



NEC3 Engineering & Construction Contract

Between **NTCSA SOC Ltd**
(Reg No. 2021/539129/30)

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

for **Esselen 88 kV Emergence Bypass – Civil and
Stringing & Cabling Works**

Contents:

**No of
pages**

Part C1 Agreements & Contract Data

Part C2 Pricing Data

Part C3 Scope of Work

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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 *Employer*

C1.2b Contract Data provided by the *Contractor*

[to be inserted from Returnable Documents at award stage]

C1.3 Proforma Guarantees

C1.1 Form of Offer & Acceptance

Offer

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

Esselen 88 kV Emergence Bypass – Civil and Stringing & Cabling Works

The tenderer, identified in the Offer signature block, has examined the documents listed in the Tender Data and addenda thereto 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.

Options A B, C or D	The offered total of the Prices exclusive of VAT is	R [●]
	Sub total	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 Employer 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 *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 (if applicable)

¹ This total is required by the *Employer* 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 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 C1 Agreements and Contract Data, (which includes this Form of Offer and Acceptance)
- Part C2 Pricing Data
- Part C3 Scope of Work: Works Information
- Part C4 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 Returnable 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.

The tenderer shall within two weeks 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 original copy signed between them of this document, including the Schedule of Deviations (if any).

Unless the tenderer (now *Contractor*) within five working days of the date of such receipt notifies the Employer in writing of any reason why he cannot accept the contents of this agreement, this agreement shall constitute a binding contract between the Parties.

Signature(s)

Name(s) _____

Capacity _____

for the Employer

(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.

ESSELEN 88 KV EMERGENCE BYPASS – CIVIL AND STRINGING & CABLING WORKS

Schedule of Deviations to be completed by the *Employer* 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 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:

For the Employer

Signature _____

Name _____

Capacity _____

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

(Insert name and address of organisation)

Name & signature of witness _____

Date _____

C1.2 ECC3 Contract Data

Part one - Data provided by the *Employer*

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option	
	dispute resolution Option and secondary Options	B: Priced contract with bill of quantities W1: Dispute resolution procedure
		X1: Price adjustment for inflation X2: Changes in the law X7: Delay damages X13: Performance Bond X16: Retention X18: Limitation of liability
		Z: Additional conditions of contract
	of the NEC3 Engineering and Construction Contract, April 2013 (ECC3)	
10.1	The <i>Employer</i> is (Name):	NTCSA 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
10.1	The <i>Project Manager</i> is: (Name)	[•] TBA
	Address	[•]
	Tel	[•]
	Fax	[•]
	e-mail	[•]
10.1	The <i>Supervisor</i> is: (Name)	[•] TBA
	Address	[•]

Tel No. [•]

Fax No. [•]

e-mail [•]

11.2(13) The *works* are **The civil and stringing & cabling works for the Esselen 88kV Feeder Bay Emergency Bypass project at Esselen SS**

11.2(14) The following matters will be included in the Risk Register

Possibility of electrical shock (live yard) because of live cables, fires, mechanical related injuries such as trapping, entanglement, accidents, heavy duty machinery under busbars etc.

- Substance related risks such as noise, vibration, heat, sinkholes etc.
- Biological risks such as general infections, contaminated water, etc.
- Environmental risks such as water, air and waste.
- Furthermore, refer to the general baseline risk assessment register for a general overview of possible risks.

11.2(15) The *boundaries of the site* are Outside the HV Yard at Esselen Substation but within the substation boundary.

11.2(16) The Site Information is in **Part 4: Site Information**

11.2(19) The Works Information is in **Part 3: Scope of Work and all documents and drawings to which it makes reference.**

12.2 The *law of the contract* is the law of **the Republic of South Africa**

13.1 The *language of this contract* is **English**

13.3 The *period for reply* is **7 days**

2 The Contractor's main responsibilities

Data required by this section of the core clauses is provided by the Contractor in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data.

3 Time

11.2(3) The *completion date* for the whole of the *works* is **10 Dec 2026**

11.2(9)	The <i>key dates</i> and the <i>conditions</i> to be met are:	Condition to be met	key date
		1 Safety File approval	01 Feb 2026
		2 Material Delivery	30 May 2025
		3 Construction start	01 June 2026

30.1	The <i>access dates</i> are:	<table border="1"> <thead> <tr> <th>Part of the Site</th> <th>Date</th> </tr> </thead> <tbody> <tr> <td>1 Esselen Substation</td> <td>15 Jan 2026</td> </tr> <tr> <td>2 [•]</td> <td>[•]</td> </tr> </tbody> </table>	Part of the Site	Date	1 Esselen Substation	15 Jan 2026	2 [•]	[•]
Part of the Site	Date							
1 Esselen Substation	15 Jan 2026							
2 [•]	[•]							
31.1	The <i>Contractor</i> is to submit a first programme for acceptance within	2 weeks of the Contract Date.						
31.2	The <i>starting date</i> is	10 January 2026						
32.2	The <i>Contractor</i> submits revised programmes at intervals no longer than	1 weeks.						
35.1	The <i>Employer</i> is not willing to take over the <i>works</i> before the Completion Date.	[No data needed if this statement is included]						
4	Testing and Defects							
42.2	The <i>defects date</i> is	52 weeks after Completion of the whole of the works.						
43.2	The <i>defect correction period</i> is	2 weeks						
	except that the <i>defect correction period</i> for	Life threatening is 24 hours						
	and the <i>defect correction period</i> for	urgent is 1 week						
5	Payment							
50.1	The <i>assessment interval</i> is	between the 25th day of each successive month.						
51.1	The <i>currency of this contract</i> is the	South African Rand.						
51.2	The period within which payments are made is							
51.4	The <i>interest rate</i> is	<p>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</p> <p>(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 <i>mutatis mutandis</i> 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</p>						

appointment it shall not be necessary to prove.

6 Compensation events

60.1(13)	The place where weather is to be recorded is: The <i>weather measurements</i> to be recorded for each calendar month are, The <i>weather measurements</i> are supplied by The <i>weather data</i> are the records of past <i>weather measurements</i> for each calendar month which were recorded at: and which are available from:	on site at Esselen substation where the work is being executed the cumulative rainfall (mm) the number of days with rainfall more than 10 mm the number of days with minimum air temperature less than 0 degrees Celsius the number of days with snow lying at 09:00 hours South African Time and these measurements: South African Weather Bureau Esselen Substation the South African Weather Bureau and included in Annexure A to this Contract Data provided by the <i>Employer</i>
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60.1(13)	Assumed values for the ten year return <i>weather data</i> for each <i>weather measurement</i> for each calendar month are:	As stated in Annexure A to this Contract Data provided by the <i>Employer</i> . Note: If this arrangement is used, delete the rows above for 60.1(13) and delete this note.
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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.
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8 Risks and insurance

80.1	These are additional <i>Employer's</i> risks	1. As per the works information
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9	Termination	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.
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10 Data for main Option clause

A	Priced contract with activity schedule	There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.
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B	Priced contract with bill of quantities		
60.6	The <i>method of measurement</i> is	In accordance with the latest amendment to SANS 1200 and standard system of measuring builders work “6” addition issued by the Association of South African Quantity Surveyors and amended as stated in Part C2.1,	

11 Data for Option W1

W1.1	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 www.ice-sa.org.za). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).	
W1.2(3)	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 www.ice-sa.org.za) or its successor body.	
W1.4(2)	The <i>tribunal</i> is:	arbitration.	
W1.4(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.	
	The place where arbitration is to be held is	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		

12 Data for secondary Option clauses

X1	Price adjustment for inflation			
X1.1(a)	The <i>base date</i> for indices is	[•].		
X1.1(c)	The proportions used to calculate the Price Adjustment Factor are:	proportion	linked to index for	Index prepared by
		0. [•]	[•]	[•]
		0. [•]	[•]	[•]
		0. [•]	[•]	[•]
		0. [•]	[•]	[•]
		0. [•]	[•]	[•]
		[•]	non-adjustable	

Total 1.00

X2	Changes in the law	There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.
X7	Delay damages (but not if Option X5 is also used)	
X7.1	Delay damages for Completion of the whole of the <i>works</i> are	1% per day up to a limit of 10%
X13	Performance bond	
X13.1	The amount of the performance bond is	10% of the contract value
X16	Retention (not used with Option F)	
X16.1	The <i>retention free amount</i> is	R0.
	The <i>retention percentage</i> is	5% of the contract value
X18	Limitation of liability	
X18.1	The <i>Contractor's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to:	R0.0 (zero Rand)
X18.2	For any one event, the <i>Contractor's</i> liability to the <i>Employer</i> for loss of or damage to the <i>Employer's</i> property is limited to:	the amount of the deductibles relevant to the event
X18.3	The <i>Contractor's</i> liability for Defects due to his design which are not listed on the Defects Certificate is limited to	The greater of <ul style="list-style-type: none"> • the total of the Prices at the Contract Date and • the amounts excluded and unrecoverable from the <i>Employer's</i> assets policy for correcting the Defect (other than the resulting physical damage which is not excluded) plus the applicable deductible as at contract date.
X18.4	The <i>Contractor's</i> total liability to the <i>Employer</i> for all matters arising under or in connection with this contract, other than excluded matters, is limited to:	the total of the Prices other than for the additional excluded matters. The <i>Contractor's</i> total liability for the additional excluded matters is not limited. The additional excluded matters are amounts for which the <i>Contractor</i> is liable under this contract for <ul style="list-style-type: none"> • Defects due to his design which arise before the Defects Certificate is issued, • Defects due to manufacture and fabrication outside the Site, • loss of or damage to property (other than the <i>works</i>, Plant and Materials), • death of or injury to a person and • infringement of an intellectual property

		right.
X18.5	The <i>end of liability date</i> is	<p>(i) 7 years after the <i>defects date</i> for latent Defects and</p> <p>(ii) the date on which the liability in question prescribes in accordance with the Prescription Act No. 68 of 1969 (as amended or in terms of any replacement legislation) for any other matter.</p> <p>A latent Defect is a Defect which would not have been discovered on reasonable inspection by the <i>Employer</i> or the <i>Supervisor</i> before the <i>defects date</i>, without requiring any inspection not ordinarily carried out by the <i>Employer</i> or the <i>Supervisor</i> during that period. If the <i>Employer</i> or the <i>Supervisor</i> do undertake any inspection over and above the reasonable inspection, this does not place a greater responsibility on the <i>Employer</i> or the <i>Supervisor</i> to have discovered the Defect.</p>
Z	The <i>Additional conditions of contract</i> are	Z1 to Z15 always apply.
Z1	Cession delegation and assignment	
Z1.1	The <i>Contractor</i> does not cede, delegate or assign any of its rights or obligations to any person without the written consent of the <i>Employer</i> .	
Z1.2	Notwithstanding the above, the <i>Employer</i> may on written notice to the <i>Contractor</i> 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 <i>Contractor</i> 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 <i>Employer</i> for the performance of this contract.	
Z2.2	Unless already notified to the <i>Employer</i> , the persons or organisations notify the <i>Project Manager</i> within two weeks of the Contract Date of the key person who has the authority to bind the <i>Contractor</i> on their behalf.	
Z2.3	The <i>Contractor</i> does not alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without the consent of the <i>Employer</i> having been given to the <i>Contractor</i> in writing.	
Z3	Change of Broad Based Black Economic Empowerment (B-BBEE) status	
Z3.1	Where a change in the <i>Contractor's</i> legal status, ownership or any other change to his business composition or business dealings results in a change to the <i>Contractor's</i> B-BBEE status, the <i>Contractor</i> notifies the <i>Employer</i> within seven days of the change.	
Z3.2	The <i>Contractor</i> is required to submit an updated verification certificate and necessary	

supporting documentation confirming the change in his B-BBEE status to the *Project Manager* within thirty days of the notification or as otherwise instructed by the *Project Manager*.

- Z3.3 Where, as a result, the *Contractor's* B-BBEE status has decreased since the Contract Date the *Employer* may either re-negotiate this contract or alternatively, terminate the *Contractor's* obligation to Provide the Works.
- Z3.4 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 P1, P2 and P3 as stated in clause 92, and the amount due is A1 and A3 as stated in clause 93.

Z4 Confidentiality

- Z4.1 The *Contractor* 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 *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 in terms of clause 25.1, the *Contractor* ensures that the provisions of this clause are complied with by the recipient.
- Z4.2 If the *Contractor* is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the *Project Manager*.
- Z4.3 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.
- Z4.4 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 *Project Manager*. All rights in and to all such images vests exclusively in the *Employer*.
- Z4.5 The *Contractor* ensures that all his subcontractors abide by the undertakings in this clause.

Z5 Waiver and estoppel: Add to core clause 12.3:

- Z5.1 Any extension, concession, waiver or relaxation of any action stated in this contract by the Parties, the *Project Manager*, the *Supervisor*, 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.

Z6 Health, safety and the environment: Add to core clause 27.4

- Z6.1 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.

Z6.2 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.

Z7 • Provision of a Tax Invoice and interest. Add to core clause 51

Z7.1 Within one week of receiving a payment certificate from the *Project Manager* in terms of core clause 51.1, the *Contractor* provides the *Employer* with a tax invoice in accordance with the *Employer's* procedures stated in the Works Information, showing the amount due for payment equal to that stated in the payment certificate.

Z7.2 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 core clause 51.2 is then calculated from the delayed date by when payment is to be made.

Z7.3 The *Contractor* (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 *Employer's* VAT number 4740101508 on each invoice he submits for payment.

Z8 Notifying compensation events

Z8.1 Delete from the last sentence in core clause 61.3, "unless the *Project Manager* should have notified the event to the *Contractor* but did not".

Z9 *Employer's* limitation of liability

Z9.1 The *Employer's* liability to the *Contractor* for the *Contractor's* indirect or consequential loss is limited to R0.00 (zero Rand)

Z9.2 The *Contractor's* entitlement under the indemnity in 83.1 is provided for in 60.1(14) and the *Employer's* liability under the indemnity is limited.

Z10 Termination: Add to core clause 91.1, at the second main bullet point, fourth sub-bullet point, after the words "against it":

Z10.1 or had a business rescue order granted against it.

Z11 Addition to secondary Option X7 Delay damages (if applicable in this contract)

Z11.1 If the amount due for the *Contractor's* payment of delay damages reaches the limits stated in this Contract Data for Option X7 or Options X5 and X7 used together, the *Employer* may terminate the *Contractor's* obligation to Provide the Works using the same procedures and payment on termination as those applied for reasons R1 to R15 or R18 stated in the Termination Table.

Z12 Ethics

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

Affected Party means, as the context requires, any party, irrespective of whether it is the *Contractor* or a third party, such party's employees, agents, or Subcontractors or Subcontractor's employees, or any one or more of all of these parties' relatives or friends,

Coercive Action 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,

Collusive Action 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,

Committing Party means, as the context requires, the *Contractor*, or any member thereof in the case of a joint venture, or its employees, agents, or Subcontractor or the Subcontractor's employees,

Corrupt Action 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,

Fraudulent Action 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,

Obstructive Action 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

Prohibited Action means any one or more of a Coercive Action, Collusive Action Corrupt Action, Fraudulent Action or Obstructive Action.

Z12.1 A Committing Party may not take any Prohibited Action during the course of the procurement of this contract or in execution thereof.

Z12.2 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.

Z12.3 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.

Z12.4 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.

Z13 Insurance

Z 13.1 Replace core clause 84 with the following:

Insurance cover 84

84.1 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.

84.2 The *Contractor* provides the insurances stated in the Insurance Table A.

84.3 The insurances provide cover for events which are at the *Contractor's* risk 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
Loss of or damage to the <i>works</i> , Plant and Materials	The replacement cost where not covered by the <i>Employer's</i> insurance The <i>Employer's</i> policy deductible, as Contract Date, where covered by the <i>Employer's</i> insurance
Loss of or damage to Equipment	The replacement cost
Liability for loss of or damage to property (except the <i>works</i> , Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Contractor</i>) caused by activity in connection with this contract	<u>Loss of or damage to property</u> <u>Employer's property</u> The replacement cost where not covered by the <i>Employer's</i> insurance The <i>Employer's</i> policy deductible, as 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 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

Z 13.2 **Replace core clause 87 with the following:**
 The *Employer* provides the insurances stated in the Insurance Table B.

INSURANCE TABLE B

Insurance against or name of policy	Minimum amount of cover or minimum limit of indemnity
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

Z14 Nuclear Liability

- Z14.1 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.
- Z14.2 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*.
- Z14.3 Subject to clause Z14.4 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*.
- Z14.4 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.
- Z14.5 The protection afforded by the provisions hereof shall be in effect until the KNPS is decommissioned.

Z15 Asbestos

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

- AAIA** means approved asbestos inspection authority.
- ACM** means asbestos containing materials.
- AL** 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.
- Ambient Air** 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.
- Compliance Monitoring** 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.

OEL means occupational exposure limit.

Parallel Measurements means measurements performed in parallel, yet separately, to existing measurements to verify validity of results.

Safe Levels 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.

Standard means the *Employer's* Asbestos Standard 32-303: Requirements for Safe Processing, Handling, Storing, Disposal and Phase-out of Asbestos and Asbestos Containing Material, Equipment and Articles.

SANAS means the South African National Accreditation System.

TWA 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.

Z15.1 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.

Z15.2 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 Z15.1. Control measures conform to the requirements stipulated in the AAIA-approved asbestos work plan.

Z15.3 The *Employer* manages asbestos and ACM according to the Standard.

Z15.4 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.

Z15.5 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.

Z15.6 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.

Z15.7 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.

Annexure A: One-in-ten-year-return weather data obtained from SA Weather Bureau for [weather station]

If any one of these *weather measurements* recorded within a calendar month, before the Completion Date for the whole of the *works* and at the place stated in this Contract Data is shown to be more adverse than the amount stated below then the *Contractor* may notify a compensation event.

Month	Weather measurement				
	Cumulative rainfall (mm)	Number of days with rain more than 10mm	Number of days with min air temp < 0 deg.C	Number of days with snow lying at 08:00 CAT	[Other measurements if applicable]
January	[•]	[•]	[•]	[•]	
February	[•]	[•]	[•]	[•]	
March	[•]	[•]	[•]	[•]	
April	[•]	[•]	[•]	[•]	
May	[•]	[•]	[•]	[•]	
June	[•]	[•]	[•]	[•]	
July	[•]	[•]	[•]	[•]	
August	[•]	[•]	[•]	[•]	
September	[•]	[•]	[•]	[•]	
October	[•]	[•]	[•]	[•]	
November	[•]	[•]	[•]	[•]	
December	[•]	[•]	[•]	[•]	

Only the difference between the more adverse recorded weather and the equivalent measurement given above is taken into account in assessing a compensation event.

C1.2 Contract Data

Part two - Data provided by the *Contractor*

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

Whenever a cell is shaded in the left hand column it denotes this data is optional. If not required select and delete the whole row, otherwise insert the required Data.]

Notes to a tendering contractor:

1. Please read both the NEC3 Engineering and Construction Contract (April 2013) and the relevant parts of its Guidance Notes (ECC3-GN)¹ 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 pages 156 to 158 of the ECC3 (April 2013) Guidance Notes.
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>Contractor</i> is (Name): Address Tel No. Fax No.	
11.2(8)	The <i>direct fee percentage</i> is The <i>subcontracted fee percentage</i> is	% %
11.2(18)	The <i>working areas</i> are the Site and	
24.1	The <i>Contractor's</i> key persons are: 1 Name: Job: Responsibilities: Qualifications: Experience: 2 Name: Job Responsibilities: Qualifications: Experience:	

¹ Available from Engineering Contract Strategies Tel 011 803 3008, Fax 011 803 3009 or see www.ecs.co.za

		CV's (and further key persons data including CVs) are appended to Tender Schedule entitled .		
11.2(3)	The <i>completion date</i> for the whole of the <i>works</i> is			
11.2(14)	The following matters will be included in the Risk Register			
11.2(19)	The Works Information for the <i>Contractor's</i> design is in:			
31.1	The programme identified in the Contract Data is			
B	Priced contract with bill of quantities			
11.2(21)	The <i>bill of quantities</i> is in	(in figures) (in words), excluding VAT		
11.2(31)	The tendered total of the Prices is			
B	Priced contract with bill of quantities	Data for the Shorter Schedule of Cost Components		
41 in SSCC	The percentage for people overheads is:	%		
21 in SSCC	The published list of Equipment is the last edition of the list published by The percentage for adjustment for Equipment in the published list is	Minus %		
22 in SSCC	The rates of other Equipment are:	Equipment	Size or capacity	Rate
61 in SSCC	The hourly rates for Defined Cost of design outside the Working Areas are Note: Hourly rates are estimated 'cost to company of the employee' and not selling rates. Please insert another schedule if foreign resources may also be used	Category of employee		Hourly rate
62 in SSCC	The percentage for design overheads is	%		

63 in SSCC	The categories of design employees whose travelling expenses to and from the Working Areas are included in Defined Cost are:	
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C1.3 Forms of Securities

Pro formas for Bonds & Guarantees

For use with the NEC3 Engineering & Construction Contract

[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 include the following Secondary Options:

- Option X4: Parent company guarantee
- Option X13: Performance Bond
- Option X14: Advanced payment to the *Contractor*

Each of these secondary Options requires a bond or guarantee “in the form set out in the Works Information”. Pro forma documents for these bonds and guarantees are provided here for convenience but are to be treated as part of the Works Information.

Option X16: Retention (not used with Option F)

The *Contractor* may provide a Retention Money Guarantee in the form stated here. When the *Employer* receives and accepts a Retention Money Guarantee exactly in the form stated he will instruct the *Project Manager* not to assess any amount be retained in terms of secondary Option X16.

The *Contractor* shall guarantee his ASGI-SA Obligations by providing the *Employer* with an ASGI-SA Guarantee in the form provided here.

[Note to contract compiler: If there are no ASGI-SA Obligations in this contract, delete the above statement]

The organisation providing the bond / guarantee does so by copying the pro forma document onto his letterhead without any change to the text or format and completing the required details. The completed document is then given to the *Employer* 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 Contractor'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 (the *Employer*) and

{Insert registered name and address of the Contractor} (the *Contractor*), for

{Insert details of the works from the Contract Data} (the *works*).

I/We the undersigned

on behalf of the *Contractor's*
parent company

of physical address

and duly authorised thereto do hereby unconditionally guarantee to the *Employer* that the *Contractor* shall Provide the Works in accordance with the above numbered Contract.

1. If for any reason the *Contractor* fails to Provide the Works, we hereby agree to cause to Provide the Works at no additional cost to the *Employer*.
2. If we fail to comply with the terms of this Deed of Guarantee, the *Employer* may itself procure such performance (whether or not the Agreement be formally determined). The *Employer* is to notify us and we shall indemnify the *Employer* 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 *Contractor* and the *Employer* and/or between us and *Contractor*; nor any alteration in the obligations undertaken by the *Contractor* 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 *Contractor*.
4. The *Employer* shall not be obliged before taking steps to enforce the terms of this Deed of Guarantee to obtain judgement against the *Contractor* 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 *Contractor*.
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 _____ 200_

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 Contractor's Parent Company)

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

Date:

Dear Sirs

Reference No. [●] [Drafting Note: Bank reference number to be inserted]

Performance Bond – Demand Guarantee: [Drafting Note: Name of Contractor to be inserted]

Project [] Contract Reference: [Drafting Note: Contractor contract reference number to be inserted]

1. In this Guarantee the following words and expressions shall have the following meanings:-
 - 1.1 “Bank” - means [●], [●] Branch, (Registration No. [●]); [Drafting Note: Name of Bank to be inserted]
 - 1.2 “Bank’s Address” - means [●]; [Drafting Note: Bank’s physical address to be inserted]
 - 1.3 “Contract” – means the written agreement relating to the Project, entered into between Eskom and the Contractor, on or about the [●] day of [●] 200[●] (Contract Reference No. [.]as amended, varied, restated, novated or substituted from time to time; [Drafting Note: Signature Date and Contract reference number to be inserted])
 - 1.4 “Contractor” – means [●] a company registered in accordance with the laws of [●] under Registration Number [●]. [Drafting Note: Name and details of Contractor to be inserted]
 - 1.5 “Eskom” - means Eskom Holdings SOC Ltd, a company registered in accordance with the laws of the Republic of South Africa under Registration Number 2002/015527/30).
 - 1.6 “Expiry Date” - means the date on which the Defects Certificate is issued in terms of the Contract.
 - 1.7 “Guaranteed Sum” - means the sum of R [●] ([●] Rand);
 - 1.8 “Project” - means [insert if applicable.].
2. At the instance of the Contractor, 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 Eskom, as security for the proper performance by the Contractor of all of its obligations in terms of and arising from the Contract and hereby undertake to pay to Eskom, on written demand from Eskom 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:
 - 3.1 be signed on behalf of Eskom by a Group Executive, Divisional Executive, Senior General Manager, General Manager or its delegate;
 - 3.2 state the amount claimed (“the Demand Amount”);

- 3.3 state that the Demand Amount is payable to Eskom 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:
- 4.1 is and shall be absolute provided demand is made in terms of this bond in all circumstances; and
- 4.2 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:
- 5.1 shall be restricted to the payment of money only and shall be limited to the maximum of the Guaranteed Sum; and
- 5.2 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 Eskom and the Contractor.
6. Eskom shall be entitled to arrange its affairs with the Contractor 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 Contractor or any variation under or to the Contract.
7. Should Eskom cede its rights against the Contractor to a third party where such cession is permitted under the Contract, then Eskom shall be entitled to cede to such third party the rights of Eskom under this Guarantee on written notification to the Bank of such cession.
8. This Guarantee:
- 8.1 shall expire on the Expiry Date until which time it is irrevocable;
- 8.2 is, save as provided for in 7 above, personal to Eskom and is neither negotiable nor transferable;
- 8.3 shall be returned to the Bank upon the earlier of payment of the full Guaranteed Sum or expiry hereof;
- 8.4 shall be regarded as a liquid document for the purpose of obtaining a court order; and
- 8.5 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.
- 8.6 Any claim which arises or demand for payment received after expiry date will be invalid and unenforceable.
9. The Bank chooses domicilium citandi et executandi for all purposes in connection with this Guarantee at the Bank's Address.

Signed at _____ Date _____

For and behalf of the Bank

Bank Signatory: _____ Bank Signatory: _____

Witness: _____ Witness: _____

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 Limited
Megawatt Park
Maxwell Drive
Sandton
Johannesburg

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 Limited

(the *Employer*) and

{Insert registered name and address of the Contractor}

(the *Contractor*), for

{Insert details of the works from the Contract Data}

(the *works*).

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 *Contractor* to the *Employer* of the advanced payment made by the *Employer* to the *Contractor* under the Contract, and for all losses and expenses that may be suffered or incurred by the *Employer* as a result of non-payment by the *Contractor*, subject to the following conditions

1. The terms *Employer*, *Contractor*, and the *works* 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 *Employer* has the absolute right to arrange his affairs with the *Contractor* in any manner which the *Employer* 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 construction period, indulgence, release or variation of the *Contractor'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 *Project Manager* stating that the advanced payment has been repaid to the *Employer* in terms of the Contract, or liquidated by deductions from other payments due to the *Contractor*.
5. The amount of the bond shall be payable to the *Employer* upon the *Employer's* demand and no later than 7 days following the submission to the Surety of a certificate signed by the *Project Manager* stating the amount of the *Employer'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 *Employer'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)

Pro forma Retention Money Guarantee (may be used when Option X16 applies)

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

Eskom Holdings SOC Limited
Megawatt Park
Maxwell Drive
Sandton
Johannesburg

Date:

Dear Sirs

Reference No. [●] [Drafting Note: Bank reference number to be inserted]

Retention Money Guarantee: [Drafting Note: Name of Contractor to be inserted]

Project [] : Contract Reference: [Drafting Note: Contractor contract reference number to be inserted]

1. In this Guarantee the following words and expressions shall have the following meanings:-
 - 1.1 "Bank" - means [●], [●] Branch, (Registration No. [●]); [Drafting Note: Name of Bank to be inserted]
 - 1.2 "Bank's Address" - means [●]; [Drafting Note: Bank's physical address to be inserted]
 - 1.3 "Contract" – means the written agreement relating to the Project, entered into between Eskom and the Contractor, on or about the [●] day of [●] 200[●] (Contract Reference No. as amended, varied, restated, novated or substituted from time to time; [Drafting Note: Signature Date and Contract reference number to be inserted])
 - 1.4 "Contractor" – means [●] a company registered in accordance with the laws of [●] under Registration Number [●]. [Drafting Note: Name and details of Contractor to be inserted]
 - 1.5 "Eskom" - means Eskom Holdings SOC Limited, a company registered in accordance with the laws of the Republic of South Africa under Registration Number 2002/015527/30
 - 1.6 "Expiry Date" - means the date on which the Defects Certificate is issued in terms of the Contract.
 - 1.7 "Guaranteed Sum" - means the sum of R [●] ([●] Rand); [Drafting Note: Insert amount of Retention Money Guarantee.].
 - 1.8 "Project" - means the.....
2. At the instance of the Contractor, 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 Eskom, as security for the proper performance by the Contractor of all of its obligations in terms of and arising from the Contract and hereby undertake to pay to Eskom, on written demand from Eskom 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:
 - 3.1 be signed on behalf of Eskom by a director of Eskom or his authorised delegate.

- 3.2 state the amount claimed ("the Demand Amount");
- 3.3 state that the Contractor has failed to carry out his obligation(s) to rectify certain defect(s) for which he is responsible under the Contract (and the nature of such defect(s)) alternatively that the Demand Amount is payable to Eskom 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:
- 4.1 is and shall be absolute provided demand is made in terms of this bond in all circumstances; and
- 4.2 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:
- 5.1 shall be restricted to the payment of money only and shall be limited to the maximum of the Guaranteed Sum; and
- 5.2 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 Eskom and the Contractor.
6. Eskom shall be entitled to arrange its affairs with the Contractor 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 Contractor or any variation under or to the Contract.
7. Should Eskom cede its rights against the Contractor to a third party where such cession is permitted under the Contract, then Eskom shall be entitled to cede to such third party the rights of Eskom under this Guarantee on written notification to the Bank of such cession.
8. This Guarantee:
- 8.1 shall expire on the Expiry Date until which time it is irrevocable;
- 8.2 is, save as provided for in 7 above, personal to Eskom and is neither negotiable nor transferable;
- 8.3 shall be returned to the Bank upon the earlier of payment of the full Guaranteed Sum or expiry hereof;
- 8.4 shall be regarded as a liquid document for the purpose of obtaining a court order; and
- 8.5 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.
- 8.6 Any claim which arises or demand for payment received after expiry date will be invalid and unenforceable.
9. The Bank chooses domicilium citandi et executandi for all purposes in connection with this Guarantee at the Bank's Address.

Signed at _____ Date _____ Bank's seal or stamp

For and behalf of the Bank

Bank Signatory: _____ Bank Signatory: _____

Witness: _____ Witness: _____

Pro forma ASGI-SA Guarantee

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

Eskom Holdings Limited
Megawatt Park
Maxwell Drive
Sandton
Johannesburg

Date:

Dear Sirs

Reference No. [●] [Drafting Note: Bank reference number to be inserted]

Pro-Forma ASGI-SA Guarantee: [Drafting Note: Name of Contractor to be inserted]

Project [] Contract Reference: [●] [Drafting Note: Contractor contract reference number to be inserted]

1. In this Guarantee the following words and expressions shall have the following meanings:-
 - 1.1 “Bank” - means [●], [●] Branch, (Registration No. [●]); [Drafting Note: Name of Bank to be inserted]
 - 1.2 “Bank’s Address” - means [●]; [Drafting Note: Bank’s physical address to be inserted]
 - 1.3 “Contract” – means the written agreement relating to the Project, entered into between the *Employer* and the *Contractor*, on or about the [●] day of [●] 200[●] (Contract Reference No. [●] as amended, varied, restated, novated or substituted from time to time; [Drafting Note: Signature Date and Contract reference number to be inserted]
 - 1.4 “Contractor” – means [●] a company registered in accordance with the laws of [●] under Registration Number [●]. [Drafting Note: Name and details of Contractor to be inserted]
 - 1.5 “Contractor’s ASGI-SA Obligations” – means the *Contractor’s* ASGI-SA Obligations under and as defined in the Contract.
 - 1.6 “Employer” - means Eskom Holdings Limited, a company registered in accordance with the laws of the Republic of South Africa under Registration Number 2002/015527/06.
 - 1.7 “Expiry Date” - means the [●] day of [●] 200[●]; [Drafting Note: anticipated date of issue of ASGI-SA Performance Certificate to be inserted.]
 - 1.8 “Guaranteed Sum” - means the sum of R [●] ([●] Rand);
 - 1.9 “Project” – means the
2. At the instance of the *Contractor*, 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 *Employer*, as security for the proper performance by the *Contractor* of the *Contractor’s* ASGI-SA Obligations and hereby undertake to pay to the *Employer*, on written demand from the *Employer* 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:
 - 3.1 state the amount claimed (“the Demand Amount”);
 - 3.2 state that the Demand Amount is payable to the *Employer* 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:
 - 4.1 is and shall be absolute provided demand is made in terms of this bond in all circumstances; and
 - 4.2 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:
 - 5.1 shall be restricted to the payment of money only and shall be limited to the maximum of the Guaranteed Sum; and
 - 5.2 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 *Employer* and the *Contractor*.
6. The *Employer* shall be entitled to arrange its affairs with the *Contractor* 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 *Contractor* or any variation under or to the Contract.
7. Should the *Employer* cede its rights against the *Contractor* to a third party where such cession is permitted under the Contract, then the *Employer* shall be entitled to cede to such third party the rights of the *Employer* under this Guarantee on written notification to the Bank of such cession.
8. This Guarantee:
 - 8.1 shall expire on the Expiry Date until which time it is irrevocable;
 - 8.2 is, save as provided for in 7 above, personal to the *Employer* and is neither negotiable nor transferable;
 - 8.3 shall be returned to the Bank upon the earlier of payment of the full Guaranteed Sum or expiry hereof;
 - 8.4 shall be regarded as a liquid document for the purpose of obtaining a court order; and
 - 8.5 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.
 - 8.6 Any claim which arises or demand for payment received after expiry date will be invalid and unenforceable.
9. The Bank chooses domicilium citandi et executandi for all purposes in connection with this Guarantee at the Bank's Address.

Signed at _____

Date _____

For and behalf of the Bank

Bank Signatory: _____

Bank Signatory: _____

Witness: _____

Witness: _____

Bank's seal or stamp

PART 2: PRICING DATA

ECC3 Option B

Document reference	Title	No of pages
C2.1	Pricing assumptions: Option B	
C2.2	<i>The bill of quantities</i>	

C2.1 Pricing assumptions: Option B

1. How work is priced and assessed for payment

Clause 11 in NEC3 Engineering and Construction Contract (ECC3) Option B states:

Identified and defined terms 11
11.2

(21) The Bill of Quantities is the *bill of quantities* as changed in accordance with this contract to accommodate implemented compensation events and for accepted quotations for acceleration.

(28) The Price for Work Done to Date is the total of

- the quantity of the work which the *Contractor* has completed for each item in the Bill of Quantities multiplied by the rate and
- a proportion of each lump sum which is the proportion of the work covered by the item which the *Contractor* has completed.

Completed work is work without Defects which would either delay or be covered by immediately following work.

(31) The Prices are the lump sums and the amounts obtained by multiplying the rates by the quantities for the items in the Bill of Quantities.

This confirms that Option B is a re-measurement contract and the bill comprises only items measured using quantities and rates or stated as lump sums. Value related items are not used. Time related items are items measured using rates where the rate is a unit of time.

2. Function of the Bill of Quantities

Clause 55.1 in Option B states, "Information in the Bill of Quantities is not Works Information or Site Information". This confirms that specifications and descriptions of the work or any constraints on how it is to be done are not included in the Bill, but in the Works Information. This is further confirmed by Clause 20.1 which states, "The *Contractor* Provides the Works in accordance with the Works Information". Hence the *Contractor* does **not** Provide the Works in accordance with the Bill of Quantities. The Bill of Quantities is only a pricing document.

3. Guidance before pricing and measuring

Employers preparing tenders or contract documents, and tendering contractors are advised to consult the sections dealing with the bill of quantities in the NEC3 Engineering and Construction Contract Guidance Notes before preparing the *bill of quantities* or before entering rates and lump sums into the *bill*.

There is no general provision in Option B for payment for materials on Site before incorporation into the *works*. If secondary Option X14 Advanced payment has not been used then the tendering contractor may obtain the same effect by inserting appropriate items in the method related charges where the *method of measurement* allows, or alternatively making allowance in the rates of the *bill of quantities* for the financing of Plant and Materials until they are incorporated in the *works*.

When compensation events arise, the default position is that the Bill of Quantities is not used to calculate the cost effect of the event. Defined Cost and the resulting Fee is used and Defined Cost includes all components of cost which the *Contractor* is likely to incur, including so called P & G items. Rates and lump sums from the Bill of Quantities, or from any other source, may be used instead of Defined Cost and the Fee only if the *Contractor* and *Project Manager* agree. If they are unable to agree, then Defined Cost

plus Fee is used.

4. Measurement and payment

4.1. Symbols

The units of measurement described in the Bill of Quantities are metric units abbreviated as follows:

Abbreviation	Unit
%	percent
h	hour
ha	hectare
kg	kilogram
kl	kilolitre
km	kilometre
km-pass	kilometre-pass
kPa	kilopascal
kW	kilowatt
l	litre
m	metre
mm	millimetre
m ²	square metre
m ² -pass	square metre pass
m ³	cubic metre
m ³ -km	cubic metre-kilometre
MN	meganewton
MN.m	meganewton-metre
MPa	megapascal
No.	number
sum	Lump sum
t	tonne (1000kg)

4.2. General assumptions

- 4.2.1. Unless otherwise stated, items are measured net in accordance with the drawings, and no allowance has been made in the quantities for waste.
- 4.2.2. The Prices and rates stated for each item in the Bill of Quantities shall be treated as being fully inclusive of all work, risks, liabilities, obligations, overheads, profit and everything necessary as incurred or required by the *Contractor* in carrying out or providing that item.
- 4.2.3. An item against which no Price is entered will be treated as covered by other Prices or rates in the *bill of quantities*.
- 4.2.4. The quantities contained in the Bill of Quantities may not be final and do not necessarily represent the actual amount of work to be done. The quantities of work assessed and certified for payment by the *Project Manager* at each assessment date will be used for determining payments due.
- 4.2.5. The short descriptions of the items of payment given in the *bill of quantities* are only for the purposes of identifying the items. Detail regarding the extent of the work entailed under each item is provided in the Works Information.

4.3. Departures from the *method of measurement*

4.3.1.

4.4. Amplification of or assumptions about measurement items

The following is provided to assist in the interpretation of descriptions given in the *method of measurement*. In the event of any ambiguity or inconsistency between the statements in the *method of measurement* and this section, the interpretation given in this section shall be used.

4.4.1.

C2.2 the *bill of quantities*

Use this page as a summary page or as a cover page to the *bill of quantities*.

PART 3: SCOPE OF WORK

Document reference	Title	No of pages
C3.1 C3.2	This cover page <i>Employer's Works Information</i> <i>Contractor's Works Information</i>	
	Total number of pages	

C3.1: EMPLOYER’S WORKS INFORMATION

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1 Description of the works

1.1 Executive overview

The Scope involves purchasing outstanding material and constructing the outstanding or remaining works of the following design aspects to complete the project:

- Foundations
- Erection of steelwork
- Erection of Equipment
- Installation of Tubular Busbar
- Stringing
- Earthing
- Trenching
- Fencing
- Paving

1.2 Employer’s objectives and purpose of the works

In the event of an emergency when the 275kV cannot be supplied from Esselen to Jupiter, a contingency supply of the 88kV needs to be sourced. The supply will be taken from the 88kV Feeder 11 (SAR Modder 2 Tee) which will be interrupted during this emergency, which will connect on to the incoming 275kV line from Apollo. The Apollo 2 line will be isolated at the Apollo end for the duration of emergency. Section 2 of 275kV Busbar 2 will be dedicated for the 88kV supply. Which is then fed through the 275kV Feeder 3 (Jupiter 1) to Jupiter MTS.

1.3 Interpretation and terminology

Abbreviation	Meaning given to the abbreviation
AFC	Approved for construction
OBL	Outside battery limits
PM	Project Manager
QS	Quantity Surveyor
EA	Engineering Assistant
AFC	Approved for construction
H V	High voltage
kV	Kilo volt
ORHVS	Operating Regulations for High Voltage Systems

2 Management and start up.

2.1 Management meetings

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

Title and purpose	Approximate time & interval	Location	Attendance by:
Technical meeting (Risk register; compensation events; Issues)	Bi-weekly on Fridays at Esselen Substation or as per Project Managers request.	Esselen Substation	Employer, Contractor, Technical staff and end users, safety and environmental staff.
Overall project progress and feedback	Monthly on the 1 st Tuesday of each month or the next working day if the mention day is a Public holiday	Esselen Substation	<i>Employer, Contractor, Supervisor, and other Interested parties</i>

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

All meetings are 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.

Meetings are arranged as per the specific contract requirements. During the design phase the progress feedback meetings are held at Eskom Esselen Substation or via MST on a bi-weekly basis. This meeting is attended by *Employer's* representatives and *Contractor* representatives.

2.2 Documentation control

- All verbal communication are followed up with written confirmation
- All written communication should be on formal letters with Corporate letter heads
- An email system is used for general communication
- Minutes of Meetings are held for all meetings relating to the project
- Communication is extremely important and is managed to ensure maximum benefits to the project.
- A document management system will be implemented.
- All communication to be directed to the *Project Manager*

2.3 Health and safety risk management

The *Contractor* shall comply with the health and safety requirements contained in Appendix C of this Works Information.

2.4 Environmental constraints and management

A template for compiling risks assessment and example of the environmental costing is included on SHEQ Documents (see Appendix C).

2.5 Quality assurance requirements

Quality requirements will be negotiated and linked to contract award. Quality objectives are as follows:

- Contract Quality Plan Requirement as per Scope of *works*.
- Quality Control Plan (Inspection and Test Plan) Requirements as per scope of *works*.
- The supplier shall complete and sign **Form A** (Enquiry/Contract/Quality Requirements for QM 58 and ISO 9001).
- The supplier shall submit objective evidence of a developed and implemented QMS that complies with ISO 9001:2015 or any applicable standard of quality management system (the latest applicable revision). The following documents (approved copies) shall be submitted:

Detailed objective criteria are attached in the Quality evaluation criteria form.

2.6 Contractor's management, supervision and key people

The *Contractor* submits an organogram with updated CVs of each employee on the project. Reporting structures and responsibilities are to be included on the organogram or in an addendum to the organogram.

2.7 Invoicing and payment

Within one week of receiving a payment certificate from the *Project 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 *Project Manager's* payment certificate.

The *Contractor* addresses the tax invoice to NTCSA SOC Ltd,
and include on each invoice the following information:

- Name and address of the *Contractor* and Project Manager
- The contract number and title;
- *Contractor's* VAT registration number;
- The *Employer's* VAT registration number 4710303126;
- 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; The Purchase Order number
- Send all invoices in PDF to Accounts Payable Department: Invoicesntcsalocal@ntcsa.co.za
- The *Contractor* can request a park invoice report from Finance Shared Services (FSS) contact centre which can then be followed up and corrected. You are welcome to forward the details of invoices corrected to the FSS contact Centre.

Every 25th of each month, the *Employer* and *Contractor* will perform an assessment on the work completed for the month. The assessment will be signed off by both parties.

2.8 Contract change management

Project Change Request Register unique identifier 240-87274313 (latest revision) will be used.

All scope changes must be approved by the *Project Manager*.

2.9 Provision of bonds and guarantees

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

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

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

All project related documents to be kept in either electronic format or hard copies in files at the *Contractor's* premises.

2.11 Training workshops and technology transfer

N/A

3 Engineering and the *Contractor's* design

3.1 *Employer's* design

The *Employer* has designed for the works; the *Contractor* is mainly doing construction only. NTCSA has designed the new foundations as detailed on the relevant drawings listed on this document and the quantities are given in the bill of quantities.

3.2 Parts of the *works* which the *Contractor* is to design

The *Contractor* is to design any temporary works required to construct the *works*

3.3 Procedure for submission and acceptance of *Contractor's* design

NA

3.4 Other requirements of the *Contractor's* design

N/A

3.5 Use of *Contractor's* design

N/A

3.6 Design of Equipment

N/A

3.7 Equipment required to be included in the works

N/A

3.8 As-built drawings, operating manuals and maintenance schedules

The Contractor is to provide Eskom with detailed “as built” records where deviations have been made from construction drawings within 14 days after Completion.

4 Procurement

4.1 People

4.1.1 Minimum requirements of people employed on the Site

Local employees to be employed as far as reasonably practicable.

4.2 Supplier Development & Localisation

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

The *Contractor's* failure to comply with his SDL&I obligations shall constitutes a breach on his/her part and therefore, as security for the fulfilment of all SDL&I obligations, NTCSA shall apply a penalty of 2.5% of every invoice amount (excluding VAT) for failure to submit SDL&I performance reports every quarter; **or** failure to meet the SDL&I contractual obligations.

4.3 Plant and Materials

4.3.1 Quality

- (1) The Contractor adheres to all NTCSA standards and best practices for the design, installation and workmanship to ensure quality workmanship and sound installation practice.
- (2) The *Contractor* contacts the *Project Manager* to clarify any uncertainty regarding specifications or adheres to Eskom standards provided.

5 Construction

5.1 Temporary works, Site services & construction constraints

5.1.1 Employer's Site entry and security control, permits, and Site regulations

The contractor to abide by security protocols and access control procedures.

Alcohol testing will be conducted at any time on all employees entering the NTCSA premises. All staff that tested positive for alcohol abuse will not be allowed on site.

Entry to the site is governed by the Grid's Engineering Assistant and the Contractor shall adhere to all regulations given.

All employees are to sign the Workers declaration on entering and leaving the working area.

The *Contractor* is to have an Eskom certified and authorized ORHVS person available on site at all times in accordance with Eskom's Construction Safety, Health and Environmental Management 32-136.

The authorized ORHVS person is to have a valid first aid level 2 certificate.

The authorization procedure for a permit to work shall be done before the *Contractor* commences work on site.

It is the *Contractor's* responsibility to ensure that the authorization procedure for a permit to work is obtained before access to the work can be given. Please contact Ms Mosamaria Matsapola on 08 2 295 3323 for site acces.

The Contractor will be required to have an NTCSA certified and authorized ORHVS person available in each area where work is being performed.

5.1.2 Restrictions to access on Site, roads, walkways and barricades

All vehicles must comply with the National Road Traffic Act, 1996 (Act No. 93 Of 1996). Vehicle inspections will be conducted daily and check sheets must be kept at the *Contractor's* offices.

Access on site is restricted to the area in which the Contractor is working and which has been barricaded. Strictly no movement outside the barricaded working area unless escorted by authorized HV Plant personnel.

5.1.3 People restrictions on Site; hours of work, conduct and records

Restrictions and hours of work may apply on Sites. The *Contractor* is to supply Eskom with Police clearance for all the employees on site before Work commences.

The normal working hours shall be from 07:30 am to 04:30 pm. Any work done outside this duration must be arranged through the senior HV Plant supervisor.

The maximum speed limit on site is 40 km/h.

It is very important that the *Contractor* keeps records of his people on Site, including those of his Subcontractors which the *Project Manager* or *Supervisor* have access to at any time. These records may be needed when assessing compensation events

5.1.4 Health and safety facilities on Site

There are no Toilet facilities available on site. The Contractor is to provide his own toilet facilities on site and ensure that these facilities are kept in a clean condition to NTCSA's satisfaction. No work on site will be allowed to commence before the toilet facilities are available on site.

The *Contractor* to supply the following for his employees:

- Job Specific Safety training
- Personal Protective Equipment
- Toolbox talks
- Safety Representatives to be trained for all areas of the *works*.

Qualified First aiders to be appointed for all areas of the *works*

5.1.5 Environmental controls, fauna & flora, dealing with objects of historical interest

SHE requirements must be clearly identified on notice boards.

The *Contractor* shall control his activities and processes in accordance with Eskom's Environmental Requirements TST41-120.

The *Contractor* shall establish a refuse control system. All waste is to be collected and disposed of as required by Eskom and the Local Authority.

A complaints register must be maintained. The *Contractor* shall seek *Employer's* approval prior to engaging with the authorities.

There are no pictures allowed to be taken at Esselen Substation without the written authorisation of the *Project Manager*.

5.1.6 Title to materials from demolition and excavation

All the materials from excavation and demolition must be disposed of by the *Contractor* except where expressly stated by the PM or the relevant staff from the Grid. All rubble and other materials must be classified, weighed and transported to a registered dumping site.

5.1.7 Cooperating with and obtaining acceptance of Others

The *Contractor's* attention is drawn to the fact that other contractors will be on site and access and interfacing with them will be required. The *Contractor* shall allow safe access for other contractors and Eskom personnel when required.

5.1.8 Publicity and progress photographs

Warning signs and notices must be clearly displayed at all sites where work is taking place. It is the responsibility of the *Contractor* to ensure that all its workers and visitors adhere to all signs.

No photographs are to be taken without the permission of the E.A.

A complaints register must be maintained. The *Contractor* shall seek *Employer's* approval prior to engaging with the authorities.

There are no pictures allowed to be taken at Esselen Substation without the written authorisation of the *Project Manager*.

5.1.9 Contractor's Equipment

The *Contractor* submits a list of all tools and equipment entering site. Equipment and tools not declared will become the *Employer's* property.

On completion of the project, all tools and equipment will be removed only with permission from the *Project Manager* on the applicable approved *Employer* documents.

All equipment must be registered in the equipment register and as per 32-136. The *Contractor* is responsible for his own insurance of his equipment. The *Contractor* is to take stock of his material and equipment on a regular basis and any shortage to be reported to the Project Manager immediately, stating if it is hired or owned.

5.1.10 Equipment provided by the Employer

None

5.1.11 Site services and facilities

All the water necessary for construction purposes must be provided for by the *Contractor*. It is the *Contractor's* responsibility to test any water before using it for construction purposes. The *Contractor* will submit Test Certificate for the water used on site.

Electricity is available on site. The *Contractor* shall provide all connections, extensions and additional supply points necessary for the *works*. Any measures which the *Contractor* may require to maintain continuity and quality of supply shall be arranged by him at his own expense.

The *Contractor* shall provide everything else necessary for providing the Works.

5.1.12 Facilities provided by the *Contractor*

The *Contractor* supplies all plant and materials required for providing the Works.

There are no Office or Telephone facilities available on site. The *Contractor* is to provide his own facilities on site and ensure that these facilities are kept in a clean condition to Eskom's satisfaction.

There are no Toilet facilities available on site. The *Contractor* is to provide his own toilet facilities on site and ensure that these facilities are kept in a clean condition to Eskom's satisfaction. No work on site will be allowed to commence before the toilet facilities are available on site.

All drivers' fitness to operate specified vehicles and licenses to always be available for inspections by the *Employer*.

The *Contractor* provides temporary office space for the duration of the contract for *Contractor* employees at Esselen Substation.

5.1.13 Existing premises, inspection of adjoining properties and checking work of Others

None

5.1.14 Survey control and setting out of the *works*

The *Contractor* is responsible for setting out the works as shown on the drawings

5.1.15 Excavations and associated water control

All necessary precautions shall be taken to ensure that deep excavations are safe and that the sides are stable, if not they shall be battered. All excavations are to be properly barricaded at all times.

All excavations to be verified with the Site Supervisor prior to excavation.

5.1.16 Underground services, other existing services, cable and pipe trenches and covers

Before any excavation is commenced, it will be the responsibility of the *Contractor* to ascertain from the "Engineering Assistant" the position of any existing services on site. Once these are indicated to the *Contractor* they shall be deemed "known". Any costs incurred for repairs to any "known" services shall be for the *Contractor's* account.

5.1.17 Control of noise, dust, water and waste

To be included in Risk Assessment.

The *Contractor* shall control his processes and procedures so as to minimise noise and dust. All waste is to be collected and disposed of as required by Eskom and the Local Authority. As per authorisations and the *Employers* policies, procedures and work instructions.

5.1.18 Sequences of construction or installation

To be determined by *Employer* and *Contractor*.

5.1.19 Giving notice of work to be covered up

All intended activities must be captured in the scope of work and on the project schedule. The project schedule will be reviewed and updated weekly by the *Project manager*.

The Contractor is to give the Site Supervisor at least 3 days' notice before covering up the work

5.1.20 Hook ups to existing works

The Contractor will work in the existing HV Yard, installing equipment as per the specifications

5.2 Completion, testing, commissioning and correction of Defects

5.2.1 Work to be done by the Completion Date

On or before the Completion Date the *Contractor* shall have done everything required to Provide the Works except for the work listed below which may be done after the Completion Date but in any case before the dates stated. The *Project Manager* cannot certify Completion until all the work except that listed below has been done and is also free of Defects which would have, in his opinion, prevented the *Employer* from using the *works* and Others from doing their work.

	Item of work	To be completed by
	As built drawings of Esselen 88 kV Emergence Bypass – Civil and Stringing & Cabling Works	Within 5 days after Completion
	Performance testing of the <i>works</i> in use as specified in paragraph 5.2.5 of this Works Information.	See performance testing requirements.

5.2.2 Use of the *works* before Completion has been certified

To allow for the erection of electrical equipment some parts of the feeder bays may need to be made available to the equipment suppliers before the works are completed. This will be managed by the Site Supervisor to ensure harmony and coordination of all on-going works.

5.2.3 Materials facilities and samples for tests and inspections

N/A

5.2.4 Commissioning

After Completion and provide the as built drawing

5.2.5 Start-up procedures required to put the *works* into operation

- N/A

5.2.6 Take over procedures

To allow for the erection of electrical equipment some parts of the feeder bays may need to be made available to the equipment suppliers before the works are completed. This will be managed by the Site Supervisor to ensure harmony and coordination of all on-going works.

5.2.7 Access given by the *Employer* for correction of Defects

The Contractor to arrange access with the Site supervisor 2 days to and use of a part of the *works* which has been taken over if needed to correct a Defect. The *Contractor* to undertake all necessary procedures before such access can be granted for example barricading.

The Project Manager arranges for the Employer to allow the Contractor access to and use of a part of the works which has been taken over if needed to correct a Defect. After the works have been put into operation, Entry to the site is governed by the Grid's Engineering Assistant and the Contractor shall adhere to all regulations given.

5.2.8 Performance tests after Completion

The system should be 100% functioning and readings for all the data/information specified clearly visible and nothing less will be accepted.

5.2.9 Training and technology transfer

N/A

5.2.10 Operational maintenance after Completion

N/A

6 Plant and Materials standards and workmanship

6.1 Investigation, survey and Site clearance

Contractor to clear and rehabilitate the site where necessary

6.2 Building works

N/A

6.3 Civil engineering and structural works

N/A

6.4 Electrical & mechanical engineering works

N/A

6.5 Process control and IT works

N/A

6.6 Other

NTCSA Requirements

EPS.1 SPECIFICATION FOR EARTHMAT

1. MEASUREMENT AND PAYMENT

The rates as scheduled in the Bill of Quantities shall cover the cost of all activities, labour, materials and testing required for the provision of the relative item in accordance with the drawings and specification.

EPS.3 Variations and Additions to Standard Specifications

SABS 1200 A (1986) GENERAL

VA-A 2 INTERPRETATIONS

Not applicable

VA-A 3 MATERIALS

VA-A 3.1 QUALITY

Add:

The Contractor shall at his own expense supply and provide all the Constructional Plant, Temporary Works, materials for both temporary and permanent works, labour and supervision, transport to or from the site and in and about the Works and everything required for the construction, completion and maintenance of the Works. The Contractor shall ensure that all the foregoing constituent parts of the Works are to the standard and quality elsewhere specified in these documents or where not specified to the highest quality available and shall also ensure they are suitable for purpose intended by the Employer.

The Contractor shall be responsible for the strength and quality of all materials used and workmanship employed and for the stability of the permanent works and the temporary works and the fact that the Employer has not objected during the construction period to any materials and/or workmanship employed by the Contractor and even though such materials and/or workmanship has been inspected by the Supervisor shall not relieve the Contractor of such responsibility.

VA-A 5 CONSTRUCTION

VA-A 5.1 SURVEY

Setting out of the Works

Add:

Survey reference marks and bench marks supplied by Eskom shall be to a datum defined in writing and or on the drawings.

VA-A 5.2 WATCHING, BARRICADING, LIGHTING AND TRAFFIC CROSSINGS

The requirements for watching, barricading, lighting, etc. shall be as follows:

Every excavation, which is accessible to the public, including other contractor's or Eskom personnel, or which is adjacent to public roads or thoroughfares, or whereby the safety of persons may be endangered shall be:

- (a) protected by a barrier or fence consisting of not less than two ropes or wires stretched at heights of 600 mm and 1 200 mm between poles or standards, of strength adequate to safely contain pedestrians and as close to the excavation as is practicable; and
- (b) provided with red warning lights or any other clearly visible boundary indicators at night or when visibility conditions are poor.

VA-A 5.4 PROTECTION OF OVERHEAD AND UNDERGROUND SERVICES

Add:

Adequate prior notice in writing by Eskom of the existence of any services shall be deemed sufficient to make such services "known" to the Contractor.

VA-A 5.6 POLLUTION

Add:

A refuse control and removal system shall be implemented by the Contractor. All construction waste shall be collected and removed from site. Refuse may only be disposed of in recognised registered disposal sites.

VA-A 5.9 SITE TO BE LEFT CLEAR

At all times prior to the completion of the Works and including the period of maintenance the Contractor shall be solely responsible for maintaining the site in a clean, tidy and safe condition to the satisfaction of the Supervisor and is deemed to have made due allowance in the contract prices therefore. Eskom shall be entitled to instruct the Contractor at any time to remove any excess materials, debris, rubbish and the like from the site and the Contractor shall forthwith comply with such instructions and at no extra cost to the Employer.

On completion of the Permanent Works the Contractor shall, at his own expense, remove all surplus excavated materials, debris, unused materials, temporary erections and plant save that required for maintenance work which shall be removed, as aforesaid, on completion of the whole of the Works. However no means, appliances, guards or other things provided in presence of the Machinery and Occupational Safety Act or for securing the safety of persons may be removed if such removal constitutes a change to the safety of persons.

VA-A 5.10 DIMENSIONS

Dimensions on the Drawings are to be considered correct even if not drawn to scale. No dimensions shall be obtained by scaling.

VA-A 7.5 CONTROL TESTS

The Contractor shall carry out, at his own cost, such tests as he considers necessary to satisfy himself that his work is sound. He shall also carry out such tests as have been specified and are included in the rates, and submit the results to Eskom.

Eskom may order such additional tests as it considers necessary to prove compliance with the Specification. The cost of such additional tests shall be borne:

- (a) by the Employer if the result of the additional test indicate that the Works or the part of it that was subjected to the tests comply with the applicable requirements, and

(b) by the Contractor if the results indicate that the Works or the said part of it do not so comply.

VA-A 8 MEASUREMENT AND PAYMENT

VA-A 8.2 PAYMENT

VA-A 8.2.1 FIXED AND VALUE RELATED ITEMS

Delete ...in a single payment in terms of the first..... and replace with ...pro-rata payment in terms of each progress certificate

VA-A 8.2.2 Time-related Items

Delete and replace with:

Payment for time-related items will be effected as follows only after payment for the relevant fixed charge item if any has been made.

Subject to the provisions of SABS 1200 A clauses 8.2.3 and 8.2.4, payment of incremental amounts (calculated by the division of the remainder of the tendered sum by the number of months required to complete the site activities for which the relevant sum was tendered) will be authorised in each of the subsequent progress certificates until the sum tendered has been paid, provided that the Employer shall be entitled to amend the amount to be paid in respect of time-related items in the event of:

- (a) extension of time being granted in accordance with the contract.
- (b) adjustment to the time-related items in accordance with the terms of contract.
- (c) delays caused by the Contractor for which no extension of time will be granted under the contract.

ADD NEW CLAUSES:

VA-A 8.9 RATES INCLUSIVE OF CONTRACTOR'S OBLIGATIONS, LIABILITIES AND RESPONSIBILITIES

The rates and prices contained in the Preliminary and General Section of the Bills of Quantities shall, together with the remainder of the Bills of Quantities, be deemed inclusive of all the Contractor's obligations, liabilities and responsibilities whether or not they are expressly described therein.

VA-A -8.10 ADJUSTMENT TO PRELIMINARY AND GENERAL ITEMS

Adjustment to fixed and value related amounts will be made on the following basis only: -

- a) The first 15% variance to the contract value will not be subject to P & G adjustment
- b) If the final contract value varies by more than 15% in relation to the original contract value, the preliminaries shall be adjusted in proportion to the amount by which the difference exceeds 15% of the original contract value.
- c) No other adjustments shall be made.

7 List of drawings

7.1 Drawings issued by the *Employer*

This is the list of drawings issued by the *Employer* at or before the Contract Date and which apply to this contract.

Note: Some drawings may contain both Works Information and Site Information.

Drawing number	Revision	Title
0.18/17324 Sheet 3	3	Esselen 88kV National EPP Bypass Layout & details
0.18/17324 Sheet 4	2	Esselen 88kV National EPP Bypass Layout & Details, Schedules & Notes
0.18/17320 Sheet 45	5	Esselen 88kV Feeder Bay 11
0.18/17324 Sheet 2	4	Esselen 275/132kV yard Key Plan

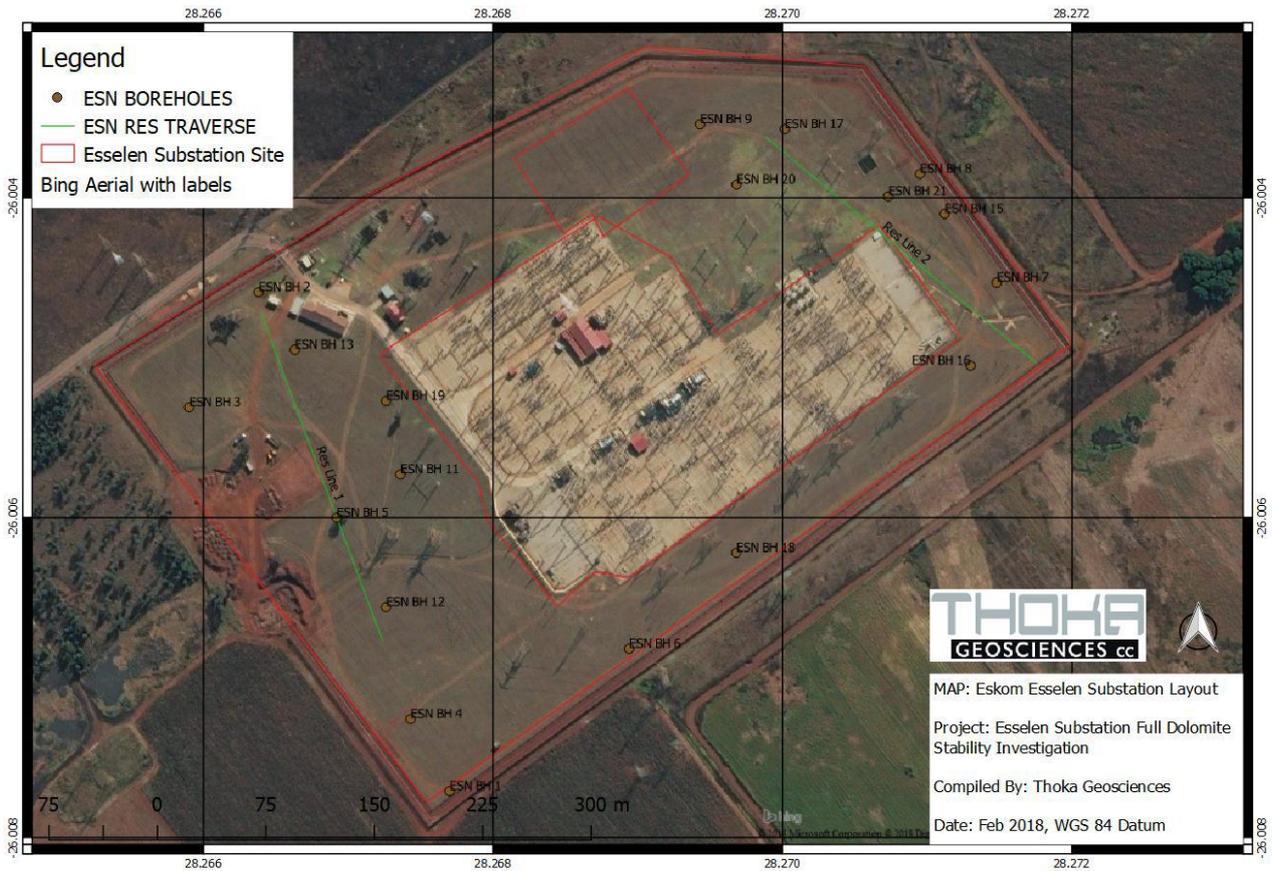
C3.2 *CONTRACTOR'S* WORKS INFORMATION

N/A

PART 4: SITE INFORMATION

Document reference	Title	No of pages
C4	This cover page Site Information	
	Total number of pages	

2. Existing buildings, structures, and plant & machinery on the Site



3. Subsoil information

Not available

4. Hidden services

None

5. Other reports and publicly available information

Considering all the discussed attributes of mobilization /blanketing material agency, cavities, sinkhole size and nature of blanketing material, dolomite bedrock topography and geohydrology, the site is regarded to have variable hazard classes. Boreholes representing high inherent hazard (IHC 6 – 8) dominate by about 70 % of the drilled borehole classifying either as IHC 6/7/8. Most of the high inherent hazard areas are characterised by either gravity low zones/deep bedrock or contact zones between gravity high and gravity low zones e.g. ESN BH 13. This assessment suggests platforms of shallow dolomite adjacent to troughs of weathered zones covered by soil sediment deposits (FERRUGENISED CLAYEY SILT). The platforms of shallow dolomite in most instances represent intermediate inherent hazard classified as IHC 2/3/4.

On the regional scale, the site is characterised by a slope of 1% sloping towards the eastern direction with a low relief towards the Rietvlei River system located about 3 km east of the site. On a local scale, the site is locally characterised by a generally flat topography gently sloping towards the eastern direction.