

The establishment of service contract for electronic access to deeds office and credit bureau for distribution asset creation in the LimLanga Cluster on an “as and when” required basis over a period of 60 months.



NEC3 Term Service Contract (TSC3)

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

and

for The establishment of service contract for electronic access to deeds office and credit bureau for distribution asset creation in the LimLanga Cluster on an “as and when” required basis over a period of 60 months.

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Enquiry No. : E2235DXLP

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PART C1: AGREEMENTS & CONTRACT DATA

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C1.1 Form of Offer & Acceptance

Offer

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

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The contractor, identified in the Offer signature block, has examined the documents listed in the Contract Data and addenda thereto and by submitting this Offer has accepted the Conditions of Contract.

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

Options A	The offered total of the Prices exclusive of VAT is	Rate Based Contract
	(in words) Rate Based Contract	

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

Signature(s)

Name(s)

Capacity

**For the
contractor:**

(Insert name and address of organisation)

Name &
signature of
witness

Date

Contractor's CIDB registration number:

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Acceptance

By signing this part of this Form of Offer and Acceptance, the Employer identified below accepts the contractor'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 contractor's Offer shall form an agreement between the Employer and the contractor 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: Service 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 Contract Data and any addenda thereto listed in the Returnable Schedules as well as any changes to the terms of the Offer agreed by the contractor and the Employer during this process of offer and acceptance, are contained in the Schedule of Deviations attached to and forming part of this Form of Offer and Acceptance. No amendments to or deviations from said documents are valid unless contained in this Schedule.

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

Notwithstanding anything contained herein, this agreement comes into effect on the date when the contractor 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
Employer**

(Insert name and address of organisation)

Name &
signature of
witness

Date

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

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

Note:

1. This part of the Offer & Acceptance would not be required if the contract has been developed by negotiation between the Parties and is not the result of a process of competitive contracting.
2. The extent of deviations from the contract documents issued by the Employer prior to the contract closing date is limited to those permitted in terms of the Conditions of Contract.
3. A contractor'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		N/A
2		
3		
4		
5		
6		
7		

By the duly authorised representatives signing this Schedule of Deviations below, the Employer and the contractor agree to and accept this Schedule of Deviations as the only deviations from and amendments to the documents listed in the Contract Data and any addenda thereto listed in the Contract Schedules, as well as any confirmation, clarification or changes to the terms of the Offer agreed by the contractor 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 contract documents and the receipt by the contractor 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 contractor:

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

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C1.2 TSC3 Contract Data

Part one - Data provided by the *Employer*

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:	
		A: Priced contract with price list
	dispute resolution Option	W1: Dispute resolution procedure
	and secondary Options	
		X1: Price adjustment for inflation
		X2: Changes in the law
		X17: Low service damages
		X18: Limitation of liability
		X19: Task Order
		X20: Key Performance Indicators
		Z: Additional conditions of contract
	of the NEC3 Term Service Contract April 2013 ¹ (TSC3)	
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
	Tel No.	+27 11 800 5085
10.1	The Contact person is (name):	Desiree Nelson
	Address	Eskom Park, Witbank
	Tel	+27 17 799 3783
	Fax	N/A
	e-mail	NelsonD@eskom.co.za

¹ Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 539 1902 www.ecs.co.za

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11.2(2)	The Affected Property is	Distribution LimLanga cluster
11.2(13)	The <i>service</i> is	The establishment of service contract for electronic access to deeds office and credit bureau for distribution asset creation in the LimLanga Cluster on an “as and when” required basis over a period of 60 months.
11.2(14)	The following matters will be included in the Risk Register	<ol style="list-style-type: none"> 1. Late response to the task order 2. Non- compliance of terms and conditions of the contract.
11.2(15)	The Service Information is in	Part 3: Scope of Work and all documents and drawings to which it makes reference.
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	1 week
2	The Contractor's main responsibilities	
21.1	The <i>Contractor</i> submits a first plan for acceptance within	1 week of the Contract Date
3	Time	
30.1	The <i>starting date</i> is.	TBA
30.1	The <i>service period</i> is	60 months
4	Testing and defects	
		As per terms and conditions of the NEC3 Term Service Contract April 2013 ² (TSC3)
5	Payment	
50.1	The <i>assessment interval</i> is	Between the 25th day of each successive month.
51.1	The <i>currency of this contract</i> is the	South African Rand
51.2	The period within which payments are made is	3 weeks.
51.4	The <i>interest rate</i> is	the publicly quoted prime rate of interest (calculated on a 365 day year) charged by from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands and

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6	Compensation events	As per terms and conditions of the NEC3 Term Service Contract April 2013 ³ (TSC3)
7	Use of Equipment Plant and Materials	As per terms and conditions of the NEC3 Term Service Contract April 2013 ⁴ (TSC3)
8	Risks and insurance	
80.1	These are additional <i>Employer's</i> risks	1. as stated for “Format TSSC3” available on http://www.eskom.co.za/Contracts/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx (See Annexure A for basic guidance)
83.1	The <i>Employer</i> provides these insurances from the Insurance Table	as stated for “Format TSC3” available on http://www.eskom.co.za/Contracts/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx (See Annexure A for basic guidance).
83.1	The <i>Employer</i> provides these additional insurances	as stated for “Format TSC3” available on http://www.eskom.co.za/Contracts/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx (See Annexure A for basic guidance)
83.1	The <i>Contractor</i> provides these additional insurances:	None
83.1	The minimum amount of cover for insurance against loss and damage caused by the <i>Contractor</i> to the <i>Employer's</i> property is	the amount of the deductibles relevant to the event described in the “Format TSC3” insurance policy available on http://www.eskom.co.za/Contracts/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx
83.1	The minimum amount of cover for insurance in respect of loss of or damage to property (except the <i>Employer's</i> property, Plant and Materials and Equipment) and liability 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 Service for any one event is:	whatever the <i>Contractor</i> deems necessary in addition to that provided by the <i>Employer</i>.
83.1	The minimum limit of indemnity for insurance in respect of 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 for any one event is:	As prescribed by the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 and the <i>Contractor's</i> common law liability for people falling outside the scope of the Act with a limit of Indemnity of not less than R500 000 (Five hundred thousand Rands).

³ Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 539 1902 www.ecs.co.za

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9	Termination	As per terms and conditions of the NEC3 Term Service Contract April 2013 ⁵ (TSC3)
10	Data for main Option clause	
A	Priced contract with price list	
20.5	The <i>Contractor</i> prepares forecasts of the final total of the Prices for the whole of the service at intervals no longer than	2 weeks.
11	Data for Option W1	
W1.1	The <i>Adjudicator</i>	the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see www.ice-sa.org.za). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).
W1.2(3)	The <i>Adjudicator nominating body</i> is:	the Chairman of ICE-SA a joint Division of the South African Institution of Civil Engineering and the Institution of Civil Engineers (London) (see www.ice-sa.org.za) or its successor body.
W1.4(2)	The <i>tribunal</i> is:	arbitration
W1.4(5)	The <i>arbitration procedure</i> is	the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.
	The place where arbitration is to be held is	South Africa
	The person or organisation who will choose an arbitrator	
	- 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.
12	Data for secondary Option clauses	
X1	Price adjustment for inflation	
X1.1	The <i>base date</i> for indices is	The rates will be fixed and firm for the first 12 months of the contract. At the anniversary date of the contract start the prices will be adjusted in accordance with the published CPI for goods purchased and service to be provided. SEIFSA indices on Table D will be applicable for services and Table L1-L2 will be used for Transport

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

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	The proportions used to calculate the Price Adjustment Factor are:	proportion	linked to index for	Index prepared by
		0.	[•]	[•]
		0.	[•]	[•]
		0.	[•]	[•]
		0.	[•]	[•]
		0.	[•]	[•]
		0.15	non-adjustable	
		1.00		
X2	Changes in the law	As per terms and conditions of the NEC3 Term Service Contract April 2013 ⁶ (TSC3)		
X17	Low service damages			
X17.1	The <i>service level table</i> is	0.5% of the Task Order value per complete week of delay.		
X18	Limitation of liability			
X18.1	The <i>Contractor's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to	R0.0 (zero Rand)		
X18.2	For any one event, the <i>Contractor's</i> liability to the <i>Employer</i> for loss of or damage to the <i>Employer's</i> property is limited to	the amount of the deductibles relevant to the event described in the “Format TSC3” insurance policy available on http://www.eskom.co.za/Contracts/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx		
X18.3	The <i>Contractor's</i> liability for Defects due to his design of an item of Equipment is limited to	The greater of <ul style="list-style-type: none">the total of the Prices at the Contract Date and <ul style="list-style-type: none">the amounts excluded and unrecoverable from the <i>Employer's</i> insurance (other than the resulting physical damage to the <i>Employer's</i> property which is not excluded) plus the applicable deductibles in the <i>Employer's</i> assets and works / maintenance policies available on http://www.eskom.co.za/Contracts/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx		

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X18.4	The <i>Contractor's</i> total liability to the <i>Employer</i> , for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	<p>the total of the Prices other than for the additional excluded matters.</p> <p>The <i>Contractor's</i> total liability for the additional excluded matters is not limited.</p> <p>The additional excluded matters are amounts for which the <i>Contractor</i> is liable under this contract for</p> <ul style="list-style-type: none"> • Defects due to his design, plan and specification, • Defects due to manufacture and fabrication outside the Affected Property, • loss of or damage to property (other than the <i>Employer's</i> property, Plant and Materials), • death of or injury to a person and • infringement of an intellectual property right.
X18.5	The <i>end of liability date</i> is	52 months after the end of the <i>service period</i> .
X19	Task Order	
X19.5	The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within	2 days of receiving the Task Order
X20	Key Performance Indicators (not used when Option X12 applies)	
X20.1	A report of performance against each Key Performance Indicator is provided at intervals of	3 months
Z	The <i>additional conditions of contract</i> are	Z1 to Z11 always apply.

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 Joint ventures

- Z2.1 If the *Contractor* 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 *Employer* for the performance of this contract.

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- Z2.2 Unless already notified to the *Employer*, the persons or organisations notify the *Service Manager* within two weeks of the Contract Date of the key person who has the authority to bind the *Contractor* on their behalf.
- Z2.3 The *Contractor* does not alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without the consent of the *Employer* having been given to the *Contractor* in writing.

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

- Z3.1 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.
- Z3.2 The *Contractor* is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the *Service Manager* within thirty days of the notification or as otherwise instructed by the *Service Manager*.
- Z3.3 Where, as a result, the *Contractor's* B-BBEE status has decreased since the Contract Date the *Employer* may either re-negotiate this contract or alternatively, terminate the *Contractor's* obligation to Provide the Service.
- Z3.4 Failure by the *Contractor* to notify the *Employer* of a change in its B-BBEE status may constitute a reason for termination. If the *Employer* terminates in terms of this clause, the procedures on termination are P1, P2 and P4 as stated in clause 92, and the amount due is A1 and A3 as stated in clause 93.

Z4 Confidentiality

- Z4.1 The *Contractor* does not disclose or make any information arising from or in connection with this contract available to Others. This undertaking does not, however, apply to information which at the time of disclosure or thereafter, without default on the part of the *Contractor*, enters the public domain or to information which was already in the possession of the *Contractor* at the time of disclosure (evidenced by written records in existence at that time). Should the *Contractor* disclose information to Others in terms of clause 25.1, the *Contractor* ensures that the provisions of this clause are complied with by the recipient.
- Z4.2 If the *Contractor* is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the *Service Manager*.
- Z4.3 In the event that the *Contractor* is, at any time, required by law to disclose any such information which is required to be kept confidential, the *Contractor*, to the extent permitted by law prior to disclosure, notifies the *Employer* so that an appropriate protection order and/or any other action can be taken if possible, prior to any disclosure. In the event that such protective order is not, or cannot, be obtained, then the *Contractor* may disclose that portion of the information which it is required to be disclosed by law and uses reasonable efforts to obtain assurances that confidential treatment will be afforded to the information so disclosed.
- Z4.4 The taking of images (whether photographs, video footage or otherwise) of the Affected Property or any portion thereof, in the course of Providing the Service and after the end of the *service period*, requires the prior written consent of the *Service Manager*. All rights in and to all such images vests exclusively in the *Employer*.
- Z4.5 The *Contractor* ensures that all his subcontractors abide by the undertakings in this clause.

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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 *Service 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 27.4

- Z6.1 The *Contractor* undertakes to take all reasonable precautions to maintain the health and safety of persons in and about the execution of the *service*. 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 Affected Property;
 - 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 the *service*; and
 - undertakes, in and about the execution of the *service*, to comply with the Construction Regulations and with all applicable health & safety laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his Subcontractors, employees and others under the *Contractor*’s direction and control, likewise observe and comply with the foregoing.
- Z6.2 The *Contractor*, in and about the execution of the *service*, complies with all applicable environmental laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his Subcontractors, employees and others under the *Contractor*’s direction and control, likewise observe and comply with the foregoing.

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

- Z7.1 Within one week of receiving a payment certificate from the *Service Manager* in terms of core clause 51.1, the *Contractor* provides the *Employer* with a tax invoice in accordance with the *Employer*’s procedures stated in the Service Information, showing the amount due for payment equal to that stated in the payment certificate.
- Z7.2 If the *Contractor* does not provide a tax invoice in the form and by the time required by this contract, the time by when the *Employer* is to make a payment is extended by a period equal in time to the delayed submission of the correct tax invoice. Interest due by the *Employer* in terms of core clause 51.2 is then calculated from the delayed date by when payment is to be made.
- Z7.3 The *Contractor* (if registered in South Africa in terms of the companies Act) is required to comply with the requirements of the Value Added Tax Act, no 89 of 1991 (as amended) and to include the *Employer*’s VAT number 4740101508 on each invoice he submits for payment.

Z8 Notifying compensation events

- Z8.1 Delete the last paragraph of core clause 61.3 and replace with:

If the *Contractor* does not notify a compensation event within eight weeks of becoming aware of the event, he is not entitled to a change in the Prices.

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Z9 *Employer’s limitation of liability*

- Z9.1 The *Employer’s* liability to the *Contractor* for the *Contractor’s* indirect or consequential loss is limited to R0.00 (zero Rand)
- Z9.2 The *Contractor’s* entitlement under the indemnity in 82.1 is provided for in 60.1(12) and the *Employer’s* liability under the indemnity is limited to compensation as provided for in core clause 63 and X19.11 if Option X19 Task Order applies to this contract.

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 *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>Contractor</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>Contractor</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. |
- Z 11.1 A Committing Party may not take any Prohibited Action during the course of the procurement of this contract or in execution thereof.
- Z 11.2 The *Employer* may terminate the *Contractor’s* obligation to Provide the Service if a Committing Party has taken such Prohibited Action and the *Contractor* did not take timely and appropriate action to

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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 Service for this reason.

Z 11.3 If the *Employer* terminates the *Contractor's* obligation to Provide the Service for this reason, the procedures and amounts due on termination are respectively P1, P2, P3 and P4, and A1 and A3.

Z 11.4 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.

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Annexure A: Insurance provided by the Employer

These notes are provided as guidance to contracting contractors and the Contractor about the insurance provided by the Employer. The Contractor must obtain its own advice. Details of the insurance itself are available from the internet web link given below.

1. Services provided in a TSC3 contract could include some element of construction or refurbishment as well as a continuous maintenance or operational service activity. If an event occurs which causes loss or damage, a claim could be made either against the *Employer's* “works” type policy which may be in place for the *Employer's* portion of the Affected Property concerned or against the *Employer's* assets policy which may be in place for the *Employer's* portion of the Affected Property concerned, or both.
2. The cover provided and the deductibles under the works policy are different to those under the assets policy. Each policy has a range of applicable deductibles depending on the location of the Affected Property and the nature of the insurable event.
3. The *Contractor* is required in terms of Contract Data for clause 83 to provide cover for the deductibles in the insurance provided by the *Employer*. This can be provided from his own resources on a ‘self insured’ basis or obtained by him from his own insurers. In order to assess the extent of this cover, contracting contractors and their brokers should consult the internet web link given below and scroll to ‘**Format TSC3**’ to establish both the cover and the deductibles in relation to the *service* provided in terms of this contract.
4. Contracting contractors should note that cover provided by the *Employer* is only per the policies available on the internet web link listed below and may not be the cover required by the contracting contractor or as intended by each of the listed insurances in the left hand column of the Insurance Table in clause 83.2. In terms of clause 83.1 “the *Contractor* provides the insurances stated in the Insurance Table except any insurance which the *Employer* is to provide”. Hence the *Contractor* provides insurance which the *Employer* does not provide and in cases where the *Employer* does provide insurance the *Contractor* insures for the difference between what the Insurance Table requires and what the *Employer* provides.
5. If Marine Insurance is required the *Contractor* needs to obtain a copy of the latest edition of Eskom's Marine Policies Procedures found at internet website given below.
6. Further information and full details of all Eskom provided policies and procedures may be obtained from:

[http://www.eskom.co.za/Contracts/InsurancePoliciesProcedures/Pages/EIMS_Policies_
From_1_April_2014_To_31_March_2015.aspx](http://www.eskom.co.za/Contracts/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx)

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C1.2 Contract Data

Part two - Data provided by the *Contractor*

Notes to a contracting contractor:

1. Please read both the both the NEC3 Term Service Contract April 2013 and the relevant parts of its Guidance Notes (TSC3-GN)⁷ in order to understand the implications of this Data which the contractor is required to complete.
2. The number of the clause which requires the data is shown in the left hand column for each statement however other clauses may also use the same data.

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

Clause	Statement	Data
10.1	The <i>Contractor</i> is (Name): Address Tel No. Fax No.	
11.2(8)	The <i>direct fee percentage</i> is	0%
	The <i>subcontracted fee percentage</i> is	0%
11.2(14)	The following matters will be included in the Risk Register	
11.2(15)	The Service Information for the <i>Contractor's</i> plan is in:	
21.1	The plan identified in the Contract Data is contained in:	
24.1	The key people are: 1 Name: Job: Responsibilities: Qualifications: Experience: 2 Name: Job	

⁷ Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 5391902 or www.ecs.co.za

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Responsibilities:

Qualifications:

Experience:

CV's (and further key person's data including CVs) are in .

A	Priced contract with price list
11.2(12)	The <i>price list</i> is in
11.2(19)	The contracted total of the Prices is Rates based contract

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PART 2: PRICING DATA

The establishment of service contract for electronic access to deeds office and credit bureau for distribution asset creation in the LimLanga Cluster on an “as and when” required basis over a period of 60 months.

Document reference	Title

The establishment of service contract for electronic access to deeds office and credit bureau for distribution asset creation in the LimLanga Cluster on an “as and when” required basis over a period of 60 months.

C2.1	Pricing assumptions: Option A
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The establishment of service contract for electronic access to deeds office and credit bureau for distribution asset creation in the LimLanga Cluster on an “as and when” required basis over a period of 60 months.

C2.2	The <i>price list</i>
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C2.1 Pricing assumptions: Option A

How work is priced and assessed for payment

Clause 11 in NEC3 Term Service Contract (TSC3) core clauses and Option A states:

Identified and defined terms	11	
	11.2	(12) The Price List is the <i>price list</i> unless later changed in accordance with this contract.
		(17) The Price for Services Provided to Date is the total of <ul style="list-style-type: none"> the Price for each lump sum item in the Price List which the <i>Contractor</i> has completed and Where a quantity is stated for an item in the Price List, an amount calculated by multiplying the quantity which the <i>Contractor</i> has completed by the rate.
		(19) The Prices are the amounts stated in the Price column of the Price List. Where a quantity is stated for an item in the Price List, the Price is calculated by multiplying the quantity by the rate.

This confirms that Option A is a priced contract where the Prices are derived from a list of items of service which can be priced as lump sums or as expected quantities of service multiplied by a rate or a mix of both.

Function of the Price List

Clause 54.1 in Option A states: “Information in the Price List is not Service Information”. This confirms that instructions to do work or how it is to be done are not included in the Price List but in the Service Information. This is further confirmed by Clause 20.1 which states, “The *Contractor* Provides the Service in accordance with the Service Information”. Hence the *Contractor* does **not** provide the Service in accordance with the Price List. The Price List is only a pricing document.

Link to the *Contractor's* plan

Clause 21.4 states “The *Contractor* provides information which shows how each item description on the Price List relates to the operations on each plan which he submits for acceptance”. Hence when compiling the *price list*, the contracting contractor needs to develop his first clause 21.2 plan in such a way that operations shown on it can be priced in the *price list* and result in a satisfactory cash flow in terms of clause 11.2(17).

Preparing the *price list*

Before preparing the *price list*, both the *Employer* and contracting contractors should read the TSC3 Guidance Notes pages 14 and 15. In an Option A contract, either Party may have entered items into the *price list* either as a process of offer and acceptance (contracting) or by negotiation depending on the nature of the *service* to be provided. Alternatively the *Employer*, in his Instructions to Contractors or in a Contract Schedule, may have listed some items that he requires the *Contractor* to include in the *price list* to be prepared and priced by him.

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It is assumed that in preparing or finalising the *price list* the *Contractor*:

- Has taken account of the guidance given in the TSC3 Guidance Notes relevant to Option A;
- Understands the function of the Price List and how work is priced and paid for;
- Is aware of the need to link operations shown in his plan to items shown in the Price List;
- Has listed and priced items in the *price list* which are inclusive of everything necessary and incidental to Providing the Service in accordance with the Service Information, as it was at the time of contract, as well as correct any Defects not caused by an *Employer's* risk;
- Has priced work he decides not to show as a separate item within the Prices or rates of other listed items in order to fulfil the obligation to complete the *service* for the contracted total of the Prices.
- Understands there is no adjustment to items priced as lump sums if the amount, or quantity, of work within that item later turns out to be different to that which the *Contractor* estimated at time of contract. The only basis for a change to the (lump sum) Prices is as a result of a compensation event.

Format of the *price list*

(From the example given in an Appendix within the TSC3 Guidance Notes)

Entries in the first four columns in the *price list* in section C2.2 are made either by the *Employer* or the contracting 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 contracting contractor enters the amount in the Price column only, the Unit, Expected Quantity and Rate columns being left blank.

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

If the *Contractor* is to be paid a Price for an item proportional to the length of time for which a service is provided, a unit of time is stated in the Unit column and the expected length of time (as a quantity of the stated units of time) is stated in the Expected Quantity column.

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C2.2 the *price list*

Electronic Deeds office and Credit Bureau data search

DESCRIPTION	Turn-around time on service delivery (Immediate or # hours)		
DEEDS OFFICE DATABASE PER SEARCH		QTY	Unit Price
Person (list of owned properties and Title Deeds thereto) Property (list of all subdivisions, ownership and Title Deeds thereto)	Immediate	1	
Searches from 1 - 500 per month	Immediate	1	
Searches from 501 - 1000 per month	Immediate	1	
Searches > 1000 per month	Immediate	1	
INDIVIDUAL / COMPANY PER SEARCH		QTY	Unit Price
Director Report	Immediate	1	
Company Report	Immediate	1	
VAT Number	8 Hours	1	
Contact Information search	Immediate	1	
PROPERTY PER SEARCH		QTY	Unit Price
Property Report (current and historic information on ownership, size, SG diagrams, 21-digit SG code, Map view	Immediate except SG - SG 48 hrs	1	
Street Address to Erf / Scheme	Immediate	1	
Erf / Scheme to Street Address	Immediate	1	
Valuation report based on recent comparable sales in the area	Immediate	1	
Full Valuation Report	Immediate	1	
DOCUMENTS		QTY	Unit Price
Deeds Office Document Copy	Immediate	1	
Surveyor General Diagram	48 hrs	1	
Judgement Document Copy	24 hrs	1	
CREDIT BUREAU SEARCH		QTY	Unit Price
Consumer Profile	Immediate	1	
Consumer Trace	Immediate	1	
		Total	R

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The rates will be fixed and firm for the first 12 months of the contract. At the anniversary date of the contract start the prices will be adjusted in accordance with the published CPI for goods purchased and service to be provided. SEIFSA indices on Table D will be applicable for services and Table L1-L2 will be used for Transport.

ACCEPTANCE BY THE CONTRACTOR

Tenderor's signature

Date:

.....

.....

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C3: Scope of Work

Job description/specifications

1. Specifications

The scope of work covered by this contract includes the Provision of electronic access to, cross referencing over databases and electronic reporting thereon regarding the following Government databases:

- Property Deeds Offices
- Private Individuals/Companies
- Credit Bureau, and related databases.

SPECIFICATION OF PRODUCT OR GOODS

Electronic searches across, interpretation of data and reporting thereon, e-copies of documentation regarding the following Government Databases:

- Deeds Offices property and ownership thereto
- Individuals/Companies and directors' details
- Credit Bureau details on individuals and companies and
- Ability to offer a pay as you use service.

Employer's requirements for the service

Electronic searches across, interpretation of data and reporting thereon, e-copies of documentation regarding the following Government Databases:

- Deeds Offices property and ownership thereto
- Individuals/Companies and directors' details
- Credit Bureau details on individuals and companies and
- Ability to offer a pay as you use service.

Interpretation and terminology

The following abbreviations are used in this Service Information:

Abbreviation	Meaning given to the abbreviation
	None

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Management strategy and start up.

The *Contractor's* plan for the *service*

Management strategy and start up.

Management meetings

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

Title and purpose	Approximate time & interval	Location	Attendance by:
Risk register and compensation events	As required	Service Manager's office	Both parties
Overall contract progress and feedback	As required	Service Manager's office	Both parties

Meetings of a specialist nature may be convened as specified elsewhere in this Service Information or if not so specified by persons and at times and locations to suit the Parties, the nature and the progress of the *service*. Records of these meetings shall be submitted to the *Service 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.

***Contractor's* management, supervision and key people**

N/A

Provision of bonds and guarantees

N/A

Documentation control

All contractual Documentation must have relevant contract number and Purchase Order Number as reference as per Eskom Holdings SOC Ltd Standards. Contractual communications will be in the form of properly compiled letters, letters attached to emails, emails, NEC3 template and urgent contractor meetings can be in the form of sms. The use of sms's, emails does not override the use of applicable and relevant NEC3 standard templates, forms and Eskom Holdings SOC Limited procedures.

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Invoicing and payment

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

The *Contractor* shall address the tax invoice to

_____ and include on each invoice the following information:

Name and address of the *Contractor* and the *Service Manager*;

The contract number and title;

Contractor's VAT registration number;

The *Employer*'s VAT registration number 4740101508;

Description of service provided for each item invoiced based on the Price List;

Total amount invoiced excluding VAT, the VAT and the invoiced amount including VAT;
(add other as required)

Add procedures for invoice submission and payment (e. g. electronic payment instructions)

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

Contract change management

For any change in scope, such changes must be treated as Compensation Events.

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

In order to substantiate the Defined Cost of compensation events, the *Employer* may require the *Contractor* to keep records of amounts paid by him for people employed by the *Contractor*, Plant and Materials, work subcontracted by the *Contractor* and Equipment. A site diary will be required.

Insurance provided by the *Employer*

The insurance provided by the Employer, is addressed under the contract data.

Training workshops and technology transfer

To be advised by the Service Manager, as required

Design and supply of Equipment

N/A

Things provided at the end of the *service period* for the *Employer*'s use

Equipment

As per Task Order

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Information and other things

As per Task Order

Management of work done by Task Order

NB: No work that falls outside the approved scope of works will be undertaken without a Task Order.

Health and safety, the environment and quality assurance

Not applicable

Procurement

People

Minimum requirements of people employed

N/A

BBBEE and preferencing scheme

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.

Subcontracting

Preferred subcontractors

Contractors are requested to submit names of proposed “Subcontractors” to be utilized on this project. Contractors are advised that only Eskom Approved Consultants and Contractors who have completed the necessary Eskom Contractor Training & Accreditation may be used.

Subcontractor	Section of Work to be Subcontracted	Vendor No.

Subcontract documentation, and assessment of subcontract contracts

As per Terms and Conditions of NEC Term Services Contract

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Limitations on subcontracting

Contractors are not allowed to sub-contract more than 25% of the contract value to another enterprise that does not have equal or higher BBBEE status level, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.

Attendance on subcontractors

None

Plant and Materials

Specifications

As per Task Order

Correction of defects

Defects to be corrected within 1 Week

Contractor's procurement of Plant and Materials

Material to be procured locally, from Eskom approved Supplier.

Tests and inspections before delivery

The inspection to be done by the Service Manager

Plant & Materials provided “free issue” by the *Employer*

As per Task Order

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Working on the Affected Property

The Contractor must adhere the OHS Act

Employer’s site entry and security control, permits, and site regulations

As per Task Order

People restrictions, hours of work, conduct and records

As per Task Order

Health and safety facilities on the Affected Property

As per Task Order

Environmental controls, fauna & flora

This sub-paragraph may not be required in a service contract or if these matters are dealt with in the general environmental requirements referred to in section 3 above.

Equipment provided by the *Employer*

None

Site services and facilities

Provided by the *Employer*

Security and Site

Provided by the *Contractor*

As per Task Order

Control of noise, dust, water and waste

Not applicable

Hook ups to existing works

Not applicable

Tests and inspections

Description of tests and inspections

Site Inspection to be done at the end of each Task Order

Materials facilities and samples for tests and inspections

Materials facilities and samples for tests and inspections the *Contractor* and the *Employer* are to provide, per core clause 40.2.

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List of drawings

Drawings issued by the *Employer*

Not applicable for this contract

Drawing number	Revision	Title
		drawings will be available from the Service Manager

Access to the Eskom Web Page

All contractors must make sure that they can access Eskom Web page at any given time to get the latest drawings and specifications before commencement of any task. Web Access applications can be done through the assistance of Brenda Morrison @ 011 629 5266 or MorrisEF@eskom.co.za

Acknowledgement of Web Access/and or application for Web Access

Ido hereby acknowledge having/applied for access to the Eskom Distribution Website with all Distribution Procedures, Standards and Drawings as they will be listed in the index of the Task Order documents.

I undertake to study and abide by these requirements at all times. If for any reason I cannot access or open any of the files on the web, I will contact the *Employer* immediately.

Contractors Signature:

Signed at: on the day of