



## NEC3 Term Service Contract (TSC3)

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

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

**for Installation, Transportation, Commissioning and  
Maintenance of the Domestic and Industrial Air-  
Conditioning and Refrigeration Systems on an “As-  
and- When Required Basis” at Various Eskom Sites  
for a period of 3 years.**

<b>Contents:</b>	<b>No of pages</b>
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<b>Part C2 Pricing Data</b>	<b>[•]</b>
<b>Part C3 Scope of Work</b>	<b>[•]</b>

**CONTRACT No.**

## **PART C1:      AGREEMENTS & CONTRACT DATA**

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<b>Contents:</b>	<b>No of pages</b>
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<b>C1.3   Proforma Guarantees</b>	<b>[•]</b>

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## C1.1 Form of Offer & Acceptance

### Offer

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

**Installation, Transportation, Commissioning and Maintenance of the Domestic and Industrial Air-Conditioning and Refrigeration Systems on an “As-And- When Required Basis” at Various Eskom Sites.**

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	R [●]
	Sub total	R [●]
	Value Added Tax @ 15% is	R [●]
	The offered total of the amount due inclusive of VAT is <sup>1</sup>	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:

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

## Acceptance

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

The terms of the contract, are contained in:

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

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

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

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

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

Signature(s)

Name(s)

Capacity

**for the  
Employer**

\_\_\_\_\_  
(Insert name and address of organisation)

Name &  
signature of  
witness

Date

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

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

Note:

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

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

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

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

#### For the tenderer:

#### For the Employer

Signature

Name

Capacity

On behalf  
of

(Insert name and address of organisation)

(Insert name and address of organisation)

Name &  
signature  
of witness

Date

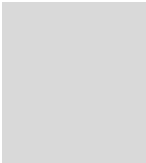

## C1.2 TSC3 Contract Data

### 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.
2. Some TSC3 options are always selected by Eskom Holdings SOC Ltd. The remaining TSC3 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 this data in full, according to the Options chosen, is essential to create a complete contract.

Clause	Statement	Data
1	<b>General</b>	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:	
		<b>A: Priced contract with price list</b>
	dispute resolution Option	<b>W1: Dispute resolution procedure</b>
	and secondary Options	
		<b>X1: Price adjustment for inflation</b>
		<b>X2 Changes in the law</b>
		<b>Z: Additional conditions of contract</b>
	of the NEC3 Term Service Contract April 2013 <sup>2</sup> (TSC3)	
10.1	The <i>Employer</i> is (name):	<b>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</b>
	Address	<b>Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg</b>
	Tel No.	<b>013 693 4403</b>
	E mail.	<b><a href="mailto:dikgolpr@eskom.co.za">dikgolpr@eskom.co.za</a></b>

<sup>2</sup> Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 539 1902 [www.ecs.co.za](http://www.ecs.co.za)

10.1	The <i>Service Manager</i> is (name):	<b>Mr Ronald Niranjan</b>
	Address	<b>ESKOM PARK WITBANK</b>
	Tel	<b>031 710 5164</b>
	Fax	<b>086 662 0852</b>
	e-mail	<b>ronald.niranjan@eskom.co.za</b>
11.2(2)	The Affected Property is	<b>As indicated on the task order.</b>
11.2(13)	The <i>service</i> is	<b>Installation, transport, maintenance and commissioning of domestic and industrial air-conditioning and refrigeration systems on an as-and-when required basis at various Eskom sites for a period of 3 years</b>
11.2(14)	The following matters will be included in the Risk Register	<b>N/A</b>
11.2(15)	The Service Information is in	<b>Part 3: Scope of Work and all documents and drawings to which it makes reference.</b>
12.2	The <i>law of the contract</i> is the law of	<b>the Republic of South Africa</b>
13.1	The <i>language of this contract</i> is	<b>English</b>
13.3	The <i>period for reply</i> is	<b>Two (02) working days</b>
2	<b>The Contractor's main responsibilities</b>	<b>Data required by this section of the core clauses is also provided by the <i>Contractor</i> in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data</b>
21.1	The <i>Contractor</i> submits a first plan for acceptance within	<b>N/A</b>
3	<b>Time</b>	
30.1	The <i>starting date</i> is.	
30.1	The <i>service period</i> is	<b>Three (03) Years</b>
4	<b>Testing and defects</b>	<b>There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data</b>
5	<b>Payment</b>	
50.1	The <i>assessment interval</i> is	<b>between the [20<sup>th</sup> – 25<sup>th</sup> ] day of each successive month.</b>
51.1	The <i>currency of this contract</i> is the	<b>South African Rand</b>
51.2	The period within which payments are made is	<b>30 days from date of invoice.</b>
51.4	The <i>interest rate</i> is	<b>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</b>

Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands and

(ii) the LIBOR rate applicable at the time for amounts due in other currencies. LIBOR is the 6 month London Interbank Offered Rate quoted under the caption "Money Rates" in The Wall Street Journal for the applicable currency or if no rate is quoted for the currency in question then the rate for United States Dollars, and if no such rate appears in The Wall Street Journal then the rate as quoted by the Reuters Monitor Money Rates Service (or such service as may replace the Reuters Monitor Money Rates Service) on the due date for the payment in question, adjusted *mutatis mutandis* every 6 months thereafter (and as certified, in the event of any dispute, by any manager employed in the foreign exchange department of The Standard Bank of South Africa Limited, whose appointment it shall not be necessary to prove.

6	<b>Compensation events</b>	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data
7	<b>Use of Equipment Plant and Materials</b>	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data
8	<b>Risks and insurance</b>	
80.1	These are additional <i>Employer's</i> risks	1. None
9	<b>Termination</b>	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
10	<b>Data for main Option clause</b>	
A	Priced contract with price list	
11	<b>Data for Option W1</b>	
W1.1	The <i>Adjudicator</i>	the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a> ). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).



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

## 12 Data for secondary Option clauses

X1	Price adjustment for inflation																			
X1.1	The <i>base date</i> for indices is	TBA (1 Month prior to Tender Closure Date)																		
	The proportions used to calculate the Price Adjustment Factor are:	<table> <tr> <th>proportion</th><th>linked to index for</th><th>Index prepared by</th></tr> <tr> <td>0.</td><td>Preliminaries &amp; General (P&amp;G's)</td><td>SEIFSA Table D-3 – Stats. SA / Consumer Price Index (CPI)</td></tr> <tr> <td>0.</td><td>Labour</td><td>SEIFSA Table C-3 – Actual Labour Cost - Journeymen Employees</td></tr> <tr> <td>0.</td><td>Transportation</td><td>SEISA Table L-1 – Freight Costs</td></tr> <tr> <td>0.15</td><td>Fixed</td><td>non-adjustable</td></tr> <tr> <td>1.00</td><td></td><td></td></tr> </table>	proportion	linked to index for	Index prepared by	0.	Preliminaries & General (P&G's)	SEIFSA Table D-3 – Stats. SA / Consumer Price Index (CPI)	0.	Labour	SEIFSA Table C-3 – Actual Labour Cost - Journeymen Employees	0.	Transportation	SEISA Table L-1 – Freight Costs	0.15	Fixed	non-adjustable	1.00		
proportion	linked to index for	Index prepared by																		
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0.	Transportation	SEISA Table L-1 – Freight Costs																		
0.15	Fixed	non-adjustable																		
1.00																				
X2	Changes in the law	There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.																		
X18	Limitation of liability																			
X18.1	The <i>Contractor's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to	R0.0 (zero Rand)																		
X18.2	For any one event, the <i>Contractor's</i> liability to the <i>Employer</i> for loss of or	the amount of the deductibles relevant to the event																		

	damage to the <i>Employer's</i> property is limited to	
X18.5	The <i>end of liability date</i> is	<b>[•] months after the end of the <i>service period</i>.</b>
<b>X19</b>	<b>Task Order</b>	
X19.5	The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within	<b>[5] days of receiving the Task Order</b>
<b>Z</b>	<b>The <i>additional conditions of contract</i> are</b>	
		<b>Z1 to Z14 always apply.</b>

## **Z1 Cession delegation and assignment**

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

## **Z2 Joint ventures**

- Z2.1 If the *Contractor* constitutes a joint venture, consortium or other unincorporated grouping of two or more persons or organisations then these persons or organisations are deemed to be jointly and severally liable to the *Employer* for the performance of this contract.
- Z2.2 Unless already notified to the *Employer*, the persons or organisations notify the *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 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.

## **Z11 Ethics**

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

<b>Affected Party</b>	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,
<b>Coercive Action</b>	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,
<b>Collusive Action</b>	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,
<b>Committing Party</b>	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 Subcontractors or the Subcontractor's employees,
<b>Corrupt Action</b>	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,
<b>Fraudulent Action</b>	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,
<b>Obstructive Action</b>	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
<b>Prohibited Action</b>	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

### Insurance cover 83

- 83.1 When requested by a Party, the other Party provides certificates from his insurer or broker stating that the insurances required by this contract are in force.
- 83.2 The *Contractor* provides the insurances stated in the Insurance Table A from the *starting date* until the earlier of Completion and the date of the termination certificate.

**INSURANCE TABLE A**

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

in connection with this contract

**Insurance  
by the  
Employer**

86

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

**INSURANCE TABLE B**

<b>Insurance against or name of policy</b>	<b>Minimum amount of cover or minimum limit of indemnity</b>
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

## C1.2 Contract Data

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

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

Whenever a cell is shaded in the left-hand column it denotes this data is optional and would be required in relation to the option selected. In the event that the option is not required select and delete the whole row.]

**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)<sup>3</sup> in order to understand the implications of this Data which the tenderer is required to complete.
2. The number of the clause which requires the data is shown in the left-hand column for each statement however other clauses may also use the same data.
3. Where a form field like this [ ] appears, data is required to be inserted relevant to the option selected. Click on the form field **once** and type in the data. Otherwise, complete by hand and in ink.

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

Clause	Statement	Data
10.1	The <i>Contractor</i> is (Name):  Address  Tel No.  Fax No.	
24.1	The key people are:  1 Name:  Job:  Responsibilities:  Qualifications:  Experience:  2 Name:  Job  Responsibilities:  Qualifications:  Experience:	
		CV's (and further key person's data including CVs) are in .
<b>A</b>	<b>Priced contract with price list</b>	

<sup>3</sup> Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 5391902 or [www.ecs.co.za](http://www.ecs.co.za)

11.2(12)	The <i>price list</i> is in	<b><i>Part 2 – Pricing Data – C2.2 – The Price List</i></b>
11.2(19)	The tendered total of the Prices is	<b><i>R</i></b>



**PART 2: PRICING DATA**  
**TSC3 Option A**

Document reference	Title	No of pages
C2.1	Pricing assumptions: Option A	2
C2.2	The <i>price list</i>	[01]

## 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 <i>price list</i> unless later changed in accordance with this contract.
		(17) The Price for Services Provided to Date is the total of <ul style="list-style-type: none"><li>the Price for each lump sum item in the Price List which the <i>Contractor</i> has completed and</li><li>where a quantity is stated for an item in the Price List, an amount calculated by multiplying the quantity which the <i>Contractor</i> has completed by the rate.</li></ul>
		(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 is a rate-based contract.**

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.

### 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.

## C2.2 the *price list (Rate – Based Contract)*

Item nr	Description	Unit	Quantity	Rate	Price
1	LDV/km (working days)	km	86,840		
2	Transport/km (8ton Truck)	km	10,000		
3	Engineer	hr	560		
4	Senior Technician	hr	2080		
5	Technician	hr	32		
6	Artisan	hr	14,048		
7	Assistant - Semiskilled	hr	16,288		
8	Assistant – Unskilled	hr	12,980		
9	Accommodation & Meals	No	867		
10	Issue of CoC	No	140		

The total of the Prices

R0.00

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

## **C3.1**

Installation, Transportation, Commissioning and Maintenance of the Domestic and Industrial Air-Conditioning and Refrigeration Systems on an “As-And- When Required Basis” at Various Eskom Sites.