



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

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

for **The Establishment of an Enabling Agreement with a maximum Panel of 40 Contractors for the Provision of Supervision, Labour, Equipment, Material (Except the “Big Five” material which include Meters, Poles/Cross Arms, Transformers, Cable and Conductor), Transport (as it will be required and authorised) for Electrification of New Household Connections (Above R3 000 000,00 per project) for a period of thirty (30) months (Twenty-Four (24) months for allocation of task orders and six (6) months for the close-out of projects and finalisation of the payment process) for Distribution Division in the KZN Operating Unit, Central East Cluster as and when required.**

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CONTRACT No.

Part C1: Agreements & Contract Data

Contents:	No of pages
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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:

The Establishment of an Enabling Agreement with a maximum Panel of 40 Contractors for the Provision of Supervision, Labour, Equipment, Material (Except the “Big Five” material which include Meters, Poles/Cross Arms, Transformers, Cable and Conductor), Transport (as it will be required and authorised) for Electrification of New Household Connections (Above R3 000 000,00 per project) for a period of thirty (30) months (Twenty-Four (24) months for allocation of task orders and six (6) months for the close-out of projects and finalisation of the payment process) for Distribution Division in the KZN Operating Unit, Central East Cluster as and when required.

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

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

Options B	The offered total of the Prices exclusive of VAT is	Rate based contract
	Value Added Tax @ 15% is	Rate based contract
	The offered total of the amount due inclusive of VAT is ¹	Rate based contract
	(in words)	

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

Signature(s)

Name(s) _____

Capacity _____

For the tenderer:

(Insert name and address of organisation)

Name & signature of witness

Date

Tenderer's CIDB registration number (if applicable)

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

Acceptance

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

The terms of the contract, are contained in:

Part C1	Agreements and Contract Data, (which includes this Form of Offer and Acceptance)
Part C2	Pricing Data
Part C3	Scope of Work: Works Information
Part C4	Site Information

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

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

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

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

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

Signature(s)

Name(s)

BRENDA CEBEKHULU

Capacity

SENIOR MANAGER
ASSET CREATION

**for the
Employer**

Eskom Holdings SOC Limited

(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.

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

Note:

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

No.	Subject	Details
1		
2		
3		
4		
5		
6		
7		

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

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

For the tenderer:

For the Employer

Signature

.....

.....

Name

.....

Brenda Cebekhulu

Capacity

.....

Senior Manager Asset Creation

On behalf of

(Insert name and address of organisation)

(Insert name and address of organisation)

Eskom Holding SOC Limited

Name & signature of witness

.....

.....

Date

.....

.....

C1.2 ECC3 Contract Data

Part one - Data provided by the *Employer*

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option	
	dispute resolution Option	B: Priced contract with bill of quantities
	and secondary Options	W1: Dispute resolution procedure
		X1: Price adjustment for inflation
		X2: Changes in the law
		X5: Sectional Completion
		X7: Delay damages
		X13: Performance Bond
		X16: Retention
		X18: Limitation of liability
		Z: <i>Additional conditions of contract</i>
	of the NEC3 Engineering and Construction Contract, April 2013 (ECC3)	
10.1	The <i>Employer</i> is (Name):	Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state owned company incorporated in terms of the company laws of the Republic of South Africa
	Address	Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg
10.1	The <i>Project Manager</i> is: (Name)	The relevant Portfolio Manager Zetu Nciza will delegate to the specific Programme Manager for each Task Order.
	Address	25 Valley View Road, New Germany, 3610
	Tel	031-204 5710
	Fax	086 538 1203
	e-mail	ncizanz@eskom.co.za

10.1	The <i>Supervisor</i> is: (Name)	The supervisor will be the Project Co-ordinator appointed for a particular project and will be specified in the project specific agreement.
	Address	25 Valley View Road, New Germany, 3610
	Tel No.	031-204 5710
	Fax No.	086 538 1203
	e-mail	ncizanz@eskom.co.za
11.2(13)	The <i>works</i> are	Various categories of work on Electrification Projects in KZN Operating Unit
11.2(14)	The following matters will be included in the Risk Register	<ul style="list-style-type: none"> • Cost overruns due to unpredictable surface conditions. • The possibility of existing services which might not be indicated on the wayleave. • Completion Date • Late material Delivery • Theft of un-energised cables • Vandalism of un-energised primary plant • Armed robberies on site • Theft of Project Material on Eskom site camp • Bush Clearing • Local Business Forums • Political Unrest • Community Unrest • Weather • Survey Issues • Safety Compliance • Design Alterations
11.2(15)	The <i>boundaries of the site</i> are	All projects to be executed in terms of this contract will be executed at various sites within the KZN Operating Unit.
11.2(16)	The Site Information is in	The Site Information will form part of the Project Specific Agreement for each project to be executed in terms of this contract.
11.2(19)	The Works Information is in	The Works Information will form part of the Project Specific Agreement for each project to be executed in terms of this contract.
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	Data required by this section of the core clauses

responsibilities

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

3 Time					
11.2(3)	The <i>completion date</i> for the whole of the works is Thirty (30) month period (Twenty-Four (24) months for allocation of task orders and six (6) months for the close-out of projects and finalisation of the payment process) within which various projects will be executed within the KZN Operating Unit				
11.2(9)	The <i>key dates</i> and the <i>conditions</i> to be met are: <table border="1"> <thead> <tr> <th><i>Condition to be met</i></th> <th><i>Key date</i></th> </tr> </thead> <tbody> <tr> <td>1 Any key date and conditions will be specified in the Project Specific Agreement for any project executed in terms of this contract</td> <td></td> </tr> </tbody> </table>	<i>Condition to be met</i>	<i>Key date</i>	1 Any key date and conditions will be specified in the Project Specific Agreement for any project executed in terms of this contract	
<i>Condition to be met</i>	<i>Key date</i>				
1 Any key date and conditions will be specified in the Project Specific Agreement for any project executed in terms of this contract					
30.1	The <i>access dates</i> are: <table border="1"> <thead> <tr> <th><i>Part of the Site</i></th> <th><i>Date</i></th> </tr> </thead> <tbody> <tr> <td>1 Access dates will be specified in the Project Specific Agreement for any project executed in terms of this contract.</td> <td></td> </tr> </tbody> </table>	<i>Part of the Site</i>	<i>Date</i>	1 Access dates will be specified in the Project Specific Agreement for any project executed in terms of this contract.	
<i>Part of the Site</i>	<i>Date</i>				
1 Access dates will be specified in the Project Specific Agreement for any project executed in terms of this contract.					
31.1	The <i>Contractor</i> is to submit a first programme for acceptance within 1 week of the Task Order Date.				
31.2	The <i>starting date</i> is 15 November 2024				
32.2	The <i>Contractor</i> submits revised programmes at intervals no longer than The period between project progress meetings.				
4 Testing and Defects					
42.2	The <i>defects date</i> is 52 weeks after Completion of the whole of the works per project or section thereof if sectional completion is applicable.				
43.2	The <i>defect correction period</i> is Within 2 weeks upon notification of defect				
5 Payment					
50.1	The <i>assessment interval</i> is From 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 14 OR 30 Days depending on the BBBEE status of the Contractor.				
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 and				

(ii) the LIBOR rate applicable at the time for amounts due in other currencies. LIBOR is the 6 month London Interbank Offered Rate quoted under the caption "Money Rates" in The Wall Street Journal for the applicable currency or if no rate is quoted for the currency in question then the rate for United States Dollars, and if no such rate appears in The Wall Street Journal then the rate as quoted by the Reuters Monitor Money Rates Service (or such service as may replace the Reuters Monitor Money Rates Service) on the due date for the payment in question, adjusted *mutatis mutandis* every 6 months thereafter and as certified, in the event of any dispute, by any manager employed in the foreign exchange department of The Standard Bank of South Africa Limited, whose appointment it shall not be necessary to prove.

6 Compensation events

60.1(13) The place where weather is to be recorded is:

The project site

The *weather measurements* to be recorded for each calendar month are,

the cumulative rainfall (mm)

the number of days with rainfall more than 10 mm

the number of days with minimum air temperature less than 0 degrees Celsius

the number of days with snow lying at 09:00 hours South African Time

and these measurements:

The *weather measurements* are supplied by

The **Contractor** using actual weather readings from the project site

The *weather data* are the records of past *weather measurements* for each calendar month which were recorded at:

The nearest weather station of the South African Weather Service to the site

and which are available from:

the South African Weather Bureau and included in Annexure A to this Contract Data provided by the **Employer**

60.1(13) Assumed values for ten year return *weather* data for each *weather measurements* for each calendar month are:

As stated in Annexure A to this Contract Data provided by the **Employer**.

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 and insurance		
80.1	These are additional <i>Employer's</i> risks	1. Inclement weather 2. Resident Complaints 3. Theft and vandalism 4. Political Unrest 5. Local Business Forum 6. Community Unrest
9	Termination	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
10 Data for main Option clause		
B	Priced contract with bill of quantities	
60.6	The <i>method of measurement</i> is	as stated in Part C2.1, Pricing Assumptions.
11 Data for Option W1		
W1.1	The <i>Adjudicator</i> is	the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see www.ice-sa.org.za). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).
	Address	
	Tel No.	
	Fax No.	
	e-mail	
W1.2(3)	The <i>Adjudicator nominating body</i> is:	the Chairman of ICE-SA a joint Division of the South African Institution of Civil Engineering and the London Institution of Civil Engineers. (See www.ice-sa.org.za) or its successor body.
W1.4(2)	The <i>tribunal</i> is:	arbitration.
W1.4(5)	The <i>arbitration procedure</i> is	the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.
	The place where arbitration is to be held is	The City within which the Head Office for the relevant Operating Unit is situated within 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(a)	The <i>base date</i> for indices is	1 month prior to Tender Closing Date				
X1.1(c)	The proportions used to calculate the Price Adjustment Factor are:	The Rates will be fixed and firm for the first year of the contract. On the anniversary of the contract SEIFSA will be applied where 15% will be non-adjustable and 85% will be adjusted based on Table C3(labour rates. Transport will be adjusted by SEIFSA Table L-2 A for road freight costs.				
X2	Changes in the law	There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.				
X5	Sectional Completion					
X5.1	The <i>completion date</i> for each <i>section</i> of the works is:	<table border="1"> <thead> <tr> <th>Section</th> <th>Description</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>The completion date for each section of the work will be specified in the Project Specific Agreement for any project executed in terms of this contract.</td> </tr> </tbody> </table>	Section	Description	1	The completion date for each section of the work will be specified in the Project Specific Agreement for any project executed in terms of this contract.
Section	Description					
1	The completion date for each section of the work will be specified in the Project Specific Agreement for any project executed in terms of this contract.					
X5 & X7	Sectional Completion and delay damages used together	The delay damage for each section of the work will be specified in the Project Specific Agreement for any project executed in terms of this contract and will be relevant to the specific project being executed.				
X15	Limitation of the Contractor's liability for his design to reasonable skill & care	There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.				
X16	Retention (not used with Option F)					
X16.1	The <i>retention free amount</i> is	N/A				
	The <i>retention percentage</i> is	5%				
X18	Limitation of liability					
X18.1	The <i>Contractor's liability</i> to the <i>Employer</i> for	The sum of the loss as a result of any action				

	indirect or consequential loss is limited to:	arising by any negligent act by any person under the <i>Contractor's</i> employ or any person performing work under the direct supervision of the <i>Contractor</i>
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 insurance policy format selected in the data for clause 84.1 above, which policy is available on ESK2019/20 ACAR
X18.3	The <i>Contractor's</i> liability for Defects due to his design which are not listed on the Defects Certificate is limited to	The greater of <ul style="list-style-type: none"> • the total of the Prices at the Contract Date and • the amounts excluded and unrecoverable from the <i>Employer's</i> assets policy for correcting the Defect (other than the resulting physical damage which is not excluded) plus R15M first amount payable in terms of the <i>Employer's</i> assets policy.
X18.4	The <i>Contractor's</i> total liability to the <i>Employer</i> for all matters arising under or in connection with this contract, other than excluded matters, is limited to:	the total of the Prices other than for the additional excluded matters. The <i>Contractor's</i> total liability for the additional excluded matters is not limited. The additional excluded matters are amounts for which the <i>Contractor</i> is liable under this contract for <ul style="list-style-type: none"> • Defects due to manufacture and fabrication outside the Site, • loss of or damage to property (other than the <i>works</i>, Plant and Materials), • death of or injury to a person and • Infringement of an intellectual property right.
X18.5	The <i>end of liability date</i> is	Seven years after the <i>defects date</i> for latent Defects and (ii) the date on which the liability in question prescribes in accordance with the Prescription Act No. 68 of 1969 (as amended or in terms of any replacement legislation) for any other matter. A latent Defect is a Defect which would not have been discovered on reasonable inspection by the <i>Employer</i> or the <i>Supervisor</i> before the <i>defects date</i>, without requiring any inspection not ordinarily carried out by the <i>Employer</i> or the <i>Supervisor</i> during that period. If the <i>Employer</i> or the <i>Supervisor</i> do undertake any inspection over and above the reasonable inspection, this does not place a greater responsibility on the <i>Employer</i> or the <i>Supervisor</i> to have discovered the Defect.

Z The Additional conditions of contract are

Z1 to Z15 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.
- Z2.2 Unless already notified to the *Employer*, the persons or organisations notify the *Project 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 *Project Manager* within thirty days of the notification or as otherwise instructed by the *Project Manager*.
- Z3.3 Where, as a result, the *Contractor's* B-BBEE status has decreased since the Contract Date the *Employer* may either re-negotiate this contract or alternatively, terminate the *Contractor's* obligation to Provide the Works.
- Z3.4 Failure by the *Contractor* to notify the *Employer* of a change in its B-BBEE status may constitute a reason for termination. If the *Employer* terminates in terms of this clause, the procedures on termination are P1, P2 and P3 as stated in clause 92, and the amount due is A1 and A3 as stated in clause 93.

Z4 Confidentiality

- Z4.1 The *Contractor* does not disclose or make any information arising from or in connection with this contract available to Others. This undertaking does not, however, apply to information which at the time of disclosure or thereafter, without default on the part of the *Contractor*, enters the public domain or to information which was already in the possession of the *Contractor* at the time of disclosure (evidenced by written records in existence at that time). Should the *Contractor* disclose information to Others in terms of clause 25.1, the *Contractor* ensures that the provisions of this clause are complied with by the recipient.
- Z4.2 If the *Contractor* is uncertain about whether any such information is confidential, it is to be regarded

as such until notified otherwise by the *Project Manager*.

- Z4.3 In the event that the *Contractor* is, at any time, required by law to disclose any such information which is required to be kept confidential, the *Contractor*, to the extent permitted by law prior to disclosure, notifies the *Employer* so that an appropriate protection order and/or any other action can be taken if possible, prior to any disclosure. In the event that such protective order is not, or cannot, be obtained, then the *Contractor* may disclose that portion of the information which it is required to be disclosed by law and uses reasonable efforts to obtain assurances that confidential treatment will be afforded to the information so disclosed.
- Z4.4 The taking of images (whether photographs, video footage or otherwise) of the *works* or any portion thereof, in the course of Providing the Works and after Completion, requires the prior written consent of the *Project Manager*. All rights in and to all such images vests exclusively in the *Employer*.
- Z4.5 The *Contractor* ensures that all his sub*Contractors* abide by the undertakings in this clause.

Z5 Waiver and estoppel: Add to core clause 12.3:

- Z5.1 Any extension, concession, waiver or relaxation of any action stated in this contract by the Parties, the *Project Manager*, the *Supervisor*, or the *Adjudicator* does not constitute a waiver of rights, and does not give rise to an estoppel unless the Parties agree otherwise and confirm such agreement in writing.

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

- Z6.1 The *Contractor* undertakes to take all reasonable precautions to maintain the health and safety of persons in and about the execution of the *works*. Without limitation the *Contractor*:
- accepts that the *Employer* may appoint him as the "Principal *Contractor*" (as defined and provided for under the Construction Regulations 2014 (promulgated under the Occupational Health & Safety Act 85 of 1993) ("the Construction Regulations") for the Site;
 - warrants that the total of the Prices as at the Contract Date includes a sufficient amount for proper compliance with the Construction Regulations, all applicable health & safety laws and regulations and the health and safety rules, guidelines and procedures provided for in this contract and generally for the proper maintenance of health & safety in and about the execution of *works*; and
 - undertakes, in and about the execution of the *works*, to comply with the Construction Regulations and with all applicable health & safety laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his Sub*Contractors*, employees and others under the *Contractor's* direction and control, likewise observe and comply with the foregoing.
- Z6.2 The *Contractor*, in and about the execution of the *works*, complies with all applicable environmental laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his Sub*Contractors*, employees and others under the *Contractor's* direction and control, likewise observe and comply with the foregoing.

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

- Z7.1 Within one week of receiving a payment certificate from the *Project Manager* in terms of core clause 51.1, the *Contractor* provides the *Employer* with a tax invoice in accordance with the *Employer's* procedures stated in the Works Information, showing the amount due for payment equal to that stated in the payment certificate.
- Z7.2 If the *Contractor* does not provide a tax invoice in the form and by the time required by this contract, the time by when the *Employer* is to make a payment is extended by a period equal in time to the delayed submission of the correct tax invoice. Interest due by the *Employer* in terms of core clause

51.2 is then calculated from the delayed date by when payment is to be made.

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

Z8 Notifying compensation events

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

Z9 Employer's limitation of liability

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

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

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

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

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

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

Z12 Ethics

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

- Affected Party** means, as the context requires, any party, irrespective of whether it is the *Contractor* or a third party, such party's employees, agents, or *SubContractors* or *SubContractor's* employees, or any one or more of all of these parties' relatives or friends,
- Coercive Action** means to harm or threaten to harm, directly or indirectly, an Affected Party or the property of an Affected Party, or to otherwise influence or attempt to influence an Affected Party to act unlawfully or illegally,
- Collusive Action** means where two or more parties co-operate to achieve an unlawful or illegal purpose, including to influence an Affected Party to act unlawfully or illegally,
- Committing Party** means, as the context requires, the *Contractor*, or any member thereof in the case of a joint venture, or its employees, agents, or *SubContractor* or the *SubContractor's* employees,
- Corrupt Action** means the offering, giving, taking, or soliciting, directly or indirectly, of a good or service to unlawfully or illegally influence the actions of an Affected Party,
- Fraudulent Action** means any unlawfully or illegally intentional act or omission that misleads, or attempts to mislead, an Affected Party, in order to obtain a financial or other benefit or to avoid an

obligation or incurring an obligation,

Obstructive Action means a Committing Party unlawfully or illegally destroying, falsifying, altering or concealing information or making false statements to materially impede an investigation into allegations of Prohibited Action, and

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

- Z12.1 A Committing Party may not take any Prohibited Action during the course of the procurement of this contract or in execution thereof.
- Z12.2 The *Employer* may terminate the *Contractor's* obligation to Provide the Services if a Committing Party has taken such Prohibited Action and the *Contractor* did not take timely and appropriate action to prevent or remedy the situation, without limiting any other rights or remedies the *Employer* has. It is not required that the Committing Party had to have been found guilty, in court or in any other similar process, of such Prohibited Action before the *Employer* can terminate the *Contractor's* obligation to Provide the Services for this reason.
- Z12.3 If the *Employer* terminates the *Contractor's* obligation to Provide the Services for this reason, the amounts due on termination are those intended in core clauses 92.1 and 92.2.
- Z12.4 A Committing Party co-operates fully with any investigation pursuant to alleged Prohibited Action. Where the *Employer* does not have a contractual bond with the Committing Party, the *Contractor* ensures that the Committing Party co-operates fully with an investigation.

Z13 Insurance

Z 13.1 Replace core clause 84 with the following:

Insurance cover 84

- 84.1** When requested by a Party, the other Party provides certificates from his insurer or broker stating that the insurances required by this contract are in force.
- 84.2** The *Contractor* provides the insurances stated in the Insurance Table A.
- 84.3** The insurances provide cover for events which are at the *Contractor's* risk from the *starting date* until the earlier of Completion and the date of the termination certificate.

INSURANCE TABLE A

Insurance against	Minimum amount of cover or minimum limit of indemnity
Loss of or damage to the <i>works</i> , Plant and Materials	The replacement cost where not covered by the <i>Employer's</i> insurance The <i>Employer's</i> policy deductible, as at Contract Date, where covered by the <i>Employer's</i> insurance
Loss of or damage to Equipment	The replacement cost
Liability for loss of or damage to property (except the <i>works</i> , Plant and Materials and Equipment) and liability for bodily injury to or death of a person	<u>Loss of or damage to property</u> <u>Employer's property</u> The replacement cost where not covered by the <i>Employer's</i> insurance

(not an employee of the <i>Contractor</i>) caused by activity in connection with this contract	The <i>Employer's</i> policy deductible, as at Contract Date, where covered by the <i>Employer's</i> insurance <u>Other property</u> The replacement cost <u>Bodily injury to or death of a person</u> The amount required by applicable law
Liability for death of or bodily injury to employees of the <i>Contractor</i> arising out of and in the course of their employment in connection with this contract	The amount required by the applicable law

Z 13.2

Replace core clause 87 with the following:

The *Employer* provides the insurances stated in the Insurance Table B.

INSURANCE TABLE B

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

Z14 Nuclear Liability

- Z14.1 The *Employer* is the operator of the Koeberg Nuclear Power Station (KNPS), a nuclear installation, as designated by the National Nuclear Regulator of the Republic of South Africa, and is the holder of a nuclear licence in respect of the KNPS.
- Z14.2 The *Employer* is solely responsible for and indemnifies the *Contractor* or any other person against any and all liabilities which the *Contractor* or any person may incur arising out of or resulting from nuclear damage, as defined in Act 47 of 1999, save to the extent that any liabilities are incurred due to the unlawful intent of the *Contractor* or any other person or the presence of the *Contractor* or that person or any property of the *Contractor* or such person at or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.

- Z14.3 Subject to clause Z14.4 below, the *Employer* waives all rights of recourse, arising from the aforesaid, save to the extent that any claims arise or liability is incurred due or attributable to the unlawful intent of the *Contractor* or any other person, or the presence of the *Contractor* or that person or any property of the *Contractor* or such person at or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.
- Z14.4 The *Employer* does not waive its rights provided for in section 30 (7) of Act 47 of 1999, or any replacement section dealing with the same subject matter.
- Z14.5 The protection afforded by the provisions hereof shall be in effect until the KNPS is decommissioned.

Z15 Asbestos

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

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

- Z15.1 The *Employer* ensures that the Ambient Air in the area where the *Contractor* will Provide the Services conforms to the acceptable prescribed South African standard for asbestos, as per the regulations published in GNR 155 of 10 February 2002, under the Occupational Health and Safety Act, 1993 (Act 85 of 1993) ("Asbestos Regulations"). The OEL for asbestos is 0.2 regulated asbestos fibres per millilitre of air as a 4-hour TWA, averaged over any continuous period of four hours, and the short term exposure limit of 0.6 regulated asbestos fibres per millilitre of air as a 10-minute TWA, averaged over any 10 minutes, measured in accordance with HSG248 and monitored according to HSG173 and OESSM.

- Z15.2 Upon written request by the *Contractor*, the *Employer* certifies that these conditions prevail. All measurements and reporting are effected by an independent, competent, and certified occupational hygiene inspection body, i.e. a SANAS accredited and Department of Employment and Labour approved AAIA. The *Contractor* may perform Parallel Measurements and related control measures at the *Contractor's* expense. For the purposes of compliance the results generated from Parallel Measurements are evaluated only against South African statutory limits as detailed in clause Z15.1. Control measures conform to the requirements stipulated in the AAIA-approved asbestos work plan.
- Z15.3 The *Employer* manages asbestos and ACM according to the Standard.
- Z15.4 In the event that any asbestos is identified while Providing the Services, a risk assessment is conducted and if so required, with reference to possible exposure to an airborne concentration of above the AL for asbestos, immediate control measures are implemented and relevant air monitoring conducted in order to declare the area safe.
- Z15.5 The *Contractor's* personnel are entitled to stop working and leave the contaminated area forthwith until such time that the area of concern is declared safe by either Compliance Monitoring or an AAIA approved control measure intervention, for example, per the emergency asbestos work plan, if applicable.
- Z15.6 The *Contractor* continues to Provide the Services, without additional control measures presented, on presentation of Safe Levels. The contractually agreed dates to Provide the Services, including the Completion Date, are adjusted accordingly. The contractually agreed dates are extended by the notification periods required by regulations 3 and 21 of the Asbestos Regulations, 2001.
- Z15.7 Any removal and disposal of asbestos, asbestos containing materials and waste, is done by a registered asbestos *Contractor*, instructed by the *Employer* at the *Employer's* expense, and conducted in line with South African legislation.

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

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

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

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

C1.2 Contract Data

Part two - Data provided by the Contractor

Clause	Statement	Data
10.1	The <i>Contractor</i> is (Name): Address Tel No. Fax No.	
11.2(8)	The <i>direct fee percentage</i> is The <i>subcontracted fee percentage</i> is	% %
11.2(18)	The <i>working areas</i> are the Site and	
24.1	The <i>Contractor's</i> key persons are: 1 Name: Job: Responsibilities: Qualifications: Experience: 2 Name: Job: Responsibilities: Qualifications: Experience:	CV's (and further key persons data including CVs) are appended to Tender Schedule entitled .
B	Priced contract with bill of quantities	
11.2(21)	The <i>bill of quantities</i> is in	Rands
11.2(31)	The tendered total of the Prices is	Rates Based Contract (in words), excluding VAT
	Data for Schedules of Cost Components	<i>Note "SCC" means Schedule of Cost Components starting on page 60, and "SSCC" means Shorter Schedule of Cost Components starting on page 63 of ECC3 (April 2013).</i>
B	Priced contract with bill of quantities	Data for the Shorter Schedule of Cost Components
41 in SSCC	The percentage for people overheads is:	5% (Only applicable for compensation events)

21 in SSCC	The published list of Equipment is the last edition of the list published by The percentage for adjustment for Equipment in the published list is	Plant Hire Association of South Africa -2% (Only applicable for compensation events)		
22 in SSCC	The rates of other Equipment are:	Equipment	Size or capacity	Rate
61 in SSCC	The hourly rates for Defined Cost of design outside the Working Areas are Note: Hourly rates are estimated 'cost to company of the employee' and not selling rates. Please insert another schedule if foreign resources may also be used	Category of employee		Hourly rate
62 in SSCC	The percentage for design overheads is	%		
63 in SSCC	The categories of design employees whose travelling expenses to and from the Working Areas are included in Defined Cost are:			

C1.3 Forms of Securities

Pro formas for Bonds & Guarantees

For use with the NEC3 Engineering & Construction Contract

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

Option X13: Performance Bond

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

Option X16: Retention (not used with Option F)

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

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

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

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

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

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

Eskom Holdings SOC Ltd
Megawatt Park
Maxwell Drive
Sandton
Johannesburg

Date:

Dear Sirs

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

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

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

1. In this Guarantee the following words and expressions shall have the following meanings:-
 - 1.1 “Bank” - means [●], [●] Branch, (Registration No. [●]); [Drafting Note: Name of Bank to be inserted]
 - 1.2 “Bank’s Address” - means [●]; [Drafting Note: Bank’s physical address to be inserted]
 - 1.3 “Contract” – means the written agreement relating to the Project, entered into between Eskom and the *Contractor*, on or about the [●] day of [●] 200[●] (Contract Reference No. [.]as amended, varied, restated, novated or substituted from time to time; [Drafting Note: Signature Date and Contract reference number to be inserted])
 - 1.4 “*Contractor*” – means [●] a company registered in accordance with the laws of [●] under Registration Number [●]. [Drafting Note: Name and details of *Contractor* to be inserted]
 - 1.5 “Eskom” - means Eskom Holdings SOC Ltd, a company registered in accordance with the laws of the Republic of South Africa under Registration Number 2002/015527/30].
 - 1.6 “Expiry Date” - means the date on which the Defects Certificate is issued in terms of the Contract.
 - 1.7 “Guaranteed Sum” - means the sum of R [●] ([●] Rand);
 - 1.8 “Project” - means [insert if applicable.].
2. At the instance of the *Contractor*, we the undersigned _____ and _____, in our respective capacities as _____ and _____ of the Bank, and duly authorized thereto, confirm that we hold the Guaranteed Sum at the disposal of Eskom, as security for the proper performance by the *Contractor* of all of its obligations in terms of and arising from the Contract and hereby undertake to pay to Eskom, on written demand from Eskom received prior to the Expiry Date, any sum or sums not exceeding in total the Guaranteed Sum.
3. A demand for payment under this guarantee shall be made in writing at the Bank's address and shall:
 - 3.1 be signed on behalf of Eskom by a Group Executive, Divisional Executive, Senior General Manager, General Manager or its delegate;
 - 3.2 state the amount claimed (“the Demand Amount”);
 - 3.3 state that the Demand Amount is payable to Eskom in the circumstances contemplated in

the Contract.

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

Signed at _____ Date _____

For and behalf of the Bank

Bank Signatory: _____ Bank Signatory: _____

Witness: _____ Witness: _____

Bank's seal or stamp

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

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

Eskom Holdings SOC Limited
Megawatt Park
Maxwell Drive
Sandton
Johannesburg

Date:

Dear Sirs

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

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

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

1. In this Guarantee the following words and expressions shall have the following meanings:-
 - 1.1 "Bank" - means [●], [●] Branch, (Registration No. [●]); [Drafting Note: Name of Bank to be inserted]
 - 1.2 "Bank's Address" - means [●]; [Drafting Note: Bank's physical address to be inserted]
 - 1.3 "Contract" – means the written agreement relating to the Project, entered into between Eskom and the Contractor, on or about the [●] day of [●] 200[●] (Contract Reference No. as amended, varied, restated, novated or substituted from time to time; [Drafting Note: Signature Date and Contract reference number to be inserted])
 - 1.4 "Contractor" – means [●] a company registered in accordance with the laws of [●] under Registration Number [●]. [Drafting Note: Name and details of Contractor to be inserted]
 - 1.5 "Eskom" - means Eskom Holdings SOC Limited, a company registered in accordance with the laws of the Republic of South Africa under Registration Number 2002/015527/30
 - 1.6 "Expiry Date" - means the date on which the Defects Certificate is issued in terms of the Contract.
 - 1.7 "Guaranteed Sum" - means the sum of R [●] ([●] Rand); [Drafting Note: Insert amount of Retention Money Guarantee.].
 - 1.8 "Project" - means the.....
2. At the instance of the Contractor, we the undersigned _____ and _____, in our respective capacities as _____ and _____ of the Bank, and duly authorized thereto, confirm that we hold the Guaranteed Sum at the disposal of Eskom, as security for the proper performance by the Contractor of all of its obligations in terms of and arising from the Contract and hereby undertake to pay to Eskom, on written demand from Eskom received prior to the Expiry Date, any sum or sums not exceeding in total the Guaranteed Sum.
3. A demand for payment under this guarantee shall be made in writing at the Bank's address and shall:
 - 3.1 be signed on behalf of Eskom by a director of Eskom or his authorised delegate.
 - 3.2 state the amount claimed ("the Demand Amount");
 - 3.3 state that the Contractor has failed to carry out his obligation(s) to rectify certain defect(s) for which he is responsible under the Contract (and the nature of such defect(s)) alternatively that the Demand Amount

is payable to Eskom in the circumstances contemplated in the Contract.

4. Notwithstanding the reference herein to the Contract the liability of the Bank in terms hereof is as principal and not as surety and the Bank's obligation/s to make payment:

4.1 is and shall be absolute provided demand is made in terms of this bond in all circumstances; and

4.2 is not, and shall not be construed to be, accessory or collateral on any basis whatsoever.

5. The Bank's obligations in terms of this Guarantee:

5.1 shall be restricted to the payment of money only and shall be limited to the maximum of the Guaranteed Sum; and

5.2 shall not be discharged and compliance with any demand for payment received by the Bank in terms hereof shall not be delayed by the fact that a dispute may exist between Eskom and the *Contractor*.

6. Eskom shall be entitled to arrange its affairs with the *Contractor* in any manner which it sees fit, without advising us and without affecting our liability under this Guarantee. This includes, without limitation, any extensions, indulgences, release or compromise granted to the *Contractor* or any variation under or to the Contract.

7. Should Eskom cede its rights against the *Contractor* to a third party where such cession is permitted under the Contract, then Eskom shall be entitled to cede to such third party the rights of Eskom under this Guarantee on written notification to the Bank of such cession.

8. This Guarantee:

8.1 shall expire on the Expiry Date until which time it is irrevocable;

8.2 is, save as provided for in 7 above, personal to Eskom and is neither negotiable nor transferable;

8.3 shall be returned to the Bank upon the earlier of payment of the full Guaranteed Sum or expiry hereof;

8.4 shall be regarded as a liquid document for the purpose of obtaining a court order; and

8.5 shall be governed by and construed in accordance with the law of the Republic of South Africa and shall be subject to the jurisdiction of the Courts of the Republic of South Africa.

8.6 Any claim which arises or demand for payment received after expiry date will be invalid and unenforceable.

9. The Bank chooses domicilium citandi et executandi for all purposes in connection with this Guarantee at the Bank's Address.

Signed at _____

Date _____ Bank's seal or stamp

For and behalf of the Bank

Bank Signatory: _____

Bank Signatory: _____

Witness: _____

Witness: _____

Pro forma ASGI-SA Guarantee

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

Eskom Holdings Limited
Megawatt Park
Maxwell Drive
Sandton
Johannesburg

Date:

Dear Sirs

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

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

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

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

- 1.1 "Bank" - means [●], [●] Branch, (Registration No. [●]); [Drafting Note: Name of Bank to be inserted]
- 1.2 "Bank's Address" - means [●]; [Drafting Note: Bank's physical address to be inserted]
- 1.3 "Contract" – means the written agreement relating to the Project, entered into between the *Employer* and the *Contractor*, on or about the [●] day of [●] 200[●] (Contract Reference No. [●] as amended, varied, restated, novated or substituted from time to time; [Drafting Note: Signature Date and Contract reference number to be inserted])
- 1.4 "*Contractor*" – means [●] a company registered in accordance with the laws of [●] under Registration Number [●]. [Drafting Note: Name and details of *Contractor* to be inserted]
- 1.5 "*Contractor's ASGI-SA Obligations*" – means the *Contractor's ASGI-SA Obligations* under and as defined in the Contract.
- 1.6 "*Employer*" - means Eskom Holdings Limited, a company registered in accordance with the laws of the Republic of South Africa under Registration Number 2002/015527/06.
- 1.7 "Expiry Date" - means the [●] day of [●] 200[●]; [Drafting Note: anticipated date of issue of ASGI-SA Performance Certificate to be inserted.]
- 1.8 "Guaranteed Sum" - means the sum of R [●] ([●] Rand);
- 1.9 "Project" – means the

2. At the instance of the *Contractor*, we the undersigned _____ and _____, in our respective capacities as _____ and _____ of the Bank, and duly authorized thereto, confirm that we hold the Guaranteed Sum at the disposal of the *Employer*, as security for the proper performance by the *Contractor* of the *Contractor's ASGI-SA Obligations* and hereby undertake to pay to the *Employer*, on written demand from the *Employer* received prior to the Expiry Date, any sum or sums not exceeding in total the Guaranteed Sum.

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

- 3.1 state the amount claimed ("the Demand Amount");
- 3.2 state that the Demand Amount is payable to the *Employer* in the circumstances contemplated in the Contract.

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

Signed at _____

Date _____

For and behalf of the Bank

Bank Signatory: _____

Bank Signatory: _____

Witness: _____

Witness: _____

Bank's seal or stamp

PART 2: PRICING DATA

ECC3 Option B

Document reference	Title	No of pages
C2.1	Pricing assumptions: Option B	3
C2.2	The <i>bill of quantities</i>	33

C2.1 Pricing assumptions: Option B

How work is priced and assessed for payment

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

Identified and defined terms	11	
	11.2	(21) The Bill of Quantities is the <i>bill of quantities</i> as changed in accordance with this contract to accommodate implemented compensation events and for accepted quotations for acceleration.
		(28) The Price for Work Done to Date is the total of
		<ul style="list-style-type: none">• the quantity of the work which the <i>Contractor</i> has completed for each item in the Bill of Quantities multiplied by the rate and• a proportion of each lump sum which is the proportion of the work covered by the item which the <i>Contractor</i> has completed.
		Completed work is work without Defects which would either delay or be covered by immediately following work.
		(31) The Prices are the lump sums and the amounts obtained by multiplying the rates by the quantities for the items in the Bill of Quantities.

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

Function of the Bill of Quantities

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

Guidance before pricing and measuring

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

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

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

Measurement and payment

Symbols

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

Abbreviation	Unit
%	percent
h	hour
ha	hectare
kg	kilogram
kl	kilolitre
km	kilometre
km-pass	kilometre-pass
kPa	kilopascal
kW	kilowatt
l	litre
m	metre
mm	millimetre
m ²	square metre
m ² -pass	square metre pass
m ³	cubic metre
m ³ -km	cubic metre-kilometre
MN	meganewton
MN.m	meganewton-metre
MPa	megapascal
No.	number
Prov sum ²	provisional sum
PC-sum	prime cost sum
R/only	Rate only
sum	Lump sum
t	ton (1000kg)
W/day	Work day

General assumptions

Unless otherwise stated, items are measured net in accordance with the drawings, and no allowance has been made in the quantities for waste.

The Prices and rates stated for each item in the Bill of Quantities shall be treated as being fully inclusive of all work, risks, liabilities, obligations, overheads, profit and everything necessary as incurred or required by the *Contractor* in carrying out or providing that item.

An item against which no Price is entered will be treated as covered by other Prices or rates in the *bill of quantities*.

The quantities contained in the Bill of Quantities may not be final and do not necessarily represent the actual amount of work to be done. The quantities of work assessed and certified for payment by the *Project Manager* at each assessment date will be used for determining payments due.

² Provisional Sums should not be used unless absolutely unavoidable. Rather include specifications and associated bill items for the most likely scope of work, and then change later using the compensation event procedure if necessary.

The short descriptions of the items of payment given in the *bill of quantities* are only for the purposes of identifying the items. Detail regarding the extent of the work entailed under each item is provided in the Works Information.

Departures from the *method of measurement*

Amplification of or assumptions about measurement items

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

C2.2 the *bill of quantities*

PART 3: SCOPE OF WORK

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	This cover page	1
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C3.2	<i>Contractor's Works Information</i>	?
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C3.1: EMPLOYER’S WORKS INFORMATION

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3. A demand for payment under this guarantee shall be made in writing at the Bank’s address and shall:	24
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:.....	25
5. The Bank’s obligations in terms of this Guarantee:.....	25
6. Eskom shall be entitled to arrange its affairs with the <i>Contractor</i> 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 <i>Contractor</i> or any variation under or to the Contract.	25
7. Should Eskom cede its rights against the <i>Contractor</i> to a third party where such cession is permitted under the Contract, then Eskom shall be entitled to cede to such third party the rights of Eskom under this Guarantee on written notification to the Bank of such cession.....	25
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2. At the instance of the <i>Contractor</i> , we the undersigned _____ and _____, in our respective capacities as _____ and _____ of the Bank, and duly authorized thereto, confirm that we hold the Guaranteed Sum at the disposal of Eskom, as security for the proper performance by the <i>Contractor</i> of all of its obligations in terms of and arising from the Contract and hereby undertake to pay to Eskom, on written demand from Eskom received prior to the Expiry Date, any sum or sums not exceeding in total the Guaranteed Sum.	26
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6. Eskom shall be entitled to arrange its affairs with the <i>Contractor</i> 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 <i>Contractor</i> or any variation under or to the Contract.	27
7. Should Eskom cede its rights against the <i>Contractor</i> to a third party where such cession is permitted under the Contract, then Eskom shall be entitled to cede to such third party the rights of Eskom under this Guarantee on written notification to the Bank of such cession.....	27
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2. At the instance of the <i>Contractor</i> , 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 <i>Employer</i> , as security for the proper performance by the <i>Contractor</i> of the <i>Contractor's</i> ASGI-SA Obligations and hereby undertake to pay to the <i>Employer</i> , on written demand from the <i>Employer</i> received prior to the Expiry Date, any sum or sums not exceeding in total the Guaranteed Sum.	28
3. A demand for payment under this guarantee shall be made in writing at the Bank's address and shall:	28
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:.....	29
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An item against which no Price is entered will be treated as covered by other Prices or rates in the *bill of quantities*. 32

The quantities contained in the Bill of Quantities may not be final and do not necessarily represent the actual amount of work to be done. The quantities of work assessed and certified for payment by the *Project Manager* at each assessment date will be used for determining payments due. 32

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- *The Contractor and SubContractor shall have formal Quality Management System in place in accordance with the requirements of the QM-58 specification.* 47
- *Such formal system shall consist of the appropriate documentations such as work procedures, work instructions, method statements, work flow documentation etc. as the case may be. This requirement constitutes the most basic Quality Management System requirements.* 47
- *Unless specifically excluded in the Quality Assessment Criteria, as per the Level of Quality Requirements (Level 1, 2, 3 or 4). The Contractor shall have a fully documented, implemented and maintained Quality Management System that complies with ISO-9001 standard. In the event that the Contractor invariably requires the assistance of some SubContractor in order to realise its own supply obligations. The aforementioned requirement applies equally in all cases where any such SubContractor’s scope of responsibility includes the provision of any of the following activities viz. Design & Development, Manufacturing, Testing, Storage, Delivery, Installation, Commissioning, and Project Management.* 47
- *Unless specifically excluded in Quality Assessment Criteria, such Quality Management System shall carry valid ISO-9001 certification from an accredited certification body, as indicated in the applicable Eskom invitation (This requirement applies equally to both the Contractor and any/all manufacturing third party organizations mentioned above).* 47
- *Eskom reserves the right to request and perform necessary assessments at SubContractor facilities.*
47
- *The Contractor shall be responsible for defining the specific quality control elements applicable to the respective SubContractor’s scope of work/supply, and ensure that their SubContractor(s) quality programmes support Eskom requirements.* 47
- *The Contractor shall inform Eskom of any proposed changes to the Quality Management System or staff that will affect the Quality System prior to implementation of these changes.* 47

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1 Description of the works

2 Executive overview

The purpose of this contract is to facilitate the construction of all **Electrification Household Connections** Above R3 000 000,00 excluding VAT, for the Asset Creation Section of Distribution within the KZN Operating Unit within South Africa.

This contract will facilitate ease of appointment of *Contractors* who prequalify according to the Conditions of Tender as advertised. Work will be allocated on a fair basis to each *Contractor* depending on the Panel they are appointed on, their CIDB Grading and financial evaluations as carried out by Eskom.

All work shall be carried out to the specified requirements, standards and quality as set out by Eskom while observing and complying to all safety and environmental requirements at the agreed rates. All project specifications will be included in the relevant Project Specific Agreement for each project and should be complied with, as per the details compiled in the Eskom SHE Specification.

The *Contractor* is appointed on this contract on a Rate Only basis, as and when required.

Eskom reserves the right not to appoint any work to a *Contractor* based on poor performance of the *Contractor*.

SCOPE OF WORK – ELECTRIFICATION HOUSEHOLD CONNECTIONS

The provision of electrical infrastructure including compilation of all information to successfully upload the PCS files as required for reporting of energized connections for the Households new connections in the KZN Operating Units in the Distribution Business.

The Establishment of the site for:

- The erection of the installation, as per the approved design (Final Design Package).
- The testing and commissioning of the entire installation.
- The provision of acceptable marked up signed, stamped, and dated "as-built" drawings sag and tension charts, compliance, and hand over procedure.
- Making good of house walls where ready boards or passive bases have been installed.
- The handing over of the installation in a working order with all the necessary administration.
- The contractor will fix marketing labels, provided by Eskom Holdings SOC Limited, as per the labelling standard, KZN16SGS017.
- Completing of PCS file for uploading of connections to be done immediately after energization and registering of all connected customers on the Eskom Holdings SOC Limited customer management system within 7 days after energization under dead or live conditions.
- Sealing of all installed customer meters.
- The completion of all the necessary administration work in providing the works. (SACS, Planning, Survey, Project Engineering). Abridged certificate of compliance or installation of certificate to be completed by a competent resource and to be submitted within 7 days after energization.

The term ELECTRIFICATION is used to describe the following categories of work:

1. Electrification – Construction related to MV Line Infrastructure, LV infrastructure, service cable and meter.
2. Schools and Clinics - Construction related to MV and LV infrastructure, service cable and meter for Schools and Clinics only.
3. High value extensions (above R3 000 000,00 per project) – Construction related to MV and LV infrastructure required. Extension of MV line or increase in transformer size, LV backbone, service. cable and meter.

3 Employer's objectives and purpose of the works

The Eskom *Project Manager* will contact the allocated *Contractor* and issue the *Contractor* with the design package for the project to be executed. A Project Specific Agreement will be issued as well, which will detail

all the project specific requirements for execution of the project for the task order to be issued. The Project Specific Agreement issued will form the basis of the agreement between Eskom and the *Contractor* for each project to be executed in terms of this contract.

The terms and conditions contained in the Project Specific Agreement will be in accordance with the terms and conditions of this contract but specific to the requirements of the project to be executed.

The allocated *Contractor* will do a site visit at his own cost (This is not applicable for Type 1 Infills) with the Eskom project representatives and verify the scope of work to be executed contained in the design package, assess the Site conditions, the Project Specific SHEQ requirements and SD&L requirements before the quotation for the works is finalised. The *Project Manager* will then request a quotation from the *Contractor* for the execution of the works as verified. The quotation must be submitted to the *Project Manager* by the *Contractor* within 7 days. The *Project Manager* will request the Quantity Surveyor to verify the quotation for correctness and confirm the cost according to the agreed negotiated rates.

Should the quotation require adjustment, the *Project Manager* will request the allocated *Contractor* to amend the quotation. Once the quotation has been accepted by Eskom, the *Project Manager* will issue the allocated *Contractor* with a Task Order for the project which will contain a Task Order Number and will be attached to the Project Specific Agreement. The Project Specific Agreement will then be signed off by the *Project Manager* and the *Contractor* and work may then commence on the project.

No work may commence on a project unless the Task Order has been issued, the Project Specific Agreement has been signed, the *Contractor* Safety File has been approved by Eskom, the *Contractor* Appointment 5(1)k and the 37(2) agreement has been signed and Site Access has been granted to the allocated *Contractor*. Eskom will not be liable to pay for any work unless a valid Task Order Number has been issued.

The *Contractor* is to submit the Project Specific Safety File within seven days upon being requested to do so by the *Project Manager* for approval by Eskom. The Safety File is to conform to all Eskom and OHS requirements. Should there be a need to rectify the safety file an additional opportunity will be granted to conform to the recommendations made by the Eskom SHE representative, and must be resubmitted within seven days for approval. Should the Project Specific Safety File fail upon resubmission the works will be allocated to another *Contractor*.

The *Contractor* will compile a Risk Register as per the terms and conditions of the ECC for discussion at regular Risk Reduction Meetings or as per agreement with the *Project Manager*.

It is expected from the *Contractor* to do the whole of the work as per timeframe set in the Task Order, Project Specific Agreement, and agreed Program of the Works.

The *Contractor* will be responsible for the collection and transporting of all necessary material from any and/or all Eskom warehouses and delivery of the material to site as well as return any material to Eskom stores from the site upon instruction from the *Project Manager*. Payments will be made based on the distance from the site to the relevant Eskom store and back to site.

The *Contractor* to confirm that material (Not Eskom Free Issue Items) sourced from electrical distributors and suppliers complies with the DTI designation requirements and conforms to Eskom specifications.

The Following will be required to be submitted at Task Order Allocation Stage:

Submit Annexure F1-F4 as evidence of compliance with this requirement.

Annexure F1 - SBD 6.2- Declaration Certificate for Local Production and Local Content (only applicable if designated materials are included).

Annexure F2- _Local content Declaration-Summary Schedule (annex C)

Annexure F3 - Imports Declaration-Supporting schedule to Annex C (annex D)

Annexure F4 - Local Content Declaration-Supporting Schedule to Annex C (annex E)

The DTI has appointed SABS as the official verification agency for local content in terms of designated products.

A *Contractor* that fails to meet the minimum stipulated threshold for local production and content will not be awarded a task order.

Minimum recommended working hours to be observed on site are from 07h30 to 16h00 and these hours constitute normal working hours in terms of this contract.

The *Contractor* is to ensure that all required documentation prescribed by Law is kept on file at the site office. All OHS and Construction Regulation requirements are to be adhered to by the *Contractor*.

The *Contractor* will also ensure that all plant and equipment dedicated to the project will not be removed from site until there is no use for the intended plant and equipment. No moving of plant and equipment between projects will be allowed as it will have impact on completion of the project and lead to delays in completion.

The *Contractor* is to ensure that all Site Managers are competent, and trained in the use of the ECC and are fully conversant and familiar with the usage and procedures thereof. Adherence to the terms and conditions of the ECC are essential and a requirement of all *Contractor* Site Managers dedicated to each project as per the Construction Regulations.

In cases where it is not safe to store material on site due to theft and other circumstances, Eskom request the *Contractor* to store material in their offices or where that is not practical, in a remote warehouse.

The PM will provide guidance on the option to select. The *Contractor* will be compensated for transportation cost for transporting material from their offices/ warehouse to site. A verification of the number of items transported will be done by COW and the PC to ensure that we maximise on the additional transport cost.

Payment Assessments will only be done for work done to date. No material on site will be paid for. Where the Employer causes delays and the *Contractor* is unable to execute the works, the *Project Manager* can provide a signed motivation to allow for a partial payment of the uninstalled material. Records of defined costs are to be kept on file on site whereby the *Project Manager* has access to this file at all times.

4 Interpretation and terminology







The following abbreviations are used in this Works Information:







Abbreviation	Meaning given to the abbreviation
AFC	Approved for construction
OBL	Outside battery limits
KZN	Kwa Zulu Natal Operating Unit
TBA	To be announced
PM	<i>Project Manager</i>
QS	Quantity Surveyor
COW	Clerk Of Works
PC	Project Coordinator
BBBEE	Broad Based Black Economic Empowerment
PPPFA	Procurement Preferential Policy Framework Act

Note – Additional interpretation and terminology is prescribed in the NEC3 ECC.

1.3.2 Acceptance of Eskom SHEQ Policies and Procedures

The attached documents form part of this legal binding contract, the *Contractor* confirms that he has familiarized himself with all the embedded documents from 1 to 25 as indicated

No	UNIQUE IDENTIFIER	REVISION	DOCUMENT TITLE
1	32 - 727	0	SAFETY, HEALTH, ENVIRONMENT AND QUALITY (SHEQ) POLICY 32-727
2	32 - 136	0	CONSTRUCTION SAFETY HEALTH AND ENVIRONMENTAL MANAGEMENT
3	ESKOM LIFE SAVING RULES	1	ESKOM LIFE SAVING RULES 240-62196227
4	CONSTRUCTION REG 3		NOTIFICATION OF CONSTRUCTION WORK TO DEPARTMENT OF LABOUR
5	CONSTRUCTION REG 4 & 5		APPOINTMENT LETTERS FOR CLIENT REPRESENTATIVE, PRINCIPAL CONTRACTOR & CONTRACTOR
6 & 7	OHS ACT	1	WRITTEN AGREEMENT ON OHS ACT SECTION 37(2) & STANDARD CLAUSE
8 & 9	34 - 1063	0	EXPANDED PUBLIC WORKS REPORT 34-1063.  10_34-1063 EPWP Works Instruction.pdf  11_EPWP Guidelines Second edition 2005.  Eskom EPWP report template rev 7.xlsx
10	<u>DST 34-961</u>	0	LEGAL APPOINTMENTS AND AUTHORIZATIONS  13_Legal Appointments and Au
11	TPC 41-55		TRANSPORTING PERSONS ON BACK OF VEHICLES  14_Transporting of Passengers on the ba
12	LTIR	MASTER	LOST TIME INJURY REPORT  LTIR Master.xls

13	1. Contractor Performance Evaluation	MASTER	 Single Evaluator Template for Contrac
14	2. Supplier Contract Quality Requirements	MASTER	
15	3. Hard Hat Specifications OHS 01/12/	MASTER	 OHS 01 12 Hard Hat Specifications.pdf
16	4. Identifying, Analysing, Documenting and Observing Tasks according to Criticality.	REV 1	 DPC_34-380.pdf
17	5. Health & Safety Representatives inspection reports and guidelines	REV 1	 DPC_34-228Health_ Safety_REp.pdf
18	6. Work at Heights Procedure	REV 1	 32-418 Work at Height Procedure.pdf
19	7. SHE Requirements for the Eskom Commercial Process	REV 1	
20	8. Vehicle Safety	REV 0	
21	9. 32-95 Environmental Occupational Health and Safety Incident Management Procedure	REV 5	
22	10.Risk Audit System Template	REV 0	 Audit Input Form Contractor RM 29 Sej

Acknowledgement by Contractor

I/WE, DO HEREBY ACKNOWLEDGE HAVING READ AND UNDERSTOOD THE ABOVE ANNEXED DOCUMENTS FROM 1 TO 25 IN SECTION 1.3.2 OF THIS CONTRACT.

I/WE UNDERTAKE TO STUDY AND ABIDE BY THESE REQUIREMENTS AT ALL TIME.

SIGNED AT: ON THE DAY OF20.....

Note: Please return the above pages with the other tender returnables to the Eskom office that issued this enquiry after complying with the above.

5. Management and start up.

5.1. Management meetings

Title and purpose	Approximate time & interval	Location	Attendance by:
Pre-introductory meeting	Upon request of the <i>Project Manager</i> at an agreed date by all parties	Site	<i>PM, QS, Site Supervisor, Safety and Environmental Representatives and the Contractor.</i>
Introductory meeting	After safety and environmental files have been assessed and approved.	Site	<i>PM, QS, Site Supervisor, Safety and Environmental Representatives and the Contractor.</i>
Toolbox talk and risk assessment	Daily before work begins.	Site	<i>Contractor and Site Supervisor.</i>
Risk register and compensation events	As necessary.	Site	<i>PM, Contractor and Site Supervisor.</i>
Overall contract progress and feedback	On a regular basis as agreed with the Project Team and the <i>Contractor</i>	Site	<i>PM, QS, Contractor, Site Supervisor, and Safety and Environmental Representatives.</i>
progress and feedback	with the Project Team and the <i>Contractor</i>		<i>Supervisor, and Safety and Environmental Representatives.</i>

6. Documentation control

All communication is to be channeled through the Employer's Representative and *Contractor's* key person

7. Health and safety risk management

The *Contractor* shall control his activities and processes in accordance with the Occupational Health & Safety Act, No. 85 of 1993 and Eskom's Construction Safety, Health and Environmental Management 32-136 (with the provided SHE Specification), Safety, Health, Environment and Quality Policy, EPC32-727 and SHE Requirements for the Eskom Commercial Process, ST32-726. The *Contractor* shall comply with the health and safety requirements contained in Section 1.3.2 of this Works Information.

The *Contractors* Project SHEQ File is to be updated on a continuous basis. The *Contractor* is to ensure that all relevant documentation and authorisations are contained in the file pertaining to the project. Upon completion of the project, the *Contractor* is to convert all documentation contained in the SHEQ file into electronic format and save it as a PDF File. The file name should contain the name of the *Contractor* and the project. The file should then be saved onto a disk or removal storage device and handed over to the Project Coordinator or *Project Manager* upon completion of the project.

The *Contractor* should adhere to the Life Saving Rules at all times.

Due to the importance to safe life's and apparatus of Eskom it is recommended that if a *Contractor* abuse any Life Saving Rules, all work allocated to the *Contractor* will immediately put on hold until final outcome with investigation. Safety is the combined responsibility of the team and therefore team leader or team will be

punished together. There are five cardinal rules that may not be broken by the Team Leader and his/her team.

The five Eskom Life Saving Rules are as follows:

Rule 1:*Open, isolated, tests, earth, and bond and/or insulate before touch*

Rule 2:*Hook up at height*

Rule 3:*Buckle Up*

Rule 4*Be Sober*

Rule 5:*Ensure that you have a permit to work*

8. Environmental constraints and management

The *Contractor* shall control his activities and processes in accordance with Environmental Requirements for the Procurement of Assets, Goods and Services, TST41-120 Rev. 2. The Eskom Environmental Management Plan provides the aspects and impacts that will require management and must be followed strictly. The *Contractor* is to prepare a site/factory specific separate EMP for all environmental concerns that might arise and any changes to the approved plan shall be reported and be approved by the *Eskom Environmental Representative* and *Project Manager* prior to the commencement of work.

In addition, the *Contractor* is required to ensure that all goods, services or works supplied in terms of this *Works Information* also conform to all applicable environment legislation(s), Safety, Health, Environment and Quality Policy, EPC32-727; SHE Requirements for the Eskom Commercial Process, ST32-726; (and additional requirements). The *Contractor* shall comply with the environmental criteria and constraints stated in Section 1.3.2.

When required, the *Contractor* must ensure that all *SubContractors'* EMP comply with legal and other requirements and also includes all the environmental risks associated with the scope of work. The *Main (Principal) Contractor* shall define the specific risks applicable to the *SubContractor's* scope of work or supply of kiosks.

The *Contractor* is to send a flash report for any environmental incidents that have occurred on site as soon as possible or within 24 hours to the *Eskom Environmental Representative* and *Project Manager* clearly stating any impact to the environment.

No environmental records shall be destroyed or discarded by the *Contractor*. Eskom as the *Employer* and the *Contractor* shall agree that the *Contractor* retains certain environmental records. Waste generated during the course of the project must be disposed at a registered site and the *Contractor* shall retain records of disposal.

Deviations from these requirements will be regarded as a non-conformance. Should there be concerns regarding environmental performance and non-conformance to environmental requirements, management engagements and interventions will be introduced to determine a means to addressing the shortfalls. Once these interventions have been explored and exhausted, then the *Eskom Supplier Disciplinary Process* will be followed.

The cost to the *Contractor* to obtain permits should it become necessary to cut a protected tree, ensure that waste is disposed of on a permitted, legal waste site and all relevant costs payable to dumping site as well as safe storage of all equipment which will be removed and replaced from site which will be transported upon instruction to the nearest designated disposal site within the KZN Operating Unit.

9. Quality assurance requirements

Quality Assessment Criteria, Forms A and Form B of the QM-58 specification will be selected and completed by Eskom Representative who will identify the applicable *Contractor* quality requirements to be met. Form A and Form B of the QM-58 specification shall be signed by the *Contractor* responding to an Eskom Enquiry.

9.1. Contractor and SubContractor Quality Management System Requirements

- The *Contractor* and *SubContractor* shall have formal Quality Management System in place in accordance with the requirements of the QM-58 specification.
- Such formal system shall consist of the appropriate documentations such as work procedures, work instructions, method statements, work flow documentation etc. as the case may be. This requirement constitutes the most basic Quality Management System requirements.
- Unless specifically excluded in the Quality Assessment Criteria, as per the Level of Quality Requirements (Level 1, 2, 3 or 4). The *Contractor* shall have a fully documented, implemented and maintained Quality Management System that complies with ISO-9001 standard. In the event that the *Contractor* invariably requires the assistance of some *SubContractor* in order to realise its own supply obligations. The aforementioned requirement applies equally in all cases where any such *SubContractor's* scope of responsibility includes the provision of any of the following activities viz. Design & Development, Manufacturing, Testing, Storage, Delivery, Installation, Commissioning, and Project Management.
- Unless specifically excluded in Quality Assessment Criteria, such Quality Management System shall carry valid ISO-9001 certification from an accredited certification body, as indicated in the applicable Eskom invitation (This requirement applies equally to both the *Contractor* and any/all manufacturing third party organizations mentioned above).
- Eskom reserves the right to request and perform necessary assessments at *SubContractor* facilities.
- The *Contractor* shall be responsible for defining the specific quality control elements applicable to the respective *SubContractor's* scope of work/supply, and ensure that their *SubContractor(s)* quality programmes support Eskom requirements.
- The *Contractor* shall inform Eskom of any proposed changes to the Quality Management System or staff that will affect the Quality System prior to implementation of these changes.

9.2. Quality Plan

The information in this section constitutes the minimum requirements for a Quality Plan:

- All individual products and processes shall have a documented, implemented and maintained Contract Quality Plan and/or Quality Control Plan (Inspection and Test Plan).
- All production and/or service provision shall be carried out in accordance with documented Contract Quality Plan (CQP) and/ or Quality Control Plan (QCP)/ Inspection and Test Plan (ITP).
- The *Contractor* shall plan for the required Quality related activities and interfaces within the *Contractor's* Quality system, in order to demonstrate its ability towards both controlling and meeting specified Eskom requirements

9.3.Contract Quality Plan

Contractor shall require *SubContractors* to submit Contract Quality Plan (CQP) and associated documentation in accordance with requirements of Project Quality Management System processes applicable to *SubContractor* Scope of Work.

Contractor shall, where applicable based on Scope of Work Criticality, ensure Procurement documents clearly and unambiguously require *SubContractor* submission of a *SubContractor* CQP for *Contractor* and Eskom review.

Contractor and *SubContractor* CQP shall comply with Eskom "Quality Requirements Specifications" and shall be submitted prior to the initial Scope of Work Kick-off or initial Pre-fabrication meeting and prior to commencement of manufacturing, whichever is earlier.

9.4.Quality Control Plan

Contractor shall develop and implement processes and procedures which efficiently and effectively monitor, verify and document Quality of Scope of Work deliverables. *Contractor* shall ensure that *SubContractor* QCP/ITPs are prepared at a level of detail sufficient to address all Quality Control related activities in

chronological order, from contract review through materials verification, manufacturing, fabrication, assembly, final testing, documentation, and certification.

Where activities subject to Inspection and Test procedures are to be undertaken by a *SubContractor*, the QCP/ITP shall make reference to this fact and shall include descriptive details of *SubContractors* involvement. A separate QCP/ITP shall be required for each *SubContractor* Scope of Work.

Contractor may authorise use of *SubContractor* QCP/ITP format providing it is in compliance with the above. *Contractor* shall be ultimately responsible for the development and proper implementation of all *SubContractor* QCP/ITPs, including those reviewed or developed by *SubContractors*.

Eskom reserves the right to select witness and hold points within all developed *SubContractor* QCP/ITPs for Eskom oversight of selected functions and to perform surveillance or audits of the Work.

Contractor shall establish processes and procedures for formal assessment of *SubContractor* inspection and testing programs. These shall include review of *SubContractor* inspection reports and other Quality Control documentation. Additional formal assessment of manufacturing, fabrication and assembly facility operations shall be conducted by *Contractor* to ensure continuing suitability, adequacy and effectiveness of the *SubContractor* inspection and testing programs. Assessment frequency shall be established in consideration of *SubContractor* Scope of Work, Criticality of Scope of Work deliverables and performance information. Assessment scope and schedule shall be developed in consultation with Eskom.

Mandatory pre-inspection meetings will be convened by Eskom or its Inspection Agency or AIA to be attended by the *Contractor* and *SubContractors* representatives, including their Quality representatives who will be involved with the Works and records to be kept.

Eskom reserves the right to appoint resident quality inspectors that can be based at the *Contractor* or *SubContractor's* premises and on site where the work is being performed. The *Contractor* is expected to provide workspace at no cost to Eskom, for the inspector as required.

10. Programming constraints

A comprehensive and fully detailed programme is to be submitted within the seven (7) days after the introductory meeting and should indicate all milestones and critical dates. This programme must first be approved by the *Project Manager* and must be updated on an as and when required basis by the *Project Manager*.

The following dates shall be clearly reflected on the programme:

- Starting and completion dates for all activities as well as relevant key dates for hold or witness points. All relevant significant activities shall be shown in order to monitor the progress in the factory/workshop.
- The programme shall also reflect a 2-week period for inspection and correcting of Defects before the completion date.

Updated programmes must be available at all meetings reflecting progress to date and the date when delivery will take place through the use of task orders.

FORMAT OF THE PROGRAM

- The *Contractor* shall submit his construction program in terms of the conditions of contract.
- The *Contractor* is to submit a revised programme for acceptance at each site meeting.
- This program shall be in the form of an approved Gantt Chart containing the following information:
- All construction activities, including milestones, initial tasks, critical path, required Outages, and target *Dates*. All potential risk activities should be clearly indicated on the critical path.
- Every activity on the programme will be clearly linked to labour resources and equipment required to perform the specific activity.
- Projected weekly progress on *site* for the entire duration of the contract.
- Completion and hand-over *Dates* for formal inspection by the site supervisor must be indicated.

- A column showing the daily tempo of all the construction activities must be indicated next to the activity on the programme.
- Project expenditure on a monthly basis for the entire duration of the contract.
- The following project phases and activities are minimum requirements for the programme:
- Site Establishment and Material Delivery – Lead times to be specified.
- Preparation work – Work that can be completed without the necessity of power outages
- Outage work – Work that must be completed under outage conditions
- Planned outages to be included in the programme
- *Contractors* float to be included in the programme
- The Contract Program will be on display in the *Contractors Site Offices* and will be updated weekly. In addition to the maintaining of this programme, the *Contractor* will report progress to the *Project Manager* at each site meeting or at request of the *Project Manager*.
- The *Contractor* shall also provide an organisation chart showing the personnel to be employed for the *works*, along with a detailed CV of all key personnel.
- Should any deviations to the program be found the *Contractor* shall submit a revised program to the *Project Manager* within one week of such deviations being brought to the *Contractor's* attention.
- The Outages must be arranged with *Employer* via the Outage arrangement procedures, as a prerequisite for the acceptance of the programme by the *Project Manager*.
- Acceptance of any program by the *Project Manager* shall have no contractual status other than an indication that the *Project Manager* is satisfied as to the order in which the work is to be carried out, and that the *Contractor* undertakes to perform all work in accordance with the accepted program.
- The *Project Manager* retains the right to alter the accepted program should circumstances on *site* necessitate such a change.

OTHER INFORMATION TO BE SHOWN ON THE PROGRAM.

THE FOLLOWING STATUTORY NON-WORKING DAYS ARE INCLUDED WITHIN THE CONTRACT PERIOD:

- All Public Holidays for the duration of the contract.
- The programme must clearly indicate the non-working days for the entire construction period.

11. Contractor's management, supervision and key people

The *Contractor* is to submit an organogram showing all key people involved in the contract 7 days after contract award. All key personnel must be appointed in writing, must be current for the specific site and area of work and must be kept on file. This would be essential if the *Contractor* is a Joint Venture.

12. Invoicing and payment

The Z clauses make reference to invoicing procedures stated here in this Service Information. Also include a list of information which is to be shown on an invoice.

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

The *Contractor* shall address the tax invoice to Eskom Holdings SOC Ltd and include on each invoice the following information:

- Name and address of the *Contractor* and the *Project 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 *Project Manager* in terms of core clause 51.1, the *Contractor* provides the *Employer* with a tax invoice showing the amount due for payment equal to that stated in the *Project Manager's* payment certificate.

The *Contractor* shall address the tax invoice to:

Eskom Holdings SOC Limited
KZN Operating Unit
PO Box 66
New Germany
3610

INVOICESESKOMLOCAL@ESKOM.CO.ZA

Procedures for Invoice Submission and Payment (e. g. Electronic Payment Instructions)

General Information	X
- No Pro-forma Invoice	
- Check Vendor number against the Address and name on Tax invoice	
- Insert the Vendor number on Tax invoice (Top right hand corner)	
- Bank details must be on the invoice or on a attach sheet, but it does not require a bank stamp just a letter)	
- Check banking details on invoice against SAP system. If more than one banking account check bank account against banking details on invoice. If banking details not on invoice, write the bank code next to the vendor account (bank code 0002)	
- Check Vendor VAT number against the vendor master. (FK03) If VAT number not on master records, prepare a list and forward to Vendor Management to check and update the vendor master records	
- No fax copies of Tax invoices allowed	
- No copies of Tax invoices allowed unless originally printed by the Vendor if a photocopy tax invoice, it must be an original "certified copy" (i.e. not a copy of a "certified copy" invoice) from the vendor and check in system if not previously be paid. Put stamp "not previously paid" on invoice and sign.	
- Ensure that date received stamp is clear on invoice	
- Stamp all Invoices with the Vat stamp, complete and sign (only when VAT is applicable)	
- The stamp should not be stamped over any written information	
- When scanning invoice, check the quality before linking in SAP (inboxes)	
With Reference Invoices	X
- Goods receipt must be done (payment with reference)	
- Ensure that the SAP purchase order number is clear and correct on the invoice	
- GR number to be written on the Invoices	
- If multiple lines on invoice write the line number of the order against the line to ensure that the processors match the correct lines (to ensure that 191100 is matched correctly)	

13. Insurance provided by the Employer

First read ECC3 Core Clause 87.1 and then add anything necessary for the management of insurance related issues such as a cross reference to where procedures for making claims can be found. Also provide contact details for persons capable of being able to answer any insurance related queries the *Contractor* may have, as well as to whom the information required by Marine Insurance may be addressed.

Annual *Contractors* All Risks Insurance Policy ESK2019/20 ACAR

14. Contract change management

This section is intended to deal with any additional requirements to the compensation event clauses in section 6 of the core clauses; such as the use of standard forms. Not the same thing as documentation control.

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 *Contractor* is given in Part 1 Agreements and Contract Data, document C1.3, Sureties.

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

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

If Option C, D, E or F applies first read clause 52.2 and then state whether the *Contractor* is required to keep any other records. Include any other constraint which may be required in regard to format and filing of the records, and whether access for the *Project Manager* shall be provided in hard copy or electronically.

Could delete if Options A & B apply unless the *Employer* requires some form of control over the *Contractor's* record keeping.

17. Training workshops and technology transfer

Describe type and frequency of on job training workshops, as well as any obligation for technology transfer being included as part of the contract on Completion of the *works*.

18. Employer's design

The Employer will supply the *Contractor* with a final design document compiled by the Project Engineer ,detailing the scope of work to be executed on the project as well as Project Drawings.

19. As-built drawings, operating manuals and maintenance schedules

The *Contractor* is required to provide the necessary drawings, operating manuals, test certificates and training program details, as well as a commitment letter for providing ongoing product support.

20. Procurement

21.1 People

21.1.1. Minimum requirements of people employed on the Site

All people employed by the *Contractor* to perform supervision of installation and commissioning should have Police Clearance before work can commence. The *Contractor's* employees shall be sober when carrying out their duties and may be subjected to random breathalyser tests.

21.2 BBBEE and preferencing scheme

Special Conditions of Contract (Application of other criteria in terms of Section 2(1)(f) of PPPFA)

The objective criteria as follow:

- Transformation of this sector by the appointment of a Black Owned Firm(s) that meet the functionality requirements;
- Development of Black Owned steel fabrication companies;
- Appointment of companies located within the Republic of South Africa.

NB: The Joint Venture may be:

- Black Owned and Black Owned Company;
- Black Owned Company (Majority Shareholder) and Non-Black Owned Company;
- Black Women Owned Company and Black Owned Company, and;
- Black Women Owned (Majority Shareholder) and Non-Black Owned Company.

A 51% or more Black Owned Companies or Joint Venture where the lead company has 51% or more black ownership.

2.2. Procurement Preference Hierarchy

Preference for awarding this contract and/or subcontracting are in the following order:

- Companies with more than 51% Black Ownership
- Enterprises Owned by Black People Living with Disability (BPLwD)
- Black Youth Owned Enterprises (BYO)
- Black Women-Owned Enterprises (BWO)
- Black Owned Enterprises (BO)

2.1.1. Supplier Development and Localisation

An SD&L Compliance Matrix for the development of skills and/or the promotion of localised content applicable to the scope of work shall be provided at tender stage. Regular reporting on a monthly basis must be done and handed to the *Project Manager* to report on progress of compliance to the targets agreed upon at contract stage. This report must be handed over to the *Project Manager* on a monthly basis when submitting the assessment claim for payment.

2.1.2. Expanded Public Work Programme (EPWP)

- The *Contractor* must report all local/temporary labourers employed in a project
- The *Contractor* MUST submit a report on a monthly basis
- The *Contractor* must NOT wait until the end of a project in order to submit reports
- The *Contractor* must submit the REV 7 report together with the assessment claim for payment.
- The *Contractor* is responsible for assisting ESKOM in reporting all work done.
- Eskom's report feeds back to Parliament and non-reporting of *Contractors* affects this report.
- No payment will be certified without the required report being submitted.

2.1.3. Lost Time Injury Report (LTIR)

- The *Contractor* must submit this report monthly with each payment assessment claim
- No payment will be certified unless this report is submitted.

3. Accelerated Shared Growth Initiative – South Africa (ASGI-SA)

If the ASGI-SA requirements are to be included in this contract specify constraints which Contractor must comply with after contract award in regard to any ASGI-SA requirements. The ASGI-SA Compliance Schedule completed in the returnable tender schedules is reproduced here. If ASGI-SA does not apply, delete this paragraph.

The Contractor complies with and fulfils the Contractor's obligations in respect of the Accelerated and Shared Growth Initiative - South Africa in accordance with and as provided for in the Contractor's ASGI-SA Compliance Schedule stated below

[Insert the agreed ASGI-SA Compliance Schedule here]

The Contractor shall keep accurate records and provide the Project Manager with reports on the Contractor's actual delivery against the above stated ASGI-SA criteria. [Elaborate on access to and format of records and frequency of submission etc.]

The Contractor's failure to comply with his ASGI-SA obligations constitutes substantial failure on the part of the Contractor to comply with his obligations under this contract.

4. Subcontracting

5. Preferred subContractors

The Contractor to submit the names of each proposed subContractor to the Employer for acceptance. The Contractor does not appoint a subContractor until the Employer has accepted such subContractor.

6. Subcontract documentation, and assessment of subcontract tenders

The Contractor to indicate the proposed subContractors together with their BBBEE statuses, and the sources of assets, goods or services when local content and production criteria are applicable. The proposed target will form part of the contractual obligation. The NEC system is compulsory for all subcontract documentation.

7. Limitations on subcontracting

The Contractor is not allowed to sub-contract more than 25% of the contract to another enterprise/supplier that does not have equal or higher BBBEE status, unless the intended subContractor is an EME that has the capability and ability to execute the sub-contract, in order to claim the points for BBBEE.

8. Attendance on subContractors

The Contractor is responsible for performing on the provided scope of work as if he had not subcontracted. The appointed Contractor will also be liable to the SubContractors' employees, as he legally and liable to this contract.

9. Plant and Materials

10. Quality

The *Contractor* shall control his activities and processes in accordance with Eskom's Quality Requirements for Procurement of Assets, Goods & Services, QM-58 and ISO-9001.

11. Plant & Materials provided "free issue" by the Employer

State arrangements for collection by *Contractor* or delivery by others on behalf of the *Employer*, off loading, inspection, storage, care custody and control, return of unused Plant and Materials, etc. State whether any samples are to be provided by the *Employer* and if so how, where and when. Always include a statement to the effect that 'all other Plant and Materials are to be provided by the *Contractor*'.

12. Contractor's procurement of Plant and Materials

Specify any constraints on how the *Contractor* is to order, codify, expedite, freight, import, transport to Site and any other requirements for delivery and storage before installation. The *Employer* may require warranties from suppliers to be in favour of the *Employer* and not just to the *Contractor* during the life of the contract. Also include requirements for vendor data which the *Employer* may need after Completion of the whole of the *works*. THIS IS A VERY IMPORTANT SECTION IN PROCESS PLANT AND UTILITY PROCUREMENT CONTRACTS.

The *Employer* requires warranties from the *Contractor* to be in favour of the *Employer* and not just to the *Contractor* during the life of the contract.

13. Spares and consumables

Some contracts may need to include provision for the supply of a minimum category of spares, fuel, oil or other feed stock and consumables which the *Employer* may need at or just after take over and that it is best the *Contractor* provide these initially as part of his Providing the Works.

14. Tests and inspections before delivery

The *Contractor* is required to confirm, that for *Contractor* supplied material, at the time of purchase, materials comply to Eskom specifications and that the relevant test certification is available for inspection and verification.

15. Marking Plant and Materials outside the Working Areas

Core clauses 70.1 and 71.1 require the Works Information to state how the *Contractor* is to "mark" Plant and Materials which is outside the Working Areas if they are to be paid for before delivery to the Working Areas. Specify here how the *Contractor* is to mark the Plant and Materials.

16. Contractor's Equipment (including temporary works).

In contracts which require the *Contractor* to procure sophisticated or highly specialised Equipment that could have a major influence on the progress of the works, the *Employer* may wish to exercise constraints or include witness and hold points during manufacture, assembly or delivery of such Equipment. Include these

constraints here taking care not to imply that the *Employer* or the *Project Manager* take on any liability as a result. See also section 3.6 above relating to the design phase of the *Contractor's* Equipment.

17. Cataloguing requirements by the Contractor

State whether cataloguing is applicable, if it is, reference the requirements for cataloguing that need to be satisfied by the *Contractor* (consult Procurement Instruction Number 1 of 2018 – Incorporating Cataloguing into the Procurement Environment, Unique Identifier 240-1289988974).

18. Construction

This part of the Works Information addresses constraints, facilities, services and rules applicable to the *Contractor* whilst he is doing work on the Site during the construction and maintenance phase. It does not specify the work itself as that is included in Section 6 of the Works Information.

For contracts involving civil works the approach may be to incorporate SANS1200A or SANS 2000 into the contract. Whilst many of the headings below address the same issues, the list of headings below is more comprehensive. If the headings below are used, it may be prudent to delete paragraphs 3, 4 and 5 from 1200A after checking that their requirements have been included below as necessary. A similar approach can be used in contracts involving building works where the Model Trade Preambles are incorporated. Care should be taken to avoid inconsistency or ambiguity between this part of the Works Information and standard specifications incorporated by reference.

18.1. Completion, testing, commissioning and correction of Defects

18.1.1. Work to be done by the Completion Date

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

18.1.2. Use of the works before Completion has been certified

The *Contractor* will have to carry out the supervision of the installations, as per the instruction of the *Project Manager*.

18.1.3. Materials facilities and samples for tests and inspections

From time to time random sample test and inspections may be requested, to ensure good quality of the goods being supplied. In accordance with EI 048 MVL (or the latest revision thereof), the appointed COW for the project will be required to undertake an inspection of materials before project commencement for compliance with Eskom's technical standards when such materials are delivered to the site storage location. The COW for the project may be aided, as needed, for the inspection from time-to-time by a representative of Eskom's Standards Implementation Department for the material inspection. The material supplied to the project shall be items that have been previously and currently Eskom assessed items. Where items have no traceable record of prior approval in existence or where compliance to Eskom's specifications are in doubt, the *Contractor* shall be given 30 (thirty) days to provide all valid certification (including but not only) test records as specified in SANS/IEC and Eskom standards to prove that the material in question complies with Eskom's requirements. Where such material is found to be in contravention of Eskom's standards, such material will be rejected and will be for the *Contractor's* cost to replace and/or re-work.

On completion of the first transformer zone, the *Contractor* is required to request the COW (aided by SI Dept representative as and when needed) to conduct a detailed inspection of the network constructed. Defects identified on the first transformer zone shall be corrected and will serve as the benchmark of quality to be expected on the remainder of the project.

18.1.4. Commissioning

Commissioning is to be done before or after Completion depending on the Programme from the *Project Manager*.

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

In order to put the *works* into operation the *Project Manager* may require the *Contractor* to either do this for him or be in attendance whilst he does it, depending on who is the responsible person.

18.1.6. Traveling Cost

Camp Site Establishment - The *Contractor* will only be re-imbursed for 1 trip per vehicle from the nearest CNC to the Project Site, which must be pre-approved by the relevant Programme Manager.

Camp Site De-Establishment - The *Contractor* will only be re-imbursed for 1 trip per vehicle from the Project Site to the nearest CNC, which must be pre-approved by the relevant Programme Manager.

Travelling on the Project Site – An allowance of 40km per day per vehicle will be made from Project Site Camp to the place of execution, however in order to claim, this must be supported by vehicle Tracker records, verified by the Eskom Clerk of Works. Should the daily allowance of 40km be exceeded, pre-approval in writing by the Programme Manager must be obtained. Travelling costs to execute the Scope of work forms part of the labour rate for each activity on the BOQ.

18.1.7. Material Handling

18.1.7.1. **Material Supplied by the *Contractor*** – A (handling fee) direct fee equal to **5%** of the material cost paid, can be claimed by the *Contractor*.

18.1.8. Take over procedures

Take-over is after or at the same time as Completion. The *Contractor* is to arrange an inspection before completion of the installation to inspect and identify any outstanding or any defects. The *Project Manager* may require the *Contractor* to provide assistance, on an as and when required basis.

18.1.9. Access given by the *Employer* for correction of Defects

The *Project Manager* arranges access for the *Contractor* to use a part of the *works* which has been taken over if needed to correct any Defects. After the *works* have been put into operation, the *Employer* may require the *Contractor* to undertake certain procedures before such access can be granted. The *Contractor* will be responsible for ensuring that the area to be worked in is barricaded before correcting any defects.

18.1.10. Performance tests after Completion

The *Contractor* to demonstrate that the *works* can operate as guaranteed by the *Contractor* (in *Contractor's* Works Information) or specified by the *Employer* either here or elsewhere in this Works Information.

18.1.11. Operational maintenance after Completion

The *Employer* may require the *Contractor* before the *defects date* to perform certain duties after Completion and take over which relate to maintenance of the *works*.

19. Temporary works, Site services & construction constraints

20. Employer's Site entry and security control, permits, and Site regulations

Sites such as Sasol Secunda and Koeberg Nuclear Power Station have very strict entrance requirements which tenderers need to allow for in their prices, and the *Contractor* has to comply with. State these or similar requirements here.

21. Restrictions to access on Site, roads, walkways and barricades

In addition to the above there may be other restrictions once on the Site, plus rules relating to roads, walkways and the provision of barricades

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

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

23. Health and safety facilities on Site

Section 7 deals with contractual H & S requirements in addition to those of the OHS Act. This section allows the *Employer* to state what measures are to be taken on Site against disease and epidemics and in emergencies. Also describe where First Aid facilities provided by the *Employer* are located and any other emergency arrangements. Do not use if already addressed in 2.3. The cross reference from Clause 27.4 applies.

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

This sub-paragraph may not be required if these matters are dealt with in the general environmental requirements referred to in paragraph 2.4 above.

25. Title to materials from demolition and excavation

Clause 73.2 states that the *Contractor* has title to materials from excavation and demolition (e. g. copper) only as stated in the Works Information. Hence state here any special arrangements regarding such title. If nothing is stated then the default position is the *Contractor* has no such title.

26. Cooperating with and obtaining acceptance of Others

This sub-paragraph could be used to deal with two issues.

- 1) The cross reference from core clause 25.1 about cooperation generally as well as details about Others with whom the *Contractor* may be required to share the working areas. See clause 11.2(10) for the definition of Others.
- 2) Requirements for liaison with and acceptance from statutory authorities or land owners.

27. Publicity and progress photographs

State requirements for notice boards, advertising rights, media relations, photography and progress photographs if required.

28. Contractor's Equipment

This sub-paragraph is intended to address how records are to be kept of Equipment on Site including whether it is owned or hired. Include any constraints about scaffolding, rigs, heavy lifts and cranes, including removal from the Working Areas. Also silencing similar to Clause 4.1 in SANS 1200 A

29. Equipment provided by the Employer

Provide details of equipment made available for use by the employer and set out conditions relating thereto.

30. Site services and facilities

This is a mandatory cross reference from clause 25.2 in ECC3. State what the *Employer* will provide in the way of power, water, waste disposal, telecomms, ablutions, fire protection, lighting etc. Give hook up locations and any constraints on how the hook up is to be done. Always conclude by stating that the *Contractor* shall provide everything else necessary for Providing the Works.

31. Facilities provided by the Contractor

Describe what the *Contractor* is to provide in the way of Site accommodation, laboratories, storage, vehicles and office equipment etc for the *Project Manager* and the *Supervisor*, and any restrictions or minimum requirements concerning the *Contractor's* own facilities. State requirements for facilities to be provided by the *Contractor* such as construction camps. Also state what happens to these facilities upon completion of the contract. Set out constraints, if any, as to the location by the *Contractor* of such facilities on the Site and requirements for drawings of Site facilities, as necessary.

32. Existing premises, inspection of adjoining properties and checking work of Others

Details under this sub-paragraph are very contract specific and may be quite extensive in some cases. State requirements for the inspection with the owners of adjacent buildings and properties and representatives of local authorities before commencing with the *works* that have the potential to damage surrounding buildings and property. State whether *Contractor* is required to inspect the work of Others to which he is required to connect and if so by when to avoid delays to his work.

33. Survey control and setting out of the works

Provide information on survey controls established by the *Employer*, if any, and state requirements for survey control and the setting out of the *works*.

34. Excavations and associated water control

State any particular requirements for handling deep foundations and controlling water from excavations.

35. Underground services, other existing services, cable and pipe trenches and covers

Describe known services making reference to drawings containing known services and state requirements for locating, marking and recording such services.

State requirements for the treatment of existing services i.e. their termination, diversion or continued use, either temporarily or permanently, and set out the procedures relating thereto.

State requirements, as necessary, for the use and availability of detection equipment for the location of underground services.

State responsibility for damage to services, known and unknown, and requirements for working in close proximity to services etc.

State requirements and reinstatement procedures for the notification and repair of damage to services and any penalties applicable to the damage of services.

36. Control of noise, dust, water and waste

State requirements, if any.

37. Sequences of construction or installation

Only prescribe sequences of work where absolutely necessary such as when *Contractor* has to give access to Others (without take over) and for technical reasons such as under tidal conditions and in rivers.

38. Giving notice of work to be covered up

State the procedure for notifying the *Supervisor*

39. Hook ups to existing works

State any constraints

40. Completion, testing, commissioning and correction of Defects

41. Work to be done by the Completion Date

This is mandatory. Core clause 11.2(2) defines Completion as when the *Contractor* has done all the work which the Works Information states he is to do by the Completion Date. Rather than list all work to be done by the Completion Date, state that all work is to be done by the Completion Date except for [●]. For example:

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

	Item of work	To be completed by
	As built drawings of	Within days after Completion
	Performance testing of the <i>works</i> in use as specified in paragraph of this Works Information.	See performance testing requirements.

42. Use of the *works* before Completion has been certified

Clause 35.2 in ECC3 provides that the *Employer* may use any part of the *works* before Completion has been certified but if he does so he takes over the part of the *works* except if the use is for a reason stated in the Works Information. State the reason here if this applies.

43. Materials facilities and samples for tests and inspections

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

44. Commissioning

Required mainly for contracts including mechanical and electrical work. Would typically refer to detailed commissioning procedure attached as an Annexure. Confirm whether commissioning is to be done before or after Completion. If after Completion, include this item of work in the list in sub-paragraph 41 above.

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

In order to put the *works* into operation the *Employer* may require the *Contractor* to either do this for him or be in attendance whilst he does it, depending on who is the responsible person. State requirements of the *Contractor* here together with any special arrangements associated with operating plant and machinery.

46. Take over procedures

Take over is after or at the same time as Completion. The *Employer* may require the *Contractor* to provide assistance, security personnel on a temporary basis etc.

47. Access given by the *Employer* for correction of Defects

Clause 43.4 requires that the *Project Manager* arranges for the *Employer* to allow the *Contractor* access to and use of a part of the *works* which has been taken over if needed to correct a Defect. After the *works* have been put into operation, the *Employer* may require the *Contractor* to undertake certain procedures before such access can be granted (for example barricading a motorway or in a nuclear power station). Include these here.

48. Performance tests after Completion

Many design and build or turnkey projects require the *Contractor* to demonstrate that the *works* can operate as guaranteed by the *Contractor* (in *Contractor's* Works Information) or specified by the *Employer* either here or elsewhere in this Works Information. State here the procedures for carrying out such proving tests. These details should link up with any performance levels stated in Contract Data if secondary Option X17 in ECC3 applies.

49. Training and technology transfer

Include if the *Employer* requires the *Contractor* to provide training in the use and maintenance of the *works* or any associated transfer of technology from him to the *Employer*.

50. Operational maintenance after Completion

The *Employer* may require the *Contractor* before the *defects date* to perform certain duties after Completion and take over which relate to maintenance of the *works*. (Not to be confused with Defect correction) For example oil and filter changes

51. Plant and Materials standards and workmanship

This section of the Works Information contains all the specifications for the work which is left behind; the permanent works. It is likely to be the largest section by far and may even be compiled in volumes, e. g. Section 6 Volume 1: Civil Engineering Works. In design and construct contracts, it may be compiled in accordance with systems within the *works*; e. g. Section 6 Volume 4: Crushers.

Because practice varies widely between employers it is not practical in a general template such as this to deal with all arrangements. Only the discipline based section subheadings are provided below in the order the *works* are likely to be constructed together with some notes of a general nature.

52. Investigation, survey and Site clearance

Some contracts may require the *Contractor* to carry out further investigation of existing facilities or of the Site before commencing final design. There could be constraints on Site clearance especially in pipeline or transmission grid servitudes.

53. Building works

Reference could be made to the latest Model Trade Preambles published by the Association of South African Quantity Surveyors. However these have been developed for use with the JBCC series of contracts and an approach where description of the work is made part of the bill of quantities, which is not the case in other forms of contract. Only parts of the Model Trade Preambles could be referenced by an ECC contract, with a covering note dealing with the changes in terminology. Further changes are required depending on which parts are to be selected.

This subsection would typically comprise

- a) Particular specifications provided by the *Employer*
- b) List of standardised specifications applicable to the *works* and
- c) Variations to the standardised specifications

54. Civil engineering and structural works

Reference could be made to the SANS1200 series of specifications developed and published by South African National Standards. However these are now very out of date and originally developed for use with SAICE general conditions of contract for works of civil engineering which have themselves been superseded twice.

All SANS 1200 specifications are in the process of being updated to make them more compatible with a wider range of contracts, including NEC, and users should check availability of the new SANS 2000 series of specifications.

Sections 3, 4 and 5 of SANS1200A are probably already covered in section 5 of this Works Information.

This subsection would typically comprise

- a) Particular specifications provided by the *Employer*
- b) List of standardised specifications applicable to the *works* and
- c) Variations to the standardised specifications

If use is made of the 1200 series, users should include a covering note dealing with the changes in terminology, such as the one provided below. Further changes are required depending on which specifications in the 1200 series are selected.

55. Electrical & mechanical engineering works

These specifications are usually project specific and developed by the *Employer* to suit his operations. Either include these specifications here, or refer to them in attached Annexure.

Check the specifications for inconsistencies in terminology and that they do not contain any provisions already dealt with in the chosen NEC *conditions of contract* or clash with them in any way.

56. Process control and IT works

These specifications are usually project specific and developed by the *Employer* to suit his operations. Either include these specifications here, or refer to them in attached Annexure.

Check the specifications for inconsistencies in terminology and that they do not contain any provisions already dealt with in the chosen NEC *conditions of contract* or clash with them in any way.

57. Other [as required]

C3.2 CONTRACTOR'S WORKS INFORMATION

This section of the Works Information will always be contract specific depending on the nature of the *works*. It is most likely to be required for design and construct contracts where the tendering *Contractor* will have proposed specifications and schedules for items of Plant and Materials and workmanship, which once accepted by the *Employer* prior to award of contract now become obligations of the *Contractor* per core clause 20.1.

Typical sub headings could be

- a) *Contractor's* design
- b) Plant and Materials specifications and schedules
- c) Other

This section could also be compiled as a separate file.

PART 4: SITE INFORMATION

Document reference	Title	No of pages
C4	This cover page Site Information	1
	Total number of pages	

Part 4: Site Information

Core clause 11.2(16) states

“Site Information is information which

- describes the Site and its surroundings and
- is in the documents which the Contract Data states it is in.”

In Contract Data, reference has been made to this Part 4 of the contract for the location of Site Information.

Delete this note and others given in boxes like this one at final draft stage.

The compiler of this document should first consult the ECC3 2013 Guidance Notes page 24. Further notes are given under each heading below.

Site Information is information about the Site at the time of tender upon which the tendering *Contractor* bases his prices. It is fixed and does not include anything about what happens on the Site after award; that is Works Information.

Site Information does not include weather data; that is included in the Contract Data.

If the *Contractor* subsequently encounters conditions which are different to those described here, he may be entitled to notify a compensation event.

General description

Provide a general description of the Site and its location. Reference would probably be made to a drawing showing the Site and its surroundings and the *boundaries of the site* as required by the Contract Data. It is particularly important that details of surrounding buildings be provided where crane operation is likely to be affected, or the *works* involve deep foundations adjacent to existing buildings.

All relevant descriptions will be specified in the Project Specific Agreement for any project executed in terms of this contract.

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

If the *works* have interfaces or hook up points with existing facilities or comprise refurbishment of existing facilities, provide full details of these so that the tendering *Contractor* can plan his design and construction to integrate with them as the Works Information requires. As built drawings of the existing facilities usually provide the necessary information; such drawings can be listed here stating where they are located for the *Contractor's* use.

All relevant information will be specified in the Project Specific Agreement for any project executed in terms of this contract.

Subsoil information

Provide details of geotechnical reports, borehole records and test results for parts of the Site where earthworks are required by this contract. These details may be referenced as an Annexure to this document where they are extensive.

All relevant information will be specified in the Project Specific Agreement for any project executed in terms of this contract.

Hidden services

Provide details about and drawings showing hidden services and underground structures. If accurate details are not available state what assumptions are to be made by the *Contractor* concerning such services.

All relevant information will be specified in the Project Specific Agreement for any project executed in terms of this contract.

Other reports and publicly available information

This subsection may refer to mapping, hydro-graphic data, hydrological information, shipping movements, tides and published papers or Geological Surveys that the tendering *Contractor* may need to be able to decide his method of working and programme and prepare any designs for which he would be responsible.

All relevant information will be specified in the Project Specific Agreement for any project executed in terms of this contract.