



## NEC3 Engineering and Construction

# Short Contract (ECSC3)

A contract between Eskom Holdings SOC Ltd (Reg No. 2002/015527/30)

and

for

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Documentation prepared by:

# C1 Agreements & Contract Data

## C1.1 Form of Offer and Acceptance

### Offer

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

### West Cooling Tower terrace maintenance project at Camden Power Station

The tenderer, identified in the signature block below, having examined the documents listed in the Tender Data and addenda thereto as listed in the Tender Schedules, and by submitting this Offer has accepted the Conditions of Tender.

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 Contractor 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	<b>R</b>
Value Added Tax @ 15% is	<b>R</b>
The offered total of the Prices inclusive of VAT is	<b>R</b>
(in words) [•]	

This Offer may be accepted by the Employer by signing the form of Acceptance overleaf 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 Contractor 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

Tenderer's CIDB registration number:

## Acceptance

By signing this part of this Form of Offer and Acceptance, the Employer identified below accepts the tenderer's Offer. In consideration thereof, the Employer shall pay the Contractor 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 Employer 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 1 Agreements and Contract Data, (which includes this Form of Offer and Acceptance)

Part 2 Pricing Data

Part 3 Scope of Work: Works Information

Part 4 Site Information

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 Tender Schedules as well as any changes to the terms of the Offer agreed by the tenderer and the Employer 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, which must be signed by the duly authorised representative(s) for both parties.

The tenderer shall within one week of receiving a completed copy of this Agreement, including the Schedule of Deviations (if any), contact the Employer'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 copy of this document, including the Schedule of Deviations (if any) together with all the terms of the contract as listed above.

Signature(s)

Name(s)

**Camden Power Station General  
Manager**

Capacity

**for the  
Employer**

**ESKOM HOLDINGS SOC LTD., Camden Power Station, Private Bag X1002, NUCAM, 2355**

Name &  
signature of  
witness

Date

Note: If a tenderer wishes to submit alternative tender offers, further copies of this document may be used for that purpose, duly endorsed, 'Alternative Tender No. \_\_\_\_\_'

## Schedule of Deviations

Note:

1. To be completed by the Employer prior to award of contract. 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 Employer 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 Employer 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 Employer 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:

Signature .....

Name .....

Capacity .....

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

Name & signature of witness .....

Date .....

### For the Employer

.....

**Camden Power Station General Manager**

**Eskom Holdings SOC LTD., Camden Power Station**

.....

.....

## C1.2 Contract Data

### Data provided by the *Employer*

Completion of the data in full is essential to create a complete contract.

Clause	Statement	Data
<b>General</b>		
10.1	The <i>Employer</i> is (Name):	<b>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</b>
	Address	<b>Camden Power Station, Private bag x1002, NUCAM, 2355</b>
10.1 & 14.4	The <i>Employer's</i> representative to whom the <i>Employer</i> in terms of clause 14.4 delegates his actions <sup>1</sup> is (Name):	<b>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</b>
	Address	<b>Camden Power Station, Private bag x1002, NUCAM, 2355</b>
	Tel No.	
	Fax No.	
	E-mail address	
11.2(11)	The <i>works</i> are	<b>West cooling towers terrace maintenance project at Camden power station</b>
11.2(13)	The Works Information is in	<b>the document called 'Works Information' in Part 3 of this contract.</b>
11.2(12)	The Site Information is in	<b>the document called 'Site Information' in Part 4 of this contract.</b>
11.2(12)	The <i>site</i> is	<b>Eskom Camden Power Station</b>
30.1	The <i>starting date</i> is.	<b>[•]</b>
11.2(2)	The <i>completion date</i> is.	<b>[•].</b>
13.2	The <i>period for reply</i> is	<b>1 weeks</b>
40	The <i>defects date</i> is	<b>2 weeks after Completion</b>
41.3	The <i>defect correction period</i> is	<b>2 weeks</b>
50.1	The <i>assessment day</i> is the	<b>25th of each month.</b>
50.5	The <i>delay damages</i> are	<b>2.5% per day</b>
50.6	The retention is	<b>5%</b>

<sup>1</sup> Except those actions which can only be done by the *Employer* as a Party to the contract.

51.2	The interest rate on late payment is	1 % [Insert a rate only if a rate less than 0.5% per week of delay has been agreed]
80.1	The <i>Contractor</i> is not liable to the <i>Employer</i> for loss of or damage to the <i>Employer's</i> property in excess of	the amount of the deductibles relevant to the event
	Does the United Kingdom Housing Grants, Construction and Regeneration Act (1996) apply?	No
93.1	The <i>Adjudicator</i> is	the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a> ). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).
	Address	[•]
	Tel No.	[•]
	Fax No.	[•]
	e-mail	[•]
93.2(2)	The <i>Adjudicator nominating body</i> is:	the Chairman of ICE-SA a joint Division of the South African Institution of Civil Engineering and the London Institution of Civil Engineers. (See <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a> ) or its successor body
93.4	The <i>tribunal</i> is:	arbitration.
	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.
	The place where arbitration is to be held is	[•] South Africa
	The person or organisation who will choose an arbitrator	
	- if the Parties cannot agree a choice or	
	- if the arbitration procedure does not state who selects an arbitrator, is	the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.
<b>The conditions of contract are the NEC3 Engineering and Construction Short Contract (April 2013)<sup>23</sup> and the following additional conditions Z1 to Z11 which always apply:</b>		

## **Z1 Cession delegation and assignment**

Z1.1 The *Contractor* does not cede, delegate or assign any of its rights or obligations to any person

<sup>2</sup> If June 2005 Edition applies, delete April 2013 and insert June 2005

<sup>3</sup> State whether attached as a 'PDF' file in terms of Eskom's licence, or to be obtained from Engineering Contract Strategies Tel 011 803 3008, Fax 086 539 1902 or [www.ecs.co.za](http://www.ecs.co.za).

without the written consent of the *Employer*.

- Z1.2 Notwithstanding the above, the *Employer* may on written notice to the *Contractor* 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 Change of Broad Based Black Economic Empowerment (B-BBEE) status**

- Z2.1 Where a change in the *Contractor's* legal status, ownership or any other change to his business composition or business dealings results in a change to the *Contractor's* B-BBEE status, the *Contractor* notifies the *Employer* within seven days of the change.
- Z2.2 The *Contractor* is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the *Employer* within thirty days of the notification or as otherwise instructed by the *Employer*.
- Z2.3 Where, as a result, the *Contractor's* B-BBEE status has decreased since the *starting date* the *Employer* may either re-negotiate this contract or alternatively, terminate the *Contractor's* obligation to Provide the Works.
- Z2.4 Failure by the *Contractor* to notify the *Employer* of a change in its B-BBEE status may constitute a reason for termination. If the *Employer* terminates in terms of this clause, the procedures on termination are those stated in Clause 91.1 and the amount due on termination includes amounts listed in Clause 92.1 less a deduction of the forecast additional cost to the *Employer* of completing the *works*.

## **Z3 Confidentiality**

- Z3.1 The *Contractor* does not disclose or make any information arising from or in connection with this contract available to others except where required by this contract. This undertaking does not, however, apply to information which at the time of disclosure or thereafter, without default on the part of the *Contractor*, enters the public domain or to information which was already in the possession of the *Contractor* at the time of disclosure (evidenced by written records in existence at that time). Should the *Contractor* disclose information to others where required by this contract the *Contractor* ensures that the provisions of this clause are complied with by the recipient.
- Z3.2 If the *Contractor* is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the *Employer*.
- Z3.3 In the event that the *Contractor* is, at any time, required by law to disclose any such information which is required to be kept confidential, the *Contractor*, to the extent permitted by law prior to disclosure, notifies the *Employer* 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 *Contractor* 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.
- Z3.4 The taking of images (whether photographs, video footage or otherwise) of the *works* or any portion thereof, in the course of Providing the Works and after Completion, requires the prior written consent of the *Employer*. All rights in and to all such images vests exclusively in the *Employer*.
- Z3.5 The *Contractor* ensures that all his subcontractors abide by the undertakings in this clause.

## **Z4 Waiver and estoppel: Add to clause 12.2:**

- Z4.1 Any extension, concession, waiver or relaxation of any action stated in this contract by the Parties or their delegates 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.

## **Z5 Health, safety and the environment**

- Z5.1 The *Contractor* undertakes to take all reasonable precautions to maintain the health and safety of persons in and about the execution of the *works*. Without limitation the *Contractor*:
- accepts that the *Employer* may appoint him as the "Principal Contractor" (as defined and provided for under the Construction Regulations 2014 (promulgated under the Occupational Health & Safety Act 85 of 1993) ("the Construction Regulations") for the Site;
  - warrants that the total of the Prices as at the Contract Date includes a sufficient amount for proper compliance with the Construction Regulations, 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 *works*; and
  - undertakes, in and about the execution of the *works*, to comply with the Construction Regulations and 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 *Contractor's* direction and control, likewise observe and comply with the foregoing.
- Z5.2 The *Contractor*, in and about the execution of the *works*, 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 *Contractor's* direction and control, likewise observe and comply with the foregoing.

## **Z6 Provision of a Tax Invoice and interest. Add to clause 50**

- Z6.1 The *Contractor* provides the *Employer* with a tax invoice in accordance with the *Employer's* procedures stated in the Works Information, showing the correctly assessed amount due for payment.
- Z6.2 If the *Contractor* does not provide a tax invoice in the form and by the time required by this contract, the time by when the *Employer* 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 *Employer* in terms of clause 51.2 is then calculated from the delayed date by when payment is to be made.
- Z6.3 The *Contractor* is required to comply with the requirements of the Value Added Tax Act, no 89 of 1991 (as amended) and to include the *Employer's* VAT number 4740101508 on each invoice he submits for payment.

## **Z7 Notifying compensation events**

- Z7.1 Delete from the last sentence in clause 61.1, "unless the event arises from an instruction of the *Employer*."

## **Z8 *Employer's* limitation of liability; Add to clause 80.1**

- Z8.1 The *Employer* liability to the *Contractor* for the *Contractor's* indirect or consequential loss is limited to R0.00 (zero Rand).

## **Z9 Termination: Add to clause 90.2, after the words "or its equivalent":**

- Z9.1 or had a business rescue order granted against it.



## **Z10        Addition to Clause 50.5**

- Z10.1 If the amount due for the *Contractor's* payment of *delay damages* reaches the limits stated in this Contract Data (if any), the *Employer* may terminate the *Contractor's* obligation to Provide the Works.

If the *Employer* terminates in terms of this clause, the procedures on termination are those stated in Clause 91.1 and the amount due on termination includes amounts listed in Clause 92.1 less a deduction of the forecast additional cost to the *Employer* of completing the *works*.

## **Z11        Ethics**

For the purposes of this Z-clause, the following definitions apply:

<b>Affected Party</b>	means, as the context requires, any party, irrespective of whether it is the <i>Contractor</i> or a third party, such party's employees, agents, or Subconsultants or Subcontractor's employees, or any one or more of all of these parties' relatives or friends,
<b>Coercive Action</b>	means to harm or threaten to harm, directly or indirectly, an Affected Party or the property of an Affected Party, or to otherwise influence or attempt to influence an Affected Party to act unlawfully or illegally,
<b>Collusive Action</b>	means where two or more parties co-operate to achieve an unlawful or illegal purpose, including to influence an Affected Party to act unlawfully or illegally,
<b>Committing Party</b>	means, as the context requires, the <i>Contractor</i> , or any member thereof in the case of a joint venture, or its employees, agents, or Subcontractors or the Subcontractor's employees,
<b>Corrupt Action</b>	means the offering, giving, taking, or soliciting, directly or indirectly, of a good or service to unlawfully or illegally influence the actions of an Affected Party,
<b>Fraudulent Action</b>	means any unlawfully or illegally intentional act or omission that misleads, or attempts to mislead, an Affected Party, in order to obtain a financial or other benefit or to avoid an obligation or incurring an obligation,
<b>Obstructive Action</b>	means a Committing Party unlawfully or illegally destroying, falsifying, altering or concealing information or making false statements to materially impede an investigation into allegations of Prohibited Action, and
<b>Prohibited Action</b>	means any one or more of a Coercive Action, Collusive Action Corrupt Action, Fraudulent Action or Obstructive Action.

- Z11.1 A Committing Party may not take any Prohibited Action during the course of the procurement of this contract or in execution thereof.
- Z11.2 The *Employer* may terminate the *Contractor's* obligation to Provide the Services if a Committing Party has taken such Prohibited Action and the *Contractor* did not take timely and appropriate action to prevent or remedy the situation, without limiting any other rights or remedies the *Employer* has. It is not required that the Committing Party had to have been found guilty, in court or in any other similar process, of such Prohibited Action before the *Employer* can terminate the *Contractor's* obligation to Provide the Services for this reason.
- Z11.3 If the *Employer* terminates the *Contractor's* obligation to Provide the Services for this reason, the amounts due on termination are those intended in core clauses 92.1 and 92.2.
- Z11.4 A Committing Party co-operates fully with any investigation pursuant to alleged Prohibited Action. Where the *Employer* does not have a contractual bond with the Committing Party, the *Contractor* ensures that the Committing Party co-operates fully with an investigation.

## Z12 Insurance

### Z \_12.1 Replace core clause 82 with the following:

#### Insurance cover 82

- 82.1 When requested by a Party, the other Party provides certificates from his insurer or broker stating that the insurances required by this contract are in force.
- 82.2 The *Contractor* provides the insurances stated in the Insurance Table A, from the *starting date* until the earlier of Completion and the date of the termination certificate.

**INSURANCE TABLE A**

Insurance against	Minimum amount of cover or minimum limit of indemnity	Cover provided until
Loss of or damage to the works	The replacement cost where not covered by the <i>Employer's</i> insurance  The <i>Employer's</i> policy deductible as at contract date, where covered by the <i>Employer's</i> insurance	The <i>Employer's</i> certificate of Completion has been issued
Loss of or damage to Equipment, Plant and Materials	The replacement cost where not covered by the <i>Employer's</i> insurance  The <i>Employer's</i> policy deductible as at contract date, where covered by the <i>Employer's</i> insurance	The Defects Certificate has been issued
The <i>Contractor's</i> liability for loss of or damage to property (except the works, Plant and Materials and Equipment) and for bodily injury to or death of a person (not an employee of the <i>Contractor</i> ) arising from or in connection with the <i>Contractor's</i> Providing the Works	<u>Loss of or damage to property</u> <u><i>Employer's</i> property</u> The replacement cost where not covered by the <i>Employer's</i> insurance  The <i>Employer's</i> policy deductible as at contract date where covered by the <i>Employer's</i> insurance	

	<u>Other property</u> The replacement cost  <u>Bodily injury to or death of a person</u> The amount required by the applicable law	
Liability for death of or bodily injury to employees of the <i>Contractor</i> arising out of and in the course of their employment in connection with this contract	The amount required by the applicable law	

82.3 The *Employer* provides the insurances as stated in the Insurance Table B

**INSURANCE TABLE B**

<b>Insurance against or name of policy</b>	<b>Minimum amount of cover or minimum of indemnity</b>
Assets All Risk	Per the insurance policy document
Contract Works insurance	Per the insurance policy document
Environmental Liability	Per the insurance policy document
General and Public Liability	Per the insurance policy document
Transportation (Marine)	Per the insurance policy document
Motor Fleet and Mobile Plant	Per the insurance policy document
Terrorism	Per the insurance policy document
Cyber Liability	Per the insurance policy document
Nuclear Material Damage and Business Interruption	Per the insurance policy document
Nuclear Material Damage Terrorism	Per the insurance policy document

### **Z13 Nuclear Liability**

Z13.1 The *Employer* is the operator of the Koeberg Nuclear Power Station (KNPS), a nuclear installation, as designated by the National Nuclear Regulator of the Republic of South Africa, and is the holder of a nuclear licence in respect of the KNPS.

Z13.2 The *Employer* is solely responsible for and indemnifies the *Contractor* or any other person against any and all liabilities which the *Contractor* or any person may incur arising out of or resulting from nuclear damage, as defined in Act 47 of 1999, save to the extent that any liabilities are incurred due to the unlawful intent of the *Contractor* or any other person or the presence of the *Contractor* or that person or any property of the *Contractor* or such person at or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.

Z13.3 Subject to clause Z13.4 below, the *Employer* waives all rights of recourse, arising from the

aforesaid, save to the extent that any claims arise or liability is incurred due or attributable to the unlawful intent of the *Contractor* or any other person, or the presence of the *Contractor* or that person or any property of the *Contractor* or such person at or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.

Z13.4 The *Employer* does not waive its rights provided for in section 30 (7) of Act 47 of 1999, or any replacement section dealing with the same subject matter.

Z13.5 The protection afforded by the provisions hereof shall be in effect until the KNPS is decommissioned.

## **Z14 Asbestos**

For the purposes of this Z-clause, the following definitions apply:

<b>AAIA</b>	means approved asbestos inspection authority.
<b>ACM</b>	means asbestos containing materials.
<b>AL</b>	means action level, i.e. a level of 50% of the OEL, i.e. 0.1 regulated asbestos fibres per ml of air measured over a 4 hour period. The value at which proactive actions is required in order to control asbestos exposure to prevent exceeding the OEL.
<b>Ambient Air</b>	means breathable air in area of work with specific reference to breathing zone, which is defined to be a virtual area within a radius of approximately 30cm from the nose inlet.
<b>Compliance Monitoring</b>	means compliance sampling used to assess whether or not the personal exposure of workers to regulated asbestos fibres is in compliance with the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.
<b>OEL</b>	means occupational exposure limit.
<b>Parallel Measurements</b>	means measurements performed in parallel, yet separately, to existing measurements to verify validity of results.
<b>Safe Levels</b>	means airborne asbestos exposure levels conforming to the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.
<b>Standard</b>	means the <i>Employer's</i> Asbestos Standard 32-303: Requirements for Safe Processing, Handling, Storing, Disposal and Phase-out of Asbestos and Asbestos Containing Material, Equipment and Articles.
<b>SANAS</b>	means the South African National Accreditation System.
<b>TWA</b>	means the average exposure, within a given workplace, to airborne asbestos fibres, normalised to the baseline of a 4 hour continuous period, also applicable to short term exposures, i.e. 10-minute TWA.

Z14.1 The *Employer* ensures that the Ambient Air in the area where the *Contractor* will Provide the Services conforms to the acceptable prescribed South African standard for asbestos, as per the regulations published in GNR 155 of 10 February 2002, under the Occupational Health and Safety Act, 1993 (Act 85 of 1993) ("Asbestos Regulations"). The OEL for asbestos is 0.2 regulated asbestos fibres per millilitre of air as a 4-hour TWA, averaged over any continuous period of four hours, and the short term exposure limit of 0.6 regulated asbestos fibres per millilitre of air as a 10-minute TWA, averaged over any 10 minutes, measured in accordance

with HSG248 and monitored according to HSG173 and OESSM.

- Z14.2 Upon written request by the *Contractor*, the *Employer* certifies that these conditions prevail. All measurements and reporting are effected by an independent, competent, and certified occupational hygiene inspection body, i.e. a SANAS accredited and Department of Employment and Labour approved AAIA. The *Contractor* may perform Parallel Measurements and related control measures at the *Contractor's* expense. For the purposes of compliance the results generated from Parallel Measurements are evaluated only against South African statutory limits as detailed in clause Z14.1. Control measures conform to the requirements stipulated in the AAIA-approved asbestos work plan.
- Z14.3 The *Employer* manages asbestos and ACM according to the Standard.
- Z14.4 In the event that any asbestos is identified while Providing the Services, a risk assessment is conducted and if so required, with reference to possible exposure to an airborne concentration of above the AL for asbestos, immediate control measures are implemented and relevant air monitoring conducted in order to declare the area safe.
- Z14.5 The *Contractor's* personnel are entitled to stop working and leave the contaminated area forthwith until such time that the area of concern is declared safe by either Compliance Monitoring or an AAIA approved control measure intervention, for example, per the emergency asbestos work plan, if applicable.
- Z14.6 The *Contractor* continues to Provide the Services, without additional control measures presented, on presentation of Safe Levels. The contractually agreed dates to Provide the Services, including the Completion Date, are adjusted accordingly. The contractually agreed dates are extended by the notification periods required by regulations 3 and 21 of the Asbestos Regulations, 2001.
- Z14.7 Any removal and disposal of asbestos, asbestos containing materials and waste, is done by a registered asbestos contractor, instructed by the *Employer* at the *Employer's* expense, and conducted in line with South African legislation.

## Data provided by the *Contractor* (the *Contractor's Offer*)

The tendering contractor is advised to read both the NEC3 Engineering and Construction Short Contract (April 2013) and the relevant parts of its Guidance Notes (ECSC3-GN)<sup>4</sup> in order to understand the implications of this Data which the tenderer is required to complete. An example of the completed Data is provided on page 31 of the ECSC3 April 2013 Guidance Notes.

Completion of the data in full is essential to create a complete contract.

10.1	The <i>Contractor</i> is (Name):	[•]
	Address	[•]
	Tel No.	[•]
	Fax No.	[•]
	E-mail address	[•]
63.2	The percentage for overheads and profit added to the Defined Cost for people is	[•]%
63.2	The percentage for overheads and profit added to other Defined Cost is	[•]%
11.2(9)	The Price List is in	the document called 'Price List' in Part 2 of this contract.
11.2(10)	The offered total of the Prices is [Enter the total of the Prices from the Price List]:	R[•] excluding VAT [in words] [•] excluding VAT

<sup>4</sup> Available from Engineering Contract Strategies Tel 011 803 3008, Fax 086 539 1902 or [www.ecs.co.za](http://www.ecs.co.za).

## C2 Pricing Data

### C2.1 Pricing assumptions

Entries in the first four columns in the Price List are made either by the *Employer* or the tendering contractor

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

If the *Contractor* is to be paid an amount for the item of work which is the rate for the work multiplied by the quantity completed, the tenderer enters the rate which is then multiplied by the expected quantity to produce the Price, which is also entered.

All Prices are to be shown excluding VAT unless instructed otherwise by the *Employer* in Tender Data or in an instruction the *Employer* has given before the tenderer enters his Prices.

If there is insufficient space in the Price List which follows, state in which document the Price List is contained.

## C2.2 Price List

The Price List is as follows / contained in \_\_\_\_\_ (delete the text which does not apply and this note)

[illegible]



# C3: Scope of Work

## 1 Works Information

### 1. Description of the *works*

Refer to the detailed scope attached.

### 1.2 Plant for which the service is required.

Refer to the detailed scope attached.

### 1.3 Works – Activities

Refer to the detailed scope attached.

Abbreviation	Explanation
CPS	Camden Power Station
ISO	International Organization for Standardization
OSH Act	Occupational Health and Safety Act
SANS	South African National Standards

## 2. Drawings

Drawing number	Revision	Title

## 3. Specifications

Title	Date or revision	Tick if publicly available
<b><u>General Specifications:</u></b>		
Health and Safety requirements		
Environmental requirements		
Site regulations and access control		

- |   |  |  |
|---|--|--|
| <ul style="list-style-type: none"> <li>• ISO 9001 Quality Management Systems</li> <li>• OHSACT</li> </ul> |  |  |
|   |  |  |
| <b><u>Technical specifications:</u></b>   |  |  |
| <ul style="list-style-type: none"> <li>•</li> </ul>   |  |  |

#### 4 Invoicing and payment

On a monthly basis assessment to be conducted and signed off by both (The *Consultant* & the *Employer*) and once assessment has been done payment against invoice will be made.

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

The *Contractor* shall address the tax invoice to  
Eskom Holdings SOC  
Finance Department  
Camden Power Station

and include on each invoice the following information:

- Name and address of the *Contractor* and the *Service Manager*;
- The contract number and title;
- *Contractor's* VAT registration number;
- The *Employer's* VAT registration number 4740101508;
- Description of service provided for each item invoiced based on the Price List;
- Total amount invoiced excluding VAT, the VAT and the invoiced amount including VAT;
- (add other as required)

#### 5 Records of Defined Cost to be kept by the *Contractor*

The contractor keeps accurate and complete books of accounts, records and other evidence relating to the Actual Costs. These are opened to audit. All documentation is kept by *Contractor* for a period of three years following completion of this contract. This information is kept up to date at all times and the *Service Manager* shall have access to them at any time.

### 6. HEALTH AND SAFETY, ENVIRONMENT AND QUALITY ASSURANCE

#### 6.1 Health and safety risk management

The contractor will comply with the following:

- Camden Power Station Health and Safety Standards as per Camden Power Station Contractors Safety manual. This manual will be handed over on contract award.
- Adhere to the Occupational Health and Safety Act 85 of 1993 with special reference to Section 44 of this act
- National Environmental Management Act 107 of 1998
- Mine Health and Safety Act 29 of 1996 (Where applicable)

- Eskom / Camden Policies and Procedures
- Compensation for Occupational Injuries and Diseases Act of 1993 (COID)
- All staff will undergo a one day Safety Induction training course one week before site occupation
- Adhere to Eskom and Camden Power Station's zero tolerance for non-compliance to any of Eskom's and/or Camden Power Station's safety rules and regulations
- Eskom Cardinal Rules:
  - Open, Isolate, Test, Earth, Bond and/or Insulate Before Touch
  - Hook up at Heights
  - Buckle Up
  - Be Sober
  - Ensure you have a permit to work

The Contractor must appoint Safety Representatives to assist but not limited to the following:

- Identify possible hazards, dangers and risks
- Eliminate potentially dangerous conditions and actions
- Ensure a safe working environment

Inspect and record findings of his workplace and submit a copy on a monthly basis to The Project Manager

The Project Manager shall be entitled to request the *Contractor* to stop work, without penalty to the *Employer*, when the Contractor's personnel fail to conform to acceptable health & safety standards or contravene the health and safety sections and regulations.

The Project Manager must be informed as soon as possible but not later than the end of the shift about any injury or damage of property or any equipment by means of a flash report.

The *Contractor* must perform job observations on critical tasks as identified and provide proof to the project manager.

## 6.2 Minimum SHE Documentation Required from the Contractor

The following minimum documents must be provided by the contractor in terms of Health, Safety and Environmental performance contract commencement.

- Letter of good standing with COID or a registered insurance body
- An Organ gram indicating the names of all persons that will hold legal appointments on the project in terms of the Act.
- The expected roles, responsibilities and authority of those who are proposed to receive legal appointments as well as their proof of competency.
- The resume'(s) of the proposed Safety Officer(s) and Environmental Officer(s) his/their roles, responsibilities and authority is required in terms of the scope of work.
- Proof of environmental, health and safety awareness training (provided by a recognized training body) for all employees required to perform work at Camden. The contractor shall be responsible to ensure that his employees are trained before commencing work at Camden. Proof of training provided, i.e. attendance registers and the training content, shall be submitted to the Eskom Agents and/or Environmental and Safety Officers for

approval before commencing work on-site. Failure to do so shall result in an immediate termination of the contract.

- The contractor's company Safety, Health and Environment policy.
- Provide an overview of the system/program that is utilized to manage Safety, Health and Environment.

## **7 PROCUREMENT**

### **7.1 People**

#### **7.1.1 Minimum requirements of people employed on this site**

The *Contractor's* Site Manager shall ensure that only qualified people will be allowed to work on plant. The *Service Manager* shall be entitled to verify the qualifications of the key people.

**Note:** The *Service Manager* and the *Contract Supervisor* must verify qualifications of all people that will be used for this contract

#### **7.1.2 Change of Broad Based Black Economic Empowerment (B-BBEE) Status**

Where a change in the *Contractor's* legal status, ownership or any other change to his/her business composition or business dealings results in a change to the *Contractor's* B-BBEE status, the *Contractor* notifies the *Employer* within Seven Days of the change.

The *Contractor* is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his/her B-BBEE status to the *Project Manager* within thirty days of the notification or as otherwise instructed by the *Project Manager*.

Where as a result, the *Contractor's* B-BBEE status has decreased since the Contract Date the *Employer* may either re-negotiate or alternatively terminate the *Contractor's* obligation to provide the works.

Failure by the *Contractor* to notify the *Employer* of a change in its B-BBEE status may constitute a reason for termination. If the *Employer* terminates in terms of this clause, the procedure on termination will apply.

#### **7.1.3 Supplier Development & Localisation (SD & L)**

The *Contractor* complies with and fulfils the *Contractor's* obligations in respect of the SD & L in accordance with and as provided for in the *Contractor's* SD & L compliance schedule stated below;

##### **SD&L initiative**

The *Contractor* shall keep accurate records and provide the *Project Manager* with the reports on the *Contractor's* actual delivery against the above stated SD & L criteria.

The *Contractor's* failure to comply with his/her SD & L obligations constitutes substantial failure on the part of the *Contractor* to comply with his/her obligation under this contract.

**2.5%** Supplier Development and Localization (SD&L) retention will be withheld over and above the normal contract retention. The retention money will be released once the SD&L commitments have been achieved at the end of the contract.

## **8 WORKING ON THE AFFECTED PROPERTY**

### **8.1 Security arrangements**

The *Contractor* applies for access permits (Contractor's permit) at the Security gate on the start date of the contract. The *Contractor* personnel shall be required to be in possession of an access permit at all times.

In order to assist Protection Services with the issuing of permits and the identification of personnel on site the successful *contractor* is to supply a list of all personnel that he intends using on site, at least 72 hours prior to entry of the Security Area.

This list must be delivered to Protection Services. The list, identified with the *Contractor's* name, is to contain the following information:

- Employee name
- Employee ID Number
- The *Employer's* Safety Coordinator's signature
- Copy of the ID book of every employee of the *Contractor*,

Access permits must be returned to protection services when the worker/s leave the site, either after completion of the *services*, or upon earlier termination of service of a worker during the contract period.

To speed up the process of gaining access to the site, the *Contractor* must compile detailed lists of all tools and equipment (including serial numbers where applicable) to be taken on site before arriving at the Power Station Security gate. An authorised copy of this list must be retained by the *contractor* - to be used again when the tools and equipment are removed from site after the completion of the *services*.

Any additional tools or equipment brought to site, or any tools or equipment removed during the contract period must be reported to protection services and all lists amended likewise. Gate release permits will not issue for the removal of any tools or equipment not specified on the tool list.

The *Contractor's* visitors and all personnel shall conform at all times to the security arrangements in force at the site. Application forms for visitors must be filled in by the *Contractor's* Site Manager and approved by the *Service Manager*, one day before the visit and submitted to the *Employer's* Protection Services office. Visitors will not be allowed on site if the necessary forms are not in the possession of the security staff.

The Chief of Protection Services may, with valid cause, remove any, of the *Contractor's* personnel from the site, either temporarily, or permanently. He may deny access to the site to any person whom, in the opinion of the said Chief of Protection Services, constitutes a security risk.

No unauthorised vehicles will be allowed on site. Only *Contractor's* Vehicles with displayed Contract Vehicle Permits disks will be allowed on site. Contract Vehicle Applications should be directed to the *Service Manager*.

No recruiting of casual labour may be done on the *Employer's* premises, including the area outside the Power Station Security Gate.

## 8.2 Fire Precautions

Any tampering with the *Employer's* fire equipment is strictly forbidden.

All exit doors, fire escape routes, walkways, stairways, stair landings and access to electrical distribution boards must be kept free of obstruction, and not be used for work or storage at any time. Fire-fighting equipment must remain accessible at all times.

In case of a fire, report the location and extent of the fire to the Electrical Operating Desk at extension 3471.

Take the necessary action to safe guard the area to prevent injury and spreading of the fire.

## 8.3 Reporting of accidents

The *Employer* follows an accident prevention policy that includes the investigation of all accidents involving personnel and property. This is done with the intention of introducing control measures to prevent a REOCCURRENCE of the same incidents. The *Contractor* is expected to fully co-operate to achieve this objective. The *Service Manager* must be informed immediately of any incidents and any damage to property or equipment must be reported within 12 hours.

NOTE! This report does not relieve the *Contractor* of his legal obligation to report certain incidents to the Department of Labour, or to keep records in terms of the Occupational Health and Safety Act, and Compensation for Occupational Injuries and Diseases Act.

## 8.4 Speed Limit

All vehicles must be driven with due consideration for personnel and property. A maximum speed limit of 40 kilometres per hour will be adhered to on the premises at all times.

## 8.5 Health and Safety Arrangements

The *Contractor* must ensure that all his personnel attend a Health and Safety Induction Course prior to starting with their work. The Induction Course can, on request, be provided by the *Employer* and will be valid for the duration of the *services*.

Safety Risk Management has the right and authority to visit and inspect the *Contractor's* workplace or site establishment to ensure that tools, machinery and equipment comply with the minimum safety requirements.

The *Service Manager* shall be entitled to instruct the *Contractor* to stop **work**, without penalty to the *Employer*, where the *Contractor's* personnel fail to conform to safety standards or contravene health and safety regulations. The *Service Manager* is entitled to call the *Contractor* to discipline his employees and to submit disciplinary action, and submit a report to the *Service Manager*. The *Contractor* shall implement additional health and safety precautions where necessary.

The Contractor will provide all his personnel with the required personal protective equipment.

Risk Assessments, Pre-Job Briefs, Post – Job Briefs & Job Observations will be conducted for all jobs.

All Construction Regulation - safety requirements should also be adhered to.

- Safety Plan
- Fall Protection Plan (repairing / replacing of conveying lines using scaffolding)
- 161 and 162 appointments

## **8.6 Health and safety facilities on the Affected Property**

### **8.6.1 Medical Facilities**

The *Contractor* provides a First Aid service to his employees. In the case where these prove to be inadequate, as in the event of a serious injury, the *Employer's* Medical Centre and facilities will be available.

Outside the *Employer's* office hours, the *Employer's* First Aid Services will only be available for serious injuries and life threatening situations.

The *Employer* shall be entitled, however, to recover the costs incurred, in the use of the above *Employer's* facilities, from the *Contractor*.

## **8.7 People restrictions, hours of work, conduct and records**

Lunch time is between 12:00 until 12:30, the *Contractor's* personnel working at the plant is expected to be on site until 12:00 then break for Lunch and back at 12:30 from lunch. Knock off time is 16:30.

## **8.8 Environmental controls, fauna & flora**

All work complies with relevant environmental regulations as required.

If the work includes some toxic and hazardous substances during normal and routine maintenance activities. In this case the *Contractor* uses such hazardous substances in accordance with the applicable regulations and procedures and is disposed off by the contractor in accordance with the applicable law.

## **8.9 Refuse Disposal**

The *Employer* will provide and empty special colour coded bins for refuse disposal but the contractor to ensure that hazardous waste is disposed as per scope of work.

The *Contractor* ensures that all workers under his control strictly adhere to the correct use of refuse bins:

For the full duration of the *services*, the *Contractor* is responsible to keep the work *area* clean of any rubble, and to place all refuse into the bins provided.

## **8.10 Records of *Contractor's* Equipment**

Contractors must keep records of Equipment on Site including whether it is owned or hired. The records will include calibration certificates etc.:

## 9 SITE SERVICES AND FACILITIES

### **Provided by the *Employer***

#### **Portable Water**

The contractor may utilize water points on Site.

#### **Electrical Power**

Contractor may utilise power on site.

#### **Sanitary Facilities**

Permanent facilities to serve the Power Station terrace are provided by the employer.

#### **Waste Removal**

Household waste removal to the bins, as provided on site by the employer, is the responsibility of the Contractor.

#### **Telecommunication**

Connections are available. The contractor applies via the Project Manager for a connection. Connection fees and calls are for the Contractor's account.

#### **Accommodation and catering**

The Contractor will be responsibility for the provision of accommodation to his personnel – the Employer does not provide accommodation.

The Contractor or any of his employees or subcontractors will be allowed to use the Employer's dining facilities.

The Contractor or any of his employees or subcontractors may also buy take away meals from the fast foods outlet on Site. Lunch time is from 12:00 to 12:30. The Contractor shall provide everything else necessary for providing the Works.