



NEC3 Engineering and Construction

Short Contract (ECSC3)

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

and

for The provision of RDC Fencing services (including: Clearing and grubbing of the area around the fence, Erection of fencing steelwork and Erection of concrete wall fence) for a period of 5 months basis within Gauteng Cluster.

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Documentation prepared by: Contracts Management

C1 Agreements & Contract Data

C1.1 Form of Offer and Acceptance

Offer

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

The provision of RDC Fencing services (including Clearing and grubbing of the area around the fence, Erection of fencing steelwork and Erection of concrete wall fence) for a period of 5 months basis within Gauteng Cluster.

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

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

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

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

Signature(s)

Name(s) _____

Capacity _____

For the tenderer: _____ *(Insert name and address of organisation)*

Name & signature of witness _____ Date _____

Tenderer's CIDB registration number:

Acceptance

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

The terms of the Contract, are contained in:

- Part 1 Agreements and Contract Data, (which includes this Form of Offer and Acceptance)
- Part 2 Pricing Data
- Part 3 Scope of Work: Works Information
- Part 4 Site Information

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

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

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

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

Signature(s)

Name(s)

Capacity

**for the
Employer**

(Insert name and address of organisation)

Name &
signature of
witness

Date

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

Schedule of Deviations

Note:

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

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

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

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

For the tenderer:

For the Employer

Signature _____

Name _____

Capacity _____

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

(Insert name and address of organisation)

Name & signature of witness _____

Date _____

C1.2 Contract Data

Data provided by the *Employer*.

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

Clause	Statement	Data
General		
10.1	The <i>Employer</i> is (Name):	Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state-owned company incorporated in terms of the company laws of the Republic of South Africa
	Address	Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg
10.1 & 14.4	The <i>Employer's</i> representative to whom the <i>Employer</i> in terms of clause 14.4 delegates his actions ¹ is (Name):	TBA
	Address	TBA
	Tel No.	TBA
	Fax No.	TBA
	E-mail address	TBA
11.2(11)	The <i>works</i> are	RDC Rosherville Fencing
11.2(13)	The Works Information is in	the document called 'Works Information' in Part 3 of this contract.
11.2(12)	The Site Information is in	the document called 'Site Information' in Part 4 of this contract.
11.2(12)	The <i>site</i> is	Eskom Warehouse and Logistics, Eskom Rosherville, 2094, Elandsfontein 107-Ir, Johannesburg South.
30.1	The <i>starting date</i> is.	TBA
11.2(2)	The <i>completion date</i> is.	TBA
13.2	The <i>period for reply</i> is	One (1) week
40	The <i>defects date</i> is	52 weeks after Completion
41.3	The <i>defect correction period</i> is	One (1) week
50.1	The <i>assessment day</i> is the	20th of each month.
50.5	The <i>delay damages</i> are	R1000.00 per day
50.6	The retention is	5%
51.2	The interest rate on late payment is	0.5% per week of delay

¹ Except those actions which can only be done by the *Employer* as a Party to the contract.

80.1	The <i>Contractor</i> is not liable to the <i>Employer</i> for loss of or damage to the <i>Employer's</i> property in excess of	the amount of the deductibles relevant to the event
	Does the United Kingdom Housing Grants, Construction and Regeneration Act (1996) apply?	No
93.1	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).
93.2(2)	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
93.4	The <i>tribunal</i> is:	arbitration.
	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	Midrand South Africa
	The person or organisation who will choose an arbitrator	
	- if the Parties cannot agree a choice or	the Chairman for the time being or his nominee
	- if the arbitration procedure does not state who selects an arbitrator, is	of the Association of Arbitrators (Southern Africa) or its successor body.

The *conditions of contract* are the NEC3 Engineering and Construction Short Contract (April 2013)²³ and the following additional conditions Z1 to Z11 which 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 Change of Broad Based Black Economic Empowerment (B-BBEE) status

- Z2.1 Where a change in the *Contractor's* legal status, ownership or any other change to his business composition or business dealings results in a change to the *Contractor's* B-BBEE status, the

² If June 2005 Edition applies, delete April 2013 and insert June 2005

³ State whether attached as a 'PDF' file in terms of Eskom's licence, or to be obtained from Engineering Contract Strategies Tel 011 803 3008, Fax 086 539 1902 or www.ecs.co.za.

Contractor notifies the *Employer* within seven days of the change.

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

Z3 Confidentiality

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

Z4 Waiver and estoppel: Add to clause 12.2:

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

Z5 Health, safety and the environment

- Z5.1 The *Contractor* undertakes to take all reasonable precautions to maintain the health and safety of persons in and about the execution of the *works*. Without limitation the *Contractor*:
- accepts that the *Employer* may appoint him as the "Principal Contractor" (as defined and

provided for under the Construction Regulations 2014 (promulgated under the Occupational Health & Safety Act 85 of 1993) ("the Construction Regulations") for the Site;

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

Z5.2 The *Contractor*, in and about the execution of the *works*, complies with all applicable environmental laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his subcontractors, employees and others under the *Contractor's* direction and control, likewise observe and comply with the foregoing.

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

Z6.1 The *Contractor* provides the *Employer* with a tax invoice in accordance with the *Employer's* procedures stated in the Works Information, showing the correctly assessed amount due for payment.

Z6.2 If the *Contractor* does not provide a tax invoice in the form and by the time required by this contract, the time by when the *Employer* is to make a payment is extended by a period equal in time to the delayed submission of the correct tax invoice. Interest due by the *Employer* in terms of clause 51.2 is then calculated from the delayed date by when payment is to be made.

Z6.3 The *Contractor* is required to comply with the requirements of the Value Added Tax Act, no 89 of 1991 (as amended) and to include the *Employer's* VAT number 4740101508 on each invoice he submits for payment.

Z7 Notifying compensation events

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

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

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

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

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

Z10 Addition to Clause 50.5

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

If the *Employer* terminates in terms of this clause, the procedures on termination are those stated in Clause 91.1 and the amount due on termination includes amounts listed in Clause

92.1 less a deduction of the forecast additional cost to the *Employer* of completing the *works*.

Z11 Ethics

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

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

Coercive Action means to harm or threaten to harm, directly or indirectly, an Affected Party or the property of an Affected Party, or to otherwise influence or attempt to influence an Affected Party to act unlawfully or illegally,

Collusive Action means where two or more parties co-operate to achieve an unlawful or illegal purpose, including to influence an Affected Party to act unlawfully or illegally,

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

Corrupt Action means the offering, giving, taking, or soliciting, directly or indirectly, of a good or service to unlawfully or illegally influence the actions of an Affected Party,

Fraudulent Action means any unlawfully or illegally intentional act or omission that misleads, or attempts to mislead, an Affected Party, in order to obtain a financial or other benefit or to avoid an obligation or incurring an obligation,

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

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

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

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

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

Z11.4 A Committing Party co-operates fully with any investigation pursuant to alleged Prohibited Action. Where the *Employer* does not have a contractual bond with the Committing Party, the *Contractor* ensures that the Committing Party co-operates fully with an investigation.

Z12 Insurance

Z_12.1 Replace core clause 82 with the following:

Insurance cover 82

82.1 When requested by a Party, the other Party provides certificates from his insurer or

broker stating that the insurances required by this contract are in force.

82.2 The *Contractor* provides the insurances stated in the Insurance Table A, from the *starting date* until the earlier of Completion and the date of the termination certificate.

INSURANCE TABLE A

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

	The amount required by the applicable law	
Liability for death of or bodily injury to employees of the <i>Contractor</i> arising out of and in the course of their employment in connection with this contract	The amount required by the applicable law	

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

INSURANCE TABLE B

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

Z13 Nuclear Liability

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

Z13.2 The *Employer* is solely responsible for and indemnifies the *Contractor* or any other person against any and all liabilities which the *Contractor* or any person may incur arising out of or resulting from nuclear damage, as defined in Act 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*.

Z13.3 Subject to clause Z13.4 below, the *Employer* waives all rights of recourse, arising from the aforesaid, save to the extent that any claims arise or liability is incurred due or attributable to the unlawful intent of the *Contractor* or any other person, or the presence of the *Contractor* or that person or any property of the *Contractor* or such person at or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.

Z13.4 The *Employer* does not waive its rights provided for in section 30 (7) of Act 47 of 1999, or any

replacement section dealing with the same subject matter.

Z13.5 The protection afforded by the provisions hereof shall be in effect until the KNPS is decommissioned.

Z14 Asbestos

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

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

Z14.1 The *Employer* ensures that the Ambient Air in the area where the *Contractor* will Provide the Services conforms to the acceptable prescribed South African standard for asbestos, as per the regulations published in GNR 155 of 10 February 2002, under the Occupational Health and Safety Act, 1993 (Act 85 of 1993) ("Asbestos Regulations"). The OEL for asbestos is 0.2 regulated asbestos fibres per millilitre of air as a 4-hour TWA, averaged over any continuous period of four hours, and the short-term exposure limit of 0.6 regulated asbestos fibres per millilitre of air as a 10-minute TWA, averaged over any 10 minutes, measured in accordance with HSG248 and monitored according to HSG173 and OESSM.

Z14.2 Upon written request by the *Contractor*, the *Employer* certifies that these conditions prevail. All measurements and reporting are affected by an independent, competent, and certified occupational hygiene inspection body, i.e., a SANAS accredited, and Department of Employment and Labour approved AAIA. The *Contractor* may perform Parallel Measurements

and related control measures at the *Contractor's* expense. For the purposes of compliance, the results generated from Parallel Measurements are evaluated only against South African statutory limits as detailed in clause Z14.1. Control measures conform to the requirements stipulated in the AAIA-approved asbestos work plan.

- Z14.3 The *Employer* manages asbestos and ACM according to the Standard.
- Z14.4 In the event that any asbestos is identified while Providing the Services, a risk assessment is conducted and if so required, with reference to possible exposure to an airborne concentration of above the AL for asbestos, immediate control measures are implemented, and relevant air monitoring conducted in order to declare the area safe.
- Z14.5 The *Contractor's* personnel are entitled to stop working and leave the contaminated area forthwith until such time that the area of concern is declared safe by either Compliance Monitoring or an AAIA approved control measure intervention, for example, per the emergency asbestos work plan, if applicable.
- Z14.6 The *Contractor* continues to Provide the Services, without additional control measures presented, on presentation of Safe Levels. The contractually agreed dates to Provide the Services, including the Completion Date, are adjusted accordingly. The contractually agreed dates are extended by the notification periods required by regulations 3 and 21 of the Asbestos Regulations, 2001.
- Z14.7 Any removal and disposal of asbestos, asbestos containing materials and waste, is done by a registered asbestos contractor, instructed by the *Employer* at the *Employer's* expense, and conducted in line with South African legislation.

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

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

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

C2 Pricing Data

C2.1 Pricing assumptions

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

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

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

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

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

C2.2 Price List

The Price List is as follows also contained in Annexure A

Item no.	Description	Unit	Quantity	Rate	Price
	Preliminary & General				
	<i>Every Invoice to be signed and verified by Quantity Surveyor for payment.</i>				
1.0	Site Establishment				
1.1	Overheads for project (This includes Site Establishment Overhead Costs, Office Overheads, Administration Costs etc.) Total Labour Value	%	1		
1.2	Health and Safety Management, OHSA appointments, PPE etc.	Sum	1		
1.3	Quality & Contract Management	Sum	1		
1.4	Environmental Management & Site maintenance	Sum	1		
1.5	De-establishment & Rehabilitation of Site	Sum	1		
1.6	Security	Week	22		
1.7	Facilities for security (Guard house, toilet etc.)	Month	5		
1.8	Safety Officer	Day	110		
1.9	Responsible person	Day	110		
	Total carried forward to summary				
	Notes to Tenderers:				
1.0	The Tenderer may be requested to provide a breakdown for any of the Preliminaries items.				
2.0	Overheads to be priced at percentage of total labour value.				
3.0	Tenderers to input rates on greyed out area.				

CONTRACT TITLE: THE PROVISION OF RDC FENCING SERVICES (INCLUDING: CLEARING AND GRUBBING OF THE AREA AROUND THE FENCE, ERECTION OF FENCING STEELWORK AND ERECTION OF CONCRETE WALL FENCE) FOR A PERIOD OF 5 MONTHS BASIS WITHIN GAUTENG CLUSTER.

Item	Description	Unit				Quantity	Rate	Total	Total
1	SITE PREPARATION								
1.1	CLEARING AND GRUBBING								
1.1.1	Clearing grubbing of area around the fence 5m wide. (BEWARE OF UNDERGROUND CABLES AND WATER PIPES)	m ²				3 285.00	R	R	R
1.2	REMOVAL AND GRUBBING OF LARGE TREE STUMPS:								
1.2.1	Girth exceeding 1 m up to and including 2 m	Each				10.00	R	R	R
	Total carried forward to summary								R
Item	Description	Unit	Material Quantity	Material Rates	Material Total	Labour Quantity	Labour Rates	Labour Total	Total
2	FENCING								
	ERECTION OF STEELWORK:								
2.1	SECURITY FENCE 3M STEEL POST & WELD MESH WITH DOUBLE OVERHANG & RAZOR COIL WIRE SECTION AND DETAILS (Match existing on site)	m	220.00	R	R	220.00	R	R	R
2.2	SECURITY FENCE 3M CONCRETE WALL WITH DOUBLE OVERHANG & RAZOR COIL WIRE ASSEMBLY & SECTION	m	651.00	R	R	651.00	R	R	R
2.3	INSTALL 1M DEEP 200MM WIDE CONCRETE BELOW CONCRETE WALL	m3	130.20	R	R	130.20	R	R	R
2.4	SECURITY FENCE 3M CONCRETE WALL 6M DOUBLE SLIDING GATE WITH FLATWRAP MANUFACTURING DETAILS	Each	1.00	R	R	1.00	R	R	R
	Total carried forward to summary								R
3	DISMANTLING FOR SCRAPPING: Disconnect, dismantle, and store for scrapping:								
Item	Description	Unit				Quantity	Rate	Total	Total
3.1	STEELWORK								
3.1.1	SECURITY FENCE 2.4M STEEL POST & DIAMOND MESH WITH FLATWRAP STEELWORK MANUFACTURING DETAILS	m				220.00	R	R	R
	Total carried forward to summary								R

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1	TRANSPORT	Unit	Quantity	Proposed Rates	Amount
1.1	Personnel Transport for Staff	km	11 000.00		R -
1.2	Transport Truck 5-8 ton with crane	km	1 000.00		R -
	Total carried forward to summary				R -

Item No.	Description of the Item	Price
PRELIMINARY AND GENERAL		
1	PRELIMINARY AND GENERAL	R
	PRELIMINARY AND GENERAL TOTAL	R
SITE PREPARATION		
1	CLEARING AND GRUBBING	R
	SITE PREPARATION TOTAL	R
FENCING		
2	ERECTION OF STEELWORK	R
3	DISMANTLING FOR SCRAPPING	R
	FENCING TOTAL	R
TRANSPORT		
1	TRANSPORT	R
	TRANSPORT TOTAL	R
PROJECT TOTAL		R

C3: Scope of Work

C3.1 Works Information

1. Description of the works

The scope for this project will include the appointment of a contractor through an open tender market to undertake the following construction work:

- Clearing and grubbing of the area around the fence.
- Erection of fencing steelwork
- Erection of concrete wall fence

1. SCOPE OF WORKS ACTIVITIES

The scope for this project will include the following:

1.1 SITE CLEARANCE

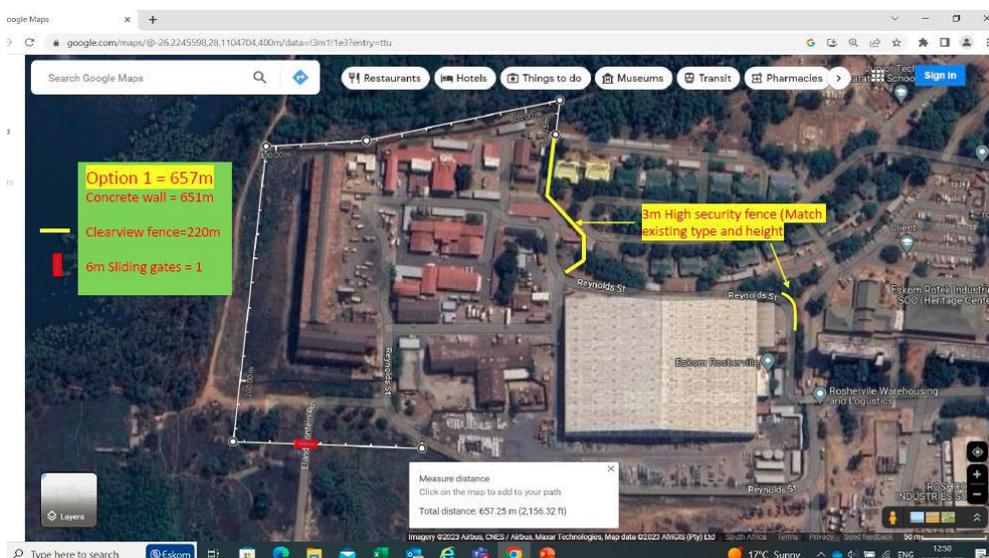
- Clearing grubbing of area around the fence 5m wide (beware of underground cables and water pipes)
- Removal and grubbing of large tree stumps.

1.2 FENCING

- Supply and erect a concrete wall of 651m length 3m high with one-meter concrete base foundation and razor wire on top mainly at the back and on the sides.
- Supply and 220m length 3m high clear view fencing mainly in front.
- Supply and install one 6m sliding gate.

Deliverables shall include:

- a. Fencing around the property, commissioning and handover of the works.
- b. Works Supervision



2. QUALITY MANAGEMENT SYSTEM

The Contractor shall be required to provide or maintain a quality management plan, which must be approved by Eskom

The contractor is advised that the employer considers it essential that for a project of this scale the contractor shall provide and maintain a high level of skilled management organization and resources (justified by CV's), to ensure the successful and timely completion of the contract. Crucial information is to be provided by the Snr Supervisor Tech Facilities and project manager at tender stage (tender clarification/briefing meeting) and this shall be deemed to define the contractor's intentions in this respect. It is a requirement that the contractor submits all technical requirements documents as specified by procurement strategy document under technical criteria.

1. WEEKLY PROGRESS REPORTS

3.1 Weekly report

The weekly progress report shall be based on the weekly progress meeting by the contractor and the employer represented by the Supervisor or Snr Supervisor or delegation from the employer. The meeting shall focus on a punch list which is derived from the project scope of works as per the project schedule with an objective of tracking contractor's progress which should be driven by the following items:

1. Past week achieved progress activities.
2. Current week activities.
3. Next week target activities.
4. Commitment to project schedule.
5. Deviation and corrections to the project schedule.
6. Issues and activities adjustment.
7. Risk identification and mitigations.

2. RESOURCES

The contractor shall provide adequate resources to execute the work.

3. PROJECT METHODOLOGY

The Contractor shall submit a detailed proposal outlining methodologies of how he intends executing the work.

4. RESOURCE REQUIREMENTS

The Contractor shall ensure that highly skilled personnel (as defined in their submitted and accepted CV's) are dedicated to the project.

5. IMPLEMENTATION PLAN

The Contractor is required to submit a detailed implementation plan

2. Drawings

Drawing number	Revision	Title

3. Specifications

Title	Date or revision	Tick if publicly available
<u>General Specifications:</u>		
Health and Safety requirements	240-73198174 – Unique Identifier	
Environmental requirements	240-DX-GP-003T – Unique Identifier	
Quality requirements	240-12248652 – Unique Identifier	
<u>Technical specifications:</u>		
Scope of works	240-137914194 – Unique Identifier	

4. Constraints on how the Contractor Provides the Works

4.1 Meetings

Weekly progress meeting will be held by the contractor and the employer represented by the Supervisor or Senior Supervisor or delegation from the employer. The meeting shall focus on a punch list which is derived from the project scope of works as per the project schedule with an objective of tracking contractor’s progress which should be driven by the following items:

1. Past week achieved progress activities.
2. Current week activities.
3. Next week target activities.
4. Commitment to project schedule.
5. Deviation and corrections to the project schedule.
6. Issues and activities adjustment.
7. Risk identification and mitigations.
8. Appraisals on achieved targets.

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4.2 Use of standard forms

The Contractor is responsible to remove and dispose any material out of site, include arrangement of permits required.

4.3 Invoicing and payment

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

The Contractor includes the following information on each tax invoice:

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

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

Procedures for invoice submission and payment (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)	

4.4 Records of Defined Cost

The Contractor must keep records of support document of compensation event. These records must be made available to the Employer for Contract purpose.

4.5 Supplier Development, Localisation and Industrialisation (SDL&I)

The Contractor complies with and fulfils the Contractor’s obligations in respect of the Supplier Development, Localisation and Industrialisation (SDL&I) in accordance with and as provided for in the Contractor’s SDL&I Compliance Schedule stated below:

4.5.1 Transformation – BBBEE Improvement or Retention Plan.

The supplier must have a valid B-BBEE Certificate/Affidavit before task order will be allocated and for the duration of the contract. Transformation remains an area of focus, where Eskom continuously strives to align itself with national transformation imperatives to unlock growth, drive industrialization, create employment and contribute to skills development.

Eskom encourages its suppliers to constantly strive to improve their B-BBEE rating. Whereas Tenderer/s will be allocated points in terms of a preference point system based on specific goals, Eskom also requests that tenderer/s submits their B-BBEE improvement or retention plan within 30 days of signing the contract. Tenderer/s are therefore requested to indicate the extent to which they will maintain (only if the respondent is a Level 1) or may improve/maintain their B-BBEE status over the contract period if their B-BBEE status is level 2 or 3. Tenderer/s with a B-BBEE status level 4 at the time of contract award, shall migrate and achieve as a non-negotiable a milestone of B-BBEE Level 3 by the end of the first year of the contract and thereafter improve their B-BBEE status level or migrate by one level higher. Tenderer/s with a B-BBEE recognition status of Level 5 to Level 8 or non-compliant at the time of contract award, shall migrate and achieve as a non-negotiable a milestone of Level 4 by the end of the first year of the contract and thereafter improve at least one B-BBEE Level higher of each year from the second year of the contract. Tenderer/s are requested to submit their B-BBEE Improvement Plan as an essential document within 30 days of signing the contract.

NB: A valid B-BBEE certificate or Sworn Affidavit is a condition for contract award, if your company’s annual Total Revenue is R10 Million or less you qualify as an Exempted Micro Enterprise therefore you can submit Sworn Affidavit. If your annual Total Revenue is R50 Million or less, you qualify as Qualifying Small Enterprise and must comply with all of the elements of QSE score card relevant to your sector unless an entity is at least 51% Black owned you are required to obtain a Sworn affidavit. If your Annual Total Revenue is above R50m you need to submit a Valid B-BBEE certificate

4.5.2 Local Procurement Content

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

Tenderers are required to submit its proposals in the table below.

Local Procurement Content	Eskom target	Tenderer Proposal
	100%	

Tenderers procuring from entities with a minimum 51% black ownership.

Subcontracting refers to activities which tenderers outsource to other enterprises in its supply chain during the execution of the contract scope of work.

Tenderers can also achieve subcontracting requirements by claiming invoices paid to service providers of indirect expenses that it incurs in the operation of its business. Such expenses may include courier services, training, transport costs, facility management, office /property rental, cleaning, gardening, ICT services.

Procurement from black Designated Group	Eskom Target	Tenderer Proposal
Black Owned	4%	
Black Women Owned	3%	
Black Youth Owned	2%	
Black Persons with Disability	1%	

4.5.3 Jobs

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

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

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

4.5.4 Skills development N/A

Tenderers are required to submit proposals for the skill types / occupations and the number of candidates to be developed. The candidates shall be currently unemployed graduates from school, Universities and technical, vocational, education and training (TVET) campuses. The threshold will be as follows to ensure successful implementation of this initiative:

- ✓ Successful tenderer will be obligated to skill one candidate for every R 5 Million received cumulatively; The supplier will be required to implement this requirement a month after the threshold is reached.
- ✓ This obligation will be for the duration of the contract; however, the supplier needs to demonstrate positive progress on a monthly basis.

Type of skill / Occupations	Number of candidates

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

Skills development of candidates must represent the demographics of the country, South Africa.

Note: that these targets for skills development candidates categorically exclude Eskom employees and registered learners. The tenderers are required to take full responsibility for the total cost of developing the requisite skills, and Eskom shall not make any financial contribution towards the fulfilment of this obligation.

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Tenderers also are advised to approach their relevant SETAs to access grants, subsidies, and incentives as well as South African Revenue Services for tax rebates that are earmarked for skills development initiatives.

The *Contractor* shall keep accurate records and provide the *Employer* with reports on the *Contractor's* actual delivery against the above stated SDL&I criteria. Stated on the below table is how reporting and monitoring of the SDL&I will be conducted.

4.5.5 Reporting and Monitoring

- The suppliers shall on a monthly/quarterly basis submit a report to Eskom in accordance with Data Collection Template on their compliance with the SDL&I obligations described above.
- Eskom shall review the SDL&I reports submitted by the suppliers within 60 (sixty) days of receipt of the reports and notify the suppliers in writing if their SDL&I obligations have not been met.
- Upon notification by Eskom that the suppliers have not met their SDL&I obligations, the suppliers shall be required to implement corrective measures to meet those SDL&I obligations before the commencement of the following report, failing which Retention clauses shall be invoked.

4.5.6 SDL&I Retention and Performance Security

Eskom will apply a retention of 1.5% of the invoice amount for failure to meet SDL&I obligations.

As security for the fulfilment of all SDL&I obligations, Eskom will apply a Retention of 1.5% of every invoice amount (excluding VAT) for failure to submit SDL&I performance reports every quarter; or failure to meet the SDL&I obligations in a contract.

The *Contractor's* failure to comply with his SDL&I obligations constitutes substantial failure on the part of the *Contractor* to comply with his obligations under this contract.

4.5.7 BBBEE and preferencing scheme

The Contractor shall comply with all the stipulated minimum Broad Based Black Economic Empowerment (B-BBEE) status level of contributor in accordance with Eskom's B-BBEE policy.

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. The Employer reserve the right to terminate the contract if the Contractor status change to.

4.6 Facilities to be provided by the *Contractor*.

The Employer provide no facilities to the Contractor. The Contractor must provide all tools, plants, storage required to execute the works.

4.7 Title to material from excavation and demolition

Whatever title the Contractor has to Plant and Materials which is outside the Working Areas passes to the Employer if the Supervisor has marked it as for this contract.

Whatever title the Contractor has to Plant and Materials passes to the Employer if it has been brought within the Working Areas. The title to Plant and Materials passes back to the Contractor if it is removed from the Working Areas with the Project Manager's permission.

The Contractor is responsible to remove and dispose any material out of site, include arrangement of permits required.

4.8 Design by the *Contractor*

Not applicable

4.9 Cataloguing requirements by the *Contractor*

Not applicable

5. Requirements for the programme

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 *Employer* and must be updated on an as and when required basis by the *Employer*.

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.
- 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 *Employer* at each site meeting or at request of the *Employer*.
- 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 pre-requisite for the acceptance of the programme by the *Employer*.
- Acceptance of any program by the *Employer* shall have no contractual status other than an indication that the *Employer* 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 *Employer* retains the right to alter the accepted program should circumstances on *site* necessitate such a change.

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- *Contractors* float to be included in the programme.

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.

6. Services and other things provided by the *Employer*

Item	Date by which it will be provided
Access to the areas that will be serviced	Commencement of contract
Supervisor will escort personnel around premises	Commencement of contract
Water and electricity	Commencement of contract

C4: Site Information

The site is located at the Eskom Warehouse and Logistics, Eskom Rosherville, 2094, Elandsfontein 107-Ir, Johannesburg South.

C4.1: Information about the *site* at time of tender which may affect the work in this contract.

1. Access limitations

Refer to the following specification:

Scope of Work Doc No: 240-137914194

2. Ground conditions in areas affected by work in this contract

Refer to the following specification:

Scope of Work Doc No: 240-137914194

3. Hidden and other services within the *site*

Refer to the following specification:

Scope of Work Doc No: 240-137914194

4. Details of existing buildings / facilities which *Contractor* is required to work on

Refer to the following specification:

Scope of Work Doc No: 240-137914194