NEC3 Term Service Contract (TSC3)

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

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

for **Removal, supply, delivery and installation of new Aircons in Gauteng cluster for a period of 24 months on an ‘as and when required basis**

Contents:		**No of pages**
Part C1	**Agreements & Contract Data**	**[●]**
Part C2	**Pricing Data**	**[●]**
Part C3	**Scope of Work**	**[●]**

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

PART C1: AGREEMENTS & CONTRACT DATA

Contents:

		No of pages
C1.1	**Form of Offer and Acceptance**	**[●]**
	[to be inserted from Returnable Documents at award stage]	
C1.2a	**Contract Data provided by the *Employer***	**[●]**
C1.2b	**Contract Data provided by the *Contractor***	**[●]**
	[to be inserted from Returnable Documents at award stage]	
C1.3	**Proforma Guarantees**	**[●]**

C1.1 Form of Offer & Acceptance

Offer

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

Removal, supply, delivery and installation of new Aircons in Gauteng cluster for a period of 24 months on an 'as and when required basis

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

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

Options A	The offered total of the Prices exclusive of VAT is	**Rate based**
	Value Added Tax @ 15% is	**Rate based**
	The offered total of the amount due inclusive of VAT is[1]	**Rate based**
	(in words) **Rate based**	

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

Signature(s) .....

Name(s) .....

Capacity .....

For the tenderer:

.....

(Insert name and address of organisation)

Name & signature of witness .....

Date .....

Tenderer's CIDB registration number: .....

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

Acceptance

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

The terms of the contract, are contained in:

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

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

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

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

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

Signature(s)		
Name(s)		
Capacity		
for the Employer	1 Dale Road Eskom Academy of Learning Midrand Gauteng	
Name & signature of witness		Date

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

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

Note:

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

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

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

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

	For the tenderer:	**For the Employer**
Signature		
Name		
Capacity		
On behalf of	*(Insert name and address of organisation)*	1 Dale Road Eskom Academy of Learning Midrand Gauteng
Name & signature of witness		
Date		

C1.2 TSC3 Contract Data

Part one - Data provided by the *Employer*

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

Clause	Statement	Data
1	**General**	
	The *conditions of contract* are the core clauses and the clauses for main Option:	
		A: Priced contract with price list
	dispute resolution Option	**W1: Dispute resolution procedure**
	and secondary Options	
		X1: Price adjustment for inflation
		X2 Changes in the law
		X17: Low service damages
		X18: Limitation of liability
		X19: Task Order
		Z: *Additional conditions of contract*
	of the NEC3 Term Service Contract April 2013[2] (TSC3)	
10.1	The *Employer* is (name):	**Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state owned company incorporated in terms of the company laws of the Republic of South Africa**
	Address	**Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg**
	Tel No.	**[●]**
	Fax No.	**[●]**
10.1	The *Service Manager* is (name):	**TBA**
	Address	**[●]**
	Tel	**[●]**
	Fax	**[●]**
	e-mail	**[●]**
11.2(2)	The Affected Property is	**For various sites in Gauteng Cluster**

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

11.2(13)	The *service* is	Removal, supply, delivery and installation of new Aircons in Gauteng cluster on an 'as and when required basis
11.2(14)	The following matters will be included in the Risk Register	• Suppliers' reaction time • Non-compliance to policies, procedures, and relevant legal requirement in line with the scope of work • Poor execution due to not having expertise
11.2(15)	The Service Information is in	**Part 3: Scope of Work and all documents and drawings to which it makes reference.**
12.2	The *law of the contract* is the law of	**the Republic of South Africa**
13.1	The *language of this contract* is	**English**
13.3	The *period for reply* is	**5 Working Days**
2	**The *Contractor*'s main responsibilities**	**Data required by this section of the core clauses is also provided by the *Contractor* in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data**
21.1	The *Contractor* submits a first plan for acceptance within	**4 weeks of the Contract Date**
3	**Time**	
30.1	The *starting date* is.	**TBA**
30.1	The *service period* is	**TBA**
4	**Testing and defects**	**All testing, notification, recording and correction of Defects shall be undertaken in accordance with the requirements of Clause 4- Testing and Defects of the NEC3TSC3 and the Scope of work.**
5	**Payment**	
50.1	The *assessment interval* is	**between the 25th day of each successive month.**
51.1	The *currency of this contract* is the	**South African Rand**
51.2	The period within which payments are made is	**30 Days.**
51.4	The *interest rate* is	**the publicly quoted prime rate of interest (calculated on a 365 day year) charged by from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands and**
6	**Compensation events**	**Refer to Clause 6 – Compensation Events of the NEC3 TSC3.**
7	**Use of Equipment Plant and Materials**	**Refer to Clause 7 – Use of equipment, Plant and Materials of the NEC3 TSC3.**

8	**Risks and insurance**	
80.1	These are additional *Employer*'s risks	**None**
9	**Termination**	**Refer to Clause 9 – Termination of the NEC3 TSC3**
10	**Data for main Option clause**	
A	**Priced contract with price list**	
20.5	The *Contractor* prepares forecasts of the final total of the Prices for the whole of the *service* at intervals no longer than	**4 weeks.**
11	**Data for Option W1**	
W1.1	The *Adjudicator*	**the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see www.ice-sa.org.za). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).**
	Address	**[●]**
	Tel No.	**[●]**
	Fax No.	**[●]**
	e-mail	**[●]**
W1.2(3)	The *Adjudicator nominating body* is:	**the Chairman of ICE-SA a joint Division of the South African Institution of Civil Engineering and the Institution of Civil Engineers (London) (see www.ice-sa.org.za) or its successor body.**
W1.4(2)	The *tribunal* is:	**arbitration**
W1.4(5)	The *arbitration procedure* 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	**Sandton 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.**
12	**Data for secondary Option clauses**	
X1	**Price adjustment for inflation**	
X1.1	The *base date* for indices is	**A month prior to tender closing date**

The proportions used to calculate the Price Adjustment Factor are:

proportion	linked to index for	Index prepared by
50	**Table C3a Labour**	**SEIFSA**
35	**Table UA1 Final Manufactured Goods**	**SEIFSA**
15	**Non-adjustable**	
100		
85	**Table L2A Transport**	**SEIFSA**
15	**non-adjustable**	
100		

CPA will kick in after sixteen (16) months from the base date.

X2	**Changes in the law**	**A change in the law of the country in which the Affected Property is located is a compensation event if it occurs after the Contract Date. The Service Manager may notify the Contractor of a compensation event for a change in the law and instruct him to submit quotations. If the effect of a compensation event which is a change in the law is to reduce the total Defined Cost, the Prices are reduced**
X17	**Low service damages**	
X17.1	The *service level table* is in	

Criteria	Weight	Unit	Target	Penalty- 5% per Task order	Penalty- 10% per Task order	Penalty -15% per Task order
Rework	45%	Months	0	1	3	5
SHEQ	20%	Months	0	1	3	5
Non-Conformance Report	15%	Per Number	0	1	2	3
Call out response	20%	Hr	2 HRS	3 HRS	5HRS	7HRS
Total	**100%**					

X18	**Limitation of liability**	
X18.1	The *Contractor*'s liability to the *Employer* 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 *Contractor*'s liability to the *Employer* for loss of or damage to the *Employer*'s property is	**the amount of the deductibles relevant to the event**

	limited to	
X18.3	The *Contractor*'s liability for Defects due to his design of an item of Equipment is limited to	**The greater of** • **the total of the Prices at the Contract Date and** • **the amounts excluded and unrecoverable from the *Employer*'s insurance (other than the resulting physical damage to the *Employer*'s property which is not excluded) plus the applicable deductibles**
X18.4	The *Contractor*'s total liability to the *Employer*, for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	**the total of the Prices other than for the additional excluded matters.** **The *Contractor's* total liability for the additional excluded matters is not limited.** **The additional excluded matters are amounts for which the *Contractor* is liable under this contract for** • **Defects due to his design, plan and specification,** • **Defects due to manufacture and fabrication outside the Affected Property,** • **loss of or damage to property (other than the *Employer*'s property, Plant and Materials),** • **death of or injury to a person and** • **infringement of an intellectual property right.**
X18.5	The *end of liability date* is	**60 months after the end of the *service period*.**
X19	**Task Order**	
X19.5	The *Contractor* submits a Task Order programme to the *Service Manager* within	**5 days of receiving the Task Order**
Z	**The *additional conditions of contract* are**	**Z1 to Z14 always apply.**

Z1 Cession delegation and assignment

Z1.1 The *Contractor* does not cede, delegate or assign any of its rights or obligations to any person without the written consent of the *Employer.*

Z1.2 Notwithstanding the above, the *Employer* may on written notice to the *Contractor* cede and delegate its rights and obligations under this contract to any of its subsidiaries or any of its present divisions or operations which may be converted into separate legal entities as a result of the restructuring of the Electricity Supply Industry.

Z2 Joint ventures

Z2.1 If the *Contractor* constitutes a joint venture, consortium or other unincorporated grouping of two or more persons or organisations then these persons or organisations are deemed to be jointly and severally liable to the *Employer* for the performance of this contract.

Z2.2 Unless already notified to the *Employer*, the persons or organisations notify the *Service Manager* within two weeks of the Contract Date of the key person who has the authority to bind the *Contractor* on their behalf.

Z2.3 The *Contractor* does not alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without the consent of the *Employer* having been given to the *Contractor* in writing.

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

Z3.1 Where a change in the *Contractor's* legal status, ownership or any other change to his business composition or business dealings results in a change to the *Contractor*'s B-BBEE status, the *Contractor* notifies the *Employer* within seven days of the change.

Z3.2 The *Contractor* is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the *Service Manager* within thirty days of the notification or as otherwise instructed by the *Service Manager*.

Z3.3 Where, as a result, the *Contractor's* B-BBEE status has decreased since the Contract Date the *Employer* may either re-negotiate this contract or alternatively, terminate the *Contractor*'s obligation to Provide the Service.

Z3.4 Failure by the *Contractor* to notify the *Employer* of a change in its B-BBEE status may constitute a reason for termination. If the *Employer* terminates in terms of this clause, the procedures on termination are P1, P2 and P4 as stated in clause 92, and the amount due is A1 and A3 as stated in clause 93.

Z4 Confidentiality

Z4.1 The *Contractor* does not disclose or make any information arising from or in connection with this contract available to Others. This undertaking does not, however, apply to information which at the time of disclosure or thereafter, without default on the part of the *Contractor*, enters the public domain or to information which was already in the possession of the *Contractor* at the time of disclosure (evidenced by written records in existence at that time). Should the *Contractor* disclose information to Others in terms of clause 25.1, the *Contractor* ensures that the provisions of this clause are complied with by the recipient.

Z4.2 If the *Contractor* is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the *Service Manager*.

Z4.3 In the event that the *Contractor* is, at any time, required by law to disclose any such information which is required to be kept confidential, the *Contractor*, to the extent permitted by law prior to disclosure, notifies the *Employer* so that an appropriate protection order and/or any other action can be taken if possible, prior to any disclosure. In the event that such protective order is not, or cannot, be obtained, then the *Contractor* may disclose that portion of the information which it is required to be disclosed by law and uses reasonable efforts to obtain assurances that confidential treatment will be afforded to the information so disclosed.

Z4.4 The taking of images (whether photographs, video footage or otherwise) of the Affected Property or any portion thereof, in the course of Providing the Service and after the end of the *service period*, requires the prior written consent of the *Service Manager*. All rights in and to all such images vests exclusively in the *Employer*.

Z4.5 The *Contractor* ensures that all his subcontractors abide by the undertakings in this clause.

Z5 Waiver and estoppel: Add to core clause 12.3:

Z5.1 Any extension, concession, waiver or relaxation of any action stated in this contract by the

Parties, the *Service Manager* or the *Adjudicator* does not constitute a waiver of rights, and does not give rise to an estoppel unless the Parties agree otherwise and confirm such agreement in writing.

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

Z6.1 The *Contractor* undertakes to take all reasonable precautions to maintain the health and safety of persons in and about the execution of the *service*. Without limitation the *Contractor*:

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

Z6.2 The *Contractor*, in and about the execution of the *service*, complies with all applicable environmental laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his Subcontractors, employees and others under the *Contractor's* direction and control, likewise observe and comply with the foregoing.

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

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

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

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

Z8 Notifying compensation events

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

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

Z9 *Employer's* limitation of liability

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

Z9.2 The *Contractor*'s entitlement under the indemnity in 82.1 is provided for in 60.1(12) and the

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

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

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

Z11 Ethics

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

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

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

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

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

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

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

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

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

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

Z11.2 The *Employer* may terminate the *Contractor*'s obligation to Provide the Services if a Committing Party has taken such Prohibited Action and the *Contractor* did not take timely and appropriate action to prevent or remedy the situation, without limiting any other rights or remedies the *Employer* has. It is not required that the Committing Party had to have been found guilty, in court or in any other similar process, of such Prohibited Action before the *Employer* can terminate the *Contractor*'s obligation to Provide the Services for this reason.

Z11.3 If the *Employer* terminates the *Contractor*'s obligation to Provide the Services for this reason, the amounts due on termination are those intended in core clauses 92.1 and 92.2.

Z11.4 A Committing Party co-operates fully with any investigation pursuant to alleged Prohibited Action. Where the *Employer* does not have a contractual bond with the Committing Party, the *Contractor* ensures that the Committing Party co-operates fully with an investigation.

Z12 Insurance

Z _12 .1 Replace core clause 83 with the following:

Insurance cover 83

83.1 When requested by a Party, the other Party provides certificates from his insurer or broker stating that the insurances required by this contract are in force.

83.2 The *Contractor* provides the insurances stated in the Insurance Table A from the *starting date* until the earlier of Completion and the date of the termination certificate.

INSURANCE TABLE A

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

Z __12.2 Replace core clause 86 with the following:

Insurance by the *Employer*

86

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

INSURANCE TABLE B

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

Z13 Nuclear Liability

Z13.1 The *Employer* is the operator of the Koeberg Nuclear Power Station (KNPS), a nuclear installation, as designated by the National Nuclear Regulator of the Republic of South Africa, and is the holder of a nuclear licence in respect of the KNPS.

Z13.2 The *Employer* is solely responsible for and indemnifies the *Contractor* or any other person against any and all liabilities which the *Contractor* or any person may incur arising out of or resulting from nuclear damage, as defined in Act 47 of 1999, save to the extent that any liabilities are incurred due to the unlawful intent of the *Contractor* or any other person or the presence of the *Contractor* or that person or any property of the *Contractor* or such person at or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.

Z13.3 Subject to clause Z13.4 below, the *Employer* waives all rights of recourse, arising from the aforesaid, save to the extent that any claims arise or liability is incurred due or attributable to the unlawful intent of the *Contractor* or any other person, or the presence of the *Contractor* or that person or any property of the *Contractor* or such person at or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.

Z13.4 The *Employer* does not waive its rights provided for in section 30 (7) of Act 47 of 1999, or any replacement section dealing with the same subject matter.

Z13.5 The protection afforded by the provisions hereof shall be in effect until the KNPS is decommissioned.

Z14 Asbestos

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

AAIA means approved asbestos inspection authority.

ACM means asbestos containing materials.

AL means action level, i.e. a level of 50% of the OEL, i.e. 0.1 regulated asbestos fibres per ml of air measured over a 4 hour period. The value at which proactive actions is required in order to control asbestos exposure to prevent exceeding the OEL.

Ambient Air means breathable air in area of work with specific reference to breathing zone, which is defined to be a virtual area within a radius of approximately 30cm from the nose inlet.

Compliance Monitoring means compliance sampling used to assess whether or not the personal exposure of workers to regulated asbestos fibres is in compliance with the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.

OEL means occupational exposure limit.

Parallel Measurements means measurements performed in parallel, yet separately, to existing measurements to verify validity of results.

Safe Levels means airborne asbestos exposure levels conforming to the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.

Standard means the *Employer*'s Asbestos Standard 32-303: Requirements for Safe Processing, Handling, Storing, Disposal and Phase-out of Asbestos and Asbestos Containing Material, Equipment and Articles.

SANAS means the South African National Accreditation System.

TWA means the average exposure, within a given workplace, to airborne asbestos fibres, normalised to the baseline of a 4 hour continuous period, also applicable to short term exposures, i.e. 10-minute TWA.

Z14.1 The *Employer* ensures that the Ambient Air in the area where the *Contractor* will Provide the Services conforms to the acceptable prescribed South African standard for asbestos, as per the regulations published in GNR 155 of 10 February 2002, under the Occupational Health and Safety Act, 1993 (Act 85 of 1993) ("Asbestos Regulations"). The OEL for asbestos is 0.2 regulated asbestos fibres per millilitre of air as a 4-hour TWA, averaged over any continuous period of four hours, and the short term exposure limit of 0.6 regulated asbestos fibres per millilitre of air as a 10-minute TWA, averaged over any 10 minutes, measured in accordance with HSG248 and monitored according to HSG173 and OESSM.

Z14.2 Upon written request by the *Contractor*, the *Employer* certifies that these conditions prevail. All measurements and reporting are effected by an independent, competent, and certified occupational hygiene inspection body, i.e. a SANAS accredited and Department of Employment and Labour approved AAIA. The *Contractor* may perform Parallel Measurements and related control measures at the *Contractor*'s expense. For the purposes of compliance the results generated from Parallel Measurements are evaluated only against South African statutory limits as detailed in clause Z14.1. Control measures conform to the requirements stipulated in the AAIA-approved asbestos work plan.

Z14.3 The *Employer* manages asbestos and ACM according to the Standard.

Z14.4 In the event that any asbestos is identified while Providing the Services, a risk assessment is conducted and if so required, with reference to possible exposure to an airborne concentration of above the AL for asbestos, immediate control measures are implemented and relevant air

monitoring conducted in order to declare the area safe.

Z14.5 The *Contractor*'s personnel are entitled to stop working and leave the contaminated area forthwith until such time that the area of concern is declared safe by either Compliance Monitoring or an AAIA approved control measure intervention, for example, per the emergency asbestos work plan, if applicable.

Z14.6 The *Contractor* continues to Provide the Services, without additional control measures presented, on presentation of Safe Levels. The contractually agreed dates to Provide the Services, including the Completion Date, are adjusted accordingly. The contractually agreed dates are extended by the notification periods required by regulations 3 and 21 of the Asbestos Regulations, 2001.

Z14.7 Any removal and disposal of asbestos, asbestos containing materials and waste, is done by a registered asbestos contractor, instructed by the *Employer* at the *Employer*'s expense, and conducted in line with South African legislation.

C1.2 Contract Data

Part two - Data provided by the *Contractor*

Notes to a tendering contractor:

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

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

Clause	Statement	Data
10.1	The *Contractor* is (Name): Address Tel No. Fax No.	
11.2(8)	The *direct fee percentage* is The *subcontracted fee percentage* is	**%** **%**
11.2(14)	The following matters will be included in the Risk Register	
11.2(15)	The Service Information for the *Contractor*'s plan is in:	
21.1	The plan identified in the Contract Data is contained in:	
24.1	The key people are: 1 Name: Job: Responsibilities: Qualifications: Experience: 2 Name: Job Responsibilities: Qualifications:	

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

Experience:

		CV's (and further key person's data including CVs) are in.
A	**Priced contract with price list**	
11.2(12)	The *price list* is in	
11.2(19)	The tendered total of the Prices is	**R**

PART 2: PRICING DATA

TSC3 Option A

Document reference	Title	No of pages
C2.1	Pricing assumptions: Option A	2
C2.2	The *price list*	**[●]**

C2.1 Pricing assumptions: Option A

How work is priced and assessed for payment

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

Identified and defined terms 11 11.2 (12) The Price List is the *price list* unless later changed in accordance with this contract.

(17) The Price for Services Provided to Date is the total of

- the Price for each lump sum item in the Price List which the *Contractor* has completed and
- where a quantity is stated for an item in the Price List, an amount calculated by multiplying the quantity which the *Contractor* has completed by the rate.

(19) The Prices are the amounts stated in the Price column of the Price List. Where a quantity is stated for an item in the Price List, the Price is calculated by multiplying the quantity by the rate.

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

Function of the Price List

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

Link to the *Contractor*'s plan

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

Preparing the *price list*

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

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

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

Format of the *price list*

(From the example given in an Appendix within the TSC3 Guidance Notes)

Entries in the first four columns in the *price list* in section C2.2 are made either by the *Employer* or the tendering contractor.

If the *Contractor* is to be paid an amount for the item which is not adjusted if the quantity of work in the item changes, the tendering contractor enters the amount in the Price column only, the Unit, Expected Quantity and Rate columns being left blank.

If the *Contractor* is to be paid an amount for an item of work which is the rate for the work multiplied by the quantity completed, the tendering contractor enters the rate which is then multiplied by the Expected Quantity to produce the Price, which is also entered.

If the *Contractor* is to be paid a Price for an item proportional to the length of time for which a service is provided, a unit of time is stated in the Unit column and the expected length of time (as a quantity of the stated units of time) is stated in the Expected Quantity column.

C2.2 the *price list*

DESCRIPTION	Unit of Measure	RATE
SECTION NO: 1 PRELIMINARY AND GENERAL		
Health &Safety :		
Safety file	Once- off	
Medical Screening	Per/Person	
PPE	Per/Person	
Transport		
4 Ton truck	Km	
10 Ton Truck	Km	
SUPPLY AND INSTALLATION OF AIR-CONDITIONING		
18 000 BTU Split unit aircondition	Each	
18 000 cassatte ceiling units	Each	
12 000 BTU Split unit air-condition	Each	
Labour rates for new Installation and removal of old units		

Supervisor	per hour	
Artisan/Technician	per hour	
Safety officer	per hour	
Mark-up %	%	

Mark-up will apply if the material is not included in the normal back to back installation

PART 3: SCOPE OF WORK

Document reference	Title	No of pages
	This cover page	1
C3.1	*Employer*'s Service Information	
C3.2	*Contractor*'s Service Information	
	Total number of pages	

C3.1: EMPLOYER'S SERVICE INFORMATION

Contents

When the document is complete, insert a 'Table of Contents'. To do this go to: Insert, → Reference, → Index and tables → Table of Contents. Three levels and the title (but not the subtitle) may be shown if the formats used in this template are retained.

Otherwise insert list of contents manually.

Part 3: Scope of Work 23
C3.1: Employer's service Information 24
1 Description of the *service* 26
1.1 Executive overview ..... **Error! Bookmark not defined.**
1.2 *Employer*'s requirements for the *service* 26
1.3 Interpretation and terminology 27
2 Management strategy and start up. 28
2.1 The *Contractor*'s plan for the *service* 28
2.2 Management meetings 28
2.3 *Contractor*'s management, supervision and key people 28
2.4 Provision of bonds and guarantees 29
2.5 Documentation control 29
2.6 Invoicing and payment 29
2.7 Contract change management 30
2.8 Records of Defined Cost to be kept by the *Contractor* 30
2.9 Insurance provided by the *Employer* 30
2.10 Training workshops and technology transfer 30
2.11 Design and supply of Equipment 31
2.12 Things provided at the end of the *service period* for the *Employer*'s use 31
2.12.1 Equipment 31
2.12.2 Information and other things 31
2.13 Management of work done by Task Order 31
3 Health and safety, the environment and quality assurance 31
3.1 Health and safety risk management 31
3.2 Environmental constraints and management 32
3.3 Quality assurance requirements 32
4 Procurement 33
4.1 People 33
4.1.1 Minimum requirements of people employed 33
4.1.2 BBBEE and preferencing scheme 33
4.1.3 Accelerated Shared Growth Initiative – South Africa (ASGI-SA) **Error! Bookmark not defined.**
4.2 Subcontracting 33
4.2.1 Preferred subcontractors 33
4.2.2 Subcontract documentation, and assessment of subcontract tenders 33
4.2.3 Limitations on subcontracting 33
4.2.4 Attendance on subcontractors 33
4.3 Plant and Materials 33
4.3.1 Specifications 33
4.3.2 Correction of defects 34
4.3.3 *Contractor*'s procurement of Plant and Materials 34
4.3.4 Tests and inspections before delivery 34
4.3.5 Plant & Materials provided "free issue" by the *Employer* 34
4.3.6 Cataloguing requirements 34
5 Working on the Affected Property 34
5.1 *Employer*'s site entry and security control, permits, and site regulations 34

5.2 People restrictions, hours of work, conduct and records 35
5.3 Health and safety facilities on the Affected Property 35
5.4 Environmental controls, fauna & flora 35
5.5 Cooperating with and obtaining acceptance of Others 35
5.6 Records of *Contractor*'s Equipment 35
5.7 Equipment provided by the *Employer* 35
5.8 Site services and facilities 35
5.8.1 Provided by the *Employer* 35
5.8.2 Provided by the *Contractor* 36
5.9 Control of noise, dust, water and waste 36
5.10 Hook ups to existing works 36
5.11 Tests and inspections 36
5.11.1 Description of tests and inspections 36
5.11.2 Materials facilities and samples for tests and inspections 36
6 List of drawings 36
6.1 Drawings issued by the *Employer* 36

1. Description of the *service*

1.1. *Employer*'s requirements for the *service*

The scope of work includes:

- Supply and install of 12 000 BTU split air conditioning units with all associated accessories (i.e. piping, electrical, etc) required for the full functioning of the unit.
- Supply and install of 18 000 BTU split air conditioning units with all associated accessories (i.e. piping, electrical, etc) required for the full functioning of the unit.
- Supply and install of 18 000 cassette ceiling units with all associated accessories (i.e. piping, electrical, etc) required for the full functioning of the unit.
- The total number of units are plus /minus 550. The installation will be conducted in various sites.
- The Contractor must conduct all required testing and provide testing records of the Units. Eskom representative must be present when the strength test is conducted at 4100kpa, the leak test at 3000kpa, and the vacuum test at 200 microns or less.
- C.O.C. (certificate of conformity) to be issued for each site.
- Execution must be conducted in compliance with Mechanical and Electrical Engineering Standards and Health and Safety Regulations requirements.
- The Contractor must comply with the Quality Requirement (QM-58) Standard for the execution of the scope requirement.
- The Contractor must provide operating and maintenance manuals for air conditioning units.
- Final positions will be pointed out on site. (evaporators, condensers and remotes)
- Refrigerant piping will be supported on cable trays.
- Refrigerant piping outside the building will be in galvanized trunking or cable trays with covers were necessary.
- Refrigerant piping, where exposed inside the building to be in a white PVC trunking or/ and be supported on cable trays in the ceiling.
- A drain layout to be submitted to the Employer for review and acceptance before installation.
- Drains must run all the way down to ground level of the building outside and breathers where runs along.
- Condenser installation to be on the roof or side of the building. The units must be on frames +/- 300mm above the roof or on a side so that waterproofing can be done under the units.
- Warranties should last for 5 years for compressor and 2 years on the overall unit.

- Waterproofing also needs to be done where the piping and cabling will go through the roof to the inside units

- The supplier must provide the warranty and lifespan policy for each brand, each unit must be registered for a warranty.

- Defects period that is due to poor workmanship will be 6 months from installation

- The supplier must provide the return policy in terms of damaged units it must specify period

TAKE NOTE OF THE FOLLOWING INFORMATION

The HVAC industry is phasing out high-global warming potential (GWP) refrigerants, primarily R-410A, in Favor of more eco-friendly options like R-32 and R-454B.

- -410A Replacement: New AC units will use R-32 or R-454B, which are considered more sustainable but are classified as A2L "mildly flammable
- R-22 units : R-22 is almost entirely phased out and obsolete, making repairs extremely costly. They is not recommended for Gauteng Cluster.

1.2. Interpretation and terminology

1.2.1. The following abbreviations are used in this Service Information:

Abbreviation	Meaning given to the abbreviation
BOQ	Bill of Quantities
BTU	British Thermal Unit

1.2.2. Acceptance of Eskom 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 4 as indicated.

No	Unique Identifier	Revision	Document Title
1	240-15322226	1	**Tender Technical Evaluation Criteria – Supply and Installation of air conditioning units for Gauteng Cluster.** Tender Technical Evaluation Criteria Air
2	240-73416879	2	**SHE specification** SHE specification for Supply, delivery and ii
3	240-DX-GP-003T	1	**FINAL ENVIRONMENTAL CRITERIA** Environmental Specifications_Aircon_
4	240-77471651	2	**Annexure C 1: SHE Tender Evaluation Template (High risk)** Annexure C1-Aircon.pdf
5	240-12248652	7	**Supplier Quality Management: List of Tender Returnables Documents**

			 240-12248652 (Rev 7)_List of Tender Retu
6	**240-68099512**	**9**	**TENDER & CONTRACT QUALITY REQUIREMENTS FOR 240-105658000 AND QUALITY REQUIREMENTS FOR ISO 9001 STANDARD**  240-68099512 (Rev 9) Form A Tender & Cor

2. Management strategy and start up.

2.1. The *Contractor*'s plan for the *service*.

2.2. Management meetings

The *conditions of contract* (e.g. Clause 16.2) and other sections of the Service Information (e.g. safety risk management) may require that a meeting shall be held. However the intention of all NEC contracts is that the Parties and their agents use the techniques of partnering to manage the contract by holding meetings designed to pro actively and jointly manage the administration of the contract with the objective of minimising the adverse effects of risks and surprises for both Parties.
Depending on the size and complexity of the *service*, it is probably beneficial for the *Service Manager* to hold a weekly risk register meeting (Clause 16.2). This could be used to discuss safety, compensation events, subcontracting, overall co-ordination and other matters of a general nature. Separate meetings for specialist activities such as planning and activities of a technical nature may also be warranted.
Describe here the general meetings and their purpose. Provide particulars of approximate times, days, location, and attendance requirements, stipulating that attendees shall have the necessary delegated authority to make decisions in respect of matters discussed at such meetings.
The following text could be used as a model for this section:

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

Title and purpose	Approximate time & interval	Location	Attendance by:
Risk register and compensation events	Weekly	TBC	All required stakeholders
Overall contract progress and feedback	Monthly	TBC	*All required stakeholders*

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

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

2.3. *Contractor*'s management, supervision and key people

The *Contractor* is to submit an organogram showing all key people involved in the contract Seven (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.

2.4. Provision of bonds and guarantees

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

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

2.5. Documentation control

- Document management control will be handled as per the *Employer's* document and records management procedure 32-6,32-21 which is obtainable from the *Employer's* representative.
- All correspondence is to be addressed to the *Project Manager* with a chronological numbering system.
- All NEC standard forms shall be used, e.g., Task orders, Early warnings, defect certificates and assessments.

2.6. Invoicing and payment

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

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

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

- Name and address of the *Contractor* and the *Service 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;
- Goods receipts

Add 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 an attached 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)	
With Reference Invoices	**X**
- 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)	

2.7. Contract change management

The *Employer* may instruct changes to the scope at any time, each instruction shall set out the change and the date on which it becomes effective; and must be issued to the *Contractor* in writing to be valid.

Any compensation event will be done with the use of ISO approved Task Order Modification form

2.8. Records of Defined Cost to be kept by the *Contractor*

The *Contractor* keeps complete and accurate records of Defined Cost incurred in providing the Services. The records include, but are not limited to, records of labour, plant and equipment, materials, subcontractors, transport, accommodation, site-related costs and other costs applicable to the Services.

The *Contractor* provides the Project Manager with access to the records when required for the assessment of Defined Cost, Prices, payments and compensation events.

Records are supported by appropriate documentary evidence, including invoices, timesheets, delivery notes, purchase orders, quotations, plant records and other relevant supporting documents.

The *Contractor* retains the records for the period required by the Contract and makes them available for inspection and audit by the Employer or the *Project Manager* when requested

2.9. Insurance provided by the *Employer*

The *Contractor* is responsible for all deductibles as listed in annexure B.

2.10. Training workshops and technology transfer

The *Contractor* provides training workshops and technology transfer to the Employer's designated personnel in relation to the Services provided under the Contract.

The *Contractor* demonstrates the operation and maintenance procedures and provides practical training where required to ensure that the Employer's personnel are able to operate and maintain the equipment safely and effectively.

All training and technology transfer required under this clause are provided in accordance with the Scope and the applicable manufacturer's requirements and standards.

2.11. Design and supply of Equipment

N/A

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

2.12.1. Equipment

None

2.12.2. Information and other things

- Maintenance Plan
- Guarantees and Warranty - 2 years for workmanship and compressor for 5 years
- Specify return Policy

2.13. Management of work done by Task Order

A Task Order will be issued for tasks at hand as per descriptions from the *Employer's Representative* who will be managing this contract on the behalf of the *Employer*.

3. Health and safety, the environment and quality assurance

3.1. Health and safety risk management

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

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

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

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

· Generation: Roley McIntyre
· Transmission: Tony Patterson
· Enterprises: Jace Naidoo
· Corporate: Kerseri Pather

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, 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* shall comply with the health and safety requirements contained in Section 1.3.2. to this Service Information.

3.2. 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.

The *Contractor* shall comply with the health and safety requirements contained in Section 1.3.2. to this Service Information.

3.3. Quality assurance 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, workflow 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 realize 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).

The *Contractor* shall comply with the health and safety requirements contained in Section 1.3.2. to this Service Information.

4. Procurement

4.1. People

4.1.1. Minimum requirements of people employed

All people employed by the *Contractor* should have Police Clearance before work can commence.

The *Contractor's* employees shall comply to Eskom Life Saving Rules

4.1.2. BBBEE and preferencing scheme

The criteria set out as per the Invitation to Tender shall apply

4.1.3. SDL&I

The criteria set out as per the Invitation to Tender shall apply

4.2. Subcontracting

4.2.1. Preferred subcontractors

Not applicable

4.2.2. Subcontract documentation, and assessment of subcontract tenders

Refer to SDL&I document in annexure C

4.2.3. Limitations on subcontracting

Refer to SDL&I document in annexure C

4.2.4. Attendance on subcontractors

Refer to SDL&I document in annexure C

4.3. Plant and Materials

4.3.1. Specifications

The *Contractor* shall supply and install only Eskom-approved air-conditioning equipment, materials and products approved at the time the equipment or material is required. The Contractor shall ensure that the latest applicable Eskom-approved equipment and materials are used, noting that approved products may change over time.

The *Contractor* shall comply with the requirements of the Eskom authorised engineering department(s) regarding the selection and installation of air-conditioning systems. Where an approved product is not

available or cannot be identified, the Contractor shall submit a suitable proposal for approval before procuring the equipment or materials.

The *Contractor* shall submit relevant technical specifications, drawings, manufacturer's data sheets, test certificates, compliance certificates and other documentation required by the Eskom authorised engineering department(s) for review and approval.

The *Contractor* shall only procure and install the air-conditioning equipment and associated materials after the required approval has been obtained.

4.3.2. Correction of defects

The *Contractor* shall promptly correct any Defects identified during the execution, testing, commissioning or use of the Services.

The correction of Defects shall be carried out at the *Contractor's* cost where the Defect is due to the *Contractor's* workmanship, materials, equipment or failure to comply with the Scope.

The *Contractor* shall notify the Project Manager once the Defect has been corrected and shall provide any required evidence of testing or verification.

4.3.3. *Contractor*'s procurement of Plant and Materials

The *Contractor* shall procure all Plant and Materials required for the supply and installation of the air-conditioning systems in accordance with the Scope.

All Plant and Materials shall be new, fit for purpose, Eskom-approved and comply with the specified standards and technical requirements. The *Contractor* shall obtain the necessary approvals before procurement and shall provide the required supporting documentation when requested by the *Project Manager.*

4.3.4. Tests and inspections before delivery

The *Contractor* shall carry out all required tests and inspections on the air-conditioning equipment and associated materials before delivery to site. The *Contractor* shall provide test certificates, inspection reports and other relevant documentation to the *Project Manager* upon request. Only equipment and materials that comply with the Scope and approved specifications shall be delivered to site.

4.3.5. Plant & Materials provided "free issue" by the *Employer*

N/A

4.3.6. Cataloguing requirements by the *Contractor*

N/A

5. Working on the Affected Property

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

The *Contractor* and its personnel shall comply with all Eskom site entry, security, access control, permit and site regulations applicable to the Services.

The *Contractor* shall ensure that all personnel, vehicles, Plant and Materials entering an Eskom site have the required approvals, permits and documentation.

The *Contractor* shall comply with Eskom's health, safety, environmental and security requirements and shall ensure that its personnel attend all required site inductions before commencing work.

The *Contractor* shall be responsible for obtaining and maintaining all permits and approvals required for its activities, unless otherwise stated in the Scope.

5.2. People restrictions, hours of work, conduct and records

a) The *Contracto*r shall ensure that Eskom approved and specified PPE is worn by all employees during site meetings, inspections, work being performed or any other instance where the *Contractor's* employees are on-site.

b) The *Contractor* shall ensure that all contractor specific Risk Assessment Procedures, Quality Management Systems, Health and Safety Specifications, Environmental Plans, Safety Inspections, OHSA appointments, and Non-Conformance Process are in place and available on-site and can be presented to Eskom when requested to do so.

c) *Contractor* to keep record of working hours and number of staff in the project file. To also file records of subcontractors

5.3. Health and safety facilities on the Affected Property

First Aid facilities provided by Eskom are available at the designated site location and the Contractor shall familiarise all personnel with their location and the applicable emergency arrangements before commencing work.

The Contractor shall provide any additional health and safety facilities required for its activities and shall ensure that suitable emergency arrangements are maintained throughout the execution of the Services.

5.4. Environmental controls, fauna & flora

N/A

5.5. Cooperating with and obtaining acceptance of Others

The *Contractor* shall cooperate with Eskom personnel, other *Contractors*, Suppliers and Others working on or near the Affected Property to ensure that the Services are carried out safely and without unnecessary disruption.

Where acceptance, approval or coordination with Others is required, the *Contractor* shall obtain such acceptance or approval before proceeding with the relevant work and shall provide the *Project Manager* with the required confirmation or records.

5.6. Records of *Contractor*'s Equipment

Records of *Contractor's* equipment are to be kept on file on site whereby the Project Manager has access to this file at all times.

5.7. Equipment provided by the *Employer*

n/a

5.8. Site services and facilities

5.8.1. Provided by the *Employer*

Eskom shall provide access to the existing office facilities required for the Contractor to carry out the Services, including access to the designated work areas and existing electrical supply where available.

The Contractor shall use the existing facilities responsibly and shall not interfere with or modify existing services without the prior approval of the Project Manager.

The Contractor shall protect the existing office facilities, furniture, equipment and finishes during the execution of the Services and shall make good any damage caused by its activities.

5.8.2. Provided by the *Contractor*

The Contractor shall provide all temporary services, tools, equipment, access equipment, protective materials and other facilities required to carry out the supply and installation of the air-conditioning systems.

The Contractor shall provide any temporary power, lighting, barriers and protection required for the safe execution of the work where the existing office facilities are not suitable or available.

The Contractor shall remove all temporary facilities, tools and equipment on completion of the Services and leave the affected office areas clean and safe.

5.9. Control of noise, dust, water and waste

The *Contractor* must comply with SHE and Environmental Requirements

5.10. Hook ups to existing works

The *Contractor* must comply with SHE and Environmental Requirements

5.11. Tests and inspections

5.11.1. Description of tests and inspections

The *Service Manager* shall inspect the completed installation and witness tests where required. The Contractor shall provide test results, certificates and commissioning records upon request.

Any defects identified during the tests or inspections shall be corrected by the *Contractor* before the installation is accepted.

5.11.2. Materials facilities and samples for tests and inspections

Where required by the *Service Manager*, the *Contractor* shall provide samples, test certificates, manufacturer's data sheets and other relevant documentation for inspection and approval before installation.

All testing equipment shall be suitable, calibrated and in good working condition. The *Contractor* shall make the necessary arrangements for testing and shall record and submit the results to the *Service Manager.*

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.

Drawing number	Revision	Title

Annexure B

To whom it may concern

This letter serves to confirm the insurance cover as follows:

Insurer	:	ESCAP SOC Ltd
Insured	:	Eskom Holdings SOC Ltd
Additional Insureds	:	Entities dictated by financial or operational interest of the Insured, each for their respective rights and interest All contractors undertaking work for or on behalf of the Named Insured but only in respect of the execution of any contract(s) (the "Contracts") between the contractor and Named Insured (it being understood that where the Named Insured undertakes the work they shall be deemed to be the "Contractor" provided that their rights hereunder shall not exceed the rights of any independent contractor working on behalf of the Named Insured) (hereinafter called the "Contractor"). All subcontractors employed by the Contractor and all other subcontractors (whether nominated or otherwise engaged but only in respect of the fulfilment of the contract(s)) (hereinafter called the "Subcontractor") for their respective rights and interests. Any reference to Insured in this Policy shall apply to the Named Insured and where applicable the Additional Insured listed above. Cover in respect of contractors and subcontractors shall only be provided to the extent that the Named Insured undertakes in the contracts with the Additional Insured between the Named Insured and Contractor and/or Subcontractor to provide the Insurance coverage found in this policy (hereinafter called the "Insurance Cover") for such parties
Policy name	:	Annual Construction All Risks
Period of insurance	:	01 April 2025 – 31 March 2026

Policy limit : **Section I - Contract Works:**

Actual contract works project value of up to **R 1 billion and 60 months at inception**, thereafter unlimited in value and project time up to completion.

Section II - Contract Works Public Liability:

R25 million, any occurrence or series of occurrences arising out of one event

Policy coverage : Direct physical loss of or damage to any part of the Works and property insured including while in transit or at storage, including third party liability.

Policy deductibles : As per table below

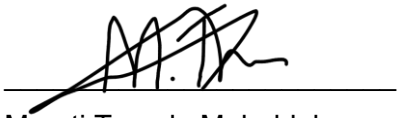
Deductible	**Division / Coverage**
Section I – Contract Works	
R 500,000	Physical Damage to Property
R10 000 000	Transmission – Theft and Vandalism
R 5,000,000	Distribution - Theft & Vandalism
R1 000 000	Eskom Rotek Industries – Theft and Vandalism
R 50,000	Debris Removal
R 50,000	Debris Removal (No Damage)
R 25,000	Borrowing of plant for commission purposes
R 1,000	Documentation
Section II – Contractors' Public Liability	
R 50,000	Damage resulting from Fire and Spread of Fire
R 20,000	All other losses

Note:

Cover is only limited to projects declared for the insurance period stipulated above and as verified and finalised by the Insurer.

Should you have any queries, please contact the Insurer at MmutleM@eskom.co.za

Yours sincerely



Moreti Tumelo Mphahlele

Escap SOC Ltd – Underwriting

Date: 01 April 2025

ANNEXURE C

Business Unit	Gauteng Operating Unit
Description/ Scope of Work	Supply, delivery and installation of new Aircons in Gauteng cluster on an 'as and when required basis 'for period of 24 months
Duration of the Project	2 Years
Budget	
Name of Buyer	Masego Tolo

Section 1: Objective criteria

The inclusion of objective criteria in an enquiry is not mandatory but a condition for contract award, and if included, this must align with the requirements of the PPPFA [clause 2(1)(f)] and be clearly stated in the enquiry together with the consequence of such objective criteria (i.e., if the tenderer does not meet objective criteria; it may lead to the second-ranked tenderer being recommended for award).

1.1 Designated Sectors

When applicable the following stipulated minimum threshold for Local Production and Content must be achieved in full by the tenderer

	YES	NO
a) Is this Commodity or part of it a Designated Sector?	☐	☑

Please indicate below Designated Components

Commodity	Components	Local Content Threshold
Not Applicable	Not Applicable	Not Applicable

NOTE: SBD 6.2 Declaration Form and Annex C (Local Content Declaration-Summary Schedule) are therefore **mandatory for contract award.**

1.2 CIDB Skills Development Continuation of Mandatory Requirements for Contract Award

	YES	NO
a) Is there CIDB compulsory training?	☐	☑
If *Yes,* what is the% of the Construction Skills Development Goal % (CSDG)		

If the answer above is Yes, it will then be mandatory for the supplier to match Eskom's targets

Criteria	Eskom Target	Tenderer Commitment
CSDG Percentage		
Description	Ref 4. Skills Development Section	

1.3 NIPP (NOT APPLICABLEA)

In line with DTI requirements on important content that are above $5million, the National Industrial Participation Programme must be applied in order to stimulate local manufacturing capability and job creation. International manufactures/Suppliers of Power Quality Monitoring Instruments have to commit on minimum thirty percent local participation programme through formalized DTI NIPP obligations agreements. Therefore, in line with NIPP requirements, once the contract is awarded, the international company has to complete SBD 5 form as an undertaking to DTI.

Note: The above NIPP obligation will apply only if the foreign portion is equivalent or more than the stipulated minimum threshold of $5 million. Suppliers will be encouraged to indicate or declare how much local manufacturing / procurement spend amounts to in this transaction. In an event where the foreign content does not exceed the NIPP threshold of $5 million, the normal SDL&I targets of skills development will be applied.

Section 2: Other SDL&I Objectives in line with RDP Goals

Tenderers who complete and submit the undertaking as required, but who do not meet Eskom's targets, will not be disqualified. SDL&I undertakings do not form part of scoring but commitments will form part of contractual obligations

1. **BBBEE requirements:** All tenderers must at a minimum maintain their BBBEE status throughout the contract period.

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

Type of Jobs to be created Skilled	Number of Jobs to be created Unskilled
Type of Jobs to be Semi Skilled	**Number of Jobs to be retained**

Local recruitment requirements:

Type of jobs	Target set (local-to-site)	Suppliers Proposal
General workers	100%	
Semi-skilled	70%	
Skilled	10%	

3. Subcontracting

Tenderers shall subcontract available subcontracting opportunities in the value chain of the contract to the following designated groups:

- an EME or QSE which is 51% owned by black people living in rural or underdeveloped area or townships.

NOTE 1: Tenderers shall submit the following mandatory returnable for Subcontracting:

- Subcontracting agreement signed by both with subcontractors' company registration documents (CK and B-BBEE certificate or sworn affidavit) or
- Copies of sub-contracting contracts (agreements) or copies of letters from the tenderer to the sub-contractors, stating the intent to sub-contract. The Tenderer should sign both documents and the Sub-contractor(s) earmarked.

The tenderer will propose the potential scope to be subcontracted and/or outsourced:

- Waste management
- Transport

4. Skills development

Tenderers are required to submit proposals for skills development in the advancement of Artisan / Apprenticeship programme in related fields.

Eskom reserves the right to negotiate with the tenderer on Eskom's requirements. The outcome of the negotiations will be a contractual obligation. If negotiations are not required, the tenderer's SDL&I undertaking will become a contractual condition.

Skills development is designed to benefit the currently unemployed graduates from school; further education and training campuses; and universities. Task orders will vary and it is therefore deemed that each supplier will be required to train a minimum of One (1) skill per R2 000 000(accumulated value invoiced) during the term of the contract.

The composition of these candidates must be representative of the population demographics of South Africa. Note that these targets for skills development candidates categorically exclude Eskom employees. This is to address core, scarce and critical skills and the MerSETA scarce and critical skills. These skills may also be included on the 2018 list of occupations in high demand as stipulated in the Government Gazette 41728. Candidates shall be from all provinces in the country, and their composition shall be representative of the population demographics of South

Africa.

Category	Eskom Target	Tenderer proposal
Artisan / Apprenticeship programme	1	
Safety Office	1	

Note: Suppliers will be required to develop at least one skill for every R2m spent with them.

The process of developing these skills shall involve the participation by tenderers directly and also through their supply network. In certain cases, the SETAs accredited training providers can be approached to participate in developing critical and scarce skills.

Note that these targets for skills development candidates categorically exclude Eskom employees and registered learners. Tenderers are required to take full responsibility for the total cost of developing the requisite skills, and Eskom shall not make any financial contribution towards the fulfilment of this obligation. Tenderers also are advised to approach their relevant SETAs to access grants, subsidies and incentives as well as South African Revenue Services for tax rebates that are earmarked for skills development initiatives.

Section 4: SDL&I Penalty and Performance Security

Eskom will apply a penalty of 2.5% of the invoice amount for failure to meet SDL&I obligations.

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

Section 5: Reporting and Monitoring

- The suppliers shall on a monthly/quarterly basis submit a report to Eskom in accordance with Data Collection Template on their compliance with the SDL&I obligations described above.
- Eskom shall review the SDL&I reports submitted by the suppliers within 60 (sixty) days of receipt of the reports and notify the suppliers in writing if their SDL&I obligations have not been met.
- Upon notification by Eskom that the suppliers have not met their SDL&I obligations, the suppliers shall be required to implement corrective measures to meet those SDL&I obligations before the commencement of the following report, failing which Retention clauses shall be invoked.
- Every contract shall be accompanied by the SDL&I Implementation Schedule which must be completed by the suppliers and returned to SDL&I representative for acceptance within 28 days of contract award.

Section 6: General Information on Validity of Sworn Affidavits

The following must be considered when it comes to validity of Affidavits;
Tenderers submitting B-BBEE Sworn Affidavits must ensure that the affidavits meet the following key pointers to ensure their validity: • Name/s of deponent as they appear in the identity document and the identity number. • Designation of the deponent as the **director**, **owner** or **member** must be indicated in order to know that person is duly authorised to depose of an affidavit. **(Mark the applicable option).** • Name of enterprise as per enterprise registration documents issued by the CIPC, where applicable, and enterprise business address. • Percentage of black ownership, black female ownership and designated group. In the case of specialised enterprises as per Statement 004, the percentage of black beneficiaries must be reflected. (**No blank spaces to be left**). • Indicate total revenue for the year under review and whether it is based on **audited financial statements** or **management account**. **(Mark the applicable option).** • Financial year end as per the **enterprise's registration documents**, which was used to determine the total revenue. (Financial year end to be stipulated by **day/month/year).** • B-BBEE Status level. An enterprise can only have one status level. **(Tick applicable level)** • Empowering supplier status must be indicated. For QSEs, the deponent must select the basis for the empowering supplier status. • Date deponent signed and date of Commissioner of Oath must be the same. **(The sworn affidavit must be signed in the presence of the Commissioner of Oath. Furthermore the Commissioner must also sign and stamp)** • Commissioner of Oath cannot be an employee or ex officio of the enterprise because, a person cannot by law, commission a sworn affidavit in which they have an interest.

Compiled by: Mosa Makhubo Accepted By: (Tenderer)



……..
SDL&I Snr Advisor
Supplier Development and Localization
Date:06 August 2026