



NEC3 Supply Contract (SC3)

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

and

(Reg No.)

for **The supply of Antenna: Robust Low Profile; 824-2500 Mhz within the LimLanga Cluster (Mpumalanga and Limpopo Operating Unit) on an “as and when” required basis over a period of 60 months.**

Contents:

Part C1 Agreements & Contract Data

Part C2 Pricing Data

Part C3 Scope of Work

Contract Number:

PART C1: AGREEMENTS & CONTRACT DATA

Contents:

C1.1 Form of Offer and Acceptance

C1.2a Contract Data provided by the *Purchaser*

C1.2b Contract Data provided by the *Supplier*

C1.3 Proforma Guarantees

C1.1 Form of Offer & Acceptance

Offer

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

The supply of Antenna: Robust Low Profile; 824-2500 Mhz within the LimLanga Cluster (Mpumalanga and Limpopo Operating Unit) on an “as and when” required basis over a period of 60 months.

The contractor, identified in the Offer signature block, has

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

By the representative of the contractor, deemed to be duly authorised, signing this part of this Form of Offer and Acceptance the contractor offers to perform all of the obligations and liabilities of the *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	
Value Added Tax @ 15% is	
The offered total of the amount due inclusive of VAT is ¹	
(in words)	

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

Signature(s)			
Name(s)			
Capacity			
For the contractor: <i>(Insert name and address of organisation)</i>			
Name & signature of witness		Date	

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

Acceptance

By signing this part of this Form of Offer and Acceptance, the Purchaser identified below accepts the contractor’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 contractor’s Offer shall form an agreement between the Purchaser and the contractor upon the terms and conditions contained in this agreement and in the contract that is the subject of this agreement.

The terms of the contract, are contained in:

- Part C1 Agreements and Contract Data, (which includes this Form of Offer and Acceptance)
- Part C2 Pricing Data
- Part C3 Scope of Work: 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 Contract Data and any addenda thereto listed in the Returnable Schedules as well as any changes to the terms of the Offer agreed by the contractor and the 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 contractor 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 contractor receives one fully completed and signed original copy of this document, including the Schedule of Deviations (if any).

Signature(s)			
Name(s)			
Capacity			
for the Purchaser <i>(Insert name and address of organisation)</i>	Eskom Holdings SOC Ltd, Megawatt Park, Maxwell Drive, Sandton, Johannesburg, 2199		
Name & signature of witness		Date	

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

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

Note:

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

No.	Subject	Details
1	None	

By the duly authorised representatives signing this Schedule of Deviations below, the Purchaser and the contractor agree to and accept this Schedule of Deviations as the only deviations from and amendments to the documents listed in the Contract Data and any addenda thereto listed in the Contract Schedules, as well as any confirmation, clarification or changes to the terms of the Offer agreed by the contractor and the 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 contract documents and the receipt by the contractor of a completed signed copy of this Form shall have any meaning or effect in the contract between the parties arising from this Agreement.

	For the contractor:	For the Purchaser
Signature		
Name		
Capacity		
On behalf of <i>(Insert name and address of organisation)</i>		Eskom Holdings SOC Ltd, Megawatt Park, Maxwell Drive, Sandton, Johannesburg, 2199
Name & signature of witness		
Date		

C1.2 SC3 Contract Data

Part one - Data provided by the *Purchaser*

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

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for Options	
		X1: Contract Price Adjustment
		X2: Changes in the law
		X7: Delay damages. A delay damage of R30 000/day will be charged capped at 15% of the total purchase order value. Should the capped value be reached, Eskom will reserve the right to purchase the shortfall elsewhere and possibly decide to terminate the contract due to non-performance
		X17: Low performance damages
		Z: Additional conditions of contract
	of the NEC3 Supply Contract (April 2013) ²	(If the December 2009 edition is to be used delete April 2013 and replace by December 2013)
10.1	The <i>Purchaser</i> is (name):	Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state owned company incorporated in terms of the company laws of the Republic of South Africa
	Address	Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg
	Tel No.	011 800 8000
	Fax No.	N/A
10.1	The <i>Supply Manager</i> is (name):	To be advised
	Address	Eskom Megawatt Park 1 Maxwell Drive Suninghill Johannesburg
	Tel	To be advised
	Fax	N/A

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

	e-mail	To be advised	
11.2(13)	The <i>goods</i> are	Antennas	
11.2(13)	The <i>services</i> are	The supply of Antenna: Robust Low Profile; 824-2500 Mhz within the LimLanga Cluster (Mpumalanga and Limpopo Operating Unit) on an “as and when” required basis over a period of 60 months.	
11.2(14)	The following matters will be included in the Risk Register	<ol style="list-style-type: none"> 1. Late deliveries 2. Supply of incorrect product / product out of Eskom designs / specifications. 3. Manufacturing of equipment without an approved Task Order 	
11.2(15)	The Goods Information is in	Part 3: Scope of Work and all documents and drawings to which it makes reference.	
11.2(15)	The Supply Requirements as part of the Goods Information is in	Annexure A to this Contract Data	
12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa	
13.1	The <i>language of this contract</i> is	English	
13.3	The <i>period for reply</i> is	One [1] week	
2	The <i>Supplier’s</i> main responsibilities	Data required by this section of the core clauses is provided by the <i>Supplier</i> in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data.	
3	Time		
30.1	The <i>starting date</i> is.	To be advised	
30.1	The <i>delivery date</i> of the <i>goods</i> and <i>services</i> is:	The delivery date will be specified in each Purchase order	
		Lead Time 2 to 4 weeks from Purchase Order acknowledgement.	
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.	Unless agreed by both parties	
31.1	The <i>Supplier</i> is to submit a first programme for acceptance within	[1] weeks of the Purchase Order Date.	
32.2	The <i>Supplier</i> submits revised programmes at intervals no longer than	2 weeks	
4	Testing and defects		

42	The <i>defects date</i> is	12 months from the date of delivery per purchase order for goods and services.
43.2	The <i>defect correction period</i> is	4 weeks or as agreed by the parties
42.2	The <i>defects access period</i> is	1 week or as agreed by the parties
5	Payment	
50.1	The <i>assessment interval</i> is	between the 25th day of each successive month.
51.1	The <i>currency of this contract</i> is the	South African Rand (Any other currency will be determined at specific purchase order)
51.2	The period within which payments are made is	<p>For contracts valued below R50 000 000 (Fifty Million Rand) including VAT, Eskom is committed to paying Suppliers within 30 days of submission of a tax compliant invoice with a GR number to Eskom Financial Shared Services.</p> <p>For contracts valued above R50 000 000 (Fifty Million Rand) including VAT, Eskom is committed to paying suppliers within 60 days of submission of a tax compliant invoice with a GR number to Eskom Financial Shared Services.</p>
51.4	The <i>interest rate</i> is	<p>the publicly quoted prime rate of interest (calculated on a 365 day year) charged from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands and</p> <p>(ii) the LIBOR rate applicable at the time for amounts due in other currencies. LIBOR is the 6 month London Interbank Offered Rate quoted under the caption “Money Rates” in The Wall Street Journal for the applicable currency or if no rate is quoted for the currency in question then the rate for United States Dollars, and if no such rate appears in The Wall Street Journal then the rate as quoted by the Reuters Monitor Money Rates Service (or such service as may replace the Reuters Monitor Money Rates Service) on the due date for the payment in question, adjusted <i>mutatis mutandis</i> every 6 months thereafter and as certified, in the event of any dispute, by any manager employed in the foreign exchange department of The Standard Bank of South Africa Limited, whose appointment it shall not be necessary to prove.</p>
6	Compensation events	As per the terms and conditions of the NEC3 Supply Contract (April 2013).
7	Title	As per the terms and conditions of the NEC3 Supply Contract (April 2013).

8	Risks, liabilities, indemnities and insurance	
80.1	These are additional <i>Purchaser’s</i> risks	None
88.1	The <i>Supplier’s</i> liability to the <i>Purchaser</i> for indirect or consequential loss, including loss of profit, revenue and goodwill is limited to	<p>In the event that the appointed successful contractor(s) are unable to meet Eskom’s full requirements of the Purchase Order (PO); Eskom shall implement the following solution:</p> <ul style="list-style-type: none"> • Procure from an alternative contractor(s) at the offered prices and claim the difference from the awarded contractor(s). This shall be dealt with the NEC 3 Supply Contract conditions in terms of clause 88.1 (The Supplier’s liability to the Purchaser for indirect or consequential loss, including loss of profit, revenue and goodwill is limited to the following applies) : Should the Supplier fail to perform in terms of timeous delivery, after remedial measures have been put in place and agreed upon, Eskom reserves the right to purchase the shortfall of goods on order elsewhere. The Supplier will be liable for the total difference in cost of the items relevant to the shortfall, should the purchase price of an Alternative Supplier exceed the Suppliers contracted price for the specific purchase order to which the non-performance is attributed to. • The defaulting contractor(s) will be disqualified from participating in the subsequent RFQ until such time that they close the Notification of default (NOD) or Non-Conformance Report (NCR). <p>Any other matter excluding the above mentioned, where it is proven that the contractor is liable the amount payable will be determined upon investigation</p>
88.2	For any one event, the <i>Supplier’s</i> liability to the <i>Purchaser</i> for loss of or damage to the <i>Purchaser’s</i> property is limited to	<p>(1) for the <i>Purchaser’s</i> existing and surrounding property in the care, custody and control of the <i>Supplier</i> the amount of the deductible (first amount payable) relevant to the event and</p> <p>(2) for all other existing <i>Purchaser’s</i> property the applicable deductible as at contract date</p>
88.3	The <i>Supplier’s</i> liability for Defects due to his design which are not notified before the last <i>defects date</i> is limited to:	The total of the Prices.
88.4	The <i>Supplier’s</i> total liability to the <i>Purchaser</i> , for all matters arising under or in connection with this	The total of the Prices.

	contract, other than the excluded matters, is limited to	
88.5	The <i>end of liability date</i> is	15 years after Delivery of the whole of the goods and services.
9	Termination and dispute resolution	
94.1	The <i>Adjudicator</i> is	the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see www.ice-sa.org.za). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).
94.2(3)	The <i>Adjudicator nominating body</i> is:	the Chairman of ICE-SA, a Division of the South African Institution of Civil Engineering, or its successor body (See www.ice-sa.org.za)
94.4(2)	The <i>tribunal</i> is:	Arbitration
94.4(5)	The <i>arbitration procedure</i> is	the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.
94.4(5)	The place where arbitration is to be held is	South Africa
	The person or organisation who will choose an arbitrator - if the Parties cannot agree a choice or - if the arbitration procedure does not state who selects an arbitrator, is	the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.
10	Data for Option clauses	
X1	Contract Price Adjustment	Prices will be Fixed & Firm for 1 Year and thereafter subject to SEIFSA escalation.
X2	Changes in the law	
X2.1	A change in the law of	is a compensation event if it occurs after the Contract Date.
X7	Delay damages	
X7.1	Delay damages for Delivery are	A delay damage of R30,000/day will be charged capped at 15% of the total purchase order value. Should the capped value be reached, Eskom will reserve the right to purchase the shortfall elsewhere and possibly decide to terminate the contract due to non-performance
X13	Performance bond	

X13.1	The amount of the performance bond is	Not Applicable.
Z	The additional conditions of contract are	Z1 to Z15 always apply for Eskom
Z1	Cession delegation and assignment	
Z1.1	The <i>Supplier</i> does not cede, delegate or assign any of its rights or obligations to any person without the written consent of the <i>Purchaser</i> .	
Z1.2	Notwithstanding the above, the <i>Purchaser</i> may on written notice to the <i>Supplier</i> 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 <i>Supplier</i> 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 <i>Purchaser</i> for the performance of this contract.	
Z2.2	Unless already notified to the <i>Purchaser</i> , the persons or organisations notify the <i>Supply Manager</i> within two weeks of the Contract Date of the key person who has the authority to bind the <i>Supplier</i> on their behalf.	
Z2.3	The <i>Supplier</i> does not alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without the consent of the <i>Purchaser</i> having been given to the <i>Supplier</i> in writing.	
Z3	Change of Broad Based Black Economic Empowerment (B-BBEE) status	
Z3.1	Where a change in the <i>Supplier's</i> legal status, ownership or any other change to his business composition or business dealings results in a change to the <i>Supplier's</i> B-BBEE status, the <i>Supplier</i> notifies the <i>Purchaser</i> within seven days of the change.	
Z3.2	The <i>Supplier</i> is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the <i>Supply Manager</i> within thirty days of the notification or as otherwise instructed by the <i>Supply Manager</i> .	
Z3.3	Where, as a result, the <i>Supplier's</i> B-BBEE status has decreased since the Contract Date the <i>Purchaser</i> may either re-negotiate this contract or alternatively, terminate the <i>Supplier's</i> obligation to Provide the Goods and Services.	
Z3.4	Failure by the <i>Supplier</i> to notify the <i>Purchaser</i> of a change in its B-BBEE status may constitute a reason for termination. If the <i>Purchaser</i> 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 <i>Supplier</i> 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 <i>Supplier</i> , enters the public domain or to information which was already in the possession of the <i>Supplier</i> at the time of disclosure (evidenced by written records in existence at that time). Should the <i>Supplier</i> disclose information to Others in terms of clause 23.1, the <i>Supplier</i> ensures that the provisions of this clause are complied with by the recipient.
Z4.2	If the <i>Supplier</i> is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the <i>Supply Manager</i> .
Z4.3	In the event that the <i>Supplier</i> is, at any time, required by law to disclose any such information which is required to be kept confidential, the <i>Supplier</i> , to the extent permitted by law prior to disclosure, notifies the <i>Purchaser</i> 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 <i>Supplier</i> 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 <i>goods</i> or any portion thereof, in the course of Providing the Goods and Services and after Delivery, requires the prior written consent of the <i>Supply Manager</i> . All rights in and to all such images vests exclusively in the <i>Purchaser</i> .
Z4.5	The <i>Supplier</i> 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 <i>Supply Manager</i> or the <i>Adjudicator</i> 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 <i>Supplier</i> undertakes to take all reasonable precautions to maintain the health and safety of persons in and about the provision of the <i>goods</i> and execution of the <i>services</i> . Without limitation the <i>Supplier</i> : <ul style="list-style-type: none"> • 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 <i>Supplier</i>'s direction and control, likewise observe and comply with the foregoing.
Z6.2	The <i>Supplier</i> , 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 <i>Supplier</i> '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 <i>Supply Manager</i> in terms of core clause 51.1, the <i>Supplier</i> provides the <i>Purchaser</i> with a tax invoice in accordance with the <i>Purchaser's</i> procedures stated in the Goods Information, showing the amount due for payment equal to that stated in the payment certificate.
Z7.2	If the <i>Supplier</i> does not provide a tax invoice in the form and by the time required by this contract, the time by when the <i>Purchaser</i> 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 <i>Purchaser</i> in terms of core clause 51.2 is then calculated from the delayed date by when payment is to be made.
Z7.3	The <i>Supplier</i> (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 <i>Purchaser's</i> VAT number 4740101508 on each invoice he submits for payment.
Z8	Notifying compensation events
Z8.1	As per the terms and conditions of the NEC3 Supply Contract (April 2013).
Z9	<i>Purchaser's</i> limitation of liability
Z9.1	The <i>Purchaser's</i> liability to the <i>Supplier</i> for the <i>Supplier's</i> indirect or consequential loss is limited to R0.00 (zero Rand)
Z9.2	The <i>Supplier's</i> entitlement under the indemnity in 83.1 is provided for in 60.1(12) and the <i>Purchaser's</i> 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 <i>Supplier's</i> payment of delay damages reaches the limits stated in this Contract Data for Option X7, the <i>Purchaser</i> may terminate the <i>Supplier's</i> obligation to Provide the Goods and Services using the same procedures and payment on termination as those applied for reasons R1 to R15 or R18 stated in the Termination Table.
Z12	Ethics
For the purposes of this Z-clause, the following definitions apply:	
Affected Party	means, as the context requires, any party, irrespective of whether it is the <i>Supplier</i> or a third party, such party's employees, agents, or Subcontractors or Subcontractor's employees, or any one or more of all of these parties' relatives or friends,
Coercive Action	means to harm or threaten to harm, directly or indirectly, an Affected Party or the property of an Affected Party, or to otherwise influence or attempt to influence an Affected Party to act unlawfully or illegally,

Collusive Action	means where two or more parties co-operate to achieve an unlawful or illegal purpose, including to influence an Affected Party to act unlawfully or illegally,
Committing Party	means, as the context requires, the <i>Supplier</i> , or any member thereof in the case of a joint venture, or its employees, agents, or Subcontractors or the Subcontractor’s employees,
Corrupt Action	means the offering, giving, taking, or soliciting, directly or indirectly, of a good or service to unlawfully or illegally influence the actions of an Affected Party,
Fraudulent Action	means any unlawfully or illegally intentional act or omission that misleads, or attempts to mislead, an Affected Party, in order to obtain a financial or other benefit or to avoid an obligation or incurring an obligation,
Obstructive Action	means a Committing Party unlawfully or illegally destroying, falsifying, altering or concealing information or making false statements to materially impede an investigation into allegations of Prohibited Action, and
Prohibited Action	means any one or more of a Coercive Action, Collusive Action Corrupt Action, Fraudulent Action or Obstructive Action.
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 <i>Purchaser</i> may terminate the <i>Supplier’s</i> obligation to Provide the Services if a Committing Party has taken such Prohibited Action and the <i>Supplier</i> did not take timely and appropriate action to prevent or remedy the situation, without limiting any other rights or remedies the <i>Purchaser</i> 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 <i>Purchaser</i> can terminate the <i>Supplier’s</i> obligation to Provide the Services for this reason.
Z12.3	If the <i>Purchaser</i> terminates the <i>Supplier’s</i> 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 <i>Purchaser</i> does not have a contractual bond with the Committing Party, the <i>Supplier</i> 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

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

Z 13.2 Replace core clause 87 with the following:

Insurance by the *Purchaser*

87

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

INSURANCE TABLE B

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

Z14 Nuclear Liability

- Z14.1 The *Purchaser* is the operator of the Koeberg Nuclear Power Station (KNPS), a nuclear installation, as designated by the National Nuclear Regulator of the Republic of South Africa, and is the holder of a nuclear licence in respect of the KNPS.
- Z14.2 The *Purchaser* is solely responsible for and indemnifies the *Supplier* or any other person against any and all liabilities which the *Supplier* or any person may incur arising out of or resulting from nuclear damage, as defined in Act 47 of 1999, save to the extent that any liabilities are incurred due to the unlawful intent of the *Supplier* or any other person or the presence of the *Supplier* or that person or any property of the *Supplier* or such person at or in the KNPS or on the KNPS site, without the permission of the *Purchaser* or of a person acting on behalf of the *Purchaser*.
- Z14.3 Subject to clause Z14.4 below, the *Purchaser* waives all rights of recourse, arising from the aforesaid, save to the extent that any claims arise or liability is incurred due or attributable to the unlawful intent of the *Supplier* or any other person, or the presence of the *Supplier* or that person or any property of the *Supplier* or such person at or in the KNPS or on the KNPS site, without the permission of the *Purchaser* or of a person acting on behalf of the *Purchaser*.
- Z14.4 The *Purchaser* does not waive its rights provided for in section 30 (7) of Act 47 of 1999, or any replacement section dealing with the same subject matter.
- Z14.5 The protection afforded by the provisions hereof shall be in effect until the KNPS is decommissioned.

Z15 Asbestos

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

AAIA	means approved asbestos inspection authority.
ACM	means asbestos containing materials.
AL	means action level, i.e. a level of 50% of the OEL, i.e. 0.1 regulated asbestos fibres per ml of air measured over a 4 hour period. The value at which proactive actions is required in order to control asbestos exposure to prevent exceeding the OEL.
Ambient Air	means breathable air in area of work with specific reference to breathing zone, which is defined to be a virtual area within a radius of approximately 30cm from the nose inlet.
Compliance Monitoring	means compliance sampling used to assess whether or not the personal exposure of workers to regulated asbestos fibres is in compliance with the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.
OEL	means occupational exposure limit.
Parallel Measurements	means measurements performed in parallel, yet separately, to existing measurements to verify validity of results.

Safe Levels	means airborne asbestos exposure levels conforming to the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.
Standard	means the <i>Purchaser's</i> Asbestos Standard 32-303: Requirements for Safe Processing, Handling, Storing, Disposal and Phase-out of Asbestos and Asbestos Containing Material, Equipment and Articles.
SANAS	means the South African National Accreditation System.
TWA	means the average exposure, within a given workplace, to airborne asbestos fibres, normalised to the baseline of a 4 hour continuous period, also applicable to short term exposures, i.e. 10-minute TWA.

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

Annexure A: Supply Requirements

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

The Supply Requirements for this contract are as follows:

1. The requirements for the supply are	The supply of Antenna: Robust Low Profile; 824-2500 Mhz within the LimLanga Cluster (Mpumalanga and Limpopo Operating Unit) on an “as and when” required basis over a period of 60 months.	
2. The requirements for transport are	Eskom Rotek Industries	
3. The delivery place is	To be stipulated in respective purchase orders.	
4. Actions of the Parties during supply	Action	Party which does it
	Giving notice of Delivery	<i>Supplier</i>
	Checking packing and marking before dispatch	<i>Supplier</i>
	Contracting for transport	<i>Purchaser(Rotran)</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>Purchaser</i>
	Visual inspection; Testing; Measurements verification activities (Delivery note indication)	<i>Purchaser</i>
For international procurement	Undertake export requirements	N/A
	Undertake import requirements	Supplier where applicable
5. Information to be provided by the Supplier	Title of document	
	Packing lists for cases and their contents	
	Copy of invoice for the <i>goods</i>	
	Delivery Note	
	Test results and maintenance manuals	
For international procurement	Licences, authorisations and other formalities associated with export of the <i>goods</i>	
	Air Waybill or Bill of Lading with associated landing, delivery and forwarding order	
	The Bill of Entry endorsed by the importation authority	

	Customs work sheets, showing tax, duties and surcharges which the law of the country into which the <i>goods</i> are being imported requires the importer to pay
	Invoice from the importation clearing agent showing airline fees, landing charges, wharfage and dock dues as applicable
	Specify other import documents required by authorised officials.

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

C1.2 Contract Data

Part two - Data provided by the *Supplier*

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:	Part of scope of works.
11.2(11)	The contracted total of the Prices is	To be stipulated in respective purchase orders.
11.2(12)	The <i>price schedule</i> is in:	C2 SC3 Pricing Data and to be stipulated in respective purchase orders.
11.2(14)	The following matters will be included in the Risk Register	<ol style="list-style-type: none"> 1. Late deliveries 2. Supply of incorrect product / product out of Eskom designs / specifications. 3. Manufacturing of equipment without an approved Task Order
25.2	The restrictions to access for the <i>Supply Manager</i> and Others to work being done for this contract are	None
30.1	The <i>delivery date</i> of the <i>goods</i> and <i>services</i> is:	<i>The delivery date will be specified in each Purchase Order</i>
31.1	The programme identified in the Contract Data is contained in:	The <i>Supplier</i> submits a first programme to the Supply Manager for the acceptance within one week period after the purchase order date as stated in the Contract Data
63.2	The <i>percentage for overheads and profit</i> added to the Defined Cost is	10%

C1.3 Forms of Securities (N/A)

Pro formas for Bonds & Guarantees

For use with the NEC3 Supply Contract (SC3)

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

Option X4: Parent company guarantee

Option X13: Performance bond

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

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

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

PART 2: PRICING DATA

NEC3 Supply Contract

Document reference	Title	
C2.1	Pricing assumptions	
C2.2	The <i>price schedule</i>	

C2.1 Pricing assumptions

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

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

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

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.

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.

Preparing the *price schedule*

Items in the *price schedule* may have been inserted by the *Purchaser* and the contracting 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 contracting 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 contracted 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 contract. 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.

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 contracting 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 contracting 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 contracting *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*

Material	Short Text	Quantity	Price/unit excluding VAT R	Total excluding VAT R
0708077	<p>Antenna: Robust Low Profile; 824-2500 MHZ Antenna: type: robust low profile; frequency: 824-2500 MHZ; dimensions: DIA 100 x LG 70 x THK 50 (max) mm; material: resin filled uvstabilised; gain: high gain; drawing no: DDT-9503 Rev 0; mount: barrel nipple m20, nut M20; C/W low loss cable 2 m, male SMA connector, LMR195</p>	6 000		

NOTE: Collection and Transportation will be undertaken by Eskom Rotek Industries (ERI) for Eskom’s account.

Offered delivery Lead time: _____ weeks

Contract Price Adjustment (CPA):

The rates will be fixed and firm for the first 12 months of the contract. At the anniversary date of the contract start, the prices will be adjusted in accordance with the published SEIFSA INDICES. SEIFSA Table D will be utilised for this transaction.

PART 3: SCOPE OF WORK

The supply of Antenna: Robust Low Profile; 824-2500 Mhz within the LimLanga Cluster (Mpumalanga and Limpopo Operating Unit) on an “as and when” required basis over a period of 60 months.

Document reference	Title	
	This cover page	
C3.1	<i>Purchaser's</i> Goods Information	
C3.2	<i>Supplier's</i> Goods Information	

C3.1: PURCHASER’S GOODS INFORMATION

1 Overview and purpose of the goods and services

The antennas are plugged in the modem, which is connected to the Small Power User (SPU) and Large Power User (LPU) meters, they are also used for data concentrator (DC) and once plugged the antennas will then serve as an enhancement to the connectivity of the modem.

2 Specification and description of the goods

The high-level scope of work is as follows:

The supply of Antenna: Robust Low Profile; 824-2500 Mhz within the LimLanga Cluster (Mpumalanga and Limpopo Operating Unit) on an “as and when” required basis over a period of 60 months.

Material	Short Text	Quantity requested (each)
0708077	<p>Antenna: Robust Low Profile; 824-2500 MHZ Antenna: type: robust low profile; frequency: 824-2500 MHZ; dimensions: DIA 100 x LG 70 x THK 50 (max) mm; material: resin filled uvstabilised; gain: high gain; drawing no: DDT-9503 Rev 0; mount: barrel nipple m20, nut M20; C/W low loss cable 2 m, male SMA connector, LMR195</p>	6000

2.1 Procedure for submission and acceptance of Supplier’s design

N/A

2.2 Other requirements of the Supplier’s design

N/A

2.3 Use of Supplier’s design

N/A

2.4 Manufacture & fabrication

The Supplier warrants that’s the goods and material are new, unused as per Purchaser standard, and fit for purpose to be used in the final destination and other locations stated in the Goods Information.

2.5 Factory acceptance testing (FAT)

Purchaser to perform factory acceptance testing (FAT) for the first consignment.

A manufacturing Quality Control plan detailing all the manufacturing activities and QC interventions to be submitted 30 days after contract award and to be used a basis for performing Factory acceptance testings (FATs)

Where the products are manufactured in South Africa, a notification of inspection must be communicated at least 7 (seven) working days prior to the testing.

After contract award, *Purchaser* shall at Eskom’s sole discretion evaluate the *goods* at any stage during the manufacturing and fabrication process to determine that the *goods* meet the requirements of the specification.

2.6 Other tests and inspections and commissioning in place of use

N/A

2.7 Operating manuals and maintenance schedules

N/A

3 Specification of the services to be provided

N/A

4 Constraints on how the Supplier Provides the Goods

4.1 Programming constraints

None

4.2 Work to be done by the Delivery Date

All Work to be done will be stated in the Task Order.

4.3 Cooperating with Others

N/A

4.4 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 and when necessary	Alternate between <i>Supplier & Purchaser</i> premise OR Virtually	<i>Purchaser, Supplier,</i> and others that may be invited
Overall contract progress and feedback	Quarterly Progress review meeting	Alternate between <i>Supplier & Purchaser</i> premise OR Virtually	<i>Purchaser, Supplier</i> and others that may be invited

Technical and Quality	Once or Twice a year	Alternate between <i>Supplier & Purchaser</i> premise OR Virtually	<i>Purchaser, Supplier</i> and others that may be invited
Performance review – draw a report of task orders issued; delivery dates met; visual inspection deviations noted; price within	Every 12 months of the contract	Alternate between <i>Supplier & Purchaser</i> premise OR Virtually	<i>Purchaser, Supplier</i> and others that may be invited

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.

4.5 Documentation control

All communication is to be channelled through the *Purchaser’s Representative* and *Suppliers* key person.

4.6 Health and safety risk management

It should be noted that this contract is exempted from the OHS prerequisites for contracting process because Eskom Rotek Industries will be responsible for the transportation of the goods.

4.7 Environmental constraints and management

N/A

4.8 Quality

Contract Execution

The *Supplier* shall submit the following documents within 30 days or as per stated timeline after the Contract Date, prior to the commencement of work, for acceptance by Eskom:

- A manufacturing Quality Control plan detailing all the manufacturing activities and QC interventions to be submitted 30 days after contract award and to be used a basis for performing Factory acceptance testing (FATs)
- The *Supplier* shall complete a Method Statement (QCP) before contract award. This shall be reviewed and signed off by Eskom within 30 days or as per stated timeline after contract award.
- The *Supplier* shall complete a quality control plan and ITP(s) for review and acceptance by Eskom prior to the commencement of any work, inclusive of subcontracted work, within 30 days or as per stated timeline after contract award.
- The sub-supplier QCP/ ITP shall be submitted for review and comment by the *Supplier* and by Eskom within 30 days or as per stated timeline after the award of the contract. All *Supplier* and Eskom comments shall be resolved prior to commencing work.
- The equipment lists and an indication of pressurised components and systems.

Note: These plans are to be compiled in line with Eskom's requirements and will have to be discussed with, and approved by, Eskom prior to any work commencing.

- Correspondence shall be directed to the *Supply Manager*, and periodic quality review meetings shall be convened by Eskom with the *Supplier*.
- The mandatory quality review meetings are to be convened by the nominated project quality manager or his/her representative for the contract.
- Monthly quality performance and management reports are to be prepared by the *Supplier* during contract execution. The content of these reports shall be agreed by Eskom when submitted to Eskom on a monthly basis.

Supplier Quality Performance Monitoring Phase

The *Supplier* shall adhere to the *Supplier Contract Quality Requirements Specification QM58 (240-105658000)* during the contract execution, with special reference but not limited to:

- (Reference 3.5.2) The *Supplier* shall submit the following documents 30 (thirty) days after contract award:
- A Contract Quality Plan and QCP/ITP(s) for review and acceptance by the *Purchaser* prior to the commencement of any work, inclusive of subcontracted work. This shall be reviewed and signed off by the *Purchaser*.
- QCP/ITP(s) during contract execution shall be adhered to.
- *Purchaser* to perform first consignment release, a self - release will be issued *Supplier* upon satisfactory report.
- *Supplier* to keep record of non-conformance & inspection defect/reject reports and Non-conformance Reports to be reconcile with the record of the *Purchaser* during interphase meeting.

4.9 Invoicing and payment

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

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

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

Tax invoices must be sent to INVOICESESKOMLOCAL@ESKOM.CO.ZA for processing

4.10 Insurance provided by the Purchaser

As per NEC Core Clause 8.

4.11 Contract change management

N/A

4.12 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.

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

N/A

5 Procurement

5.1 Subcontracting

5.1.1 Preferred subcontractors

The target for subcontracting is minimum of 30% of the local content.

The allocation of the sub-contracted amount shall be 30% of the contract value to QSE’s and EME’s with minimum 51% black ownership

5.1.2 Limitations on subcontracting

Subcontracting must be approved by the Purchaser.

SDL&I TARGETS

Application of Objective Criteria

The inclusion of objective criteria is not mandatory but a condition for contract award. If the tenderer does not meet objective criteria; it may lead to the second-ranked tenderer being recommended for award.

Designated Sectors

When applicable the following stipulated minimum threshold for Local Production and Content must be achieved in full by the tenderer

a) Is this Commodity or part of it a Designated

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

 Sector?

Please indicate below Designated Components

Commodity	Components	Local Content Threshold
Radio Terminal-Mobile radio	Antenna	100%

NOTE: SBD 6.2 Declaration Form and Annex C (Local Content Declaration-Summary Schedule) are therefore mandatory and must be tender returnables if applicable.

Section 3: SDL&I Objectives in line with Reconstruction and Development Programme (RDP) Goals

Tenderers who complete and submit the objectives as required, but who do not meet Eskom’s targets, will not be disqualified. SDL&I objectives do not form part of scoring but commitments will form part of contractual obligations

1. Transformation – BBBEE Improvement or Retention Plan

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.

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, the tender response must be separated into its components as per the Price Schedule included with the tender documents. Local procurement content is total spending minus the imported component.

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

Local Procurement Content	Eskom Target	Tenderer Proposal
	100%	

3. Jobs.

Successful tenderers will be required to report on the number of jobs created and or retained as a direct result of being awarded this contract.

4. Skills development

Not applicable

Section 4: SDL&I Penalty and Performance Security

Eskom will apply a penalty of 2.5% of the invoice amount for failure to meet SDL&I obligations.

Eskom will apply a penalty of 2.5% of the Contract Value for failure to meet SDL&I obligations. For the duration of the contract, Eskom will retain 2.5% of every invoice (excluding VAT) as security for the fulfilment of all SDL&I Obligations. The retained amounts shall only be released to the Contractor upon:

- Eskom receives the SDL&I progress report/s from the contractor.
- Fulfilment of all SDL&I obligations by the contractor.
- Submission of an approved compliance report by SDL&I Department

Section 5: Reporting and Monitoring

- The suppliers shall on a 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 30 (thirty) 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.
- Every contract shall be accompanied by the SDL&I Implementation Schedule, which must be completed by the suppliers and returned to SDL&I representative for acceptance 28 days after contract award. This will be used as a reference document for monitoring, measuring and reporting on the supplier's progress in delivering on their stated SDL&I commitments.

Section 6: General Information on Validity of Sworn Affidavits

The following must be considered when it comes to validity of Affidavits:

Tenderers submitting B-BBEE Sworn Affidavits must ensure that the affidavits meet the following key pointers to ensure their validity:

- Name/s of deponent as they appear in the identity document and the identity number.
- Designation of the deponent as the director, owner or member must be indicated in order to know that person is duly authorised to depose of an affidavit. (Mark the applicable option).
- Name of enterprise as per enterprise registration documents issued by the CIPC, where applicable, and enterprise business address.
- Percentage of black ownership, black female ownership and designated group. In the case of specialised enterprises as per Statement 004, the percentage of black beneficiaries must be reflected. (No blank spaces to be left).
- Indicate total revenue for the year under review and whether it is based on audited financial statements or management account. (Mark the applicable option).
- Financial year end as per the enterprise's registration documents, which was used to determine the total revenue. (Financial year end to be stipulated by day/month/year).
- B-BBEE Status level. An enterprise can only have one status level. (Tick applicable level)
- Empowering supplier status must be indicated. For QSEs, the deponent must select the basis for the empowering supplier status.
- Date deponent signed and date of Commissioner of Oath must be the same. (The sworn affidavit must be signed in the presence of the Commissioner of Oath. Furthermore the Commissioner must also sign and stamp)

The supply of Antenna: Robust Low Profile; 824-2500 Mhz within the LimLanga Cluster (Mpumalanga and Limpopo Operating Unit) on an “as and when” required basis over a period of 60 months.

Commissioner of Oath cannot be an employee or ex officio of the enterprise because, a person cannot by law, commission a sworn affidavit in which they have an interest.

1 List of drawings

1.1 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.

Material	Short Text	Quantity requested (each)
0708077	Antenna: Robust Low Profile; 824-2500 MHZ Antenna: type: robust low profile; frequency: 824-2500 MHZ; dimensions: DIA 100 x LG 70 x THK 50 (max) mm; material: resin filled uvstabilised; gain: high gain; drawing no: DDT-9503 Rev 0; mount: barrel nipple m20, nut M20; C/W low loss cable 2 m, male SMA connector, LMR195	6000