



NEC3 Engineering & Construction Contract

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

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

for **Ash Dam Piezometer Installation**

Contents:	No of pages
Part C1 Agreements & Contract Data	[22]
Part C2 Pricing Data	[6]
Part C3 Scope of Work	[16]
Part C4 Site Information	[3]

CONTRACT No. [Insert at award stage]

Part C1: Agreements & Contract Data

Contents:	No of pages
C1.1 Form of Offer and Acceptance	[3]
C1.2a Contract Data provided by the <i>Employer</i>	[14]
C1.2b Contract Data provided by the <i>Contractor</i>	[3]
C1.3 Proforma Guarantees	[•]

C1.1 Form of Offer & Acceptance

Offer

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

Ash Dam Piezometer Installation

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

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

Options B	The offered total of the Prices exclusive of VAT is	R [●]
	Sub total	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:

(Insert name and address of organisation)

Name &
signature of
witness

Date

Tenderer's CIDB registration number (if applicable)

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

Acceptance

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

The terms of the contract, are contained in:

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

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

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

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

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

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

Signature(s)

Name(s)

Capacity

for the
Employer

(Insert name and address of organisation)

Name &
signature of
witness

Date

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

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

Note:

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

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

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

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

For the tenderer:

For the Employer

Signature _____

Name _____

Capacity _____

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

(Insert name and address of organisation)

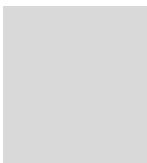
Name & signature of witness _____

Date _____

C1.2 ECC3 Contract Data

Part one - Data provided by the *Employer*

Completion of the 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	
		B: Priced contract with bill of quantities
	dispute resolution Option	W1: Dispute resolution procedure
	and secondary Options	
		X2 Changes in the law
		X7: Delay damages
		X16: Retention
		X17: Low performance damages
		X18: Limitation of liability
		Z: <i>Additional conditions of contract</i>
	of the NEC3 Engineering and Construction Contract, April 2013 (ECC3)	
10.1	The <i>Employer</i> is (Name):	Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state owned company incorporated in terms of the company laws of the Republic of South Africa
	Address	Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg
10.1	The <i>Project Manager</i> is: (Name)	
	Address	Grootvlei power station
	Tel	
	Fax	
	e-mail	

10.1	The <i>Supervisor</i> is: (Name)	
	Address	Grootvlei Power Station
	Tel No.	
	Fax No.	
	e-mail	
11.2(13)	The <i>works</i> are	Ash Dam Piezometer Installation - Install new piezometers on new benches to enable accurate monitoring of the pore water pressures within the ash dam body.
11.2(14)	The following matters will be included in the Risk Register	• Adverse weather Conditions i.e., extreme rain, snow and strong winds. The contractor needs to take precautions when planning the sequence and resources for the works. Reliable wind speed meters should be acquired and recordings to be kept during periods where work could not be done due to high winds in the area. • Material suppliers. Material suppliers to meet all Eskom requirements. Any disputes between the suppliers and the Contract will not be handled by Eskom • Injuries and incidents due to noncompliance with Environmental, health and Safety Regulation and Legislation • Labour issues. These issues are to be properly managed in the event that local labour is to be hired to limit any disruptions of the work by local residents. • Delayed access to site • Use of unexperienced resources • Theft. the site and working areas are to be guarded to ensure that no theft can take place that will affect the continuity of supply or loss to the employer's existing assets. • Snakes, bees/wasps/spiders and animals – Care should be taken when working in the vicinity and a snake handling procedure should be in place
11.2(15)	The <i>boundaries of the site</i> are	Grootvlei Power station Ash Dams
11.2(16)	The Site Information is in	Part 4: Site Information
11.2(19)	The Works Information is in	Part 3: Scope of Work and all documents and drawings to which it makes reference.
12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa
13.1	The <i>language of this contract</i> is	English
13.3	The <i>period for reply</i> is	1 week

		Immediately for safety & health matters	
2	The Contractor's main responsibilities	Data required by this section of the core clauses is provided by the <i>Contractor</i> in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data.	
3	Time		
11.2(3)	The <i>completion date</i> for the whole of the works is	31 December 2024	
11.2(9)	The <i>key dates</i> and the <i>conditions</i> to be met are:	Condition to be met	key date
		1 All works to be completed	31.12.2024
		2 Project submission Schedule	As per the accepted programme
		3 Safety File	As per the accepted programme
30.1	The <i>access dates</i> are:	Part of the Site	Date
		1 Ash Dam	
31.1	The <i>Contractor</i> is to submit a first programme for acceptance within	1 week of the Contract Date.	
31.2	The <i>starting date</i> is		
32.2	The <i>Contractor</i> submits revised programmes at intervals no longer than	1 week.	
35.1	The <i>Employer</i> is not willing to take over the works before the Completion Date.		
4	Testing and Defects		
42.2	The <i>defects date</i> is	52 weeks after Completion of the whole of the works.	
43.2	The <i>defect correction period</i> is	2 weeks. The <i>Contractor</i> notifies the Project Manager when the <i>Contractor</i> is unable to correct defects within 2 weeks. The Project Manager instructs the <i>Contractor</i> to submit a revised programme outlining how and when the defects will be corrected. The defects correction period remains 2 weeks until the Project Manager accepts the revised programme.	
	except <i>defect correction period</i> for plant return to service: The <i>Contractor</i> must be fully available immediately to support the light up.		

5	Payment	
50.1	The <i>assessment interval</i> is	between the 25th day of each successive month.
51.1	The <i>currency of this contract</i> is the	South African Rand.
51.2	The period within which payments are made is	4 weeks
51.4	The <i>interest rate</i> is	the publicly quoted prime rate of interest (calculated on a 365 day year) charged from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands and (ii) the LIBOR rate applicable at the time for amounts due in other currencies. LIBOR is the 6 month London Interbank Offered Rate quoted under the caption "Money Rates" in The Wall Street Journal for the applicable currency or if no rate is quoted for the currency in question then the rate for United States Dollars, and if no such rate appears in The Wall Street Journal then the rate as quoted by the Reuters Monitor Money Rates Service (or such service as may replace the Reuters Monitor Money Rates Service) on the due date for the payment in question, adjusted <i>mutatis mutandis</i> every 6 months thereafter and as certified, in the event of any dispute, by any manager employed in the foreign exchange department of The Standard Bank of South Africa Limited, whose appointment it shall not be necessary to prove.

6	Compensation events	
60.1(13)	The place where weather is to be recorded is: The <i>weather measurements</i> to be recorded for each calendar month are, The <i>weather measurements</i> are supplied by The <i>weather data</i> are the records of past	Grootvlei Power Station the cumulative rainfall (mm) the number of days with rainfall more than 10 mm the number of days with minimum air temperature less than 0 degrees Celsius the number of days with snow lying at 09:00 hours South African Time and these measurements: South African Weather Bureau

weather measurements for each calendar month which were recorded at:

Based on information recorded at the Heidelberg weather station, the average annual rainfall for the Heidelberg area is approximately 691 mm. (Weather Bureau, Pretoria).

and which are available from:

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

60.1(13)	Assumed values for the ten year return <i>weather data</i> for each <i>weather measurement</i> for each calendar month are:	As stated in the South African Weather Bureau
7	Title	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
8	Risks and insurance	
80.1	These are additional <i>Employer's</i> risks	None
9	Termination	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data. In addition to core clause 9 termination clause above, the Employer reserves the right to terminate or modify the contract when a need arises or when there are changes requiring such in the organization. Such termination or modification will be subjected to reason for termination, procedure and accounts applicable to the NEC3 ECC core clause 9 termination.
10	Data for main Option clause	
B	Priced contract with bill of quantities	
11	Data for Option W1	
W1.1	The <i>Adjudicator</i> is	the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see www.ice-sa.org.za). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).
W1.2(3)	The <i>Adjudicator nominating body</i> is:	the Chairman of ICE-SA a joint Division of the South African Institution of Civil Engineering and the London Institution of Civil Engineers. (See www.ice-sa.org.za) or its successor body.

W1.4(2)	The <i>tribunal</i> is:	arbitration.
W1.4(5)	The <i>arbitration procedure</i> is	the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.
	The place where arbitration is to be held is	South Africa
	The person or organisation who will choose an arbitrator	
	- if the Parties cannot agree a choice or	the Chairman for the time being or his nominee
	- if the arbitration procedure does not state who selects an arbitrator, is	of the Association of Arbitrators (Southern Africa) or its successor body.

12 Data for secondary Option clauses

X2	Changes in the law	There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.	
X7	Delay damages (but not if Option X5 is also used)		
X7.1	Delay damages for Completion of the whole of the <i>works</i> are	R10,000.00 per day on the specific activity that is delayed and must not exceed 10% of the activity. The delay damages set out in clause X7 shall be the Employer's sole and exclusive remedy for delays	
X16	Retention (not used with Option F)		
	The <i>retention percentage</i> is	5%of each invoice	
X17	Low performance damages		
X17.1	The amounts for low performance damages are:	Amount	Performance level
		R10 000 per day	For every incident where a QCP is not approved on time as planned in the accepted programme and delays the start of activities.
		R10 000 per day	For every incident of quality non-compliance to hold and witness points on QCP's
		R 10 000 per day	For every incident where personnel are used which are not qualified or experienced as per the agreement
		R15 000 per day	For every incident where a commissioning procedure is not submitted on time as planned in the accepted programme.

		1% of the contract value For poor performance of the piezometers due to poor workmanship The amounts for low performance damages shall be capped at 10% of the contract value in aggregate
X18	Limitation of liability	
X18.1	The <i>Contractor's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to:	.1.1.1.1 R0.0 (zero Rand) neither party shall have any liability to the other for indirect or inconsequential loss (including loss of profit or loss of income)
X18.2	For any one event, the <i>Contractor's</i> liability to the <i>Employer</i> for loss of or damage to the <i>Employer's</i> property is limited to:	the amount of the deductibles relevant to the event
X18.3	The <i>Contractor's</i> liability for Defects due to his design which are not listed on the Defects Certificate is limited to	The greater of • the total of the Prices at the Contract Date and • the amounts excluded and unrecoverable from the <i>Employer's</i> assets policy for correcting the Defect (other than the resulting physical damage which is not excluded) plus the applicable deductible as at contract date.
X18.4	The <i>Contractor's</i> total liability to the <i>Employer</i> for all matters arising under or in connection with this contract, other than excluded matters, is limited to:	the total of the Prices other than for the additional excluded matters. The <i>Contractor's</i> total liability for the additional excluded matters is not limited. The additional excluded matters are amounts for which the <i>Contractor</i> is liable under this contract for • Defects due to manufacture and fabrication outside the Site, • loss of or damage to property (other than the <i>works</i>, Plant and Materials), • death of or injury to a person and • infringement of an intellectual property right.
X18.5	The <i>end of liability date</i> is	A latent Defect is a Defect which would not have been discovered on reasonable inspection by the <i>Employer</i> or the <i>Supervisor</i> before the <i>defects date</i>, without requiring any inspection not ordinarily carried out by the <i>Employer</i> or the <i>Supervisor</i> during that period. If the <i>Employer</i> or the <i>Supervisor</i> do undertake any inspection over and above the reasonable inspection, this does not place a greater responsibility on the <i>Employer</i> or the

Supervisor to have discovered the Defect.	
Z	The Additional conditions of contract are Z1 to Z15 always apply.
Z1	Cession delegation and assignment Z1.1 The <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 subsidiaries or any of its present divisions or operations which may be converted into separate legal entities as a result of the restructuring of the Electricity Supply Industry.
Z2	Joint ventures Z2.1 If the <i>Contractor</i> constitutes a joint venture, consortium or other unincorporated grouping of two or more persons or organisations then these persons or organisations are deemed to be jointly and severally liable to the <i>Employer</i> for the performance of this contract. Z2.2 Unless already notified to the <i>Employer</i> , the persons or organisations notify the <i>Project Manager</i> within two weeks of the Contract Date of the key person who has the authority to bind the <i>Contractor</i> on their behalf. Z2.3 The <i>Contractor</i> does not alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without the consent of the <i>Employer</i> having been given to the <i>Contractor</i> in writing.
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>Project Manager</i> within thirty days of the notification or as otherwise instructed by the <i>Project 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 Works. 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 P3 as stated in clause 92, and the amount due is A1 and A3 as stated in clause 93.
Z4	Confidentiality Z4.1 The <i>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.

- Z4.2 If the *Contractor* is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the *Project Manager*.
- Z4.3 In the event that the *Contractor* is, at any time, required by law to disclose any such information which is required to be kept confidential, the *Contractor*, to the extent permitted by law prior to disclosure, notifies the *Employer* so that an appropriate protection order and/or any other action can be taken if possible, prior to any disclosure. In the event that such protective order is not, or cannot, be obtained, then the *Contractor* may disclose that portion of the information which it is required to be disclosed by law and uses reasonable efforts to obtain assurances that confidential treatment will be afforded to the information so disclosed.
- Z4.4 The taking of images (whether photographs, video footage or otherwise) of the *works* or any portion thereof, in the course of Providing the Works and after Completion, requires the prior written consent of the *Project Manager*. All rights in and to all such images vests exclusively in the *Employer*.
- Z4.5 The *Contractor* ensures that all his subcontractors abide by the undertakings in this clause.

Z5 Waiver and estoppel: Add to core clause 12.3:

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

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

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

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

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

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

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

Z8 Notifying compensation events

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

Z9 Employer's limitation of liability

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

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

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

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

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

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

Z12 Ethics

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

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

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

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

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

- Corrupt Action** means the offering, giving, taking, or soliciting, directly or indirectly, of a good or service to unlawfully or illegally influence the actions of an Affected Party,
- Fraudulent Action** means any unlawfully or illegally intentional act or omission that misleads, or attempts to mislead, an Affected Party, in order to obtain a financial or other benefit or to avoid an obligation or incurring an obligation,
- Obstructive Action** means a Committing Party unlawfully or illegally destroying, falsifying, altering or concealing information or making false statements to materially impede an investigation into allegations of Prohibited Action, and
- Prohibited Action** means any one or more of a Coercive Action, Collusive Action Corrupt Action, Fraudulent Action or Obstructive Action.

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

Z13 Insurance

Z 13.1 Replace core clause 84 with the following:

Insurance cover 84

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

.1.2 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 covered by the <i>Employer's</i> insurance The <i>Employer's</i> policy deductible, at Contract Date, where covered by <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 Contractor) 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 Employer's insurance The Employer's policy deductible, as at Contract Date, where covered by the Employer's 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 Contractor 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.

C1.2 Contract Data

1 Part two - Data provided by the Contractor

Notes to a tendering contractor:

1. Please read both the NEC3 Engineering and Construction Contract (April 2013) and the relevant parts of its Guidance Notes (ECC3-GN)² in order to understand the implications of this Data which the tenderer is required to complete. An example of the completed Data is provided on pages 156 to 158 of the ECC3 (April 2013) Guidance Notes.
2. The number of the clause which requires the data is shown in the left hand column for each statement however other clauses may also use the same data
3. Where a form field like this [] appears, data is required to be inserted relevant to the option selected. Click on the form field **once** and type in the data. Otherwise complete by hand and in ink.

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

Clause	Statement	Data
10.1	The <i>Contractor</i> is (Name): Address Tel No. Fax No.	
11.2(8)	The <i>direct fee percentage</i> is The <i>subcontracted fee percentage</i> is	% %
11.2(18)	The <i>working areas</i> are the Site and	
24.1	The <i>Contractor's</i> key persons are: 1 Name: Job: Responsibilities: Qualifications: Experience: 2 Name: Job: Responsibilities: Qualifications: Experience:	

² Available from Engineering Contract Strategies Tel 011 803 3008, Fax 011 803 3009 or see www.ecs.co.za

		CV's (and further key persons data including CVs) are appended to Tender Schedule entitled _____.		
11.2(3)		The <i>completion date</i> for the whole of the works is		
11.2(14)		The following matters will be included in the Risk Register		
11.2(19)		The Works Information for the <i>Contractor's</i> design is in:		
31.1		The programme identified in the Contract Data is		
B		Priced contract with bill of quantities		
11.2(21)		The <i>bill of quantities</i> is in	(in figures) (in words), excluding VAT	
11.2(31)		The tendered total of the Prices is		
		Data for Schedules of Cost Components	<i>Note "SCC" means Schedule of Cost Components starting on page 60, and "SSCC" means Shorter Schedule of Cost Components starting on page 63 of ECC3 (April 2013).</i>	
B		Priced contract with bill of quantities	Data for the Shorter Schedule of Cost Components	
41 in SSCC		The percentage for people overheads is:	%	
21 in SSCC		The published list of Equipment is the last edition of the list published by The percentage for adjustment for Equipment in the published list is	Minus %	
22 in SSCC		The rates of other Equipment are:	Equipment	Size or capacity or Rate
61 in SSCC		The hourly rates for Defined Cost of design outside the Working Areas are Note: Hourly rates are estimated 'cost to company of the employee' and not selling rates. Please insert another schedule if foreign resources may also be used	Category of employee	Hourly rate

62 SSCC	in	The percentage for design overheads is	%
63 SSCC	in	The categories of design employees whose travelling expenses to and from the Working Areas are included in Defined Cost are:	

PART 2: PRICING DATA
ECC3 Option B

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

C2.1 Pricing assumptions: Option B

1. How work is priced and assessed for payment

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

Identified and defined terms 11
11.2

(21) The Bill of Quantities is the *bill of quantities* as changed in accordance with this contract to accommodate implemented compensation events and for accepted quotations for acceleration.

(28) The Price for Work Done to Date is the total of

- the quantity of the work which the *Contractor* has completed for each item in the Bill of Quantities multiplied by the rate and
- a proportion of each lump sum which is the proportion of the work covered by the item which the *Contractor* has completed.

Completed work is work without Defects which would either delay or be covered by immediately following work.

(31) The Prices are the lump sums and the amounts obtained by multiplying the rates by the quantities for the items in the Bill of Quantities.

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

2. Function of the Bill of Quantities

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

3. Guidance before pricing and measuring

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

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

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

plus Fee is used.

4. Measurement and payment

4.1. Symbols

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

Abbreviation	Unit
%	percent
h	hour
ha	hectare
kg	kilogram
kl	kilolitre
km	kilometre
km-pass	kilometre-pass
kPa	kilopascal
kW	kilowatt
l	litre
m	metre
mm	millimetre
m ²	square metre
m ² -pass	square metre pass
m ³	cubic metre
m ³ -km	cubic metre-kilometre
MN	meganewton
MN.m	meganewton-metre
MPa	megapascal
No.	number
sum	Lump sum
t	tonne (1000kg)

4.2. General assumptions

- 4.2.1. Unless otherwise stated, items are measured net in accordance with the drawings, and no allowance has been made in the quantities for waste.
- 4.2.2. The Prices and rates stated for each item in the Bill of Quantities shall be treated as being fully inclusive of all work, risks, liabilities, obligations, overheads, profit and everything necessary as incurred or required by the *Contractor* in carrying out or providing that item.
- 4.2.3. An item against which no Price is entered will be treated as covered by other Prices or rates in the *bill of quantities*.
- 4.2.4. The quantities contained in the Bill of Quantities may not be final and do not necessarily represent the actual amount of work to be done. The quantities of work assessed and certified for payment by the *Project Manager* at each assessment date will be used for determining payments due.
- 4.2.5. The short descriptions of the items of payment given in the *bill of quantities* are only for the purposes of identifying the items. Detail regarding the extent of the work entailed under each item is provided in the Works Information.

4.3. Amplification of or assumptions about measurement items

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

C2.2 the *bill of quantities*

Item	Description	Unit	Quantity	Rate	Total
	Section-1				
	Preliminary and General				
1	Site Establishment (Set-ups(provision for ablution facilities, site container for personnel and storage), drive-on access for a fully laden/-ton truck towing a 5-ton trainer)	Sum	1		
2	Medicals and Induction for entire crew	Sum	1		
3	Personal Protective Equipment	Sum	1		
4	Police clearance for entire crew	Sum	1		
5	Provision of a Safety Officer	Week	8		
6	Provision of Safety File	Sum	1		
7	Double Cab Bakkie x 2	Sum	1		
8	Site De-Establishment	Sum	1		
	Sub-Total				
Item	Description	Unit	Quantity		Total
	Section-2				
	Rotary Drilling (H-size, Vertical, 0 to 30m)				
1	Set-ups, drive-on access for a fully laden truck towing a trailer with mounted drill rig	No.	43		
2	Extra over items 1 for inter-hole moves that take longer than two hours (Provisional)	Hr	43		
3	Wash boring with H-size casing) The quantity allows for an extra 1m per hole to allow for sump below the piezometer and ensuring that tip can be installed at the correct length	m	846		

4	Extra over Items 3 for Rotary core drilling through hard layers(H-size)	m	127		
5	Drilling in gravel/cobbles/boulders/chert/difficult formations (Provisional Sum)	m	rate only		
6	Extra over items 5 for Lost/permanent casing	m	rate only		
7	Supply and install piezometers to specification with porous tip, plug, centralisers, silica, and filter pack and backfill with a bentonite grout, coarse sand mixture mixture as detailed	m	846		
8	Borehole development	hour	43		
9	Piezometer upset test	No.	43		
10	Installation survey	No.	43		
11	Metal Core trays (no lid)	No.	43		
12	Installation of Lockable standpipe and concrete plinth (600*600*150)	No.	43		
13	Standing time per rig	hr	rate only		
	Sub-Total				
Total					

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

C3.1: EMPLOYER'S WORKS INFORMATION

Contents

Part 3: Scope of Work	1
C3.1: Employer's works Information	2
1 Description of the works	4
1.1 Executive overview	4
1.2 Employer's objectives and purpose of the works	4
1.3 Interpretation and terminology	4
2 Management and start up.	Error! Bookmark not defined.
2.1 Management meetings	4
2.2 Documentation control	5
2.3 Health and safety risk management	5
2.4 Environmental constraints and management	6
2.5 Quality assurance requirements	6
2.6 Invoicing and payment	6
2.7 Insurance provided by the Employer	7
3 Engineering and the Contractor's design	8
3.1 Employer's design	8
3.2 Parts of the works which the Contractor is to design	8
3.3 Procedure for submission and acceptance of Contractor's design	8
3.4 Other requirements of the Contractor's design	8
3.5 Equipment required to be included in the works	8
3.6 As-built drawings, operating manuals and maintenance schedules	8
4 Procurement	9
4.1 People	9
4.1.1 Minimum requirements of people employed on the Site	9
4.1.2 BBBEE and preferencing scheme	9
4.2 Subcontracting	9
4.2.1 Preferred subContractors.....	9
4.2.2 Subcontract documentation, and assessment of subcontract tenders	9
4.2.3 Limitations on subcontracting	10
4.2.4 Attendance on SubContractors.....	10
4.3 Plant and Materials	10
4.3.1 Quality	10
4.3.2 Plant & Materials provided "free issue" by the Employer.....	11
4.3.3 Contractor's procurement of Plant and Materials	11

4.3.4	Spares and consumables	11
4.4	Tests and inspections before delivery	11
4.5	Marking Plant and Materials outside the Working Areas	12
4.6	<i>Contractor's</i> Equipment (including temporary works).	12
4.7	Cataloguing requirements by the <i>Contractor</i>	12
5	Construction.....	12
5.1	Temporary works, Site services & construction constraints	12
5.1.1	<i>Employer's</i> Site entry and security control, permits, and Site regulations.....	12
5.1.2	Restrictions to access on Site, roads, walkways and barricades	13
5.1.3	People restrictions on Site; hours of work, conduct and records.....	15
5.1.4	Site services and facilities.....	15
5.1.5	Facilities provided by the <i>Contractor</i>	15
5.1.6	Survey control and setting out of the <i>works</i>	15
5.2	Completion, testing, commissioning and correction of Defects	16
5.2.1	Work to be done by the Completion Date	16
5.2.2	Performance tests after Completion	16
	List of drawings	16
.1	Drawings issued by the <i>Employer</i>	16

1. Description of the works

1.1 Executive overview

The operation of the Ash Dam is such that as the facility rises in height, new piezometers need to be installed on new benches to enable accurate monitoring of the pore water pressures within the ash dam body. The Grootvlei Ash dam has had a new step in, therefore creating a new bench meaning that the piezometer installation for this bench is due.

Furthermore, through the monitoring of the existing piezometers, it has been established that some of the piezometers are damaged and therefore giving incorrect readings. These piezometers need to be replaced with new piezometers to enable accurate monitoring of the ash dam.

1.2 Employer's objectives and purpose of the works

The project objective is the installation of 43 wash bore piezometers at varying depths at the Grootvlei Power Station ash dam. These piezometers are to be used for the monitoring of phreatic levels of the ash dam. The works includes drilling and placement of the standpipes to the technical specification provided.

1.3 Interpretation and terminology

The following abbreviations are used in this Works Information:

Abbreviation	Meaning given to the abbreviation
AFC	Approved for construction
OBL	Outside battery limits
CIDB	Construction Industry Development Board
ECSA	Engineering Council of South Africa
CE	Compensation Event
UIF	Unemployment Insurance Fund

2. Management and start up.

2.1. Management meetings

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

Title and purpose	Approximate time & interval	Location	Attendance by:
Kick off meeting	Immediately after contract award	Grootvlei Power Station or virtual	<i>Employer, Contractor</i>
Risk register and compensation events	Monthly or anytime when a risk arises or when CE is raised	Grootvlei Power Station or virtual	<i>Employer, Contractor</i>
Overall contract progress	Weekly	Grootvlei Power Station	<i>Employer, Contractor</i>

and feedback		or virtual	
Contractor SHE Forum and all station SHEQ related meetings	Monthly or when the need arises	Grootvlei Power Station or virtual	Contractor

Meetings of a specialist nature may be convened as specified elsewhere in this Works Information or if not so specified by persons and at times and locations to suit the Parties, the nature and the progress of the works. Records of these meetings shall be submitted to the *Project 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.

2.2. Documentation control

All communication between the *Employer* and the *Contractor* shall be via formal letters sent on Email.

Upon completion of the works, the *Contractor* shall submit to the *Employer* As built drawings in a drawings in pdf and dgn/dwg format of the works completed. The drawings shall be submitted with a transmittal numbering each drawing as per number sequence provided by the *Employer*. This number sequence will be provided to the *Contractor* once the number of drawings to be submitted has been confirmed. 3 soft copies and 3 filed hard copies of the data book must be submitted.

2.3. Health and safety risk management

The *Contractor* shall adhere to all OHS Legal requirements, OHS corporate policies, standards and procedures to which Eskom subscribes and as indicated on the issued SHE specification.

The *Contractor* shall, when coming on site (Grootvlei Power Station), abide by the Life Saving Rules. These will be provided by the *Employer* on the start of the contract.

The *Contractor* shall also abide by the Grootvlei High risk Safety, Health, and Environmental Specifications 240-73418055, which will also be provided by the *Employer*.

The *Contractor* shall, when coming on site (Grootvlei Power Station), make use of approved personal protective clothing such as overalls, safety shoes, safety hat, safety goggles, dust mask and gloves when necessary.

The *Employer* follows an Incident management procedure (32-95) that includes the investigation of all accidents involving personnel and property. This is done with the intention of introducing control measures to prevent a recurrence of the same incidents. The *Contractor* is expected to fully co-operate to achieve this objective. The *Contractor* will report any incident and accidents to Grootvlei Power Station within 24 hours. This report does not relieve the Consultant of his legal obligation to report certain incidents to the Department of Labour, or to keep records in terms of the Occupational Health and Safety Act, and Compensation for Occupational Injuries and Diseases Act.

The *Contractor* implements a safety plan and maintains the safety system until the completion of the whole of the works. The plan, will as a minimum, contain PPE information, written safe work procedures, job specific risk assessments, safety meetings, etc. The plan will be to the *Employer's* satisfaction and will be accepted prior to the commencement of any work.

The *Contractor* will be subject to periodic audits by the *Employer* to ensure compliance with the plan. Any deviations will be corrected to the *Employer's* satisfaction.

The Project Manager has the right to stop the *Contractor's* work activities which, in the opinion of Service Manager, is un-safe. The *Contractor* may only continue with work activities when all safety deficiencies have been corrected to the Service Manager's satisfaction. The *Contractor* shall have no claim against the *Employer* in respect of delay due to the above.

2.4. Environmental constraints and management

The *Contractor* must familiarise themselves with the waste management policies and procedures (240-28981069 and 240-29828394 respectively) within 14 days from date of contract awards, and must comply with the environmental criteria and constraints stated in the policy document. The requirements include the identification, collection, storage, transportation and disposal of waste. Hazardous waste shall be disposed off in line with the applicable environmental legislation. It is important to note that all spillages must be cleaned immediately and reported to the service manager as soon as possible. It is the responsibility of the polluter to clean all spillages and for the rehabilitation of the polluted land and the cost associated with that.

2.5. Quality assurance requirements

- The *Contractor* implements a quality system and maintains the quality system until the completion of the whole of the Works. The system, will as a minimum, comply with the provisions of the ISO 9001 and the Supplier Contract Quality Requirements Specification 240-105658000/ QM-58. The system will be to the *Employer's* satisfaction and will be accepted prior to the commencement of any work on site.
- The *Contractor* is responsible for defining the level of Quality Control Plan (QCP) or inspections to be imposed. The level should be based on criticality of plant and material and must be submitted to the Service Manager for acceptance prior to the commencement of any work activities.
- The *Contractor* compiles a data package of relevant drawings, test certificates, design checks and other technical information for each section of work or Task Order which is to be reviewed and signed off by the Supervisor or *Employer* Representative.
- The *Contractor* will be subject to periodic audits by the *Employer* in order to ensure compliance with the system. Any deviations will be corrected to the *Employer's* satisfaction.
- The Service Manager has the right to stop the *Contractor's* work activities which, in the opinion of Service Manager, does not meet the requirements of the system and will have a detrimental effect on plant performance.
- The *Contractor* may only continue with work activities when all deficiencies have been corrected to the *Employer's* satisfaction. The *Contractor* shall have no claim against the *Employer* in respect of delay due to the above.
- The *Contractor* ensures that all plant and materials for the Works are to the standard and quality accepted by the *Employer* and ensures that they are suitable for the purpose intended by the manufacturer.
- The *Contractor* will work according to the *Employer's* standards, specifications, guidelines and procedures. Where no standards, specifications, guidelines and procedures are available, the *Contractor* will work according to the Generation Quality Manual. Where possible, standards will be reflected in the Task Order.
- The *Contractor* will ensure that they facilitate effective and efficient management of incident from the moment it occurs, until it can be audited and mitigated.
- In case the *Contractor* damages the plant whilst executing the scope, the *Contractor* shall rectify the plant and the contract can be terminated thereafter.

2.6. Invoicing and payment

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

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

- Name and address of the *Contractor* and the *Project Manager*;
- The contract number and title;
- *Contractor's* VAT registration number;
- The *Employer's* VAT registration number 4740101508;
- Description of service provided for each item invoiced based on the Price List;
- Total amount invoiced excluding VAT, the VAT and the invoiced amount including VAT;
- (add other as required)

Add procedures for invoice submission and payment (e. g. electronic payment instructions)

2.7. Insurance provided by the *Employer*

As stated for "Format A" available on

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

3. Engineering and the *Contractor's* design

3.1. *Employer's* design

The *Employer* has developed a detailed technical specification. The Below Documents shall be referred to as the *Employers* Design:

- i) ME-1039-08-2022-04 - Technical Specification for Piezometers: New Ash Dam, Grootvlei Power Station
- ii) ME-1039-08-07-S001 – Grootvlei Piezometer Layout
- iii) ME-1039-08-07-S002 – Piezometer Dimension Details

3.2. Parts of the *works* which the *Contractor* is to design

All construction preparation works and access to all the locations where piezometers are to be installed are to be designed by the *Contractor*. The *Contractor* therefore studies the dam topography in detail to plan for these designs.

3.3. Procedure for submission and acceptance of *Contractor's* design

The *Contractor* presents all works he has designed to the *Employer* prior to conducting any works onsite. Once agreed with the *Employer*, the *Contractor* may commence with the physical works.

3.4. Other requirements of the *Contractor's* design

The *Contractor* ensures that all designs of the required temporary works are completed by a Professionally Registered Engineer or Technologist who will take accountability for his designs.

3.5. Equipment required to be included in the *works*

The *Contractor* provides all the equipment required for the successful installation of the Piezometers. A list of the equipment and their specification is to be listed in the Method Statement document.

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

Upon completion of the works, the *Contractor* updates and submits the drawings As-built to the *Employer*.

4. Procurement

4.1. People

4.1.1. Minimum requirements of people employed on the Site

- a. The *Contractor* shall provide suitable and qualified resources and shall prioritize candidates around Dipaleseng Community through the local forum where they meet the requirements for the job. The *Contractor* shall not employ previously dismissed Eskom employees.
- b. Verifications of skills, qualifications and a police clearance will be conducted on all *Contractor* Employees.
- c. The *Contractor* provides competent personnel with the relevant post qualification experience for the implementation of all of the works. All CV's with relevant qualifications and detailed experience are submitted to the Project Manager within four weeks of the start date. All foreign qualifications to be certified by SAQA and proof of certification to be supplied. Foreign ID or passport holders also require a valid work permit to perform work.
- d. The *Contractor* appoints either a Contract Manager or a Project Manager who possesses documented competencies to manage the duties related to the NEC contract and project management. This person serves as the direct liaison for the *Employer's* Project Manager and also has the authority to make decisions and instruct all other *Contractor's* personnel, as and when required.
- e. All *Contractor* employees shall undergo police clearance verification before being inducted onsite.
- f. The *Contractor* shall adhere to minimum wage remuneration as per labour regulation
- g. *Contractor* employees shall be registered for UIF as per labour regulation

4.1.2. BBBEE and preferencing scheme

BBBEE requirements are specified in the Supplier Development Localisation and Industrialisation (SDL&I) target setting document provided. SD&L to comment

4.2. Subcontracting

4.2.1. Preferred subContractors

Where subcontracting of certain activities is required, the *Contractor* shall notify the *Employer* and an agreement shall be obtained with the *Employer* to ensure compliance. Refer to the SDL&I Target Setting document.

4.2.2. Subcontract documentation, and assessment of subcontract tenders

- a. If the *Contractor* subcontracts work, he is responsible for providing the Works as if he had not subcontracted. This contract applies as if a SubContractor's employees and equipment was the *Contractor's*.
- b. The *Contractor* supports local Small, Micro and Medium Enterprises (SMME) by purchasing equipment, tools and materials locally where such equipment, tools and materials are available.
- c. All SubContractors need to be approved by the Project Manager before the SubContractor may be allocated work by the *Contractor* or be brought to the Site.
- d. Subcontract documentation and assessment of subcontract tenders shall be done by the *Contractor*.
- e. The *Contractor* must inform the Project Manager when intending to subcontract some of the works from the contract Scope of Work.

- f. The *Contractor* may subcontract according to NEC contract or other types of contracts.
- g. The *Contractor* submits the proposed contract data for each SubContractor for acceptance to the Project Manager.
- h. The *Contractor* only employs competent SubContractors.
- i. The *Contractor* indicates on a list as shown below, the names of any SubContractors (when known) whose services may be used to provide the works. The *Contractor* provides a short description of the work it is proposed to sub-contract to each, together with an approximate value of the work to be executed by each. Where the SubContractor is required to do physical work on Site, the *Contractor* provides details of the experiences of the mentioned SubContractor as well as a list of references involving work of a similar nature.
- j. Notwithstanding the inclusion of a SubContractor name below, the *Contractor* obtains the written acceptance of the Project Manager prior to the employment of such SubContractor.

SubContractor	Description of work	Approximate value
1.		
2.		
3.		

4.2.3.Limitations on subcontracting

Where the *Contractor* encounters scenarios where specialised work is required, subcontracting of such services is to be obtained in agreement with the *Employer*. Refer to the SDL&I Target Setting document.

4.2.4.Attendance on SubContractors

- a. SubContractors shall remain the responsibility of the main *Contractor*. They shall adhere to the *Employers* code of ethics and comply with all the *Employers* requirements.
- b. It is the *Contractor's* responsibility to ensure that the SubContractor(s) completes and supplies a daily Site diary, which includes details such as the labour resources available, starting time, ending time, equipment and materials used, weather conditions, interruptions etc.
- c. The *Contractor* ensures that the diary is submitted by the SubContractor to the Project Manager daily for checking, commenting and signing-off and a copy is supplied. If the daily diary is not signed off by each worker then a separate daily attendance register is supplied.

4.3. Plant and Materials

4.3.1.Quality

- a. The *Contractor* ensures that all equipment, tools and material that the *Contractor* / SubContractor uses to execute the works, complies with the SABS and other stated standards.
- b. All plant and materials sourced and supplied for the installation are new and all are free from defects. Reconditioned/refurbished plant and/or materials are NOT regarded as new under any circumstances and may NOT be utilised.
- c. The *Contractor* does not use plant and materials, which are generally recognised as being unsuitable or otherwise unsuitable for the purpose for which they are intended.
- d. Only components of high reliability are utilised, with a proven operating history, to enable the plant to achieve the required reliability and availability. Plant and material design, engineering and manufacture is in accordance with the best practice applicable to high-grade products of the type to be furnished, to ensure the efficiency and reliability of the works and the strength and suitability of the various parts for the works.
- e. Plant and materials withstand ambient conditions and the variations of temperature arising under working conditions without distortion, deterioration or undue strains in any part.
- f. No repair of defective plant and materials may be permitted without the Project Manager's approval and any such repair, if approved, is carried out to the satisfaction of the *Employer*.

4.3.2.Plant & Materials provided “free issue” by the *Employer*

All plant and material shall be provided by the *Contractor*. Where the scaffolding is required, the *Employer* shall provide.

4.3.3.Contractors procurement of Plant and Materials

- a) Absolutely no changes to the current plant configuration will be allowed unless authorised by the *Employer*.
- b) It is mandatory that plant, equipment and materials be procured in accordance with the specifications listed in the Works Information.
- c) Should any equipment not be available on the market due to obsolescence, the *Contractor* recommends a suitable alternative. All alternative equipment to be approved by the *Employer* before procurement.
- d) The *Contractor* only procures plant and materials as specified in the Works Information. Any change of specifications is notified in writing by the Project Manager as an instruction.
- e) The procurement schedule is clearly shown and integrated into the *Contractor's* accepted project programme ensuring delivery of equipment to site in advance to the installation activity
- f) All items procured and stored at the *Contractor's* premises or the *Employer's* premises are stored in accordance with the manufacturer's or material's specifications.
- g) The *Contractor* ensures that plant and materials procured carry a minimum of 52 weeks warranty or guarantee period due to defect or malfunction.
- h) Plant and materials used for the works are to bear no labelling other than the plant coding specified by the *Employer*.
- i) The *Contractor* procures and stores all materials as per the recommendations stipulated in the materials data sheet.

4.3.4.Spares and consumables

- a) The *Contractor* shall provide required spares and consumables that may be needed at or just after take over to ensure continuity.
- b) The *Contractor* shall provide consumables for all *Contractor* employees, ie. Gloves, dust masks, earplugs.

4.4. Tests and inspections before delivery

- a. The *Project Manager* reserves the right to appoint a representative or representatives to inspect all parts during manufacturing and testing and to be present at any of the tests specified in this *works*.
- b. The *Employer's* representative/s and/or third-party/independent inspection authority must have unhindered access to witnessing all manufacturing and testing processes at the manufacturing facility.
- c. Where holding points exist on the manufacturing QCP's, no manufacturing activity shall proceed if the preceding activity on the manufacturing QCP was not approved by both the *Contractor* and *Employer's* representatives.
- d. The *Employer* carries out quality inspections at his discretion and as per the pre-approved Quality Control Plan (QCP).
- e. Such tests as may be required by the *Project Manager* are carried out by the *Contractor* during or after manufacturing to prove compliance with the specification independently of any test which may have been carried out at the manufacturer's facility.
- f. The *Contractor* is not relieved of his responsibilities if the *Project Manager* and other *Employer* representatives choose to waive the witnessing of any manufacturing and testing processes.

- g. The *Contractor* provides a test certificate for each test required.
- h. The *Contractor* provides current calibration certificates for all equipment used during manufacturing and testing when required to do so by the *Project Manager*.
- i. The *Contractor* is responsible for quality assurance and control during manufacturing and testing. Any approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test, or similar act by the *Employer* (including the absence of disapproval) shall not relieve the *Contractor* from any responsibility under the *Contract*, including responsibility for errors, omissions, discrepancies and non-compliances.
- j. The *Contractor* takes note of and responds to any comments made by the *Employer* on the *Contractor's* manufacturing documents. However, the *Employer* is not bound to check the *Contractor's* manufacturing documents for any errors, omissions, ambiguities or discrepancies or compliance with the requirements of the Works Information. The *Employer's* receipt of, or review of, or comment on, the *Contractor's* manufacturing documents does not relieve the *Contractor* from responsibility for the *Contractor's* errors or omissions or departure from the requirements of the standard.
- k. The *Contractor* shall test, Inspect and certify that the system is reliable and safe to use before takeover.
- l. The *Contractor* shall provide all test certificates of compliance (CoC).

4.5. Marking Plant and Materials outside the Working Areas

All equipment shall be properly marked for identification.

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

- a. The *Contractor* shall use inspected and tested equipment, equipment compliance documents shall be made available on request by the *Employer*
- b. All temporary works shall be removed after completion

4.7. Cataloguing requirements by the Contractor

The *Contractor* shall provide all the information (specification) required by the *Employer* to catalogue the spares for this system.

5. Construction

5.1. Temporary works, Site services & construction constraints

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

The *Contractor* shall gain site entry once:

- a) The Medicals have been confirmed valid for all the *Contractors* Employees
- b) All the *Contractors* employees have completed the Site Inductions (Held on Mondays and Wednesdays)
- c) All the *Contractors* employees provide a Security Clearance

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

Access to Site

The *Contractor* makes his/her own assessment of and allows in his/her rates for those access problems that may be encountered. No extra payment or claim of any kind is allowed on account of difficulties of access to the works, or for the requirement of working adjacent to or in the same area as others.

Access to site shall be in line with the Grootvlei Power Station's access procedure. The *Contractor* shall be required to make an application to enter site for the duration of the contract, including the warranty and defect period where applicable. A permit shall only be issued once the *Contractor* and his or her employees have attended the safety induction and has undergone medical checks.

All the assets must be declared and registered with security upon entering site. This includes portable assets such as laptops. The record must be kept on the OV18 form. No asset shall be removed from site if the OV18 form is not attached.

The *Contractor* shall have no claim against the *Employer* in respect of delay at the security main gate.

All *Contractor* permits shall be returned to Protective Services on completion of the works.

Equipment

Any equipment, or appliances, used by the *Contractor* conforms to the applicable OHS Act safety standards and is maintained in a safe and proper working condition. The *Employer* has the right to stop the *Contractor* use of any equipment which, in the opinion of *Employer*, does not conform to the foregoing.

Off-loading and material handling equipment is not available on site and if required, is to be provided by the *Contractor*.

Site Regulations

Note that the speed limit on the site is 40 km/h. The vehicle permit of any persons contravening any traffic act on site shall be cancelled.

The *Contractor* complies with the Grootvlei Site Regulations, a copy of which is available for perusal at the *Employer's* offices.

Any subject within the authority of the *Employer* may be addressed by a Site Regulation. Before work starts on site, an inaugural meeting is held with the *Contractor* to explain all requirements of the Site Regulations.

The *Contractor* is issued with a file of current Site Regulations on arrival. The file remains the property of the *Employer* and the *Contractor* is responsible for its maintenance and updating as revised regulations are issued by the *Employer*.

Permits

No work commences without the acceptance of the permit to work or LAR by the *Contractor*. The plant safety regulations course can be done at any Eskom Power Station but the practical course is Grootvlei specific.

Accommodation and Transportation

At his own cost the *Contractor* provides his/her own accommodation and transport for all his/her employees engaged in the execution of the works. This includes the needs of his/her sub-*Contractor*. No accommodation is available at Grootvlei Power Station.

The Contractor

The *Contractor* provides security necessary for the protection of the works at all times until the completion of the whole of the works.

The *Contractor* is informed of the access procedures through Site Regulations and note that such procedures may change depending on the prevailing security situation.

All persons entering the Grootvlei site pass through the control points at the main access gate and are required to have temporary permits that are issued to *Contractor* staff on request. All persons submit ID documents with the application for temporary permits. If it is necessary to bring equipment onto site a list is submitted which is verified by security staff prior to equipment entering the security area.

If any *Contractor* staffs are transferred from Grootvlei or leave site, the person's permit is handed over to the Supervisor. The *Contractor* ensures that personnel leaving site are transported out of the security area and that the permit is returned.

No firearms, weapons, alcohol, illegal substances and cameras are permitted on site. Any person suspected of being under the influence of alcohol is tested and if proved positive, is refused entry to the security area.

No "private work" is carried out for or on behalf of any Eskom employee.

Safety

The *Contractor* implements a safety plan and maintains the safety system until the completion of the whole of the works. The plan, will as a minimum, contain PPE information, written safe working procedures, job specific risk assessments, safety meetings, etc. The plan will be to the *Employer's* satisfaction and will be accepted prior to the commencement of any work.

The *Contractor* will be subject to periodic audits by the *Employer* in order to ensure compliance with the plan. Any deviations will be corrected to the *Employer's* satisfaction.

The *Employer* has the right to stop the *Contractor* work activities which, in the opinion of *Employer*, is unsafe. The *Contractor* may only continue with work activities when all safety deficiencies have been corrected to the *Employer* satisfaction. The *Contractor* shall have no claim against the *Employer* in respect of delay due to the above.

Site	:	Grootvlei Power Station
Regional Authority	:	Dipaliseng Town Council, Mpumalanga Province
Nearest Towns	:	Balfour – 18km north east of power station Villiers – 30km south of power station Heidelberg – 40km north of power station There are informal settlements within a 10 km radius of the power station.
Infrastructure	:	Grootvlei Power Station is situated approximately 3km from the N3 highway and is connected to it by means of a tarred road. There is also a secondary tarred road connecting the site with the R51 and R53. Water is supplied to the adjoining township, and sewage is returned to the sewerage Works of the power station. The railway line from Balfour to Bethlehem passes the station. 400kV and 88kV power lines cross the existing road network in the area.

Latitude & longitude	:	26° 46' S & 28° 29' E
Landowner	:	The power station is situated on the farm Grootvlei Power Station, ERF 458 IR, Title deed number CCT50784/1983. Eskom is the landowner.
River catchment	:	Mid-Vaal
Regional Climate		Grootvlei Power Station is situated on the Highveld in the western part of Mpumalanga province on the escarpment, at an average height of 1551 m above sea level. The winters are generally dry and cold with regular frost and temperatures varying between -7°C and 23°C. The summers are mild with most of the rainfall occurring during this season. Temperatures vary between 12° & 32° C.
Wind direction		Data from the Heidelberg weather station shows that Grootvlei Power Station is sited in such a way that for most of the year (291 days) the wind direction is from the power station in a direction that is North West.
Rainfall		Based on information recorded at the Heidelberg weather station, the average annual rainfall for the Heidelberg area is approximately 691 mm. (Weather Bureau, Pretoria).

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

The *Contractor* records information of all those that enter the *Employers* site on each site. This information is to be presented to the *Employer* on the day of the site visit and as and when requested by the *Employer*..

Working hours at Grootvlei Power Station are as follows:

Monday – Thursday	: 07:15 to 16:30
Friday	: 07:15 to 12:15
Saturday, Sunday and Public Holidays	: Off

5.1.4. Site services and facilities

The *Contractor* shall make provision for onsite power (At the ash dam) in the form of a generator shall a need arise for the execution of the works. Power for the site offices shall be provided by the *Employer* at a location less than 50m away from the established offices. Ablution facilities shall be availed by the *Employer* at a distance less than 50m from the established site.

5.1.5. Facilities provided by the Contractor

The *Contractor* provides all facilities and equipment as quoted for in his site establishment for the successful and efficient execution of the works. The *Employer* shall allocate a site for the *Contractor* to establish. Upon completion of the works, the *Contractor* shall de-establish site and remove all the facilities and equipment previously brought to site.

5.1.6. Survey control and setting out of the works

Refer to the technical specification for all benchmarks.

5.2. Completion, testing, commissioning and correction of Defects

5.2.1. Work to be done by the Completion Date

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

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

5.2.2. Performance tests after Completion

Refer to the Technical Specification (Upset Tests)

List of drawings

5.3. Drawings issued by the *Employer*

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

Note: Some drawings may contain both Works Information and Site Information.

Drawing number	Revision	Title
ME-1039-08-07-S001	0	Grootvlei Power station New Ash Dam Piezometer Layout
ME-1039-08-07-S002	1	Grootvlei New Ash Dam Piezometer Specification Standard Piezometer Details and Piezometer Dimensions

PART 4: SITE INFORMATION

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

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