



## NEC3 Engineering & Construction Contract

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

and

for The Establishment of an Enabling Agreement with a maximum Panel of 30 Contractors for the Provision of Supervision, Labour, Equipment, Material (except the "Big Five" material), Transport (as it will be required and authorised) for Electrification of New Household Connections (above R3 000 000,00 per project) for Distribution Division in the KZN Operating Unit, Central East Cluster as and when required.

| Contents:                          | No of pages |
|------------------------------------|-------------|
| Part C1 Agreements & Contract Data | 20          |
| Part C2 Pricing Data               | 39          |
| Part C3 Scope of Work              | 17          |

CONTRACT No.

## Part C1: Agreements & Contract Data

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| <b>Contents:</b>                                             | <b>No of<br/>pages</b> |
|--------------------------------------------------------------|------------------------|
| <b>C1.1 Form of Offer and Acceptance</b>                     | <b>3</b>               |
| <b>C1.2a Contract Data provided by the <i>Employer</i></b>   | <b>14</b>              |
| <b>C1.2b Contract Data provided by the <i>Contractor</i></b> | <b>3</b>               |

## 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:

**The Establishment of an Enabling Agreement with a maximum Panel of 30 Contractors for the Provision of Supervision, Labour, Equipment, Material (except the “Big Five” material), Transport (as it will be required and authorised) for Electrification of New Household Connections (above R3 000 000,00 per project) for Distribution Division in the KZN Operating Unit, Central East Cluster as and when required.**

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 B | The offered total of the Prices exclusive of VAT is                  | <b>Rate based Contract</b> |
|          | Value Added Tax @ 15% is                                             | <b>Rate based Contract</b> |
|          | The offered total of the amount due inclusive of VAT is <sup>1</sup> | <b>Rate based Contract</b> |
|          | <b>(Excluding VAT).</b>                                              |                            |

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

Signature(s)

Name(s)

Capacity

**For the  
tenderer:**

Name &  
signature of  
witness

Date

Tenderer's CIDB registration number (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)

BRENDA CEBEKHULU

Capacity

SENIOR MANAGER  
ASSET CREATION

**for the  
Employer**

Eskom Holdings SOC Limited

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

Name &  
signature  
of witness

Date

BRENDA CEBEKHULU

SENIOR MANAGER ASSET CREATION

Eskom Holdings SOC Limited

## C1.2 ECC3 Contract Data

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

| 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>X5: Sectional Completion</b>                                                                                                                     |
|        |                                                                                                 | <b>X7: Delay damages</b>                                                                                                                            |
|        |                                                                                                 | <b>X13: Performance Bond</b>                                                                                                                        |
|        |                                                                                                 | <b>X16: Retention</b>                                                                                                                               |
|        |                                                                                                 | <b>X18: Limitation of liability</b>                                                                                                                 |
|        |                                                                                                 | <b>Z: <i>Additional conditions of contract</i></b>                                                                                                  |
|        | of the NEC3 Engineering and Construction Contract, June 2005 (ECC3) (with amendments June 2006) |                                                                                                                                                     |
| 10.1   | The <i>Employer</i> is (Name):                                                                  | <b>Eskom Holdings Limited (reg no: 2002/015527/30), a juristic person incorporated in terms of the company laws of the Republic of South Africa</b> |
|        | Address:                                                                                        | <b>Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg</b>                                                                     |
| 10.1   | The <i>Project Manager</i> is:                                                                  | <b>The relevant Portfolio Manager Zetu Fawule will delegate to the specific Programme Manager for each Task Order.</b>                              |
|        | Address:                                                                                        | <b>25 Valley View Road, New Germany, 3610</b>                                                                                                       |
|        | Tel:                                                                                            | <b>031-204 5710</b>                                                                                                                                 |
|        | Fax:                                                                                            | <b>086 538 1203</b>                                                                                                                                 |
|        | e-mail:                                                                                         | <b>ncizanz@eskom.co.za</b>                                                                                                                          |

|          |                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|----------|-------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10.1     | The <i>Supervisor</i> is:                                   | The supervisor will be the Project Co-ordinator appointed for a particular project and will be specified in the project specific agreement.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 11.2(13) | The <i>works</i> are                                        | Various categories of work on Electrification Projects in KZN Operating Unit                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 11.2(14) | The following matters will be included in the Risk Register | <ul style="list-style-type: none"> <li>• Cost overruns due to unpredictable surface conditions.</li> <li>• The possibility of existing services which might not be indicated on the wayleave.</li> <li>• Completion Date</li> <li>• Late material Delivery</li> <li>• Theft of un-energised cables</li> <li>• Vandalism of un-energised primary plant</li> <li>• Armed robberies on site</li> <li>• Theft of Project Material on Eskom site camp</li> <li>• Bush Clearing</li> <li>• Local Business Forums</li> <li>• Political Unrest</li> <li>• Community Unrest</li> <li>• Weather</li> <li>• Survey Issues</li> <li>• Safety Compliance</li> <li>• Design Alterations</li> </ul> |
| 11.2(15) | The <i>boundaries of the sites</i> are                      | All projects to be executed in terms of this contract will be executed at various sites within the KZN Operating Unit.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 11.2(16) | The Site Information is in                                  | The Site Information will form part of the Project Specific Agreement for each project to be executed in terms of this contract.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 11.2(19) | The Works Information is in                                 | The Works Information will form part of the Project Specific Agreement for each project to be executed in terms of this contract.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 12.2     | The <i>law of the contract</i> is the law of                | the Republic of South Africa                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 13.1     | The <i>language of this contract</i> is                     | English                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 13.3     | The <i>period for reply</i> is                              | 1 week                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 2        | <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 <i>works</i> is              | <b>2 Years &amp; 6 Months period within which various projects will be executed within the KZN Operating Unit</b>                                                                                                                                                                                        |                 |
| 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> |
|          |                                                                              | Any key date and conditions will be specified in the Project Specific Agreement for any project executed in terms of this contract.                                                                                                                                                                      |                 |
| 30.1     | The <i>access dates</i> are:                                                 | <b>Part of the Site</b>                                                                                                                                                                                                                                                                                  | <b>Date</b>     |
|          |                                                                              | <b>1</b> Access dates will be specified in the Project Specific Agreement for any project executed in terms of this contract.                                                                                                                                                                            |                 |
| 31.1     | The <i>Contractor</i> is to submit a first programme for acceptance within   | <b>1 week of the Task Order Date.</b>                                                                                                                                                                                                                                                                    |                 |
| 31.2     | The <i>starting date</i> is                                                  |                                                                                                                                                                                                                                                                                                          |                 |
| 32.2     | The <i>Contractor</i> submits revised programmes at intervals no longer than | <b>The period between project progress meetings.</b>                                                                                                                                                                                                                                                     |                 |
| <b>4</b> | <b>Testing and Defects</b>                                                   |                                                                                                                                                                                                                                                                                                          |                 |
| 42.2     | The <i>defects date</i> is                                                   | <b>52 weeks after Completion of the whole of the <i>works</i> per project or section thereof if sectional completion is applicable.</b>                                                                                                                                                                  |                 |
| 43.2     | The <i>defect correction period</i> is                                       | <b>Within 2 weeks upon notification of defect</b>                                                                                                                                                                                                                                                        |                 |
| <b>5</b> | <b>Payment</b>                                                               |                                                                                                                                                                                                                                                                                                          |                 |
| 50.1     | The <i>assessment interval</i> is                                            | <b>From the 25<sup>th</sup> day of each successive month</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>14 OR 30 Days depending on the BBBEE status of the contractor.</b>                                                                                                                                                                                                                                    |                 |
| 51.4     | The <i>interest rate</i> is                                                  | the publicly quoted prime rate of interest (calculated on a 365 day year) charged from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands |                 |
| <b>6</b> | <b>Compensation events</b>                                                   |                                                                                                                                                                                                                                                                                                          |                 |

|          |                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 60.1(13) | <p>The place where weather is to be recorded is:</p> <p>The <i>weather measurements</i> to be recorded for each calendar month are,</p> <p>The <i>weather measurements</i> are supplied by</p> <p>The <i>weather data</i> are the records of past <i>weather measurements</i> for each calendar month which were recorded at:</p> <p>and which are available from:</p> | <p><b>The project site</b></p> <p><b>the cumulative rainfall (mm)</b></p> <p><b>the number of days with rainfall more than 10 mm</b></p> <p><b>the number of days with minimum air temperature less than 0 degrees Celsius</b></p> <p><b>the number of days with snow lying at 09:00 hours South African Time</b></p> <p><b>and these measurements:</b></p> <p><b>The contractor using actual weather readings from the project site</b></p> <p><b>The nearest weather station of the South African Weather Service to the site</b></p> <p><b>the South African Weather Bureau and included in Annexure A to this Contract Data provided by the Employer</b></p> |
|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|          |                                                                                                                                      |                                                                                                                                                                                             |
|----------|--------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>7</b> | <b>Title</b>                                                                                                                         | <b>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.</b>                 |
| <b>8</b> | <b>Risks and insurance</b>                                                                                                           |                                                                                                                                                                                             |
| 80.1     | These are additional <i>Employer's</i> risks                                                                                         | <b>1. Inclement weather</b><br><b>2. Resident Complaints</b><br><b>3. Theft and vandalism</b><br><b>4. Political Unrest</b><br><b>5. Local Business Forum</b><br><b>6. Community Unrest</b> |
| 84.1     | The <i>Employer</i> provides these insurances from the Insurance Table                                                               | <b>Annual Contractors All Risks Insurance Policy ESK2019/20 ACAR</b>                                                                                                                        |
| 84.1     | The <i>Employer</i> provides these additional insurances                                                                             | <b>Annual Contractors All Risks Insurance Policy ESK2019/20 ACAR</b>                                                                                                                        |
| 84.2     | The minimum limit of indemnity for insurance in respect of loss of or damage to property (except the <i>works</i> , Plant, 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 for any one event is                                           | whatever the <i>Contractor</i> deems necessary in addition to that provided by the <i>Employer</i> .                                                                                                                                                                                                                                                                                                         |
| 84.2      | The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the <i>Contractor</i> arising out of and in the course of their employment in connection with this contract for any one event is | As prescribed by the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 and the <i>Contractor's</i> common law liability for people falling outside the scope of the Act with a limit of Indemnity of not less than R500 000 (Five hundred thousand Rands).                                                                                                                             |
| <b>9</b>  | <b>Termination</b>                                                                                                                                                                                                                    | 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.                                                                                                                                                                                                                                         |
| <b>10</b> | <b>Data for main Option clause</b>                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>B</b>  | <b>Priced contract with bill of quantities</b>                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                              |
| 60.6      | The <i>method of measurement</i> is                                                                                                                                                                                                   | as stated in Part C2.1, Pricing Assumptions.                                                                                                                                                                                                                                                                                                                                                                 |
| <b>11</b> | <b>Data for Option W1</b>                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                              |
| W1.1      | The <i>Adjudicator</i> is                                                                                                                                                                                                             | the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see <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). |
| W1.2(3)   | The <i>Adjudicator nominating body</i> is:                                                                                                                                                                                            | the Chairman of ICE-SA a joint Division of the South African Institution of Civil Engineering and the London Institution of Civil Engineers. (See <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a> ) 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                                                                                                                                                                                          | The City within which the Head Office for the relevant Operating Unit is situated within 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.                                                                                                                                                                                                                                                                                    |
| <b>12</b> | <b>Data for secondary Option clauses</b>                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>X1</b> | <b>Price adjustment for inflation</b>                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                              |
| X1.1(a)   | The <i>base date</i> for indices is                                                                                                                                                                                                   | 1 month prior to Tender Closing Date                                                                                                                                                                                                                                                                                                                                                                         |

|         |                                                                                                                                                    |                                                                                                                                                                                                                                                                                                       |  |  |
|---------|----------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|
| X1.1(c) | The proportions used to calculate the Price Adjustment Factor are:                                                                                 | The Rates will be fixed and firm for the first year of the contract.<br>On the anniversary of the contract SEIFSA will be applied where 15% will be non-adjustable and 85% will be adjusted based on Table C3(a) for rates.<br>Transport will be adjusted by SEIFSA Table L-2 for road freight costs. |  |  |
| 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.                                                                                                                                                                            |  |  |
| X5      | Sectional Completion                                                                                                                               |                                                                                                                                                                                                                                                                                                       |  |  |
| X5.1    | The <i>completion date</i> for each <i>section</i> of the <i>works</i> is:                                                                         | The completion date for each section of the work will be specified in the Project Specific Agreement for any project executed in terms of this contract.                                                                                                                                              |  |  |
| X5 & X7 | Sectional Completion and delay damages used together                                                                                               | The delay damage for each section of the work will be specified in the Project Specific Agreement for any project executed in terms of this contract and will be relevant to the specific project being executed.                                                                                     |  |  |
| 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                                                                                                                | N/A                                                                                                                                                                                                                                                                                                   |  |  |
|         | The <i>retention percentage</i> is                                                                                                                 | 5%                                                                                                                                                                                                                                                                                                    |  |  |
| X18     | Limitation of liability                                                                                                                            |                                                                                                                                                                                                                                                                                                       |  |  |
| X18.1   | The <i>Contractor's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to:                                         | The sum of the loss as a result of any action arising by any negligent act by any person under the contractor's employ or any person performing work under the direct supervision of the contractor                                                                                                   |  |  |
| X18.2   | For any one event, the <i>Contractor's</i> liability to the <i>Employer</i> for loss of or damage to the <i>Employer's</i> property is limited to: | the amount of the deductibles relevant to the event described in the insurance policy format selected in the data for clause 84.1 above, which policy is available on ESK2019/20 ACAR                                                                                                                 |  |  |

|       |                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 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                                                 | <p><b>The greater of</b></p> <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 R15M first amount payable in terms of the <i>Employer's</i> assets policy.</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: | <p><b>the total of the Prices other than for the additional excluded matters.</b></p> <p><b>The <i>Contractor's</i> total liability for the additional excluded matters is not limited.</b></p> <p><b>The additional excluded matters are amounts for which the <i>Contractor</i> is liable under this contract for</b></p> <ul style="list-style-type: none"> <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                                                                                                                                           | <p><b>(i) seven years after the <i>defects date</i> for latent Defects and</b></p> <p><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></p> <p><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.</b></p>                          |

|           |                                                                                                                                                                                                                                                                                                                                                                  |
|-----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|           | 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 <i>Supervisor</i> to have discovered the Defect.                                                                                                                |
| <b>Z</b>  | <b>The Additional conditions of contract are</b><br><b>Z1 to Z12 always apply.</b>                                                                                                                                                                                                                                                                               |
| <b>Z1</b> | <b>Cession delegation and assignment</b>                                                                                                                                                                                                                                                                                                                         |
| Z1.1      | The <i>Contractor</i> does not cede, delegate or assign any of its rights or obligations to any person without the written consent of the <i>Employer</i> .                                                                                                                                                                                                      |
| Z1.2      | Notwithstanding the above, the <i>Employer</i> may on written notice to the <i>Contractor</i> cede and delegate its rights and obligations under this contract to any of its subsidiaries or any of its present divisions or operations which may be converted into separate legal entities as a result of the restructuring of the Electricity Supply Industry. |
| <b>Z2</b> | <b>Joint ventures</b>                                                                                                                                                                                                                                                                                                                                            |
| Z2.1      | If the <i>Contractor</i> constitutes a joint venture, consortium or other unincorporated grouping of two or more persons or organisations then these persons or organisations are deemed to be jointly and severally liable to the <i>Employer</i> for the performance of this contract.                                                                         |
| Z2.2      | Unless already notified to the <i>Employer</i> , the persons or organisations notify the <i>Project Manager</i> within two weeks of the Contract Date of the key person who has the authority to bind the <i>Contractor</i> on their behalf.                                                                                                                     |
| Z2.3      | The <i>Contractor</i> does not alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without the consent of the <i>Employer</i> having been given to the <i>Contractor</i> in writing.                                                                                                                  |
| <b>Z3</b> | <b>Change of Broad Based Black Economic Empowerment (B-BBEE) status</b>                                                                                                                                                                                                                                                                                          |
| Z3.1      | Where a change in the <i>Contractor's</i> legal status, ownership or any other change to his business composition or business dealings results in a change to the <i>Contractor's</i> B-BBEE status, the <i>Contractor</i> notifies the <i>Employer</i> within seven days of the change.                                                                         |
| Z3.2      | The <i>Contractor</i> is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the <i>Project Manager</i> within thirty days of the notification or as otherwise instructed by the <i>Project Manager</i> .                                                                |
| Z3.3      | Where, as a result, the <i>Contractor's</i> B-BBEE status has decreased since the Contract Date the <i>Employer</i> may either re-negotiate this contract or alternatively, terminate the <i>Contractor's</i> obligation to Provide the Works.                                                                                                                   |
| Z3.4      | Failure by the <i>Contractor</i> to notify the <i>Employer</i> of a change in its B-BBEE status may constitute a reason for termination. If the <i>Employer</i> terminates in terms of this clause, the procedures on termination are P1, P2 and P3 as stated in clause 92, and the amount due is A1 and A3 as stated in clause 93.                              |

|           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Z4</b> | <b>Ethics</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Z4.1      | Any offer, payment, consideration, or benefit of any kind made by the <i>Contractor</i> , which constitutes or could be construed either directly or indirectly as an illegal or corrupt practice, as an inducement or reward for the award or in execution of this contract constitutes grounds for terminating the <i>Contractor's</i> obligation to Provide the Works or taking any other action as appropriate against the <i>Contractor</i> (including civil or criminal action).                                                                                                                                                                                                                                                                                                                                                                                      |
| Z4.2      | <p>The <i>Employer</i> may terminate the <i>Contractor's</i> obligation to Provide the Works if the <i>Contractor</i> (or any member of the <i>Contractor</i> where the <i>Contractor</i> constitutes a joint venture, consortium or other unincorporated grouping of two or more persons or organisations) is found guilty by a competent court, administrative or regulatory body of participating in illegal or corrupt practices.</p> <p>Such practices include making of offers, payments, considerations, or benefits of any kind or otherwise, whether in connection with any procurement process or contract with the <i>Employer</i> or other people or organisations and including in circumstances where the <i>Contractor</i> or any such member is removed from the an approved vendor data base of the <i>Employer</i> as a consequence of such practice.</p> |
| Z4.3      | Notwithstanding the provisions of core clause 90.2, the procedures on termination in terms of this clause are P1, P2 and P3 as stated in the core clause 92 and the amount due is A1 and A3 as stated in core clause 93.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Z5</b> | <b>Confidentiality</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Z5.1      | The <i>Contractor</i> does not disclose or make any information arising from or in connection with this contract available to Others. This undertaking does not, however, apply to information which at the time of disclosure or thereafter, without default on the part of the <i>Contractor</i> , enters the public domain or to information which was already in the possession of the <i>Contractor</i> at the time of disclosure (evidenced by written records in existence at that time). Should the <i>Contractor</i> disclose information to Others in terms of clause 25.1, the <i>Contractor</i> ensures that the provisions of this clause are complied with by the recipient.                                                                                                                                                                                  |
| Z5.2      | If the <i>Contractor</i> is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the <i>Project Manager</i> .                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Z5.3      | In the event that the <i>Contractor</i> is, at any time, required by law to disclose any such information which is required to be kept confidential, the <i>Contractor</i> , to the extent permitted by law prior to disclosure, notifies the <i>Employer</i> so that an appropriate protection order and/or any other action can be taken if possible, prior to any disclosure. In the event that such protective order is not, or cannot, be obtained, then the <i>Contractor</i> may disclose that portion of the information which it is required to be disclosed by law and uses reasonable efforts to obtain assurances that confidential treatment will be afforded to the information so disclosed.                                                                                                                                                                 |
| Z5.4      | The taking of images (whether photographs, video footage or otherwise) of the <i>works</i> or any portion thereof, in the course of Providing the Works and after Completion, requires the prior written consent of the <i>Project Manager</i> . All rights in and to all such images vests exclusively in the <i>Employer</i> .                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Z5.5      | The <i>Contractor</i> ensures that all his subcontractors abide by the undertakings in this clause.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Z6</b> | <b>Waiver and estoppel: Add to core clause 12.3:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Z6.1      | Any extension, concession, waiver or relaxation of any action stated in this contract by the Parties, the <i>Project Manager</i> , the <i>Supervisor</i> , or the <i>Adjudicator</i> does not constitute a waiver of rights, and does not give rise to an estoppel unless the Parties agree otherwise and confirm such agreement in writing.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Z7</b> | <b>Health, safety and the environment: Add to core clause 27.4</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

Z7.1 The *Contractor* undertakes to take all reasonable precautions to maintain the health and safety of persons in and about the execution of the *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.

Z7.2 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.

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

Z8.1 Within one week of receiving a payment certificate from the *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.

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

Z8.3 The *Contractor* (if registered in South Africa in terms of the companies Act) is required to comply with the requirements of the Value Added Tax Act, no 89 of 1991 (as amended) and to include the *Employer’s* VAT number 4740101508 on each invoice he submits for payment.

## **Z9 Notifying compensation events**

Z9.1 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”.

## **Z10 Employer’s limitation of liability**

Z10.1 The *Employer’s* liability to the *Contractor* for the *Contractor’s* indirect or consequential loss is limited to R0.00 (zero Rand)

Z10.2 The *Contractor’s* entitlement under the indemnity in 83.1 is provided for in 60.1(14) and the *Employer’s* liability under the indemnity is limited.

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

Z11.1 or had a business rescue order granted against it.

---

**Z12**      **Addition to secondary Option X7 Delay damages (if applicable in this contract)**

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- Z12.1 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.
-

## 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.

## Annexure B: Insurance provided by the Employer

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

1. For the purpose of works contracts, insurance provided by Eskom (the *Employer*) has been arranged on the basis of “project” or “contract” value, where the value is the total of the Prices at Completion of the whole of the works including VAT.

A “project” is a collection of contracts or work packages to be undertaken as part of a single identified capital expansion or refurbishment of a particular asset or facility.

A “contract” is a single contract not linked to or being part of a “project”.

2. For ECC3 there are three main “formats” of cover and deductible structure; Format A, Format B and Format Dx.

**Format A** is for a project or contract value less than or equal to R350M (three hundred and fifty million Rand) inclusive of VAT.

**Format B** is for a project or contract value greater than R350M (three hundred and fifty million Rand) inclusive of VAT.

In the case of contracts / packages within a project:

- For a contract / package of R50M which is part of a R400M project, Format B will apply
- For a contract / package of R250M which is part of a R6 billion project, Format B will apply;
- For a contract / package of R120M which is part of a R350M project Format A will apply;

For a contract which is not part of a project the same limits apply:

- For a contract of R50M, Format A will apply
- For a contract of R355M, Format B will apply.

**Format Dx** applies only to Distribution Division projects and contracts. If a Distribution Division project or contract exceeds the Format A limit, the Eskom Insurance Management Services [EIMS] need to be contacted for advice on how to formulate the insurance cover. Cover and deductibles for Distribution Division are per the relevant policy available on the internet web link given below.

**Format A generally applies to Transmission Division** projects and contracts. If a Transmission Division project or contract exceeds the Format A limit, the Eskom Insurance Management Services [EIMS] need to be contacted for advice on how to formulate the insurance cover.

3. Tendering contractors should note that cover provided by the *Employer* is only per the policies available on the internet web link listed below and may not be the cover required by the tendering contractor or as intended by each of the listed insurances in the left hand column of the Insurance Table in clause 84.2. In terms of clause 84.1 “the *Contractor* provides the insurances stated in the Insurance Table except any insurance which the *Employer* is to provide”. Hence the *Contractor* provides insurance which the *Employer* does not provide and in cases where the *Employer* does provide insurance the *Contractor* insures for the difference between what the Insurance Table requires and what the *Employer* provides.
4. When the Marine Insurance is required the *Contractor* needs to obtain a copy of the latest edition of Eskom’s Marine Policies Procedures found at internet website given below.
5. **Further information and full details of all Eskom provided policies and procedures may be obtained from: ESK2019/20 ACAR**

## C1.2 Contract Data

### Part two – Data provided by the *Contractor*

#### Notes to a tendering contractor:

1. Please read both the NEC3 Engineering and Construction Contract (April 2013) and the relevant parts of its Guidance Notes (ECC3-GN)<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.

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):<br>Address<br>Tel No.<br>Fax No.                                                                                                                           |                                                                                              |
| 11.2(8)  | The <i>direct fee percentage</i> is<br>The <i>subcontracted fee percentage</i> is                                                                                                           | 5%<br>5%                                                                                     |
| 11.2(18) | The <i>working areas</i> are the Site and                                                                                                                                                   |                                                                                              |
| 24.1     | The <i>Contractor's</i> key persons are:<br>1 Name:<br>Job:<br>Responsibilities:<br>Qualifications:<br>Experience:<br>2 Name:<br>Job<br>Responsibilities:<br>Qualifications:<br>Experience: | CV's (and further key persons data including CVs) are appended to Tender Schedule entitled . |

<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>B</b>   | <b>Priced contract with bill of quantities</b>                                                                                                           |                                                                                                                                                                         |
| 11.2(21)   | The <i>bill of quantities</i> is in                                                                                                                      | <b>Rands</b>                                                                                                                                                            |
| 11.2(31)   | The tendered total of the Prices is                                                                                                                      | <b>Rates Based Contract</b>                                                                                                                                             |
|            | <b>Data for Schedules of Cost Components</b>                                                                                                             | <i>Note "SCC" means Schedule of Cost Components starting on page 60, and "SSCC" means Shorter Schedule of Cost Components starting on page 63 of ECC3 (April 2013).</i> |
| <b>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:                                                                                                                  | <b>5% (Only applicable for compensation events)</b>                                                                                                                     |
| 21 in SSCC | The published list of Equipment is the last edition of the list published by<br><br>The percentage for adjustment for Equipment in the published list is | <b>Plant Hire Association of South Africa</b><br><br><b>-2% (Only applicable for compensation events)</b>                                                               |
| 22 in SSCC | The rates of other Equipment are:<br><br><b><u>Not Applicable</u></b>                                                                                    |                                                                                                                                                                         |
| 61 in SSCC | The hourly rates for Defined Cost of design outside the Working Areas are<br><br><b><u>NOT APPLICABLE</u></b>                                            |                                                                                                                                                                         |
| 62 in SSCC | The percentage for design overheads is                                                                                                                   | <b>NOT APPLICABLE</b>                                                                                                                                                   |
| 63 in SSCC | The categories of design employees whose travelling expenses to and from the Working Areas are included in Defined Cost are:                             | <b>NOT APPLICABLE</b>                                                                                                                                                   |

## PART 2: PRICING DATA

| Document reference | Title                         | No of pages |
|--------------------|-------------------------------|-------------|
| C2.1               | Pricing assumptions: Option B | 3           |
| C2.2               | The <i>bill of quantities</i> | 33          |

## C2.1 Pricing assumptions: Option B

### The conditions of contract

#### How work is priced and assessed for payment

Clause 11 in NEC3 Engineering and Construction Contract, June 2005 (ECC3) Option B states:

|                              |      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|------------------------------|------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Identified and defined terms | 11   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                              | 11.2 | (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.                                                                                                                                                                                                                                                                                            |
|                              |      | (28) The Price for Work Done to Date is the total of <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> Completed work is work without Defects which would either delay or be covered by immediately following work. |
|                              |      | (31) The Prices are the lump sums and the amounts obtained by multiplying the rates by the quantities for the items in the Bill of Quantities.                                                                                                                                                                                                                                                                                                                                                   |

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

#### 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 instructions to do work or 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 (June 2005) Guidance Notes before preparing the *bill of quantities* or before entering rates and lump sums into the *bill*.

The NEC approach to the P & G bill assumes use will be made of method related charges for Equipment applied to Providing the Works based on durations shown in the Accepted Programme, fixed charges for the use of Equipment that is required throughout the construction phase, time related charges for people working in a supervisory capacity for the period required, and lump sum charges for other facilities or services not directly related to performing work items typically included in other parts of the bill.

The P & G section of the bill is not used for the assessment of compensation events.

## 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                |
| Prov sum <sup>3</sup> | provisional sum       |
| PC-sum                | prime cost sum        |
| R/only                | Rate only             |
| sum                   | Lump sum              |
| t                     | ton (1000kg)          |
| W/day                 | Work day              |

### 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*.

<sup>3</sup> Provisional Sums should not be used unless absolutely unavoidable. Rather include specifications and associated bill items for the most likely scope of work, and then change later using the compensation event procedure if necessary.

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**

For the avoidance of doubt 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 *provisional bill of quantities*

Note: All quantities are provisional and the final quantities will be re-measured on site upon completion.

CONTRACTOR:

.....  
PRINT NAME

.....  
SIGNATURE

.....  
DATE

## PART 3: SCOPE OF WORK

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

## C3.1: EMPLOYER'S WORKS INFORMATION

### Contents

#### Part 3: Scope of Work

#### C3.1: Employer's Works Information

|         |                                                                                         |    |
|---------|-----------------------------------------------------------------------------------------|----|
| 1       | Description of the <i>Works</i> .....                                                   | 28 |
| 1.1     | Executive overview .....                                                                | 28 |
| 1.2     | <i>Employer's</i> objectives and purpose of the <i>works</i> .....                      | 28 |
| 1.3     | Interpretation and terminology .....                                                    | 30 |
| 1.3.1   | Abbreviations .....                                                                     | 30 |
| 1.3.2   | Acceptance of Eskom SHEQ Policies and Procedures .....                                  | 30 |
| 2       | Management and Start-up .....                                                           |    |
| 2.1     | Management Meetings .....                                                               | 32 |
| 2.2     | Documentation Control .....                                                             | 33 |
| 2.3     | Health and Safety Risk Management .....                                                 | 33 |
| 2.4     | Environmental Constraints and Management .....                                          | 33 |
| 2.5     | Quality Assurance Requirements .....                                                    | 34 |
| 2.5.1   | <i>Contractor</i> and <i>Subcontractor</i> Quality Management System Requirements ..... | 34 |
| 2.5.2   | Quality Plan .....                                                                      | 35 |
| 2.5.3   | Contract Quality Plan .....                                                             | 35 |
| 2.5.4   | Quality Control Plan .....                                                              | 35 |
| 2.6     | Programming constraints .....                                                           | 36 |
| 2.7     | <i>Contractor's</i> Management, Supervision and Key People .....                        | 37 |
| 2.8     | Invoicing and payment .....                                                             | 37 |
| 2.9     | Insurance provided by the <i>Employer</i> .....                                         | 38 |
| 3       | Engineering and the <i>Contractor's</i> design .....                                    |    |
| 3.1     | <i>Employer's</i> design .....                                                          | 38 |
| 3.2     | As-built drawings, operating manuals and maintenance schedules .....                    | 38 |
| 4       | Procurement .....                                                                       |    |
| 4.1     | People .....                                                                            | 38 |
| 4.1.1   | Minimum requirements of people employed on the Site .....                               | 38 |
| 4.1.2   | BBBEE and Preferencing Scheme .....                                                     | 38 |
| 4.1.3   | Supplier Development and Localisation .....                                             | 39 |
| 4.1.4   | Expanded Public Work Programme .....                                                    | 39 |
| 4.1.5   | Lost Time Injury Report (LTIR) .....                                                    | 39 |
| 4.2     | Subcontracting .....                                                                    |    |
| 4.2.1   | Preferred subcontractors .....                                                          | 39 |
| 4.2.2   | Subcontract documentation, and assessment of subcontract tenders .....                  | 39 |
| 4.2.3   | Limitations on subcontracting .....                                                     | 40 |
| 4.2.4   | Attendance on subcontractors .....                                                      | 40 |
| 4.3     | Plant and Materials .....                                                               |    |
| 4.3.1   | Quality .....                                                                           | 40 |
| 4.3.2   | <i>Contractor's</i> procurement of Plant and Materials .....                            | 40 |
| 4.4     | Tests and inspections before delivery .....                                             | 40 |
| 4.5     | Accessibility to Eskom Technology Standards .....                                       | 40 |
| 5       | Construction .....                                                                      |    |
| 5.1     | Completion, testing, commissioning and correction of Defects .....                      | 41 |
| 5.1.1   | Work to be done by the Completion Date .....                                            | 41 |
| 5.1.2   | Use of the <i>works</i> before Completion has been certified .....                      | 41 |
| 5.1.3   | Materials facilities and samples for tests and inspections .....                        | 41 |
| 5.1.4   | Commissioning .....                                                                     | 41 |
| 5.1.5   | Start-up procedures required to put the <i>works</i> into operation .....               | 41 |
| 5.1.5.1 | Travelling Costs .....                                                                  | 41 |
| 5.1.5.2 | Material Handling .....                                                                 | 42 |
| 5.1.6   | Take over procedures .....                                                              | 42 |
| 5.1.7   | Access given by the <i>Employer</i> for correction of Defects .....                     | 42 |
| 5.1.8   | Performance tests after Completion .....                                                | 42 |
| 5.1.9   | Operational maintenance after Completion .....                                          | 42 |
| 6       | List of drawings .....                                                                  |    |
| 6.1     | Drawings issued by the <i>Employer</i> .....                                            | 42 |

## **1 Description of the works**

### **1.1 Executive overview**

The purpose of this contract is to facilitate the construction of all **Electrification Household Connections** Above R3 000 000,00 excluding VAT, for the Asset Creation Section of Distribution within the KZN Operating Unit within South Africa.

This contract will facilitate ease of appointment of contractors who prequalify according to the Conditions of Tender as advertised. Work will be allocated on a fair basis to each contractor depending on the Panel they are appointed on, their CIDB Grading and financial evaluations as carried out by Eskom.

All work shall be carried out to the specified requirements, standards and quality as set out by Eskom while observing and complying to all safety and environmental requirements at the agreed rates. All project specifications will be included in the relevant Project Specific Agreement for each project and should be complied with, as per the details compiled in the Eskom SHE Specification.

The Contractor is appointed on this contract on a Rate Only basis, as and when required.

Eskom reserves the right not to appoint any work to a Contractor based on poor performance of the Contractor.

### **1.2 Employer's objectives and purpose of the works**

The Eskom Project Manager will contact the allocated Contractor and issue the Contractor with the design package for the project to be executed. A Project Specific Agreement will be issued as well, which will detail all the project specific requirements for execution of the project for the task order to be issued. The Project Specific Agreement issued will form the basis of the agreement between Eskom and the Contractor for each project to be executed in terms of this contract.

The terms and conditions contained in the Project Specific Agreement will be in accordance with the terms and conditions of this contract but specific to the requirements of the project to be executed.

The allocated Contractor will do a site visit at his own cost (This is not applicable for Type 1 Infills) with the Eskom project representatives and verify the scope of work to be executed contained in the design package, assess the Site conditions, the Project Specific SHEQ requirements and SD&L requirements before the quotation for the works is finalised. The Project Manager will then request a quotation from the Contractor for the execution of the works as verified. The quotation must be submitted to the Project Manager by the Contractor within 7 days. The Project Manager will request the Quantity Surveyor to verify the quotation for correctness and confirm the cost according to the agreed negotiated rates.

Should the quotation require adjustment, the Project Manager will request the allocated Contractor to amend the quotation. Once the quotation has been accepted by Eskom, the Project Manager will issue the allocated Contractor with a Task Order for the project which will contain a Task Order Number and will be attached to the Project Specific Agreement. The Project Specific Agreement will then be signed off by the Project Manager and the Contractor and work may then commence on the project.

No work may commence on a project unless the Task Order has been issued, the Project Specific Agreement has been signed, the Contractor Safety File has been approved by Eskom, the Contractor Appointment 5(1)k and the 37(2) agreement has been signed and Site Access has been granted to the allocated Contractor. Eskom will not be liable to pay for any work unless a valid Task Order Number has been issued.

The Contractor is to submit the Project Specific Safety File within seven days upon being requested to do so by the Project Manager for approval by Eskom. The Safety File is to conform to all Eskom and OHS requirements. Should there be a need to rectify the safety file an additional opportunity will be granted to conform to the recommendations made by the Eskom SHE representative, and must be resubmitted within seven days for approval. Should the Project Specific Safety File fail upon resubmission the works will be allocated to another Contractor.

The Contractor will compile a Risk Register as per the terms and conditions of the ECC for discussion at regular Risk Reduction Meetings or as per agreement with the Project Manager.

It is expected from the Contractor to do the whole of the work as per timeframe set in the Task Order, Project Specific Agreement, and agreed Program of the Works.

The Contractor will be responsible for the collection and transporting of all necessary material from any and/or all Eskom warehouses and delivery of the material to site as well as return any material to Eskom stores from the site upon instruction from the Project Manager. Payments will be made based on the distance from the site to the relevant Eskom store and back to site.

The Contractor to confirm that material (Not Eskom Free Issue Items) sourced from electrical distributors and suppliers complies with the DTI designation requirements and conforms to Eskom specifications.

The Following will be required to be submitted at Task Order Allocation Stage:

Submit Annexure F1-F4 as evidence of compliance with this requirement.

Annexure F1 - SBD 6.2- Declaration Certificate for Local Production and Local Content (only applicable if designated materials are included).

Annexure F2- \_Local content Declaration-Summary Schedule (annex C)

Annexure F3 - Imports Declaration-Supporting schedule to Annex C (annex D)

Annexure F4 - Local Content Declaration-Supporting Schedule to Annex C (annex E)

The DTI has appointed SABS as the official verification agency for local content in terms of designated products.

A contractor that fails to meet the minimum stipulated threshold for local production and content will not be awarded a task order.

Minimum recommended working hours to be observed on site are from 07h30 to 16h00 and these hours constitute normal working hours in terms of this contract.

The contractor is to ensure that all required documentation prescribed by Law is kept on file at the site office. All OHS and Construction Regulation requirements are to be adhered to by the contractor.

The Contractor will also ensure that all plant and equipment dedicated to the project will not be removed from site until there is no use for the intended plant and equipment. No moving of plant and equipment between projects will be allowed as it will have impact on completion of the project and lead to delays in completion.

The Contractor is to ensure that all Site Managers are competent, and trained in the use of the ECC and are fully conversant and familiar with the usage and procedures thereof. Adherence to the terms and conditions of the ECC are essential and a requirement of all Contractor Site Managers dedicated to each project as per the Construction Regulations.

Payment Assessments will only be done for work done to date. No material on site will be paid for. Records of defined costs are to be kept on file on site whereby the *Project Manager* has access to this file at all times.

### 1.3 Interpretation and terminology

#### 1.3.1 Abbreviations

The following abbreviations are used in the Works Information:

| Abbreviation | Description                                   |
|--------------|-----------------------------------------------|
| KZN          | Kwa Zulu Natal Operating Unit                 |
| TBA          | To be announced                               |
| PM           | Project Manager                               |
| QS           | Quantity Surveyor                             |
| BBBEE        | Broad Based Black Economic Empowerment        |
| PPPFA        | Procurement Preferential Policy Framework Act |

#### 1.3.2 Acceptance of Eskom SHEQ Policies and Procedures

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 25 as indicated

| No    | UNIQUE IDENTIFIER       | REVISION | DOCUMENT TITLE                                                                   |
|-------|-------------------------|----------|----------------------------------------------------------------------------------|
| 1     | 32 - 727                | 0        | SAFETY, HEALTH, ENVIRONMENT AND QUALITY (SHEQ) POLICY 32-727                     |
| 2     | 32 - 136                | 0        | CONSTRUCTION SAFETY HEALTH AND ENVIRONMENTAL MANAGEMENT                          |
| 3     | ESKOM LIFE SAVING RULES | 1        | ESKOM LIFE SAVING RULES 240-62196227                                             |
| 4     | CONSTRUCTION REG 3      |          | NOTIFICATION OF CONSTRUCTION WORK TO DEPARTMENT OF LABOUR                        |
| 5     | CONSTRUCTION REG 4 & 5  |          | APPOINTMENT LETTERS FOR CLIENT REPRESENTATIVE, PRINCIPAL CONTRACTOR & CONTRACTOR |
| 6 & 7 | OHS ACT                 | 1        | WRITTEN AGREEMENT ON OHS ACT SECTION 37(2) & STANDARD CLAUSE                     |
| 8     | 34 - 1063               | 0        | EXPANDED PUBLIC WORKS REPORT 34-1063.                                            |

|    |                                                                                             |               |                                                                                                                                                                                                                                                                                                                                                                              |
|----|---------------------------------------------------------------------------------------------|---------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| &9 |                                                                                             |               |  10_34-1063 EPWP Works Instruction.pdf  11_EPWP Guidelines Second edition 2005.  Eskom EPWP report template rev 7.xlsx |
| 10 | <b><u>DST 34-961</u></b>                                                                    | 0             | <b>LEGAL APPOINTMENTS AND AUTHORIZATIONS</b><br> 13_Legal Appointments and Au                                                                                                                                                                                                               |
| 11 | <b>TPC 41-55</b>                                                                            |               | <b>TRANSPORTING PERSONS ON BACK OF VEHICLES</b><br> 14_Transporting of Passengers on the ba                                                                                                                                                                                                 |
| 12 | <b>LTIR</b>                                                                                 | <b>MASTER</b> | <b>LOST TIME INJURY REPORT</b><br> LTIR Master.xls                                                                                                                                                                                                                                          |
| 13 | <b>1. Contractor Performance Evaluation</b>                                                 | <b>MASTER</b> |  Single Evaluator Template for Contrac                                                                                                                                                                                                                                                     |
| 14 | <b>2. Supplier Contract Quality Requirements</b>                                            | <b>MASTER</b> |                                                                                                                                                                                                                                                                                                                                                                              |
| 15 | <b>3. Hard Hat Specifications OHS 01/12/</b>                                                | <b>MASTER</b> |  OHS 01 12 Hard Hat Specifications.pdf                                                                                                                                                                                                                                                    |
| 16 | <b>4. Identifying, Analysing, Documenting and Observing Tasks according to Criticality.</b> | <b>REV 1</b>  |  DPC_34-380.pdf                                                                                                                                                                                                                                                                           |
| 17 | <b>5. Health &amp; Safety Representatives inspection reports and guidelines</b>             | <b>REV 1</b>  |  DPC_34-228Health_Safety_REp.pdf                                                                                                                                                                                                                                                          |
| 18 | <b>6. Work at Heights Procedure</b>                                                         | <b>REV 1</b>  |  32-418 Work at Height Procedure.pdf                                                                                                                                                                                                                                                      |
| 19 | <b>7. SHE Requirements for the Eskom Commercial Process</b>                                 | <b>REV 1</b>  |                                                                                                                                                                                                                                                                                                                                                                              |

|    |                                                                                     |       |                                                                                                                               |
|----|-------------------------------------------------------------------------------------|-------|-------------------------------------------------------------------------------------------------------------------------------|
| 20 | 8. Vehicle Safety                                                                   | REV 0 |                                                                                                                               |
| 21 | 9. 32-95 Environmental Occupational Health and Safety Incident Management Procedure | REV 5 |                                                                                                                               |
| 22 | 10. Risk Audit System Template                                                      | REV 0 | <br>Audit Input Form<br>Contractor RM 29 Sep |

### Acknowledgement by Contractor

I/WE, ..... DO HEREBY ACKNOWLEDGE HAVING READ AND UNDERSTOOD THE ABOVE ANNEXED DOCUMENTS FROM 1 TO 25 IN SECTION 1.3.2 OF THIS CONTRACT.

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

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

**Note:** Please return the above pages with the other tender returnables to the Eskom office that issued this enquiry after complying with the above.

## 2 Management and Start-up

### 2.1 Management Meetings

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

| Title and purpose                      | Approximate time & interval                                           | Location | Attendance by:                                                                        |
|----------------------------------------|-----------------------------------------------------------------------|----------|---------------------------------------------------------------------------------------|
| Pre-introductory meeting               | Upon request of the Project Manager at an agreed date by all parties  | Site     | PM, QS, Site Supervisor, Safety and Environmental Representatives and the Contractor. |
| Introductory meeting                   | After safety and environmental files have been assessed and approved. | Site     | PM, QS, Site Supervisor, Safety and Environmental Representatives and the Contractor. |
| Toolbox talk and risk assessment       | Daily before work begins.                                             | Site     | Contractor and Site Supervisor.                                                       |
| Risk register and compensation events  | As necessary.                                                         | Site     | PM, Contractor and Site Supervisor.                                                   |
| Overall contract progress and feedback | On a regular basis as agreed with the Project Team and the Contractor | Site     | PM, QS, Contractor, Site Supervisor, and Safety and Environmental Representatives.    |

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.

All project instructions are to be issued by the Project Manager only.

## 2.2 Documentation Control

All correspondence is to be addressed to the *Project Manager* with a chronological numbering system.

## 2.3 Health and Safety Risk Management

The Contractor shall control his activities and processes in accordance with the Occupational Health & Safety Act, No. 85 of 1993 and Eskom's Construction Safety, Health and Environmental Management 32-136 (with the provided SHE Specification), Safety, Health, Environment and Quality Policy, EPC32-727 and SHE Requirements for the Eskom Commercial Process, ST32-726. The *Contractor* shall comply with the health and safety requirements contained in Section 1.3.2 of this Works Information.

The Contractors Project SHEQ File is to be updated on a continuous basis. The Contractor is to ensure that all relevant documentation and authorisations are contained in the file pertaining to the project. Upon completion of the project, the Contractor is to convert all documentation contained in the SHEQ file into electronic format and save it as a PDF File. The file name should contain the name of the Contractor and the project. The file should then be saved onto a disk or removal storage device and handed over to the Project Coordinator or Project Manager upon completion of the project.

The Contractor should adhere to the Life Saving Rules at all times.

Due to the importance to safe life's and apparatus of Eskom it is recommended that if a contractor abuse any Life Saving Rules, all work allocated to the contractor will immediately put on hold until final outcome with investigation. Safety is the combined responsibility of the team and therefore team leader or team will be punished together. There are five cardinal rules that may not be broken by the Team Leader and his/her team.

**The five Eskom Life Saving Rules are as follows:**

Rule 1:\*Open, isolated, tests, earth, and bond and/or insulate before touch\*

Rule 2:\*Hook up at height\*

Rule 3:\*Buckle Up\*

Rule 4\*Be Sober\*

Rule 5:\*Ensure that you have a permit to work\*

## 2.4 Environmental Constraints and Management

The *Contractor* shall control his activities and processes in accordance with Environmental Requirements for the Procurement of Assets, Goods and Services, TST41-120 Rev. 2. The Eskom Environmental Management Plan provides the aspects and impacts that will require management and must be followed strictly. The *Contractor* is to prepare a site/factory specific separate EMP for all environmental concerns that might arise and any changes to the approved plan shall be reported and be approved by the *Eskom Environmental Representative* and *Project Manager* prior to the commencement of work.

In addition, the *Contractor* is required to ensure that all goods, services or works supplied in terms of this *Works Information* also conform to all applicable environment legislation(s), Safety, Health, Environment and Quality Policy, EPC32-727; SHE Requirements for the Eskom Commercial Process, ST32-726; (and additional requirements). The *Contractor* shall comply with the environmental criteria and constraints stated in Section 1.3.2.

When required, the *Contractor* must ensure that all *Subcontractors'* EMP comply with legal and other requirements and also includes all the environmental risks associated with the scope of work. The *Main (Principal) Contractor* shall define the specific risks applicable to the *Subcontractor's* scope of work or supply of kiosks.

The *Contractor* is to send a flash report for any environmental incidents that have occurred on site as soon as possible or within 24 hours to the *Eskom Environmental Representative* and *Project Manager* clearly stating any impact to the environment.

No environmental records shall be destroyed or discarded by the *Contractor*. Eskom as the *Employer* and the *Contractor* shall agree that the *Contractor* retains certain environmental records. Waste generated during the course of the project must be disposed at a registered site and the *Contractor* shall retain records of disposal.

Deviations from these requirements will be regarded as a non-conformance. Should there be concerns regarding environmental performance and non-conformance to environmental requirements, management engagements and interventions will be introduced to determine a means to addressing the shortfalls. Once these interventions have been explored and exhausted, then the *Eskom Supplier Disciplinary Process* will be followed.

The cost to the *Contractor* to obtain permits should it become necessary to cut a protected tree, ensure that waste is disposed of on a permitted, legal waste site and all relevant costs payable to dumping site as well as safe storage of all equipment which will be removed and replaced from site which will be transported upon instruction to the nearest designated disposal site within the Gauteng Operating Unit.

## 2.5 Quality Assurance Requirements

Quality Assessment Criteria, Forms A and Form B of the QM-58 specification will be selected and completed by Eskom Representative who will identify the applicable *Contractor* quality requirements to be met. Form A and Form B of the QM-58 specification shall be signed by the *Contractor* responding to an Eskom Enquiry.

### 2.5.1 Contractor and Subcontractor Quality Management System Requirements

- The *Contractor* and *Subcontractor* shall have formal Quality Management System in place in accordance with the requirements of the QM-58 specification.
- Such formal system shall consist of the appropriate documentations such as work procedures, work instructions, method statements, work flow documentation etc. as the case may be. This requirement constitutes the most basic Quality Management System requirements.
- Unless specifically excluded in the Quality Assessment Criteria, as per the Level of Quality Requirements (Level 1, 2, 3 or 4). The *Contractor* shall have a fully documented, implemented and maintained Quality Management System that complies with ISO-9001 standard. In the event that the *Contractor* invariably requires the assistance of some *Subcontractor* in order to realise its own supply obligations. The aforementioned requirement applies equally in all cases where any such *Subcontractor's* scope of responsibility includes the provision of any of the following activities viz. Design & Development, Manufacturing, Testing, Storage, Delivery, Installation, Commissioning, and Project Management.
- Unless specifically excluded in Quality Assessment Criteria, such Quality Management System shall carry valid ISO-9001 certification from an accredited certification body, as indicated in the applicable Eskom invitation (This requirement applies equally to both the *Contractor* and any/all manufacturing third party organizations mentioned above).
- Eskom reserves the right to request and perform necessary assessments at *Subcontractor* facilities.
- The *Contractor* shall be responsible for defining the specific quality control elements applicable to the respective *Subcontractor's* scope of work/supply, and ensure that their *Subcontractor(s)* quality programmes support Eskom requirements.

- The *Contractor* shall inform Eskom of any proposed changes to the Quality Management System or staff that will affect the Quality System prior to implementation of these changes.

### 2.5.2 Quality Plan

The information in this section constitutes the minimum requirements for a Quality Plan:

- All individual products and processes shall have a documented, implemented and maintained Contract Quality Plan and/or Quality Control Plan (Inspection and Test Plan).
- All production and/or service provision shall be carried out in accordance with documented Contract Quality Plan (CQP) and/ or Quality Control Plan (QCP)/ Inspection and Test Plan (ITP).
- The *Contractor* shall plan for the required Quality related activities and interfaces within the *Contractor's* Quality system, in order to demonstrate its ability towards both controlling and meeting specified Eskom requirements

### 2.5.3 Contract Quality Plan

*Contractor* shall require *Subcontractors* to submit Contract Quality Plan (CQP) and associated documentation in accordance with requirements of Project Quality Management System processes applicable to *Subcontractor* Scope of Work.

*Contractor* shall, where applicable based on Scope of Work Criticality, ensure Procurement documents clearly and unambiguously require *Subcontractor* submission of a *Subcontractor* CQP for *Contractor* and Eskom review.

*Contractor* and *Subcontractor* CQP shall comply with Eskom "Quality Requirements Specifications" and shall be submitted prior to the initial Scope of Work Kick-off or initial Pre-fabrication meeting and prior to commencement of manufacturing, whichever is earlier.

### 2.5.4 Quality Control Plan

*Contractor* shall develop and implement processes and procedures which efficiently and effectively monitor, verify and document Quality of Scope of Work deliverables. *Contractor* shall ensure that *Subcontractor* QCP/ITP's are prepared at a level of detail sufficient to address all Quality Control related activities in chronological order, from contract review through materials verification, manufacturing, fabrication, assembly, final testing, documentation, and certification.

Where activities subject to Inspection and Test procedures are to be undertaken by a *Subcontractor*, the QCP/ITP shall make reference to this fact and shall include descriptive details of *Subcontractors* involvement. A separate QCP/ITP shall be required for each *Subcontractor* Scope of Work.

*Contractor* may authorise use of *Subcontractor* QCP/ITP format providing it is in compliance with the above. *Contractor* shall be ultimately responsible for the development and proper implementation of all *Subcontractor* QCP/ITPs, including those reviewed or developed by *Subcontractors*.

Eskom reserves the right to select witness and hold points within all developed *Subcontractor* QCP/ITPs for Eskom oversight of selected functions and to perform surveillance or audits of the Work.

*Contractor* shall establish processes and procedures for formal assessment of *Subcontractor* inspection and testing programs. These shall include review of *Subcontractor* inspection reports and other Quality Control documentation. Additional formal assessment of manufacturing, fabrication and assembly facility operations shall be conducted by *Contractor* to ensure continuing suitability, adequacy and effectiveness of the *Subcontractor* inspection and testing programs. Assessment frequency shall be established in consideration of *Subcontractor* Scope of Work, Criticality of Scope of Work deliverables and performance information. Assessment scope and schedule shall be developed in consultation with Eskom.

Mandatory pre-inspection meetings will be convened by Eskom or its Inspection Agency or AIA to be attended by the *Contractor* and *Subcontractors* representatives, including their Quality representatives who will be involved with the Works and records to be kept.

Eskom reserves the right to appoint resident quality inspectors that can be based at the *Contractor* or *Subcontractor's* premises and on site where the work is being performed. The *Contractor* is expected to provide work space at no cost to Eskom, for the inspector as required.

## 2.6 Programming constraints

A comprehensive and fully detailed programme is to be submitted within the seven (7) days after the introductory meeting and should indicate all milestones and critical dates. This programme must first be approved by the *Project Manager* and must be updated on an as and when required basis by the *Project Manager*.

**The following dates shall be clearly reflected on the programme:**

- Starting and completion dates for all activities as well as relevant key dates for hold or witness points. All relevant significant activities shall be shown in order to monitor the progress in the factory/workshop.
- The programme shall also reflect a 2-week period for inspection and correcting of Defects before the completion date.

Updated programmes must be available at all meetings reflecting progress to date and the date when delivery will take place through the use of task orders.

### FORMAT OF THE PROGRAM

- The *Contractor* shall submit his construction program in terms of the conditions of contract.
- The *Contractor* is to submit a revised programme for acceptance at each site meeting.
- This program shall be in the form of an approved Gantt Chart containing the following information:
- All construction activities, including milestones, initial tasks, critical path, required Outages, and target *Dates*. All potential risk activities should be clearly indicated on the critical path.
- Every activity on the programme will be clearly linked to labour resources and equipment required to perform the specific activity.
- Projected weekly progress on *site* for the entire duration of the contract.
- Completion and hand-over *Dates* for formal inspection by the site supervisor must be indicated.
- A column showing the daily tempo of all the construction activities must be indicated next to the activity on the programme.
- Project expenditure on a monthly basis for the entire duration of the contract.
- The following project phases and activities are minimum requirements for the programme:
- Site Establishment and Material Delivery – Lead times to be specified.
- Preparation work – Work that can be completed without the necessity of power outages
- Outage work – Work that must be completed under outage conditions
- Planned outages to be included in the programme
- *Contractors* float to be included in the programme
- The Contract Program will be on display in the *Contractors Site Offices* and will be updated weekly. In addition to the maintaining of this programme, the *Contractor* will report progress to the *Project Manager* at each site meeting or at request of the *Project Manager*.
- The *Contractor* shall also provide an organisation chart showing the personnel to be employed for the *works*, along with a detailed CV of all key personnel.
- Should any deviations to the program be found the *Contractor* shall submit a revised program to the *Project Manager* within one week of such deviations being brought to the *Contractor's* attention.

- The Outages must be arranged with *Employer* via the Outage arrangement procedures, as a pre-requisite for the acceptance of the programme by the *Project Manager*.
- Acceptance of any program by the *Project Manager* shall have no contractual status other than an indication that the *Project Manager* is satisfied as to the order in which the work is to be carried out, and that the *Contractor* undertakes to perform all work in accordance with the accepted program.
- The *Project Manager* retains the right to alter the accepted program should circumstances on *site* necessitate such a change.

OTHER INFORMATION TO BE SHOWN ON THE PROGRAM.

**THE FOLLOWING STATUTORY NON-WORKING DAYS ARE INCLUDED WITHIN THE CONTRACT PERIOD:**

- All Public Holidays for the duration of the contract.
- The programme must clearly indicate the non-working days for the entire construction period.

## 2.7 Contractor's Management, Supervision and Key People

The *Contractor* is to submit an organogram showing all key people involved in the contract 7 days after contract award. All key personnel must be appointed in writing, must be current for the specific site and area of work and must be kept on file. This would be essential if the *Contractor* is a Joint Venture.

## 2.8 Invoicing and payment

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

The *Contractor* shall address the tax invoice to:

**Eskom Holdings SOC Limited**  
**KZN Operating Unit**  
**PO Box 66**  
**New Germany**  
**3610**

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.

### Procedures for Invoice Submission and Payment (e. g. Electronic Payment Instructions)

| General Information                                                                                                                                                                                                                               | X |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|
| - No Pro-forma Invoice                                                                                                                                                                                                                            |   |
| - Check Vendor number against the Address and name on Tax invoice                                                                                                                                                                                 |   |
| - Insert the Vendor number on Tax invoice (Top right hand corner)                                                                                                                                                                                 |   |
| - Bank details must be on the invoice or on a attach sheet, but it does not require a bank stamp just a letter)                                                                                                                                   |   |
| - Check banking details on invoice against SAP system. If more than one banking account check bank account against banking details on invoice. If banking details not on invoice, write the bank code next to the vendor account (bank code 0002) |   |
| - Check Vendor VAT number against the vendor master. (FK03) If VAT number not on master records, prepare a list and forward to Vendor Management to check and update the vendor master records                                                    |   |
| - No fax copies of Tax invoices allowed                                                                                                                                                                                                           |   |

|                                                                                                                                                                                                                                                                                                                     |          |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| - No copies of Tax invoices allowed unless originally printed by the Vendor if a photocopy tax invoice, it must be an original "certified copy" (i.e. not a copy of a "certified copy" invoice) from the vendor and check in system if not previously be paid. Put stamp "not previously paid" on invoice and sign. |          |
| - Ensure that date received stamp is clear on invoice                                                                                                                                                                                                                                                               |          |
| - Stamp all Invoices with the Vat stamp, complete and sign (only when VAT is applicable)                                                                                                                                                                                                                            |          |
| - The stamp should not be stamped over any written information                                                                                                                                                                                                                                                      |          |
| - When scanning invoice, check the quality before linking in SAP (inboxes)                                                                                                                                                                                                                                          |          |
|                                                                                                                                                                                                                                                                                                                     |          |
| <b>With Reference Invoices</b>                                                                                                                                                                                                                                                                                      | <b>X</b> |
| - Goods receipt must be done (payment with reference)                                                                                                                                                                                                                                                               |          |
| - Ensure that the SAP purchase order number is clear and correct on the invoice                                                                                                                                                                                                                                     |          |
| - GR number to be written on the Invoices                                                                                                                                                                                                                                                                           |          |
| - If multiple lines on invoice write the line number of the order against the line to ensure that the processors match the correct lines (to ensure that 191100 is matched correctly)                                                                                                                               |          |

## 2.9 Insurance provided by the *Employer*

Annual Contractors All Risks Insurance Policy ESK2019/20 ACAR

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

### 3.1 *Employer's* design

The *Employer* will supply the *Contractor* with a final design document compiled by the Project Engineer ,detailing the scope of work to be executed on the project as well as Project Drawings.

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

The *Contractor* is required to provide the necessary drawings, operating manuals, test certificates and training program details, as well as a commitment letter for providing ongoing product support.

## 4 Procurement

### 4.1 People

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

All people employed by the *Contractor* to perform supervision of installation and commissioning should have Police Clearance before work can commence. The *Contractor's* employees shall be sober when carrying out their duties and may be subjected to random breathalyser tests.

#### 4.1.2 BBBEE and Preferencing Scheme

#### Special Conditions of Contract (Application of other criteria in terms of Section 2(1)(f) of PPPFA)

The objective criteria as follow:

- Transformation of this sector by the appointment of a Black Owned Firm(s) that meet the functionality requirements;
- Development of Black Owned steel fabrication companies;
- Appointment of companies located within the Republic of South Africa.

**NB: The Joint Venture may be:**

- Black Owned and Black Owned Company;
- Black Owned Company (Majority Shareholder) and Non-Black Owned Company;
- Black Women Owned Company and Black Owned Company, and;
- Black Women Owned (Majority Shareholder) and Non-Black Owned Company.

A 51% or more Black Owned Companies or Joint Venture where the lead company has 51% or more black ownership.

### **Procurement Preference Hierarchy**

**Preference for awarding this contract and/or subcontracting are in the following order:**

- Companies with more than 51% Black Ownership
- Enterprises Owned by Black People Living with Disability (BPLwD)
- Black Youth Owned Enterprises (BYO)
- Black Women-Owned Enterprises (BWO)
- Black Owned Enterprises (BO)

#### **4.1.3 Supplier Development and Localisation**

An SD&L Compliance Matrix for the development of skills and/or the promotion of localised content applicable to the scope of work shall be provided at tender stage. Regular reporting on a monthly basis must be done and handed to the project manager to report on progress of compliance to the targets agreed upon at contract stage. This report must be handed over to the Project Manager on a monthly basis when submitting the assessment claim for payment.

#### **4.1.4 Expanded Public Work Programme (EPWP)**

- The *Contractor* must report all local/temporary labourers employed in a project
- The *Contractor* MUST submit a report on a monthly basis
- The *Contractor* must NOT wait until the end of a project in order to submit reports
- The *contractor* must submit the REV 7 report together with the assessment claim for payment.
- The *contractor* is responsible for assisting ESKOM in reporting all work done.
- Eskom's report feeds back to Parliament and non-reporting of *contractors* affects this report.
- No payment will be certified without the required report being submitted.

#### **4.1.5 Lost Time Injury Report (LTIR)**

- The *Contractor* must submit this report monthly with each payment assessment claim
- No payment will be certified unless this report is submitted.

## **4.2 Subcontracting**

### **4.2.1 Preferred subcontractors**

The *Contractor* to submit the names of each proposed subcontractor to the *Employer* for acceptance. The *Contractor* does not appoint a subcontractor until the *Employer* has accepted such subcontractor.

### **4.2.2 Subcontract documentation, and assessment of subcontract tenders**

The *Contractor* to indicate the proposed subcontractors together with their BBBEE statuses, and the sources of assets, goods or services when local content and production criteria are applicable. The proposed target will form part of the contractual obligation. The NEC system is compulsory for all subcontract documentation.

### **4.2.3 Limitations on subcontracting**

The *Contractor* is not allowed to sub-contract more than 25% of the contract to another enterprise/supplier that does not have equal or higher BBBEE status, unless the intended subcontractor is an EME that has the capability and ability to execute the sub-contract, in order to claim the points for BBBEE.

#### **4.2.4 Attendance on subcontractors**

The *Contractor* is responsible for performing on the provided scope of work as if he had not subcontracted. The appointed *Contractor* will also be liable to the *Subcontractors'* employees, as he legally and liable to this contract.

### **4.3 Plant and Materials**

#### **4.3.1 Quality**

The *Contractor* shall control his activities and processes in accordance with Eskom's Quality Requirements for Procurement of Assets, Goods & Services, QM-58 and ISO-9001.

#### **4.3.2 Contractor's procurement of Plant and Materials**

The *Employer* requires warranties from the *Contractor* to be in favour of the *Employer* and not just to the *Contractor* during the life of the contract.

### **4.4 Tests and inspections before delivery**

The contractor is required to confirm, that for contractor supplied material, at the time of purchase, materials comply to Eskom specifications and that the relevant test certification is available for inspection and verification.

### **4.5 Accessibility to Eskom Technology Standards**

The contractor is to confirm that accessibility to Eskom Technical Standards Website is secured prior to commencement of the project. The accessibility to the website may be acquired by contacting the following persons.

1. Brenda Morrison  
Assistant Officer  
Tel: 011 629 5266  
Fax: 086 662 6387  
[Brenda.morrison@eskom.co.za](mailto:Brenda.morrison@eskom.co.za)
2. Kevin Layley  
Document Controller  
Technology  
Power Delivery Engineering  
Design Base Operating Unit Support  
Tel +27 11 800 6181  
[E-mail Kevin.Layley@eskom.co.za](mailto:Kevin.Layley@eskom.co.za)

## 5 Construction

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

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

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

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

The *Contractor* will have to carry out the supervision of the installations, as per the instruction of the *Project Manager*.

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

From time to time random sample test and inspections may be requested, to ensure good quality of the goods being supplied. In accordance with EI 048 MVL (or the latest revision thereof), the appointed COW for the project will be required to undertake an inspection of materials before project commencement for compliance with Eskom's technical standards when such materials are delivered to the site storage location. The COW for the project may be aided, as needed, for the inspection from time-to-time by a representative of Eskom's Standards Implementation Department for the material inspection. The material supplied to the project shall be items that have been previously and currently Eskom assessed items. Where items have no traceable record of prior approval in existence or where compliance to Eskom's specifications are in doubt, the contractor shall be given 30 (thirty) days to provide all valid certification (including but not only) test records as specified in SANS/IEC and Eskom standards to prove that the material in question complies with Eskom's requirements. Where such material is found to be in contravention of Eskom's standards, such material will be rejected and will be for the contractor's cost to replace and/or re-work.

On completion of the first transformer zone, the contractor is required to request the COW (aided by SI Dept representative as and when needed) to conduct a detailed inspection of the network constructed. Defects identified on the first transformer zone shall be corrected and will serve as the benchmark of quality to be expected on the remainder of the project.

#### 5.1.4 Commissioning

Commissioning is to be done before or after Completion depending on the Programme from the *Project Manager*.

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

In order to put the *works* into operation the *Project Manager* 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.

##### 5.1.5.1 Traveling Cost

**Camp Site Establishment** - The contractor will only be re-imbursed for 1 trip per vehicle from the nearest CNC to the Project Site, which must be pre-approved by the relevant Programme Manager.

**Camp Site De-Establishment** - The contractor will only be re-imbursed for 1 trip per vehicle from the Project Site to the nearest CNC, which must be pre-approved by the relevant Programme Manager.

**Travelling on the Project Site** – An allowance of 40km per day per vehicle will be made from Project Site Camp to the place of execution, however in order to claim, this must be supported by vehicle Tracker records, verified by the Eskom Clerk of Works. Should the daily allowance of 40km be exceeded, pre-approval in writing by the Programme Manager must be obtained. Travelling costs to execute the Scope of work forms part of the labour rate for each activity on the BOQ.

### 5.1.5.2 Material Handling

**5.1.5.2.1 Material Supplied by the Contractor** – A (handling fee) direct fee equal to 5% of the material cost paid, can be claimed by the contractor.

### 5.1.6 Take over procedures

Take-over is after or at the same time as Completion. The *Contractor* is to arrange an inspection before completion of the installation to inspect and identify any outstanding or any defects. The *Project Manager* may require the *Contractor* to provide assistance, on an as and when required basis.

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

The *Project Manager* arranges access for the *Contractor* to use a part of the *works* which has been taken over if needed to correct any Defects. After the *works* have been put into operation, the *Employer* may require the *Contractor* to undertake certain procedures before such access can be granted. The *Contractor* will be responsible for ensuring that the area to be worked in is barricaded before correcting any defects.

### 5.1.8 Performance tests after Completion

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.

### 5.1.9 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*.

## 6 List of drawings

### 6.1 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, a full list of drawings will be detailed in the Project Specific Agreement.

| Drawing number | Revision | Title |
|----------------|----------|-------|
|                |          |       |
|                |          |       |
|                |          |       |
|                |          |       |
|                |          |       |
|                |          |       |

## PART 4: SITE INFORMATION

| Document reference | Title                 | No of pages |
|--------------------|-----------------------|-------------|
| C4                 | This cover page       | 1           |
|                    | Site Information      | 1           |
|                    | Total number of pages | 2           |

## **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.

### **General description**

All relevant descriptions will be specified in the Project Specific Agreement for any project executed in terms of this contract.

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

All relevant information will be specified in the Project Specific Agreement for any project executed in terms of this contract.

### **Subsoil information**

All relevant information will be specified in the Project Specific Agreement for any project executed in terms of this contract.

### **Hidden services**

All relevant information will be specified in the Project Specific Agreement for any project executed in terms of this contract.

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

All relevant information will be specified in the Project Specific Agreement for any project executed in terms of this contract.