



NEC3 Supply Contract (SC3)

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

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

for The design, manufacture and testing ex-works of various types of pole top and ground mounted transformers on an “as and when” required basis over a 3 (three) year period.

Contents:	No of pages
Part C1 Agreements & Contract Data	[25]
Part C2 Pricing Data	[3]
Part C3 Scope of Work	[16]

CONTRACT No. [Insert at award stage]

PART C1: AGREEMENTS & CONTRACT DATA

Contents:	No of pages
C1.1 Form of Offer and Acceptance	[3]
[to be inserted from Returnable Documents at award stage]	
C1.2a Contract Data provided by the <i>Purchaser</i>	[15]
C1.2b Contract Data provided by the <i>Supplier</i>.	[1]
[to be inserted from Returnable Documents at award stage]	
C1.3 Proforma Guarantees	[5]

C1.1 Form of Offer & Acceptance

Offer

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

The Design, Manufacture and Testing Ex-Works of Various Types of Pole Top and Ground Mounted Transformers On An "As And When" Required Basis Over A 3 (Three) Year Period.

The tenderer, identified in the Offer signature block, has.

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

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

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

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

Signature(s)

Name(s)

Capacity

**For the
tenderer:**

(Insert name and address of organisation)

Name &
signature of
witness

Date

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

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Acceptance

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

The terms of the contract, are contained in:

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

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

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

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

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

Signature(s)

Name(s)

Capacity

**for the
Purchaser**

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

(Insert name and address of organisation)

Name &
signature of
witness

Date

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

CONTRACT TITLE: THE DESIGN, MANUFACTURE AND TESTING EX-WORKS OF VARIOUS TYPES OF POLE TOP AND GROUND MOUNTED TRANSFORMERS ON AN "AS AND WHEN" REQUIRED BASIS OVER A 3 (THREE) YEAR PERIOD.

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

Note:

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

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

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

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

For the tenderer:

For the Purchaser

Signature

Name

Capacity

On behalf
of

(Insert name and address of organisation)

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

Name &
signature
of witness

Date

C1.2 SC3 Contract Data

Part one - Data provided by the *Purchaser*.

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

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for Options	
		X1: Price adjustment for inflation X2: Changes in the law X4: Parent company guarantee (if required) X7: Delay damages X13: Performance bond (if required) Z: Additional conditions of contract
	of the NEC3 Supply Contract (April 2013) ²	(If the December 2009 edition is to be used delete April 2013 and replace by December 2013)
10.1	The <i>Purchaser</i> is (name):	Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state-owned company incorporated in terms of the company laws of the Republic of South Africa
	Address	Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg
10.1	The <i>Supply Manager</i> is (name):	Ryan Smith
	Address	Eskom Academy of Learning, Midrand.
	Tel	011 417 9157
	Fax	N/A
	e-mail	SmithRy@eskom.co.za
11.2(13)	The <i>goods</i> are	Pole top boxes and ground mounted transformers
11.2(13)	The <i>services</i> are	Design, manufacture and testing ex-works of various types of pole top and ground mounted transformers on an "as and when" required basis over a 3 (three) year period.
11.2(14)	The following matters will be included in	

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

the Risk Register

1. Storage of goods
2. Access to storage
3. Political unrest
4. Strikes
5. Health disasters

11.2(15)	The Goods Information is in	Part 3: Scope of Work and all documents and drawings to which it makes reference.	
11.2(15)	The Supply Requirements as part of the Goods Information is in	Annexure A to this Contract Data	
12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa	
13.1	The <i>language of this contract</i> is	English	
13.3	The <i>period for reply</i> is	[2] weeks	
2	The <i>Supplier's</i> main responsibilities	Data required by this section of the core clauses is provided by the <i>Supplier</i> in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data.	
3	Time		
30.1	The <i>starting date</i> is.	TBA	
30.1	The <i>delivery date</i> of the goods and services is:	<i>goods and services</i>	<i>delivery date</i>
		1 AS and when required purchase order	As and required as per delivery date of the purchase order
30.2	The <i>Supplier</i> does not bring the goods to the Delivery Place more than one week before the Delivery Date.	As and when required	
31.1	The <i>Supplier</i> is to submit a first programme for acceptance within	As and when required	
32.2	The <i>Supplier</i> submits revised programmes at intervals no longer than	Not applicable.	
4	Testing and defects		
42	The <i>defects date</i> is	[52] weeks after Delivery.	
43.2	The <i>defect correction period</i> is	[4] weeks	
	except that the <i>defect correction period</i> for	Imported products is 6 weeks.	
	and the <i>defect correction period</i> for	Programming is 3 weeks including testing.	
42.2	The <i>defects access period</i> is	[7] days	
	except that the <i>defect access period</i> for	Imported products is 7 days.	
	and the <i>defect access period</i> for	Programming is 7 days	

CONTRACT TITLE: THE DESIGN, MANUFACTURE AND TESTING EX-WORKS OF VARIOUS TYPES OF POLE TOP AND GROUND MOUNTED TRANSFORMERS ON AN "AS AND WHEN" REQUIRED BASIS OVER A 3 (THREE) YEAR PERIOD.

5 Payment

50.1	The <i>assessment interval</i> is	Upon delivery of each batch.
51.1	The <i>currency of this contract</i> is the	South African Rand
51.2	The period within which payments are made is	<p>For contracts valued below R50 000 000 (Fifty Million Rand) including VAT, Eskom is committed to paying Suppliers within 30 days of submission of a tax compliant invoice with a GR number to Eskom Financial Shared Services.</p> <p>For contracts valued above R50 000 000 (Fifty Million Rand) including VAT, Eskom is committed to paying suppliers within 60 days of submission of a tax compliant invoice with a GR number to Eskom Financial Shared Services.</p>
51.4	The <i>interest rate</i> is	the publicly quoted prime rate of interest (calculated on a 365-day year) charged from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands.
6	Compensation events	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
7	Title	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
8	Risks, liabilities, indemnities and insurance	
80.1	These are additional <i>Purchaser's</i> risks	1. None
88.1	The <i>Supplier's</i> liability to the <i>Purchaser</i> for indirect or consequential loss, including loss of profit, revenue and goodwill is limited to	R0.0 (zero Rand)
88.2	For any one event, the <i>Supplier's</i> liability to the <i>Purchaser</i> for loss of or damage to the <i>Purchaser's</i> property is limited to	<p>(1) for the <i>Purchaser's</i> existing and surrounding property in the care, custody and control of the <i>Supplier</i> the amount of the deductible (first amount payable) relevant to the event and</p> <p>(2) for all other existing <i>Purchaser's</i> property the applicable deductible as at contract date</p>

CONTRACT TITLE: THE DESIGN, MANUFACTURE AND TESTING EX-WORKS OF VARIOUS TYPES OF POLE TOP AND GROUND MOUNTED TRANSFORMERS ON AN "AS AND WHEN" REQUIRED BASIS OVER A 3 (THREE) YEAR PERIOD.

88.3	The <i>Supplier's</i> liability for Defects due to his design which are not notified before the last <i>defects date</i> is limited to:	The value of the batch order
88.4	The <i>Supplier's</i> total liability to the <i>Purchaser</i> , for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	The value of each Purchase Order issued in terms of this contract.
88.5	The <i>end of liability date</i> is	[3] years after Delivery of the whole of the goods and services.

9 Termination and dispute resolution

94.1	The <i>Adjudicator</i> is	the person selected from the 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).
94.2(3)	The <i>Adjudicator nominating body</i> is:	the Chairman of ICE-SA, a Division of the South African Institution of Civil Engineering, or its successor body (See www.ice-sa.org.za)
94.4(2)	The <i>tribunal</i> is:	arbitration
94.4(5)	The <i>arbitration procedure</i> is	the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.
94.4(5)	The place where arbitration is to be held is	Midrand, South Africa
	The person or organisation who will choose an arbitrator	
	- if the Parties cannot agree a choice or	
	- if the arbitration procedure does not state who selects an arbitrator, is	the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.

10 Data for Option clauses

X1	Price adjustment for inflation													
X1.1	The <i>base date</i> for indices is	One-month prior tender closing date.												
	The proportions used to calculate the Price Adjustment Factor are:	Price adjustment for inflation_ Transformers from 16 to 50kVA												
		<table border="1"> <thead> <tr> <th>Material</th><th>Percent ages</th><th>Indices</th></tr> </thead> <tbody> <tr> <td>Table E-A Hot Rolled Steel Plates</td><td>0.00</td><td>SEIFSA Table E-A</td></tr> <tr> <td>Table E-A Hot Rolled Steel Plates</td><td>0.12</td><td>SEIFSA Table E-A</td></tr> <tr> <td>Table J3A Distribution Transformer Oil (Ester/Mineral)</td><td>0.09</td><td>SEIFSA Table J3A</td></tr> </tbody> </table>	Material	Percent ages	Indices	Table E-A Hot Rolled Steel Plates	0.00	SEIFSA Table E-A	Table E-A Hot Rolled Steel Plates	0.12	SEIFSA Table E-A	Table J3A Distribution Transformer Oil (Ester/Mineral)	0.09	SEIFSA Table J3A
Material	Percent ages	Indices												
Table E-A Hot Rolled Steel Plates	0.00	SEIFSA Table E-A												
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CONTRACT TITLE: THE DESIGN, MANUFACTURE AND TESTING EX-WORKS OF VARIOUS TYPES OF POLE TOP AND GROUND MOUNTED TRANSFORMERS ON AN "AS AND WHEN" REQUIRED BASIS OVER A 3 (THREE) YEAR PERIOD.

Table C4 All Hourly Paid Employees	0.07	SEIFSA Table C4
Table R 99.7 EC Grade Rod	0.07	SEIFSA Table R
Table JA Distribution Tap Changer	0.01	SEIFSA Table JA
Table J3A Distribution Bushings	0.04	SEIFSA Table J3A
Table J3A Insulation	0.04	SEIFSA Table J3A
Table J3A Insulation Electrical Steel: Super High Grade (80—max 0.80w/kg at P1.7/50)	0.40	SEIFSA Table J3A
Table U Final Manufactured Goods	0.01	SEIFSA Table U
Fixed (Non-adjustable)	0.15	
Totals	1.00	

Price adjustment for inflation_ Transformers from 100kVA to 315kVA

Material	Percentages	Indices
Table E-A Hot Rolled Steel Plates	0.03	SEIFSA Table E-A
Table F Long Ton	0.00	SEIFSA Table F
Table E-A Hot Rolled Steel Plates	0.14	SEIFSA Table E-A
Table J3A Distribution Transformer Oil (Ester/Mineral)	0.07	SEIFSA Table J3A
Table G Electrical N/A		
Table C4 All Hourly Paid Employees	0.04	SEIFSA Table C4
Table R 99.7 EC Grade Rod	0.07	SEIFSA Table R
Table JA Distribution Tap Changer	0.00	SEIFSA Table JA
Table J3A Distribution Bushings	0.03	SEIFSA Table J3A
Table J3A Insulation	0.03	SEIFSA Table J3A
Table J3A Insulation Electrical Steel: Super High Grade (80—max 0.80w/kg at P1.7/50)	0.42	SEIFSA Table J3A
Table U Final Manufactured Goods	0.02	SEIFSA Table U
Fixed (Non-adjustable)	0.15	
Totals	1.00	

Price adjustment for inflation_ Transformers > 500kVA

Material	Percentages	Indices
Table E-A Hot Rolled Steel Plates	0.03	SEIFSA Table E-A

CONTRACT TITLE: THE DESIGN, MANUFACTURE AND TESTING EX-WORKS OF VARIOUS TYPES OF POLE TOP AND GROUND MOUNTED TRANSFORMERS ON AN "AS AND WHEN" REQUIRED BASIS OVER A 3 (THREE) YEAR PERIOD.

Table F Long Ton	0.00	SEIFSA Table F
Table E-A Hot Rolled Steel Plates	0.11	SEIFSA Table E-A
Table J3A Distribution Transformer Oil (Ester /Mineral)	0.11	SEIFSA Table J3A
Table G Electrical N/A		
Table C4 All Hourly Paid Employees	0.05	SEIFSA Table C4
Table R 99.7 EC Grade Rod	0.09	SEIFSA Table R
Table JA Distribution Tap Changer	0.00	SEIFSA Table JA
Table J3A Distribution Bushings	0.00	SEIFSA Table J3A
Table J3A Insulation	0.02	SEIFSA Table J3A
Table J3A Insulation Electrical Steel: Super High Grade (80—max 0.80w/kg at P1.7/50)	0.43	SEIFSA Table J3A
Table U Final Manufactured Goods	0.01	SEIFSA Table U
Fixed (Non-adjustable)	0.15	
Totals	1.00	

Prices will be firm and fixed for the first 12 Months thereafter CPA will apply.

X2	Changes in the law		
X2.1	A change in the law of	Country stated in the contracts is a compensation event if it occurs after the Contract Date	
X4	Parent company guarantee	There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.	
X7	Delay damages		
X7.1	Delay damages for Delivery are	Delivery of	amount per day
	Late delivery / Changes in the lead time	Pole and ground mounted transformers as outlined on the pricing list.	R5000
X13	Performance bond		
X13.1	The amount of the performance bond is	10% of the contract value (if required).	
Z	The <i>additional conditions of contract</i> are		
	Z1 to Z15 always apply for Eskom		

Z1 Cession delegation and assignment

Z1.1 The *Supplier* does not cede, delegate or assign any of its rights or obligations to any person without the written consent of the *Purchaser*.

CONTRACT TITLE: THE DESIGN, MANUFACTURE AND TESTING EX-WORKS OF VARIOUS TYPES OF POLE TOP AND GROUND MOUNTED TRANSFORMERS ON AN "AS AND WHEN" REQUIRED BASIS OVER A 3 (THREE) YEAR PERIOD.

- Z1.2 Notwithstanding the above, the *Purchaser* may on written notice to the *Supplier* cede and delegate its rights and obligations under this contract to any of its subsidiaries or any of its present divisions or operations which may be converted into separate legal entities as a result of the restructuring of the Electricity Supply Industry.

Z2 Joint ventures

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

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

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

Z4 Confidentiality

- Z4.1 The *Supplier* does not disclose or make any information arising from or in connection with this contract available to Others. This undertaking does not, however, apply to information which at the time of disclosure or thereafter, without default on the part of the *Supplier*, enters the public domain or to information which was already in the possession of the *Supplier* at the time of disclosure (evidenced by written records in existence at that time). Should the *Supplier* disclose information to Others in terms of clause 23.1, the *Supplier* ensures that the provisions of this clause are complied with by the recipient.
- Z4.2 If the *Supplier* is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the *Supply Manager*.
- Z4.3 In the event that the *Supplier* is, at any time, required by law to disclose any such information which is required to be kept confidential, the *Supplier*, to the extent permitted by law prior to disclosure, notifies the *Purchaser* so that an appropriate protection order and/or any other action can be taken if possible, prior to any disclosure. In the event that such protective order is not, or cannot, be obtained, then the *Supplier* may disclose that portion of the information which it is required to be disclosed by law and uses reasonable efforts to obtain assurances that

confidential treatment will be afforded to the information so disclosed.

Z4.4 The taking of images (whether photographs, video footage or otherwise) of the *goods* or any portion thereof, in the course of Providing the Goods and Services and after Delivery, requires the prior written consent of the *Supply Manager*. All rights in and to all such images vests exclusively in the *Purchaser*.

Z4.5 The *Supplier* 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 *Supply Manager* or the *Adjudicator* does not constitute a waiver of rights, and does not give rise to an estoppel unless the Parties agree otherwise and confirm such agreement in writing.

Z6 Health, safety and the environment: Add to core clause 25.4

Z6.1 The *Supplier* undertakes to take all reasonable precautions to maintain the health and safety of persons in and about the provision of the *goods* and execution of the *services*.

Without limitation the *Supplier*:

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

Z6.2 The *Supplier*, in and about the execution of the supply, complies with all applicable environmental laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his Subcontractors, employees and others under the *Supplier's* direction and control, likewise observe and comply with the foregoing.

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

Z7.2 If the *Supplier* does not provide a tax invoice in the form and by the time required by this contract, the time by when the *Purchaser* is to make a payment is extended by a period equal in time to the delayed submission of the correct tax invoice. Interest due by the *Purchaser* in terms of core clause 51.2 is then calculated from the delayed date by when payment is to be made.

Z7.3 The *Supplier* (if registered in South Africa in terms of the companies Act) is required to comply with the requirements of the Value Added Tax Act, no 89 of 1991 (as amended) and to include the *Purchaser's* VAT number 4740101508 on each invoice he submits for payment.

Z8 Notifying compensation events

CONTRACT TITLE: THE DESIGN, MANUFACTURE AND TESTING EX-WORKS OF VARIOUS TYPES OF POLE TOP AND GROUND MOUNTED TRANSFORMERS ON AN "AS AND WHEN" REQUIRED BASIS OVER A 3 (THREE) YEAR PERIOD.

- Z8.1 Delete from the last sentence in core clause 61.3 the words, "unless the event arises from the *Supply Manager* giving an instruction, changing an earlier decision or correcting an assumption".

Z9 Purchaser's limitation of liability

- Z9.1 The *Purchaser's* liability to the *Supplier* for the *Supplier's* indirect or consequential loss is limited to R0.00 (zero Rand)
- Z9.2 The *Supplier's* entitlement under the indemnity in 83.1 is provided for in 60.1(12) and the *Purchaser's* liability under the indemnity is limited.

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

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 <i>Supplier</i> 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 <i>Supplier</i> , 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.

CONTRACT TITLE: THE DESIGN, MANUFACTURE AND TESTING EX-WORKS OF VARIOUS TYPES OF POLE TOP AND GROUND MOUNTED TRANSFORMERS ON AN "AS AND WHEN" REQUIRED BASIS OVER A 3 (THREE) YEAR PERIOD.

- 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 *Purchaser* may terminate the *Supplier's* obligation to Provide the Services if a Committing Party has taken such Prohibited Action and the *Supplier* did not take timely and appropriate action to prevent or remedy the situation, without limiting any other rights or remedies the *Purchaser* 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 *Purchaser* can terminate the *Supplier's* obligation to Provide the Services for this reason.
- Z12.3 If the *Purchaser* terminates the *Supplier'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 *Purchaser* does not have a contractual bond with the Committing Party, the *Supplier* ensures that the Committing Party co-operates fully with an investigation.

Z13Insurance

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 *Supplier* provides the insurances stated in the Insurance Table A for events which are at the *Supplier's* risk from the *starting date* until the last *defects date* or a termination certificate has been issued.

INSURANCE TABLE A

Insurance against	Minimum amount of cover or minimum limit of indemnity
Loss of or damage to the <i>goods</i> , plant and materials	The replacement cost where not covered by the <i>Purchaser's</i> insurance. The <i>Purchaser's</i> policy deductible as at Contract Date, where covered by the <i>Purchaser's</i> insurance.
Liability for loss of or damage to property (except the <i>goods</i> , plant and materials and equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Supplier</i>) caused by activity in connection with this contract	<u>Loss of or damage to property</u> <u>Purchaser's property</u> The replacement cost where not covered by the <i>Purchaser's</i> insurance. The <i>Purchaser's</i> policy deductible as at Contract Date, where covered by the <i>Purchaser's</i> insurance. <u>Other property</u> The replacement cost <u>Death of or bodily injury</u> The amount required by the applicable law.
Liability for death of or bodily injury to employees of the <i>Supplier</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:**Insurance by the Purchaser**

87

87.1 The *Purchaser* provides the insurances stated in the Insurance Table B**INSURANCE TABLE B**

Insurance against or name of policy	Minimum amount of cover or minimum 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
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Z14 Nuclear Liability

- Z14.1 The *Purchaser* 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 *Purchaser* is solely responsible for and indemnifies the *Supplier* or any other person against any and all liabilities which the *Supplier* 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 *Supplier* or any other person or the presence of the *Supplier* or that person or any property of the *Supplier* or such person at or in the KNPS or on the KNPS site, without the permission of the *Purchaser* or of a person acting on behalf of the *Purchaser*.
- Z14.3 Subject to clause Z14.4 below, the *Purchaser* 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 *Supplier* or any other person, or the presence of the *Supplier* or that person or any property of the *Supplier* or such person at or in the KNPS or on the KNPS site, without the permission of the *Purchaser* or of a person acting on behalf of the *Purchaser*.
- Z14.4 The *Purchaser* 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.

CONTRACT TITLE: THE DESIGN, MANUFACTURE AND TESTING EX-WORKS OF VARIOUS TYPES OF POLE TOP AND GROUND MOUNTED TRANSFORMERS ON AN "AS AND WHEN" REQUIRED BASIS OVER A 3 (THREE) YEAR PERIOD.

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 <i>Purchaser's</i> Asbestos Standard 32-303: Requirements for Safe Processing, Handling, Storing, Disposal and Phase-out of Asbestos and Asbestos Containing Material, Equipment and Articles.
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 *Purchaser* ensures that the Ambient Air in the area where the *Supplier* 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 *Supplier*, the *Purchaser* 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 *Supplier* may perform Parallel Measurements and related control measures at the *Supplier'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 *Purchaser* 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 *Supplier'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 *Supplier* 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.
- Z15.7 Any removal and disposal of asbestos, asbestos containing materials and waste, is done by a registered asbestos contractor, instructed by the *Purchaser* at the *Purchaser's* expense, and conducted in line with South African legislation.

Annexure A: Supply Requirements

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

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

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

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

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

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

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

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

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

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

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

CONTRACT TITLE: THE DESIGN, MANUFACTURE AND TESTING EX-WORKS OF VARIOUS TYPES OF POLE TOP AND GROUND MOUNTED TRANSFORMERS ON AN "AS AND WHEN" REQUIRED BASIS OVER A 3 (THREE) YEAR PERIOD.

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

The Supply Requirements for this contract are as follows:

[Use these when INCOTERMS do not apply].

1. The requirements for the supply are	[State the constraints on how the <i>Supplier</i> manufactures, prototypes, tests and stores the <i>goods</i> including order and timing]	
2. The requirements for transport are	[State the extent to which the <i>Supplier</i> transports the <i>goods</i> and the mode of transport]	
3. The delivery place is	[State the location where the <i>goods</i> are to be placed by the <i>Supplier</i> , such as whether it is a dispatch department at the <i>Supplier's</i> premises, the <i>Purchaser</i> is to collect or other location the <i>Purchaser</i> may require. If the delivery place for the <i>services</i> is different to the <i>goods</i> state it here]	
4. Actions of the Parties during supply	Action	Party which does it
	Giving notice of Delivery	
	Checking packing and marking before dispatch	
	Contracting for transport	
	Pay costs of transport	
	Arrange access to delivery place	
	Loading the <i>goods</i>	
	Unloading the <i>goods</i>	
For international procurement	Undertake export requirements	
	Undertake import requirements	
5. Information to be provided by the Supplier	Title of document	
	Packing lists for cases and their contents	
	Copy of invoice for the <i>goods</i>	
	Delivery Note	
	Test results and maintenance manuals	
For international procurement	Licences, authorisations and other formalities associated with export of the <i>goods</i>	
	Air Waybill or Bill of Lading with associated landing, delivery and forwarding order	
	The Bill of Entry endorsed by the importation authority	
	Customs work sheets, showing tax, duties and surcharges which the law of the country into which the <i>goods</i> are being imported requires the importer to pay	
	Invoice from the importation clearing agent showing airline fees, landing charges, wharfage and dock dues as applicable	
	Specify other import documents required by authorised officials.	

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

C1.2 Contract Data

Part two - Data provided by the *Supplier*.

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

Clause	Statement	Data												
10.1	The <i>Supplier</i> is (Name): Address Tel No. Fax No.													
11.2(8)	The Goods Information for the <i>Supplier's</i> design is in:													
11.2(11)	The tendered total of the Prices is	R , (in words)												
11.2(12)	The <i>price schedule</i> is in:													
11.2(14)	The following matters will be included in the Risk Register													
25.2	The restrictions to access for the <i>Supply Manager</i> and Others to work being done for this contract are													
30.1	The <i>delivery date</i> of the <i>goods and services</i> is:	<table border="1"> <thead> <tr> <th></th><th><i>goods and services</i></th><th><i>delivery date</i></th></tr> </thead> <tbody> <tr> <td>1</td><td>[•]</td><td>[•]</td></tr> <tr> <td>2</td><td>[•]</td><td>[•]</td></tr> <tr> <td>3</td><td>[•]</td><td>[•]</td></tr> </tbody> </table>		<i>goods and services</i>	<i>delivery date</i>	1	[•]	[•]	2	[•]	[•]	3	[•]	[•]
	<i>goods and services</i>	<i>delivery date</i>												
1	[•]	[•]												
2	[•]	[•]												
3	[•]	[•]												
31.1	The programme identified in the Contract Data is contained in:													
63.2	The <i>percentage for overheads and profit</i> added to the Defined Cost is	%												

C1.3 Forms of Securities

Pro formas for Bonds & Guarantees

For use with the NEC3 Supply Contract (SC3)

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

Option X4: Parent company guarantee.

Option X13: Performance bond

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

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

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

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

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

Eskom Holdings SOC Ltd
Megawatt Park
Maxwell Drive
Sandton
Johannesburg

Date:

Dear Sirs,

Parent Company Guarantee for Contract No

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

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

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

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

I/We the undersigned

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

of physical address

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

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

Signed at _____

on this _____

day of _____

20__

Signature(s)	
Name(s) (printed)	
Position in parent company	
Signature of Witness(s)	
Name(s) (printed)	

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

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

Eskom Holdings SOC Ltd
Megawatt Park
Maxwell Drive
Sandton
Johannesburg

Bank reference No.

Date:

Dear Sirs,

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

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

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

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

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

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

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

Signed at _____ on this _____ day of _____ 20__

For and on behalf of the Bank

Bank Signatories(s)

Name(s) (printed)

Witness(s)

Bank's seal or stamp

PART 2: PRICING DATA

NEC3 Supply Contract

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

C2.1 Pricing assumptions

1. How *goods* and *services* are priced and assessed for payment

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

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

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

2. Function of the Price Schedule

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

3. Preparing the *price schedule*

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

It will be assumed that the tendering supplier has

- Read Pages 8, 11, 12 and Appendix 5 of the SC3 Guidance Notes before preparing the *price schedule*;
- Included in his Prices and rates for correction of Defects (core clause 43.1) as there is no compensation event for this unless the Defect is due to a *Supplier's* risk;

- Spread the cost of doing work he chooses not to list as separate items in the *price schedule* across other Prices and rates in order to fulfil the obligation to Provide the Goods and Services for the tendered total of the Prices;
- Understood that there is no adjustment to lump sum prices in the *price schedule* if the amount, or quantity, of work within that lump sum item later turns out to be different to that which the *Supplier* estimated at time of tender. The only basis for a change to the Prices is as a result of a compensation event per clause 60.1;
- Understood that the *Supplier* does not have to allow in his Prices and rates for matters that may arise as a result of a compensation event.

3.1. Format of the *price schedule*

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

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

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

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

C2.2 the *price schedule*

Item nr	SAP nr	Description	Quantity	Rate	Price
1	0175077	TRFR DISTR: MV POLE MNT; 16 KVA; 11KV/242V	200		
2	0175078	TRFR DISTR: MV POLE MNT; 16 KVA; 22KV/242V	200		
3	0175081	TRFR DISTR: MV POLE MNT; 25 KVA; 11KV/420V	300		
4	0175082	TRFR DISTR: MV POLE MNT; 25 KVA; 22KV/420 V	200		
5	0175083	TRFR DISTR: MV POLE MNT; 50 KVA; 11KV/420V	400		
6	0175084	TRFR DISTR: MV POLE MNT; 50 KVA; 22KV/420V	200		
7	0175085	TRFR DISTR: MV POLE MNT; 100 KVA; 11KV/420V	600		
8	0175086	TRFR DISTR: MV POLE MNT; 100 KVA; 22KV/420V	600		
9	0175091	TRFR DISTR: MV POLE MNT; 200 KVA; 11KV/420V	300		
10	0175092	TRFR DISTR: MV POLE MNT; 200 KVA; 22KV/420V	300		
11	0175095	TRFR DISTR: MV POLE MNT; 315 KVA; 11KV/420V	60		
12	0175096	TRFR DISTR: MV POLE MNT; 315 KVA; 22KV/420V	60		
13	0175093	TRFR DISTR: MV POLE MNT; 500 KVA; 11KV/420V	60		
14	0175094	TRFR DISTR: COASTAL; 500 KVA; 22 KV/420 V	60		
15	0402814	TRFR DISTR: 50 KVA; PRIM 6.6 KV; SEC 400 V	60		
16	0402820	TRFR DISTR: 500 KVA; DYN11; OPEN BUSHING	30		

The total of the Prices

PART 3: SCOPE OF WORK

Document reference	Title	No of pages
	This cover page	1
C3.1	<i>Purchaser's Goods Information</i>	14
C3.2	<i>Supplier's Goods Information</i>	1
	Total number of pages	16

C3.1: *PURCHASER'S* GOODS INFORMATION

Contents

Part 3: Scope of Work	1
C3.1: <i>Purchaser's</i> Goods Information	2
1 Overview and purpose of the <i>goods</i> and <i>services</i>	3
2 Specification and description of the <i>goods</i>	5
2.1 <i>Purchaser's</i> design	6
2.2 Procedure for submission and acceptance of <i>Supplier's</i> design	6
2.3 Other requirements of the <i>Supplier's</i> design	6
2.4 Use of <i>Supplier's</i> design	6
2.5 Manufacture & fabrication	6
2.6 Factory acceptance testing (FAT)	6
2.7 Other tests and inspections and commissioning in place of use	6
2.8 Operating manuals and maintenance schedules	7
3 Supply Requirements	7
4 Specification of the <i>services</i> to be provided	7
5 Constraints on how the <i>Supplier</i> Provides the Goods	7
5.1 Programming constraints	7
5.2 Work to be done by the Delivery Date	7
5.3 Marking the <i>goods</i>	7
5.4 Constraints at the delivery place and place of use	7
5.5 Cooperating with Others	8
5.6 Services & other things to be provided by the <i>Purchaser</i> or <i>Supplier</i>	8
5.7 Management meetings	8
5.8 Documentation control	8
5.9 Health and safety risk management	9
5.10 Environmental constraints and management	9
5.11 Quality	9
5.12 Invoicing and payment	9
5.13 Insurance provided by the <i>Purchaser</i>	9
5.14 Contract change management	9
5.15 Provision of bonds and guarantees	10
5.16 Records of Defined Cost, payments & assessments of compensation events to be kept by the <i>Supplier</i>	10
6 Procurement	11
6.1 Subcontracting	11
6.1.1 Preferred subcontractors	11
6.1.2 Limitations on subcontracting	11
6.1.3 Spares and consumables	12
6.1.4 Other requirements related to procurement	12
6.1.5 Cataloguing requirements	14
7 List of drawings	14
7.1 Drawings issued by the <i>Purchaser</i>	14
C3.2 <i>Supplier's</i> Goods Information	15

1 Overview and purpose of the goods and services

Pole top and ground mounted transformers are considered strategic as they are used in the distribution of electricity from the Eskom network to the customer. The environment in which Eskom operates, in terms of the financial climate and the availability of generation capacity, has changed drastically. The subsequent focus on the reduction of technical losses revealed that South Africa's small (distribution) transformers have losses that are amongst the highest in the world. A total review of the management of distribution transformer losses was conducted and research has established the optimal losses that should be specified locally for distribution transformers, and this has been incorporated into this strategy.

The objective of the transformer cross functional team is to identify, strategize and to plan value creating opportunities for the optimization of Total Cost of Ownership (TCO) related to the current value chain of procuring transformers over its life cycle.

In January 2020, Eskom awarded three (3) year contracts to four local OEM's which was based on the introduction of natural ester oil as a replacement for mineral oil. The transition to ester oil and the phasing out of mineral is now complete, and all pole top and ground mounted transformers manufactured from July 2022 are filled with natural ester oils.

Natural ester oils are refined from vegetables such as soya beans and maize which are provided by local agriculture which has had a positive impact on local industrialization and job creation. Natural ester oils also have the following benefits:

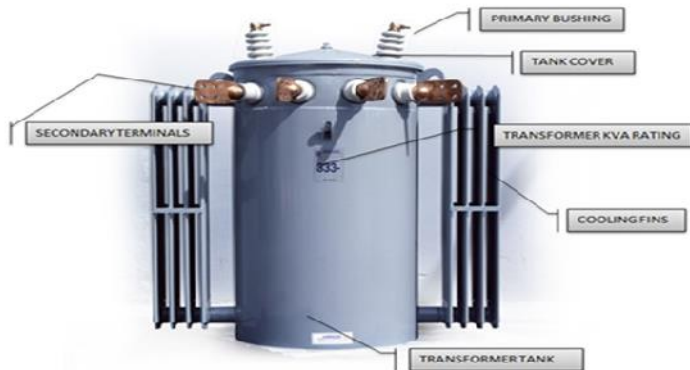
- Environmentally friendly: Natural esters are biodegradable, non-water hazardous and carbon neutral.
- Safety: Natural esters have a fire point of 360 Degrees Celcius as opposed to mineral oil which ignites at 150 Degrees Celcius. This considerably reduces the possibility of transformer fires and the associated safety concerns. It also reduces costs associated with consequential damage.
- Improved total costs of ownership: Despite being slightly more expensive than mineral oil per litre, studies show that the total cost of ownership of natural ester oil transformers to be lower than that of mineral oil transformers. This is due to the extension of the life of the insulating paper in the transformer provided by the thermal properties of the natural ester oils.
- Lower No Load Losses: the thermal properties of the ester oil allow for smaller transformers to perform the function of larger mineral oil filled transformers. Smaller transformers have lower no load losses. As a result, there is less wasted energy and reduction in the cost of transferring generated power to the customer. This reduction multiplied across the growing fleet of transformers can result in significant cost reductions with regard to energy costs.
- Lower capital costs: the thermal properties of the ester oil allow for smaller transformers to perform the function of larger mineral oil filled transformers. Smaller transformers have lower capital costs.

The implementation of this strategy will result in the following benefits:

- Standardising on pole top and ground mounted transformers for all distribution division;
- Transformation of existing suppliers in order to improve their B-BBEE status in terms of specific goals set out by SDL&I;
- Creating sustainable competition;
- Volume bundling of requirements for Distribution Division;
- Improving demand planning and forecasting.

CONTRACT TITLE: THE DESIGN, MANUFACTURE AND TESTING EX-WORKS OF VARIOUS TYPES OF POLE TOP AND GROUND MOUNTED TRANSFORMERS ON AN "AS AND WHEN" REQUIRED BASIS OVER A 3 (THREE) YEAR PERIOD.

A typical transformer layout can be as per figure 1 below:



Distribution transformers are mainly used for Electrification projects and rural applications as per figures 2 and 3 below.

Electrification of Makeleketla Township at Winburg in the Free State



Supply point to Engen 1 –Stop at Kroon Vaal and to a cellular tower next to the N1:

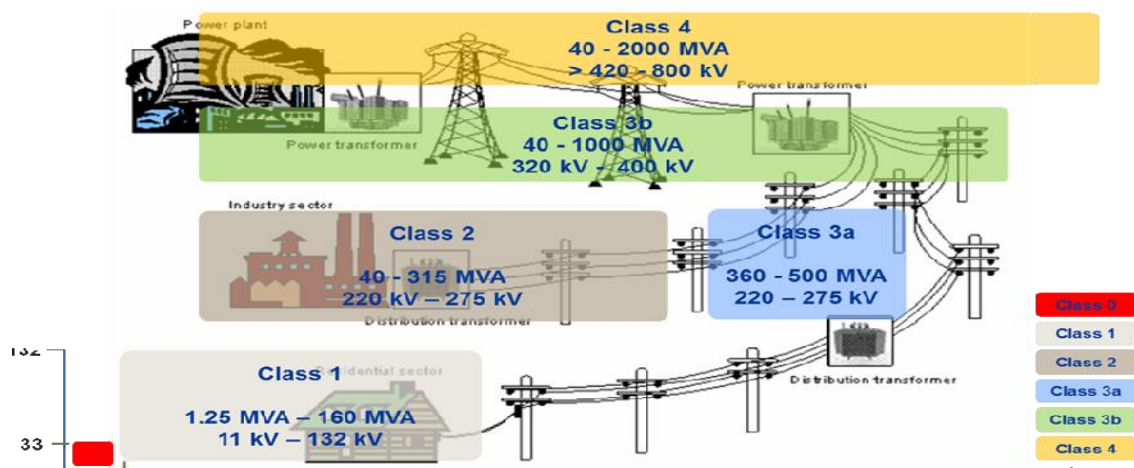
CONTRACT TITLE: THE DESIGN, MANUFACTURE AND TESTING EX-WORKS OF VARIOUS TYPES OF POLE TOP AND GROUND MOUNTED TRANSFORMERS ON AN "AS AND WHEN" REQUIRED BASIS OVER A 3 (THREE) YEAR PERIOD.



2 Specification and description of the goods

The scope of work and specification (240-45395762 Rev 4) for Eskom Distribution Division includes the design, manufacture and testing ex-works of pole top and ground mounted transformers. These transformers are classified as class "0" transformers which are up to 1MVA and 33kV as depicted below:

Item	Material No.	Short Text
10	0175077	TRFR DISTR: MV POLE MNT; 16 KVA; 11KV/242V
20	0175078	TRFR DISTR: MV POLE MNT; 16 KVA; 22KV/242V
30	0175081	TRFR DISTR: MV POLE MNT; 25 KVA; 11KV/420V
40	0175082	TRFR DISTR: MV POLE MNT; 25 KVA; 22KV/420 V
50	0175083	TRFR DISTR: MV POLE MNT; 50 KVA; 11KV/420V
60	0175084	TRFR DISTR: MV POLE MNT; 50 KVA; 22KV/420V
70	0175085	TRFR DISTR: MV POLE MNT; 100 KVA; 11KV/420V
80	0175086	TRFR DISTR: MV POLE MNT; 100 KVA; 22KV/420V
90	0175091	TRFR DISTR: MV POLE MNT; 200 KVA; 11KV/420V
100	0175092	TRFR DISTR: MV POLE MNT; 200 KVA; 22KV/420V
110	0175095	TRFR DISTR: MV POLE MNT; 315 KVA; 11KV/420V
120	0175096	TRFR DISTR: MV POLE MNT; 315 KVA; 22KV/420V
130	0175093	TRFR DISTR: MV POLE MNT; 500 KVA; 11KV/420V
140	0175094	TRFR DISTR: COASTAL; 500 KVA; 22 KV/420 V
150	0402814	TRFR DISTR: 50 KVA; PRIM 6.6 KV; SEC 400 V
160	0402820	TRFR DISTR: 500 KVA; DYN11; OPEN BUSHING



2.1 *Purchaser's design*



ST_240-45395762

Rev 4 - ver 3.pdf

The embedded document contains the Purchasers specification.

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

Refer to the following specifications attached under number 2.1:

- Specific requirements for distribution pole and ground-mounted transformers up to 33 kv and 1 mva;
UI 240-45395762

2.3 Other requirements of the *Supplier's design*

Refer to the following specifications attached under number 2.1:

- Specific requirements for distribution pole and ground-mounted transformers up to 33 kv and 1 mva;
UI 240-45395762

2.4 Use of *Supplier's design*

Refer to the following specifications attached under number 2.1:

- Specific requirements for distribution pole and ground-mounted transformers up to 33 kv and 1 mva;
UI 240-45395762

2.5 Manufacture & fabrication

Refer to the following specifications attached under number 2.1:

- Specific requirements for distribution pole and ground-mounted transformers up to 33 kv and 1 mva;
UI 240-45395762

2.6 Factory acceptance testing (FAT)

Refer to the following specifications attached under number 2.1:

- Specific requirements for distribution pole and ground-mounted transformers up to 33 kv and 1 mva;
UI 240-45395762

2.7 Other tests and inspections and commissioning in place of use

CONTRACT TITLE: THE DESIGN, MANUFACTURE AND TESTING EX-WORKS OF VARIOUS TYPES OF POLE TOP AND GROUND MOUNTED TRANSFORMERS ON AN "AS AND WHEN" REQUIRED BASIS OVER A 3 (THREE) YEAR PERIOD.

Refer to the following specifications attached under number 2.1:

- Specific requirements for distribution pole and ground-mounted transformers up to 33 kv and 1 mva;
UI 240-45395762

2.8 Operating manuals and maintenance schedules

Refer to the following specifications attached under number 2.1:

- Specific requirements for distribution pole and ground-mounted transformers up to 33 kv and 1 mva;
UI 240-45395762

3 Supply Requirements

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

4 Specification of the *services* to be provided.

Refer to the following specifications attached under number 2.1:

- Specific requirements for distribution pole and ground-mounted transformers up to 33 kv and 1 mva;
UI 240-45395762

5 Constraints on how the *Supplier* Provides the Goods

5.1 Programming constraints

Regular production meetings will be held to discuss manufacture and delivery to obtain Supplier feedback.

5.2 Work to be done by the Delivery Date

Refer to the following specifications attached under number 2.1:

- Specific requirements for distribution pole and ground-mounted transformers up to 33 kv and 1 mva;
UI 240-45395762

5.3 Marking the *goods*

Refer to the following specifications attached under number 2.1:

- Specific requirements for distribution pole and ground-mounted transformers up to 33 kv and 1 mva;
UI 240-45395762

5.4 Constraints at the delivery place and place of use

The delivery place, the hours of access to the delivery place and other information to be provided by the

CONTRACT TITLE: THE DESIGN, MANUFACTURE AND TESTING EX-WORKS OF VARIOUS TYPES OF POLE TOP AND GROUND MOUNTED TRANSFORMERS ON AN "AS AND WHEN" REQUIRED BASIS OVER A 3 (THREE) YEAR PERIOD.

Supplier at the time of Delivery such as the delivery note, which notifies the actual delivery date.

The delivery place is Eskom Gauteng Cluster, Rosherville Warehouse, Lower Germiston Road, Rosherville.

5.5 Cooperating with Others

Although not a direct requirement of the conditions of contract if the Purchaser is aware of the Supplier's need to co-operate with Others (for example where the supply is to one of the Purchaser's contractors on a project or design of the goods needs to be discussed with Others) details could be given here.

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

Refer to the following specifications attached under number 2.1:

- Specific requirements for distribution pole and ground-mounted transformers up to 33 kv and 1 mva;
UI 240-45395762

5.7 Management meetings

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

Title and purpose	Approximate time & interval	Location	Attendance by:
Risk register and compensation events	Weekly on _____ at _____		
Overall contract progress and feedback	Monthly on _____ at _____		<i>Purchaser, Supplier, and _____</i>

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

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

5.8 Documentation control

All contractual communications will be in the form of properly compiled letters or forms attached to emails and not as a message in the email itself. All communication from the Supplier must be addressed to the Purchaser, where relevant and distributed to all other stakeholders.

Escalation protocols from either party must also be stated and agreed at the kick off meeting.

5.9 Health and safety risk management

The Supplier shall comply with the health and safety requirements in accordance with the Occupational Health & Safety Act, No. 85 of 1993.

5.10 Environmental constraints and management

The Supplier shall comply with the environmental criteria and constraints in line with the Environmental Legislation and by-laws.

5.11 Quality

The Supplier to be ISO-9001 compliant and to comply with the Eskom's Supplier Quality Management Specification, 240-105658000.

5.12 Invoicing and payment

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

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

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

5.13 Insurance provided by the *Purchaser*.

The Supplier provides the insurances stated in the Insurance Table except any insurance which the Purchaser is to provide as stated in the Contract Data. The Supplier provides additional insurances as stated in the Contract Data.

The insurances provide cover for events which are at the Supplier's risk from the starting date until the last defects date or a termination certificate has been issued.

5.14 Contract change management.

Use of standard forms

- The Supplier and the Purchaser to give an early warning by notifying the other as soon as either becomes aware of any matter which could increase the total of the Prices, interfere with the timing of the delivery of the goods and impair the effectiveness of the delivery.

CONTRACT TITLE: THE DESIGN, MANUFACTURE AND TESTING EX-WORKS OF VARIOUS TYPES OF POLE TOP AND GROUND MOUNTED TRANSFORMERS ON AN "AS AND WHEN" REQUIRED BASIS OVER A 3 (THREE) YEAR PERIOD.

- The Supplier may give an early warning by notifying the Purchaser of any other matter which could increase the total cost.
- The Supplier enters early warning matters in the Risk Register.
- Early warning of a matter for which a compensation event has previously been notified is not required.

5.15 Provision of bonds and guarantees.

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

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

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

For other compensation events, the changes to the Prices are assessed as the effect of the compensation event upon

- the actual Defined Cost of the work already done,
- the forecast Defined Cost of the work not yet done and
- the resulting amount calculated by applying the *percentage for overheads and profit* to the Defined Cost of the work.

Effects on Defined Cost are assessed separately for

- people,
- equipment,
- plant and materials included in the *goods*,
- work subcontracted by the *Supplier* and
- transport.

The *Supplier* shows how each of these effects is built up in each quotation for a compensation event.

If the compensation event arose from the *Supply Manager* giving an instruction, changing an earlier decision or correcting an assumption, the date which divides the work already done from the work not yet done is the date of that communication. In all other cases, the date is the date of the notification of the compensation event.

The *percentage for overheads and profit* is applied to the assessed effect of the event on Defined Cost except that it is not applied to any tax charges for

- customs clearance and
- export and import.

The date when the *Supply Manager* instructed or should have instructed the *Supplier* to submit quotations divides the work already done from the work not yet done.

6 Procurement

6.1 Subcontracting

6.1.1 Preferred subcontractors

The Supplier is to subcontract to one or more of the following designated groups:

- (i) an EME or QSE which is at least 51% owned by black people who are youth;
- (ii) an EME or QSE which is at least 51% owned by black people who are women;
- (iii) an EME or QSE which is at least 51% owned by black people with disabilities;
- (iv) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
- (v) a cooperative which is at least 51% owned by black people.

6.1.2 Limitations on subcontracting

Where visible, 30% local contracting will be considered at task order level for task orders that are R30M and above.

The beneficiaries will be EMEs and or QSEs that are 51% Black owned or more. A progress report on this requirement will be required on a monthly basis by contract management which will include invoices paid to the subcontracting company.

The following documents must be submitted before contract award:

- Proof of a sub-contract agreement/s
- CSD report of subcontractor/s
- Sub-contractor/s B-BBEE certificate / sworn affidavit.

Participating tenderer/s are required to populate the sub-contracting information on the table below:

Sub – contractor details:

Name of contractor / Contractors	
Proposed Scope of work to be performed by sub-contractor	
% Subcontracting	
Contact person	
Telephone number	
E-mail address	

Name of contractor / Contractors	
Proposed Scope of work to be performed by sub-contractor	
% Subcontracting	
Contact person	
Telephone number	
E-mail address	

CONTRACT TITLE: THE DESIGN, MANUFACTURE AND TESTING EX-WORKS OF VARIOUS TYPES OF POLE TOP AND GROUND MOUNTED TRANSFORMERS ON AN "AS AND WHEN" REQUIRED BASIS OVER A 3 (THREE) YEAR PERIOD.

Name of contractor / Contractors	
Proposed Scope of work to be performed by sub-contractor	
% Subcontracting	
Contact person	
Telephone number	
E-mail address	

Note: A supplier awarded a contract/purchase order may not subcontract more than 25% of the value of the purchase order to any other entity that does not have an equal or higher B-BBEE status level of a contributor than the supplier concerned unless the contract is subcontracted to an EME that has the capability and ability to execute the subcontract.

6.1.3 Spares and consumables.

The contract may need to include provision for the supply of a minimum category of spares or other consumables which the Purchaser may need at or just after delivery or commissioning of the goods. This is to be negotiated prior to contract award.

6.1.4 Other requirements related to procurement.

6.1.4.1 Local Procurement Content

"Local Procurement Content" refers to value added in South Africa by South African resources. Where a single contract involves a combination of local and imported goods and/or services, the tender response must be separated into its components as per the Price Schedule included with the tender documents. Local procurement content is total spending minus the imported component.

Tenderers are required to submit their proposals in the table below:

Local Procurement Content	Eskom target	Tenderer Proposal
	90%	

6.1.4.2 Procurement spend on entities with a minimum 51% black ownership

The winning tenderer/s is/are encouraged to procure/spend on designated groups on the following paid invoices for both:

- the indirect expenses (e.g., overheads) on goods and services supplied to the contractor/supplier by designated groups; and
- direct spend on goods and services supplied by the subcontractors for the execution of the scope of work.

Activities, as a proportion of the local procurement content, which may be subcontracted to designated black owned enterprises must be submitted in a table below.

Procurement from Designated Group	Eskom Target	Tenderer Proposal
Black Owned	4.0%	

CONTRACT TITLE: THE DESIGN, MANUFACTURE AND TESTING EX-WORKS OF VARIOUS TYPES OF POLE TOP AND GROUND MOUNTED TRANSFORMERS ON AN "AS AND WHEN" REQUIRED BASIS OVER A 3 (THREE) YEAR PERIOD.

Black Women Owned	3.0%	
Black Youth Owned	2.0%	
Black Persons with Disability	1.0%	

6.1.4.3 Jobs

Tenderers are required to submit proposals for the type and number of jobs that will be created and retained in South Africa as a direct result of being awarded a contract.

Type of Jobs to be created	Number of Jobs to be created

Type of Jobs to be retained	Number of Jobs to be retained

6.1.4.4 Skills Development

Tenderers are required to submit proposals of the skill types / occupations to be upskilled for this transaction. The candidates selected for skills development shall be currently unemployed graduates from university schools and technical, vocational, education and training (TVET) campuses of South Africa.

The threshold will be as follows to ensure successful implementation of this initiative:

- ✓ The successful tenderer will be obligated to **skill one** candidate for every **R3 Million** spend cumulatively through purchase orders/instructions awarded to the supplier.
- ✓ The tenderer will be expected to submit a letter of competence/proof of attendance/service contract/certificate of compliance as proof that a candidate has been appointed for work experience. The supplier will be required to implement this requirement a month after the threshold is reached.

Candidates shall be from all provinces in the country, and their composition shall be a representative of the population demographics of South Africa.

Skill type / Occupation	Tenderer Proposal		
	No	Skill Type	Quantity
Scope of work-related skill types/Occupation	1.	SHE Officer	
	2.	Quality Officer	
	3.	Logistics Officer (Scheduling)	
	4.	Wiremen	
	5.	Artisans	

CONTRACT TITLE: THE DESIGN, MANUFACTURE AND TESTING EX-WORKS OF VARIOUS TYPES OF POLE TOP AND GROUND MOUNTED TRANSFORMERS ON AN "AS AND WHEN" REQUIRED BASIS OVER A 3 (THREE) YEAR PERIOD.

	6.	Technicians	
	7.	Electrical Engineers	
	8.		
	9.		
	10.		

The process of developing these skills shall involve the participation by tenderers directly and through their supply network. In certain cases, the SETA's accredited training providers can be approached to participate in developing critical and scarce skills.

Note: Tenderers are required to take full responsibility for the total cost of developing the requisite skills, and Eskom shall not make any financial contribution towards the fulfilment of this obligation. Tenderers also are advised to approach their relevant SETAs to access grants, subsidies and incentives as well as South African Revenue Services for tax rebates that are earmarked for skills development initiatives.

6.1.5 Cataloguing requirements by the *Supplier*

The required goods already have SAP numbers which the Supplier must always indicate.

7 List of drawings

7.1 Drawings issued by the *Purchaser*.

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

Drawing number	Revision	Title

C3.2 *SUPPLIER'S* GOODS INFORMATION

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

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

This section could also be compiled as a separate file.
