



## NEC3 Engineering and Construction

# Short Contract (ECSC3)

A contract between

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

and

for

**Installation of Shelving and pallet racking in Stores Building**

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Compiled in accordance with CIDB Standard for Uniformity in Construction Procurement (May 2010 amendments)

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Documentation prepared by:

Z Kubheka

# C1 Agreements & Contract Data

## C1.1 Form of Offer and Acceptance

### Offer

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

Installation of Shelving and pallet racking in Stores Building

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

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

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

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

Signature(s)

Name(s)

Capacity

For the  
tenderer:

(Insert name and address of organisation)

Name &  
signature of  
witness

Date

Tenderer's CIDB registration number:

## Acceptance

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

The terms of the Contract, are contained in:

Part 1 Agreements and Contract Data, (which includes this Form of Offer and Acceptance)

Part 2 Pricing Data

Part 3 Scope of Work: Works Information

Part 4 Site Information

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

Deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Tender Schedules as well as any changes to the terms of the Offer agreed by the tenderer and the Employer during this process of Offer and Acceptance, are contained in the Schedule of Deviations attached to and forming part of this Form of Offer and Acceptance. No amendments to or deviations from said documents are valid unless contained in this Schedule, which must be signed by the duly authorised representative(s) for both parties.

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

Notwithstanding anything contained herein, this Agreement comes into effect on the date when the tenderer receives one fully completed and signed copy of this document, including the Schedule of Deviations (if any) together with all the terms of the contract as listed above.

Signature(s)

Name(s)

Capacity

for the  
Employer

(Insert name and address of organisation)

Name &  
signature of  
witness

Date

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

## Schedule of Deviations

Note:

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

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

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

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

### For the tenderer:

### 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 Contract Data

### Data provided by the *Employer*

[Instructions to the contract compiler: (delete these two notes in the final draft of a contract)]

1. Please read the relevant clauses in the NEC3 Engineering and Construction Short Contract (April 2013) (ECSC3)<sup>1</sup> before you enter data. The number of the principal clause is shown for most statements however other clauses may also use the same data.
2. Where the following symbol is used “[●]” - data is required to be inserted.]

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

Clause	Statement	Data
<b>General</b>		
10.1	The <i>Employer</i> is (Name):	Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state owned company incorporated in terms of the company laws of the Republic of South Africa
	Address	Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg
10.1 & 14.4	The <i>Employer's</i> representative to whom the <i>Employer</i> in terms of clause 14.4 delegates his actions <sup>2</sup> is (Name):	Zanele Kubheka
	Address	Kusile Power Station
	Tel No.	013 699 7838
	Fax No.	086 718 0399
	E-mail address	kubhekza@eskom.co.za
11.2(11)	The <i>works</i> are	Supply and installation of Shelving and pallet racking in Stores Building
11.2(13)	The Works Information is in	the document called ‘Works Information’ in Part 3 of this contract.
11.2(12)	The Site Information is in	the document called ‘Site Information’ in Part 4 of this contract.
11.2(12)	The <i>site</i> is	Kusile Power Station
30.1	The <i>starting date</i> is.	09 December 2022
11.2(2)	The <i>completion date</i> is.	31 March 2023
13.2	The <i>period for reply</i> is	3 days
40	The <i>defects date</i> is	52 weeks after Completion

<sup>1</sup> Available from Engineering Contract Strategies Tel 011 803 3008, Fax 086 539 1902 or www.ecs.co.za

<sup>2</sup> Except those actions which can only be done by the *Employer* as a Party to the contract.

41.3	The <i>defect correction period</i> is	<b>3 days</b>
50.1	The <i>assessment day</i> is the	<b>25 of each month.</b>
50.5	The <i>delay damages</i> are	<b>N/A</b>
50.6	The retention is	<b>0%</b>
51.2	The interest rate on late payment is	<b>N/A</b>
80.1	The <i>Contractor</i> is not liable to the <i>Employer</i> for loss of or damage to the <i>Employer's</i> property in excess of	<b>the amount of the deductibles relevant to the event</b>
	Does the United Kingdom Housing Grants, Construction and Regeneration Act (1996) apply?	<b>No</b>
93.1	The <i>Adjudicator</i> is	<b>the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a>). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).</b>
	Address	<b>[•]</b>
	Tel No.	<b>[•]</b>
	Fax No.	<b>[•]</b>
	e-mail	<b>[•]</b>
93.2(2)	The <i>Adjudicator nominating body</i> is:	<b>the Chairman of ICE-SA a joint Division of the South African Institution of Civil Engineering and the London Institution of Civil Engineers. (See <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a> ) or its successor body</b>
93.4	The <i>tribunal</i> is:	<b>arbitration.</b>
	The <i>arbitration procedure</i> is	<b>the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.</b>
	The place where arbitration is to be held is	<b>South Africa</b>
	The person or organisation who will choose an arbitrator	
	- if the Parties cannot agree a choice or	<b>the Chairman for the time being or his nominee</b>
	- if the arbitration procedure does not state who selects an arbitrator, is	<b>of the Association of Arbitrators (Southern Africa) or its successor body.</b>
<b>The conditions of contract are the NEC3 Engineering and Construction Short Contract (April 2013)<sup>34</sup> and the following additional conditions Z1 to Z11 which always apply:</b>		

<sup>3</sup> If June 2005 Edition applies, delete April 2013 and insert June 2005

<sup>4</sup> State whether attached as a 'PDF' file in terms of Eskom's licence, or to be obtained from Engineering Contract Strategies Tel 011 803 3008, Fax 086 539 1902 or [www.ecs.co.za](http://www.ecs.co.za).

**Z1 Cession delegation and assignment**

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

**Z2 Change of Broad Based Black Economic Empowerment (B-BBEE) status**

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

**Z3 Confidentiality**

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

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

- Z4.1 Any extension, concession, waiver or relaxation of any action stated in this contract by the Parties or their delegates or the *Adjudicator* does not constitute a waiver of rights, and does not give rise to an estoppel unless the Parties agree otherwise and confirm such agreement in writing.

**Z5 Health, safety and the environment**

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

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

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

**Z7 Notifying compensation events**

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

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

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



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

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

**Z10 Addition to Clause 50.5**

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

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

**Z11 Ethics**

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

**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 Subconsultants 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 Subcontractors 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.

Z11.1 A Committing Party may not take any Prohibited Action during the course of the procurement of this contract or in execution thereof.

Z11.2 The *Employer* may terminate the *Contractor's* obligation to Provide the Services if a Committing Party has taken such Prohibited Action and the *Contractor* did not take timely and appropriate action to prevent or remedy the situation, without limiting any other rights or remedies the *Employer* has. It is not required that the Committing Party had to have been found guilty, in court or in any other similar process, of such Prohibited Action before the *Employer* can terminate the *Contractor's* obligation to Provide the Services for this reason.

Z11.3 If the *Employer* terminates the *Contractor's* obligation to Provide the Services for this reason, the amounts due on termination are those intended in core clauses 92.1 and 92.2.

Z11.4 A Committing Party co-operates fully with any investigation pursuant to alleged Prohibited Action.

Where the *Employer* does not have a contractual bond with the Committing Party, the *Contractor* ensures that the Committing Party co-operates fully with an investigation.

## Z12 Insurance

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

#### Insurance cover 82

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

**INSURANCE TABLE A**

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

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

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

**INSURANCE TABLE B**

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

### **Z13 Nuclear Liability**

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

Z13.2 The *Employer* is solely responsible for and indemnifies the *Contractor* or any other person against any and all liabilities which the *Contractor* or any person may incur arising out of or resulting from nuclear damage, as defined in Act 44 of 1999, save to the extent that any liabilities are incurred due to the unlawful intent of the *Contractor* or any other person or the presence of the *Contractor* or that person or any property of the *Contractor* or such person at

or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.

- Z13.3 Subject to clause Z13.4 below, the *Employer* waives all rights of recourse, arising from the aforesaid, save to the extent that any claims arise or liability is incurred due or attributable to the unlawful intent of the *Contractor* or any other person, or the presence of the *Contractor* or that person or any property of the *Contractor* or such person at or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.
- Z13.4 The *Employer* does not waive its rights provided for in section 30 (7) of Act 44 of 1999, or any replacement section dealing with the same subject matter.
- Z13.5 The protection afforded by the provisions hereof shall be in effect until the KNPS is decommissioned.

## **Z14 Asbestos**

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

- 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.
- Z14.1 The *Employer* ensures that the Ambient Air in the area where the *Contractor* will Provide the Services conforms to the acceptable prescribed South African standard for asbestos, as per the regulations published in GNR 155 of 10 February 2002, under the Occupational Health

and Safety Act, 1993 (Act 85 of 1993) ("Asbestos Regulations"). The OEL for asbestos is 0.2 regulated asbestos fibres per millilitre of air as a 4-hour TWA, averaged over any continuous period of four hours, and the short term exposure limit of 0.6 regulated asbestos fibres per millilitre of air as a 10-minute TWA, averaged over any 10 minutes, measured in accordance with HSG248 and monitored according to HSG173 and OESSM.

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

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

The tendering contractor is advised to read both the NEC3 Engineering and Construction Short Contract (April 2013) and the relevant parts of its Guidance Notes (ECSC3-GN)<sup>5</sup> in order to understand the implications of this Data which the tenderer is required to complete. An example of the completed Data is provided on page 31 of the ECSC3 April 2013 Guidance Notes.

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

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

<sup>5</sup> Available from Engineering Contract Strategies Tel 011 803 3008, Fax 086 539 1902 or [www.ecs.co.za](http://www.ecs.co.za).

## C2 Pricing Data

### C2.1 Pricing assumptions

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

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

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

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

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

The Price List is as follows

PART C2: PRICING DATA PAGE 16 C2.2 ECSC3 PRICE LIST



## C3: Scope of Work

### C3.1 Works Information

#### Description of the works

##### Overview

The Warehouse is an open plan steel framed building, approximately 85 m wide and 272 m long and clad with metal sheeting. Eight roller shutter doors are provided around the building as well as a large double sliding door at the main entrance. Two rows of columns along the length serve to support the roof trusses and divides the floor area into three areas. One of these areas is fenced and used for storage of various items.

Bolted shelving and pallet racking is required to be installed in this area as indicated in the layout below. The Contractor takes note that the exact position will be confirmed on site with the Employer before installation.

Existing bolted shelving is also in place within the warehouse and is relocated by the Contractor to an open area to allow the installation of pallet racking.

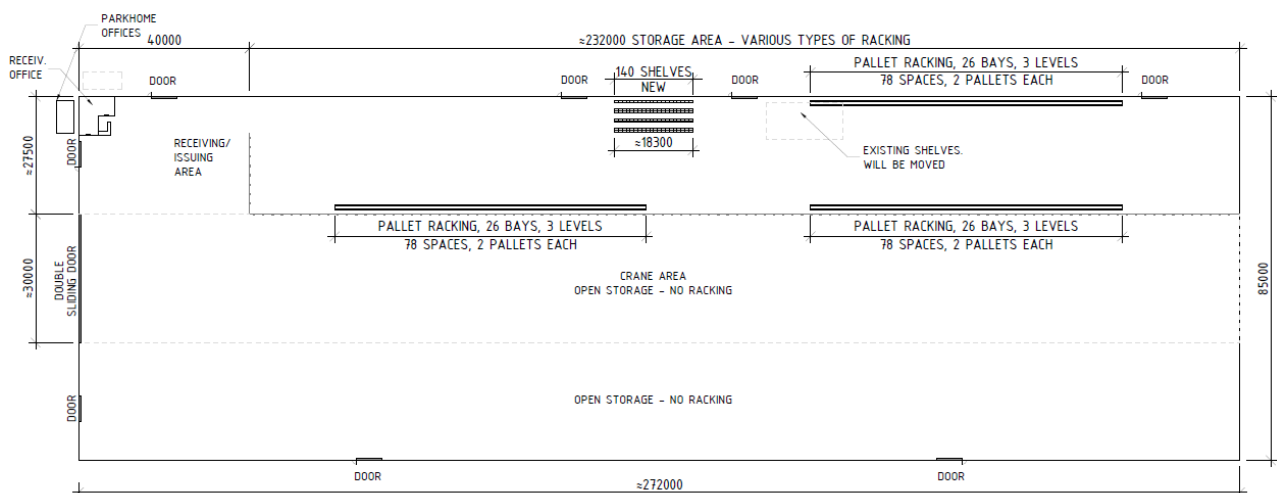


Figure 1: Proposed Layout

### Shelving and Racking Requirements

#### Bolted Steel Shelving

The contractor provides one single row and three double rows of open braced bolted steel shelving, with 20 bays along a row and therefore 140 bays in total.

Each bay will be approximately 2.2 m in height, 900 mm wide, 400 mm deep and have 6 rows (5 open spaces excluding top level) to the height. Standard dimension shelving similar to these given dimensions are acceptable.

Each of the 5 shelves shall be capable of carrying a minimum uniform load of 50 kg. Shelving shall be securely bolted to the floor slab and shall be level.

## **Pallet Racking**

The Contractor installs three single rows of heavy duty boltless pallet racking as indicated in Figure1. Each row consists of 26 bays with a width of approximately 2.7 m to accommodate two standard pallets. The depth of the bay shall be 900 mm. Three levels are required per bay with the top level at 2.5 m above floor level.

Each of the three levels accommodate a minimum load of 1500 kg, i.e. 750 kg per pallet. Timber decking, in accordance with parts 1 and 2 of SANS 1783, is provided on each level spanning between the main support beams and is thick enough to carry the 1500 kg uniform load. The grain of the timber decking must be perpendicular to the two support beams, i.e. spans in its strong direction.

Racking shall be securely bolted to the concrete floor slab with galvanised/electro plated bolts, Grade 8.8 and M12 as a minimum and shall be level. All base plates to be a minimum of 120x120 mm.

## **General Requirements**

All shelving and racking steel to have a primer/pre-treatment followed by an epoxy powder coating in accordance with SANS 1274.

All racking steelwork to be minimum S275JR or S355JR steel to all parts of SANS 50025, or other recognised EN standards subject to acceptance from the *Employer*.

## **Construction/Installation**

The *Contractor* is required to:

1. Design (where applicable), supply, deliver, install/erect, construct and commission of the entire *works*.
2. Adhere to the South African Environment Protection Act, the waste management code of practice and the South African Occupational Health and Safety Act No. 85 of 1993, the regulations promulgated thereunder and Eskom Safety, Health, Environment and Quality (SHEQ) Policy 32-727 for all *works*.
3. Submit a comprehensive method statement of the entire *works* to the *Project Manager* for acceptance within one week after award of the contract.
4. Submit a project specific safety file to the *Employer* for comments / acceptance.
5. Submit a detailed level 4 schedule for the *works* to the *Project Manager* for acceptance after contract award.
6. Take all necessary precautions to ensure that none of the existing plant that is not in the scope of *works* is damaged during demolition.
7. Manage his access to the working areas and the Site.

8. Manage his activities on Site to ensure that no interference takes place between his work and that of others.

9. Complete "Contract Activities Daily Reports".

10. Liaise with the *Supervisor* regarding the location of waste disposal sites and rubbish dumps,

11. Maintains and promotes labour harmony on the Site and in the working environment.

12. Immediately report any potential labour disharmony to the *Supervisor*.

13. Design must comply with the requirement of the newly promulgated regulation named Ergonomics regulations

14. Design must also make it possible for complying with the requirements stated under section 8 of the General Safety Regulations.

### Process for Monitoring

- The *Contractor* must submit a safety file for approval before the any work can start
- Method statements must be accepted before any work takes place
- Quality control documentation must be signed off and submitted to the *Employer*

### Performance Guarantees

The shelving and racking is required to have a minimum of 5 years guarantee against material and workmanship

### Handover

1. The *Contractor* also compiles a data package of the relevant drawings, test certificates etc. to the *Project Manager* for acceptance. These include, but are not limited to:

- Material certificates
- Coating/corrosion protection certificates
- As-built drawings
- Guarantee certificate
- Operating/maintenance manuals
- Design criteria and specifications

## 2. Specifications

Title	Date revision	or	Tick if available	publicly
<b>General Specifications:</b>				
<b>Health and Safety Requirements</b>				
<b>Environmental Requirements</b>				
<b>Quality Requirements</b>				
<b>Site Access Requirements</b>				
<b>Technical specifications:</b>				
<b>240-166180868</b> Kusile Power Station Tender Technical Evaluation Strategy for ex-Ge Warehouse Shelving and Racking Installation Works	1			

### Health and Safety Requirements

**The following documentation must form part of the SHE file:**

- a) The appointment contractor and each sub-contractor shall each have a SHE Policy that shall be duly signed by an authorised signatory concerning the protection of the health and safety of contractor's personnel and others in and about the execution of the works, including a description of his organisation and the arrangements for carrying out and reviewing such policy.
- b) A copy of the SHE Policy shall be provided as a tender returnable. Tenderers shall furthermore supply method statements containing sufficient detailed information to demonstrate compliance to this Schedule.
- c) Proof of communication of the SHE policy to employees must be attached with the submitted signed SHE policy.
- d) All contractors shall prominently display a copy of the policy in the workplace where the contractor's personnel normally report for service.
- e) The sub-contractor's SHE Plan shall demonstrate the management process and procedures that shall be adopted to ensure compliance to requirements listed in this schedule and other contract documents requirements.
- f) These management processes shall identify each activity, the foreseeable internal and external hazards, the specific precautions and controls that shall be necessary to ensure that the Works commence and continue safely and without risks to health or to adjacent operations
- g) The SHE Plan shall further demonstrate the Contractor's commitment to safety, health and environmental requirements and shall, as a minimum include the following elements:
- h) Compliance to this SHE specification
- i) Relevant applicable legal and other requirements as per issued scope of work.
- j) Roles and responsibilities.
- k) Process for hazard identification and risk assessment including monitoring and review plans, a further identification of opportunities must be part of the process. Interested and affected parties must be clearly outlined.

- l) Process for change management.
- m) Process for employee training, competency, communication, awareness and participation.
- n) Process for incident management and investigation.
- o) Process for setting objectives and programmes.
- p) Process in place to review the SHE plan.
- q) Process for performance management and monitoring.
- r) Process for internal audits.
- s) Process for document and records management.
- t) Planning of conduct of work activities including planning for changes and emergency work
- u) Personal Protective Equipment procedure and rules.
- v) Emergency planning and fire risk management
- w) Vehicle and driver behavior safety
- x) Competency, training, appointments
- y) Communication and awareness
- z) Identification of Environmental Aspects, their associated impacts, mitigation measures and management thereof.
- aa) Management commitment and visible felt leadership
- bb) The sub- contractors SHE Plan shall be reviewed from time to time (and in any event as and when required by the client) to ensure that it fully addresses all the issues and complies with these requirements to the satisfaction of the client.

**The following competencies are mandatory for this type of work:**

- a) Risk assessor competency
- b) Working at height competency (FAS training in accordance with unit standard 229998 and 229995)
- c) Level 2 first aider competency
- d) Supervisor competency including Legal Liability course
- e) SHE Rep competency
- f) Safety officer competency
- g) Fall protection plan developer
- h) PDP and driver licences where applicable
- i) Emergency Coordinator and Evacuation wardens
- j) Incident Investigator

## Environmental Requirements

The following minimum records shall be kept on sites:

**a) Contractor site specific Environmental Management Plan and Environmental aspect and impact register;**

Environmental aspect must be identified, and how they should be mitigated and also be communicated to employees. Proof of communication must be available

**b) Environmental Incident registers and investigation reports;**

Incident must be reported immediately or within 24 hours of occurrence, investigation must take place within 7 days and concluded with 30 days, lesson learned must be shared with employees. Record of environmental incidents must be made available.

**c) Non-conformance register;**

When non-conformances are closed, they should be investigated and close-out within the agreed timeframes.

**d) Complaints register;**

Where complaints are raised they should be reported to Kusile Environmental management Department, be investigated and closed out.

**e) Hazardous Substances registers and SDS where applicable;**

Where hazardous substances are used, a register should be maintained and all SDS should be available and communicated to employees.

**f) Records of audit reports and audit findings close-out, where applicable;**

Records of audit and how findings where closed should be maintained.

**g) Records of environmental inspections conducted.**

Monthly environmental inspection should be conducted and records of inspections should be maintained.

## Quality Requirements

It is important that all the contractors or service providers at Eskom meet the minimum requirements of ISO 9001 quality management system to maintain a high standard of products or services rendered to Eskom.

It is therefore important that the contractor demonstrate commitment to the development, implementation and maintenance of its Quality management system that complies with the requirements of ISO 9001 standard.

This type of work falls under category 4 of the quality requirements.

The supplier shall submit the evidence of the developed and implemented QMS which complies with ISO 9001.

The following documented information needs to be submitted:

a) QMS manual or a document that defines and describes the QMS and its Quality method statement based on its scope.

b) Quality policy (approved by the top management).

c) Quality Objectives (Approved by the top management).

d) Documented information for roles and responsibilities or Organogram

e) Documented information for control of externally provided processes, product and services.

f) Draft Project Quality Plan.

g) Signed Form A

### **Permit to Work System (PTW)**

The Eskom Permit to Work System (PTW) specify and provide requirements for the application of compulsory health and safety standards and procedures for the safeguarding of Plant and persons. This system forms an integral part of the approval process for work under the Work Coordination Process. The following Eskom Regulations shall be complied with:

a) Eskom Plant Safety Regulations, GGR 0992;

b) Eskom Operating Regulations for High Voltage Systems, ESKPVAEY6

The contractor shall ensure that adequately experienced personnel with the required levels of education are nominated by the contractor to attend all relevant training specific to the Appointments required by the roles. Training shall be provided free of charge by Eskom, however, the candidates time shall be for the contractors own account.

### **Site Access Requirements**

The OHS file package must be submitted to the OHS department electronically **4 weeks** before the agreed project commencement date.

Before the successful Contractor commences with any work, the Kusile Power Station Project Manager/Contract Manager shall ensure that;

- A copy of the SHE Specification document is in the possession of the principal contractor as well as the Kusile Power Station baseline risk assessment.
- The responsible person of the contracting company and the Kusile power station project manager/contract manager have signed the Kusile power station section 37 (2) agreement.
- The appointment of the appointed Contractor have been concluded and signed by the Contractor and Appointed Project Manager.
- The SHE plan has been discussed with the responsible person of the contracting company and approved in writing by the Kusile power station Contract Manager.
- A task specific baseline risk assessment must be part of the SHE Plan and accompanied by a risk assessment procedure applied. A monitoring and review plan must form part of the baseline risk assessment
- Where a Sub Contractor(s) is appointed by the Appointed Contractor, the Contractor supplies the applicable Kusile power station SHE specifications to the Sub Contractor(s).
- Where a Sub Contractor(s) is appointed by the Appointed Contractor, the safety file for the sub-contractor must also be submitted to safety department for approval
- The OHS department shall assess and give written feedback to the contract manager.
- The safety file shall be approved by a form of a written letter, the letter shall authorise the appointed contractor to commence with site establishment.

### 3. Constraints on how the *Contractor* Provides the Works

#### 3.1 Meetings

- The following meetings will be held as a minimum for the duration of the project.
- Regular meetings of a general nature may be convened and chaired by the *Employer's representative* as follows:

Title and purpose	Approximate time & interval	Location	Attendance by:
Project Kick-off Meeting	3 days after Contract Award	Kusile Power Station	Employer, Contractor and Others
SHEQ Requirements and submission of Execution programme Clarification Meeting	3 days after Kick – off meeting	Kusile Power Station	Employer, Contractor and Others
Execution Progress Meeting	Daily		Employer, Contractor and Others
Overall contract progress and feedback	Weekly on Thursdays		<i>Employer</i> and <i>Contractor</i>
Risk register and compensation events	Daily		Employer, Contractor and Others
Other	as and when required		<i>Employer, Contractor and Others</i>

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

#### 3.3 Invoicing and payment

In terms of core clause 50 the *Contractor* assesses the amount due and applies to the *Employer* for payment. The *Contractor* applies for payment with a tax invoice addressed to the *Employer* as follows:

The *Contractor* includes the following information on each tax invoice:

- Name and address of the *Contractor*
- The contract number and title;
- *Contractor's* VAT registration number;
- The *Employer's* VAT registration number 4740101508;
- The total Price for Work Done to Date which the *Contractor* has completed;
- Other amounts to be paid to the *Contractor*;
- Less amounts to be paid by or retained from the *Contractor*;
- The change in the amount due since the previous payment being the invoiced amount - excluding VAT, the VAT and including VAT;

The invoice is to be submitted to **invoiceseskomlocal@eskom.co.za** once confirmed with the payment certificate



The *Contractor* attaches the detail assessment of the amount due to each tax invoice showing the Price for Work Done to Date for each item in the Price List for work which he has completed.

#### **4. Requirements for the programme**

The programme should preferably be in Primavera P6 but if this is not possible, MS Projects will be sufficient.

The schedule should show activities to be carried out to complete the works, the duration of these activities, the sequence in which these activities will be carried out, the dates when these activities will be carried out, the float if any of these activities and the critical path.

The programme must be submitted prior to commencing the works as stipulated in the contract.

The programme should be updated on a weekly basis.