of work within that lump sum item later turns out to be different to that which the *Supplier* estimated at time of tender. The only basis for a change to the Prices is as a result of a compensation event per clause 60.1;
- Understood that the *Supplier* does not have to allow in his Prices and rates for matters that may arise as a result of a compensation event.

Format of the *price schedule*

Entries in the first four columns in the *price schedule* in section C2.2 are made either by the *Purchaser* or the tendering supplier.

If the *Supplier* is to be paid an amount for the item which is not adjusted if the quantity of work in the item changes, the tendering supplier enters the amount in the Price column only, the Unit, Quantity and Rate columns being left blank.

If the *Supplier* is to be paid an amount for the item which is the rate for the item multiplied by the quantity completed, the tendering *Supplier* enters the rate which is then multiplied by the Quantity to produce the Price, which is also entered.

If the *Supplier* is to be paid an amount for an item proportional to the length of time for which the *goods* and *services* are provided, a unit of time is stated in the Unit column and the length of time (as a quantity of the stated units of time) is stated in the Quantity column.

PART 3: SCOPE OF WORK

The supply and delivery of plastic bird perch diverters and stainless steel strap for various lines in the Central Grid

Document reference	Title	No of pages
	This cover page	1
C3.1	<i>Purchaser's Goods Information</i>	
C3.2	<i>Supplier's Goods Information</i>	
	Total number of pages	

C3.1: PURCHASER'S GOODS INFORMATION

Contents

Part 3: Scope of Work 2

C3.1: Purchaser's Goods Information iii

1	Overview and purpose of the <i>goods</i> and <i>services</i>	iv
2	Specification and description of the <i>goods</i>	v
2.1	<i>Purchaser's</i> design	vi
2.2	Procedure for submission and acceptance of <i>Supplier's</i> design	vi
2.3	Other requirements of the <i>Supplier's</i> design	vi
2.4	Use of <i>Supplier's</i> design	vi
2.5	Manufacture & fabrication	vi
2.6	Factory acceptance testing (FAT)	vi
2.7	Other tests and inspections and commissioning in place of use	vi
2.8	Operating manuals and maintenance schedules	ix
3	Supply Requirements	ix
4	Specification of the <i>services</i> to be provided	ix
5	Constraints on how the <i>Supplier</i> Provides the Goods	ix
5.1	Programming constraints	Error! Bookmark not defined.
5.2	Work to be done by the Delivery Date	Error! Bookmark not defined.
5.3	Marking the <i>goods</i>	x
5.4	Constraints at the delivery place and place of use	x
5.5	Cooperating with Others	x
5.6	Services & other things to be provided by the <i>Purchaser</i> or <i>Supplier</i>	x
5.7	Management meetings	x
5.8	Documentation control	xi
5.9	Health and safety risk management	xi
5.10	Environmental constraints and management	xi
5.11	Quality	xi
5.12	Invoicing and payment	xi
5.13	Insurance provided by the <i>Purchaser</i>	xii
5.14	Contract change management	xii
5.15	Provision of bonds and guarantees	xii
5.16	Records of Defined Cost, payments & assessments of compensation events to be kept by the <i>Supplier</i>	xii
6	Procurement	xii
6.1	Subcontracting	xii
6.1.1	Preferred subcontractors	xii
6.1.2	Limitations on subcontracting	xii
6.1.3	Spares and consumables	xii
6.1.4	Other requirements related to procurement	xii
6.1.5	Cataloguing requirements	xii
7	List of drawings	xiii
7.1	Drawings issued by the <i>Purchaser</i>	xiii
C3.2	<i>Supplier's</i> Goods Information	xiii

1 Overview and purpose of the goods and services

This project is justified as an important requirement. Transmission lines faults have been identified as one of the key factors that affect the overall performance of transmission lines. In 2010/11 bird faults contributed approximately 45% (348) of the total number of line faults experienced in the Transmission network. They are one of the significant contributors to System Minute losses, in the event of trip & lock-outs. Improvement of line performance has been identified as one of the key objectives of the performance operational excellence (OE) stream, driven by the Group Executive hence this project to install plastic bird perch diverters.

These lines were divided into two (2) types of categories; namely poor performing and un-firm lines.

Line Name	No of Towers	QTY-B/guards	QTY-Steel straps	Resp. person	SS Name (Storage)	SS Co-ordinate
NWG BIRD GUARDS BG3 Mercury – Midas 1 400 kV	103	6120	18360	Ramasela Teffo	Pluto Substation	Latitude -26.217258 Longitude 27.455615
NWG BIRD GUARDS BG3 Pluto-Thuso 1 400 Kv	85	4800	14400	Ramasela Teffo	Pluto Substation	Latitude -26.217258 Longitude 27.455615
NG BIRD GUARDS BG3 Acornhoek- Foskor 3 275 kV	113	6720	20160	Johanb De Beer	Foskor Substation	Latitude -24.0276510 Longitude 31.1264221
NG BIRD GUARDS BG3 Foskor – Merensky 1 275 kV	72	4260	12780	Johanb De Beer	Foskor Substation	Latitude -24.0276510 Longitude 31.1264221
NG BIRD GUARDS BG3 Medupi – Spikskop 3 400 kV	67	3240	9720	Johanb De Beer	Spitskop Substation	Latitude -24.967198, Longitude 27.230354

These plastic bird perch diverters and stainless steel straps to be supplied and delivered as per the packaging and specifications provided below under paragraph 2.1 and 2.2.

The bird perch diverter should be made of a plastic material that complies with the rapid aging, material composition, pull and drop tests. In addition, they should be 575mm tall and 1m long and have intermediate uprights spaced 80mm apart. They should alternate between tall uprights (500mm) and short uprights of 280mm, on a base of 75mm. The plastic wall thickness should be 2.5mm minimum and made of material that complies with the material composition requirements as stipulated in the specification in section 2.2 below. They should also not have sharp points that can cause harm to birds or other wildlife.

The fasteners must be made of stainless steel strap with a quick release mechanism. The dimensions of the stainless straps are 12mm x 0.75mm. The tenderer is required to supply a minimum of 3 x 600mm lengths of strap with each bird perch diverter.

The packaging should be done per line and labelled accordingly.

2 Specification and description of the goods

The bird perch diverter material and dimensions must comply with the following (Read in conjunction with Annex B, drawing 236-04-01):

- 1) The bird perch diverter unit shall consist of a base and two types of verticals.
- 2) The main vertical shall be 500 mm high spaced at 160 mm apart.
- 3) The other vertical shall be a minimum of 280 mm high, to be installed between each two main verticals, but should not exceed the height of the main vertical.
- 4) The gaps between verticals must be between 40 mm and 60 mm.
- 5) The wall thickness of each component shall be not less than 2.5 mm.
- 6) The verticals must be securely attached/moulded to the base and not be removable. Gluing of the HDPE components is prohibited (Eskom reserve the right to approve manufacturing process).
- 7) The cross-section of the base shall measure 40x75 mm (W x H).
- 8) The installed device should have a life span of minimum 15 years
- 9) The bird perch diverter must be made of a non-conductive material
- 10) The raw materials used by the manufacturer of bird perch diverters should be sourced from a reputable supplier who shall issue a guarantee with regards to:
 - The chemical composition of the materials (DOW HDPE M5010 or equivalent)
 - The additives for ensuring suitable life of the product and estimated life.
 - (The Ciba stabilizing system consisting of 2% minimum level of pigment type carbon black, Irganox B225 @ 0,1% and Tinuvin T783 @ 0,4% or equivalent should be used. Eskom will have to approve the stabilizing system before production starts.)
 - the proper blending of the raw material with UV inhibitors and other additives, that they supply. The manufacturing process that is followed must be sanctioned by the manufacturer to ensure quality of the product. This includes the adding of any non-virgin material. Not more than 10% of own reground material will be permitted.
- 11) All devices shall carry a batch number and date. Eskom must be able to determine the materials used for the manufacture of the particular batch. With every batch delivered the manufacturer shall supply a certificate of compliance with material quality and mechanical properties.
- 12) The units shall be able to withstand exposure to wide range of temperatures (-5 to 50 °C) and a continuous exposure to UV radiation.
- 13) Rapid aging and other tests will be required that will indicate the specific properties of the device. Refer to 3.2.1 below.
The device should be mechanically sound.
- 14) Deterioration of bird perch diverters should be tracked and observed by doing visual inspections and bent the bird perch diverter (The verticals should not break when bent by hand through an angle of 90 degrees) during routine line maintenance/audits. See Figures 3.1 and 3.2.
- 15) The 1m bird perch diverter unit must withstand a drop from a height of 30 m on concrete without cracking or coming apart. Refer to 3.2.2 below.
- 16) The bird perch diverters should be self-draining and not able to trap water inside the device.
- 17) The bird perch diverter design illustrated in drawings: 236-04-01 (Annex B) must be considered as the most preferred offer.
- 18) A stainless steel (304 grades) strap is the preferred fastening method for the bird perch diverter. It is also preferred if the fasteners have a quick release mechanism that can be reused during maintenance. Three (3) 600 mm long fasteners must be supplied with each bird perch diverter.
- 19) The strap must have a minimum width and thickness of 12 x 0.75mm respectively (3 x 600mm long, straps supplied with each 1m bird perch diverter).
- 20) The bird perch diverters must be designed to ensure that it will not purposefully harm any birds/wildlife.

21) Unannounced, random samples of the materials may be taken during manufacturing for testing. Contracts will be terminated with any supplier that does not comply with the quality standards.

The plastic bird perch diverters and straps should be manufactured according to the **Plastic Bird Perch Diverter And Stainless Steel Strap specification: Document Number 240-147885960 Rev 2.**

2.1 *Purchaser's design*

- The Suppliers product/design must match the design stipulated in the **Plastic Bird Perch Diverter And Stainless Steel Strap specification: Document Number 240-147885960 Rev 2.**
- Any deviation from the specification must be accompanied by a deviation form.

2.2 *Procedure for submission and acceptance of Supplier's design*

- Detailed design drawings must be submitted by *Supplier* (in AutoCAD format) for evaluation before manufacturing.
- Suppliers' design and all Intellectual Property (IP) used in this project will become Eskom Holdings SOC Ltd Intellectual Property (IP)

2.3 *Other requirements of the Supplier's design*

Not Applicable

2.4 *Use of Supplier's design*

- All requirements pertaining the *goods* are documented in the **Plastic Bird Perch Diverter And Stainless Steel Strap specification: Document Number 240-147885960 Rev 2**
- Any and all IP associated with the plastic bird perch diverters specification and the designs relating thereto will be assigned and the IP will belong to Eskom Holding SOC Ltd.

2.5 *Manufacture & fabrication*

The plastic bird perch diverters and straps should be manufactured according to the **Plastic Bird Perch Diverter And Stainless Steel Strap specification: Document Number 240-147885960 Rev 2.** Any deviations to the specification must be accompanied with a deviation form and to be approved by Eskom.

2.6 *Factory acceptance testing (FAT)*

Type tests and batch testing must be conducted on the products. These tests will be conducted on samples chosen from each batch (batch number shall be on the plastic bird perch diverters as per the specification). Test certificates must be provided as per **Plastic Bird Perch Diverter And Stainless Steel Strap specification: Document Number 240-147885960 Rev 2.**

2.7 *Other tests and inspections and commissioning in place of use*

All additional test and inspection criteria are documented in the **Plastic Bird Perch Diverter And Stainless Steel Strap specification: Document Number 240-147885960 Rev 2.**

Table of testing requirements:

	Test	Requirement	Deviation
1	Rapid aging test	Provide test certificate during tender stage. If tests are not submitted as requested, automatic disqualification at that stage.	None
2	Material composition	Provide test certificate during tender stage. If tests are not submitted as requested, automatic disqualification at that stage.	None
3	Strength test for straps and buckles	Provide supplier details and technical data sheets for straps and buckles. Test certificates to be provided at tender stage.	None
4	Pull test	Provide test certificate during tender stage. If tests are not submitted as requested, automatic disqualification at that stage.	None
5	Drop test	Provide test certificate during tender stage. If tests are not submitted as requested, automatic disqualification at that stage.	None
6	Visual and dimensional	Dimensions of device as well as fasteners as per Section 3.1 and drawings in Annex B. Compliance to be indicated in schedule A/B on Annex A. To be provided at tender stage.	None

2.7.1 Rapid aging and material composition tests

The supplier must provide valid test certificates from an independent accredited test facility. The following test certificates must be provided with the tender submission for both the bird perch diverter as well as the fasteners:

The supplier must provide valid test certificates from an independent accredited test facility. The following test certificates must be provided with the tender submission for both the bird perch diverter as well as the fasteners:

- **Rapid aging of bird perch diverter material indicating estimated lifespan of material.** Typical tests/standards are listed below:
 - DSC (Differential scanning calorimetry) testing to establish melting points of materials according to ASTM practice E794
 - Laboratory accelerated ageing using Xeon Arc and wetting cycles according to ASTM D2565 cycle 2
 - Outcomes of tests must be interpreted and must include an estimated lifespan of material exceeding 15 years. This assumption must be supported by quantifying the amount of TIN 783 UV stabiliser found in the material during material composition testing.

- **Material composition.** Typical tests/standards are listed below:
 - Chemical analysis to indicate composition of material as well as stainless steel grade. This must then correspond with the composition of 304 Grade stainless steel composition as specified in EN10088-2. Strapping manufacturer details and datasheet is also acceptable.
 - HPLC (High-performance liquid chromatography) tests to identify stabilisers in material according to ASTM D6953 , D5815, D1996 and D6042 standards

- FTIR (Fourier Transform Infrared Spectroscopy) test according to ASTM D5576-00 standard and ASTM Practice E1252 to verify polymer type used for the device. HDPE is required for this device.
- TGA (Thermogravimetric analysis) test according to ASTM D3418 standard to give an indication of the amount of filler present in the material. Must comply with section 3, point 11 above.
- **Strength tests.** Typical tests/standards are listed below:
 - Fasteners/strapping tensile strength/pull test recommended. Recommended standard is ASTM A370-06. The material strength must comply with 304-grade stainless steel strength specified in EN10088-2. Manufacturer details and datasheet is also acceptable.
 - Bird perch diverter pull test

The device must be fastened to an angle iron with the relevant fasteners provided by the supplier (close as possible to field conditions). The device must be pulled in the transverse direction (Horizontal as per Figure 3-1) and the longitudinal (Figure 3-2) at the tip of the taller verticals until it is bent past a 90° angle.

Thereafter the device has to be assessed for deflection and/or breakage. After an hour of the load being released, the amount of permanent deflection must also be noted. The permanent deflection must be rectifiable by hand. A test report must be provided by the supplier/manufacturer as per requirements in table 1, point 3.2.

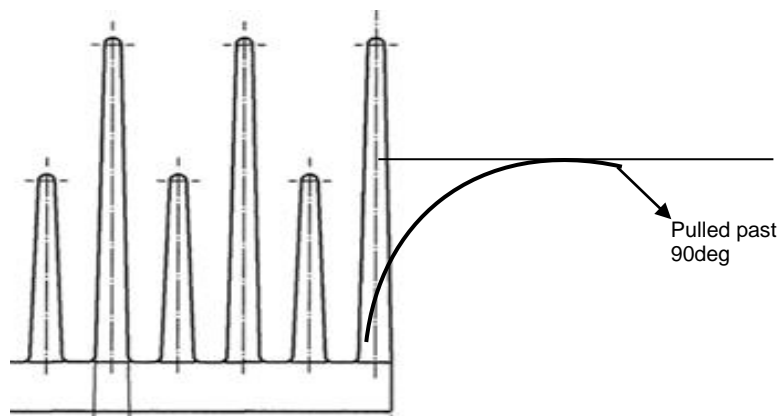


Figure 2-1: Bird perch diverter transverse pull test

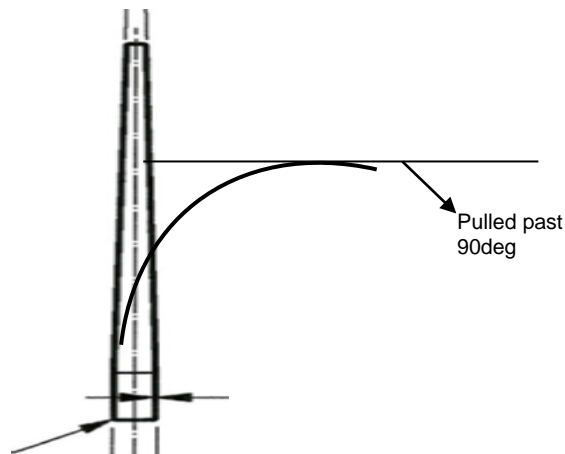


Figure 2-2: Bird perch diverter longitudinal pull test

2.7.2 Drop test

The device must withstand a drop from a height of 30m onto concrete. The sample must thereafter be assessed for any signs of cracking, breakage and/or deformation. A test report must be provided by the supplier/manufacturer as per requirements in table 1, point 3.2.

Visual inspection and measurements

Eskom reserves the right to verify the material and dimensions of the product at supply stage via a visual inspection. The dimensions and tolerances must be verified against the drawings provided in Appendix B of this document. The visual inspection must also assess the following:

- Rigidity of the sample: Does the vertical spikes bend by hand through 90 degrees, and if they do, can the permanent deflection be rectified by hand.
- Are there any defects in the material (bubbling, cracking, discoloration etc.)
- Verify whether device and fastener conform to the general requirements set out in Section 3 above.

2.8 Operating manuals and maintenance schedules

The supplier to provide operating and installation manual, maintenance schedules, Warrantee and Guarantee certificate at the delivery of the Goods. All Intellectual Property associated with the operating manuals and maintenance schedules shall be assigned to Eskom.

3 Supply Requirements

The Supply Requirements for this contract are in an Annexure A to the Contract Data provided by the Purchaser.

4 Specification of the services to be provided

The Supplier to deliver goods to various Eskom Sites in the Central Grid. Confirmation of delivery to be communicated 5 days prior to the Project Manager first before any delivery. Quality checks to be done on delivery before goods acceptance.

5 Constraints on how the Supplier Provides the Goods

5.1 Work to be done by the Delivery Date

Goods to be delivered directly to various sites as indicated and to be offloaded and packed in the designated area allocated by Eskom Engineering Assistant. Quality inspection will be done before acceptance of goods and no damaged wrapping will be accepted. The goods i.e plastic bird perch diverters and stainless steel straps must be packaged as indicated below for ease of installation process and in batches of not more than 500 quantities.

Line Name	No of Towers	QTY-B/guards	QTY-Steel straps
NWG BIRD GUARDS BG3 Mercury – Midas 1 400 kV	103	6120	18360
NWG BIRD GUARDS BG3 Pluto-Thuso 1 400 Kv	85	4800	14400
NG BIRD GUARDS BG3 Acornhoek-Foskor 3 275 kV	113	6720	20160
NG BIRD GUARDS BG3 Foskor – Merensky 1 275 kV	72	4260	12780
NG BIRD GUARDS BG3 Medupi – Spikskop 3 400 kV	67	3240	9720
TOTAL	440	25140	75420

5.2 Marking the goods

All goods produced must be marked with a batch number and date to identify materials and also for quality purposes.

5.3 Constraints at the delivery place and place of use

The goods to be delivered at various sites during Eskom working hours. Eskom working hours is Monday to Friday from 07:30 to 16:00. Prior arrangements to be made three days before actual delivery.

5.4 Cooperating with Others

Entry on site is governed by Eskom Engineering Assistance. The site security will be used to control access in and out at various Eskom sites. When delivering, the Supplier shall adhere to all regulation given and have issue proof of identification before entering site.

5.5 Services & other things to be provided by the Purchaser or Supplier

Not Applicable

5.6 Management meetings

Regular meetings of a general nature may be convened and chaired by the *Supply Manager* as follows:

Title and purpose	Approximate time & interval	Location	Attendance by:
Risk register and compensation events	As and when Required	Suppliers premises	Purchaser, Supplier
Overall contract progress and feedback	As and when Required	Suppliers premises	<i>Purchaser, Supplier</i>

Meetings of a specialist nature may be convened as specified elsewhere in this Goods Information or if not so specified by persons and at times and locations to suit the Parties, the nature and the progress of the manufacture of the *goods*. Records of these meetings shall be submitted to the *Supply Manager* by the person convening the meeting within five days of the meeting.

All meetings shall be recorded using minutes or a register prepared and circulated by the person who convened the meeting. Such minutes or register shall not be used for the purpose of confirming actions or instructions under the contract as these shall be done separately by the person identified in the *conditions of contract* to carry out such actions or instructions.

5.7 Documentation control

All contractual communications will be in the form of properly compiled letters or forms attached to e-mails and not as a message in the e-mail itself. Purchase order number to be quoted in all communication documents. All documentation including installation manuals to be handed over to the Purchaser Manager who will then distribute accordingly.

All documentation handed to the Purchaser Manager to be recorded in the document register and signed by both parties.

5.8 Health and safety risk management

The Supplier shall comply with the health and safety requirements Health & Safety Act No. 85 of 1993 and Eskom's Health and Safety Requirements 32-727, SHE Specification and all other related Eskom and Construction Regulations.

5.9 Environmental constraints and management

The Supplier shall comply with the environmental requirements as stipulated in the project EMP's (environmental management plan) and the environmental requirements of TST 41-120 (.Environmental Requirements for the Procurement of Assets, Goods and Services). The contractor must also comply with the following environmental procedures:

- EPC32-727: Eskom SHEQ Policy
- ST32-726 - SHE Requirements for the Eskom Commercial Process for additional requirements or co-operate projects

Packaging Material must adhere to Eskom Safety, Health, Environment and Quality Policy 32-727.

5.10 Quality

Refer to QM-58 Specification (Supplier Contract Quality Requirements)

Refer to ISO 9001-2008 Standard (Quality Management System Requirements)

5.11 Invoicing and payment

Within one week of receiving a payment certificate from the Supply Manager in terms of core clause 51.1, the Supplier provides the Purchaser with a tax invoice showing the amount due for payment equal to that stated in the Supply Manager's certificate.

The Supplier shall address the tax invoice to

Eskom Holdings SOC Ltd Transmission Finance
PO Box 31809
Braamfontein
2017

The Supplier shall address the tax invoice to Purchaser and include on each invoice the following information:

- Name and address of the Supplier and the Supply Manager;
- The contract number and title;
- Supplier's VAT registration number;
- The Purchaser's VAT registration number.
- Description of goods and services provided for each item invoiced based on the Price Schedule;
- Total amount invoiced excluding VAT, the VAT and the invoiced amount including VAT;
- (add other as required)

The invoices to be submitted electronically to Invoiceseskomlocal@eskom.co.za

5.12 Insurance provided by the *Purchaser*

As stated in Format A

5.13 Contract change management

Not Applicable

5.14 Provision of bonds and guarantees

The form in which a bond or guarantee required by the *conditions of contract* (if any) is to be provided by the *Supplier* is given in Part 1 Agreements and Contract Data, document C1.3, Sureties.

The *Purchaser* may withhold payment of amounts due to the *Supplier* until the bond or guarantee required in terms of this contract has been received and accepted by the person notified to the *Supplier* by the *Supply Manager* to receive and accept such bond or guarantee. Such withholding of payment due to the *Supplier* does not affect the *Purchaser's* right to termination stated in this contract.

5.15 Records of Defined Cost, payments & assessments of compensation events to be kept by the *Supplier*

Supplier is required to keep all records

6 Procurement

6.1 Subcontracting

6.1.1 Preferred subcontractors

Contractor cannot sub-contract more than 25% of the contract. All sub-contractors shall be approved by Eskom Holdings SOC Ltd.

6.1.2 Limitations on subcontracting

Contractor shall not subcontract more than 25% of whole contract value. All subcontractors to be approved by Eskom.

6.1.3 Spares and consumables

Not Applicable

6.1.4 Other requirements related to procurement

Other requirements such as ASGISA or socio political enhancements the *Supplier* is to provide as part of Providing the Goods and Services (if any) could be included here.

6.1.5 Cataloguing requirements by the *Supplier*

Requirements for cataloguing if any, to be referenced in consultation with Procurement Instruction Number 1 of 2018 – Incorporating Cataloguing into the Procurement Environment, Unique Identifier 240-1289988974.

7 List of drawings

7.1 Drawings issued by the Purchaser

Plastic bird perch diverters and stainless steel straps to be supplied in accordance with the specifications from the attached document below:

Drawing number	Revision	Title
240-147885960	2	Plastic Bird Perch Diverter and Stainless Steel Strap Specification
EPC32-727	6	Eskom SHEQ Policy
240-1066082683	2	SHEQ Requirements for Procurement and Supply Chain Processes in Eskom
QM-58_240-105658000	1	Supplier Contract Quality Requirements
ISO 9001-2008		Quality Management System Requirements
TPDMAN-ST-37 OR 240-113766234	2	Environmental Requirements for Contractors and/or Suppliers

C3.2 SUPPLIER'S GOODS INFORMATION

This section of the Goods Information will always be contract specific depending on the nature of the *goods* and *services*.

It is most likely to be required for supply contracts where the tendering supplier will have proposed specifications and schedules for the *goods* and *services*, which once accepted by the *Purchaser* prior to award of contract now become obligations of the *Supplier* per core clause 20.1.

This section could also be compiled as a separate file.