

NEC3 Term Service Contract (TSC3)

Between **NTCSA SOC Ltd**
(Reg No. 2021/539129/30)

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

for **Maintenance, support and training of an
Environmental Alarm System (EAS) solution on an
as and when required for the basis for a period of
five (5) years**

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CONTRACT No. _____

PART C1: AGREEMENTS & CONTRACT DATA

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C1.1 Form of Offer & Acceptance

Offer

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

Maintenance, support and training of an Environmental Alarm System (EAS) solution on an as and when required for the basis for a period of five (5) years

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.

Option A	The offered total of the Prices exclusive of VAT is	N/A – as and when required
	Sub total	N/A – as and when required
	Value Added Tax @ 15% is	N/A – as and when required
	The offered total of the amount due inclusive of VAT is ¹	N/A – as and when required
	(in words) N/A – as and when required	

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:

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

Acceptance

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

The terms of the contract, are contained in:

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

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

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

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

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

Signature(s)

Name(s)

Capacity

**for the
Employer**

(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)	
Name & signature of witness	
Date	

C1.2 TSC3 Contract Data

Part one - Data provided by the *Employer*

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:	
		A: Priced contract with price list
	dispute resolution Option	W1: Dispute resolution procedure
	and secondary Options	
		X1: Price adjustment for inflation
		X2: Changes in the law
		X3: Multiple currencies
		X17: Low service damages
		X18: Limitation of liability
		X19: Task Order
		Z: Additional conditions of contract
	of the NEC3 Term Service Contract April 2013 ¹ (TSC3)	
10.1	The <i>Employer</i> is (name):	NTCSA SOC Ltd (reg no: 2021/539129/30), a state owned company incorporated in terms of the company laws of the Republic of South Africa
	Address	Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg
10.1	The <i>Service Manager</i> is (name):	Alison Singh
	Address	TBA
	Tel	TBA
	Fax	N/A
	e-mail	TBA
11.2(2)	The Affected Property is	NTCSA Telecommunications Sites
11.2(13)	The <i>service</i> is	Maintenance, Support and Training of an Environmental Alarm System (EAS) Solution

¹ Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 539 1902 www.ecs.co.za

11.2(14)	The following matters will be included in the Risk Register	[•]
11.2(15)	The Service Information is in	Part 3: Scope of Work and all documents and drawings to which it makes reference.
12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa
13.1	The <i>language of this contract</i> is	English
13.3	The <i>period for reply</i> is	2 calendar weeks
2	The Contractor's main responsibilities	Data required by this section of the core clauses is also provided by the <i>Contractor</i> in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data
3	Time	
30.1	The <i>starting date</i> is.	TBA
30.1	The <i>service period</i> is	Five (5) years The contract will expire either at the end of the contract period or when the maximum cumulative purchase order value is reached, whichever comes first.
4	Testing and defects	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
5	Payment	
50.1	The <i>assessment interval</i> is	N/A – as and when required
51.1	The <i>currency of this contract</i> is the	South African Rand
51.2	The period within which payments are made is	30 days from receipt of an acceptable invoice by NTCSA's Accounts Payable Departments for estimated contract value below R50Mil, and 60 days from receipt of an acceptable invoice by NTCSA's Accounts Payable Departments for estimated contract value above R50Mil
51.4	The <i>interest rate</i> is	the publicly quoted prime rate of interest (calculated on a 365 day year) charged by from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands and (ii) the LIBOR rate applicable at the time for amounts due in other currencies. LIBOR is the 6 month London Interbank Offered Rate quoted under the caption "Money Rates" in The Wall Street Journal for the applicable currency or if

no rate is quoted for the currency in question then the rate for United States Dollars, and if no such rate appears in The Wall Street Journal then the rate as quoted by the Reuters Monitor Money Rates Service (or such service as may replace the Reuters Monitor Money Rates Service) on the due date for the payment in question, adjusted *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	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data
7	Use of Equipment Plant and Materials	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	
9	Termination	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
10	Data for main Option clause	
A	Priced contract with price list	
20.5	The <i>Contractor</i> prepares forecasts of the final total of the Prices for the whole of the <i>service</i> at intervals no longer than	N/A – as and when required. Refer to attached excel pricing schedule
11	Data for Option W1	
W1.1	The <i>Adjudicator</i>	the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see www.ice-sa.org.za). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).
W1.2(3)	The <i>Adjudicator nominating body</i> is:	the Chairman of ICE-SA a joint Division of the South African Institution of Civil Engineering and the Institution of Civil Engineers (London) (see www.ice-sa.org.za) or its successor body.
W1.4(2)	The <i>tribunal</i> is:	arbitration
W1.4(5)	The <i>arbitration procedure</i> is	the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.

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

X1	Price adjustment for inflation			
X1.1	The <i>base date</i> for indices is	One month before the closing date of the enquiry.		
	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	
	The structure of the CPA formula/e is as follows:			
	P = Po[85%*(EI/SI)]			
P = New Price				
Po = Base Price				
EI = Relevant Index or price at the end of escalation period				
SI = Relevant Index or price at the start of escalation period				
	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
		[•]		
		[•]		

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		right.
X18.5	The <i>end of liability date</i> is	12 months after the end of the <i>service period</i>.
X19	Task Order	
X19.5	The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within	Five (5) days of receiving the Task Order
Z	The <i>additional conditions of contract</i> are	Z1 to Z14 always apply.

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 *Service 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 *Service Manager* within thirty days of the notification or as otherwise instructed by the *Service 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 Service.
- 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 P4 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 *Service 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 Affected Property or any portion thereof, in the course of Providing the Service and after the end of the *service period*, requires the prior written consent of the *Service Manager*. All rights in and to all such images vests exclusively in the *Employer*.
- 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 *Service Manager* or the *Adjudicator* does not constitute a waiver of rights, and does not give rise to an estoppel unless the Parties agree otherwise and confirm such agreement in writing.

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 *service*. Without limitation the *Contractor*:
- accepts that the *Employer* may appoint him as the "Principal Contractor" (as defined and provided for under the Construction Regulations 2014 (promulgated under the Occupational Health & Safety Act 85 of 1993) ("the Construction Regulations") for the Affected Property;
 - warrants that the total of the Prices as at the Contract Date includes a sufficient amount for proper compliance with the Construction Regulations, all applicable health & safety laws and regulations and the health and safety rules, guidelines and procedures provided for in this contract and generally for the proper maintenance of health & safety in and about the execution of the *service*; and
 - undertakes, in and about the execution of the *service*, to comply with the Construction Regulations and with all applicable health & safety laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his 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 *service*, 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 *Service Manager* in terms of core clause 51.1, the *Contractor* provides the *Employer* with a tax invoice in accordance with the *Employer's* procedures stated in the Service Information, showing the amount due for payment equal to that stated in the payment certificate.
- 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 4710303126 on each invoice he submits for payment.

Z8 Notifying compensation events

- Z8.1 Delete the last paragraph of core clause 61.3 and replace with:

If the *Contractor* does not notify a compensation event within eight weeks of becoming aware of the event, he is not entitled to a change in the Prices.

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 82.1 is provided for in 60.1(12) and the *Employer's* liability under the indemnity is limited to compensation as provided for in core clause 63 and X19.11 if Option X19 Task Order applies to this contract.

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 Ethics

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

- Affected Party** means, as the context requires, any party, irrespective of whether it is the *Contractor* or a third party, such party's employees, agents, or Subcontractors or Subcontractor's employees, or any one or more of all of these parties' relatives or friends,
- Coercive Action** means to harm or threaten to harm, directly or indirectly, an Affected Party or the property of an Affected Party, or to otherwise influence or attempt to influence an Affected Party to act unlawfully or illegally,
- Collusive Action** means where two or more parties co-operate to achieve an unlawful or illegal purpose, including to influence an Affected Party to act unlawfully or illegally,
- Committing Party** means, as the context requires, the *Contractor*, or any member thereof in the case of a joint venture, or its employees, agents, or Subcontractors or the Subcontractor's employees,
- Corrupt Action** means the offering, giving, taking, or soliciting, directly or indirectly, of a good or service to unlawfully or illegally influence the actions of an Affected Party,

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

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

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

- Z11.1 A Committing Party may not take any Prohibited Action during the course of the procurement of this contract or in execution thereof.
- Z11.2 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.
- Z11.3 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.
- Z11.4 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.

Z12 Insurance

Z 12 .1 Replace core clause 83 with the following:

Insurance cover 83

- 83.1 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.
- 83.2 The *Contractor* provides the insurances stated in the Insurance Table A 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 caused by the <i>Contractor</i> to the <i>Employer's</i> property	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 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	The replacement cost where not covered by the

Equipment	<i>Employer's insurance.</i> The <i>Employer's</i> policy deductible as at Contract Date, where covered by the <i>Employer's</i> insurance.
The <i>Contractor's</i> liability for loss of or damage to property (except the <i>Employer's</i> property, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Contractor</i>) arising from or in connection with the <i>Contractor's</i> Providing the Service	<u>Loss of or damage to property</u> The replacement cost <u>Bodily injury to or death of a person</u> The amount required by the 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 12.2 Replace core clause 86 with the following:

**Insurance
by the
Employer**

86

86.1 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

Z13 Nuclear Liability

- Z13.1 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.
- Z13.2 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*.
- Z13.3 Subject to clause Z13.4 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*.
- Z13.4 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.
- Z13.5 The protection afforded by the provisions hereof shall be in effect until the KNPS is decommissioned.

Z14 Asbestos

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

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

normalised to the baseline of a 4 hour continuous period, also applicable to short term exposures, i.e. 10-minute TWA.

- Z14.1 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.
- Z14.2 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 Z14.1. Control measures conform to the requirements stipulated in the AAIA-approved asbestos work plan.
- Z14.3 The *Employer* manages asbestos and ACM according to the Standard.
- Z14.4 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.
- Z14.5 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.
- Z14.6 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.
- Z14.7 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.

Low Services Damages Table

Clause	Item	Description of noncompliance to employers' requirements	Damages payable by the contractor to the employer
X17.1.4	Response times for support and maintenance services	Inability of the contractor to meet SLA response times as stipulated in the Scope Of Work (table 2 of 240-135089195)	As per 3.5.1.7 of 240-135089195
X17.1.5	Response time for training services	Inability of the contractor to provide training as per agreed timelines	2% of Task Order / Purchase Order value

C1.2 Contract Data

Part two - Data provided by the *Contractor*

Notes to a tendering contractor:

1. Please read both the both the NEC3 Term Service Contract April 2013 and the relevant parts of its Guidance Notes (TSC3-GN)¹ in order to understand the implications of this Data which the tenderer is required to complete.
2. The number of the clause which requires the data is shown in the left hand column for each statement however other clauses may also use the same data.
3. Where a form field like this [] appears, data is required to be inserted relevant to the option selected. Click on the form field **once** and type in the data. Otherwise complete by hand and in ink.

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

Clause	Statement	Data
10.1	The <i>Contractor</i> is (Name): Address Tel No. Fax No.	
11.2(8)	The <i>direct fee percentage</i> is	%
	The <i>subcontracted fee percentage</i> is	%
11.2(14)	The following matters will be included in the Risk Register	
24.1	The key people are:	
	1 Name: Job: Responsibilities: Qualifications: Experience:	
	2 Name: Job: Responsibilities: Qualifications: Experience:	
CV's (and further key person's data including CVs) are in _____.		

¹ Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 5391902 or www.ecs.co.za

A	Priced contract with price list	
11.2(12)	The <i>price list</i> is in	The pricing schedule
11.2(19)	The tendered total of the Prices is	N/A – as and when required

PART 2: PRICING DATA

TSC3 Option A

Document reference	Title	No of pages
C2.1	Pricing assumptions: Option A	2
C2.2	The <i>price list</i>	Refer to attached Excel Pricing Schedule

C2.1 Pricing assumptions: Option A

1. How work is priced and assessed for payment

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

Identified and defined terms	11	
	11.2	(12) The Price List is the <i>price list</i> unless later changed in accordance with this contract.
		(17) The Price for Services Provided to Date is the total of - the Price for each lump sum item in the Price List which the <i>Contractor</i> has completed and - where a quantity is stated for an item in the Price List, an amount calculated by multiplying the quantity which the <i>Contractor</i> has completed by the rate.
		(19) The Prices are the amounts stated in the Price column of the Price List. Where a quantity is stated for an item in the Price List, the Price is calculated by multiplying the quantity by the rate.

This confirms that Option A is a priced contract where the Prices are derived from a list of items of service which can be priced as lump sums or as expected quantities of service multiplied by a rate or a mix of both. This is a rates-based contract, with no commitment to quantities. Quantities will be provided on each individual task order / SAP purchase order.

2. Function of the Price List

Clause 54.1 in Option A states: "Information in the Price List is not Service Information". This confirms that instructions to do work or how it is to be done are not included in the Price List but in the Service Information. This is further confirmed by Clause 20.1 which states, "The *Contractor* Provides the Service in accordance with the Service Information". Hence the *Contractor* does **not** Provide the Service in accordance with the Price List. The Price List is only a pricing document.

3. Link to the *Contractor's* plan

Clause 21.4 states "The *Contractor* provides information which shows how each item description on the Price List relates to the operations on each plan which he submits for acceptance". Hence when compiling the *price list*, the tendering contractor needs to develop his first clause 21.2 plan in such a way that operations shown on it can be priced in the *price list* and result in a satisfactory cash flow in terms of clause 11.2(17).

4. Preparing the *price list*

Before preparing the *price list*, both the *Employer* and tendering contractors should read the TSC3 Guidance Notes pages 14 and 15. In an Option A contract, either Party may have entered items into the *price list* either as a process of offer and acceptance (tendering) or by negotiation depending on the nature of the *service* to be provided. Alternatively the *Employer*, in his Instructions to Tenderers or in a Tender Schedule, may have listed some items that he requires the *Contractor* to include in the *price list* to be prepared and priced by him.

It is assumed that in preparing or finalising the *price list* the *Contractor*:

- Has taken account of the guidance given in the TSC3 Guidance Notes relevant to Option A;
- Understands the function of the Price List and how work is priced and paid for;
- Is aware of the need to link operations shown in his plan to items shown in the Price List;
- Has listed and priced items in the *price list* which are inclusive of everything necessary and incidental to Providing the Service in accordance with the Service Information, as it was at the time of tender, as well as correct any Defects not caused by an *Employer's* risk;
- Has priced work he decides not to show as a separate item within the Prices or rates of other listed items in order to fulfil the obligation to complete the *service* for the tendered total of the Prices.
- Understands there is no adjustment to items priced as lump sums if the amount, or quantity, of work within that item later turns out to be different to that which the *Contractor* estimated at time of tender. The only basis for a change to the (lump sum) Prices is as a result of a compensation event.

C2.2 the *price list*

Item nr	Description	Unit	Expected Quantity	Rate	Price
	Please refer to the attached excel Pricing Schedule, Annexure: R				

The total of the Prices

N/A – as and when required

PART 3: SCOPE OF WORK

Document reference	Title	No of pages
C3.1	This cover page	1
	<i>Employer's Service Information</i>	17
	Total number of pages	18

C3.1: EMPLOYER'S SERVICE INFORMATION

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1 Description of the service

1.1 Executive overview

Support, Maintenance and Training of Environmental Alarm System (EAS) Solution on an as and when required basis for a period of Five (5) years.

A separate equipment contract will be setup in parallel to this to cover the design, supply, installation and commissioning portion.

1.2 Employer’s requirements for the service

The Contractor is referred to the following documents, which covers the product specification, applicable scope of work and other relevant documentation.

240-88011210 Telecoms Environmental Alarms (EAS) Specification

240-86458714 Generic Requirements Specification for a Telecommunications Network Management Solution

240-135089195 Generic Requirements for Telecoms Contracts

240-132190480 Telecommunications Equipment Installation Standard

240-55410927 Cybersecurity standard for Operational Technology

240-56576361Telecommunication Transport Network Equipment Installation and Commissioning Standard

32-214 IT OT-Third Party Access Control Procedure

240-55410927 Cybersecurity Standard for Operational Technology

1.3 Interpretation and terminology

The following abbreviations are used in this Service Information:

Abbreviation	Meaning given to the abbreviation
EAS	Environmental Alarm System
NMC	Network Management Centre
NPAE	National Planning and Application Engineering
NTCSA	National Transmission Company of South Africa
OEM	Original Equipment Manufacturer
OT	Operational Technology
SHEQ	Safety, Health, Environmental & Quality

2 Management strategy and start up.

2.1 The Contractor's plan for the service

The Service Level Agreement (SLA) is to be quoted for annually and be paid by the Employer on a monthly basis. At the beginning of each calendar month, the Employer will request a quotation from the Contractor for SLA. Where software/firmware/hardware maintenance fees are payable, these would be quoted for annually and be paid per annum covering the installed base.

Where ad hoc support is required, the Employer will document the scope as a part of a Task Order and request the Contractor to quote based on the contract's hourly rates.

2.2 Management meetings

The Contractor shall have project progress meetings as/when required with the Employer. The Employer will be represented by project managers and engineers.

These meetings will be chaired by the Employer and be held as follows:

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

Title and purpose	Approximate time & interval	Location	Attendance by:
Project Progress Meeting Address Delivery, installation scheduling, SHEQ and to address medium to high-risk matters	As and when required	To be advised	Contractor and Employer representatives (Project Managers and Engineers)
Contractor Liaison Meeting Overall contract progress and feedback, technical matters arising, procurement, SHEQ and general issues.	As and when required	To be advised	Contractor and Employer Representatives
Contractor Executive Meeting Address Contractor relations Address medium to high risk matters	As and when required	Simmerpan	Contractor and Employer Representatives at Middle/Executive Management

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

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

2.3 Contractor's management, supervision and key people

Where the contractor is not the Original Equipment Manufacturer (OEM) of the offered product or parts of the solution, the contractor shall submit a letter of accreditation (or authorization) from the OEM. The letter of accreditation shall clearly indicate what the tendering contractor is authorized for, and the duration thereof.

Points of Contact and Escalation Processes

The contractor shall provide contact information for their service/helpdesk, which will be the point of reporting for faults, warranty, and other service-related matters. The helpdesk details shall cover at minimum the following information:

- a) RSA Telephone Number
- b) Email address (Online access for customer self-service)
- c) Website (Online access for customer self-service)
- d) Physical location (primary)
- e) Physical location (secondary), and clarify how business continuity is achieved
- f) Escalation procedure with relevant contacts for each escalation level

2.4 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 *Service 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.

2.5 Documentation control

All contractual correspondence between *Contractor* and *Employer* shall be in the form of a properly compiled letters, dated and bearing the approved letterhead.

The *Employer* shall maintain a record of all contractual communications.

For all documentation the *Employer* shall comply with *Purchaser's* 32-4 Document Template for procedures, standards, work instructions, guidelines, etc. All documents that shall become the property of the *Employer* and shall comply with 32-4 *Employer* Telecommunications Documentation Template

Technology roadmaps including product lifecycle information for specific items, forms part of the contract and any changes shall be communicated and approved by both parties

2.6 Invoicing and payment

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

The *Contractor* shall address the tax invoice to

The Employer – National Transmission Company South Africa SOC Ltd– Accounts Payable Department
and include on each invoice the following information:

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

The contract number and title and purchase order number;

Contractor's VAT registration number;
The Employer's VAT registration number 4710303126;
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;
Invoices to be submitted electronically to invoiceseskomlocal@ntcsa.co.za

Electronically submitted must be sent in PDF format ONLY. Each PDF file should contain only one invoice, however the email may contain more than one PDF file.

Please ensure that the Purchase Order number is clearly indicated on your invoice together with the line number on the order you are billing for.

All queries and follow ups on invoice payments should be made by contacting the Finance Shared Services (FSS) contact Centre on 011 800 5060 or email fss@eskom.co.za

2.7 Contract change management

NEC Standard Forms and templates to be used.

2.8 Records of Defined Cost to be kept by the Contractor

Not Applicable

2.9 Insurance provided by the Employer

Not Applicable

2.10 Training workshops and technology transfer

The Contractor shall conduct the following training sessions as and when required by the Employer and according to an agreed training programme:

- Planning (intermediate and advanced) and
- Installation and Commissioning (including equipment configurations).
- Maintenance of the supplied EAS solution
- Network Management systems (for both administrators and operators) training

The Contractor shall provide a certified trainer who can provide accreditation to the Employer's trainees.

The Contractor shall issue formal certifications for personnel attending training which shall include both theory and practical training. To facilitate skills transfer, Contractors working at site shall be accompanied by the Employer's technicians or appointed representatives.

The certified personnel shall be entitled to install, commission operate and maintain the equipment without any impact to the specified equipment warranty.

Training shall also be provided for the Employer's network operators on the operation of the supplied NMS.

All training courses shall be provided in the Republic of South Africa.

Courses shall be separately ordered from time to time as need dictates.

The first course shall be required before the first commissioning commences so that the technicians shall be able to immediately maintain the installed equipment after installation handover.

Courses shall be structured on a modular basis per individual equipment, such that a series of modules may be run consecutively to meet the needs of a particular group of trainees. The modules shall cover: the operation of the equipment to block diagram level; testing; commissioning; and fault finding to field-removable module level.

Unless the training needs to be provided in a specialised facility within the Republic of South Africa, it is desirable that courses be conducted at various Telecommunications centres around the country where both classrooms and student accommodation exist.

Training equipment shall be provided by Contractor.

Contractor shall provide reference equipment for various tests or type approval as required by the Employer.

2.11 Design and supply of Equipment

As per Telecoms Environmental Alarms (EAS) Specification 240-88011210

2.12 Things provided at the end of the *service period* for the *Employer's* use

2.12.1 Equipment

Not Applicable

2.12.2 Information and other things

Not Applicable

2.13 Management of work done by Task Order

The services to be provided under this contract are to be instructed by Task Order, see Clause X19. The contractor is to be issued with a task order or a SAP generated purchase order. No work is to be done by the Contractor without an official task order / SAP generated purchase order.

3 Health and safety, the environment and quality assurance

3.1 Health and safety risk management

The *Contractor* shall comply with the health and safety requirements contained in the enquiry documents.

In addition to the requirements of the laws governing health and safety, NTCSA may have some additional requirements particular to the service and the Affected Property for this contract. The text below provides for these being attached as an Annexure to this Service Information.

The Safety Risk Manager or his representative having jurisdiction over the service shall provide the relevant Occupational Health & Safety (OHS), Specification, HIRA, Evaluation criteria, Acknowledgement of OHS rules for incorporation into this Service Information. The OHS specification / scope shall be signed off by the Safety Risk Manager or his representative confirming that the applicable safety criteria have been taken into account.

The Commodity Manager / Buyer shall refer the tender to the Safety Risk Manager or his representative to evaluate against enquiry-specific safety criteria.

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

System Operator - Telecommunications: Telecommunications- Craig Pitt

3.2 Environmental constraints and management

The Contractor/supplier shall comply with the environmental criteria and constraints stated in the enquiry documents.

3.3 Quality assurance requirements

The Contractor shall have an established Quality Management System according to the ISO9001:2015 Requirements. The Contractor shall manage Documentation and Records in accordance with ISO 9001:2015 requirements. The contractor shall have a Quality Method statement based on scope for each activity tendered for detailing the systems that will be implemented to meet the applicable requirements and records/reports to be submitted to the Employer as evidence of successfully meeting the requirements for each activity stated in the EAS scope of work.

The Contractor shall comply with all quality assurance requirements and criteria stated in the enquiry documents.

4 Procurement

4.1 People

4.1.1 Minimum requirements of people employed

People employed on site shall have all relevant documents as required by law for employment within the country, i.e. relevant work permits and Identifications. Entry onto site is only permitted after the necessary security clearance and induction training.

4.1.2 BBBEE and preferencing scheme

The Contractor shall comply with the Employers' Broad Based Black Economic Empowerment (B-BBEE) or preferencing scheme measures.

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.

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.

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.

Failure by the Contractor to notify the Employer of a change in its B-BBEE status may constitute a reason for termination.

4.1.3 Supplier Development, Localisation and Industrialisation (SDL&I)

SDL&I mandate is to achieve maximum and sustainable local development impact through leveraging NTCSA's procurement spend in a manner that allows flexibility within the business in order to accommodate government local development initiatives and policies

As a State-Owned Enterprise, NTCSA supports Government's socio-economic development initiatives that it addresses through Supplier Development and Localisation objectives, which include enterprise development, transfer of skills, job creation, incubation, localisation of procurement initiatives and industrialisation.

For the purposes of tendering, the *tenderer* must demonstrate the manner in which the SD&L requirements will be met in due course in an implementation program. If the *tender* is awarded all SD&L undertakings (the *Contractor's* SD&L Obligations) must be made by the *Contractor* at the time of contracting.

SDL&I Undertaking

- The SDL&I undertaking generally identifies the following areas for SDL&I evaluation. These are procurement from EMEs, QSEs, LMEs (Generic); local content of the tender as a whole; Job creation and Skills Development commitments of the *tenderer*.
- Targets and weighting are set for each individual project.
- Tenderers who complete and submit the undertaking as required, but who do not meet NTCSA's targets, will not be disqualified. SDL&I undertakings do not form part of scoring but commitments will

form part of contractual obligations.

SDL&I Matrix or Undertaking

Definitions and Interpretation

The definitions below shall be referred to in the interpretation of this document. The targets for EMEs, and QSEs are a percentage of the local content portion of the tender only.

EXEMPTED MICRO ENTERPRISE (EME)

- In terms of the Generic Codes of Good Practice, an enterprise including a sole propriety with annual total revenue of R10 million or less qualifies as an EME.
- In instances where Sector Charters are developed to address the transformation challenges of specific sectors or industries, the threshold for qualification as an EME may be different from the generic threshold of R10 million. In such instances, the relevant Sector Charter thresholds will therefore be used as a basis for a potential bidder to qualify as an EME. (For example the approved thresholds for EMEs for the Tourism and Construction Sector Charters are R2.5 million and R1.5 million respectively).
- An EME automatically qualifies as a level 4 contributor with B-BBEE recognition level of 100% in terms of the Codes of Good Practice.
- An EME with at least 51% black ownership qualifies as Level 2 Contributor with B-BBEE level of 125% in terms of the Codes of Good Practice.
- An EME with 100% black ownership qualifies as a Level 1 contributor with B-BBEE level of 135% in terms of the Codes of Good Practice.
- An EME that is regarded as a specialized enterprise with at least 75% black beneficiaries qualifies as Level 1 contributor with B-BBEE level of 135% in terms of Codes of Good Practice.
- An EME that is regarded as a specialized enterprise with at least 51% black beneficiaries qualifies as a Level 2 contributor with B-BBEE level of 125% in terms of the Codes of Good Practice.
- An EME is required to submit a sworn affidavit confirming their annual total revenue of R10 million or less and level of black ownership to claim points as prescribed by regulation 6 and 7 of the Preferential Procurement Regulations 2017.

QUALIFYING SMALL ENTERPRISES (QSE)

- The Codes define a QSE as any enterprise with annual total revenue of between R10 million and R50 million.
- A QSE with at least 51% black ownership qualifies as a Level 2 contributor.
- A QSE with 100% black ownership qualifies as a Level 1 Contributor.
- A QSE that is regarded as a specialized enterprise with at least 75% black beneficiaries qualifies as a Level 1 contributor with B-BBEE level of 135% in terms of the Codes of Good Practice.
- A QSE that is regarded as a specialized enterprise with at least 51% black beneficiaries qualifies as a Level 2 contributor with B-BBEE level of 125% in terms of the Codes of Good Practice.

- A QSE is required to submit a sworn affidavit confirming their annual total revenue of between R10 million and R50 million and level of black ownership or a B-BBEE level verification certificate to claim points as prescribed by regulation 6 and 7 of the Preferential Procurement Regulations 2017.

LARGE MEASURED ENTITY (LME) /GENERIC

- A generic Enterprise's B-BBEE compliance is measured using the Generic Scorecard. The Generic scorecard is based on five elements each of which has an assigned weighting which correlates with the importance of that specific element and a set target.
- A generic Enterprise has an annual turnover that is more than R 50 million rands.

SDL&I Progress Report

Means the *Contractor's* SDL&I progress report contemplated in clause 7 of this annexure.

Local Content

- Goods made in South Africa (from local raw materials).
- Only good that are made within the borders of SA can be claimed to be local content.
- Local Content (is mainly based on local manufacturing, there must be value addition to the product.
- LC is measured on the product which must be manufactured in South Africa at a specified minimum threshold (LC).
- LC percentage is determined based on the availability of input materials.
- Assembly of products is considered to have some level of local content.
- Example where 100 local content is required, no imports are allowed all materials including the production process must be local.
- If local content is less than 100 imported raw materials can be used without any Exemption.
- Key to protect local industry against imports, build industrial capacity, create jobs and contribute to the economic growth in South Africa.

Local Procurement

- Goods and services purchased locally irrespective of where they were made or produced.
- It is based on geographical area, may be a region/district/province.
- Local procurement is based on the location of the business.
- Imported goods are considered.
- Using local resources to stimulate growth and development.
- Simply buying from a local supplier.

Imported Goods and Services

"Imported goods and services" means, but is not limited to:

Goods and services directly imported into South Africa;

Goods which although stored in South Africa are produced and/or wholly manufactured outside the borders of South Africa and/or have a minimum of 50% (fifty percent) of production costs (including labour) incurred outside of South Africa and payable to foreign residents and/or foreign registered entities;

Goods that have been "substantially transformed" outside of South Africa. Substantially transformed refers to the irreversible incorporation of imported components in the goods, with the labour costs and profit content earned by foreign residents and/or foreign registered entities exceeding 50% (fifty percent) of the Contract Amount and/or the significant assembly and manufacture of the goods occurring outside of South Africa's borders; and/or

Services with at least 50% (fifty percent) of the labour cost incurred outside of South Africa's borders and/or with at least 50% (fifty percent) of the service fee payable to foreign residents and/or foreign registered entities, regardless of whether the service involves domestic capital goods or other domestic costs

Final Review

Final Review means the review (to be conducted at the *completion* date of the whole of works by the *Project Manager*) of the *Contractor's* performance in respect of the *Contractor* SDL&I Obligations.

Skills Development

This is the requirement that *tenderers* commit to train certain individuals in specified trades.

The requirement is that the targeted numbers of individuals are trained and complete practical tasks to achieve the outcome of passing a trade test and qualifying as an artisan, or the equivalent for any other required skill.

Contractor's SDL&I Commitments

Means those commitments regarding local content, skills development, Job creation and procurement from EMEs and QSEs made by the *Contractor* in his tender submission and used by the *Employer* for the purposes of calculating the *Contractor's* SD&L score in the tender evaluation process.

Contractor's SDL&I Obligations

Means those obligations of the *Contractor* regarding local content, skills development and procurement from QSEs and EMEs derived from *Contractor's* SDL&I Commitments and agreed between the *Contractor* and the Employer.

Certificate of Fulfilment

Means the certificate issued by the *Employer* after the Final Review as evidence of the *Contractor's* successful fulfilment of the *Contractor* SDL&I Obligations.

Monitoring and Reporting

- The suppliers shall on a monthly/quarterly basis submit a report to NTCSA in accordance with Data Collection Template on their compliance with the SDL&I obligations described above.
- NTCSA shall review the SDL&I reports submitted by the suppliers within 60 (sixty) days of receipt of the reports and notify the suppliers in writing if their SDL&I obligations have not been met.
- Upon notification by NTCSA that the suppliers have not met their SDL&I obligations, the suppliers shall be required to implement corrective measures to meet those SDL&I obligations before the commencement of the following report, failing which Retention clauses shall be invoked.

Every contract shall be accompanied by the SDL&I Implementation Schedule which must be completed by the suppliers and returned to SDL&I representative for acceptance 28 days after contract award.

SDL&I Progress Reports

The *Contractor* shall submit monthly SDL&I progress reports to the *Project Manager*. SDL&I progress reports shall be submitted by the 7th (seventh) day of the month following the months to which the report relates. Each report shall include:

An executive summary;

Charts and detailed descriptions of the progress in narrative format, including each stage of progress of the *Contractor* SDL&I Obligations, the meeting (or delay in the meeting) of anticipated dates and targets (as set out in the program) and any documents, statistics or other form of verification of the dates and targets to be provided in respect thereof;

Percentage progress and the actual or expected dates of commencement of any of the major stages making up the *Contractor* SDL&I Obligations;

Schedule of forecast and actual, together with a 3 (three) month look-ahead of major activities and events;

Comparisons of actual and planned progress in terms of the Implementation Program;

Details of actual and planned resources;

An Affidavit from the sub-Contractors stating the work that has been subcontracted to meet the *Contractor's* SDL&I obligations;

a schedule identifying all details of persons in the process of undergoing or who have successfully completed the Skills Transfer for the relevant period (including details of their personal information and certified copies of their test results and certificates received);

a risk register and assessment dealing with all areas of concern which may cause delays to the fulfilment of the SDL&I obligations and details of the corrective or other measures being adopted, or to be adopted to mitigate or overcome such delay; and such other matters and information (including schedules and charts) as the *Project Manager* may require to be included in the SDL&I progress report from time to time.

An electronic copy and two hard copies of each SDL&I progress report shall be submitted to the Project Manager.

Additional Reports

The *Project Manager* shall be entitled to request the *Contractor* to provide additional reports when in his opinion they are warranted to monitor the progress of the fulfilment of the *Contractor* SD&L obligations.

The Final Review

The parties' record that the purpose of the final review is for the *Project Manager* to determine whether the *Contractor* has fulfilled the *Contractor's* SDL&I obligations as at *completion date*.

The *Contractor* shall provide the *Project Manager* with the following documentation to be used by the *Project Manager* as a basis for the final review:

A consolidated SDL&I progress report recording all steps taken to meet the *Contractor's* SD&L obligations from the *starting date* to the *completion date* including all information and documentation referred to in clause 8.1 above;

All of the SDL&I progress reports provided by the *Contractor* during the course of the contract and any other additional report, documentation or information that the *Project Manager* deems to be reasonably relevant to the conduct of the final review (to be provided by the *Contractor* at least 21 (twenty one) business days prior to the final review). The *Project Manager* shall notify the *Contractor* of such request by way of written notice at least 30 (thirty) business days prior to the final review.

The *Employer* shall, in its reasonable discretion, conduct the final review by comparing those *Contractor's* SDL&I obligations actually fulfilled by the *Contractor* as at the time of the final review against with the *Contractor's* SDL&I obligations as a whole.

The *Project Manager* shall notify the *Contractor* of its findings on the final review by way of written notice within 30 (thirty) business days of the final review. The notice shall contain the *Project Manager's* reasons for its findings.

Should the final review reveal that the *Contractor* has not fulfilled and/or complied with any of the *Contractor's* SD&L obligations as at the *completion date*:

The *Contractor* shall be in breach of a material obligation under the contract and the *employer* shall be entitled to have immediate recourse to and make a claim against the whole of the retention as the penalty for the *Contractor's* breach of the *Contractor* SDL&I obligations.

Should the final review reveal that the *Contractor* has fulfilled and/or complied with all of the *Contractor's* SDL&I obligations as at the *completion date*, the *employer* shall issue a certificate of fulfilment.

SDL&I Penalty and Performance Security

As security for the fulfilment of all SDL&I obligations, NTCSA will apply a penalty of 2.5% of every invoice amount (excluding VAT) for failure to submit SDL&I performance reports every quarter; or failure to meet the SDL&I obligations in a contract.

B-BBEE

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

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.

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*.

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.

Failure by the *Contractor* to notify the *Employer* of a change in its B-BBEE status may constitute a reason for termination.

4.2 Subcontracting

4.2.1 Preferred subcontractors

The Employer reserves the right to approve all subcontractors that the Contractor intends to enter into subcontracts with, in order to make sure that the subcontractor complies with operational standards. The Contractor shall not subcontract more than twenty five percent (25%) of the whole of the contract.

4.2.2 Subcontract documentation, and assessment of subcontract tenders

The NEC system is compulsory for all subcontract documentation.

4.2.3 Limitations on subcontracting

The Employer reserves the right to approve all subcontractors that the Contractor intends to enter into subcontracts within order to make sure that the subcontractor complies with operational standards. The Contractor shall not subcontract more than twenty five percent (25%) of the whole of the contract.

4.2.4 Attendance on subcontractors

The Contractor is responsible for providing the Works as if he had not subcontracted.

4.3 Plant and Materials

4.3.1 Specifications

Not Applicable

4.3.2 Correction of defects

Not Applicable

4.3.3 *Contractor's* procurement of Plant and Materials

Not Applicable

4.3.4 Tests and inspections before delivery

Not Applicable

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

Not Applicable

4.3.6 Cataloguing requirements by the *Contractor*

The Contractor shall provide all information necessary for the Employer to catalogue all offered goods and services as required

5 Working on the Affected Property

5.1 *Employer's* site entry and security control, permits, and site regulations

The Contractor will be required to be vetted for security clearance and comply with the Employer's SHEQ requirement in terms of induction, etc. before coming to site for maintenance. The Contractor will be required to co-operate and comply with vetting requirements

5.2 People restrictions, hours of work, conduct and records

The Contractor should send a formal request to the Employer if he needs to work outside the Employer's normal working hours.

5.3 Health and safety facilities on the Affected Property

Not Applicable

5.4 Environmental controls, fauna & flora

Not Applicable

5.5 Cooperating with and obtaining acceptance of Others

Not Applicable

5.6 Records of *Contractor's* Equipment

Not Applicable

5.7 Equipment provided by the *Employer*

Not Applicable

5.8 Site services and facilities

5.8.1 Provided by the *Employer*

Not Applicable

5.8.2 Provided by the *Contractor*

Not Applicable

5.9 Control of noise, dust, water and waste

Not Applicable

5.10 Hook ups to existing works

Not Applicable

5.11 Tests and inspections

5.11.1 Description of tests and inspections

Not Applicable

5.11.2 Materials facilities and samples for tests and inspections

Not Applicable