



## NEC3 Supply Contract (SC3)

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

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

for **Manufacture, Supply and Delivery of Various Master Steel Padlocks and Keys for the Period Of 5 Years in Gauteng Cluster on an as and when required basis**

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CONTRACT No. **[Insert at award stage]**

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## PART C1: AGREEMENTS & CONTRACT DATA

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# C1.1 Form of Offer & Acceptance

## Offer

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

**Manufacture, Supply and Delivery of Various Master Steel Padlocks and Keys for the Period Of 5 Years at Gauteng Cluster on an as and when required basis**

The tenderer, identified in the Offer signature block, has

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

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

	The offered total of the Prices exclusive of VAT is	<b>Rates Only</b>
	Value Added Tax @ 15% is	<b>Rates Only</b>
	The offered total of the amount due inclusive of VAT is <sup>1</sup>	<b>Rates Only</b>
	Rates Only Total of which is the Total Value of Purchase Orders Issued	

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

Signature(s)

Name(s) \_\_\_\_\_

Capacity \_\_\_\_\_

**For the tenderer:** \_\_\_\_\_

*(Insert name and address of organisation)*

Name & signature of witness

Date

\_\_\_\_\_

<sup>1</sup> This total is required by the *Purchaser* 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 Purchaser identified below accepts the tenderer's Offer. In consideration thereof, the Purchaser shall pay the Supplier the amount due in accordance with the *conditions of contract* identified in the Contract Data. Acceptance of the tenderer's Offer shall form an agreement between the Purchaser and the tenderer upon the terms and conditions contained in this agreement and in the contract that is the subject of this agreement.

The terms of the contract, are contained in:

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

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

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

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

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

Signature(s)

Name(s)

Capacity

for the  
Purchaser      **Eskom Holdings SOC Ltd**  
                    **Megawatt Park**  
                    **Maxwell Drive**  
                    **Sandton**  
                    **Johannesburg**  
                    **2199**

*(Insert name and address of organisation)*

Name &  
signature of  
witness

Date

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

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

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

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

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

**For the tenderer:**

Signature \_\_\_\_\_

Name \_\_\_\_\_

Capacity \_\_\_\_\_

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

Name &amp; signature of witness \_\_\_\_\_

Date \_\_\_\_\_

**For the Purchaser**

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

## C1.2 SC3 Contract Data

### Part one - Data provided by the *Purchaser*

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

Clause	Statement	Data
1	<b>General</b>	
	The <i>conditions of contract</i> are the core clauses and the clauses for Options	
		<p><b>X1:</b> <b>Price adjustment for inflation</b></p> <p><b>X2:</b> <b>Changes in the law</b></p> <p><b>X4:</b> <b>Parent Company Guarantee</b></p> <p><b>X7:</b> <b>Delay damages</b></p> <p><b>X13:</b> <b>Performance bond</b></p> <p><b>Z:</b> <b>Additional conditions of contract</b></p>
	of the NEC3 Supply Contract (April 2013) <sup>2</sup>	(If the December 2009 edition is to be used delete April 2013 and replace by December 2013)
10.1	The <i>Purchaser</i> is (name):	<b>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</b>
	Address	<b>Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg</b>
	Tel No.	<b>[•]</b>
	Fax No.	<b>[•]</b>
10.1	The <i>Supply Manager</i> is (name):	<b>Donald Thaba</b>
	Address	<b>Elandsfontein 107 Ir Johannesburg South Gauteng 2094</b>
	Tel	<b>[•]</b>
	Fax	<b>[•]</b>
	e-mail	<b>thabamd@eskom.co.za</b>
11.2(13)	The <i>goods</i> are	<b>Various Padlocks Master Steel and Keys</b>
11.2(13)	The <i>services</i> are	<b>Manufacture, Supply and Delivery Of Various Master Steel Padlocks and Keys For The</b>

<sup>2</sup> Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 539 1902, [www.ecs.co.za](http://www.ecs.co.za).

**Period Of 5 Years At Gauteng Cluster On An As And When Required Basis**

11.2(14)	The following matters will be included in the Risk Register	<b>Poor quality</b> <b>Late delivery</b>
11.2(15)	The Goods Information is in	<b>Part 3: Scope of Work and all documents and drawings to which it makes reference.</b>
11.2(15)	The Supply Requirements as part of the Goods Information is in	<b>Annexure A to this Contract Data</b>
12.2	The <i>law of the contract</i> is the law of	<b>the Republic of South Africa</b>
13.1	The <i>language of this contract</i> is	<b>English</b>
13.3	The <i>period for reply</i> is	<b>One (1) week</b>
2	<b>The Supplier's main responsibilities</b>	Data required by this section of the core clauses is provided by the <i>Supplier</i> in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data.
3	<b>Time</b>	
30.1	The <i>starting date</i> is.	<b>TBA</b>
30.1	The <i>delivery date</i> of the <i>goods and services</i> is:	<div style="display: flex; align-items: center;"> <div style="flex: 1;"> <p><b>goods and services</b></p> <p>1    <b>As stipulated in each purchase order</b></p> </div> <div style="flex: 1; border-left: 1px dashed black; padding-left: 10px;"> <p><b>delivery date</b></p> <p>As stipulated in each purchase order</p> </div> </div>
30.2	The <i>Supplier</i> does not bring the <i>goods</i> to the Delivery Place more than one week before the Delivery Date.	<b>[no data required]</b>
31.1	The <i>Supplier</i> is to submit a first programme for acceptance within	<b>Within 1 week of Purchase Order/s being Issued</b>
32.2	The <i>Supplier</i> submits revised programmes at intervals no longer than	<b>4 weeks from the contract start date together with SD&amp;L obligation</b>
4	<b>Testing and defects</b>	
42	The <i>defects date</i> is	<b>52 weeks after Delivery.</b>
43.2	The <i>defect correction period</i> is	<b>2 weeks</b>
42.2	The <i>defects access period</i> is	<b>5 days</b>
5	<b>Payment</b>	
50.1	The <i>assessment interval</i> is	For contracts valued below R50 000 000 (Fifty Million Rand) including VAT, Eskom is committed to paying Suppliers within 30 days of submission of a tax compliant invoice with a GR number to Eskom Financial Shared Services.

**For contracts valued above R50 000 000 (Fifty Million Rand) including VAT, Eskom is committed to paying suppliers within 60 days of submission of a tax compliant invoice with a GR number to Eskom Financial Shared Services**

51.1	The <i>currency</i> of this contract is the	<b>South African Rand</b>
51.2	The period within which payments are made is	<b>30 Days upon submission of a tax compliant invoice to Eskom Finance Shared Services inclusive of a goods receipt number</b>
51.4	The <i>interest rate</i> is	the publicly quoted prime rate of interest (calculated on a 365 day year) charged from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands
6	<b>Compensation events</b>	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
7	<b>Title</b>	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	<b>Risks, liabilities, indemnities and insurance</b>	
80.1	These are additional <i>Purchaser's</i> risks	<b>None</b>
88.1	The <i>Supplier's</i> liability to the <i>Purchaser</i> for indirect or consequential loss, including loss of profit, revenue and goodwill is limited to	<b>Total of purchase order value</b>
88.2	For any one event, the <i>Supplier's</i> liability to the <i>Purchaser</i> for loss of or damage to the <i>Purchaser's</i> property is limited to	<b>(1) for the <i>Purchaser's</i> existing and surrounding property in the care, custody and control of the <i>Supplier</i> the amount of the deductible (first amount payable) relevant to the event and</b>  <b>(2) for all other existing <i>Purchaser's</i> property the applicable deductible as at contract date</b>
88.3	The <i>Supplier's</i> liability for Defects due to his design which are not notified before the last <i>defects date</i> is limited to:	<b>Total value of purchase orders issued</b>
88.4	The <i>Supplier's</i> total liability to the <i>Purchaser</i> , for all matters arising under or in connection with this contract, other than	<b>Total value of purchase orders issued</b>

the excluded matters, is limited to

88.5	The <i>end of liability date</i> is	<b>3 years after Delivery of the whole of the goods and services.</b>
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## **9 Termination and dispute resolution**

94.1	The <i>Adjudicator</i> is	<b>the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a>). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).</b>
	Address	[•]
	Tel No.	[•]
	Fax No.	[•]
	e-mail	[•]

94.2(3)	The <i>Adjudicator nominating body</i> is:	<b>the Chairman of ICE-SA, a Division of the South African Institution of Civil Engineering, or its successor body (See <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a>)</b>
94.4(2)	The <i>tribunal</i> is:	<b>arbitration</b>
94.4(5)	The <i>arbitration procedure</i> is	<b>the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.</b>
94.4(5)	The place where arbitration is to be held is  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	<b>Midrand South Africa</b>  <b>the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.</b>

## **10 Data for Option clauses**

<b>X1</b>	<b>Price adjustment for inflation</b>			
X1.1	The <i>base date</i> for indices is	<b>Month Prior to tender closing</b>		
	The proportions used to calculate the Price Adjustment Factor are:	<b>Material proportion</b>	<b>linked to index for</b>	<b>Index prepared by</b>
		<b>85%</b>	<b>Table O-2 PPI (Basic Iron &amp; Steel)</b>	<b>SEIFSA</b>
		<b>15%</b>	<b>non-adjustable</b>	

	100%		
	<b>Labour</b>		
	<b>proportion</b>	<b>linked to index for</b>	<b>Index prepared by</b>
	85%	Table C3 - Labour	SEIFSA
	15%	non-adjustable	
	100%		
	<b>Transport</b>		
	<b>proportion</b>	<b>linked to index for</b>	<b>Index prepared by</b>
	85%	Table L2 (B) - Road Freight Costs	SEIFSA
	15%	Non-adjustable	
	100%		

Prices fixed and firm for the first 12 months of the contract thereafter CPA will apply

<b>X2</b>	<b>Changes in the law</b>		
X2.1	A change in the law of		<b>South Africa is a compensation event if it occurs after the Contract Date</b>
<b>X7</b>	<b>Delay damages</b>		
X7.1	Delay damages for Delivery are	<b>Delivery of</b>	<b>amount per day</b>
		All padlocks	0,5% per week capped to 5% of outstanding order value not delivered
<b>X13</b>	<b>Performance bond</b>		
X13.1	The amount of the performance bond is	<b>To be determined by Eskom Finance Department</b>	
<b>Z</b>	<b>The additional conditions of contract are</b>	<b>Z1 to Z15 always apply for Eskom</b>	

**Z1 Cession delegation and assignment**

Z1.1 The *Supplier* does not cede, delegate or assign any of its rights or obligations to any person

without the written consent of the *Purchaser*.

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

**Z2 Joint ventures**

Z2.1 If the *Supplier* constitutes a joint venture, consortium or other unincorporated grouping of two or more persons or organisations then these persons or organisations are deemed to be jointly and severally liable to the *Purchaser* for the performance of this contract.

Z2.2 Unless already notified to the *Purchaser*, the persons or organisations notify the *Supply Manager* within two weeks of the Contract Date of the key person who has the authority to bind the *Supplier* on their behalf.

Z2.3 The *Supplier* does not alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without the consent of the *Purchaser* having been given to the *Supplier* in writing.

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

Z3.1 Where a change in the *Supplier*'s legal status, ownership or any other change to his business composition or business dealings results in a change to the *Supplier*'s B-BBEE status, the *Supplier* notifies the *Purchaser* within seven days of the change.

Z3.2 The *Supplier* is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the *Supply Manager* within thirty days of the notification or as otherwise instructed by the *Supply Manager*.

Z3.3 Where, as a result, the *Supplier*'s B-BBEE status has decreased since the Contract Date the *Purchaser* may either re-negotiate this contract or alternatively, terminate the *Supplier*'s obligation to Provide the Goods and Services.

Z3.4 Failure by the *Supplier* to notify the *Purchaser* of a change in its B-BBEE status may constitute a reason for termination. If the *Purchaser* terminates in terms of this clause, the procedures on termination are P1, P2 and P3 as stated in clause 92, and the amount due is A1 and A3 as stated in clause 93.

**Z4 Confidentiality**

Z4.1 The *Supplier* does not disclose or make any information arising from or in connection with this contract available to Others. This undertaking does not, however, apply to information which at the time of disclosure or thereafter, without default on the part of the *Supplier*, enters the public domain or to information which was already in the possession of the *Supplier* at the time of disclosure (evidenced by written records in existence at that time). Should the *Supplier* disclose information to Others in terms of clause 23.1, the *Supplier* ensures that the provisions of this clause are complied with by the recipient.

Z4.2 If the *Supplier* is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the *Supply Manager*.

Z4.3 In the event that the *Supplier* is, at any time, required by law to disclose any such information which is required to be kept confidential, the *Supplier*, to the extent permitted by law prior to disclosure, notifies the *Purchaser* so that an appropriate protection order and/or any other action can be taken if possible, prior to any disclosure. In the event that such protective order is not, or cannot, be obtained, then the *Supplier* may disclose that portion of the information which

it is required to be disclosed by law and uses reasonable efforts to obtain assurances that confidential treatment will be afforded to the information so disclosed.

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

Z4.5 The *Supplier* ensures that all his subcontractors abide by the undertakings in this clause.

**Z5 Waiver and estoppel: Add to core clause 12.3:**

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

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

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

Without limitation the *Supplier*:

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

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

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

Z7.1 Within one week of receiving a payment certificate from the *Supply Manager* in terms of core clause 51.1, the *Supplier* provides the *Purchaser* with a tax invoice in accordance with the *Purchaser*'s procedures stated in the Goods Information, showing the amount due for payment equal to that stated in the payment certificate.

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

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

**Z8 Notifying compensation events**

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

**Z9 Purchaser's limitation of liability**

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

Z9.2 The *Supplier's* entitlement under the indemnity in 83.1 is provided for in 60.1(12) and the *Purchaser's* liability under the indemnity is limited.

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

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

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

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

**Z12 Ethics**

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

**Affected Party** means, as the context requires, any party, irrespective of whether it is the *Supplier* 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 *Supplier*, 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.

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

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

**INSURANCE TABLE A**

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

**Z 13.2 Replace core clause 87 with the following:**

**Insurance by  
the Purchaser** 87

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

**INSURANCE TABLE B**

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

Nuclear Material Damage Terrorism	Per the insurance policy document
--------------------------------------	-----------------------------------

## Z14 Nuclear Liability

Z14.1 The *Purchaser* is the operator of the Koeberg Nuclear Power Station (KNPS), a nuclear installation, as designated by the National Nuclear Regulator of the Republic of South Africa, and is the holder of a nuclear licence in respect of the KNPS.

Z14.2 The *Purchaser* is solely responsible for and indemnifies the *Supplier* or any other person against any and all liabilities which the *Supplier* or any person may incur arising out of or resulting from nuclear damage, as defined in Act 47 of 1999, save to the extent that any liabilities are incurred due to the unlawful intent of the *Supplier* or any other person or the presence of the *Supplier* or that person or any property of the *Supplier* or such person at or in the KNPS or on the KNPS site, without the permission of the *Purchaser* or of a person acting on behalf of the *Purchaser*.

Z14.3 Subject to clause Z14.4 below, the *Purchaser* waives all rights of recourse, arising from the aforesaid, save to the extent that any claims arise or liability is incurred due or attributable to the unlawful intent of the *Supplier* or any other person, or the presence of the *Supplier* or that person or any property of the *Supplier* or such person at or in the KNPS or on the KNPS site, without the permission of the *Purchaser* or of a person acting on behalf of the *Purchaser*.

Z14.4 The *Purchaser* does not waive its rights provided for in section 30 (7) of Act 47 of 1999, or any replacement section dealing with the same subject matter.

Z14.5 The protection afforded by the provisions hereof shall be in effect until the KNPS is decommissioned.

## Z15 Asbestos

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

<b>AAIA</b>	means approved asbestos inspection authority.
<b>ACM</b>	means asbestos containing materials.
<b>AL</b>	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.
<b>Ambient Air</b>	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.
<b>Compliance Monitoring</b>	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.
<b>OEL</b>	means occupational exposure limit.
<b>Parallel Measurements</b>	means measurements performed in parallel, yet separately, to existing measurements to verify validity of results.
<b>Safe Levels</b>	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 *Purchaser's Asbestos Standard 32-303: Requirements for Safe Processing, Handling, Storing, Disposal and Phase-out of Asbestos and Asbestos Containing Material, Equipment and Articles.*

**SANAS** means the South African National Accreditation System.

**TWA** means the average exposure, within a given workplace, to airborne asbestos fibres, normalised to the baseline of a 4 hour continuous period, also applicable to short term exposures, i.e. 10-minute TWA.

- Z15.1 The *Purchaser* ensures that the Ambient Air in the area where the *Supplier* will Provide the Services conforms to the acceptable prescribed South African standard for asbestos, as per the regulations published in GNR 155 of 10 February 2002, under the Occupational Health and Safety Act, 1993 (Act 85 of 1993) ("Asbestos Regulations"). The OEL for asbestos is 0.2 regulated asbestos fibres per millilitre of air as a 4-hour TWA, averaged over any continuous period of four hours, and the short term exposure limit of 0.6 regulated asbestos fibres per millilitre of air as a 10-minute TWA, averaged over any 10 minutes, measured in accordance with HSG248 and monitored according to HSG173 and OESEM.
- Z15.2 Upon written request by the *Supplier*, the *Purchaser* certifies that these conditions prevail. All measurements and reporting are effected by an independent, competent, and certified occupational hygiene inspection body, i.e. a SANAS accredited and Department of Employment and Labour approved AAIA. The *Supplier* may perform Parallel Measurements and related control measures at the *Supplier's* expense. For the purposes of compliance the results generated from Parallel Measurements are evaluated only against South African statutory limits as detailed in clause Z15.1. Control measures conform to the requirements stipulated in the AAIA-approved asbestos work plan.
- Z15.3 The *Purchaser* manages asbestos and ACM according to the Standard.
- Z15.4 In the event that any asbestos is identified while Providing the Services, a risk assessment is conducted and if so required, with reference to possible exposure to an airborne concentration of above the AL for asbestos, immediate control measures are implemented and relevant air monitoring conducted in order to declare the area safe.
- Z15.5 The *Supplier's* personnel are entitled to stop working and leave the contaminated area forthwith until such time that the area of concern is declared safe by either Compliance Monitoring or an AAIA approved control measure intervention, for example, per the emergency asbestos work plan, if applicable.
- Z15.6 The *Supplier* continues to Provide the Services, without additional control measures presented, on presentation of Safe Levels. The contractually agreed dates to Provide the Services, including the Completion Date, are adjusted accordingly. The contractually agreed dates are extended by the notification periods required by regulations 3 and 21 of the Asbestos Regulations.
- Z15.7 Any removal and disposal of asbestos, asbestos containing materials and waste, is done by a registered asbestos contractor, instructed by the *Purchaser* at the *Purchaser's* expense, and conducted in line with South African legislation.

**The Supply Requirements for this contract are as follows:**

<b>1. The requirements for the supply are</b>	Manufacture, Supply and Delivery Of Various Master Steel Padlocks and Keys for the Period Of 5 Years in Gauteng Cluster on an as and when required basis	
<b>2. The requirements for transport are</b>	<i>Supplier</i> Responsibility	
<b>3. The delivery place is</b>	Eskom Rotek Industries Elandsfontein 107 Ir Johannesburg South Gauteng 2094	
<b>4. Actions of the Parties during supply</b>	<b>Action</b>	<b>Party which does it</b>
	Giving notice of Delivery	<i>Supplier</i>
	Checking packing and marking before dispatch	<i>Supplier</i>
	Contracting for transport	<i>Supplier</i>
	Pay costs of transport	<i>Purchaser</i>
	Arrange access to delivery place	<i>Purchaser</i>
	Loading the <i>goods</i>	<i>Supplier</i>
	Unloading the <i>goods</i>	<i>Supplier</i>
<b>For international procurement</b>	Undertake export requirements	N/A
	Undertake import requirements	N/A
<b>5. Information to be provided by the <i>Supplier</i></b>	<b>Title of document</b>	
	Packing lists for cases and their contents	
	Copy of invoice for the <i>goods</i>	
	Delivery Note	
	Test results and maintenance manuals	
<b>For international procurement</b>	Licences, authorisations and other formalities associated with export of the <i>goods</i>	
	Air Waybill or Bill of Lading with associated landing, delivery and forwarding order	
	The Bill of Entry endorsed by the importation authority	
	Customs work sheets, showing tax, duties and surcharges which the law of the country into which the <i>goods</i> are being imported requires the importer to pay	
	Invoice from the importation clearing agent showing airline fees, landing charges, wharfage and dock dues as applicable	
	Specify other import documents required by authorised officials.	

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

## C1.2 Contract Data

### Part two - Data provided by the *Supplier*

#### Notes to a tendering supplier:

1. Please read both the NEC3 Supply Contract (SC3)<sup>3</sup> and the relevant parts of its Guidance Notes (SC3-GN)<sup>4</sup> in order to understand the implications of this Data which the tenderer is required to complete.
2. The number of the clause which requires the data is shown in the left hand column for each statement however other clauses may also use the same data
3. Where a form field like this [ ] appears, data is required to be inserted relevant to the option selected. Click on the form field **once** and type in the data. Otherwise complete by hand and in ink.

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

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

<sup>3</sup> Either April 2013 or December 2009 Edition as stated by *Purchaser* in Contract Data part 1.

<sup>4</sup> Available from Engineering Contract Strategies Tel 011 803 3008, Fax 086 539 1902, or [www.ecs.co.za](http://www.ecs.co.za)

## C1.3 Forms of Securities

### Pro formas for Bonds & Guarantees

For use with the NEC3 Term Service Contract (TSC3)

*[Note to contract compiler:*

*Once it has been decided which securities are required for this contract delete from this file the ones not required, revise the notes below accordingly and delete this note.]*

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

Option X4: Parent company guarantee  
Option X13: Performance Bond

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

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 Parent Company Guarantee (for use with Option X4)

*(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,

### Parent Company Guarantee for Contract No

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

**Eskom Holdings SOC Ltd** (the *Employer*) and

{Insert registered name and address of the *Contractor*} (the *Contractor*), for

{Insert details of the **works** from the Contract Data} (the **works**).

I/We the undersigned

on behalf of the *Contractor's*  
parent company

of physical address

and duly authorised thereto do hereby unconditionally guarantee to the *Employer* that the *Contractor* shall Provide the Service in accordance with the above numbered Contract.

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

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_\_\_\_

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

**Pro forma Performance Bond – Demand Guarantee (for use with Option X13)**  
(to be reproduced exactly as shown below on the letterhead of the Bank providing the Guarantee)

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

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

Date:

Dear Sirs

**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 Services, 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 earlier of
    - the date that the Bank receives a notice from Eskom stating that all amounts due from the Contractor as certified in terms of the contract have been received by Eskom and that the Contractor has fulfilled all his obligations under the Contract, or
    - the date that the Bank issues a replacement Bond for such lesser or higher amount as may be required by Eskom
  - 1.7 "Guaranteed Sum" - means the sum of R [●] ([●] Rand);
  - 1.8 "Services" - means [insert as 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 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

## PART 2: PRICING DATA

### NEC3 Supply Contract

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

## C2.1 Pricing assumptions

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

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

<b>Identified and defined terms</b>	11	(11) The Prices are the amounts stated in the price column of the Price Schedule. Where a quantity is stated for an item in the Price Schedule, the Price is calculated by multiplying the quantity by the rate.
<b>Assessing the amount due</b>	50.2	<p>The amount due is</p> <ul style="list-style-type: none"><li>the Price for each lump sum item in the Price Schedule which the <i>Supplier</i> has completed,</li><li>where a quantity is stated for an item in the Price Schedule, an amount calculated by multiplying the quantity which the <i>Supplier</i> has completed by the rate,</li><li>plus other amounts to be paid to the <i>Supplier</i>,</li><li>less amounts to be paid by or retained from the <i>Supplier</i>.</li></ul>

Any tax which the law requires the *Purchaser* to pay to the *Supplier* is included in the amount due.

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

### 2. Function of the Price Schedule

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

### 3. Preparing the price schedule

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

It will be assumed that the tendering supplier has

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

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

### 3.1. Format of the *price schedule*

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

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

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

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

## C2.2 the price schedule

Items	SAP no	Description	Unit	Quantity	Material Rate	Labour Rate	Total Amount
1	0573482	PADLOCK:MASTER STEEL GENERAL WHITE GOU	Each	80 000			
2	0187151	PADLOCK:MASTER STL RESTR-A ORANGE GOU	Each	200 000			
3	0187158	PADLOCK:MASTER STEEL PROH GREEN G OU	Each	30 000			
4	0187165	PADLOCK:MASTER STEEL OPER YELLOW G OU	Each	30 000			
5	0187172	PADLOCK:MASTER STEEL LIVE BLACK G OU	Each	10 000			
6	0187179	PADLOCK:SAFENONSTD STEELL TSO BLUE GOU;6 MM	Each	12 000			
		<b>Total</b>		<b>362 000</b>			

The total of the Prices

Items	SAP no	Description	Unit	Quantity	Material Rate	Labour Rate	Total Amount
1	187186	KEY: PADLOCK MASTER RESTR-A ORANGE G OU	each	1			
2	187193	KEY: PADLOCK MASTER PROH GREEN G OU	each	1			
3	187200	KEY: PADLOCK MASTER OPERATING YELLOW G OU	each	1			
4	187217	KEY: PADLOCK MASTER LIVE CHMBR BLACK G OU	each	1			
5	187226	KEY: PADLOCK MASTER TSO BLUE G OU;BRASS	each	1			
6	573505	KEY: PADLOCK MASTER GENERAL WHITE G OU	each	1			
		<b>Total</b>		<b>6</b>			

The total of the Prices

Item No.	Transport	Unit	Quantity	Rate	Price
1.1	LDV	KM	1		

## PART 3: SCOPE OF WORK

Document reference	Title	No of pages
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C3.2	<i>Supplier's Goods Information</i>	1
Total number of pages		

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## C3.1: PURCHASER'S GOODS INFORMATION

### 1 Overview and purpose of the *goods and services*

Manufacture, Supply and Delivery of Various Padlocks Master Steel for the period of 5 years at Gauteng Cluster on an as and when required basis.

The following goods will be purchased:

0187179	PADLOCK:SAFENONSTD STL TSO BLUE GOU;6 MM
0187172	PADLOCK:MASTER STEEL LIVE BLACK GC
0187165	PADLOCK:MASTER STEEL OPER YELLOW GC
0187158	PADLOCK:MASTER STEEL PROH GREEN GC
0187151	PADLOCK:MASTER STL RESTR-A ORANGE GC
0573482	PADLOCK:MASTER STEEL GENERAL WHITE GC
187186	KEY: PADLOCK MASTER RESTR-A ORANGE G OU
187193	KEY: PADLOCK MASTER PROH GREEN G OU
187200	KEY: PADLOCK MASTER OPERATING YELLOW G OU
187217	KEY: PADLOCK MASTER LIVE CHMBR BLACK G OU
187226	KEY: PADLOCK MASTER TSO BLUE G OU;BRASS
573505	KEY: PADLOCK MASTER GENERAL WHITE G OU

### 2 Specification and description of the *goods*

#### 2.1 Purchaser's design

There is no Purchaser's design, however specification is contained in the Specification for Standard for master locks and master keys for electrical and related equipment unique identifier: 240-70500896

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

As specified in the Specification for Standard for master locks and master keys for electrical and related equipment unique identifier: 240-70500896

#### 2.3 Other requirements of the *Supplier's design*

As specified in the Specification for Standard for master locks and master keys for electrical and related equipment unique identifier: 240-70500896

#### 2.4 Use of *Supplier's design*

As described in the Specification for Standard for master locks and master keys for electrical and related equipment unique identifier: 240-70500896

#### 2.5 Manufacture & fabrication

As described in the Specification for Standard for master locks and master keys for electrical and related equipment unique identifier: 240-70500896

#### 2.6 Factory acceptance testing (FAT)

As per the specified tests in the Specification for Technical evaluation Criteria for Eskom Distribution systems Hardware and fittings with the unique identifier: 240-143804436

## **2.7 Other tests and inspections and commissioning in place of use**

As per the specified tests in the Specification for Technical evaluation Criteria for Eskom Distribution systems Hardware and fittings with the unique identifier: 240-143804436

## **2.8 Operating manuals and maintenance schedules**

As specified in the Specification for Standard for master locks and master keys for electrical and related equipment unique identifier: 240-70500896

## **3 Supply Requirements**

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

## **4 Specification of the services to be provided.**

As specified in the Specification for Standard for master locks and master keys for electrical and related equipment unique identifier: 240-70500896

## **5 Constraints on how the *Supplier* Provides the Goods**

### **5.1 Programming constraints**

The Supplier is to indicate all detailed activities for the manufacture, supply and delivery of the goods per purchase order to be issued for acceptance by the Supply Manager prior to the finalisation of the purchase order.

### **5.2 Work to be done by the Delivery Date**

As specified in the Specification for Standard for master locks and master keys for electrical and related equipment unique identifier: 240-70500896

### **5.3 Marking the goods**

As specified in the Specification for Standard for master locks and master keys for electrical and related equipment unique identifier: 240-70500896

### **5.4 Constraints at the delivery place and place of use**

The Supplier will have to allow sufficient time provision for the delivery of the products to the Regional Distribution Centre due to limits at the place of delivery to accommodate multiple simultaneous deliveries.

### **5.5 Cooperating with Others**

The Supplier's delivery personnel will have to comply to all security and safety requirements prior to the entry at the pace of delivery.

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

None

## 5.7 Management meetings

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

Title and purpose	Approximate time & interval	Location	Attendance by:
Risk register and compensation events	As required	TBC	TBC
Overall contract progress and feedback	Monthly	TBC	TBC

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

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

## 5.8 Documentation control

The contract document and tenders shall be stored in the cabinets at procurement Department. Contractual communication will be in a form of properly compiled letters or forms in a chronological order, attached to emails.

## 5.9 Health and safety risk management

The *Supplier* shall comply with the health and safety requirements as per South African Legislation and any Eskom requirements stipulated in the Tender (see attached below).



OHS Tender  
Evaluation Template.p

## 5.10 Environmental constraints and management

The *Supplier* shall comply with the environmental criteria and constraints as per South African Legislation and requirements stipulated in the Tender (see attached below).



Environmental  
specifications\_Supply

## 5.11 Quality

The *Supplier* shall comply with the quality criteria and constraints as per South African Legislation and requirements stipulated in the Tender (see attached below).



20251022\_Padlocks  
Gauteng- \_List of Tenc

## 5.12 Invoicing and payment

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

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

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

Add 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 an attached 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)	

### Notes:

All supporting documentation needs to be provided with each claim which includes but not limited to; trip sheets approved by *Service Manager* & invoices for materials purchased as requested by *Services Manager*(delivery notes to accompany the claim for a specific site).

## 5.13 Insurance provided by the *Purchaser*.

The Purchaser only provides insurance should the goods be provided ex-works from the point of collection. The Supplier is to provide all insurances up to the point of delivery where they are responsible to deliver.

## **5.14 Contract change management.**

There are no additional requirements to those stipulated in Core Clause 6.

## **5.15 Provision of bonds and guarantees**

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

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

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

All records of defined costs are to be filed and access granted to the *Supplier Manager* at any time upon request.

# **6 Procurement**

## **6.1 Subcontracting**

### **6.1.1 Preferred subcontractors**

There shall be mandatory subcontracting as condition of award.

Where feasible, subcontracting is mandatory on contracts above R30 million and is a condition for contract award. Tenderers shall subcontract a minimum of 30% of the contract value to the following designated groups:

an EME or QSE which is 51% owned by black people living in rural or underdeveloped area or townships

NOTE Tenderers shall submit the following mandatory returnable for Subcontracting:

Subcontracting agreement signed by both with subcontractors' company registration documents (CK and B-BBEE certificate or sworn affidavit) or

Copies of sub-contracting contracts (agreements) or copies of letters from the tenderer to the sub-contractors, stating the intent to sub-contract. The Tenderer should sign both documents and the Sub-contractor(s) earmarked.

The Tenderer to list the potential scope to be subcontracted and/or outsourced:

Subcontracting, in this instance, will be treated as a condition for contract award. A supplier awarded a contract may not subcontract more than 25% of the value of the contract to any other entity that does not have an equal or higher B-BBEE status level of a contributor than the supplier concerned unless the contract is subcontracted to an EME that has the capability and ability to execute the subcontract

Subcontracting, in this instance will be treated as a condition for contract award.

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

Procurement from Designated Group	Eskom Target	Supplier Proposal
Black Owned	4.0%	
Black Women Owned	3.0%	
Black Youth Owned	2.0%	
Black Persons with Disability	1.0%	

The sub-contractor- Returnable documents

- Proof of a sub-contract agreement/s must be submitted.
- CSD report of subcontractors
- Sub-contractor/s B-BBEE certificate / sworn affidavit must be submitted.

#### 6.1.2 Industrialisation

There is no requirement for industrialisation as all resources are sourced from within South Africa.

#### 6.1.3 Skills Development

Successful supplier will be obligated submit a proposal to train **1** candidate for every **2 Million Rand** cumulated through task order awarded to the supplier; this obligation will be for the duration of the contract. The duration of the task order will not be linked with the supplier's obligation to train; therefore the supplier will have to ensure that the skills committed are successfully achieved by the end of the contract period. Skills candidates shall be sourced from previously disadvantaged groups in South Africa. The purpose is to provide these candidates with skills and workplace experience in order to increase the opportunity for them to be employable within the industry. The supplier may develop the candidates directly, through their supply network or through the SETA accredited training providers.

Skills development candidates should be currently unemployed graduates from FET Colleges and universities and/or matriculants. The composition of the candidates shall be representative of the population demographics of South Africa. The supplier will be provided with the list of skills as per respective discipline to choose from, this will mean this supplier will train candidate with skill type that is relevant to their area of expertise.

Skills type	Proposed no.	Intake	Outcome
Machine Operator	1	N4/Matric /Post / undergraduate	Certificate of completion
Technician / Draughtsman	1	N4/Matric /Post / undergraduate	Certificate of completion
Project / Stores Management	1	N4/Post / undergraduate	Certificate of completion

#### 6.1.4 Job Opportunities

Tenderer to indicate number of Jobs to be created and/or retained from this contract;

The existing Panellists members shall propose the number of jobs to be created as a direct result of this contract. Suppliers must also propose the number of jobs to be retained as a direct result of this contract. The proposals shall be recorded on the implementation schedule at contract award. Tenderer to indicate number of Jobs to be created and/or retained from this contract.

Number of Jobs to be created	Number of Jobs to be retained

#### **6.1.5 Supplier Development**

Supplier development programs are encouraged to empower 51% and above Black owned that are businesses that are EME / QSE, through holistic impactful business incubation programmes as a form of support. This could be in a form of financial support (loans or sponsorship), providing necessary tools/equipment, rendering training opportunities or mentoring programmes that could enable growth in their business.

A signed copy of the contract between parties with the implementation program will be send to Eskom for approval and monitoring purpose.

#### **6.1.4 Limitations on subcontracting**

Not applicable

#### **6.1.5 Spares and consumables**

Not applicable

#### **6.1.6 Other requirements related to procurement: SDL&I**

#### **B-BBEE**

Eskom prefers to do business with companies that are more than 50% Black Owned; this includes Black Woman Owned (BWO), Black Youth Owned (BYO), and Black People Living with Disability (BPLwD).

In this contract the preference will be given to suppliers that are Black Owned and has a B-BBEE Level of 1 to 3 as per Eskom's preference.

The existing Panellists members shall maintain or improve upon their current B-BBEE level to level 1-3 during the life contract. The Panellists members that are less than 51% BO will also improve on the Black Ownership of the companies/institutions as per Eskom preference (if applicable), for future business relationship with Eskom.

The Panellists members will be required to submit a new certificate should ownership of the company change during the life of the contract.

Local suppliers shall be allocated points in accordance with the B-BBEE Evaluation Scorecard (figure 1) shown below:

**Note: the following element (A, 2, 3,4,5,6 & 7) will form part of the Eskom's objectives and they will be negotiated with the successful supplier(s)**

#### **A. Specific goals**

Specific Objective of Tender (Application of other criteria in terms of section 2(1)(d-f) of PPPFA)

The objective criteria for this tender are the following:

- Transforming this industry by appointing small emerging black businesses with 51% black ownership (further preference will be given to BYO/BPLwD),
- Job creation for previously disadvantaged people.

To achieve the above the following aspects will apply

- Appoint companies with 51% black ownership, or
- In the event where the contract is awarded to a **Generic firm**, 20% shall be subcontracted/incubate to emerging BYO/BPLwD (100% shareholding) with the purpose of supplier development (where necessary) or
- Joint venture where the lead firm is 51% black owned.

NB. The joint venture may be:

- i) Black Owned Company and Black Owned Company or
- ii) Black Owned Company (Majority shareholder) and non- Black Owned Company or
- iii) Black Women Owned Company and Black Owned Company or
- iv) Black Women Owned Company(Majority shareholder) and non- Black Owned Company

**Figure 1: B-BBEE Evaluation Scorecard (90/10 application)**

<b>B-BBEE</b>	<b>Qualification</b>	<b>Number of Points (80/20 system)</b>	<b>Number of Points (90/10 system)</b>
1	≥ 100 points	20	10
2	≥ 85 points < 100 points	18	9
3	≥ 75 points < 85 points	16	8
4	≥ 65 points < 75 points	12	5
5	≥ 55 points < 65 points	8	4
6	≥ 45 points < 55 points	6	3
7	≥ 40 points < 45 points	4	2
8	≥ 30 points < 40 points	2	1
Non-compliant	< 30 points	0	0

**Note :**

**Eskom prefers to contract with but is not limited to compliant BBEEE level 1-3 contractors. Any tenderer who does not comply with this criterion should provide a migration plan that will form part of the contractual obligation. The terms and conditions will be negotiated and agreed prior to contract award. The migration plan will be accepted based on partial fulfilment or as a whole depending on the time period allocated for the transaction/s.**

**Where there is a partial acceptance of a migration plan, should the same tenderer be awarded further contracts with Eskom the agreed migration plan must be shared with Eskom officials responsible for the tender for continued compliance monitoring.**

**Eskom will not contract with any supplier without a valid BBBEE certificate.**

**Localisation**

Eskom requires suppliers to purchase all their materials, products or any other services required within the borders of South Africa. The Local Content to South Africa will be 100% because Eskom do not expect any skills to be imported for these services and the industry is matured enough to possess all the skills required. It will form part subcontracting, skills development, and supplier development.

**DTI Local Content Designation**

Commodity	Local Content Threshold
Steel products	100%

**6.1.7 Cataloguing requirements by the *Supplier***

Not Applicable

**7 List of drawings****7.1 Drawings issued by the *Purchaser***

- This is the list of drawings issued by the *Purchaser* at or before the Contract Date and which apply to this contract.
- The *Supplier* must refer to the documents found in the table found in Annexure A of this Goods Information.

Drawing number	Revision	Title
1		SPEC SHEET



spec sheet.pdf

## C3.2 SUPPLIER'S GOODS INFORMATION

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

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

This section could also be compiled as a separate file.

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