



NEC3 Engineering & Construction Contract

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

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

for **The Provision of Supervision, Labour, Equipment, Material and Transport required for the upgrade of Electrical, Civil and Building Works in Umkomaas 88/22/11kV Substation in the CentralEast Cluster, Kwazulu-Natal Operating Unit, for a period of one (1) year.**

Contents:	No of pages
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ENQUIRY NUMBER: KZN133

Tender closing date: 03 June 2024

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 <i>Employer</i>	[•]
C1.2b Contract Data provided by the <i>Contractor</i>	[•]
[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:

The Provision of Supervision, Labour, Equipment, Material and Transport required for the upgrade of Electrical, Civil and Building Works in Umkomaas 88/22/11kV Substation in the CentralEast Cluster, Kwazulu-Natal Operating Unit, for a period of one (1) year.

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

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

Options B	The offered total of the Prices exclusive of VAT is	R
	Sub total	R
	Value Added Tax @ 15% is	R
	The offered total of the amount due inclusive of VAT is ¹	R
	(in words)	

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

Signature(s)

Name(s)

Capacity

**For the
tenderer:**

(Insert name and address of organisation)

Name &
signature of
witness

Date

Tenderer's CIDB registration number

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

Acceptance

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

The terms of the contract, are contained in:

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

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

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

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

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

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

Signature(s)

Name(s)	Lee Mchunu	
Capacity	Middle Manager Project	
for the Employer	ESKOM HOLDING SOC LIMITED 1 Portland road, Mkondeni, 3212	

Name &
signature of
witness

Date

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

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

Note:

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

No.	Subject	Details
1		
2		
3		
4		
5		
6		
7		

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

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

For the tenderer:

For the Employer

Signature

Name

Capacity

On behalf
of

(Insert name and address of organisation)

Name &
signature
of witness

Date

Lee Mchunu

Middle Manager Project

ESKOM HOLDING SOC LIMITED
1 Portland road, Mkondeni, 3212

C1.2 ECC3 Contract Data

Part one - Data provided by the *Employer*

[Instructions to the contract compiler: (delete these two notes in the final draft of a contract)]

1. Please read the relevant clauses in the conditions of contract before you enter data. The number of the clause which requires the data is shown in the left hand column for each statement however other clauses may also use the same data.
1. Some ECC3 options are always selected by Eskom Holdings SOC Ltd. The remaining ECC3 options are identified by shading in the left hand column. In the event that the option is not required select and delete the whole row. Where the following symbol is used "[•]" - data is required to be inserted relevant to the specific option selected.]

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

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option	
		B: Priced contract with bill of quantities
	dispute resolution Option and secondary Options	W1: Dispute resolution procedure
		X1: Price adjustment for inflation
		X2 Changes in the law
		X7: Delay damages
		X13: Performance Bond
		X16: Retention
		Z: Additional conditions of contract
	of the NEC3 Engineering and Construction Contract, April 2013 (ECC3)	
10.1	The <i>Employer</i> is (Name):	Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state owned company incorporated in terms of the company laws of the Republic of South Africa
	Address	Registered office at Megawatt Park, Maxwell

		Drive, Sandton, Johannesburg	
10.1	The <i>Project Manager</i> is: (Name)	Mlungisi Sibiya	
	Address	01 Portland Rd, Mkondeni, PMB, 3212	
	Tel	031 240 7996	
	Fax	Not Applicable	
	e-mail		
10.1	The <i>Supervisor</i> is: (Name)	Clifford Senoge	
	Address	25 Valley view road, New Germany	
	Tel No.	031 710 5521	
	Fax No.		
	e-mail	SenogeC@eskom.co.za	
11.2(13)	The <i>works</i> are	Civil and electrical work	
11.2(14)	The following matters will be included in the Risk Register	1. Security against theft and vandalism. 2. Community and business forums demand for involvement or inclusion.	
11.2(15)	The <i>boundaries of the site</i> are	Umkomaas Substation	
11.2(16)	The Site Information is in	Part 4: Site Information	
11.2(19)	The Works Information is in	Part 3: Scope of Work and all documents and drawings to which it makes reference.	
12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa	
13.1	The <i>language of this contract</i> is	English	
13.3	The <i>period for reply</i> is	1 week	
2	The Contractor's main responsibilities	Data required by this section of the core clauses is provided by the <i>Contractor</i> in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data.	
3	Time		
11.2(3)	The <i>completion date</i> for the whole of the <i>works</i> is	To be confirmed after contract award	
11.2(9)	The <i>key dates</i> and the <i>conditions</i> to be met are:	Condition to be met 1 Site establishment 2 Construction start 3 Final hand over	key date To be confirmed after contract award
30.1	The <i>access dates</i> are:	Part of the Site 1 Access date	Date To be confirmed after

		contract award
31.1	The <i>Contractor</i> is to submit a first programme for acceptance within	1 week of the Contract Date.
31.2	The <i>starting date</i> is	To be confirmed after contract award
32.2	The <i>Contractor</i> submits revised programmes at intervals no longer than	6 weeks.
35.1	The <i>Employer</i> is not willing to take over the <i>works</i> before the Completion Date.	[No data needed if this statement is included]
4	Testing and Defects	
42.2	The <i>defects date</i> is	52 weeks after Completion of the whole of the works.
43.2	The <i>defect correction period</i> is	Within 2 weeks upon notification of defect
5	Payment	
50.1	The <i>assessment interval</i> is	from the 25th day of each successive month.
51.1	The <i>currency of this contract</i> is the	South African Rand.
51.2	The period within which payments are made is	14 day or 30 days depending on the BBBEE status
51.4	The <i>interest rate</i> is	<p>the publicly quoted prime rate of interest (calculated on a 365 day year) charged from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands and</p> <p>(ii) the LIBOR rate applicable at the time for amounts due in other currencies. LIBOR is the 6 month London Interbank Offered Rate quoted under the caption "Money Rates" in The Wall Street Journal for the applicable currency or if no rate is quoted for the currency in question then the rate for United States Dollars, and if no such rate appears in The Wall Street Journal then the rate as quoted by the Reuters Monitor Money Rates Service (or such service as may replace the Reuters Monitor Money Rates Service) on the due date for the payment in question, adjusted <i>mutatis mutandis</i> every 6 months thereafter and as certified, in the event of any dispute, by any manager employed in the foreign exchange department of The Standard Bank of South Africa Limited, whose</p>

appointment it shall not be necessary to prove.

6	Compensation events	
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>Kwazulu-Natal (project site)</p> <p>the cumulative rainfall (mm)</p> <p>the number of days with rainfall more than 10 mm</p> <p>the number of days with minimum air temperature less than 0 degrees Celsius</p> <p>the number of days with snow lying at 09:00 hours South African Time</p> <p>and these measurements:</p> <p>The contractor using actual weather readings from the project site</p> <p>The nearest weather station of the South African Weather Service to the site</p> <p>the South African Weather Bureau and included in Annexure A to this Contract Data provided by the <i>Employer</i></p>
60.1(13)	<p>Assumed values for the ten year return <i>weather data</i> for each <i>weather measurement</i> for each calendar month are:</p>	<p>As stated in Annexure A to this Contract Data provided by the <i>Employer</i>.</p> <p>Note: If this arrangement is used, delete the rows above for 60.1(13) and delete this note.</p>
7	Title	<p>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.</p>
8	Risks and insurance	
80.1	<p>These are additional <i>Employer's</i> risks</p>	<p>1. Security against theft and vandalism.</p> <p>2. Community and business forums demand for involvement or inclusion.</p>
9	Termination	<p>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.</p>
10	Data for main Option clause	
B	Priced contract with bill of quantities	
60.6	<p>The <i>method of measurement</i> is</p>	<p>as stated in Part C2.1, Pricing Assumptions.</p>

11 Data for Option W1	
W1.1	<p>The <i>Adjudicator</i> is</p> <p>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).</p> <p>Address [•]</p> <p>Tel No. [•]</p> <p>Fax No. [•]</p> <p>e-mail [•]</p>
W1.2(3)	<p>The <i>Adjudicator nominating body</i> is:</p> <p>the Chairman of ICE-SA a joint Division of the South African Institution of Civil Engineering and the London Institution of Civil Engineers. (See www.ice-sa.org.za) or its successor body.</p>
W1.4(2)	<p>The <i>tribunal</i> is:</p> <p>arbitration.</p>
W1.4(5)	<p>The <i>arbitration procedure</i> is</p> <p>the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.</p> <p>The place where arbitration is to be held is</p> <p>The City within which the Head Office for the relevant Operating Unit is situated within South Africa</p> <p>The person or organisation who will choose an arbitrator</p> <p>- if the Parties cannot agree a choice or</p> <p>- if the arbitration procedure does not state who selects an arbitrator, is</p> <p>the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.</p>
12 Data for secondary Option clauses	
X1	<p>Price adjustment for inflation</p> <p>Not applicable (contract is for one (1) year)</p>
X1.1(a)	<p>The <i>base date</i> for indices is</p> <p>Not applicable (contract is for one (1) year)</p>
X1.1(c)	<p>The proportions used to calculate the Price Adjustment Factor are:</p> <p>Not applicable</p> <p>Contract is for one (1) year.</p>

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.	
		3	[•] [•]
X7	Sectional Completion and delay damages used together		
X7.1	Delay damages for late Completion of the <i>sections</i> of the <i>works</i> are:	<i>section</i>	Description
		1	[•]
		2	[•]
		3	[•]
	Remainder of the <i>works</i>		R[•]
	The total delay damages payable by the <i>Contractor</i> does not exceed:	R [•]	
X7	Delay damages		
X7.1	Delay damages for Completion of the whole of the <i>works</i> are	Up to a maximum of 10% of the value of the delayed item and cumulatively 10% of the prices	
X13	Performance bond		
X13.1	The amount of the performance bond is	Subject to Financial evaluation outcome	
X16	Retention		
X16.1	The <i>retention free amount</i> is	R0	
	The <i>retention percentage</i> is	10%	
Z	The <i>Additional conditions of contract</i> are		
		Z1 to Z15 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 *Project Manager* within two weeks of the Contract Date of the key person who has the authority to bind the *Contractor* on their behalf.
- Z2.3 The *Contractor* does not alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without the consent of the *Employer* having been given to the *Contractor* in writing.

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

- Z3.1 Where a change in the *Contractor's* legal status, ownership or any other change to his business composition or business dealings results in a change to the *Contractor's* B-BBEE status, the *Contractor* notifies the *Employer* within seven days of the change.
- Z3.2 The *Contractor* is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the *Project Manager* within thirty days of the notification or as otherwise instructed by the *Project Manager*.
- Z3.3 Where, as a result, the *Contractor's* B-BBEE status has decreased since the Contract Date the *Employer* may either re-negotiate this contract or alternatively, terminate the *Contractor's* obligation to Provide the Works.
- Z3.4 Failure by the *Contractor* to notify the *Employer* of a change in its B-BBEE status may constitute a reason for termination. If the *Employer* terminates in terms of this clause, the procedures on termination are P1, P2 and P3 as stated in clause 92, and the amount due is A1 and A3 as stated in clause 93.

Z4 Confidentiality

- Z4.1 The *Contractor* does not disclose or make any information arising from or in connection with this contract available to Others. This undertaking does not, however, apply to information which at the time of disclosure or thereafter, without default on the part of the *Contractor*, enters the public domain or to information which was already in the possession of the *Contractor* at the time of disclosure (evidenced by written records in existence at that time). Should the *Contractor* disclose information to Others in terms of clause 25.1, the *Contractor* ensures that the provisions of this clause are complied with by the recipient.
- Z4.2 If the *Contractor* is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the *Project Manager*.
- Z4.3 In the event that the *Contractor* is, at any time, required by law to disclose any such information which is required to be kept confidential, the *Contractor*, to the extent permitted by law prior to disclosure, notifies the *Employer* so that an appropriate protection order and/or any other action can be taken if possible, prior to any disclosure. In the event that such protective order is not, or cannot, be obtained, then the *Contractor* may disclose that portion of the information which it is required to be disclosed by law and uses reasonable efforts to obtain assurances that confidential treatment will be afforded to the information so disclosed.
- Z4.4 The taking of images (whether photographs, video footage or otherwise) of the *works* or any portion thereof, in the course of Providing the Works and after Completion, requires the prior written consent of the *Project Manager*. All rights in and to all such images vests exclusively in the *Employer*.
- Z4.5 The *Contractor* ensures that all his subcontractors abide by the undertakings in this clause.

Z5 Waiver and estoppel: Add to core clause 12.3:

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

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

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

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

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

- Z7.1 Within one week of receiving a payment certificate from the *Project Manager* in terms of core clause 51.1, the *Contractor* provides the *Employer* with a tax invoice in accordance with the *Employer's* procedures stated in the Works Information, showing the amount due for payment equal to that stated in the payment certificate.
- Z7.2 If the *Contractor* does not provide a tax invoice in the form and by the time required by this contract, the time by when the *Employer* is to make a payment is extended by a period equal in time to the delayed submission of the correct tax invoice. Interest due by the *Employer* in terms of core clause 51.2 is then calculated from the delayed date by when payment is to be made.
- Z7.3 The *Contractor* (if registered in South Africa in terms of the companies Act) is required to comply with the requirements of the Value Added Tax Act, no 89 of 1991 (as amended) and to include the *Employer's* VAT number 4740101508 on each invoice he submits for payment.

Z8 Notifying compensation events

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

Z9 Employer's limitation of liability

- Z9.1 The *Employer's* liability to the *Contractor* for the *Contractor's* indirect or consequential loss is limited to R0.00 (zero Rand)
- Z9.2 The *Contractor's* entitlement under the indemnity in 83.1 is provided for in 60.1(14) and the *Employer's* liability under the indemnity is limited.

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

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

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

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

Z12 Ethics

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

Affected Party	means, as the context requires, any party, irrespective of whether it is the <i>Contractor</i> 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 <i>Contractor</i> , or any member thereof in the case of a joint venture, or its employees, agents, or Subcontractor or the Subcontractor's employees,
Corrupt Action	means the offering, giving, taking, or soliciting, directly or indirectly, of a good or service to unlawfully or illegally influence the actions of an Affected Party,
Fraudulent Action	means any unlawfully or illegally intentional act or omission that misleads, or attempts to mislead, an Affected Party, in order to obtain a financial or other benefit or to avoid an obligation or incurring an obligation,
Obstructive Action	means a Committing Party unlawfully or illegally destroying, falsifying, altering or concealing information or making false statements to materially impede an investigation into allegations of Prohibited Action, and
Prohibited Action	means any one or more of a Coercive Action, Collusive Action Corrupt Action, Fraudulent Action or Obstructive Action.

Z12.1 A Committing Party may not take any Prohibited Action during the course of the procurement of this contract or in execution thereof.

Z12.2 The *Employer* may terminate the *Contractor's* obligation to Provide the Services if a Committing Party has taken such Prohibited Action and the *Contractor* did not take timely and appropriate action to prevent or remedy the situation, without limiting any other rights or remedies the *Employer* has. It is not required that the Committing Party had to have been found guilty, in court or in any other similar process, of such Prohibited Action before the *Employer* can terminate the *Contractor's* obligation to Provide the Services for this reason.

Z12.3 If the *Employer* terminates the *Contractor's* obligation to Provide the Services for this reason, the amounts due on termination are those intended in core clauses 92.1 and 92.2.

Z12.4 A Committing Party co-operates fully with any investigation pursuant to alleged Prohibited Action. Where the *Employer* does not have a contractual bond with the Committing Party, the *Contractor* ensures that the Committing Party co-operates fully with an investigation.

Z13 Insurance

Z 13.1 Replace core clause 84 with the following:

Insurance cover 84

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

84.2 The *Contractor* provides the insurances stated in the Insurance Table A.

84.3 The insurances provide cover for events which are at the *Contractor's* risk from the *starting date* until the earlier of Completion and the date of the termination certificate.

INSURANCE TABLE A

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

Z 13.2

Replace core clause 87 with the following:

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

INSURANCE TABLE B

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

Z14 Nuclear Liability

- Z14.1 The *Employer* is the operator of the Koeberg Nuclear Power Station (KNPS), a nuclear installation, as designated by the National Nuclear Regulator of the Republic of South Africa, and is the holder of a nuclear licence in respect of the KNPS.
- Z14.2 The *Employer* is solely responsible for and indemnifies the *Contractor* or any other person against any and all liabilities which the *Contractor* or any person may incur arising out of or resulting from nuclear damage, as defined in Act 47 of 1999, save to the extent that any liabilities are incurred due to the unlawful intent of the *Contractor* or any other person or the presence of the *Contractor* or that person or any property of the *Contractor* or such person at or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.
- Z14.3 Subject to clause Z14.4 below, the *Employer* waives all rights of recourse, arising from the aforesaid, save to the extent that any claims arise or liability is incurred due or attributable to the unlawful intent of the *Contractor* or any other person, or the presence of the *Contractor* or that person or any property of the *Contractor* or such person at or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.
- Z14.4 The *Employer* does not waive its rights provided for in section 30 (7) of Act 47 of 1999, or any replacement section dealing with the same subject matter.
- Z14.5 The protection afforded by the provisions hereof shall be in effect until the KNPS is decommissioned.

Z15 Asbestos

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

AAIA	means approved asbestos inspection authority.
ACM	means asbestos containing materials.
AL	means action level, i.e. a level of 50% of the OEL, i.e. 0.1 regulated asbestos fibres per ml of air measured over a 4 hour period. The value at which proactive actions is required in order to control asbestos exposure to prevent exceeding the OEL.
Ambient Air	means breathable air in area of work with specific reference to breathing zone, which is defined to be a virtual area within a radius of approximately 30cm from the nose inlet.
Compliance Monitoring	means compliance sampling used to assess whether or not the personal exposure of workers to regulated asbestos fibres is in compliance with the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.
OEL	means occupational exposure limit.
Parallel Measurements	means measurements performed in parallel, yet separately, to existing measurements to verify validity of results.
Safe Levels	means airborne asbestos exposure levels conforming to the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.
Standard	means the <i>Employer's</i> Asbestos Standard 32-303: Requirements for Safe Processing, Handling, Storing, Disposal and Phase-out of Asbestos and Asbestos Containing Material, Equipment and Articles.
SANAS	means the South African National Accreditation System.
TWA	means the average exposure, within a given workplace, to airborne asbestos fibres, normalised to the baseline of a 4 hour continuous period, also applicable to short term exposures, i.e. 10-minute TWA.

Z15.1 The *Employer* ensures that the Ambient Air in the area where the *Contractor* will Provide the Services conforms to the acceptable prescribed South African standard for asbestos, as per the regulations published in GNR 155 of 10 February 2002, under the Occupational Health and Safety Act, 1993 (Act 85 of 1993) ("Asbestos Regulations"). The OEL for asbestos is 0.2 regulated asbestos fibres per millilitre of air as a 4-hour TWA, averaged over any continuous period of four hours, and the short term exposure limit of 0.6 regulated asbestos fibres per millilitre of air as a 10-minute TWA, averaged over any 10 minutes, measured in accordance with HSG248 and monitored according to HSG173 and OESSM.

Z15.2 Upon written request by the *Contractor*, the *Employer* certifies that these conditions prevail. All measurements and reporting are effected by an independent, competent, and certified occupational hygiene inspection body, i.e. a SANAS accredited and Department of Employment and Labour approved AAIA. The *Contractor* may perform Parallel Measurements and related control measures at the *Contractor's* expense. For the purposes of compliance the results generated from Parallel Measurements are evaluated only against South African statutory limits as detailed in clause Z15.1. Control measures conform to the requirements stipulated in the AAIA-approved asbestos work plan.

Z15.3 The *Employer* manages asbestos and ACM according to the Standard.

Z15.4 In the event that any asbestos is identified while Providing the Services, a risk assessment is conducted and if so required, with reference to possible exposure to an airborne concentration of above the AL for asbestos, immediate control measures are implemented and relevant air monitoring conducted in order to declare the area safe.

- Z15.5 The *Contractor's* personnel are entitled to stop working and leave the contaminated area forthwith until such time that the area of concern is declared safe by either Compliance Monitoring or an AAIA approved control measure intervention, for example, per the emergency asbestos work plan, if applicable.
- Z15.6 The *Contractor* continues to Provide the Services, without additional control measures presented, on presentation of Safe Levels. The contractually agreed dates to Provide the Services, including the Completion Date, are adjusted accordingly. The contractually agreed dates are extended by the notification periods required by regulations 3 and 21 of the Asbestos Regulations, 2001.
- Z15.7 Any removal and disposal of asbestos, asbestos containing materials and waste, is done by a registered asbestos contractor, instructed by the *Employer* at the *Employer's* expense, and conducted in line with South African legislation.

Annexure A: One-in-ten-year-return *weather data* obtained from SA Weather Bureau for [weather station]

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

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

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

C1.2 Contract Data

Part two - Data provided by the *Contractor*

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

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

Notes to a tendering contractor:

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

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

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

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

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

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

C1.3 Forms of Securities

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

Option X13: Performance Bond

Option X16: Retention

Pro forma Performance Bond – Demand Guarantee (for use with Option X13)

(to be reproduced exactly as shown below on the letterhead of the Contractor's Parent Company)

Eskom Holdings SOC Ltd
Megawatt Park
Maxwell Drive
Sandton
Johannesburg

Date:

Dear Sirs

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

Performance Bond – Demand Guarantee: [Drafting Note: Name of Contractor to be inserted]

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

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

- 1.1 “Bank” - means [●], [●] Branch, (Registration No. [●]); [Drafting Note: Name of Bank to be inserted]
- 1.2 “Bank's Address” - means [●]; [Drafting Note: Bank's physical address to be inserted]
- 1.3 “Contract” – means the written agreement relating to the Project, entered into between Eskom and the Contractor, on or about the [●] day of [●] 200[●] (Contract Reference No. [.]as amended, varied, restated, novated or substituted from time to time; [Drafting Note: Signature Date and Contract reference number to be inserted])
- 1.4 “Contractor” – means [●] a company registered in accordance with the laws of [●] under Registration Number [●]. [Drafting Note: Name and details of Contractor to be inserted]
- 1.5 “Eskom” - means Eskom Holdings SOC Ltd, a company registered in accordance with the laws of the Republic of South Africa under Registration Number 2002/015527/30].
- 1.6 “Expiry Date” - means the date on which the Defects Certificate is issued in terms of the Contract.
- 1.7 “Guaranteed Sum” - means the sum of R [●] ([●] Rand);
- 1.8 “Project” - means [insert if applicable].

2. At the instance of the Contractor, we the undersigned _____ and _____, in our respective capacities as _____ and _____ of the Bank, and duly authorized thereto, confirm that we hold the Guaranteed Sum at the disposal of Eskom, as security for the proper performance by the Contractor of all of its obligations in terms of and arising from the Contract and hereby undertake to pay to Eskom, on written demand from Eskom received prior to the Expiry Date, any sum or sums not exceeding in total the Guaranteed Sum.

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

- 3.1 be signed on behalf of Eskom by a Group Executive, Divisional Executive, Senior General Manager, General Manager or its delegate;

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

Signed at _____

Date _____

For and behalf of the Bank

Bank Signatory: _____

Bank Signatory: _____

Witness: _____

Witness: _____

Bank’s seal or stamp

PART 2: PRICING DATA
ECC3 Option B

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

C2.1 Pricing assumptions: Option B

1. How work is priced and assessed for payment

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

Identified and defined terms	11 11.2	<p>(21) The Bill of Quantities is the <i>bill of quantities</i> as changed in accordance with this contract to accommodate implemented compensation events and for accepted quotations for acceleration.</p> <p>(28) The Price for Work Done to Date is the total of</p> <ul style="list-style-type: none"> 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 a proportion of each lump sum which is the proportion of the work covered by the item which the <i>Contractor</i> has completed. <p>Completed work is work without Defects which would either delay or be covered by immediately following work.</p> <p>(31) The Prices are the lump sums and the amounts obtained by multiplying the rates by the quantities for the items in the Bill of Quantities.</p>
-------------------------------------	------------	--

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

2. Function of the Bill of Quantities

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

3. Guidance before pricing and measuring

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

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

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

plus Fee is used.

4. Measurement and payment

4.1. Symbols

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

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

4.2. General assumptions

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

4.3. Departures from the *method of measurement*

4.4. Amplification of or assumptions about measurement items

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

4.4.1.

C2.2 the *bill of quantities*

Refer to the BOQ in Section 1.

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

C3.1: EMPLOYER'S WORKS INFORMATION

1 Description of the works

1.1 Executive overview

The Provision of Supervision, Labour, Equipment, Material and Transport required for the establishment of a new feeder and upgrade of the Umkomaas Substation in the CentralEast Cluster, Kwazulu-Natal Operating Unit.

The detailed activities includes the following:

Civil scope of work:

1. Re-establish existing terrace.
2. Extend terrace.
3. Excavations and backfilling for new earth mat.
4. Establish access road.
5. Establish surface drainage.
6. Demolish and remove existing foundations from site and backfill.
7. Establish new foundations.
8. Remove and replace existing bund wall as per Standard for passive fire protection in Dx substation yards.
9. Establish new bund walls for new transformer and NECRT as per Standard for passive fire protection in Dx substation yards.
10. Remove existing mesh fence and replace with steel palisade fencing.
11. Laying of substation yard stone and Installation of substation kerbing.
12. Modifications and repair within the building.
13. Rehabilitation of the substation site as per the Environmental Management Plan.

Primary Plant Scope of Work:

1. Erect 88kV Busbar
2. String conductor and install insulators and clamps for 88kV busbar.
3. Install 88/22kV transformer bay.
4. Install conductors and clamps for 88/22Kv transformer bay.
5. Cable from cable end support to NECRT.
6. Cable from cable end support to 22kV fixed pattern switchgear.
7. Install earthmat and bond to fence and steelwork as per the relevant drawings.
8. Label all new equipment.
9. Install new Fixed Pattern switchgear.
10. Cable from Fixed Pattern switchgear to 22/11kV transformer.
11. Labelling of all equipment.
12. Install DC Lighting.
13. Install lighting /lightning mast and lighting.
14. Add yardstone to substation terrace.

Control Plant Scope of Work:

1. Removal & installation of control panels / junction boxes.
2. Trenching and Installation / Removal of control cabling as per the control plant drawings, details provided in the BOQ.
3. Earthing of control panels / junction boxes.
4. Termination and labelling of cables and cores.
5. Issuing of CoC's where / if applicable.

1.2 Employer's objectives and purpose of the works

Umgeni water requires an increase in NMD of approximately 7MVA to in order to supply several new water related facilities in the Umkomaas area. Network Planning have done studies and determined that the best solution to meet this demand is to Upgrade Umkomaas Substation from a 22/11kV substation to a 132/22/11kV Substation and establish a new 22kV Feeder from the substation to accommodate the load from the various customer points of supply. The 132kV option is not practical due to potential loading and protection issues with the line, so the 88kV Line will be used instead.

1.3 Interpretation and terminology

The following abbreviations are used in this Works Information:

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

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:
Risk register and compensation events	Monthly on 02 nd at 10AM	Umkomaas S/S	Eskom PM, COW, All contractor appointees as per the approved Health and Safety File.
Overall contract progress and feedback	Monthly on 02 nd at 10AM	Umkomaas S/S	<i>Eskom PM, COW, Engineer, and other Eskom stakeholders, All contractor appointees as per the approved Health and Safety File.</i>
Ad-hoc / Issue resolution	Adhoc, as agreed between parties	Umkomaas S/S	<i>Eskom PM, COW, Engineer, All contractor appointees as per the approved Health and Safety File.</i>

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

All meetings shall be recorded using minutes or a register prepared and circulated by the person who convened the meeting. Such minutes or register shall not be used for the purpose of confirming actions or

instructions under the contract as these shall be done separately by the person identified in the *conditions of contract* to carry out such actions or instructions.

2.2 Safety requirements

1.	Is the acknowledgement of Eskom's OHS rules and requirements form (Annexure B) signed by the Owner / CEO / MD and 2 witnesses?
2.	OH&S Organogram (Approved by CEO/Director)-Including names and appointment reference
3.	Occupational, Health and Safety Plan (OHS Plan) This must be relevant to the Scope of work of Electrical Work addressing and responding to the Eskom Health and Safety Specification (SHE Plan numbering must align to the left-hand side numbers in the SHE Specification). Review date to be included in the document). To be signed off by the Owner / CEO / MD.
4.	Risk Assessment procedure / Method Statement. Baseline Risk Assessment (Provided by the Client)
5.	Valid Letter of Good Standing or equivalent, i.e. COID, RMA or FEMA, (with applicable nature of business with relevant to the scope of work).
6.	Health and Safety Policy- signed by the Owner / CEO or MD, (Including review date).
7.	SHE Competency; proof of the following training certificates and appointment letters for each of the following. NB accreditation certificate to be provided by training provider for each competency. <ul style="list-style-type: none"> • CR 8(1) Construction Manager (Registered with SACPCMP) • Sec. 17 Health and Safety Representative (Appointment if not yet trained) • GSR 3(4) First Aid (Perform Basic Life support training) • CR 29 (h&i) Fire fighter • CR 9(1) Risk Assessor • CR 8(7) Construction Supervisor (With MV/LV line Construction) • CR 8(5) Safety Officer (Registered with SACPCMP)

	<ul style="list-style-type: none"> • CR 10(1) Fall protection planner/developer-SANS 229994 • Fall rescuer (Competency Certificate)-SANS 229998 • GAR 9(2) Incident investigator • CR 13 (1) Competent person for Excavation work • Stacking and Storage Supervisor CR 28(a)
8.	Medical Fitness Certificate (including Annexure 3 template)- (done by Occupational Health Practitioner / Nurse / Doctor (Minimum of 3)
9.	Fall Protection Plan as per CR10 (with Rescue Plan & Fall Risks) (Next Review date to be included and to be signed by CEO/MD)
10.	Substance Abuse Procedure or Policy. Policy must be sign by CEO/MD (With review date)
11.	Costing for SHE

2.3 Environmental requirements

1.	<p>Environmental Management Plan for the Scope of work addressing the following as a minimum:</p> <p>Applicable to medium risk:</p> <ul style="list-style-type: none"> • Waste management (reduction, re-use, recycling, disposal). <ul style="list-style-type: none"> 1.A WMP (Waste Management Plan) should include a description of the different waste streams expected on site, how these will be stored, transported and disposed off 2.The WMP (Waste Management Plan) should also deal with prevention of pollution, littering and waste minimization methods such as reuse, recycle and reduce 3.The WMP (Waste Management Plan) must be aligned with the National Environmental Management Waste Act 59 of 2008
2.	<p>Provide evidence of the discussion of the following (signed register):</p> <ul style="list-style-type: none"> • Eskom Generic EMP (Environmental

	<p>Management Plan) for Operations and Maintenance, 240-71555318</p> <ul style="list-style-type: none"> • Eskom Requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment, and articles (asbestos Management), 32-303.
3.	<p>Applicable to medium risk: Identification of Environmental Aspects and Impacts:</p> <p>Identification, assessment, and control of activities that have or may have an impact on the environment.</p> <p>The methodology used must be provided together with the identified activities (if applicable) that have been identified, based on the scope of work, that have an impact on the environment and the controls that will be in place in contract execution.</p>
4.	<p>Environmental Competency</p> <p>(Consider scope of work, risks, Environmental Management Plan and applicability) CV's and qualifications / certificates e.g.</p> <ul style="list-style-type: none"> - Environmental Officer - Environmental Control Officer <p>Examples of evidence of Environmental competencies. <u>PROVIDE ONE OF THE FOLLOWING:</u></p> <ul style="list-style-type: none"> • Internal Eskom training for Environmental Legislation, EA (Environmental Authorization) and EMP (Environmental Management Plan); • Tertiary degrees for Environmental studies • SHE REP; 5f • SHEMTRAC (Safety, Health, & Environmental Management Training Course);
	OR
1.	<p>Annexure B</p> <p>Is the acknowledgement of Eskom's SHE rules and requirements form (Annexure B) signed and submitted by the tenderer?</p>
2.	<p>ISO 14001 Environmental Management Standard certificate.</p>

2.4 Quality requirements

SECTION A: Quality Management System Requirements ISO 9001	
Objective evidence of documented QMS that is not certified but complies with ISO 9001	
	Apply =1
A.1 QMS Manual or a document that defines and describes the QMS and its scope	1
A.2 Quality Policy Approved by top management.	1
A.4 Control of documented information (i.e. document and record control) Clause 7.5 of ISO 9001:2015	1
A.6 Documented information for Nonconformity and Corrective action Clause 10.2 of ISO 9001:2015	1
A.7 Documented information for Internal audit Clause 9.2 of ISO 9001:2015	1
Section A Score Option 2	6
SECTION B: Evidence of QMS in operation (Tender Quality Requirements -Ref 240-105658000)	
	Apply =1
B.1 Documented information for defined roles, responsibilities and authorities - Organization chart and Responsibility matrix (must include but not limited to quality management function/role) (Clause 5.3 of ISO 9001:2015)	1
B.2 Documented information for Control of Externally Provided Processes, Products and Services - Must include criteria for	1

evaluation, selection, monitoring of performance, and re-evaluation of external providers (Clause 8.4 of ISO 9001:2015)	
Section B Score	2
SECTION C: Contract Quality Plan Requirements (Ref 240-105658000 and 240-109253698).	
Draft Contract Quality Plan specific to the scope of work as described in the tender documents (Ref ISO 10005)	
	Apply (Yes=1)
NB! Draft Contract/Project Quality Plan has important QA deliverables	1
Section C Score	1
SECTION D: Quality Control Plan Requirements (Ref 240-105658000 or 240-109253302)	
QCP /Checklist/ ITP (Quality Control Plans) as per Scope of Works (Ref ISO 10005)	
	Apply = 1
NB! Draft/ Example of an Inspection and Test Plan (ITP) or Quality Control Plan (QCP) on similar and/ or previous work done	1
Section D Score	1
SECTION E: User defined additional Requirements & miscellaneous (Ref 240-105658000)	
Customer specific requirements & other standards and required can be listed and evaluated here	
	Apply (Yes=1)
E.1 Form A is completed and signed.	1

2.5 Financial requirements

- Public Interest Score (PIS) and the calculations to arrive at the score (refer to annexure attached for calculation of PIS). The PIS letter must specify whether:

1. Whether the AFS were internally or externally prepared.
 2. Whether the company was owner managed or not owner managed.
- Latest approved financial statements including comparative amounts. AFS must be valid and not outdated, received within 18 months after year-end.
 - A signed director's / member's report.
 - Signed Compilers / Accounting Officers / Independent Reviewers / Audit report whichever is applicable, based on the PIS above. Where the PIS requires an Audit or Independent Reviewers report, the Compilers / Accounting Officers report must still be submitted.
 - Approved Annual Financial statements must comprise:
 - Statement of financial position (Balance Sheet)
 - Statement of comprehensive income (income statement)
 - Statement of changes in Equity
 - Statement of cash flows
 - Notes to the financial statements
 - ITA 34C Income Tax Assessment for companies that have NOT been AUDITED
 - The notes to the AFS specifically referring to Accounts Receivable and Accounts Payable must give a complete breakdown of the amounts. A clear distinction must be made between Trade Debtors and other receivables as well Trade Creditors and other payables. The note must clearly show the amounts subject to interest and the terms and condition of interest.
 - The notes to the AFS must clearly specify the current and non-current liabilities that are subject to interest.
 - Member / Directors loans must be accompanied by a note specifying the terms of the loan, whether secured or unsecured, terms of repayment and interest rates.
 - Name of Holding company if the company is a subsidiary company.
 - Where there is a Holding company the Latest Signed Group Annual Financial Statements of the Holding Company may be requested at a later stage.
 - Information requested from companies via Procurement Office not received within five working days from date of Finance request will result in the financial evaluation being closed. Finance will issue a 1-page report stating that an opinion could not be expressed due to insufficient information.

Note:

Draft, bi-annual, management accounts and unsigned financial statements will NOT be accepted.

Soft copies of the AFS submitted with the tender documents may be requested at a later stage.

Tenderers may be requested to provide a performance bond if they are deemed financially unacceptable for the full value of the contract.

The following mitigating factors may be implemented if the result of the contractor is negative:

- obtaining a performance bond from a financial institution that has been pre-approved by Eskom Treasury department.
- a parent Company Guarantee, provided that the parent company is financially sound enough to stand as surety for the subsidiary tendering for the contract. The parent company's latest and approved AFS must be submitted for financial analysis.
- a reduced contract may be recommended; or
- payment upon delivery of a milestone activity or milestone goods.

2.6 Invoicing and payment

The following details shall be shown on or attached to each Invoice to show how the amount due has been assessed:

The *Consultant* shall address the tax invoice to **Eskom Holdings SOC Ltd (Reg No: 2002/015527/30)** and include on it the following information:

- Name and address of the *Consultant* and the *Employer's Agent*;
- The contract number and title;
- *Consultant's* VAT registration number;
- The *Employer's* VAT registration number 4740101508;
- Total amount invoiced excluding VAT, the VAT and the invoiced amount including VAT;
- Purchase Order for the work issued
- (add other as required)

All invoices must be submitted via this process any invoices physically received will now be returned.

To ensure payment is made the following must be done:

1. Email pdf copies to invoiceseskomlocal@eskom.co.za
2. Each pdf (attachment) must contain **only one invoice**
3. Each **email** sent must contain **only one attachment**
4. It must be an original invoice from your system. If a word or excel document, convert it to PDF. No invoice must printed then scanned and emailed or have hand writing on it, **It will not be accepted.**
5. Please make sure you **received a valid and correct purchase order** from your end user which must be quoted on the invoice.
6. Encourage your end users to do the GR's on time to insure speedy processing.
7. All invoices must meet the Tax requirements.

2.7 Contract change management

Refer to Clause 60 for Compensation event

2.8 Provision of bonds and guarantees

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

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

3 Procurement

3.1 People

3.1.1 Minimum requirements of people employed on the Site

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

3.1.2 BBBEE and preferencing scheme

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.

3.2 Plant and Materials

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

All other Plant and Materials are to be provided by the *Contractor*. The procedure relating to dispatch and delivery by the Employer will be shared with the successful contractor for any free issue material that may be required.

3.2.2 *Contractor's* procurement of Plant and Materials

Refer to the technical pack in Section 2.

3.2.3 Spares and consumables

Refer to the technical pack in Section 2.

3.3 Tests and inspections before delivery

Refer to the technical pack in Section 2.

3.4 Marking Plant and Materials outside the Working Areas

Refer to the technical pack in Section 2.

3.5 Contractor's Equipment (including temporary works).

Refer to the technical pack in Section 2.

4 Construction

4.1.1 Survey control and setting out of the *works*

Refer to the technical pack in Section 2

4.1.2 Excavations and associated water control

Refer to the technical pack in Section 2

4.1.3 Underground services, other existing services, cable and pipe trenches and covers

Refer to the technical pack in Section 2

4.1.4 Sequences of construction or installation

Refer to the technical pack in Section 2

4.1.5 Hook ups to existing works

Refer to the technical pack in Section 2

4.2 Completion, testing, commissioning and correction of Defects

4.2.1 Work to be done by the Completion Date

	Item of work	To be completed by
	As built drawings of	Within fourteen (14) days after Completion

4.2.2 Use of the *works* before Completion has been certified

Refer to the technical pack in Section 2

4.2.3 Materials facilities and samples for tests and inspections

Refer to the technical pack in Section 2

4.2.4 Commissioning

Refer to the technical pack in Section 2

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

Refer to the technical pack in Section 2

4.2.6 Access given by the *Employer* for correction of Defects

Refer to the technical pack in Section 2

4.2.7 Performance tests after Completion

Refer to the technical pack in Section 2

5 **Plant and Materials standards and workmanship**

5.1 **Civil engineering and structural works**

Refer to the technical pack in Section 2
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5.2 **Electrical & mechanical engineering works**

Refer to the technical pack in Section 2
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List of drawings

5.3 **Drawings issued by the *Employer***

Refer to the technical pack in Section 2



PART 4: SITE INFORMATION

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

PART 4: SITE INFORMATION

Refer to the technical pack in Section 2

5. General description

Refer to the technical pack in Section 2

6. Existing buildings, structures, and plant & machinery on the Site

Refer to the technical pack in Section 2

7. Subsoil information

Refer to the technical pack in Section 2

8. Hidden services

Refer to the technical pack in Section 2

9. Other reports and publicly available information

Refer to the technical pack in Section 2