



## NEC3 Engineering & Construction Contract



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

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

for

**The Provision for maintenance of various substation buildings within Limlanga Cluster on an "as and when" required basis over a period of 60 months**

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

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## Part C1: Agreements & Contract Data

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## C1.1 Form of Offer and Acceptance

### Offer

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

### The Provision for maintenance of various substation buildings within Limlanga Cluster on an "as and when" required basis over a period of 60 months

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 B, C or D	The offered total of the Prices exclusive of VAT is	<b>Rate based</b>
Option E or F	The first forecast of the total Defined Cost plus the Fee exclusive of VAT is	<b>Rate based</b>
	Sub total	<b>Rate based</b>
	Value Added Tax @ 15% is	<b>Rate based</b>
	The offered total of the amount due inclusive of VAT is <sup>1</sup>	<b>Rate based</b>
	(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)

<sup>1</sup> 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

## C1.2a Contract Data provided by the Employer

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

- Please read the relevant clauses in the conditions of contract before you enter data. 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.
- Some ECC3 options are always selected by Eskom Holdings SOC Ltd. The remaining ECC3 options are identified by shading in the left-hand column. In the event that the option is not required select and delete the whole row. Where the following symbol is used "[•]" - data is required to be inserted relevant to the specific option selected.]

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

Clause	Statement	Data
1	<b>General</b>	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option	
		<b>B: Priced contract with bill of quantities</b>
	dispute resolution Option	<b>W1: Dispute resolution procedure</b>
	and secondary Options	
		<b>X1: Price adjustment for inflation</b>
		<b>X2: Changes in the law</b>
		<b>X7: Delay damages</b>
		<b>X16: Retention</b>
		<b>X17: Low performance damages</b>
		<b>X18: Limitation of liability</b>
		<b>X19: Task order</b>
		<b>X20: Key Performance Indicators</b>
		<b>Z: Additional conditions of contract</b>
	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	
	Tel No.	011 800 3000	
10.1	The <i>Project Manager</i> is: (Name)	Tebogo Khosana	
	Address	Eskom Holdings SOC Limited 1 Gobie Street, Menlo Park, Newlands Ext, 0102	
	Tel	+27 13 693 4302	
	e-mail	KhosanTL@eskom.co.za	
10.1	The <i>Supervisor</i> is: (Name)	[•]	
	Address	[•]	
	Tel No.	[•]	
	Fax No.	[•]	
10.1	The <i>Project Manager</i> is: (Name)	Louis Van der Walt	
	Address	Eskom, Ha Ravele CNC, Jasbir Building, 86 Munnik Street, 0920	
	Tel	+27 (0)15 519 2205	
	e-mail	vdwaltjl@eskom.co.za	
10.1	The <i>Supervisor</i> is: (Name)	Marius Putter	
	Address	90 Hans Van Rensburg, Polokwane, 0700	
	Tel No.	+27 (0)15 299 0443	
	Fax No.	N/A	
	e-mail	putterma@eskom.co.za	
<b>2</b>	<b>The Contractor's main responsibilities</b>	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.	
<b>3</b>	<b>Time</b>		
11.2(3)	The <i>completion date</i> for the whole of the works is	As per the instructions given by the Project manager or as per the defined scope of work.	
11.2(9)	The <i>key dates</i> and the <i>conditions</i> to be met are:	<b>Condition to be met</b>	<b>key date</b>
		1 [•]	[•]
		2 [•]	[•]

		3	[•]	[•]
30.1	The <i>access dates</i> are:	<b>Part of the Site</b>		<b>Date</b>
		1	[•]	[•]
		2	[•]	[•]
		3	[•]	[•]
31.1	The <i>Contractor</i> is to submit a first programme for acceptance within <b>1 weeks of the Contract Date.</b>			
31.2	The <i>starting date</i> is	<b>[•]</b>		
32.2	The <i>Contractor</i> submits revised programmes at intervals no longer than <b>1 weeks.</b>			
35.1	The <i>Employer</i> is not willing to take over the <i>works</i> before the Completion Date.	[No data needed if this statement is included]		
4	<b>Testing and Defects</b>			
40	<b>Tests and inspections</b>			
40.1	This clause only applies to tests and inspections required by the Works Information or the applicable law.			
40.2	The <i>Contractor</i> and the <i>Employer</i> provide materials, facilities and samples for tests and inspections as stated in the Works Information.			
40.3	The <i>Contractor</i> and the <i>Supervisor</i> each notifies the other of each of his tests and inspections before it starts and afterwards notifies the other of its results. The <i>Contractor</i> notifies the <i>Supervisor</i> in time for a test or inspection to be arranged and done before doing work which would obstruct the test or inspection. The <i>Supervisor</i> may watch any test done by the <i>Contractor</i> .			
40.4	If a test or inspection shows that any work has a Defect, the <i>Contractor</i> corrects the Defect and the test or inspection is repeated.			
40.5	The <i>Supervisor</i> does his tests and inspections without causing unnecessary delay to the work or to a payment which is conditional upon a test or inspection being successful. A payment which is conditional upon a <i>Supervisor's</i> test or inspection being successful becomes due at the later of the <i>defects date</i> and the end of the last <i>defect correction period</i> if <ul style="list-style-type: none"><li>the <i>Supervisor</i> has not done the test or inspection and</li></ul> the delay to the test or inspection is not the <i>Contractor's</i> fault.			
40.6	<b>The <i>Project Manager</i> assesses the cost incurred by the <i>Employer</i> in repeating a test or inspection after a Defect is found. The <i>Contractor</i> pays the amount assessed.</b>			
41	<b>Testing and inspection before delivery</b>			
41.1	The <i>Contractor</i> does not bring to the Working Areas those Plant and Materials which the Works Information states are to be tested or inspected before delivery until the <i>Supervisor</i> has notified the <i>Contractor</i> that they have passed the test or inspection.			
42.2	The <i>defects date</i> is	<b>1 Year after Completion of the whole of the works.</b>		
43.2	The <i>defect correction period</i> is	<b>1 week</b>		
	except that the <i>defect correction period</i> for	<b>[•] is [•] weeks N/A</b>		



	and the <i>defect correction period</i> for	<b>[•] is [•] weeks N/A</b>
43.3	The <i>Supervisor</i> issues the Defects Certificate at the later of the <i>defects date</i> and the end of the last <i>defect correction period</i> . The <i>Employer's</i> rights in respect of a Defect which the <i>Supervisor</i> has not found or notified are not affected by the issue of the Defects Certificate.	
43.4	The <i>Project Manager</i> arranges for the <i>Employer</i> to allow the <i>Contractor</i> access to and use of a part of the <i>works</i> which he has taken over if they are needed for correcting a Defect. In this case the <i>defect correction period</i> begins when the necessary access and use have been provided.	
<b>44</b>	<b>Accepting Defects</b>	
44.1	The <i>Contractor</i> and the <i>Project Manager</i> may each propose to the other that the Works Information should be changed so that a Defect does not have to be corrected.	
44.2	If the <i>Contractor</i> and the <i>Project Manager</i> are prepared to consider the change, the <i>Contractor</i> submits a quotation for reduced Prices or an earlier Completion Date or both to the <i>Project Manager</i> for acceptance. If the <i>Project Manager</i> accepts the quotation, he gives an instruction to change the Works Information, the Prices and the Completion Date accordingly.	
<b>45</b>	<b>Uncorrected Defects</b>	
45.1	If the <i>Contractor</i> is given access in order to correct a notified Defect but he has not corrected it within its <i>defect correction period</i> , the <i>Project Manager</i> assesses the cost to the <i>Employer</i> of having the Defect corrected by other people and the <i>Contractor</i> pays this amount. The Works Information is treated as having been changed to accept the Defect.	
45.2	If the <i>Contractor</i> is not given access in order to correct a notified Defect before the <i>defects date</i> , the <i>Project Manager</i> assesses the cost to the <i>Contractor</i> of correcting the Defect and the <i>Contractor</i> pays this amount. The Works Information is treated as having been changed to accept the Defect.	
<b>5</b>	<b>Payment</b>	
50.1	The <i>assessment interval</i> is	<b>At any point in time throughout the duration of the project and on completion of the project.</b>
51.1	The <i>currency of this contract</i> is the	<b>South African Rand.</b>
51.2	The period within which payments are made is	<b>30 days after all work has been completed along with the required documentation submitted and final correct invoice has been submitted.</b>
51.4	The <i>interest rate</i> is	<p>the publicly quoted prime rate of interest (calculated on a 365 day year) charged from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands and</p> <p>(ii) the LIBOR rate applicable at the time for amounts due in other currencies. LIBOR is the 6 month London Interbank Offered Rate quoted under the caption "Money Rates" in The Wall Street Journal for the applicable currency or if no rate is quoted for the currency in question then the rate for United States Dollars, and if no such rate appears in The Wall Street Journal then the rate as quoted by the Reuters</p>

**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 *mutatis mutandis* 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

The following are compensation events.

- (1) The *Project Manager* gives an instruction changing the Works Information except
  - a change made in order to accept a Defect or
  - a change to the Works Information provided by the *Contractor* for his design which is made either at his request or to comply with other Works Information provided by the *Employer*.
- (2) The *Employer* does not allow access to and use of a part of the Site by the later of its *access date* and the date shown on the Accepted Programme.
- (3) The *Employer* does not provide something which he is to provide by the date for providing it shown on the Accepted Programme.
- (4) The *Project Manager* gives an instruction to stop or not to start any work or to change a Key Date.
- (5) The *Employer* or Others
  - do not work within the times shown on the Accepted Programme,
  - do not work within the conditions stated in the Works Information or
  - carry out work on the Site that is not stated in the Works Information.
- (6) The *Project Manager* or the *Supervisor* does not reply to a communication from the *Contractor* within the period required by this contract.
- (7) The *Project Manager* gives an instruction for dealing with an object of value or of historical or other interest found within the Site.
- (8) The *Project Manager* or the *Supervisor* changes a decision which he has previously communicated to the *Contractor*.
- (9) The *Project Manager* withholds an acceptance (other than acceptance of a quotation for acceleration or for not correcting a Defect) for a reason not stated in this contract.
- (10) The *Supervisor* instructs the *Contractor* to search for a Defect and no Defect is found unless the search is needed only because the *Contractor* gave insufficient notice of doing work obstructing a required test or inspection.
- (11) A test or inspection done by the *Supervisor* causes unnecessary delay.
- (12) The *Contractor* encounters physical conditions which
  - are within the Site,
  - are not weather conditions and
  - an experienced contractor would have judged at the Contract Date to have such a small chance of occurring that it would have been unreasonable for him to have allowed for them.

Only the difference between the physical conditions encountered and those for which it would have been reasonable to have allowed is taken into account in assessing a compensation event.

- 60.1(13) The place where weather is to be recorded is:

**[•]**

The *weather measurements* to be recorded for each calendar month are,

**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:

The *weather measurements* are supplied by [•]

The *weather data* are the records of past *weather measurements* for each calendar month which were recorded at: [•]

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:	<p><b>As stated in Annexure A to this Contract Data provided by the <i>Employer</i>.</b></p> <p><b>Note: If this arrangement is used, delete the rows above for 60.1(13) and delete this note.</b></p>
	<p>(14) An event which is an Employer's risk stated in this contract.</p> <p>(15) The <i>Project Manager</i> certifies take over of a part of the <i>works</i> before both Completion and the Completion Date.</p> <p>(16) The <i>Employer</i> does not provide materials, facilities and samples for tests and inspections as stated in the Works Information.</p> <p>(17) The <i>Project Manager</i> notifies a correction to an assumption which he has stated about a compensation event.</p> <p>(18) A breach of contract by the <i>Employer</i> which is not one of the other compensation events in this contract.</p> <p>(19) An event which</p> <ul style="list-style-type: none"> <li>• stops the <i>Contractor</i> completing the <i>works</i> or</li> <li>• stops the <i>Contractor</i> completing the <i>works</i> by the date shown on the Accepted Programme,</li> </ul> <p>and which</p> <ul style="list-style-type: none"> <li>• neither Party could prevent,</li> <li>• an experienced contractor would have judged at the Contract Date to have such a small chance of occurring that it would have been unreasonable for him to have allowed for it and</li> </ul> <p>is not one of the other compensation events stated in this contract.</p>	
60.2	<p>In judging the physical conditions for the purpose of assessing a compensation event, the <i>Contractor</i> is assumed to have taken into account</p> <ul style="list-style-type: none"> <li>• the Site Information,</li> <li>• publicly available information referred to in the Site Information,</li> <li>• information obtainable from a visual inspection of the Site and</li> </ul> <p>other information which an experienced contractor could reasonably be expected to have or to obtain.</p>	
60.3	<p>If there is an ambiguity or inconsistency within the Site Information (including the information referred to in it), the <i>Contractor</i> is assumed to have taken into account the physical conditions more favourable to doing the work.</p>	

## 61 Notifying compensation events

- 61.1 For compensation events which arise from the *Project Manager* or the *Supervisor* giving an instruction, issuing a certificate, changing an earlier decision or correcting an assumption, the *Project Manager* notifies the *Contractor* of the compensation event at the time of that communication. He also instructs the *Contractor* to submit quotations, unless the event arises from a fault of the *Contractor* or quotations have already been submitted. The *Contractor* puts the instruction or changed decision into effect.
- 61.2 The *Project Manager* may instruct the *Contractor* to submit quotations for a proposed instruction or a proposed changed decision. The *Contractor* does not put a proposed instruction or a proposed changed decision into effect.
- 61.3 The *Contractor* notifies the *Project Manager* of an event which has happened or which he expects to happen as a compensation event if
- the *Contractor* believes that the event is a compensation event and
  - the *Project Manager* has not notified the event to the *Contractor*.
- 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, the Completion Date or a Key Date unless the event arises from the *Project Manager* or the *Supervisor* giving an instruction, issuing a certificate, changing an earlier decision or correcting an assumption.
- 61.4 If the *Project Manager* decides that an event notified by the *Contractor*
- arises from a fault of the *Contractor*,
  - has not happened and is not expected to happen,
  - has no effect upon Defined Cost, Completion or meeting a Key Date or
  - is not one of the compensation events stated in this contract
- he notifies the *Contractor* of his decision that the Prices, the Completion Date and the Key Dates are not to be changed. If the *Project Manager* decides otherwise, he notifies the *Contractor* accordingly and instructs him to submit quotations.
- The *Project Manager* notifies his decision to the *Contractor* and, if his decision is that the Prices, the Completion Date or the Key Dates are to be changed, instructs him to submit quotations before the end of either
- one week after the *Contractor's* notification or
  - a longer period to which the *Contractor* has agreed.
- If the *Project Manager* does not notify his decision, the *Contractor* may notify the *Project Manager* of his failure. A failure by the *Project Manager* to reply within two weeks of this notification is treated as acceptance by the *Project Manager* that the event is a compensation event and an instruction to submit quotations.
- 61.5 If the *Project Manager* decides that the *Contractor* did not give an early warning of the event which an experienced contractor could have given, he notifies this decision to the *Contractor* when he instructs him to submit quotations.
- 61.6 If the *Project Manager* decides that the effects of a compensation event are too uncertain to be forecast reasonably, he states assumptions about the event in his instruction to the *Contractor* to submit quotations. Assessment of the event is based on these assumptions. If any of them is later found to have been wrong, the *Project Manager* notifies a correction.
- 61.7 A compensation event is not notified after the *defects date*.

## 62 Quotations for compensation events

- 62.1 After discussing with the *Contractor* different ways of dealing with the compensation event which are practicable, the *Project Manager* may instruct the *Contractor* to submit alternative quotations. The *Contractor* submits the required quotations to the *Project Manager* and may submit quotations for other methods of dealing with the compensation event which he considers

	practicable.
62.2	Quotations for compensation events comprise proposed changes to the Prices and any delay to the Completion Date and Key Dates assessed by the <i>Contractor</i> . The <i>Contractor</i> submits details of his assessment with each quotation. If the programme for remaining work is altered by the compensation event, the <i>Contractor</i> includes the alterations to the Accepted Programme in his quotation.
62.3	The <i>Contractor</i> submits quotations within three weeks of being instructed to do so by the <i>Project Manager</i> . The <i>Project Manager</i> replies within two weeks of the submission. His reply is <ul style="list-style-type: none"> <li>• an instruction to submit a revised quotation,</li> <li>• an acceptance of a quotation,</li> <li>• a notification that a proposed instruction will not be given or a proposed changed decision will not be made or</li> </ul> a notification that he will be making his own assessment.
62.4	The <i>Project Manager</i> instructs the <i>Contractor</i> to submit a revised quotation only after explaining his reasons for doing so to the <i>Contractor</i> . The <i>Contractor</i> submits the revised quotation within three weeks of being instructed to do so.
62.5	The <i>Project Manager</i> extends the time allowed for <ul style="list-style-type: none"> <li>• the <i>Contractor</i> to submit quotations for a compensation event and</li> <li>• the <i>Project Manager</i> to reply to a quotation</li> </ul> if the <i>Project Manager</i> and the <i>Contractor</i> agree to the extension before the submission or reply is due. The <i>Project Manager</i> notifies the extension that has been agreed to the <i>Contractor</i> .
62.6	If the <i>Project Manager</i> does not reply to a quotation within the time allowed, the <i>Contractor</i> may notify the <i>Project Manager</i> of his failure. If the <i>Contractor</i> submitted more than one quotation for the compensation event, he states in his notification which quotation he proposes is to be accepted. If the <i>Project Manager</i> does not reply to the notification within two weeks, and unless the quotation is for a proposed instruction or a proposed changed decision, the <i>Contractor's</i> notification is treated as acceptance of the quotation by the <i>Project Manager</i> .
<b>63</b>	<b>Assessing compensation events</b>
63.1	The changes to the Prices are assessed as the effect of the compensation event upon <ul style="list-style-type: none"> <li>• the actual Defined Cost of the work already done,</li> <li>• the forecast Defined Cost of the work not yet done and</li> <li>• the resulting Fee.</li> </ul> If the compensation event arose from the <i>Project Manager</i> or the <i>Supervisor</i> giving an instruction, issuing a certificate, changing an earlier decision or correcting an assumption, the date which divides the work already done from the work not yet done is the date of that communication. In all other cases, the date is the date of the notification of the compensation event.
63.2	If the effect of a compensation event is to reduce the total Defined Cost, the Prices are not reduced except as stated in this contract.
63.3	A delay to the Completion Date is assessed as the length of time that, due to the compensation event, planned Completion is later than planned Completion as shown on the Accepted Programme. A delay to a Key Date is assessed as the length of time that, due to the compensation event, the planned date when the Condition stated for a Key Date will be met is later than the date shown on the Accepted Programme.
63.4	The rights of the <i>Employer</i> and the <i>Contractor</i> to changes to the Prices, the Completion Date and the Key Dates are their only rights in respect of a compensation event.
63.5	If the <i>Project Manager</i> has notified the <i>Contractor</i> of his decision that the <i>Contractor</i> did not

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give an early warning of a compensation event which an experienced contractor could have given, the event is assessed as if the *Contractor* had given early warning.

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63.6 Assessment of the effect of a compensation event includes risk allowances for cost and time for matters which have a significant chance of occurring and are at the *Contractor's* risk under this contract.

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63.7 Assessments are based upon the assumptions that the *Contractor* reacts competently and promptly to the compensation event, that any Defined Cost and time due to the event are reasonably incurred and that the Accepted Programme can be changed.

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63.8 A compensation event which is an instruction to change the Works Information in order to resolve an ambiguity or inconsistency is assessed as if the Prices, the Completion Date and the Key Dates were for the interpretation most favourable to the Party which did not provide the Works Information.

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63.9 If a change to the Works Information makes the description of the Condition for a Key Date incorrect, the *Project Manager* corrects the description. This correction is taken into account in assessing the compensation event for the change to the Works Information.

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## **64 The *Project Manager's* assessments**

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64.1 The *Project Manager* assesses a compensation event

- if the *Contractor* has not submitted a quotation and details of his assessment within the time allowed,
- if the *Project Manager* decides that the *Contractor* has not assessed the compensation event correctly in a quotation and he does not instruct the *Contractor* to submit a revised quotation,
- if, when the *Contractor* submits quotations for a compensation event, he has not submitted a programme or alterations to a programme which this contract requires him to submit or

if, when the *Contractor* submits quotations for a compensation event, the *Project Manager* has not accepted the *Contractor's* latest programme for one of the reasons stated in this contract.

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64.2 The *Project Manager* assesses a compensation event using his own assessment of the programme for the remaining work if

- there is no Accepted Programme or

the *Contractor* has not submitted a programme or alterations to a programme for acceptance as required by this contract.

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64.3 The *Project Manager* notifies the *Contractor* of his assessment of a compensation event and gives him details of it within the period allowed for the *Contractor's* submission of his quotation for the same event. This period starts when the need for the *Project Manager's* assessment becomes apparent.

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64.4 If the *Project Manager* does not assess a compensation event within the time allowed, the *Contractor* may notify the *Project Manager* of his failure. If the *Contractor* submitted more than one quotation for the compensation event, he states in his notification which quotation he proposes is to be accepted. If the *Project Manager* does not reply within two weeks of this notification the notification is treated as acceptance of the *Contractor's* quotation by the *Project Manager*.

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## **65 Implementing compensation events**

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65.1 A compensation event is implemented when

- the *Project Manager* notifies his acceptance of the *Contractor's* quotation,
- the *Project Manager* notifies the *Contractor* of his own assessment or

a *Contractor's* quotation is treated as having been accepted by the *Project Manager*.

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65.2 The assessment of a compensation event is not revised if a forecast upon which it is based is shown by later recorded information to have been wrong.

**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 *Employer's* risks

1. Late response to the task order
2. Non- compliance of terms and conditions of the contract.
3. Poor service delivery
4. Working in the vicinity of life equipment
5. Lack of Supervision

## **9 Termination**

90.1 If either Party wishes to terminate the *Contractor's* obligation to Provide the Works he notifies the *Project Manager* and the other Party giving details of his reason for terminating. The *Project Manager* issues a termination certificate to both Parties promptly if the reason complies with this contract.

90.2 The *Contractor* may terminate only for a reason identified in the Termination Table. The *Employer* may terminate for any reason. The procedures followed and the amounts due on termination are in accordance with the Termination Table.

**TERMINATION TABLE**

Terminating Party	Reason	Procedure	Amount due
The <i>Employer</i>	A reason other than R1–R21	P1 and P2	A1, A2 and A4
	R1–R15 or R18	P1, P2 and P3	A1 and A3
	R17 or R20	P1 and P3	A1 and A2
	R21	P1 and P4	A1 and A2
The <i>Contractor</i>	R1–R10, R16 or R19	P1 and P4	A1, A2 and A4
	R17 or R20	P1 and P4	A1 and A2

90.3 The procedures for termination are implemented immediately after the *Project Manager* has issued a termination certificate.

90.4 Within thirteen weeks of termination, the *Project Manager* certifies a final payment to or from the *Contractor* which is the *Project Manager's* assessment of the amount due on termination less the total of previous payments. Payment is made within three weeks of the *Project Manager's* certificate.

90.5 After a termination certificate has been issued, the *Contractor* does no further work necessary to Provide the Works.

## **91 Reasons for termination**

91.1 Either Party may terminate if the other Party has done one of the following or its equivalent.

- If the other Party is an individual and has
  - presented his petition for bankruptcy (R1),

	<ul style="list-style-type: none"> <li>• had a bankruptcy order made against him (R2),</li> <li>• had a receiver appointed over his assets (R3) or</li> <li>• made an arrangement with his creditors (R4).</li> </ul> <p>If the other Party is a company or partnership and has</p> <ul style="list-style-type: none"> <li>• had a winding-up order made against it (R5),</li> <li>• had a provisional liquidator appointed to it (R6),</li> <li>• passed a resolution for winding-up (other than in order to amalgamate or reconstruct) (R7),</li> <li>• had an administration order made against it (R8),</li> <li>• had a receiver, receiver and manager, or administrative receiver appointed over the whole or a substantial part of its undertaking or assets (R9) or</li> </ul> <p>made an arrangement with its creditors (R10).</p>
91.2	<p>The <i>Employer</i> may terminate if the <i>Project Manager</i> has notified that the <i>Contractor</i> has defaulted in one of the following ways and not put the default right within four weeks of the notification.</p> <ul style="list-style-type: none"> <li>• Substantially failed to comply with his obligations (R11).</li> <li>• Not provided a bond or guarantee which this contract requires (R12).</li> </ul> <p>Appointed a Subcontractor for substantial work before the <i>Project Manager</i> has accepted the Subcontractor (R13).</p>
91.3	<p>The <i>Employer</i> may terminate if the <i>Project Manager</i> has notified that the <i>Contractor</i> has defaulted in one of the following ways and not stopped defaulting within four weeks of the notification.</p> <ul style="list-style-type: none"> <li>• Substantially hindered the <i>Employer</i> or Others (R14).</li> </ul> <p>Substantially broken a health or safety regulation (R15).</p>
91.4	<p>The <i>Contractor</i> may terminate if the <i>Employer</i> has not paid an amount due under the contract within eleven weeks of the date that it should have been paid (R16).</p>
91.5	<p>Either Party may terminate if the Parties have been released under the law from further performance of the whole of this contract (R17).</p>
91.6	<p>If the <i>Project Manager</i> has instructed the <i>Contractor</i> to stop or not to start any substantial work or all work and an instruction allowing the work to re-start or start has not been given within thirteen weeks,</p> <ul style="list-style-type: none"> <li>• the <i>Employer</i> may terminate if the instruction was due to a default by the <i>Contractor</i> (R18),</li> <li>• the <i>Contractor</i> may terminate if the instruction was due to a default by the <i>Employer</i> (R19) and</li> </ul> <p>either Party may terminate if the instruction was due to any other reason (R20).</p>
91.7	<p>The <i>Employer</i> may terminate if an event occurs which</p> <ul style="list-style-type: none"> <li>• stops the <i>Contractor</i> completing the <i>works</i> or</li> <li>• stops the <i>Contractor</i> completing the <i>works</i> by the date shown on the Accepted Programme and is forecast to delay Completion by more than 13 weeks,</li> </ul> <p>and which</p> <ul style="list-style-type: none"> <li>• neither Party could prevent and</li> </ul> <p>an experienced contractor would have judged at the Contract Date to have such a small chance of occurring that it would have been unreasonable for him to have allowed for it (R21).</p>
<b>92</b>	<b>Procedures on termination</b>
92.1	<p>On termination, the <i>Employer</i> may complete the <i>works</i> and may use any Plant and Materials to which he has title (P1).</p>
92.2	<p>The procedure on termination also includes one or more of the following as set out in the</p>



## Termination Table.

- P2 The *Employer* may instruct the *Contractor* to leave the Site, remove any Equipment, Plant and Materials from the Site and assign the benefit of any subcontract or other contract related to performance of this contract to the *Employer*.
- P3 The *Employer* may use any Equipment to which the *Contractor* has title to complete the works. The *Contractor* promptly removes the Equipment from Site when the *Project Manager* notifies him that the *Employer* no longer requires it to complete the works.
- P4 The *Contractor* leaves the Working Areas and removes the Equipment.

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**93 Payment on termination**


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- 93.1 The amount due on termination includes (A1)
- an amount due assessed as for normal payments,
  - the Defined Cost for Plant and Materials
    - within the Working Areas or
    - to which the *Employer* has title and of which the *Contractor* has to accept delivery,
  - other Defined Cost reasonably incurred in expectation of completing the whole of the works,
  - any amounts retained by the *Employer* and
- a deduction of any un-repaid balance of an advanced payment.
- 
- 93.2 The amount due on termination also includes one or more of the following as set out in the Termination Table.
- A2 The forecast Defined Cost of removing the Equipment.
- A3 A deduction of the forecast of the additional cost to the *Employer* of completing the whole of the works.
- A4 The *direct fee percentage* applied to
- for Options A, B, C and D, any excess of the total of the Prices at the Contract Date over the Price for Work Done to Date or
- for Options E and F, any excess of the first forecast of the Defined Cost for the works over the Price for Work Done to Date less the Fee.

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**10 Data for main Option clause**


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**B Priced contract with bill of quantities**


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60.6	The <i>method of measurement</i> is	<b>stated in Part C2.1, Pricing Assumptions.</b>
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**11 Data for Option W1**


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W1.1	The <i>Adjudicator</i> is	<b>the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a>). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).</b>
	Address	<b>[•]</b>
	Tel No.	<b>[•]</b>
	Fax No.	<b>[•]</b>
	e-mail	<b>[•]</b>

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W1.2(3)	The <i>Adjudicator nominating body</i> is:	<b>the Chairman of ICE-SA a joint Division of the South African Institution of Civil Engineering and the London Institution of Civil Engineers. (See <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a> ) or its successor body.</b>
W1.4(2)	The <i>tribunal</i> is:	<b>arbitration.</b>
W1.4(5)	The <i>arbitration procedure</i> is	<b>the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.</b>
	The place where arbitration is to be held is	<b>[•] South Africa</b>
	The person or organisation who will choose an arbitrator	
	- if the Parties cannot agree a choice or	<b>the Chairman for the time being or his nominee</b>
	- if the arbitration procedure does not state who selects an arbitrator, is	<b>of the Association of Arbitrators (Southern Africa) or its successor body.</b>

## 12 Data for secondary Option clauses

X1	Price adjustment for inflation			
X1.1(a)	The <i>base date</i> for indices is		Unregulated rates will be fixed and firm for the first 12 months of the contract. At the anniversary date of the contract the prices will be adjusted in accordance with the published SEIFSA (CPI) INDICES.	
X1.1(c)	The proportions used to calculate the Price Adjustment Factor are:	proportion	linked to index for	Index prepared by
		0. [•]	[•]	[•]
		0. [•]	[•]	[•]
		0. [•]	[•]	[•]
		0. [•]	[•]	[•]
		0. [•]	[•]	[•]
		[•]	non-adjustable	
	Total	1.00		
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.	
X3	Multiple currencies			
X3.1	The <i>Employer</i> will pay for these items or activities in the currencies stated	Items & activities	Other currency	Maximum payment in other currency
		[•]	[•]	[•]
		[•]	[•]	[•]

		[•]	[•]	[•]
		[•]	[•]	[•]
X3.1	The <i>exchange rates</i> are those published in	[•] on [•] (date)	<p>The items &amp; activities will be paid in the other currency</p> <p>- to a foreign Bank account nominated by the <i>Contractor</i></p> <p>- to a valid SARB approved CFC account in South Africa</p> <p>- in accordance with an alternative payment method agreed with the <i>Employer</i> before the <i>Contract Date</i>.</p> <p>(select one of the three methods as agreed with successful tenderer and delete the others and this note)</p>	
X4	Parent company guarantee	There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.		
X5	Sectional Completion			
X5.1	The <i>completion date</i> for each <i>section</i> of the <i>works</i> is:	Section	Description	Completion date
		1	[•]	[•]
		2	[•]	[•]
		3	[•]	[•]
X5 & X6	Sectional Completion and bonus for early Completion used together			
X6.1 X5.1	The bonuses for early Completion of the <i>sections</i> of the <i>works</i> are:	section	Description	Amount per day
		1	[•]	R[•]
		2	[•]	R[•]
		3	[•]	R[•]
	Remainder of the <i>works</i>			R[•]
X5 & X7	Sectional Completion and delay damages used together			
X7.1 X5.1	Delay damages for late Completion of the <i>sections</i> of the <i>works</i> are:	section	Description	Amount per day
		1	[•]	R[•]
		2	[•]	R[•]
		3	[•]	R[•]
	Remainder of the <i>works</i>			R[•]
	The total delay damages payable by the <i>Contractor</i> does not exceed:	R [•]		

X6	Bonus for early Completion (but not if Option X5 is also used)			
X6.1	The bonus for early Completion of the whole of the <i>works</i> is		[•] per day N/A	
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		R[•] per day up to a limit of R[•]	
X12	Partnering			
X12.1(1)	The <i>Client</i> is (Name)	[•]		
	Address	[•]		
	Tel	[•]		
	Fax	[•]		
X12.2(1)	The <i>Client's</i> objective is.	[•]		
X12.1(4)	The Partnering Information is in	[•]		
X13	Performance bond			
X13.1	The amount of the performance bond is		R[•].	
X14	Advanced payment to the <i>Contractor</i>			
X14.1	The amount of the advanced payment is		R[•].	
X14.2	An advanced payment bond		is required.	
X14.3	The <i>Contractor</i> repays the instalments in assessments starting not less than		[•] weeks after the Contract Date.	
X14.3	The instalments are		R[•] (either an amount or a percentage of the payment otherwise due)	
X15	Limitation of the <i>Contractor's</i> liability for his design to reasonable skill & care		There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.	
X16	Retention (not used with Option F)			
X16.1	The <i>retention free amount</i> is		R[•].	
	The <i>retention percentage</i> is		[•]%	
X17	Low performance damages			
X17.1	The amounts for low performance damages are:		Amount	Performance level
			R [•]	for [•]
			R [•]	for [•]
			R [•]	for [•]
			R [•]	for [•]

<b>X18</b>	<b>Limitation of liability</b>	
X18.1	The <i>Contractor's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to:	<b>R0.0 (zero Rand)</b>
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:	<b>the amount of the deductibles relevant to the event</b>
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	<b>The greater of</b> <ul style="list-style-type: none"> <li>• the total of the Prices at the Contract Date and</li> <li>• 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.</li> </ul>
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:	<b>the total of the Prices other than for the additional excluded matters.</b>  <b>The <i>Contractor's</i> total liability for the additional excluded matters is not limited.</b>  <b>The additional excluded matters are amounts for which the <i>Contractor</i> is liable under this contract for</b> <ul style="list-style-type: none"> <li>• Defects due to his design which arise before the Defects Certificate is issued,</li> <li>• Defects due to manufacture and fabrication outside the Site,</li> <li>• loss of or damage to property (other than the <i>works</i>, Plant and Materials),</li> <li>• death of or injury to a person and</li> <li>• infringement of an intellectual property right.</li> </ul>
X18.5	The <i>end of liability date</i> is	<b>(i) Five years after the <i>defects date</i> for latent Defects and</b>  <b>(ii) the date on which the liability in question prescribes in accordance with the Prescription Act No. 68 of 1969 (as amended or in terms of any replacement legislation) for any other matter.</b>  <b>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</b>

<b>Supervisor to have discovered the Defect.</b>	
<b>X20</b>	<b>Key Performance Indicators (not used when Option X12 applies)</b>
X20.1	The <i>incentive schedule</i> for Key Performance Indicators is in <b>Annexure [●] to this Contract Data</b>
X20.2	A report of performance against each Key Performance Indicator is provided at intervals of <b>[●] months</b>
<b>Z</b>	<b>The <i>Additional conditions of contract</i> are</b> <b>Z1 to Z15 always apply.</b>

**Z1 Cession delegation and assignment**

- Z1.1 The *Contractor* does not cede, delegate or assign any of its rights or obligations to any person without the written consent of the *Employer*.
- Z1.2 Notwithstanding the above, the *Employer* may on written notice to the *Contractor* cede and delegate its rights and obligations under this contract to any of its subsidiaries or any of its present divisions or operations which may be converted into separate legal entities as a result of the restructuring of the Electricity Supply Industry.

**Z2 Joint ventures**

- Z2.1 If the *Contractor* 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 *Employer* for the performance of this contract.
- Z2.2 Unless already notified to the *Employer*, the persons or organisations notify the *Project Manager* within two weeks of the Contract Date of the key person who has the authority to bind the *Contractor* on their behalf.
- Z2.3 The *Contractor* does not alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without the consent of the *Employer* having been given to the *Contractor* in writing.

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

- Z3.1 Where a change in the *Contractor's* legal status, ownership or any other change to his business composition or business dealings results in a change to the *Contractor's* B-BBEE status, the *Contractor* notifies the *Employer* within seven days of the change.
- Z3.2 The *Contractor* is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the *Project Manager* within thirty days of the notification or as otherwise instructed by the *Project Manager*.
- Z3.3 Where, as a result, the *Contractor's* B-BBEE status has decreased since the Contract Date the *Employer* may either re-negotiate this contract or alternatively, terminate the *Contractor's* obligation to Provide the Works.
- Z3.4 Failure by the *Contractor* to notify the *Employer* of a change in its B-BBEE status may constitute a reason for termination. If the *Employer* terminates in terms of this clause, the procedures on termination are 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 *Contractor* 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 *Contractor*, enters the public domain or to information which was already in the possession of the *Contractor* at the time of disclosure (evidenced by written records in existence at that time). Should the *Contractor* disclose information to Others in terms of clause 25.1, the *Contractor* 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.

**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	<b><u>Loss of or damage to property</u></b> <b><u>Employer's property</u></b> 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  <b><u>Other property</u></b> The replacement cost  <b><u>Bodily injury to or death of a person</u></b> 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 limit 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:

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

If any one of these *weather measurements* recorded within a calendar month, before the Completion Date for the whole of the *works* and at the place stated in this Contract Data is shown to be more adverse than the amount stated below then the *Contractor* may notify a compensation event.

	<i>Weather measurement</i>				
Month	Cumulative rainfall (mm)	Number of days with rain more than 10mm	Number of days with min air temp < 0 deg.C	Number of days with snow lying at 08:00 CAT	[Other measurements if applicable]
January	[•]	[•]	[•]	[•]	
February	[•]	[•]	[•]	[•]	
March	[•]	[•]	[•]	[•]	
April	[•]	[•]	[•]	[•]	
May	[•]	[•]	[•]	[•]	
June	[•]	[•]	[•]	[•]	
July	[•]	[•]	[•]	[•]	
August	[•]	[•]	[•]	[•]	
September	[•]	[•]	[•]	[•]	
October	[•]	[•]	[•]	[•]	
November	[•]	[•]	[•]	[•]	
December	[•]	[•]	[•]	[•]	

Only the difference between the more adverse recorded weather and the equivalent measurement given above is taken into account in assessing a compensation event.

## C1.2b Contract Data provided by the Contractor

### Part two - Data provided by the *Contractor*.

**[Instructions to the contract compiler: (delete this notes before issue to tenderers with an enquiry)**

Whenever a cell is shaded in the left hand column it denotes this data is optional. If not required select and delete the whole row, otherwise insert the required Data.]

#### 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)<sup>2</sup> 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:	

<sup>2</sup> Available from Engineering Contract Strategies Tel 011 803 3008, Fax 011 803 3009 or see [www.ecs.co.za](http://www.ecs.co.za)

		<b>CV's (and further key persons data including CVs) are appended to Tender Schedule entitled .</b>	
11.2(3)	The <i>completion date</i> for the whole of the <i>works</i> 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>A</b>	<b>Priced contract with activity schedule</b>		
11.2(20)	The <i>activity schedule</i> is in		
11.2(30)	The tendered total of the Prices is	<b>(in figures)</b> <b>(in words), excluding VAT</b>	
<b>B</b>	<b>Priced contract with bill of quantities</b>		
11.2(21)	The <i>bill of quantities</i> is in	<b>Contract</b>	
11.2(31)	The tendered total of the Prices is	<b>(in figures)</b> <b>(in words), excluding VAT</b>	
<b>C</b>	<b>Target contract with activity schedule</b>		
11.2(20)	The <i>activity schedule</i> is in		
11.2(30)	The tendered total of the Prices is	<b>(in figures)</b> <b>(in words), excluding VAT</b>	
<b>D</b>	<b>Target contract with bill of quantities</b>		
11.2(21)	The <i>bill of quantities</i> is in		
11.2(31)	The tendered total of the Prices is	<b>(in figures)</b> <b>(in words), excluding VAT</b>	
<b>F</b>	<b>Management contract</b>		
20.2	Work which the <i>Contractor's</i> will do himself is	<b>Activity</b>	<b>price (lump sum or rate)</b>
	<b>Data for Schedules of Cost Components</b>	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).	

<b>A</b>	<b>Priced contract with activity schedule</b>	<b>Data for the Shorter Schedule of Cost Components</b>		
<b>B</b>	<b>Priced contract with bill of quantities</b>	<b>Data for the Shorter Schedule of Cost Components</b>		
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	Rate
61 in SSCC	The hourly rates for Defined Cost of design outside the Working Areas are  <b>Note: Hourly rates are estimated 'cost to company of the employee' and not selling rates.</b>  <b>Please insert another schedule if foreign resources may also be used</b>	Category of employee		Hourly rate
62 in SSCC	The percentage for design overheads is	%		
63 in SSCC	The categories of design employees whose travelling expenses to and from the Working Areas are included in Defined Cost are:			
	<b>If Option C, D or E is used</b>	<b>Data for Schedule of Cost Components</b>		
23 in SCC	The listed items of Equipment purchased for work on this contract, with an on cost charge, are:	Equipment	Time related charge	Per (time period)



24 in SCC	The rates of special Equipment are:	Equipment	Size or capacity	Rate
44 in SCC	The percentage for Working Areas overheads is:	: %		
51 in SCC	The hourly rates for Defined Cost of manufacture or fabrication 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	
52 in SCC	The percentage for manufacture and fabrication overheads is			
	If Option C, D, or E is used	Data for both schedules of cost components		
61 in SCC & SCCC	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 in SCC & SCCC	The percentage for design overheads is			
63 in SCC & SCCC	The categories of design employees whose travelling expenses to and from the Working Areas are included as a cost of design of the <i>works</i> and Equipment done outside the Working Areas are:			
	If Option C, D or E is used	Data for the Shorter Schedule of Cost Components		
41 in SCCC	The percentage for people overheads is:	%		
21 in SCCC	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	%		
22 in SSCC	The rates of other Equipment are:	Equipment	Size or capacity	Rate

## C1.3 Proforma Guarantees

### Pro formas for Bonds & Guarantees

For use with the NEC3 Engineering & Construction Contract

**[Note to contract compiler:**

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

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

Option X4: Parent company guarantee  
Option X13: Performance Bond  
Option X14: Advanced payment to the *Contractor*

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

Option X16: Retention (not used with Option F)

The *Contractor* may provide a Retention Money Guarantee in the form stated here. When the *Employer* receives and accepts a Retention Money Guarantee exactly in the form stated he will instruct the *Project Manager* not to assess any amount be retained in terms of secondary Option X16.

The *Contractor* shall guarantee his ASGI-SA Obligations by providing the *Employer* with an ASGI-SA Guarantee in the form provided here.

**[Note to contract compiler: If there are no ASGI-SA Obligations in this contract, delete the above statement]**

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

## Pro forma Retention Money Guarantee (may be used when Option X16 applies)

(to be reproduced exactly as shown below on the letterhead of the Bank providing the Guarantee)

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

Date:

Dear Sirs

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

**Retention Money Guarantee:** [Drafting Note: Name of Contractor to be inserted]

Project [ ] : Contract Reference: [Drafting Note: Contractor contract reference number to be inserted]

1. In this Guarantee the following words and expressions shall have the following meanings:-
  - 1.1 "Bank" - means [●], [●] Branch, (Registration No. [●]); [Drafting Note: Name of Bank to be inserted]
  - 1.2 "Bank's Address" - means [●]; [Drafting Note: Bank's physical address to be inserted]
  - 1.3 "Contract" – means the written agreement relating to the Project, entered into between Eskom and the Contractor, on or about the [●] day of [●] 200[●] (Contract Reference No. .... as amended, varied, restated, novated or substituted from time to time; [Drafting Note: Signature Date and Contract reference number to be inserted])
  - 1.4 "Contractor" – means [●] a company registered in accordance with the laws of [●] under Registration Number [●]. [Drafting Note: Name and details of Contractor to be inserted]
  - 1.5 "Eskom" - means Eskom Holdings SOC Limited, a company registered in accordance with the laws of the Republic of South Africa under Registration Number 2002/015527/30
  - 1.6 "Expiry Date" - means the date on which the Defects Certificate is issued in terms of the Contract.
  - 1.7 "Guaranteed Sum" - means the sum of R [●] ([●] Rand); [Drafting Note: Insert amount of Retention Money Guarantee.].
  - 1.8 "Project" - means the.....
2. At the instance of the Contractor, we the undersigned \_\_\_\_\_ and \_\_\_\_\_, in our respective capacities as \_\_\_\_\_ and \_\_\_\_\_ of the Bank, and duly authorized thereto, confirm that we hold the Guaranteed Sum at the disposal of Eskom, as security for the proper performance by the Contractor of all of its obligations in terms of and arising from the Contract and hereby undertake to pay to Eskom, on written demand from Eskom received prior to the Expiry Date, any sum or sums not exceeding in total the Guaranteed Sum.
3. A demand for payment under this guarantee shall be made in writing at the Bank's address and shall:
  - 3.1 be signed on behalf of Eskom by a director of Eskom or his authorised delegate.
  - 3.2 state the amount claimed ("the Demand Amount");
  - 3.3 state that the Contractor has failed to carry out his obligation(s) to rectify certain defect(s) for which he is responsible under the Contract (and the nature of such defect(s)) alternatively that the Demand Amount is payable to Eskom in the circumstances contemplated in the Contract.

4. Notwithstanding the reference herein to the Contract the liability of the Bank in terms hereof is as principal and not as surety and the Bank's obligation/s to make payment:

4.1 is and shall be absolute provided demand is made in terms of this bond in all circumstances; and

4.2 is not, and shall not be construed to be, accessory or collateral on any basis whatsoever.

5. The Bank's obligations in terms of this Guarantee:

5.1 shall be restricted to the payment of money only and shall be limited to the maximum of the Guaranteed Sum; and

5.2 shall not be discharged and compliance with any demand for payment received by the Bank in terms hereof shall not be delayed by the fact that a dispute may exist between Eskom and the Contractor.

6. Eskom shall be entitled to arrange its affairs with the Contractor in any manner which it sees fit, without advising us and without affecting our liability under this Guarantee. This includes, without limitation, any extensions, indulgences, release or compromise granted to the Contractor or any variation under or to the Contract.

7. Should Eskom cede its rights against the Contractor to a third party where such cession is permitted under the Contract, then Eskom shall be entitled to cede to such third party the rights of Eskom under this Guarantee on written notification to the Bank of such cession.

8. This Guarantee:

8.1 shall expire on the Expiry Date until which time it is irrevocable;

8.2 is, save as provided for in **Error! Reference source not found.** above, personal to Eskom and is neither negotiable nor transferable;

8.3 shall be returned to the Bank upon the earlier of payment of the full Guaranteed Sum or expiry hereof;

8.4 shall be regarded as a liquid document for the purpose of obtaining a court order; and

8.5 shall be governed by and construed in accordance with the law of the Republic of South Africa and shall be subject to the jurisdiction of the Courts of the Republic of South Africa.

8.6 Any claim which arises or demand for payment received after expiry date will be invalid and unenforceable.

9. The Bank chooses domicilium citandi et executandi for all purposes in connection with this Guarantee at the Bank's Address.

Signed at \_\_\_\_\_

Date \_\_\_\_\_ Bank's seal or stamp

For and behalf of the Bank

Bank Signatory: \_\_\_\_\_

Bank Signatory: \_\_\_\_\_

Witness: \_\_\_\_\_

Witness: \_\_\_\_\_

## Pro forma ASGI-SA Guarantee

(to be reproduced exactly as shown below on the letterhead of the Bank providing the Guarantee)

**Eskom Holdings Limited**  
**Megawatt Park**  
**Maxwell Drive**  
**Sandton**  
**Johannesburg**

Date:

Dear Sirs

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

**Pro-Forma ASGI-SA Guarantee:** [Drafting Note: Name of Contractor to be inserted]

Project [ ] Contract Reference: [●] [Drafting Note: Contractor contract reference number to be inserted]

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1. In this Guarantee the following words and expressions shall have the following meanings:-

- 1.1 "Bank" - means [●], [●] Branch, (Registration No. [●]); [Drafting Note: Name of Bank to be inserted]
- 1.2 "Bank's Address" - means [●]; [Drafting Note: Bank's physical address to be inserted]
- 1.3 "Contract" – means the written agreement relating to the Project, entered into between the *Employer* and the *Contractor*, on or about the [●] day of [●] 200[●] (Contract Reference No. [●] as amended, varied, restated, novated or substituted from time to time; [Drafting Note: Signature Date and Contract reference number to be inserted])
- 1.4 "*Contractor*" – means [●] a company registered in accordance with the laws of [●] under Registration Number [●]. [Drafting Note: Name and details of Contractor to be inserted]
- 1.5 "*Contractor's ASGI-SA Obligations*" – means the *Contractor's ASGI-SA Obligations* under and as defined in the Contract.
- 1.6 "*Employer*" - means Eskom Holdings Limited, a company registered in accordance with the laws of the Republic of South Africa under Registration Number 2002/015527/06.
- 1.7 "Expiry Date" - means the [●] day of [●] 200[●]; [Drafting Note: anticipated date of issue of ASGI-SA Performance Certificate to be inserted.]
- 1.8 "Guaranteed Sum" - means the sum of R [●] ([●] Rand);
- 1.9 "Project" – means the .....

2. At the instance of the *Contractor*, we the undersigned \_\_\_\_\_ and \_\_\_\_\_, in our respective capacities as \_\_\_\_\_ and \_\_\_\_\_ of the Bank, and duly authorized thereto, confirm that we hold the Guaranteed Sum at the disposal of the *Employer*, as security for the proper performance by the *Contractor* of the *Contractor's ASGI-SA Obligations* and hereby undertake to pay to the *Employer*, on written demand from the *Employer* received prior to the Expiry Date, any sum or sums not exceeding in total the Guaranteed Sum.

3. A demand for payment under this guarantee shall be made in writing at the Bank's address and shall:

3.1 state the amount claimed ("the Demand Amount");

3.2 state that the Demand Amount is payable to the *Employer* in the circumstances contemplated in the Contract.

4. Notwithstanding the reference herein to the Contract the liability of the Bank in terms hereof is as principal and not as surety and the Bank's obligation/s to make payment:
- 4.1 is and shall be absolute provided demand is made in terms of this bond in all circumstances; and
- 4.2 is not, and shall not be construed to be, accessory or collateral on any basis whatsoever.
5. The Bank's obligations in terms of this Guarantee:
- 5.1 shall be restricted to the payment of money only and shall be limited to the maximum of the Guaranteed Sum; and
- 5.2 shall not be discharged and compliance with any demand for payment received by the Bank in terms hereof shall not be delayed, by the fact that a dispute may exist between the *Employer* and the *Contractor*.
6. The *Employer* shall be entitled to arrange its affairs with the *Contractor* in any manner which it sees fit, without advising us and without affecting our liability under this Guarantee. This includes, without limitation, any extensions, indulgences, release or compromise granted to the *Contractor* or any variation under or to the Contract.
7. Should the *Employer* cede its rights against the *Contractor* to a third party where such cession is permitted under the Contract, then the *Employer* shall be entitled to cede to such third party the rights of the *Employer* under this Guarantee on written notification to the Bank of such cession.
8. This Guarantee:
- 8.1 shall expire on the Expiry Date until which time it is irrevocable;
- 8.2 is, save as provided for in **Error! Reference source not found.** above, personal to the *Employer* and is neither negotiable nor transferable;
- 8.3 shall be returned to the Bank upon the earlier of payment of the full Guaranteed Sum or expiry hereof;
- 8.4 shall be regarded as a liquid document for the purpose of obtaining a court order; and
- 8.5 shall be governed by and construed in accordance with the law of the Republic of South Africa and shall be subject to the jurisdiction of the courts of the Republic of South Africa.
- 8.6 Any claim which arises or demand for payment received after expiry date will be invalid and unenforceable.
9. The Bank chooses domicilium citandi et executandi for all purposes in connection with this Guarantee at the Bank's Address.

Signed at \_\_\_\_\_

Date \_\_\_\_\_

For and behalf of the Bank

Bank Signatory: \_\_\_\_\_

Bank Signatory: \_\_\_\_\_

Witness: \_\_\_\_\_

Witness: \_\_\_\_\_

Bank's seal or stamp

PART C2: 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

### How work is priced and assessed for payment

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

<b>Identified and defined terms</b>	11	
	11.2	<p>(21) The Bill of Quantities is the <i>bill of quantities</i> as changed in accordance with this contract to accommodate implemented compensation events and for accepted quotations for acceleration.</p> <p>(28) The Price for Work Done to Date is the total of</p> <ul style="list-style-type: none"> <li>the quantity of the work which the <i>Contractor</i> has completed for each item in the Bill of Quantities multiplied by the rate and</li> <li>a proportion of each lump sum which is the proportion of the work covered by the item which the <i>Contractor</i> has completed.</li> </ul> <p>Completed work is work without Defects which would either delay or be covered by immediately following work.</p> <p>(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.</p>

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.

### 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.

### 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.

### Measurement and payment

#### 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 <sup>2</sup>	square metre
m <sup>2</sup> -pass	square metre pass
m <sup>3</sup>	cubic metre
m <sup>3</sup> -km	cubic metre-kilometre
MN	meganewton
MN.m	meganewton-metre
MPa	megapascal
No.	number
sum	Lump sum
t	tonne (1000kg)

## General assumptions

Unless otherwise stated, items are measured net in accordance with the drawings, and no allowance has been made in the quantities for waste.

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.

An item against which no Price is entered will be treated as covered by other Prices or rates in the *bill of quantities*.

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.

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.

## Departures from the *method of measurement*

### 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*

Use this page as a summary page or as a cover page to the *bill of quantities*.

ITEM	DESCRIPTION	Unit	Percentage
	<b>Contractors Establishment On Site and Obligations</b>		
<b>B13.01</b>	<b>The Contractors General Obligations:</b>		
	Percentage of contract value	%	

ITEM	DESCRIPTION	Unit	Rates
	<b>Contractors Establishment On Site and Obligations</b>		
<b>B13.01</b>	<b>The Contractors General Obligations:</b>		
	Percentage of contract value	%	10%
	<b><u>SECTION 1</u></b>		
	<b>Labour Rates Only to be priced. Material will be compensated at cost plus 10% (Supplier will submit 3 material quotations to be verified and/or approved)</b>		
	<b><u>BUILDINGS AND STRUCTURES</u></b>		
<b>Item</b>	<b>Description</b>	<b>Unit</b>	
	<b>Preambles</b>		
	For Preambles see "Model Preambles for all Trades"		
	<b><u>EARTHWORKS</u></b>		

1	<b>Excavations, etc</b>		
	Excavate in compacted earth filling not exceeding 2m deep for strip footings	m <sup>3</sup>	R 194.81
	Extra over trench and hole excavations in earth for excavations in soft rock	m <sup>3</sup>	R 207.62
	Extra over trench and hole excavations in earth for excavations in hard rock	m <sup>3</sup>	R 566.19
	Extra over excavations for carting away surplus material from the excavations and/or stockpiles on site to a dumping site to be located by the contractor	m <sup>3</sup>	R 357.08
	Risk of collapse of excavations to sides of trench and hole excavations not exceeding 1,5m deep	m <sup>2</sup>	R 118.51
	Keeping excavations free of water	Item	R 3 125.07
2	<b>Filling, etc</b>		
	Earth filling obtained from the excavations and/or prescribed stock piles on site compacted to 95% Mod AASHTO density in backfilling in trenches, under floors, paving, etc.	m <sup>3</sup>	R 146.23
	Earth filling supplied by the contractor compacted to 95% Mod AASHTO density under floors, etc	m <sup>3</sup>	R 102.22
	Prescribed "Modified AASHTO Density" test on filling	No	R 2 595.21
3	<b>Sundries</b>		
	Approved soil poisoning under floors	m <sup>2</sup>	R 11.94
	CONCRETE AND REINFORCEMENT		

4	Concrete		
	15 MPa/19mm concrete in surface blinding under bases, etc	m <sup>3</sup>	R 865.07
	20 MPa/19mm concrete in strip footings	m <sup>3</sup>	R 865.07
	25 MPa/19mm reinforced concrete in surface beds cast in		
	panels on waterproofing	m <sup>3</sup>	R 865.07
	30 Mpa/19mm Concrete	m <sup>3</sup>	R 1 141.89
5	Concrete sundries		
	Finishing top surfaces of concrete surface beds smooth with		
	a wood float	m <sup>2</sup>	R 49.31
	Making and testing 150 x 150 x 150mm concrete strength test		
	cube	No	R 2 076.17
	5 x 30mm Saw cut joint in top of concrete	m	R 25.95
6	Formwork		
	Smooth formwork to sides of stub columns	m <sup>2</sup>	R 191.25
	Smooth formwork to edges not exceeding 300mm high	m	R 45.85
	Boxing in formwork to form 25 x 25mm chamfer at top edge of		
	concrete	m	R 45.85
	Rough formwork on un-exposed outside walls	m <sup>2</sup>	R 155.71
	Smooth formwork on inside walls and exposed outside walls	m <sup>2</sup>	R 217.31
	Formation of 25 x 25mm chamfer at all top edges of concrete	m	R 12.98
	concrete		

7	<b>Steel reinforcement</b>			
	Type 193 fabric reinforcement in concrete surface beds, slabs, etc	m <sup>2</sup>	R	52.41
	Type 245 fabric reinforcement in concrete surface beds, slabs,	m <sup>2</sup>	R	59.88
	Type 395 fabric reinforcement in concrete surface beds, slabs,	m <sup>2</sup>	R	67.37
	Type 888 fabric reinforcement in slabs top & bottom,	m <sup>2</sup>	R	67.37
8	<b><u>BRICKWORK</u></b>			
9	<b>Brickwork of NFP bricks in class II mortar</b>	m <sup>2</sup>	R	
	Half brick walls			132.36
	Half brick walls in beamfilling	m <sup>2</sup>	R	114.19
	One brick walls	m <sup>2</sup>	R	161.77
	One brick walls in foundations	m <sup>2</sup>	R	132.36
	<b>Brickwork reinforcement</b>	m	R	
	115mm Wide brickwork reinforcement built in horizontally			2.28
	230mm Wide brickwork reinforcement built in horizontally	m	R	3.46
	220mm Wide turning pieces to lintels, etc	m	R	3.37
	280mm Wide reinforcement built in horizontally.	m	R	4.93
	280mm Cavity Walls including wire ties, bagged and sealed with two coats 'ABE' Brixal emulsion waterproofing (e/m) to the outer face of the inner skin as the work proceeds.	m <sup>2</sup>	R	290.32

10	<b><u>Weep holes, triangular filltes, etc.</u></b>	No	
	-		
	Leaving opening 700 x 200mm for cable tray to be sealed with fireproof foam after completion.		
	<b>Face bricks</b>		R 77.86
	Extra over brickwork for face brickwork		m <sup>2</sup> R 132.36
	Extra over brickwork for face brickwork in beamfilling		m <sup>2</sup> R 132.36
	Extra over brickwork for face brickwork in foundations		m <sup>2</sup> R 132.36
11		m	
	Extra over brickwork for brick-on-edge header course lintel		R 28.55
	150mm Wide brick-on-edge header course window cill, set sloping and slightly projecting		
			R 28.55
	<b><u>WATERPROOFING</u></b>		
	<b>Waterproofing</b>		
	One layer of 375 micron "Consol Plastics Brikgrip DPC" embossed damp proof course in walls, under window cills, etc		m <sup>2</sup> R 35.90
	One layer of 250 micron "Consol Plastics Gunplas Green" waterproof sheeting sealed at laps with "Gunplas Pressure sensitive Tape" under floors	m <sup>2</sup>	
	<b>Approved silicone sealing compound including backing cord, bond breaker, primer, etc</b>	m	
	12 x 12mm In expansion joints		R 25.95
	<b><u>Three coats 'Brixeal' waterproofing to outer face of inner skin of bagged and sealed walls:</u></b>		

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	To Bagged and sealed walls.	m <sup>2</sup>	R 72.58
	<b><u>JOINT SEALANTS, ETC</u></b>		
12	Approved joint sealants are: Sikaflex 35SL; Durakol 25; Prostruct 642 or 644.	m	R 56.75
	<b><u>ROOF COVERINGS, ETC</u></b>		
	<b>Concrete roof tiles</b>		
	332 x 420mm "Marley Monarch" concrete roof tiles laid on an underlay of 375 micron "Consol Plastic Hyperlastic Orange" plastic sheeting with 75mm lapped and sealed joints and nailed through underlay with non-corrosive tile nails and/or fixed with suitable non-corrosive clips as required nailed through underlay to and including 38 x 38mm sawn softwood battens at 320mm centres	m <sup>2</sup>	R 200.44
	Ridge tiles to match roofing tiles bedded and pointed in 1:3 cement mortar tinted to match tile colour	m	R 77.86
	<b>0,6mm "Robertson IBR" Class Z275 or similar approved galvanised roofing sheets with "Chromadek" finish on</b>		
	<b>one side in single lengths fixed to steel purlins or rails and laid in accordance with the manufacturer's specifications</b>		
	Roof covering with pitch not exceeding 25 degrees	m <sup>2</sup>	R 200.47
	Side flashing 590mm girth and twice bend along length	m	R 62.29
	<b>0,5mm Chromadek or similar approved roofing sheets</b>		



	<b>and side cladding in single lengths fixed to steel</b>		
	<b>in accordance with the manufacturer's specifications</b>		

	Roof covering with pitch not exceeding 50 degrees	m <sup>2</sup>	R 164.36
	Side cladding	m <sup>2</sup>	R 155.71
	<b>0,5mm Galvanised sheet steel with "Chromadek" finish on one side</b>		
13	Standard ridge flashing	m	R 40.00
	Standard drip flashing	m	R 40.00
	Standard barge flashing	m	R 40.00
	Standard corner flashing	m	R 41.52
	Narrow and broad flute closers	m	R 43.63
	Moulded narrow and broad rib polyethylene filler blocks	m	R 44.98
	<b><u>CARPENTRY AND JOINERY</u></b>		
	<b>Roofs</b>		
	The following is applicable in respect of roof trusses:		
	Trusses are at maximum 750mm centres		
	Roof covering is concrete roof tiles on purlins at maximum 320mm centres		
	Ceilings are 6.4mm gypsum sheeting on 38 x 38mm brandering at maximum 400mm centres		
	The dimensions in the descriptions of trusses are nominal and actual measurements are to be obtained from the Architect		

	and/or the site before design or fabrication commences		
	Tenderers are referred drawings annexed to these bills of		
	quantities for tender purposes		
14	Sawn softwood		
	Roof construction to double pitched roof with two gable ends;		
	approximately 360m2 on plan and 2.00m high overall including		
	wall plates, trusses, jack rafters, permanent bracing and 38 x		
	38mm purlins at maximum 320mm centres for roof covering	No	R 68 998.10
15	Sundries		
	Two coats creosote on sawn timbers	m2	R 54.41
16	Pressed fibre cement		
	10 x 152mm Fascias and barge boards including galvanised		
	steel H-profile jointing strips	m	R 22.15
17	Semi-solid flush doors with concealed edges and veneer suitable for paint on both sides		
	40mm Door 813 x 2032mm high	No	R 264.71
	40mm Door 900 x 2032mm high	No	R 264.71
	40mm Door 900 x 2032mm high	No	R 264.71
	40mm Double door 1200 x 2032mm high	No	R 264.71
	40mm Double door 1500 x 2032mm high	No	R 264.71
18	Ironmongery		
	Allow a prime cost per door for the supply of locksets including handles, etc	No	cost plus 10%

19	<b>Wrought meranti</b>  19 x 75mm Skirting including 19mm quadrant bead plugged  70 x 90mm Rebated frame for door 900 x 2032mm high  70 x 90mm Rebated frame for double door 1200 x 2032mm high	m	
			R 32.87
		No	
			R 257.62
		No	R 262.00
20	70 x 90mm Rebated frame for double door 1500 x 2032mm high  <b><u>ROOF VENTILATOR</u></b>  2200mm Long x 650mm Wide x 540mm High with 300mm Roof Ventilator with Chromadeck finish fixed to manufacturers specifications  <b><u>ROOF INSULATION</u></b>  <b>Sondor' or other approved corrugated pattern 'Polyclosures' closers:</b>  Under ridge capping.  On beam filling  <b><u>ROOF VENTILATORS</u></b>  "Whirleybird" or similar approved Rroof ventilator with 300mm wide throat diameter, fixed in accordance with the manufacturer's recommendations.	No	
			R 346.03
		Item	
			R 28.37
		m	
			R 56.23
21	<b><u>CEILINGS</u></b>  6,4mm "Rhino" or similar approved gypsum plasterboard ceilings including 38 x 38mm sawn softwood brandering at	m	
			R 57.09
		No	
			Cost plus 10%

	450mm centres and with 63mm wide strips of mesh scrim	m <sup>2</sup>	R 103.81
	nailed over joints and the whole finished with gypsum skim plaster trowelled to a smooth polished surface to the thickness recommended by the manufacturers		
	"Rhino" or similar approved gypsum plasterboard cornices	m	R 25.95
	<b>"Aerolite" or similar approved insulation</b>  50mm Insulation closely fitted and laid on top of brandering		
	between roof timbers, etc	m <sup>2</sup>	R 34.60
22	<b><u>FLOOR COVERINGS</u></b>  <b>Carpeting including felt underlay, etc</b>  On floors	m <sup>2</sup>	R 103.05
	<b>300 x 300 x 2,5mm "Marleyflex" semi-flexible vinyl tiles</b>  On floors	m <sup>2</sup>	R 134.74
	<b><u>METALWORK</u></b>		
23	<b>Pressed steel door frames</b>  1,2mm Rebated frames for door 813 x 2032mm high and suitable for half brick walls (D2)	No	R 251.74
	1,2mm Rebated frames for door 813 x 2032mm high and suitable for one brick walls (D2)	No	R 381.41
	1,2mm Rebated frames for door 900 x 2032mm high and suitable for half brick walls (D5)	No	R 381.41
24	<b>Standard residential windows with 10 x 10mm burglar bars</b>		

	<b>to opening sashes and necessary coupling mullions</b>		
	Window type NE1, 533 x 654mm high	No	R 131.08
	Window type NC5F, 533 x 949mm high	No	R 114.19
	Window type NCTX7S, 1022 x 949mm high	No	R 272.06
	Window type TD7, 1022 x 1264mm high	No	R 272.06
25	<b>Winblok modular precast concrete window surrounds etc finished smooth on exposed surfaces, including bedding, jointing and pointing</b>		
	600 x 600 x 300mm Concrete window frame with burgular bars as supplied by windblock and brackets to fit "Fibration" or similar approved washable air filters with and including frame as per drawing included.	No	R 441.19
25	<b><u>PLASTERING</u></b>		
	<b>Screeds</b>		
	25mm Thick cement screeds on floors	m <sup>2</sup>	R 35.88
26	<b>Internal plaster on brickwork</b>		
	On walls	m <sup>2</sup>	R 43.44
	On narrow widths	m <sup>2</sup>	R 41.30
27	<b><u>TILING</u></b>		
	<b>Ceramic wall tiles fixed with adhesive to plaster (plaster elsewhere)</b>		
	On walls	m <sup>2</sup>	R 112.29
	On narrow widths	m <sup>2</sup>	R 97.30

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	<b>Ceramic floor tiles fixed with</b>		
	<b>an approved adhesive to bedding (bedding</b>		
	<b>elsewhere) and</b>		
	<b>flush jointed with an approved tile grout</b>		
	On floors	m <sup>2</sup>	R 119.76
	On narrow widths	m <sup>2</sup>	R 112.29
<b>28</b>	<b><u>Rainwater disposal</u></b>		
	<b>0,6mm Galvanised sheet iron</b>		
	100 x 125mm Eaves gutter	m	R 18.82
	Extra over eaves gutter for stopped end	No	R 3.37
	Extra over eaves gutter for outlet for 125 x 125mm pipe	No	R 3.46
	75 x 100mm Rainwater pipes	m	R 17.65
	Extra over rainwater pipe for bend	No	R 11.16
	Extra over rainwater pipe for shoe	No	R 10.38
<b>29</b>	<b>Soil drainage</b>		
	Soil drainage in ground comprising approximately 50m total length on plan of 110mm uPVC pipes with fittings and five gulleys including trenches, bedding, backfilling, etc.	Item	R 7 180.09
	Brick inspection chamber 600 x 600mm not exceeding 1m deep internally with and including 600 x 600mm heavy duty cast iron single seal manhole cover and frame	No	R 1 197.67
	Provide the provisional sum of five thousand Rand (R 5 000.00) for connection to the main sewer	Item	R 8 650.71
	Testing drainage pipe system	Item	R 2 595.21
<b>30</b>	<b>Sanitary plumbing</b>		

	Sanitary plumbing above ground comprising uPVC soil, waste,		
	ventilation and anti-syphonage piping with fittings, servicing five		
	WC suites, eight wash hand basins, four urinals, three showers		
	and one sink (sanitary fittings elsewhere)	Item	R 553.65
	Testing waste pipe system	Item	R 2 595.21
31	Water supplies		
	Water supply in ground comprising approximately 50m total		
	length on plan of maximum 100mm diameter Class 12 uPVC		
	pressure pipes with fittings laid in and including trenches,		
	bedding, backfilling, etc and two garden hose stand pipes	Item	R 8 650.71
	Water supply piping above ground comprising hot and cold		
	water piping of copper pipes with fittings servicing five WC		
	suites, eight wash hand basins, four urinals, three showers, one		
	sinks and one fire hose reel (sanitary fittings elsewhere)	Item	R 8 650.71
	Brick inspection chamber 600 x 600mm not exceeding 1m		
	deep internally with and including 600 x 600mm heavy duty cast		
	iron single seal manhole cover and frame	No	R 1 038.09
	Provide the provisional sum for connection to the main sewer	item	R 5 190.43
	Testing water pipe system	Item	R 2 595.21
32	Sanitary fittings		

	"Vaal Hibiscus" or similar approved low level wash down suite		
	comprising white vitreous china pan with P-trap, 9 litre		

	low level		
	white vitreous china cistern complete with valveless syphonic fitting, ball valve and matching flush pipe, heavy duty white solid plastic seat and flap and chromium plated isolating valve	No	R 839.12
	"Vaal Hibiscus" or similar approved white vitreous china wash hand basin complete with floor mounted pedestal, overflow, chromium plated flanged outlet and waste union, vulcanite or rubber plug, chromium plated chain and stay, chromium plated resealing bottle trap and two "Cobra Aquilla" pillar taps with hot and cold indications	No	R 839.12
	"Vaal Lavatera" or similar approved white vitreous china wall		
	urinal with top inlet, chromium plated spreader, urinal flushing valve on and including necessary wall brackets, etc	No	R 674.76
	"Citimetal" or similar approved stainless steel grade 304 (18/8) double bowl sink and drainer 1500mm long x 535mm wide with		
	chromium plated flanged outlet and waste union, vulcanite or		
	rubber plug, chromium plated chain and stay, chromium plated brass resealing bottle trap with extension piece and heavy pattern chromium plated wall type sink mixer with swivel spout and wall flange	No	R 285.47
	Shower comprising brass shallow seal P-trap with "Perspex Isola 120" shower tray, chromium plated grating, two "Cobra" or		
	similar approved heavy pattern chromium plated brass undertile pattern stop cocks with wall flanges and hot and cold indications and chromium plated brass vandal	No	R 467.14



	proof shower head		
33	<b>Fire services</b>		
	Fire services comprising approximately 50mm total length on plan of maximum 100mm diameter uPVC pressure piping and including one "Chubb Everyway" or similar approved hose reels complete with 30m rubber hose, chromium plated stop cock shutoff nozzle and wall bracket	Item	R 8 650.71
	4.5 kg DCP dry powder portable fire extinguisher	No	R 153.83
34	<b><u>GLAZING</u></b>		
	<b>Clear float glass</b>		
	4mm Panes not exceeding 0.5m2	m <sup>2</sup>	R 129.76
	4mm Panes exceeding 0.5m2 and not exceeding 2m2	m <sup>2</sup>	R 20.76
	<b>Obscure glass</b>		
	4mm Panes not exceeding 0.5m2	m <sup>2</sup>	R 129.76
	<b>Mirrors</b>		
	400 x 600mm High silver floated glass copper backed mirrors with polished edges holed for and fixed with chromium plated dome capped mirror screws with rubber buffers to plugs in brickwork or concrete	No	R 217.08
35	<b><u>PAINTWORK</u></b>		
	<b>One coat acrylic sealer coat and two coats "Polvin Super Acrylic" PVA or similar approved emulsion paint</b>		
	On internal plastered walls	m <sup>2</sup>	R 112.67

	<b>One coat alkaline resistant plaster primer and two coats Polvin Super Acrylic" PVA or similar approved paint</b>		
	On internal gypsum plaster board ceilings and cornices	m <sup>2</sup>	R 88.24
	On fascias and barge boards	m <sup>2</sup>	R61.10
	<b>Clean down and paint and two coats "Plascon Super Enamel" or similar approved enamel paint</b>		
	On door frames	m <sup>2</sup>	R 79.24
	On windows with burglar bars	m <sup>2</sup>	R 86.51
	<b>One coat wood primer, one coat universal undercoat tinted if necessary and two coats approved enamel paint</b>		
	On doors	m <sup>2</sup>	R 60.56
	<b>Clean down and paint one "Plascon Galvogrip" metal primer and two coats approved enamel paint</b>		
	On eaves gutters and down pipes	m <sup>2</sup>	R 51.90
	<b>Three coats clear varnish</b>		
37	On door frames	m <sup>2</sup>	R 85.56
	<b><u>PROVISIONAL SUMS</u></b>		
	The following provisional sums are met and are for equipment, etc supplied and installed or executed complete by selected subcontractors		
	<b>Joinery fittings and kitchen cupboards</b>		
	Provide the sum for the supply and installation		
	of joinery fittings, work stations, etc.	Item	Cost plus

			10%
	Allow for profit upon above if required	Item	10%
	Allow for attendance	Item	10%
	<b>Shower doors</b>		
	Provide the sum for		
	the supply and installation of shower doors	Item	Cost plus 10%
	Allow for profit upon above if required	Item	10%
38	Allow for attendance	Item	10%
	<b><u>STRUCTURAL STEELWORK</u></b>		
	<b>Welded and bolted columns, beams, rafters, etc in single lengths with flat section base, top, bearer and connection plates bolted to concrete</b>		
	254 x 146 x 31kg/m I-section columns	kg	R 125.00
	254 x 146 x 31kg/m I-section beams, hauches, etc	kg	R 125.00
	125 x 75 x 20 x 2,5mm Lipped channel purlins & Girts	kg	R 125.00
	260 x 90 x 38kg/m Channel section beam	kg	R 125.00
	40 x 40 x 4mm Angle section bracing	kg	R 125.00
	50 x 50 x 4mm Angle section bracing	kg	R 125.00
	60 x 60 x 6mm Angle section bracing	kg	R 125.00
	120 x 120 x 400mm Hollow section column in single lengths	kg	R 125.00
	200 x 100 x 22kg/m IPE I- section beams	kg	R 125.00

	200 x 75 x 25kg/m Channel section beam	kg	R	125.00
	150 x 75 x 20 x 2,5mm Lipped channel section beam	kg	R	125.00
	50 x 50 x 5mm Angle section bracing	kg	R	125.00
	500 X 800mm Mentis Rectagrid, 40mm Thick, Galvanised, completely with galvanised steel frame. Galvanised frame to be cast into concrete.	no	R	235.30
	75 x 75 x 2,5mm Hollow section columns	kg	R	125.00
	125 x 50 x 20 x 2mm lipped channel section purlins	kg	R	125.00
	150 x 50 x 20 x 2mm lipped channel section beams	kg	R	125.00
	200 x 75 x 20 x 3mm lipped channel section beams	kg	R	125.00
	75 x 50 x 3mm Angle section bracing	kg	R	125.00
	120 x 120 x 4mm Hollow section column in single lengths	kg	R	125.00
	150 x 75 x 20 x 2.5mm Lipped channel section beam	kg	R	125.00
	125 x 50 x 20 x 2.5mm Lipped channel section purlins	kg	R	125.00
	50 x 50 x 5mm Hollow section bracing	kg	R	125.00
	50 x 50 x 3mm Hollow section	kg	R	125.00
	20mm Diameter holding down bolts with 8mm diameter anchor			
	bars welded on and cast into concrete	kg	R	125.00
	<b>0,5mm Galvanised sheet iron</b>			
	75 x 100mm Eaves gutter	m	R	20.76
	Extra over eaves gutter for stopped end	No	R	3.67
	Extra over eaves gutter for outlet for 75 x 100mm pipe	No	R	5.19
	75 x 100mm Rainwater pipes	No		

	Extra over rainwater pipe for shoe		R	18.82
			R	6.92

39				
	<b><u>ELECTRICAL WORKS</u></b>			
	Remove and replace damaged bulb tubes	ea	R	18.82
	Remove and replace damaged lights fitting	ea	R	34.37
	Remove and replace damaged electrical wall socket	ea	R	37.24
	Remove and replace existing "Daynight" switches at Substation buildings	ea	R	147.91
	Maintenance of aircons	ea	R	1949.90
	Replacement of faulty aircons	ea	R	2924.85
	Repair or replace faulty DB boards	ea	R	739.55

	Description	Labour Rates		
	<b>DAYWORKS</b>			
	<b>Labour Rates Only to be priced. Material will be compensated at cost plus 10% (Supplier will submit 3 material quotations to be verified and/or approved)</b>			
	<b>Labourers</b>			
	(i) Unskilled			
			R	47.08
	(ii) Semi-skilled			
			R	57.29
	(iii) Skilled			
			R	90.62
	(iv) Survey assistants		R	109.85
	Foreman		R	141.23
	Tipper truck			
	(i) 3 - 5 ton		R	576.71
	(ii) 5.1 - 10 ton		R	657.45

	Loader (0.5m3 bucket)	R 741.49
	Grader (CAT 14G or similar)	R 1 071.04
	Vibratory roller (as per 33.04(b)(i))	R 659.10
	Grid roller (as per 33.04(b)(iii))	R 140.57
	Walk behind roller (Bomag BW90)	R 75.69

	Air compressor, 4m3/min, complete with drills	R 47.58
	Waterpump including all necessary hoses	R 207.62
	Concrete mixer (0.3m3)	R 333.68
	Trench vibrating roller or pad 0.6m width	R 141.87
	Backactr, 0.3m3	R 651.88
	Tracked excavator 20t	R 844.48
	Watercart, 500l	R 519.04
	Allow provisional for purchase of materials	Cost plus 10%
	Transport (per km)	R 8.32
	Handling cost and profit	10%

**NB. Contractors will have to sign to accept the rates**

**Contractor:**

.....  
PRINT NAME

.....  
SIGNATURE

.....  
DATE

## Skills Development & Learning

SDL & I Contractual Requirements are as follows:

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

Type of Jobs to be created	Number of Jobs to be created
Semi-skilled and general labour	Tenderer's proposal

2. Skills development

Skill type / Occupation	Eskom target	Proposed Number of Candidates
Construction - Artisan	2	
Carpenter - Artisan	2	
Construction: SAMTRAC	2	

**NB. Contractors will have to sign for the proposal**

**Contractor:**

.....  
PRINT NAME

.....  
SIGNATURE

.....  
DATE

## PART 3: SCOPE OF WORK

Document reference	Title	No of pages
C3.1	This cover page Employer's Service Information	1

<b>C3.2</b>	<i>Contractor's Service Information</i>	
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## C3.1: EMPLOYER'S WORKS INFORMATION

### Contents

#### 1 Description of the works

Maintenance and repairs of various substation buildings in Limlanga Cluster on an "as and when" required basis.

#### 2 Executive overview

The Provision of maintenance and repair of various substation buildings within Limlanga Cluster Distribution Site.

In general, the scope of work covered by this contract includes

**The scope of work below to be used in conjunction with the Bill of Quantities**

- Brick work
- Painting (Walls, doors, ceiling, roofs, fascia boards and floors)
- Waterproofing
- Removing of roof coverings
- Installations of new roof covering
- Replacement of roof ventilation
- Floor covering Carpentry and Joinery
- Taking out damaged ceiling and install a new ceiling.
- Plastering and making good of finishes Plumbing
- Breaking down and removing brickwork
- Take down and remove doors, windows, roofs, floors, channelling, ceilings, partitions, and make good finishes.
- Remove and replace Chequer plate.
- Taking up and removing vinyl floor coverings /tiles
- Taking out and moving sundry joinery work
- Taking out and removing joinery fittings, setting aside for re-use and later refixing in new position
- Re -fixing of existing doors, windows Hacking up/off and removing ceramic tile floor and wall finishes including removing mortar bed or backing and preparing concrete or brick surfaces for new screed, plaster or tile finishes
- Opening through existing wall
- Remove and replace damaged lights fittings and bulb tubes.
- Remove and replace damaged electrical wall socket.





### Specifications











Title	Date or revision	Tick if publicly available
<b><u>General Specifications:</u></b>		
Health and Safety requirements	Latest	
Environmental requirements	Latest	
Site regulations and access control	Latest	
Recommended Herbicides	Latest	
Herbicides Management	Latest	
PROCEDURE FOR CLEARING VEGETATION AND MAINTENANCE WITHIN OVERHEAD POWERLINES	EPC 32-247	
LOCAL STANDARD FOR THE OPERATING OF HIGH CUTTER / CHAIN SAW	Latest	
<b>Eskom Distribution Standard</b>  Copies available from Eskom Distribution Technology, Technical Administrator, Telephone 011-871 2214. Important Note: where material options (i.e. coastal and inland) are available the coastal option will be applicable in Eskom's Limpopo Operating Region (Refer to Engineering Instruction EI-039-MVL).	Latest	
<b>Technical Bulletins</b>  As issued by Eskom's Distribution Technology, Simmerpan Copies of the relevant Bulletins are available on request.	Latest	
<b>Environnemental Management</b>  Environnemental Management Programme (EMP) Procedure SHEQ Policy	Latest	EPC: 32-248
<b>Quality</b>  Quality Requirements for the Procurement of Assets, Goods & Services	Latest	ESKASAAU7
<b>Safety</b>  Occupational Health and Safety Requirements to be met by Contractors and Subcontractors Employed by Eskom. Co-ordination of Safety on Capital Projects. Standard applicable to Contractors working in Close Proximity to Live Apparatus	Latest	Health & Safety Documents

Management of Substance Abuse	<b>Latest</b>	SCSPVABP4
<b>Business Conduct</b> Suspending Suppliers from Eskom's Supplier Lists Eskom Business Conduct Policy and Guidelines Declaration of Conflict of Interest Copies of the abovementioned documents are not attached but are available from Eskom's Tender Advise Centre, Clare Lottering, (031) 710 5429	<b>Latest</b>	ESKADABD7
Technology & Quality Engineering Instruction : Generic Stubby Line	<b>Latest</b>	E1-048-MVL
Authorisation of contractors / Eskom staff	<b>Latest</b>	TDQES001
Standard for a fall arrest system Procedure for using a fall arrest system Specification for a fall arrest system	<b>Latest</b>	SCSASABW3 SCSPVACL6 SCSSCABA5
Checklist of Eskom Qualified Suppliers List of Eskom Qualified Suppliers	<b>Latest</b>	TQSNK008
CONTRACT SPECIFICATION FOR VEGETATION MANAGEMENT SERVICES ON ESKOM NETWORKS	<b>Latest</b>	240-52456757

The attached documents form part of this legal binding contract, the *Contractor* confirms that he has familiarized himself with all the embedded documents from 1 to 17 as indicated.

**Do not print and send them when returning this contract**

<u>No</u>	<u>UNIQUE IDENTIFIER</u>	<u>REVISION</u>	<u>DOCUMENT TITLE</u>
1	32 - 727	0	<b>SAFETY, HEALTH, ENVIRONMENT AND QUALITY (SHEQ) POLICY 32-727</b>  1_Eskom SHEQ Policy 32-727.pdf
2	32 - 136	0	<b>CONSTRUCTION SAFETY HEALTH AND ENVIRONMENTAL MANAGEMENT</b>  2_Construction Safety Health and En
3	32-524	0	<b>DEVELOPING A SAFETY, HEALTH AND ENVIRONMENTAL SPECIFICATION</b>  3_Developing a Safety, Health and Ei
4	34 - 333	1	<b>HEALTH AND SAFETY REQUIREMENTS TO BE MET BY PRINCIPAL CONTRACTORS EMPLOYED BY ESKOM DISTRIBUTION 34-333</b>  4_Health and Safety Requirements to be n

5	32 - 421	1	<b>ESKOM CARDINAL RULES 32-421</b>  5_Eskom Cardinal Rules (32-421).pdf
6	CONSTRUCTION REG 3		<b>NOTIFICATION OF CONSTRUCTION WORK TO DEPARTMENT OF LABOUR</b>  6_Notification of Construction Work to
7	CONSTRUCTION REG 4 & 5		<b>APPOINTMENT LETTERS FOR CLIENT REPRESENTATIVE, PRINCIPAL CONTRACTOR &amp; CONTRACTOR</b>  7_Appointment letters for Client repr
8 & 9	OHS ACT		<b>WRITTEN AGREEMENT ON OHS ACT SECTION 37(2) &amp; STANDARD CLAUSE</b>  8_Written agreement on OHS A  9_Standard clause Eskom Contracts Sect
10, 11 & 12	34 - 1063	0	<b>EXPANDED PUBLIC WORKS REPORT 34-1063.</b>  10_34-1063 EPWP Works Instruction.pdf  11_EPWP Guidelines Second edition 2005.  Eskom EPWP report template rev 7.xlsx
13	<u>DST 34-961</u>	0	<b>LEGAL APPOINTMENTS AND AUTHORIZATIONS</b>  13_Legal Appointments and Au
14	TPC 41-55		<b>TRANSPORTING PERSONS ON BACK OF VEHICLES</b>  14_Transporting of Passengers on the ba

### Acknowledgement by Contractor

I/WE, ..... DO HEREBY ACKNOWLEDGE HAVING READ

AND UNDERSTOOD THE ABOVE ANNEXED DOCUMENTS FROM 1 TO 11 IN PART C3 OF THIS CONTRACT.

I/WE UNDERTAKE TO STUDY AND ABIDE BY THESE REQUIREMENTS AT ALL TIME.

SIGNED AT: ..... ON THE ..... DAY OF .....20.....

### 3 Employer's objectives and purpose of the works

Provide an outline of the *Employer's* business case for the delivered project / contract. Describe the purpose of the *works* in such a manner that a legal test of 'fitness for purpose' can be applied in the event of any dispute about overall performance of the *works*.

## 4 Interpretation and terminology

If required include here definitions additional to those used in the *conditions of contract* which are required only for the purpose of making the Works Information easier to draft and read. Also list abbreviations used and provide a full interpretation of each one, for example:

The following abbreviations are used in this Works Information:

Abbreviation	Meaning given to the abbreviation
AFC	Approved for construction
OBL	Outside battery limits

## 5 Management and start up.

## 6 Management meetings

The *conditions of contract* (e.g. Clause 16.2) require and other sections of the Works Information (e.g. safety risk management) may require (mandate) that a meeting shall be held. However the intention of all NEC contracts is that the Parties and their agents use the techniques of partnering to manage the contract by holding meetings designed to pro actively and jointly manage the administration of the contract with the objective of minimising the adverse effects of risks and surprises for both Parties.

Depending on the size and complexity of the *works*, it is probably beneficial for the *Project Manager* to hold a weekly risk register meeting (Clause 16.2). This could be used to discuss safety, compensation events, subcontracting, overall co-ordination and other matters of a general nature. Separate meetings for specialist activities such as programming, engineering and design management, may also be warranted.

Describe here the general meetings and their purpose. Provide particulars of approximate times, days, location, and attendance requirements, stipulating that attendees shall have the necessary delegated authority to make decisions in respect of matters raised at such meetings.

The right to hold specialist meetings should be stated generically and in such a way that ambiguity with other parts of the Works Information is avoided.

The following text could be used as a model for this section:

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:
Risk register and compensation events	Weekly on _____ at _____		
Overall contract progress and feedback	Monthly on _____ at _____		<i>Employer, Contractor, Supervisor, and _____</i>

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.

## 7 Documentation control

Specify how documentation will be identified with an alpha numeric which indicates source, recipient, communication number etc. Provide details of any particular format or other constraints; for example that all contractual communications will be in the form of properly compiled letters or forms attached to e mails and

not as a message in the e mail itself. State any particular routing requirements but note from ECC who issues what to whom.

## 8 Health and safety risk management

In addition to the requirements of the laws governing health and safety, Eskom may have some additional requirements particular to the *works* and the Working Areas for this contract. The text below provides for these being attached as an Annexure to this Works Information. PLEASE ALSO READ CORE CLAUSE 27.4 TOGETHER WITH Z7 IN THE ADDITIONAL CONDITIONS OF CONTRACT TO MAKE SURE THAT WHATEVER IS INCLUDED IN THE ANNEXURE FOLLOWS ON FROM THOSE CLAUSES.

The Divisional/Regional Safety Risk Manager or his representative having jurisdiction over the *works* must provide the relevant safety, health and environmental (SHE) criteria for incorporation into this Works Information. The SHE specification / scope must be signed off by the Divisional/Regional Safety Risk Manager or his representative confirming that the applicable safety criteria have been taken into account.

The Commodity Manager / Buyer must refer the tender to the Divisional/Regional Safety Risk Manager or his representative in order to evaluate against enquiry-specific safety criteria.

The Divisional Safety Risk Managers who will be responsible for the allocation of resources to assist P&SCM with the above processes are as follows:

- Generation: Roley McIntyre
- Transmission: Tony Patterson
- Distribution: Alex Stramrood
- Enterprises: Jace Naidoo
- Corporate: Kerseri Pather

The *Contractor* shall comply with the health and safety requirements contained in Annexure \_\_\_\_\_ to this Works Information.

## 9 Environmental constraints and management

Describe or cross refer to environmental constraints applicable to the *Contractor's* design and his activities on Site and how they should be managed. Include here or cross refer to an Annexure to the Works Information.

The *Contractor* shall comply with the environmental criteria and constraints stated in Annexure \_\_\_\_\_

## 10 Quality assurance requirements

Specify minimum requirements for the *Contractor's* Quality Plan and Work Procedures or provide the *Employer's* Quality Plan if that is to be used. Make sure witness and hold points are identified generally and describe any particular requirements for QA outside the *working areas*. Indicate how the *Contractor's* QA documentation is to be submitted for acceptance and any conditions that need to be imposed relating to acceptance. State whether ISO compliance is a condition and if so which ISO standard shall apply.

## 11 Programming constraints

Describe the programming system (application) to be used if it is necessary to dictate this for project coordination purposes. Read clause 31.2 first then state the work of the *Employer* and Others to be shown on the programme per 4<sup>th</sup> bullet of clause 31.2 and what additional information (if any) is to go in the programme per the last bullet of clause 31.2. Describe any particular constraints on the order and timing of the work which the *Contractor* must take into account in his programme.

## 12 Contractor's management, supervision and key people

State any additional constraining requirements on *Contractor's* supervision and key people that are not already stated in other sections such as for Health and Safety. This section could be used to solicit an organogramme from the *Contractor* showing his people and their lines of authority / communication. This would be essential if the *Contractor* is a Joint Venture.

## 13 Invoicing and payment

The Z clauses make reference to invoicing procedures stated here in this Service Information. Also include a list of information which is to be shown on an invoice.

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)

#### **14 Insurance provided by the *Employer***

First read ECC3 Core Clause 87.1 and then add anything necessary for the management of insurance related issues such as a cross reference to where procedures for making claims can be found. Also provide contact details for persons capable of being able to answer any insurance related queries the *Contractor* may have, as well as to whom the information required by Marine Insurance may be addressed.

#### **15 Contract change management**

This section is intended to deal with any additional requirements to the compensation event clauses in section 6 of the core clauses; such as the use of standard forms. Not the same thing as documentation control.

#### **16 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.

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

If Option C, D, E or F applies first read clause 52.2 and then state whether the *Contractor* is required to keep any other records. Include any other constraint which may be required in regard to format and filing of the records, and whether access for the *Project Manager* shall be provided in hard copy or electronically.

Could delete if Options A & B apply unless the *Employer* requires some form of control over the *Contractor's* record keeping.

#### **18 Training workshops and technology transfer**

Describe type and frequency of on job training workshops, as well as any obligation for technology transfer being included as part of the contract on Completion of the *works*.

## 19 Engineering and the *Contractor's* design

The content of this section will depend on whether the contract is for construction only with most of the design done by (or for) the *Employer* or whether it is a 'design and construct' contract. ECC provides for design by either Party in any proportion, which proportion done by the *Contractor* must be stated in this part of the Works Information.

## 20 *Employer's* design

Either

Describe what the *Employer* has designed for the *works* when the *Contractor* is mainly doing construction only. Could even state who has done or is doing the design for the *Employer* as this will give the *Contractor* an idea of the standard he may expect.

Or

Provide the *Employer's* operating philosophy / user requirement specification (URS) / performance specification to which the *Contractor* is to comply when he is required to design the *works*.

## 21 Parts of the *works* which the *Contractor* is to design

This is a mandatory requirement of core clause 21.1 and must be addressed in detail. Even when the contract is a traditional 'construction only' contract, the *Contractor* is probably still required to carry out workshop details from overall drawings provided by the *Employer* and to design temporary works.

## 22 Procedure for submission and acceptance of *Contractor's* design

This is a mandatory requirement of core clause 21.2 and must be addressed. Identify the extent of detail (the particulars) of the *Contractor's* design which is to be submitted to the *Project Manager* for his acceptance. This procedure may also include a design stage activity matrix or requirements for co-operation with Others on a multi party project. State requirements for drawings to be prepared by the *Contractor*.

## 23 Other requirements of the *Contractor's* design

Use this section to describe any particulars which must be taken into account by the *Contractor* in his design; for example codification (configuration management) of Plant and Materials.

## 24 Use of *Contractor's* design

First read core clause 22.1 and then include here the exceptions and other purposes if applicable. If there are none this section could be deleted leaving the core clause to stand.

## 25 Design of Equipment

On some complex projects requiring sophisticated temporary works, it could be in the Parties best interests that some details of the *Contractor's* design or proposed design of Equipment are shared with the *Project Manager*, not necessarily for his acceptance but as an assurance that the Equipment will be able to allow the *Contractor* to Provide the Works efficiently and without delay. For example a tunnel boring machine, or specialised shuttering for a bridge or caisson. Draft in such a way that there is no doubt that the liability for such design and use of the Equipment remains with the *Contractor*. Clause 23.1 is always available to the *Project Manager* if this section is not used.

## 26 Equipment required to be included in the *works*

The defined term 'Equipment' in core clause 11.2(7) makes a cross reference to the Works Information concerning any Equipment which the *Contractor* is required to include in the *works*. Complete here or if not applicable either delete the heading or retain the heading and state 'None'.

## 27 As-built drawings, operating manuals and maintenance schedules

Use this section to describe these requirements. Pay particular attention to when and in what form they are required. Consideration should be given to obtaining operating manuals and maintenance schedules before Completion of the whole of the *works* when there is still considerable financial incentive for the *Contractor* to do so.



## 28 Procurement

There is a cross reference from the definition of Disallowed Cost in Options C D and E to the Works Information regarding procurement procedures. This part of the Works Information MUST include any such procedures to be able to administer this procedure. Options A & B may also require constraints on procurement procedures.

## 29 People

### 30 Minimum requirements of people employed on the Site

Specify any constraints relating to people employed to Provide the Works; for example permits for foreigners, training (other than H & S), use of labour from designated areas and industrial relations.

### 31 BBBEE and preferencing scheme

Specify constraints which *Contractor* must comply with after contract award in regard to any Broad Based Black Economic Empowerment (B-BBEE) or preferencing scheme measures.

### 32 Accelerated Shared Growth Initiative – South Africa (ASGI-SA)

If the ASGI-SA requirements are to be included in this contract specify constraints which *Contractor* must comply with after contract award in regard to any ASGI-SA requirements. The ASGI-SA Compliance Schedule completed in the returnable tender schedules is reproduced here. If ASGI-SA does not apply, delete this paragraph.

The *Contractor* complies with and fulfils the *Contractor's* obligations in respect of the Accelerated and Shared Growth Initiative - South Africa in accordance with and as provided for in the *Contractor's* ASGI-SA Compliance Schedule stated below

[Insert the agreed ASGI-SA Compliance Schedule here]

The *Contractor* shall keep accurate records and provide the *Project Manager* with reports on the *Contractor's* actual delivery against the above stated ASGI-SA criteria. [Elaborate on access to and format of records and frequency of submission etc.]

The *Contractor's* failure to comply with his ASGI-SA obligations constitutes substantial failure on the part of the *Contractor* to comply with his obligations under this contract.

### 33 Subcontracting

### 34 Preferred subcontractors

ECC does not make use of nominated subcontracting, but the *Employer* may list which subcontractors or suppliers the *Contractor* is required to enter into subcontracts with. This is usually only required where Plant and Materials need to be obtained from a particular supplier or group of suppliers in order to comply with operational standards.

### 35 Subcontract documentation, and assessment of subcontract tenders

Specify any constraints on how the *Contractor* is to prepare subcontract documentation, whether use of the NEC system is compulsory or not (compulsory is recommended) and how subcontract tenders are to be issued, received, assessed (using a joint report?) and awarded.

### 36 Limitations on subcontracting

The *Employer* may require that the *Contractor* must subcontract certain specialised work, or that the *Contractor* shall not subcontract more than a specified proportion of the whole of the contract.

### 37 Attendance on subcontractors

State requirements for attendance on Subcontractors, if any

### 38 Plant and Materials

### 39 Quality

Quality is usually designed in or specified in the technical specifications referred to in section 6 of this Works Information. However to cover circumstances where quality may not be prescribed, this sub-paragraph could be used as an overarching default requirement. It could also be used to deal with how repairs are carried out after a Defect has been notified; for example can the item be fixed up or must it be replaced by a new one. See also SANS 1200A, sub-paragraph 3.1

### 40 Plant & Materials provided “free issue” by the *Employer*

State arrangements for collection by *Contractor* or delivery by others on behalf of the *Employer*, off loading, inspection, storage, care custody and control, return of unused Plant and Materials, etc. State whether any samples are to be provided by the *Employer* and if so how, where and when. Always include a statement to the effect that ‘all other Plant and Materials are to be provided by the *Contractor*’.

### 41 *Contractor’s* procurement of Plant and Materials

Specify any constraints on how the *Contractor* is to order, codify, expedite, freight, import, transport to Site and any other requirements for delivery and storage before installation. The *Employer* may require warranties from suppliers to be in favour of the *Employer* and not just to the *Contractor* during the life of the contract. Also include requirements for vendor data which the *Employer* may need after Completion of the whole of the *works*. THIS IS A VERY IMPORTANT SECTION IN PROCESS PLANT AND UTILITY PROCUREMENT CONTRACTS.

#### 42 Spares and consumables

Some contracts may need to include provision for the supply of a minimum category of spares, fuel, oil or other feed stock and consumables which the *Employer* may need at or just after take over and that it is best the *Contractor* provide these initially as part of his Providing the Works.

#### 43 Tests and inspections before delivery

Core Clauses 40 and 41 both make reference to the Works Information regarding tests and inspections. Specify any requirements here for any tests and inspections that are to be done by the *Supervisor* or Others before delivery to the Working Areas, particularly if such tests and inspections are to be carried out by agents of the *Employer* overseas.

#### 44 Marking Plant and Materials outside the Working Areas

Core clauses 70.1 and 71.1 require the Works Information to state how the *Contractor* is to “mark” Plant and Materials which is outside the Working Areas if they are to be paid for before delivery to the Working Areas. Specify here how the *Contractor* is to mark the Plant and Materials.

#### 45 Contractor's Equipment (including temporary works).

In contracts which require the *Contractor* to procure sophisticated or highly specialised Equipment that could have a major influence on the progress of the works, the *Employer* may wish to exercise constraints or include witness and hold points during manufacture, assembly or delivery of such Equipment. Include these constraints here taking care not to imply that the *Employer* or the *Project Manager* take on any liability as a result. See also section 3.6 above relating to the design phase of the *Contractor's* Equipment.

#### 46 Cataloguing requirements by the Contractor

State whether cataloguing is applicable, if it is, reference the requirements for cataloguing that need to be satisfied by the *Contractor* (consult Procurement Instruction Number 1 of 2018 – Incorporating Cataloguing into the Procurement Environment, Unique Identifier 240-1289988974).

#### 47 Construction

This part of the Works Information addresses constraints, facilities, services and rules applicable to the *Contractor* whilst he is doing work on the Site during the construction and maintenance phase. It does not specify the work itself as that is included in Section 6 of the Works Information.

For contracts involving civil works the approach may be to incorporate SANS1200A or SANS 2000 into the contract. Whilst many of the headings below address the same issues, the list of headings below is more comprehensive. If the headings below are used, it may be prudent to delete paragraphs 3, 4 and 5 from 1200A after checking that their requirements have been included below as necessary. A similar approach can be used in contracts involving building works where the Model Trade Preambles are incorporated. Care should be taken to avoid inconsistency or ambiguity between this part of the Works Information and standard specifications incorporated by reference.

#### 48 Temporary works, Site services & construction constraints

#### 49 Employer's Site entry and security control, permits, and Site regulations

Sites such as Sasol Secunda and Koeberg Nuclear Power Station have very strict entrance requirements which tenderers need to allow for in their prices, and the *Contractor* has to comply with. State these or similar requirements here.

#### 50 Restrictions to access on Site, roads, walkways and barricades

In addition to the above there may be other restrictions once on the Site, plus rules relating to roads, walkways and the provision of barricades

## **51 People restrictions on Site; hours of work, conduct and records**

Restrictions and hours of work may apply on some Sites. It is very important that the *Contractor* keeps records of his people on Site, including those of his Subcontractors which the *Project Manager* or *Supervisor* have access to at any time. These records may be needed when assessing compensation events.

## **52 Health and safety facilities on Site**

Section 8 deals with contractual H & S requirements in addition to those of the OHSA Act. This section allows the *Employer* to state what measures are to be taken on Site against disease and epidemics and in emergencies. Also describe where First Aid facilities provided by the *Employer* are located and any other emergency arrangements. Do not use if already addressed in 2.3. The cross reference from Clause 27.4 applies.

## **53 Environmental controls, fauna & flora, dealing with objects of historical interest**

This sub-paragraph may not be required if these matters are dealt with in the general environmental requirements referred to in paragraph 2.4 above.

## **54 Title to materials from demolition and excavation**

Clause 73.2 states that the *Contractor* has title to materials from excavation and demolition (e. g. copper) only as stated in the Works Information. Hence state here any special arrangements regarding such title. If nothing is stated then the default position is the *Contractor* has no such title.

## **55 Cooperating with and obtaining acceptance of Others**

This sub-paragraph could be used to deal with two issues.

- 1) The cross reference from core clause 25.1 about cooperation generally as well as details about Others with whom the *Contractor* may be required to share the working areas. See clause 11.2(10) for the definition of Others.
- 2) Requirements for liaison with and acceptance from statutory authorities or land owners.

## **56 Publicity and progress photographs**

State requirements for notice boards, advertising rights, media relations, photography and progress photographs if required.

## **57 Contractor's Equipment**

This sub-paragraph is intended to address how records are to be kept of Equipment on Site including whether it is owned or hired. Include any constraints about scaffolding, rigs, heavy lifts and cranes, including removal from the Working Areas. Also silencing similar to Clause 4.1 in SANS 1200 A

## **58 Equipment provided by the Employer**

Provide details of equipment made available for use by the employer and set out conditions relating thereto.

## **59 Site services and facilities**

This is a mandatory cross reference from clause 25.2 in ECC3. State what the *Employer* will provide in the way of power, water, waste disposal, telecomms, ablutions, fire protection, lighting etc. Give hook up locations and any constraints on how the hook up is to be done. Always conclude by stating that the *Contractor* shall provide everything else necessary for Providing the Works.

## 60 Facilities provided by the *Contractor*

Describe what the *Contractor* is to provide in the way of Site accommodation, laboratories, storage, vehicles and office equipment etc for the *Project Manager* and the *Supervisor*, and any restrictions or minimum requirements concerning the *Contractor's* own facilities. State requirements for facilities to be provided by the *Contractor* such as construction camps. Also state what happens to these facilities upon completion of the contract. Set out constraints, if any, as to the location by the *Contractor* of such facilities on the Site and requirements for drawings of Site facilities, as necessary.

## 61 Existing premises, inspection of adjoining properties and checking work of Others

Details under this sub-paragraph are very contract specific and may be quite extensive in some cases. State requirements for the inspection with the owners of adjacent buildings and properties and representatives of local authorities before commencing with the *works* that have the potential to damage surrounding buildings and property. State whether *Contractor* is required to inspect the work of Others to which he is required to connect and if so by when to avoid delays to his work.

## 62 Survey control and setting out of the *works*

Provide information on survey controls established by the *Employer*, if any, and state requirements for survey control and the setting out of the *works*.

## 63 Excavations and associated water control

State any particular requirements for handling deep foundations and controlling water from excavations.

## 64 Underground services, other existing services, cable and pipe trenches and covers

Describe known services making reference to drawings containing known services and state requirements for locating, marking and recording such services.  
State requirements for the treatment of existing services i.e. their termination, diversion or continued use, either temporarily or permanently, and set out the procedures relating thereto.  
State requirements, as necessary, for the use and availability of detection equipment for the location of underground services.  
State responsibility for damage to services, known and unknown, and requirements for working in close proximity to services etc.  
State requirements and reinstatement procedures for the notification and repair of damage to services and any penalties applicable to the damage of services.

## 65 Control of noise, dust, water and waste

State requirements, if any.

## 66 Sequences of construction or installation

Only prescribe sequences of work where absolutely necessary such as when *Contractor* has to give access to Others (without take over) and for technical reasons such as under tidal conditions and in rivers.

## 67 Giving notice of work to be covered up

State the procedure for notifying the *Supervisor*

## 68 Hook ups to existing works

State any constraints

## 69 Completion, testing, commissioning and correction of Defects

### 70 Work to be done by the Completion Date

**This is mandatory.** Core clause 11.2(2) defines Completion as when the *Contractor* has done all the work which the Works Information states he is to do by the Completion Date. Rather than list all work to be done by the Completion Date, state that all work is to be done by the Completion Date except for [●]. For example:

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 <i>works</i> in use as specified in paragraph        of this Works Information.	See performance testing requirements.

### 71 Use of the *works* before Completion has been certified

Clause 35.2 in ECC3 provides that the *Employer* may use any part of the *works* before Completion has been certified but if he does so he takes over the part of the *works* except if the use is for a reason stated in the Works Information. State the reason here if this applies.

### 72 Materials facilities and samples for tests and inspections

State what materials facilities and samples for tests and inspections the *Contractor* and the *Employer* are to provide, per core clause 40.2.

### 73 Commissioning

Required mainly for contracts including mechanical and electrical work. Would typically refer to detailed commissioning procedure attached as an Annexure. Confirm whether commissioning is to be done before or after Completion. If after Completion, include this item of work in the list in sub-paragraph 70 above.

### 74 Start-up procedures required to put the *works* into operation

In order to put the *works* into operation the *Employer* may require the *Contractor* to either do this for him or be in attendance whilst he does it, depending on who is the responsible person. State requirements of the *Contractor* here together with any special arrangements associated with operating plant and machinery.

## 75 Take over procedures

Take over is after or at the same time as Completion. The *Employer* may require the *Contractor* to provide assistance, security personnel on a temporary basis etc.

## 76 Access given by the *Employer* for correction of Defects

Clause 43.4 requires that the *Project Manager* arranges for the *Employer* to allow the *Contractor* access to and use of a part of the *works* which has been taken over if needed to correct a Defect. After the *works* have been put into operation, the *Employer* may require the *Contractor* to undertake certain procedures before such access can be granted (for example barricading a motorway or in a nuclear power station). Include these here.

## 77 Performance tests after Completion

Many design and build or turnkey projects require the *Contractor* to demonstrate that the *works* can operate as guaranteed by the *Contractor* (in *Contractor's* Works Information) or specified by the *Employer* either here or elsewhere in this Works Information. State here the procedures for carrying out such proving tests. These details should link up with any performance levels stated in Contract Data if secondary Option X17 in ECC3 applies.

## 78 Training and technology transfer

Include if the *Employer* requires the *Contractor* to provide training in the use and maintenance of the *works* or any associated transfer of technology from him to the *Employer*.

## 79 Operational maintenance after Completion

The *Employer* may require the *Contractor* before the *defects date* to perform certain duties after Completion and take over which relate to maintenance of the *works*. (Not to be confused with Defect correction) For example oil and filter changes

## 80 Plant and Materials standards and workmanship

This section of the Works Information contains all the specifications for the work which is left behind; the permanent works. It is likely to be the largest section by far and may even be compiled in volumes, e. g. Section 6 Volume 1: Civil Engineering Works. In design and construct contracts, it may be compiled in accordance with systems within the *works*; e. g. Section 6 Volume 4: Crushers.

Because practice varies widely between employers it is not practical in a general template such as this to deal with all arrangements. Only the discipline based section subheadings are provided below in the order the *works* are likely to be constructed together with some notes of a general nature.

## 81 Investigation, survey and Site clearance

Some contracts may require the *Contractor* to carry out further investigation of existing facilities or of the Site before commencing final design. There could be constraints on Site clearance especially in pipeline or transmission grid servitudes.

## 82 Building works

Reference could be made to the latest Model Trade Preambles published by the Association of South African Quantity Surveyors. However these have been developed for use with the JBCC series of contracts and an approach where description of the work is made part of the bill of quantities, which is not the case in other forms of contract. Only parts of the Model Trade Preambles could be referenced by an ECC contract, with a covering note dealing with the changes in terminology. Further changes are required depending on which parts are to be selected.

This subsection would typically comprise

- a) Particular specifications provided by the *Employer*
- b) List of standardised specifications applicable to the *works* and
- c) Variations to the standardised specifications

## 83 Civil engineering and structural works

Reference could be made to the SANS1200 series of specifications developed and published by South African National Standards. However these are now very out of date and originally developed for use with SAICE general conditions of contract for works of civil engineering which have themselves been superseded twice.

All SANS 1200 specifications are in the process of being updated to make them more compatible with a wider range of contracts, including NEC, and users should check availability of the new SANS 2000 series of specifications.

Sections 3, 4 and 5 of SANS1200A are probably already covered in section 5 of this Works Information.

This subsection would typically comprise

- a) Particular specifications provided by the *Employer*
- b) List of standardised specifications applicable to the *works* and
- c) Variations to the standardised specifications

If use is made of the 1200 series, users should include a covering note dealing with the changes in terminology, such as the one provided below. Further changes are required depending on which specifications in the 1200 series are selected.

## 84 Electrical & mechanical engineering works

These specifications are usually project specific and developed by the *Employer* to suit his operations. Either include these specifications here, or refer to them in attached Annexure.



Check the specifications for inconsistencies in terminology and that they do not contain any provisions already dealt with in the chosen NEC *conditions of contract* or clash with them in any way.

## 85 Process control and IT works

These specifications are usually project specific and developed by the *Employer* to suit his operations. Either include these specifications here, or refer to them in attached Annexure.

Check the specifications for inconsistencies in terminology and that they do not contain any provisions already dealt with in the chosen NEC *conditions of contract* or clash with them in any way.

## 86 Other [as required]

### List of drawings

## 87 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

## C3.2 *CONTRACTOR'S* WORKS INFORMATION

This section of the Works Information will always be contract specific depending on the nature of the *works*. It is most likely to be required for design and construct contracts where the tendering contractor will have proposed specifications and schedules for items of Plant and Materials and workmanship, which once accepted by the *Employer* prior to award of contract now become obligations of the *Contractor* per core clause 20.1.

Typical sub headings could be

- a) *Contractor's* design
- b) Plant and Materials specifications and schedules
- c) Other

This section could also be compiled as a separate file.

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PART C4: SITE INFORMATION

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

## PART 4: SITE INFORMATION

Core clause 11.2(16) states

“Site Information is information which

- describes the Site and its surroundings and
- is in the documents which the Contract Data states it is in.”

In Contract Data, reference has been made to this Part 4 of the contract for the location of Site Information.

Delete this note and others given in boxes like this one at final draft stage.

The compiler of this document should first consult the ECC3 2013 Guidance Notes page 24. Further notes are given under each heading below.

Site Information is information about the Site at the time of tender upon which the tendering contractor bases his prices. It is fixed and does not include anything about what happens on the Site after award; that is Works Information.

Site Information does not include weather data; that is included in the Contract Data.

If the *Contractor* subsequently encounters conditions which are different to those described here, he may be entitled to notify a compensation event.

### General description

Provide a general description of the Site and its location. Reference would probably be made to a drawing showing the Site and its surroundings and the *boundaries of the site* as required by the Contract Data. It is particularly important that details of surrounding buildings be provided where crane operation is likely to be affected, or the *works* involve deep foundations adjacent to existing buildings.

### Existing buildings, structures, and plant & machinery on the Site

If the *works* have interfaces or hook up points with existing facilities or comprise refurbishment of existing facilities, provide full details of these so that the tendering contractor can plan his design and construction to integrate with them as the Works Information requires. As built drawings of the existing facilities usually provide the necessary information; such drawings can be listed here stating where they are located for the *Contractor's* use.

### Subsoil information

Provide details of geotechnical reports, borehole records and test results for parts of the Site where earthworks are required by this contract. These details may be referenced as an Annexure to this document where they are extensive.

### Hidden services

Provide details about and drawings showing hidden services and underground structures. If accurate details are not available state what assumptions are to be made by the *Contractor* concerning such services.

### **Other reports and publicly available information**

This subsection may refer to mapping, hydro-graphic data, hydrological information, shipping movements, tides and published papers or Geological Surveys that the tendering contractor may need to be able to decide his method of working and programme and prepare any designs for which he would be responsible.