

NEC3 Term Service Contract (TSC3)

Between **ESKOM ROTEK INDUSTRIES SOC Ltd**
(Reg No. 1990/006897/30)

and
Reg No.

for **The Supply, Manufacture, Commission 12M 11KV
Mobile Container for the Housing of Switchgear
Panels and Battery Tripping Unit**

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CONTRACT No.

[Insert at award stage]

**Documentation prepared
by:**

Eskom Rotek Industries SOC Limited Procurement
Heritage Office Park
Lower Germiston Road
Rosherville

PART C1: AGREEMENTS & CONTRACT DATA

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C1.1 Form of Offer & Acceptance

Offer

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

The Supply, Manufacture, Commission 12M 11KV Mobile Container for the Housing of Switchgear Panels and Battery Tripping Unit.

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

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

Options A	The offered total of the Prices exclusive of VAT is	R
	Value Added Tax @ 15% is	R
	The offered total of the amount due inclusive of VAT is ¹	R
In words		

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

Signature(s)

Name(s) _____

Capacity _____

For the tenderer:

Name & signature of witness

Date

Tenderer's CIDB registration number:

Acceptance

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

The terms of the contract, are contained in:

- Part C1 Agreements and Contract Data, (which includes this Form of Offer and Acceptance)
- Part C2 Pricing Data
- Part C3 Scope of Work: Service Information and drawings and documents (or parts thereof), which may be incorporated by reference into the above listed Parts

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

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

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

Signature(s)

Name(s)

Capacity

**for the
Employer**

.....
**Eskom Rotek Industries SOC Ltd, Lower Germiston Road,
Rosherville, Cleveland, Johannesburg, 2001**

Name &
signature of
witness

.....
Date

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

Note:

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

No.	Subject	Details
1	[•]	[•]
2	[•]	[•]
3	[•]	[•]
4	[•]	[•]

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

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

For the tenderer:

For the Employer

Signature

Name

Capacity

On behalf
of

Name &
signature
of witness

Date

Eskom Rotek Industrial SOC Ltd

C1.2 TSC3 Contract Data

Part one - Data provided by the *Employer*

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 main Option:	
	<div style="background-color: #cccccc; width: 100px; height: 50px; margin-bottom: 10px;"></div> dispute resolution Option and secondary Options v	A: Priced contract with price list W1: Dispute resolution procedure X1: Price Adjustment for inflation X2: Changes in the law X17: Low performance damages X19: Task Order Z: Additional conditions of contract
	of the NEC3 Term Service Contract April 2013 (TSC3)	
10.1	The <i>Employer</i> is (name):	Eskom Rotek Industries SOC Ltd (Reg no: 1990/006897/30), a state-owned company incorporated in terms of the company laws of the Republic of South Africa
	Address	Registered Address: Roshland Office Park Brown Route Lower Germiston Road Rosherville 2094
	Tel No.	Postal Address: PO Box 40870 Cleveland 2022 011 629 8000
10.1	The <i>Service Manager</i> is (name):	Joseph Ledwaba
	Address	Roshland Office Park Brown Route Lower Germiston Road

Rosherville 2094

Tel 011 629 8000

E-mail Ledwabjr@eskom.co.za

11.2(2)	The Affected Property is	Tutuka Power Station Sites
11.2(13)	The <i>service</i> is	The Supply, Manufacture, Commission 12M 11KV Mobile Container for the Housing of Switchgear Panels and Battery Tripping Unit.
11.2(14)	The following matters will be included in the Risk Register	1. Non- Compliance to Eskom Technical specifications
11.2(15)	The Service Information is in	Scope of Services.
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	5 Calendar Days
2	The Contractor's main responsibilities	Data required by this section of the core clauses is also provided by the <i>Contractor</i> in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data
21.1	The <i>Contractor</i> submits a first plan for acceptance within	One week of the Contract Date

3 Time

30.1	The <i>starting date</i> is.	01 August 2024									
30.1	The <i>delivery date</i> of the <i>goods and services</i> is:	<table border="1"> <thead> <tr> <th></th> <th><i>Goods and services</i></th> <th><i>delivery date</i></th> </tr> </thead> <tbody> <tr> <td>1</td> <td>1st Batch Delivery location to be advised upon issue of PO</td> <td>01 September 2024</td> </tr> <tr> <td></td> <td>2nd Batch</td> <td>TBC</td> </tr> </tbody> </table>		<i>Goods and services</i>	<i>delivery date</i>	1	1 st Batch Delivery location to be advised upon issue of PO	01 September 2024		2 nd Batch	TBC
	<i>Goods and services</i>	<i>delivery date</i>									
1	1 st Batch Delivery location to be advised upon issue of PO	01 September 2024									
	2 nd Batch	TBC									
31.1	The <i>Contractor</i> is to submit a first programme for acceptance within	Delivery schedule required on weekly basis									

4 Testing and defects

40.1	The <i>Contractor</i> submits the following tests and inspections	<ul style="list-style-type: none"> FAT, Pressure tests and COC
40.2	The <i>Contractor</i> will provide;	Records, datasheets, materials, facilities and samples for all tests and inspections
40.3	The notification period for test and inspections	Contractor will notify the Service Manager five days after contract starting date

40.4	Correction of a defect	Defects will be corrected by the Contractor and Clauses 40.1 and 40.2 will apply
40.6	The costs for the correction of defects will be	For the Contractor's account – inclusive of delivery and off-loading costs
41.1	The Contractor does not bring the goods to the Delivery Place	Before inspections and testing.
42	The defects date is	52 weeks after delivery of goods and services
42.1	The defect correction period is	2 weeks after delivery of goods and services
42.2	The defects access period is	1 Week
43.1	The costs for correcting defects not corrected by the Contractor	Will be for the Contractor's account – inclusive of delivery and off-loading costs
5	Payment	
50.1	The <i>assessment interval</i> is	Between the 25 th day of each successive month.
51.1	The <i>currency of this contract</i> is the	South African Rand
51.2	The period within which payments are made is	30 days from issue of invoice
51.4	The <i>interest rate</i> is	The publicly quoted prime rate of interest (calculated on a 365-day year) charged by from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rand.
6	Compensation Events	
		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	Use of Equipment Plant and Material	
		There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data
8	Risks and insurance	
80.1	These are additional <i>Employer's</i> risks	Not Applicable.
83.1	The <i>Contractor</i> provides these insurances from the Insurance table:	As stated for "Format TSC3" available on http://www.eskom.co.za/live/content.php?item D=9248 (see Annexure A for basic guidance)
83.1	The <i>Contractor</i> provides these additional insurances:	As stated for "Format TSC3" available on http://www.eskom.co.za/live/content.php?item D=9248

		(see Annexure A for basic guidance)
83.1	The minimum amount of cover for insurance against loss and damage caused by the <i>Contractor</i> to the <i>Employer's</i> property is	The amount of the deductibles relevant to the event described in the "Format TSC3" insurance policy available on http://www.eskom.co.za/live/content.php?item D=9248 (see Annexure A for basic guidance)
83.1	The minimum amount of cover for insurance in respect of loss of or damage to property (except the <i>Employer's</i> property, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Contractor</i>) arising from or in connection with the <i>Contractor's</i> Providing the Service for any one event is:	Whatever the <i>Contractor</i> deems necessary in addition to that provided by the <i>Employer</i> .
83.1	The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the <i>Contractor</i> arising out of and in the course of their employment in connection with this contract for any one event is:	As prescribed by the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 and the <i>Contractor's</i> common law liability for people falling outside the scope of the Act with a limit of Indemnity of not less than R 500 000 (Five Hundred Thousand Rands).
9	Termination	Notice period – 30 days
10	Data for main Option clause	
A	Priced contract with price list	
20.5	The <i>Contractor</i> prepares forecasts of the final total of the Prices for the whole of the <i>service</i> at intervals no longer than	2 weeks.
11	Data for Option W1	
W1.1	The <i>Adjudicator</i>	The person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (See www.ice-sa.org.za). If the Parties do not agree on an <i>Adjudicator</i> the <i>Adjudicator</i> will be appointed by the <i>Arbitration</i> Foundation of Southern Africa (AFSA).
W1.2(3)	The <i>Adjudicator nominating body</i> is:	The Chairman of ICE-SA a joint Division of the South African Institution of Civil Engineering and the Institution of Civil Engineers (London) (see www.ice-sa.org.za) or its successor body.
W1.4(2)	The <i>tribunal</i> is:	arbitration
W1.4(5)	The <i>arbitration procedure</i> is	The latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern

		Africa) or its successor body.
	The place where arbitration is to be held is	South Africa
	The person or organisation who will choose an arbitrator	
	- if the Parties cannot agree a choice or	The Chairman for the time being or his
	- if the arbitration procedure does not state who selects an arbitrator, is	nominee of the Association of Arbitrators (Southern Africa) or its successor body.

12	Data for secondary Option clauses	
X1	Price Adjustment for inflation	
X1.1	The base date for indices is	Not applicable
	The proportions used to calculate the Price Adjustment Factor are:	<u>Refer to price adjustment.</u>
	CPA indices to be provided at issue of contract to determine the base dates.	<u>Refer to price adjustment</u>
X2	Changes in the Law	
X2.1	A Change in the law in	South Africa, this is a compensation event if the change happens after the Contract Date
X7	Delay damages	
	Delivery to site	R 5000 per day up to 5 % of the contract value
X16	Retention	
X16.1	The retention fee amount	10% of the contract value
X17	Low performance damage	
X19	Task Order	
X19.5	The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within	05 days of receiving the Task Order
Z	The additional conditions of contract are	Z1 to Z15 always apply.
Z1	Cession delegation and assignment	
Z1.1	The <i>Contractor</i> does not cede, delegate, or assign any of its rights or obligations to any person without the written consent of the <i>Employer</i> .	
Z1.2	Notwithstanding the above, the <i>Employer</i> may on written notice to the <i>Contractor</i> cede and delegate its rights and obligations under this contract to any of its present divisions or operations which may be converted into separate legal entities or to Eskom SOC Limited or any of Eskom SOC Limited's subsidiaries.	

Z2	Joint ventures
Z2.1	Not Applicable.
Z3	Change of Broad Based Black Economic Empowerment (B-BBEE) status
Z3.1	Where a change in the <i>Contractor's</i> legal status, ownership or any other change to his business composition or business dealings results in a change to the <i>Contractor's</i> B-BBEE status, the <i>Contractor</i> notifies the <i>Employer</i> within seven days of the change.
Z3.2	The <i>Contractor</i> is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the <i>Service Manager</i> within thirty days of the notification or as otherwise instructed by the <i>Service Manager</i> .
Z3.3	Where, as a result, the <i>Contractor's</i> B-BBEE status has decreased since the Contract Date the <i>Employer</i> may either re-negotiate this contract or alternatively, terminate the <i>Contractor's</i> obligation to Provide the Service.
Z3.4	Failure by the <i>Contractor</i> to notify the <i>Employer</i> of a change in its B-BBEE status may constitute a reason for termination. If the <i>Employer</i> terminates in terms of this clause, the procedures on termination are P1, P2 and P4 as stated in clause 92, and the amount due is A1 and A3 as stated in clause 93.
Z4	Ethics
Z4.1	Any offer, payment, consideration, or benefit of any kind made by the <i>Contractor</i> , which constitutes or could be construed either directly or indirectly as an illegal or corrupt practice, as an inducement or reward for the award or in execution of this contract constitutes grounds for terminating the <i>Contractor's</i> obligation to Provide the Service or taking any other action as appropriate against the <i>Contractor</i> (including civil or criminal action).
Z4.2	The <i>Employer</i> may terminate the <i>Contractor's</i> obligation to Provide the Service if the <i>Contractor</i> (or any member of the <i>Contractor</i> where the <i>Contractor</i> constitutes a joint venture, consortium or other unincorporated grouping of two or more persons or organisations) is found guilty by a competent court, administrative or regulatory body of participating in illegal or corrupt practices. Such practices include making of offers, payments, considerations, or benefits of any kind or otherwise, whether in connection with any procurement process or contract with the <i>Employer</i> or other people or organisations and including in circumstances where the <i>Contractor</i> or any such member is removed from the an approved vendor data base of the <i>Employer</i> as a consequence of such practice.
Z4.3	Notwithstanding the provisions of core clause 90.2, the procedures on termination in terms of this clause are P1, P2 and P4 as stated in the core clause 92 and the amount due is A1 and A3 as stated in core clause 93.
Z5	Confidentiality
Z5.1	The <i>Contractor</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>Contractor</i> , enters the public domain or to information which was already in the possession of the <i>Contractor</i> at the time of disclosure (evidenced by written records in existence at that time). Should the <i>Contractor</i> disclose information to Others in terms of clause 25.1, the <i>Contractor</i> ensures that the provisions of this clause are complied with by the recipient.
Z5.2	If the <i>Contractor</i> is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the <i>Service Manager</i> .
Z5.3	In the event that the <i>Contractor</i> is, at any time, required by law to disclose any such information which is required to be kept confidential, the <i>Contractor</i> , to the extent permitted by law prior to disclosure, notifies the <i>Employer</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 *Contractor* may disclose that portion of the information which it is required to be disclosed by law and uses reasonable efforts to obtain assurances that confidential treatment will be afforded to the information so disclosed.

Z5.4 The taking of images (whether photographs, video footage or otherwise) of the Affected Property or any portion thereof, in the course of Providing the Service and after the end of the *service period*, requires the prior written consent of the *Service Manager*. All rights in and to all such images vests exclusively in the *Employer*.

Z5.5 The *Contractor* ensures that all his Contractors abide by the undertakings in this clause.

Z6 Waiver and estoppel: Add to core clause 12.3:

Z6.1 Any extension, concession, waiver or relaxation of any action stated in this contract by the Parties, the *Service Manager* or the *Adjudicator* does not constitute a waiver of rights, and does not give rise to an estoppel unless the Parties agree otherwise and confirm such agreement in writing.

Z7 Health, safety, and the environment: Add to core clause 27.4

Z7.1 The *Contractor* undertakes to take all reasonable precautions to maintain the health and safety of persons in and about the execution of the *service*. Without limitation the *Contractor*:

- Accepts that the *Employer* may appoint him as the “Principal Contractor” (as defined and provided for under the Construction Regulations 2014 (promulgated under the Occupational Health & Safety Act 85 of 1993) (“the Construction Regulations”) for the Affected Property;
- warrants that the total of the Prices as at the Contract Date includes a sufficient amount for proper compliance with the Construction Regulations, all applicable health & safety laws and regulations and the health and safety rules, guidelines and procedures provided for in this contract and generally for the proper maintenance of health & safety in and about the execution of the *service*; and
- Undertakes, in and about the execution of the *service*, to comply with the Construction Regulations and with all applicable health & safety laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his *Contractors*, employees and others under the *Contractor’s* direction and control, likewise observe and comply with the foregoing.

Z7.2 The *Contractor*, in and about the execution of the *service*, complies with all applicable environmental laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his *Contractors*, *employees* and others under the *Contractor’s* direction and control, likewise observe and comply with the foregoing.

Z8 Provision of a Tax Invoice and interest. Add to core clause 51

Z8.1 Within one week of receiving a payment certificate from the *Service Manager* in terms of core clause 51.1, the *Contractor* provides the *Employer* with a tax invoice in accordance with the *Employer’s* procedures stated in the Service Information, showing the amount due for payment equal to that stated in the payment certificate.

Z8.2 If the *Contractor* does not provide a tax invoice in the form and by the time required by this contract, the time by when the *Employer* is to make a payment is extended by a period equal in time to the delayed submission of the correct tax invoice. Interest due by the *Employer* in terms of core clause 51.2 is then calculated from the delayed date by when payment is to be made.

Z8.3 The *Contractor* (if registered in South Africa in terms of the companies Act) is required to comply with the requirements of the Value Added Tax Act, no 89 of 1991 (as amended) and to include the *Employer’s* VAT number 4330196330 on each invoice he submits for payment.

Z9 Notifying compensation events

Z9.1 Delete the last paragraph of core clause 61.3 and replace with:

If the *Contractor* does not notify a compensation event within eight weeks of becoming aware of

the event, he is not entitled to a change in the Prices.

Z10 *Employer's limitation of liability*

- Z10.1 The *Employer's* liability to the *Contractor* for the *Contractor's* indirect or consequential loss is limited to R0.00 (zero Rand)
- Z10.2 The *Contractor's* entitlement under the indemnity in 82.1 is provided for in 60.1(14) and the *Employer's* liability under the indemnity is limited to compensation as provided for under the compensation events stated in this contract

Z11 **Termination: Add to core clause 91.1, at the second main bullet point, fourth sub-bullet point, after the words "against it":**

- Z11.1 Or had a business rescue order granted against it.

Z12 **Ethics**

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

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

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

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

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

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

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

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

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

- Z 12.1 A Committing Party may not take any Prohibited Action during the course of the procurement of this contract or in execution thereof.
- Z 12.2 The Purchaser may terminate the Contractor's obligation to Provide the Goods and Services if a Committing Party has taken such Prohibited Action and the Contractor did not take timely and appropriate action to prevent or remedy the situation, without limiting any other rights or remedies the 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 Contractor's obligation to Provide the Goods and Services for this reason.
- Z 12.3 If the Purchaser terminates the Contractor's obligation to Provide the Goods and Services for this reason, the procedures and amounts due on termination are respectively P1, P2 and P3,

and A1 and A3.

Z 12.4 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 Contractor ensures that the Committing Party co-operates fully with an investigation.

Z13 Insurance

Z 13.1 Replace core clause 84 with the following:

Insurance cover 84

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

INSURANCE TABLE A

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

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

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

INSURANCE TABLE B

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

Z14 Nuclear Liability

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

Z15 Asbestos

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

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

- Z15.1 The *Employer* ensures that the Ambient Air in the area where the *Contractor* will Provide the Services conforms to the acceptable prescribed South African standard for asbestos, as per the regulations published in GNR 155 of 10 February 2002, under the Occupational Health and Safety Act, 1993 (Act 85 of 1993) ("Asbestos Regulations"). The OEL for asbestos is 0.2 regulated asbestos fibres per millilitre of air as a 4-hour TWA, averaged over any continuous period of four hours, and the short term exposure limit of 0.6 regulated asbestos fibres per millilitre of air as a 10-minute TWA, averaged over any 10 minutes, measured in accordance with HSG248 and monitored according to HSG173 and OESSM.
- Z15.2 Upon written request by the *Contractor*, the *Employer* certifies that these conditions prevail. All measurements and reporting are effected by an independent, competent, and certified occupational hygiene inspection body, i.e. a SANAS accredited and Department of Employment and Labour approved AAIA. The *Contractor* may perform Parallel Measurements and related control measures at the *Contractor's* expense. For the purposes of compliance the results generated from Parallel Measurements are evaluated only against South African statutory limits as detailed in clause Z15.1. Control measures conform to the requirements stipulated in the AAIA-approved asbestos work plan.
- Z15.3 The *Employer* manages asbestos and ACM according to the Standard.
- Z15.4 In the event that any asbestos is identified while Providing the Services, a risk assessment is conducted and if so required, with reference to possible exposure to an airborne concentration of above the AL for asbestos, immediate control measures are implemented and relevant air monitoring conducted in order to declare the area safe.

- Z15.5 The *Contractor's* personnel are entitled to stop working and leave the contaminated area forthwith until such time that the area of concern is declared safe by either Compliance Monitoring or an AAIA approved control measure intervention, for example, per the emergency asbestos work plan, if applicable.
- Z15.6 The *Contractor* continues to Provide the Services, without additional control measures presented, on presentation of Safe Levels. The contractually agreed dates to Provide the Services, including the Completion Date, are adjusted accordingly. The contractually agreed dates are extended by the notification periods required by regulations 3 and 21 of the Asbestos Regulations, 2001.
- Z15.7 Any removal and disposal of asbestos, asbestos containing materials and waste, is done by a registered asbestos contractor, instructed by the *Employer* at the *Employer's* expense, and conducted in line with South African legislation.

Annexure A: Insurance provided by the Employer

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

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

http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx

C1.2 Contract Data

Part two - Data provided by the *Contractor*

Notes to a tendering *contractor*:

1. Please read both the both the NEC3 Term Service Contract April 2013 and the relevant parts of its Guidance Notes (TSC3-GN)² 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.

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

Clause	Statement	Data
10.1	The <i>Contractor</i> is (Name): Address Tel No. Fax No.	
11.2(8)	The <i>direct fee percentage</i> is The <i>subcontracted fee percentage</i> is	
11.2(14)	The following matters will be included in the Risk Register	Late Completion of the manufacturing
11.2(15)	The Service Information for the <i>Contractor's</i> plan is in:	
21.1	The plan identified in the Contract Data is contained in:	
A	Priced contract with price list	
11.2(12)	The <i>price list</i> is in	Part 2 Pricing Data
11.2(19)	The tendered total of the Prices is	

² Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 5391902 or www.ecs.co.za

PART 2: PRICING DATA

TSC3 Option A

Document reference	Title	No of pages
C2.1	Pricing assumptions: Option A	[]
C2.2	The <i>price list</i>	[]

C2.1 Pricing assumptions: Option A

1.1 How work is priced and assessed for payment

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

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

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

1.2 Measurement and Payment

- 1.2.1 The Price List provides the basis for all valuations of the Price for Services provided to Date, payments in multiple currencies and general monitoring.
- 1.2.2 The amount due at each assessment date is based on activities and/or milestones completed as indicated on the Price List.
- 1.2.3 The Price List work breakdown structure provided by the *Contractor* is based on the activity/milestone provided by the *Employer*. The activities listed by the *Employer* are the minimum activities acceptable and identify the specific activities which are required to achieve Completion. The Price List work breakdown structure is compiled to the satisfaction of the *Employer* with any additions and/or amendments deemed necessary.
- 1.2.4 The *Contractor's* detailed Price List summates back to the activity/milestone provided by the *Employer* and is sufficient detail to monitor completion of activities related to operations on the Accepted Plan in order for payment of completed activities may be assessed.
- 12.5 The prices are obtained from the Price List. The Prices includes for all direct and indirect cost, overheads, profits, risks, liabilities, obligations, etc. relative to the contract.

C2.2 the *price list*

Part 3: Scope of Work

Document reference	Title	No of pages
	This cover page	[]
C3.1	<i>Employer's Service Information</i>	[]
C3.2	<i>Contractor's Service Information</i>	
	Total number of pages	

C3.1: EMPLOYER'S SERVICE INFORMATION

1 Overview and purpose of the goods and services

1.1 Executive Overview

Tutuka Power Station was built and commissioned in the early 1985 and is located in Mpumalanga province, South Africa. It is a base load power station with 6 units, each capable of producing 600 MW to the Eskom national grid. The switchgear that is currently installed is metal clad switchgear and is not internal arc classified as this was not a requirement at the time when the existing switchgear was designed..

The Power Station has several areas in which the installed equipment is obsolete, nearing obsolescence or do not meet the requirements for safety of personnel. This is posing a growing risk on the sustained production capabilities of the Power Station. It is expected that as the equipment ages, plant performance will deteriorate until the stage where it is necessary to shut units down.

1.2 Employer's objectives and purpose of the works

The scope of work is supplying, manufacturing and delivery of 12m Container 2 that will be converted into a mobile switchgear container to house the 11Kv Sub-North Board B switchgear boards. The Switchgear boards and its accessories shall be supplied by the *Employer*. The *Contractor* is also required to manufacture the BTU (Battery Tripping Unit) to be used as DC power unit for the container and the still stand same as the container size to place the container.

1.3 Logistics and Delivery to Site

The Contractor ensures that all Plant and Materials are preserved in an appropriate manner as described in the product specifications or in the Employer preservation, shipping and transportation procedures as applicable. The Contractor submits the preservation, shipping and transportation procedures to the Supervisor for review and acceptance. The Supervisor may choose to witness the packaging, loading and offloading of the products depending on the equipment criticality, this will be indicated in the intervention points on the ITP/QCP.

The Contractor also ensures that all storage requirements for Plant and Materials are properly implemented to preserve the products against adverse conditions, deterioration, damages, etc. Storage and preservation procedures for the different equipment must be submitted to the Project Manager for review and acceptance. The Project Manager may request to inspect the stored Plant and Materials at any given point during the storage period of the product.

The Contractor complies with the quality criteria and constraints stated in this Works Information. Plant and Materials for this contract is not shipped by the Contractor until all the documents stated in the Particular Specification have been submitted to the Supervisor.

1.4 Inspection and test plan must submitted to be approved by Eskom prior any manufacturing commencing

Load Test Certificate to be provided
 Competence Certificate to be provided (all operators)
 Crane truck for delivery to be supplied (Minimum 10ton)
 Spreader beams and certificate for offloading

2 Specification and description of the goods

Product Conformance
12m 11KV Mobile Container 2 with steel stand
LV cables and its termination accessories (26 terminations each cable type) 2.5 x 4c = 200m & 2.5mm x 7c =200m
12 x 1.5 florescent/LED high performance lights
4 x 20A single phase breakers
Small power distribution board equipped with main breaker, earth leakage, circuits breakers for (interior lights, external lights, plug fans and air conditioner)
4 x weatherproof outdoor lights
2 x Air conditioner units 9000 BTU units
4 x fire extinguishers to be mounted outside
4 x main door with emergency exit door catches
The cores of three-core cables shall be individually screened
2 x staircases with handrails
Kick plates
Mobile container base frame as per the drawing
BTU 220V DC with its related test as per the standard
Supporting under the mobile container
Water proofing inside the container

2.1 Procedure for submission and acceptance of Contractor's design

Details of the 12m 11kv Mobile Container 2 manufacturing drawings shall be submitted to the Engineer/Project Manager for acceptance before manufacturing. Drawing practice, formats, title blocks, and numbering must conform to the standards applicable for the project and are to be agreed between the Contractor and the *Project Manager* during a kick-off meeting. Proposals are submitted to the Engineer/Project Manager for review and acceptance.

2.2 Other requirements of the Contractor's design

The manufacturing of the **12m 11kv Mobile Container 2** shall be in strict accordance with the law, SABS codes of practice and standards as well as the reference drawings from the client. The Contractor must provide a complete **12m 11kv Mobile Container 2 and steel stand drawing**. The drawing must be compiled by a competent person. The Auto Cad software and or micro station can be used for the compilation of the drawings.

2.3 Use of Contractor's design

The *Contractor's* design is used to complete the *works*, all documentation as specified in the Works Information is supplied to the *Project Manager* by the *Contractor*.

Any detail design drawings required for construction purposes is supplied to the *Project Manager*, by the *Contractor* for acceptance. The detail design drawings or fabrication drawings supplied to the *Project Manager* by the *contractor* for commissioning purposes of the switchgear.

2.4 Manufacture & Fabrication

Manufacture and Fabricate a 12m 11kv Mobile Container 2 to be used for the housing of 11Kv Switchgear Boards, Battery Tripping Unit and steel stand same as the size of the Container shall be manufactured according to the applicable law, SABS codes of practice and standards as well as the reference drawings from the client

2.5 Factory acceptance testing (FAT)

The Contractor must advise and invite the client to witness any factory acceptance testing (FAT) of the racking. The Contractors must provide the safe working loads for the stand and support.

2.6 Other tests ,inspections and commissioning in the place of use

On award of the Contract, the Contractor shall prepare Quality Control Plan identifying the various stages of manufacture, quality checks performed at each stage and the customer hold points. The document shall also furnish details of method of checking, inspection and acceptance standards/values and get the approval of the client or his representative before proceeding with manufacturing. The Client or his representative shall have the right to review the inspection reports, quality checks and results of Contractors 's in-house inspection department which are not customer hold points and the Contractor shall comply with the remarks made by the client or his representative on such reviews with regard to further testing, rectification or rejection etc.

2.7 Operating manuals and maintenance schedules

N/A

3 Supply Requirements

N/A

4 Specification of the services to be provided

- 12m 11kv Mobile Container 2 and steel stand for the housing of the Switchgear panels , Battery Tripping Unit
- Transported by road on employer's costs and transport from the Contractor's premises
- End user to be informed in 7 working days when the unit is ready for delivery
- No collection to be done on Friday, Weekend or public holiday (Unless otherwise agreed upon)

5 Constraints on how the Contractor Provides the Goods

5.1 Programming constraints

The *Employer* provides the Key Dates as set out in clause 11.2.(9) of the Contract Data of the *Employer*, the access dates in clause 30.1 of the Contract Data by the *Employer*; the interface points identified by the *Contractor* in the *Contractor's* Works Information and requirements set out in the Works Information.

The *Contractor* submits, as part of his tender response, a Level 3 programme which contains the following as a minimum:

- The Key Dates
- The *access dates* from clause 30.1 of the Contract Data by the *Employer*;
- The detail on how the *Contractor* intends to achieve the Key Dates and the *access dates*;
- Duration of long lead item
- Total manufacturing and execution durations
- Show all the critical paths;
- The *Contractor* ensures that his programme contains sufficient float in order for the *Contractor* to add interface and alignment with the *Employer* and Others;
- Other factors, information, methodologies, detail and dates which the *Contractor* believes are necessary for achievement of the interface with others; Key Dates, Completion Dates and *access dates*.

The *Contractor* submits a detailed programme after Contract award in accordance with time period provided in clause 32.2. This revised programme must contain the following:

- All information required as [stated above];
- the services and work (programs) of all his Subcontractors and Contractors;
- the design schedule;
- the construction schedule;
- the planning schedule;
- the construction and manufacturing schedule;
- the commissioning schedule;

The *Contractor* submits an updated programme every week during design and manufacturing, daily during execution or as agreed to between the *Project Manager* and *Contractor*.

The level of detail for each is set out below.

The *Contractor* submits a single programme that incorporates the services and work (programs) of all his Subcontractors and Contractors. The Accepted Programme clearly indicates interfaces between the *Contractor*, the *Employer* and Others.

The *Contractor* ensures that the Key Dates and interfaces with the *Employer* and Others are incorporated into the Accepted Programme. To improve integration and interfaces with Others and the *Employer*, the *Contractor* participates in the integration meetings with the *Employer* and Others. as required by the *Project Manager*. The information obtained from these integration meetings are incorporated into the revised programmes submitted to the *Project Manager*. The *Contractor* ensures that all dates, including Key Dates, between the *Contractor*, the *Employer* and Others are aligned in the revised programme.

The *Contractor's* obligation to meet the Key Dates and Completion Date is not altered by the *Contractors* obligation to ensure that the *Contractor's* programme shows and aligns with the interface requirements set out in the Works Information.

5.2 Work to be done by the Delivery Date

N/A

5.3 Marking the goods

Tutuka AKZ Coding Manual (15ENG MN-675) is used for coding of all Plant and Materials. AKZ coding is applied from the design stage and cross referenced accordingly (as a unique identification) to all documentation such as arrangement drawings, schematics, wiring diagrams, instructions and manuals and where practical to spare parts lists/manuals. References to specific Plant and Materials are accompanied by the relevant AKZ code for that item of the *works*.

The *Contractor* is responsible for the coding of all the *works* as set out in this document as well as equipment and components as per *Employers* coding standards, and the *Contractor* is responsible for supplying *Project Manager* with all the relevant documents/drawings. The *Project Manager* red lines all drawings/documents supplied with the codes generated by the *Contractor*.

The *Contractor* is fully familiar with the standards and concepts of the coding system as applied by the *Employer*. *Contractor* updates the drawings/documents upon receiving the red lined ones from the *Project Manager*. The *Project Manager* reviews the documents/drawings to ensure issued codification is incorporated correctly by the *Contractor*. The *Project Manager* accepts the documents if satisfied.

The *Contractor* ensures that the codes are applied in a uniform and consistent way and that all accepted codes allocated remains unique.

The *Contractor* provides the *Project Manager* with the following:

Outline drawings, P&I diagrams and equipment lists.

In respect of items procured by the *Contractor* from another manufacturer or vendor, the *Contractor* provides the name of the actual manufacturer and his coded drawing or reference numbers and relevant technical data for identification purposes.

5.4 Constraints at the delivery place and place of use

The Contractor applies for temporary access permits (Contractor's Permit) at the Security gate, prior to the Possession Date.

- The Contractor personnel are required to be in possession of a Contractor's Permit at all times.
- All Contractor personnel are issued with a temporary access permit (Contractor's Permit) which contains the following information:
 - Name
 - ID Number
 - Company
 - Validity date
- All Contractors' permits are submitted to Protective Services when the workers leave the site after completion of the works.
- In order to assist Protective Services with the issuing of permits and the identification of personnel on site, the Contractor supplies a list of all personnel that he intends using on site, at least 24 hours prior to entry of the Security Area.
 - This list is delivered to Protective Services
 - The list, identified with the Contractor's name, contains the following information:
 - Employee Name
 - Employee ID Number
 - Eskom Safety Co-ordinator signature
 - Contract Manager signature
 - To speed up the process of gaining access to the site, the Contractor compiles detailed lists of all tools and equipment to be taken on site before arriving at the Power Station Security gate.
 - A special Tool List form is available at Protective Services.
 - An authorised copy of this list is retained to be used again when the tools and equipment is removed from site after the completion of the works.
- The Contractor's visitors and all personnel conform at all times to the security arrangements in force at the site.
- Application forms for visitors are filled in by the Contractor's Site Manager and approved by the Employers Representative, one day before the visit and submitted to the Employer's Protective Services office.
- Visitors are not allowed on site if the necessary forms are not in the possession of security staff.
- The Chief of Protective Services may, with valid cause, remove any of the Contractor's personnel from the site, either temporarily or permanently, without any prejudice. He may deny access to the site to any person whom, in the opinion of the said Chief of Protective Services, constitutes a security risk.
- No unauthorised vehicles are allowed on site.
- Only Contractor's vehicles with displayed Contract Vehicle Permits disks are allowed on site.
- Contract Vehicle Applications are directed to the Employers Representative.
- The Contractor is restricted to the working areas associated with his place of work.
- The Contractor is forbidden to enter any other areas and must ensure that his employees abide by these regulations.
- Parking inside the power station is strictly forbidden, except for loading purposes.
- No recruiting of casual labour is done on Eskom premises, including the area outside the Power Station Security Gate.

5.5 Cooperating with Others

N/A

5.6 Services & other things to be provided by the Purchaser or Contractor

N/A

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	Weekly on _____ at _____		
Overall contract progress and feedback	Monthly on _____ at _____		<i>Purchaser, Contractor, and _____</i>

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

- Each instruction, test certificate, acceptance, notification, reply and other communication which this contract requires is to be communicated in a form which can be read, copied and recorded.
- Writing is in the Language of this contract.
- All reports to be discussed, compiled and handed over to Eskom
- All method statements to be discussed compiled and handed over to Eskom where applicable.
- All communications, Certificates, Method Statements must be printed and filed in the Purchaser's Data file

5.9 Health and safety risk management

The Contractor shall comply with the Occupational Health and Safety Act and relevant regulations, Eskom Contractor Health and Safety Requirements, Eskom Lifesaving rules, National Road Traffic Act and Eskom Vehicle Safety Specifications. The Contractor shall submit its internal offloading safe-work procedures to the client prior contract awarding. It is also necessary for the Contractor to be in Good Standing with COIDA

The Contractor, in compliance with Minimum Information Security Standards (MISS) 1996, National Key Point Act 102 of 1998, National Strategic Intelligence Act 39 of 1994 and Protection of Critical Infrastructure Protection Act 8 of 2019, instructs the Contractor to submit proof of verification record(s) (Security clearance) from SAPS or accredited Contractor linked to SAPS AFIS system not older than thirty (30) days.

The Contractor is required to submit the SAPS Clearance Certificate obtained by the employee along with a copy of his/her Identity Document or Passport. The process shall be repeated every 12 months for low-risk employees and every 6 months for medium to high-risk employees.

5.10 Quality

To ensure compliance to Quality Management System requirements, the following requirements shall be adhered to:

- 240-68099512 Form A: The tenderer must complete and sign this form to acknowledge and accept Eskom Contractor Quality Requirements as per QM 58 Specification and ISO 9001 Standard
- Category 3 - Quality Assessment Criteria: Stipulated documented information to be provided for evaluation purposes
- QM 58_240-105658000 – Contractor Quality Management Specifications
- Documented information that permits the Contractor to provide highest level of quality assurance to confidentially state that the method used on the product are accurate, documented and validated.
- Documented information which allows the Contractor to legally transport hazardous goods

- Documented information on determining the knowledge, skill and competency required for the achieved conformity of product/ service (Driver, handling of hazardous goods...)

5.11 Invoicing and payment

5.11.1 General

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

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

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

The contract number and title;

Contractor's VAT registration number;

The *Employer's* VAT registration number 4740101508;

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

Total amount invoiced excluding VAT, the VAT and the invoiced amount including VAT;

Invoice addressed to Eskom Holdings SOC Ltd

Read "Tax Invoice"

Local and foreign invoices to be invoiced separately

Tax invoice is to be emailed to email address invoicegrcapitalOTH@eskom.co.za as soon as it is available.

Incorrect claim (invoices) should be cancelled with a credit note referring to the incorrect invoice and issue new invoice

5.12 Insurance provided by the *Purchaser*

There are no additional requirements to the risk and insurance clauses in Section 8 of the core clauses and the Z clauses

5.13 Contract change management

There are no additional requirements to the compensation event clauses in Section 6 of the core clauses.

5.14 Provision of bonds and guarantees

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

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

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

There are no additional requirements to the compensation event clauses in Section 6 of the core clauses.

6 Procurement

6.1 Subcontracting

6.1.1 Preferred subcontractors

N/A

6.1.2 Limitations on subcontracting

N/A

6.1.3 Spares and consumables

N/A

6.1.4 Other requirements related to procurement

The *Contractor* provides suitable storage at site to store parts and equipment during the installation process. The store needs to be watertight and the parts and equipment should be sealed to prevent moisture and dust. In general the warranty is one year after commissioning of the unit.

7 List of drawings

7.1 Drawings issued by the *Purchaser*

This is the list of drawings issued by the *Employer* at or before the Contract Date and which apply to this contract.

Table 2: List of applicable Drawings

Drawing number	Revision	Title
TPS-00-MSSG2T	0	11Kv Mobile Switchgear Container Substation Design 2

C3.2 *CONTRACTOR'S* GOODS INFORMATION

Manufacture and Fabricate a 12m 11kv Mobile Container 2 to be used for the housing of 11Kv Switchgear Boards, Battery Tripping Unit and steel stand same as the size of the Container shall be manufactured according to the applicable law, SABS codes of practice and standards as well as the reference drawings from the client

CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement ('Agreement') is entered into between the Purchaser and the Contractor.

WHEREAS, the Purchaser and the Contractor (the Parties) desire to exchange certain confidential information; and consider further business dealings with each other.

WHEREAS, the parties desire to evidence their agreements governing the exchange of certain confidential information as set forth below.

Now therefore, for good and valuable consideration, including the mutual agreements hereinafter recited, the parties hereby agree as follows:

1. The parties contemplate an exchange, either orally, in writing or by inspection, of certain confidential proprietary information possessed or owned separately by them and not readily available or otherwise known to the public and which may be helpful in evaluating further business dealings. Such confidential information (the 'Subject Information') may include but not be limited to the parties' inventions, trade secrets, know-how, technical information on products and manufacturing processes, and information concerning their business assets, financial condition, operations, plans and prospects.
2. The purpose of the exchange of Subject Information is to enable the parties to evaluate the Subject information for the purpose only of considering further business dealings with each other.
3. The parties each agree that they shall maintain in secrecy in accordance with the terms of this Agreement all of the Subject Information each party receives (the 'Receiving Party') from the other party (the 'Proprietor') and shall not disclose or use other than for the purpose specified herein the Subject Information without the written consent of the Proprietor of the Subject Information. All Subject Information communicated from one party to the other shall be deemed to be proprietary and confidential to the Proprietor whether marked or identified as such or not.
4. The duty of care to safeguard Subject Information shall be the same as that which the parties each use to safeguard their own respective proprietary and confidential information.
5. The Receiving Party of Subject Information shall not be obligated to maintain Subject Information received from its Proprietor in secrecy or refrain from using it to the extent that any such information is or rightfully becomes publicly available information other than through a breach of this Agreement, or which the Receiving Party later obtains lawfully from anyone else who is not known by the Receiving Party to be obligated under any secrecy agreement with Proprietor to maintain the information in secrecy. The Receiving Party also shall not be obligated to maintain in secrecy any information it receives from the Proprietor which it can demonstrate was already in its possession when the information was disclosed to the Receiving Party by the Proprietor.
6. The Receiving Party shall promptly return to its Proprietor any Subject Information in tangible form it has received from the Proprietor immediately upon the Proprietor's request, without retaining any copies, summaries, analyses or extracts thereof. All documents, memoranda, notes and other writings prepared by the parties, or their advisors, based on the Subject Information of each other, shall be destroyed, and such destruction shall be certified in writing by an authorised officer supervising such destruction.

7. If a party, with the written consent of the Proprietor of Subject Information, discloses any Subject Information received from its Proprietor to any third party, it shall do so only under a secrecy agreement having a scope similar to and which is consistent with this Agreement, and the disclosing party shall be primarily responsible for any compromise of the secrecy of Subject Information by such third party
8. Each party agrees that it shall not, while and for so long as it is obligated to maintain Subject Information in secrecy, use for its own benefit, or for the benefit of others or exploit, commercialise, develop, test promote, sell, lease, market or otherwise dispose of any products or services using, incorporating or relying on Subject Information received from its Proprietor without the written consent of the Proprietor.
9. The obligations of the party receiving Subject Information pursuant to this Agreement shall be effective with respect of each item of Subject Information for a term of five (5) years from the date of submission of the Subject Information to the Receiving Party by its Proprietor, unless the Proprietor agrees otherwise in writing.
10. For purposes of this Agreement, each party shall include (to the extent applicable) the officers, directors, employees, agents, representatives, attorneys, joint ventures, partnerships, affiliates, subsidiaries, and divisions of the party, and any other entity or entities which such party controls or which controls it, and, further, shall include any transferee, successor and assign of the assets of the party.
11. This Agreement shall be construed (both as to validity and performance) and enforced in accordance with, and governed by, the laws of Republic of South Africa.
12. Neither this Agreement nor the exchange of Subject Information between the parties shall create or be relied on by either party as a basis for creating any license between the parties under any patent, or other industrial or intellectual property rights of the Proprietor of the Subject Information, or any other license between the parties in the absence of any express written license agreement between them
13. The parties agree that no contract or agreement providing for a transaction shall be deemed to exist between them unless and until a definitive agreement has been executed and delivered, the parties hereby waive, in advance, any claim (including, without limitation, breach of contract) in connection with a possible transaction with each other unless and until they shall have entered into a definitive agreement. The parties also agree that unless and until a definitive agreement between them has been executed and delivered, neither party has any legal obligation of any kind whatsoever with respect to any such transaction by virtue of this Agreement or any other written or oral expression with respect to such transaction, except, in the case of this Agreement, for the matters specifically agreed to herein. For purposes of this paragraph, the term ‘definitive agreement’; does not include an executed letter of intent, memorandum of understanding.

IN WITNESS WHEREOF, and intending to be legally bound, this Agreement has been executed by the parties as of and effective from the date first written above.

8 Overview and purpose of the *goods and services*

1.1 Executive Overview

Tutuka Power Station was built and commissioned in the early 1985 and is located in Mpumalanga province, South Africa. It is a base load power station with 6 units, each capable of producing 600 MW to the Eskom

national grid. The switchgear that is currently installed is metal clad switchgear and is not internal arc classified as this was not a requirement at the time when the existing switchgear was designed..

The Power Station has several areas in which the installed equipment is obsolete, nearing obsolescence or do not meet the requirements for safety of personnel. This is posing a growing risk on the sustained production capabilities of the Power Station. It is expected that as the equipment ages, plant performance will deteriorate until the stage where it is necessary to shut units down.

1.2 Employer's objectives and purpose of the works

The scope of work is supplying, manufacturing and delivery of 12m Container 2 that will be converted into a mobile switchgear container to house the 11Kv Sub-North Board B switchgear boards. The Switchgear boards and its accessories shall be supplied by the *Employer*. The *Contractor* is also required to manufacture the BTU (Battery Tripping Unit) to be used as DC power unit for the container and the still stand same as the container size to place the container.

1.3 Logistics and Delivery to Site

The Contractor ensures that all Plant and Materials are preserved in an appropriate manner as described in the product specifications or in the Employer preservation, shipping and transportation procedures as applicable. The Contractor submits the preservation, shipping and transportation procedures to the Supervisor for review and acceptance. The Supervisor may choose to witness the packaging, loading and offloading of the products depending on the equipment criticality, this will be indicated in the intervention points on the ITP/QCP.

The Contractor also ensures that all storage requirements for Plant and Materials are properly implemented to preserve the products against adverse conditions, deterioration, damages, etc. Storage and preservation procedures for the different equipment must be submitted to the Project Manager for review and acceptance. The Project Manager may request to inspect the stored Plant and Materials at any given point during the storage period of the product.

The Contractor complies with the quality criteria and constraints stated in this Works Information. Plant and Materials for this contract is not shipped by the Contractor until all the documents stated in the Particular Specification have been submitted to the Supervisor.

1.4 Inspection and test plan must submitted to be approved by Eskom prior any manufacturing commencing

- Load Test Certificate to be provided
- Competence Certificate to be provided (all operators)
- Crane truck for delivery to be supplied (Minimum 10ton)
- Spreader beams and certificate for offloading

9 Specification and description of the goods

Product Conformance

12m 11KV Mobile Container 2 with steel stand
LV cables and its termination accessories (26 terminations each cable type) 2.5 x 4c = 200m & 2.5mm x 7c =200m
12 x 1.5 florescent/LED high performance lights
4 x 20A single phase breakers
Small power distribution board equipped with main breaker, earth leakage, circuits breakers for (interior lights, external lights, plug fans and air conditioner)
4 x weatherproof outdoor lights
2 x Air conditioner units 9000 BTU units
4 x fire extinguishers to be mounted outside
4 x main door with emergency exit door catches
The cores of three-core cables shall be individually screened
2 x staircases with handrails
Kick plates
Mobile container base frame as per the drawing
BTU 220V DC with its related test as per the standard
Supporting under the mobile container
Water proofing inside the container

9.1 Procedure for submission and acceptance of Contractor's design

Details of the 12m 11kv Mobile Container 2 manufacturing drawings shall be submitted to the Engineer/Project Manager for acceptance before manufacturing. Drawing practice, formats, title blocks, and numbering must conform to the standards applicable for the project and are to be agreed between the Contractor and the *Project Manager* during a kick-off meeting. Proposals are submitted to the Engineer/Project Manager for review and acceptance.

9.2 Other requirements of the Contractor's design

The manufacturing of the **12m 11kv Mobile Container 2** shall be in strict accordance with the law, SABS codes of practice and standards as well as the reference drawings from the client. The Contractor must provide a complete **12m 11kv Mobile Container 2 and steel stand drawing**. The drawing must be compiled by a competent person. The Auto Cad software and or micro station can be used for the compilation of the drawings.

9.3 Use of Contractor's design

The *Contractor's* design is used to complete the *works*, all documentation as specified in the Works Information is supplied to the *Project Manager* by the *Contractor*.

Any detail design drawings required for construction purposes is supplied to the *Project Manager*, by the *Contractor* for acceptance. The detail design drawings or fabrication drawings supplied to the *Project Manager* by the *contractor* for commissioning purposes of the switchgear.

9.4 Manufacture & Fabrication

Manufacture and Fabricate a 12m 11kv Mobile Container 2 to be used for the housing of 11Kv Switchgear Boards, Battery Tripping Unit and steel stand same as the size of the Container shall be manufactured according to the applicable law, SABS codes of practice and standards as well as the reference drawings from the client

9.5 Factory acceptance testing (FAT)

The Contractor must advise and invite the client to witness any factory acceptance testing (FAT) of the racking. The Contractors must provide the safe working loads for the stand and support.

9.6 Other tests ,inspections and commissioning in the place of use

On award of the Contract, the Contractor shall prepare Quality Control Plan identifying the various stages of manufacture, quality checks performed at each stage and the customer hold points. The document shall also furnish details of method of checking, inspection and acceptance standards/values and get the approval of the client or his representative before proceeding with manufacturing. The Client or his representative shall have the right to review the inspection reports, quality checks and results of Contractors 's in-house inspection department which are not customer hold points and the Contractor shall comply with the remarks made by the client or his representative on such reviews with regard to further testing, rectification or rejection etc.

9.7 Operating manuals and maintenance schedules

N/A

10 Supply Requirements

N/A

11 Specification of the services to be provided

- 12m 11kv Mobile Container 2 and steel stand for the housing of the Switchgear panels , Battery Tripping Unit
- Transported by road on employer's costs and transport from the Contractor's premises
- End user to be informed in 7 working days when the unit is ready for delivery
- No collection to be done on Friday, Weekend or public holiday (Unless otherwise agreed upon)

12 Constraints on how the Contractor Provides the Goods

12.1 Programming constraints

The *Employer* provides the Key Dates as set out in clause 11.2.(9) of the Contract Data of the *Employer*, the access dates in clause 30.1 of the Contract Data by the *Employer*; the interface points identified by the *Contractor* in the *Contractor's Works Information* and requirements set out in the Works Information.

The *Contractor* submits, as part of his tender response, a Level 3 programme which contains the following as a minimum:

- The Key Dates
- The *access dates* from clause 30.1 of the Contract Data by the *Employer*;
- The detail on how the *Contractor* intends to achieve the Key Dates and the *access dates*;
- Duration of long lead item
- Total manufacturing and execution durations
- Show all the critical paths;

- The *Contractor* ensures that his programme contains sufficient float in order for the *Contractor* to add interface and alignment with the *Employer* and Others;
- Other factors, information, methodologies, detail and dates which the *Contractor* believes are necessary for achievement of the interface with others; Key Dates, Completion Dates and *access dates*.

The *Contractor* submits a detailed programme after Contract award in accordance with time period provided in clause 32.2. This revised programme must contain the following:

- All information required as [stated above];
- the services and work (programs) of all his Subcontractors and Contractors;
- the design schedule;
- the construction schedule;
- the planning schedule;
- the construction and manufacturing schedule;
- the commissioning schedule;

The *Contractor* submits an updated programme every week during design and manufacturing, daily during execution or as agreed to between the *Project Manager* and *Contractor*.

The level of detail for each is set out below.

The *Contractor* submits a single programme that incorporates the services and work (programs) of all his Subcontractors and Contractors. The Accepted Programme clearly indicates interfaces between the *Contractor*, the *Employer* and Others.

The *Contractor* ensures that the Key Dates and interfaces with the *Employer* and Others are incorporated into the Accepted Programme. To improve integration and interfaces with Others and the *Employer*, the *Contractor* participates in the integration meetings with the *Employer* and Others. as required by the *Project Manager*. The information obtained from these integration meetings are incorporated into the revised programmes submitted to the *Project Manager*. The *Contractor* ensures that all dates, including Key Dates, between the *Contractor*, the *Employer* and Others are aligned in the revised programme.

The *Contractor's* obligation to meet the Key Dates and Completion Date is not altered by the *Contractors* obligation to ensure that the *Contractor's* programme shows and aligns with the interface requirements set out in the Works Information.

12.2 Work to be done by the Delivery Date

N/A

12.3 Marking the goods

Tutuka AKZ Coding Manual (15ENG MN-675) is used for coding of all Plant and Materials. AKZ coding is applied from the design stage and cross referenced accordingly (as a unique identification) to all documentation such as arrangement drawings, schematics, wiring diagrams, instructions and manuals and where practical to spare parts lists/manuals. References to specific Plant and Materials are accompanied by the relevant AKZ code for that item of the *works*.

The *Contractor* is responsible for the coding of all the *works* as set out in this document as well as equipment and components as per *Employers* coding standards, and the *Contractor* is responsible for supplying *Project Manager* with all the relevant documents/drawings. The *Project Manager* red lines all drawings/documents supplied with the codes generated by the *Contractor*.

The *Contractor* is fully familiar with the standards and concepts of the coding system as applied by the *Employer*. *Contractor* updates the drawings/documents upon receiving the red lined ones from the *Project Manager*. The *Project Manager* reviews the documents/drawings to ensure issued codification is incorporated correctly by the *Contractor*. The *Project Manager* accepts the documents if satisfied.

The *Contractor* ensures that the codes are applied in a uniform and consistent way and that all accepted codes allocated remains unique.

The *Contractor* provides the *Project Manager* with the following:

Outline drawings, P&I diagrams and equipment lists.

In respect of items procured by the *Contractor* from another manufacturer or vendor, the *Contractor* provides the name of the actual manufacturer and his coded drawing or reference numbers and relevant technical data for identification purposes.

12.4 Constraints at the delivery place and place of use

The Contractor applies for temporary access permits (Contractor's Permit) at the Security gate, prior to the Possession Date.

- The Contractor personnel are required to be in possession of a Contractor's Permit at all times.
- All Contractor personnel are issued with a temporary access permit (Contractor's Permit) which contains the following information:
 - Name
 - ID Number
 - Company
 - Validity date
- All Contractors' permits are submitted to Protective Services when the workers leave the site after completion of the works.
- In order to assist Protective Services with the issuing of permits and the identification of personnel on site, the Contractor supplies a list of all personnel that he intends using on site, at least 24 hours prior to entry of the Security Area.
 - This list is delivered to Protective Services
 - The list, identified with the Contractor's name, contains the following information:
 - Employee Name
 - Employee ID Number
 - Eskom Safety Co-ordinator signature
 - Contract Manager signature
 - To speed up the process of gaining access to the site, the Contractor compiles detailed lists of all tools and equipment to be taken on site before arriving at the Power Station Security gate.
 - A special Tool List form is available at Protective Services.
 - An authorised copy of this list is retained to be used again when the tools and equipment is removed from site after the completion of the works.
- The Contractor's visitors and all personnel conform at all times to the security arrangements in force at the site.
- Application forms for visitors are filled in by the Contractor's Site Manager and approved by the Employers Representative, one day before the visit and submitted to the Employer's Protective Services office.
- Visitors are not allowed on site if the necessary forms are not in the possession of security staff.
- The Chief of Protective Services may, with valid cause, remove any of the Contractor's personnel from the site, either temporarily or permanently, without any prejudice. He may deny access to the site to any person whom, in the opinion of the said Chief of Protective Services, constitutes a security risk.
- No unauthorised vehicles are allowed on site.
- Only Contractor's vehicles with displayed Contract Vehicle Permits disks are allowed on site.
- Contract Vehicle Applications are directed to the Employers Representative.
- The Contractor is restricted to the working areas associated with his place of work.
- The Contractor is forbidden to enter any other areas and must ensure that his employees abide by these regulations.
- Parking inside the power station is strictly forbidden, except for loading purposes.
- No recruiting of casual labour is done on Eskom premises, including the area outside the Power Station Security Gate.

12.5 Cooperating with Others

N/A

12.6 Services & other things to be provided by the *Purchaser* or *Contractor*

N/A

12.7 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	Weekly on _____ at _____		
Overall contract progress and feedback	Monthly on _____ at _____		<i>Purchaser, Contractor, and _____</i>

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.

12.8 Documentation control

- Each instruction, test certificate, acceptance, notification, reply and other communication which this contract requires is to be communicated in a form which can be read, copied and recorded.
- Writing is in the Language of this contract.
- All reports to be discussed, compiled and handed over to Eskom
- All method statements to be discussed compiled and handed over to Eskom where applicable.
- All communications, Certificates, Method Statements must be printed and filed in the Purchaser's Data file

12.9 Health and safety risk management

The Contractor shall comply with the Occupational Health and Safety Act and relevant regulations, Eskom Contractor Health and Safety Requirements, Eskom Lifesaving rules, National Road Traffic Act and Eskom Vehicle Safety Specifications. The Contractor shall submit its internal offloading safe-work procedures to the client prior contract awarding. It is also necessary for the Contractor to be in Good Standing with COIDA

The Contractor, in compliance with Minimum Information Security Standards (MISS) 1996, National Key Point Act 102 of 1998, National Strategic Intelligence Act 39 of 1994 and Protection of Critical Infrastructure Protection Act 8 of 2019, instructs the Contractor to submit proof of verification record(s) (Security clearance) from SAPS or accredited Contractor linked to SAPS AFIS system not older than thirty (30) days.

The Contractor is required to submit the SAPS Clearance Certificate obtained by the employee along with a copy of his/her Identity Document or Passport. The process shall be repeated every 12 months for low-risk employees and every 6 months for medium to high-risk employees.

12.10 Quality

To ensure compliance to Quality Management System requirements, the following requirements shall be adhered to:

- 240-68099512 Form A: The tenderer must complete and sign this form to acknowledge and accept Eskom Contractor Quality Requirements as per QM 58 Specification and ISO 9001 Standard
- Category 3 - Quality Assessment Criteria: Stipulated documented information to be provided for evaluation purposes
- QM 58_240-105658000 – Contractor Quality Management Specifications
- Documented information that permits the Contractor to provide highest level of quality assurance to confidentially state that the method used on the product are accurate, documented and validated.
- Documented information which allows the Contractor to legally transport hazardous goods
- Documented information on determining the knowledge, skill and competency required for the achieved conformity of product/ service (Driver, handling of hazardous goods...)

12.11 Invoicing and payment

5.11.1 General

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

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

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

The contract number and title;

Contractor's VAT registration number;

The *Employer's* VAT registration number 4740101508;

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

Total amount invoiced excluding VAT, the VAT and the invoiced amount including VAT;

Invoice addressed to Eskom Holdings SOC Ltd

Read "Tax Invoice"

Local and foreign invoices to be invoiced separately

Tax invoice is to be emailed to email address invoicegrpcapitalOTH@eskom.co.za as soon as it is available.

Incorrect claim (invoices) should be cancelled with a credit note referring to the incorrect invoice and issue new invoice

12.12 Insurance provided by the *Purchaser*

There are no additional requirements to the risk and insurance clauses in Section 8 of the core clauses and the Z clauses

12.13 Contract change management

There are no additional requirements to the compensation event clauses in Section 6 of the core clauses.

12.14 Provision of bonds and guarantees

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

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

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

There are no additional requirements to the compensation event clauses in Section 6 of the core clauses.

13 Procurement

13.1 Subcontracting

13.1.1 Preferred subcontractors

N/A

13.1.2 Limitations on subcontracting

N/A

13.1.3 Spares and consumables

N/A

13.1.4 Other requirements related to procurement

The *Contractor* provides suitable storage at site to store parts and equipment during the installation process. The store needs to be watertight and the parts and equipment should be sealed to prevent moisture and dust. In general the warranty is one year after commissioning of the unit.

14 List of drawings

14.1 Drawings issued by the *Purchaser*

This is the list of drawings issued by the *Employer* at or before the Contract Date and which apply to this contract.

Table 2: List of applicable Drawings

Drawing number	Revision	Title
TPS-00-MSSG2T	0	11Kv Mobile Switchgear Container Substation Design 2

C3.2 *CONTRACTOR'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.

CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement ('Agreement') is entered into between the Purchaser and the Contractor.

WHEREAS, the Purchaser and the Contractor (the Parties) desire to exchange certain confidential information; and consider further business dealings with each other.

WHEREAS, the parties desire to evidence their agreements governing the exchange of certain confidential information as set forth below.

Now therefore, for good and valuable consideration, including the mutual agreements hereinafter recited, the parties hereby agree as follows:

8. The parties contemplate an exchange, either orally, in writing or by inspection, of certain confidential proprietary information possessed or owned separately by them and not readily available or otherwise known to the public and which may be helpful in evaluating further business dealings. Such confidential information (the 'Subject Information') may include but not be limited to the parties' inventions, trade secrets, know-how, technical information on products and manufacturing processes, and information concerning their business assets, financial condition, operations, plans and prospects.
9. The purpose of the exchange of Subject Information is to enable the parties to evaluate the Subject information for the purpose only of considering further business dealings with each other.
10. The parties each agree that they shall maintain in secrecy in accordance with the terms of this Agreement all of the Subject Information each party receives (the 'Receiving Party') from the other party (the 'Proprietor') and shall not disclose or use other than for the purpose specified herein the Subject Information without the written consent of the Proprietor of the Subject Information. All Subject Information communicated from one party to the other shall be deemed to be proprietary and confidential to the Proprietor whether marked or identified as such or not.
11. The duty of care to safeguard Subject Information shall be the same as that which the parties each use to safeguard their own respective proprietary and confidential information.
12. The Receiving Party of Subject Information shall not be obligated to maintain Subject Information received from its Proprietor in secrecy or refrain from using it to the extent that any such information is or rightfully becomes publicly available information other than through a breach of this Agreement, or which the Receiving Party later obtains lawfully from anyone else who is not known by the Receiving Party to be obligated under any secrecy agreement with Proprietor to maintain the information in secrecy. The Receiving Party also shall not be obligated to maintain in secrecy any information it receives from the Proprietor which it can demonstrate was already in its possession when the information was disclosed to the Receiving Party by the Proprietor.
13. The Receiving Party shall promptly return to its Proprietor any Subject Information in tangible form it has received from the Proprietor immediately upon the Proprietor's request, without retaining any copies, summaries, analyses or extracts thereof. All documents, memoranda,

CONTRACT NUMBER:

DESCRIPTION OF THE WORKS: THE SUPPLY, MANUFACTURE, COMMISSION 12M 11KV MOBILE CONTAINER FOR THE HOUSING OF SWITCHGEAR PANELS AND BATTERY TRIPPING UNIT

notes and other writings prepared by the parties, or their advisors, based on the Subject Information of each other, shall be destroyed, and such destruction shall be certified in writing by an authorised officer supervising such destruction.

14. If a party, with the written consent of the Proprietor of Subject Information, discloses any Subject Information received from its Proprietor to any third party, it shall do so only under a secrecy agreement having a scope similar to and which is consistent with this Agreement, and the disclosing party shall be primarily responsible for any compromise of the secrecy of Subject Information by such third party
8. Each party agrees that it shall not, while and for so long as it is obligated to maintain Subject Information in secrecy, use for its own benefit, or for the benefit of others or exploit, commercialise, develop, test promote, sell, lease, market or otherwise dispose of any products or services using, incorporating or relying on Subject Information received from its Proprietor without the written consent of the Proprietor.
14. The obligations of the party receiving Subject Information pursuant to this Agreement shall be effective with respect of each item of Subject Information for a term of five (5) years from the date of submission of the Subject Information to the Receiving Party by its Proprietor, unless the Proprietor agrees otherwise in writing.
15. For purposes of this Agreement, each party shall include (to the extent applicable) the officers, directors, employees, agents, representatives, attorneys, joint ventures, partnerships, affiliates, subsidiaries, and divisions of the party, and any other entity or entities which such party controls or which controls it, and, further, shall include any transferee, successor and assign of the assets of the party.
16. This Agreement shall be construed (both as to validity and performance) and enforced in accordance with, and governed by, the laws of Republic of South Africa.
17. Neither this Agreement nor the exchange of Subject Information between the parties shall create or be relied on by either party as a basis for creating any license between the parties under any patent, or other industrial or intellectual property rights of the Proprietor of the Subject Information, or any other license between the parties in the absence of any express written license agreement between them
18. The parties agree that no contract or agreement providing for a transaction shall be deemed to exist between them unless and until a definitive agreement has been executed and delivered, the parties hereby waive, in advance, any claim (including, without limitation, breach of contract) in connection with a possible transaction with each other unless and until they shall have entered into a definitive agreement. The parties also agree that unless and until a definitive agreement between them has been executed and delivered, neither party has any legal obligation of any kind whatsoever with respect to any such transaction by virtue of this Agreement or any other written or oral expression with respect to such transaction, except, in the case of this Agreement, for the matters specifically agreed to herein. For purposes of this paragraph, the term 'definitive agreement'; does not include an executed letter of intent, memorandum of understanding.

IN WITNESS WHEREOF, and intending to be legally bound, this Agreement has been executed by the parties as of and effective from the date first written above.

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