



## NEC3 Term *Service* Contract (TSC3)

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

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

for **PROVISION OF CEMS CALIBRATION AND  
CORRELATION TESTING AND BTEX FOR A PERIOD  
OF 5 YEARS**

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

## PART C1: AGREEMENTS & CONTRACT DATA

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## C1.1 Form of Offer & Acceptance

### Offer

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

### PROVISION OF CEMS CALIBRATION AND CORRELATION TESTING AND BTEX FOR A PERIOD OF 5 YEARS

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

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

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: <i>Service</i> 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

**C1.2a Contract Data****Part one - Data provided by the *Employer***

<b>Clause</b>	<b>Statement</b>	<b>Data</b>
<b>1</b>	<b>General</b>	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:	
	dispute resolution Option	<b>A: Priced contract with price list</b>
	and secondary Options	<b>W1: Dispute resolution procedure</b>
		<b>X1: Price adjustment for inflation</b>
		<b>X2 Changes in the law</b>
		<b>X17: Low Service damages</b>
		<b>X18: Limitation of liability</b>
		<b>X19: Task Order</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>+27 21 941 5701</b>
	Fax No.	<b>N/A</b>
10.1	The <i>Service Manager</i> is (name):	<b>Marlon Williams</b>
	Address	<b>15 Pasita Street, Rosenpark, Durbanville, 7550</b>
	Tel	<b>+27 21 941 5734</b>
	Fax	<b>N/A</b>
	e-mail	<b>williamc@eskom.co.za</b>
11.2(2)	The Affected Property is	<b>Ankerlig and Gourikwa Power Stations</b>
11.2(13)	The <i>Service</i> is	<b>PROVISION OF CEMS CALIBRATION AND CORRELATION TESTING AND BTEX FOR 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)

**PERIOD OF 5 YEARS**

11.2(14)	The following matters will be included in the Risk Register	<b>The Risk Register includes matters relating to uncertain future events which may affect the service of the equipment.</b>
11.2(15)	The <i>Service Information</i> 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	<ul style="list-style-type: none"> <li>• Five (5) working days</li> <li>• Immediately for health and safety related matters</li> </ul>
<b>2</b>	<b>The Contractor's main responsibilities</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
21.1	The <i>Contractor</i> submits a first plan for acceptance within	<b>1 Week of the Task Order Date</b>
<b>3</b>	<b>Time</b>	
30.1	The <i>starting date</i> is.	<b>The starting date is the date of issue of the first Task Order.</b>
30.1	The <i>Service period</i> is	<b>5 Calendar Years from the start date</b>
<b>4</b>	<b>Testing and defects</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>	<b>Payment</b>	
50.1	The <i>assessment interval</i> is	<b>between the 25th and 27th day of each successive month or after Completion of a Task Order</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 payment term from date of acceptable Tax Invoice and all relevant supporting documentation.</b>
51.4	The <i>interest rate</i> is	<p>the publicly quoted prime rate of interest (calculated on a 365 day year) charged by from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands and</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</p>

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.

<b>6</b>	<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
<b>7</b>	<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
<b>8</b>	<b>Risks and insurance</b>	
80.1	These are additional <i>Employer's</i> risks	Loss of or damage to Eskom's assets arising from activity not attributable to a failure by the Service provider to provide the Service in accordance with the Contract.
<b>9</b>	<b>Termination</b>	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
<b>10</b>	<b>Data for main Option clause</b>	
<b>A</b>	<b>Priced contract with price list</b>	
20.5	The <i>Contractor</i> prepares forecasts of the final total of the Prices for the whole of the <i>Service</i> at intervals no longer than	<b>4 weeks</b>
<b>11</b>	<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
	- if the arbitration procedure does not state who selects an arbitrator, is	of the Association of Arbitrators (Southern Africa) or its successor body.

## 12 Data for secondary Option clauses

<b>X1</b>	<b>Price adjustment for inflation</b>			
X1.1	The <i>base date</i> for indices is	The Contract Date.		
	The proportions used to calculate the Price Adjustment Factor are:	proportion	Stats SA	Index prepared by
		0.50	D4 - Consumer Price Index (All Urban Areas)	Statistics South Africa
		0.35	C3 – Labour	Statistics South Africa
		0.15	Non-adjustable	
		1.00		
<b>X2</b>	<b>Changes in the law</b>	There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.		
<b>X17</b>	<b>Low Service damages</b>			
X17.1	The <i>Service level table</i> is:			
Low Service Damage Description		Value Of Low Service Damages	Limit Of Low Service Damage	
<b>Contractor's Health and Safety file:</b>				
Submission of SHE file two (2) weeks before start of work. Also, at intervals as required by the <i>Employer's Safety Department</i> .		1.5% of Task order value per week	Limited to 10% of task order value	

<b>Quality Control Plans / Inspection and Test Plans:</b>  Three (3) days after receipt of Task Order.	1.5% of Task order value per day	Limited to 10% of task order value
<b>Submission Delays:</b>  Delays in submission of documents as detailed in this agreement.	1.5% of Task order value per week	Limited to 10% of task order value
<b>Poor workmanship:</b>  Rework due to poor workmanship	3% of Task order value per week	Limited to 10% of task order value
<b>Delay damages:</b>  Delays in completing the Task as per Task Order programme	3% of Task order value per week	Limited to 10% of task order value
<b>No response of NCR within 3 Days:</b>  Not Responding to NRC's raised within 3 days of receiving the notification.	1% of fixed monthly service or Task order for an ad-hoc service	Limited to 10% of monthly task order service value / task order value for ad-hoc service
<b>Faulty or uncertified equipment</b>  "All relevant test equipment used must be accompanied with a valid SANAS accredited calibration certificate." All test gas cylinders need to be accompanied with a valid certificate of analysis.	3% of Task order value per week	Limited to 10% of task order value
<b>Incomplete monitoring scope</b>  "Perform Correlation tests on all stacks... Perform six monthly passive BTEX fence line sampling – Gourikwa Power Station."	3% of Task order value per week	Limited to 10% of task order value
<b>Improper methodology</b>  "The determination of particulate concentration is carried out in accordance with European Standard EN13284-1 and ISO 12141..."	3% of Task order value per week	Limited to 10% of task order value
<b>Accreditation gaps</b>  "Service providers need to be accredited with SANAS for Stack Emissions Testing."	3% of Task order value per week	Limited to 10% of task order value
<b>Calibration lapses</b>  "The Ultramat analyser and dust monitor must be calibrated by qualified personnel within 1 month prior to the commencement of the correlation tests."  Prior to actual correlation the calibration must be valid at the time of each correlation test.	3% of Task order value per week	Limited to 10% of task order value

<b>X18</b>	<b>Limitation of liability</b>	
X18.1	The <i>Contractor's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to	<b>R0.0 (zero Rand)</b>
X18.2	For any one event, the <i>Contractor's</i> liability to the <i>Employer</i> for loss of or damage to the <i>Employer's</i> property is limited to	<b>the amount of the deductibles relevant to the event</b>
X18.3	The <i>Contractor's</i> liability for Defects due to his design of an item of Equipment is limited to	<b>The greater of:</b> <ul style="list-style-type: none"> <li>• the total of the Prices at the Contract Date and</li> <li>• the amounts excluded and unrecoverable from the <i>Employer's</i> insurance (other than the resulting physical damage to the <i>Employer's</i> property which is not excluded) plus the applicable deductibles</li> </ul>
X18.4	The <i>Contractor's</i> total liability to the <i>Employer</i> , for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	<b>two (2) times the total of the Prices other than for the additional excluded matters.</b>  <b>The <i>Contractor's</i> total liability for the additional excluded matters is not limited.</b>  <b>The additional excluded matters are amounts for which the <i>Contractor</i> is liable under this contract for</b> <ul style="list-style-type: none"> <li>• loss of or damage to property (other than the <i>Employer's</i> property, Plant and Materials),</li> <li>• death of or injury to a person and</li> <li>• infringement of an intellectual property right.</li> </ul>
X18.5	The <i>end of liability date</i> is	<b>12 months after the end of the service period.</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>3 days of receiving the Task Order</b>
<b>Z</b>	<b>The additional conditions of contract are</b>	<b>Z1 to Z16 always apply.</b>
<b>Z1</b>	<b>Cession delegation and assignment</b>	
Z1.1	The <i>Contractor</i> does not cede, delegate or assign any of its rights or obligations to any person without the written consent of the <i>Employer</i> .	
Z1.2	Notwithstanding the above, the <i>Employer</i> may on written notice to the <i>Contractor</i> cede and delegate its rights and obligations under this contract to any of its subsidiaries or any of its present divisions or operations which may be converted into separate legal entities as a result of the restructuring of the Electricity Supply Industry.	
<b>Z2</b>	<b>Joint ventures</b>	
Z2.1	If the <i>Contractor</i> constitutes a joint venture, consortium or other unincorporated grouping of two or more persons or organisations then these persons or organisations are deemed to be jointly	

and severally liable to the *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 constitutes a breach of this contract.

Upon becoming aware of such failure, the *Employer* may issue an early warning in terms of clause 16.1 and require the *Contractor* to remedy the failure within a reasonable period stated in the notice.

If the *Contractor* remedies the failure within such period, no further action is taken.

Where the failure is not remedied, or where the change in B-BBEE status materially prejudices the *Employer's* procurement obligations or the basis upon which the contract was awarded, the *Employer* may elect to:

(a) renegotiate the contract in accordance with clause Z3.3; or

(b) terminate the *Contractor's* obligation to Provide the *Service* in terms of clause 90.1.

Any termination under this clause is treated as termination by the *Employer* for reasons other than *Contractor* default, and the amounts due are assessed in accordance with clauses 92 and 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:

- (a) will adhere to Eskom's Occupational Health and Safety policies, standards, procedures, directives, OHS requirements, applicable health and safety laws and regulations and other requirements, as amended.
- (b) warrants that the total of the Prices as at the Contract Date includes a sufficient amount for proper compliance with all applicable health and safety laws, regulations, rules, guidelines and procedures provided for in this contract, and for the proper maintenance of health and safety in and about the execution of the service; and
- (c) ensures that its SubContractors, employees and any other persons under the Contractor's direction and control comply with the obligations referred to in this clause.
- (d) may not commence work until the Health and Safety file has been approved by the respective Contract Custodian together with the OHS professional.
- (e) accepts that the Employer may appoint him as the "Main Contractor" for the Affected Property;
- (f) undertakes, in and about the execution of the service, to comply 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.
- (g) 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.

Z6.2 Personal Protective Equipment (PPE) Compliance:

Compliance with PPE requirements is compulsory and non-negotiable across all operational areas. Non-compliance will result in immediate and strict consequence management as stipulated in the memorandum referenced in Annexure B of the OHS Requirements..

**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 The last paragraph of core clause 61.3 is deleted and replaced with the following:

If the Contractor does not notify a compensation event within eight weeks of becoming aware that the event has happened, the Contractor is not entitled to a change in the Prices, unless the Service Manager should have notified the compensation event.

## **Z9 Employer's limitation of liability**

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

Z9.2 The *Contractor's* entitlement under the indemnity in 82.1 is provided for in 60.1(12) and the *Employer's* liability under the indemnity is limited to compensation as provided for in core clause 63 and X19.11 if Option X19 Task Order applies to this contract.

## **Z10 Termination (Additional to Core Clause 91.1)**

Z10.1 In core clause 91.1, at the second main bullet point, fourth sub-bullet point, after the words "against it", add the words:

" , or is placed under business rescue in terms of the Companies Act 71 of 2008."

## **Z11 Ethics**

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

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

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

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

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

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

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

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

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

Z11.1 A Committing Party may not take any Prohibited Action during the course of the procurement

of this contract or in execution thereof.

- Z11.2 The *Employer* may terminate the *Contractor's* obligation to Provide the *Services* if a Committing Party has taken such Prohibited Action and the *Contractor* did not take timely and appropriate action to prevent or remedy the situation, without limiting any other rights or remedies the *Employer* has. It is not required that the Committing Party had to have been found guilty, in court or in any other similar process, of such Prohibited Action before the *Employer* can terminate the *Contractor's* obligation to Provide the *Services* for this reason.
- Z11.3 If the *Employer* terminates the *Contractor's* obligation to Provide the *Services* for this reason, the amounts due on termination are those intended in core clauses 92.1 and 92.2.
- Z11.4 A Committing Party co-operates fully with any investigation pursuant to alleged Prohibited Action. Where the *Employer* does not have a contractual bond with the Committing Party, the *Contractor* ensures that the Committing Party co-operates fully with an investigation.

## Z12 Insurance

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

#### Insurance cover

83

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

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

**INSURANCE TABLE A**

Insurance against	Minimum amount of cover or minimum limit of indemnity
Loss of or damage caused by the <i>Contractor</i> to the <i>Employer's</i> property	The replacement cost where not covered by the <i>Employer's</i> insurance.  The <i>Employer's</i> policy deductible as at Contract Date, where covered by the <i>Employer's</i> insurance.
Loss of or damage to Plant and Materials	The replacement cost where not covered by the <i>Employer's</i> insurance.  The <i>Employer's</i> policy deductible as at Contract Date, where covered by the <i>Employer's</i> insurance.
Loss of or damage to 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	<u>Loss of or damage to property</u> The replacement cost  <u>Bodily injury to or death of a person</u> The amount required by the applicable law.

Contractor) arising from or in connection with the Contractor's Providing the Service	
Liability for death of or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with this contract	The amount required by the applicable law

**Z 12.2 Replace core clause 86 with the following:****Insurance by the Employer**

86

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

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

**Z13 Intellectual Property – Eskom owning Intellectual Property**

**"Intellectual Property"** means (a) patents, trademarks, *Service* marks, rights in designs, trade names, trade secrets, know how, copyrights and topography rights, in each case whether registered or not; (b) applications for registration of any of them; (c) rights under licences and consents in relation to any of them; (d) all forms of protection of a similar nature or having equivalent or similar effect to any of them which may subsist anywhere in the world.

**"Background Intellectual Property"** means any and all Intellectual Property rights that are not Foreground Intellectual Property and are owned or controlled by the relevant party or licensed to the relevant party prior to or outside of the *services* but required for the purposes of the *services*.

**"Foreground Intellectual Property"** means all Intellectual Property rights and other matter capable of being the subject of intellectual property rights that is conceived, first reduced to practice or writing or developed in whole or in substantial part in the course of the execution of the *services* and rights which



are developed substantially as a result of the *services*. Any *services* that will be developed, changed, modified and/or improved specifically for the Purposes will be Foreground Intellectual Property. Any data or any other information relating to *Employer's* proprietary information generated from the use of the *Contractor's* Background Intellectual Property.

- Z13.1** The *Contractor* retains ownership of all Background Intellectual Property rights made by or on behalf of the *Contractor* as part of the *[works / services]* in information or material it uses in carrying out the *[works / services]*.
- Z13.2** All Foreground Intellectual Property rights, contained in any developed materials which are created by the *Contractor* or on behalf of the *Contractor*, for the purposes of and in support of the execution of the *[works / services]* (*Employer's* IP) vest with the *Employer*.
- Z13.3** Any data or any other information relating to *Employer's* proprietary information generated from the use of the *Contractor's* Background Intellectual Property, the copyright therein shall be owned by the *Employer*.
- Z13.4** The *Contractor* acknowledges that all rights, title, and interest in and to the Foreground Intellectual Property that may result or originate from or be developed in execution of the *[works / services]* vests in the *Employer* and that the *Contractor* has no claim of any nature in and to the Foreground Intellectual Property.
- Z13.5** The *Contractor* ensures that a copyright notice is incorporated or embossed or labelled on the Foreground Intellectual Property, where the *Employer* is reflected as the owner of the Foreground Intellectual Property.
- Z13.6** The *Contractor* is obliged to provide Foreground Intellectual Property manufacturing documents, designs, processes and/or specifications to the *Employer* before/on the completion date.
- Z13.7** The *Contractor* procures that each Sub-*Contractor* executes all and any *[works / services]*, and takes all and any other actions as may be required, in order to give effect to this Agreement.
- Z13.8** The *Employer* retains all Background Intellectual Property rights in all documents made by or on behalf of the *Employer* including all documents and requirements provided prior to or during the execution of the *[works / services]*. The *Contractor* does not, without the written consent, of the *Employer*, copy, use or issue to a third party any of the *Employer's* Background Intellectual Property documents and requirements except for the purposes of executing the *[works / services]*.
- Z13.9** Either party procures that any third party executes confidentiality undertakings not to disclose to any other third parties, any of the *Employer's* Background Intellectual Property and IP documents and requirements at all, in respect of the *Employer*, or the Background Intellectual Property, in respect of the *Contractor*.
- Z13.10 Third Party Claims:**
- Z13.10.1** In the event of any claims being made or actions brought against the *Employer*, on the ground that the *Contractor* infringed any patent, trade mark or copyright, the *Contractor* is notified thereof and at its own expense, conducts all negotiations in consultation with the *Employer* for the settlement of the claim and litigation that may arise from such alleged infringement, provided that the *Employer* will not bear any financial burden or losses.
- Z13.10.2** Save where the *Contractor* fails to take over the conduct of the negotiation or litigation within a reasonable time of the notification of the alleged infringement, the *Employer* does not make any admission which might be prejudicial to the *Contractor's* position. The *Employer*, at the request and the cost of the *Contractor* affords it all reasonable technical assistance that the *Employer* is able to provide for the purpose of contesting any such claim or action.
- Z13.10.3** Should it be held in any such action that any such protected rights have been infringed, as

definitely stated by a judgment of the court before which the action is brought, the *Contractor*, at its own expense and in consultation with the *Employer*, either:

- a. procures for [Employer/Client/Purchaser] the right to continue to use the affected item or design, or
- b. replaces the said affected item or design with a non-infringing item, or
- c. provides a design of equivalent quality or modify such affected item or design so as to make it non-infringing without affecting the quality.

**Z13.10.4** Notwithstanding anything contained in this contract, the foregoing sets forth the entire responsibility of *Contractor* with respect to claims relating to infringement.

**Z13.10.5** Where it is alleged that the *Employer* has committed an infringement as intended vis-à-vis the *Contractor* as set out in the third party intellectual property infringement clause, the *Employer* has the same rights and obligations as the *Contractor*, mutatis mutandis, as regards such alleged infringement.

**Z13.10.6** The *Contractor* herewith indemnifies the *Employer* and undertakes to keep the *Employer* indemnified against all claims of whatsoever nature, real or imagined, which may be made against the *Employer* arising from the infringement of any third party intellectual property rights.

## **Z14 Asbestos**

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

<b>AAIA</b>	means approved asbestos inspection authority.
<b>ACM</b>	means asbestos containing materials.
<b>AL</b>	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.
<b>Ambient Air</b>	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.
<b>Compliance Monitoring</b>	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.
<b>OEL</b>	means occupational exposure limit.
<b>Parallel Measurements</b>	means measurements performed in parallel, yet separately, to existing measurements to verify validity of results.
<b>Safe Levels</b>	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.
<b>Standard</b>	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.
<b>SANAS</b>	means the South African National Accreditation System.
<b>TWA</b>	means the average exposure, within a given workplace, to airborne asbestos fibres, normalised to the baseline of a 4 hour continuous period, also applicable to short term exposures, i.e. 10-minute TWA.

- Z14.1 The *Employer* ensures that the Ambient Air in the area where the *Contractor* will Provide the *Services* conforms to the acceptable prescribed South African standard for asbestos, as per the regulations published in GNR 155 of 10 February 2002, under the Occupational Health and Safety Act, 1993 (Act 85 of 1993) ("Asbestos Regulations"). The OEL for asbestos is 0.2 regulated asbestos fibres per millilitre of air as a 4-hour TWA, averaged over any continuous period of four hours, and the short term exposure limit of 0.6 regulated asbestos fibres per millilitre of air as a 10-minute TWA, averaged over any 10 minutes, measured in accordance with HSG248 and monitored according to HSG173 and OESSM.
- Z14.2 Upon written request by the *Contractor*, the *Employer* certifies that these conditions prevail. All measurements and reporting are effected by an independent, competent, and certified inspection body, i.e. a SANAS accredited and Department of Employment and Labour approved AAIA. The *Contractor* may perform Parallel Measurements and related control measures at the *Contractor's* expense. For the purposes of compliance the results generated from Parallel Measurements are evaluated only against South African statutory limits as detailed in clause Z14.1. Control measures conform to the requirements stipulated in the AAIA-approved asbestos work plan.
- Z14.3 The *Employer* manages asbestos and ACM according to the Standard.
- Z14.4 In the event that any asbestos is identified while Providing the *Services*, a risk assessment is conducted and if so required, with reference to possible exposure to an airborne concentration of above the AL for asbestos, immediate control measures are implemented and relevant air monitoring conducted in order to declare the area safe.
- Z14.5 The *Contractor's* personnel are entitled to stop working and leave the contaminated area forthwith until such time that the area of concern is declared safe by either Compliance Monitoring or an AAIA approved control measure intervention, for example, per the emergency asbestos work plan, if applicable.
- Z14.6 The *Contractor* continues to Provide the *Services*, without additional control measures presented, on presentation of Safe Levels. The contractually agreed dates to Provide the *Services*, including the Completion Date, are adjusted accordingly. The contractually agreed dates are extended by the notification periods required by regulations 3 and 21 of the Asbestos Regulations, 2001.
- Z14.7 Any removal and disposal of asbestos, asbestos containing materials and waste, is done by a registered asbestos *Contractor*, instructed by the *Employer* at the *Employer's* expense, and conducted in line with South African legislation.
- Z15 Persistent Failure to Achieve Service Levels (Amendment to Clause 91)**
- Failure by the *Contractor* to achieve the *Service Levels* in clause X17 on three (3) or more occasions within any rolling twelve-month period constitutes a substantial breach of contract for purposes of clause 91.2.
- Z16 Termination for Convenience and Default — Limitation of Amounts Due (Amendment to Clause 93)**
- Z16.1 Notwithstanding clauses 92 and 93, where the Employer terminates the *Contractor's* obligation to Provide the *Services* under clause 91.6 (termination for convenience), the *Contractor* is entitled only to payment for *Services* properly performed up to the termination date and to reasonable demobilisation costs. No loss of profit, loss of opportunity, anticipated savings, or other consequential loss is payable.
- Z16.2 Where the Employer terminates the *Contractor's* obligation to Provide the *Services* under clause 91.2 (*Contractor* default), 91.3, Z3, Z10, Z11, or Z15, the *Contractor* is entitled only to payment for *Services* properly performed up to the termination date. No demobilisation costs, loss of profit, or other compensation is payable.

## C1.2 Contract Data

### Part two - Data provided by the Contractor

#### Notes to a tendering Contractor:

1. Please read both the both the NEC3 Term Service Contract April 2013 and the relevant parts of its Guidance Notes (TSC3-GN)<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.	
11.2(8)	The <i>direct fee percentage</i> is	%
	The <i>subcontracted fee percentage</i> is	%
11.2(14)	The following matters will be included in the Risk Register	
11.2(15)	The <i>Service</i> Information for the <i>Contractor's</i> plan is in:	
21.1	The plan identified in the Contract Data is contained in:	
24.1	The key people are:  1       Name:	

<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)

Job:

Responsibilities:

Qualifications:

Experience:

2      Name:

Job

Responsibilities:

Qualifications:

Experience:

CV's (and further key person's data including  
CVs) are in .

A	Priced contract with price list		
11.2(12)	The <i>price list</i> is in		
11.2(19)	The tendered total of the Prices is	R	

PART 2: PRICING DATA

TSC3 Option A

Document reference	Title	Pages
C2.1	Pricing assumptions: Option A	22 - 24
C2.2	The <i>price list</i>	25 - 28

## C2.1 Pricing assumptions: Option A

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

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

**Identified and 11**

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

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

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

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

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

### 2. Function of the Price List

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

### 3. Link to the Contractor's plan

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

## 4. Preparing the price list

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

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

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

### 4.1 Format of the price list

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

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

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

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

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



## C2.2 the *price list*

### Preliminary and General

Item nr	Description	Unit	QTY	Rate	Price
1.	SHEQ files and induction (Annual)	Year	5		
2.	Annual Medicals for all Employees	Year	5		
3.	Annual PPE for all employees	Year	5		
4.	Transport (Employees)	R/ km	10 000		
5.	Accommodation	Person / day	200		
	<b><u>SUBTOTAL</u></b>				

### BTEX and Correlation test contract budget

Gourikwa		One two-week sampling run in April and one two-week sampling run in October of each year			
Item Nr	Deliverable	Quantity for Sampling Run	Quantity for 5 Years	Unit Price Excl.	Total for 5 Years
1.	CONSULTING - Sample prep, hire and courier (shelters, end caps, BTEX tubes)	1	10		
2.	RENT - Rental of chromasorb tubes	4	40		
3.	ANALYSIS - BTEX Analysis of samples by an ISO 17025 Laboratory (4 samples)	4	40		
4.	REPORT_CHK - Reporting and Validation	1	10		
	<b><u>SUBTOTAL</u></b>				
	<b><u>TOTAL</u></b>				

	<b><u>ADDITIONAL</u></b>				
<b>1</b>	<b>ADDITIONAL CALIBRATIONS SERVICE ON EQUIPMENT NOT LISTED ABOVE (Documentary proof of service plus a fee)</b>	To Be Confirmed	Each		
<b>2</b>	<b>FEE PERCENTAGE FOR ADDITIONAL SERVICES</b>	To Be Confirmed	%		
<b>3</b>	<b>SUPPLY AND DELIVERY OF REPLACEMENT EQUIPMENT</b>	To Be Confirmed	Each		
<b>4</b>	<b>PROOF OF PROCUREMENT PLUS A FEE</b>	To Be Confirmed	Each		
	<b><u>SUBTOTAL</u></b>				
	<b><u>TOTAL</u></b>				

**Correlation test and stack testing**

<b>Correlation test (Gourikwa)</b>		<b>The emission monitoring systems must be audited by a SANAS accredited laboratory at least once every two (2) years.</b>			
<b>Item Nr</b>	<b>Deliverable</b>	<b>Quantity for Sampling Run</b>	<b>Quantity for 5 Years</b>	<b>Unit Price Excl.</b>	<b>Total for 5 Years</b>
<b>1.</b>	Preliminary and General	1	3		
	<b>Gourikwa: Pre-test requirement</b>				
<b>2.</b>	Calibration Equipment: DURAG DUST MONITORING SYSTEM	1	3		
<b>3.</b>	CAL EQP:CEMS;2				

	YEARLY;TEST GAS	1	3		
	<b>Gourikwa: Stack Sampling</b>				
4.	Calibration Equipment: DURAG 320;2 YEARLY	1	3		
5.	Calibration Equipment: CEMS;2 YEARLY	1	3		
	<b>Ankerlig1: Pre-testing requirement</b>				
6.	Calibration Equipment: DURAG DUST MONITORING SYSTEM	1	3		
7.	Calibration Equipment: CEMS;2 YEARLY;TEST GAS	1	3		
	<b>Ankerlig1: Stack Sampling</b>				
8.	Calibration Equipment: DURAG 320;2 YEARLY	1	3		
9.	Calibration Equipment: CEMS;2 YEARLY	1	3		
	<b>Ankerlig2: Pre-testing requirement</b>				
10.	Calibration Equipment: DURAG 320;2 YEARLY	1	3		
11.	Calibration Equipment: CEMS;2 YEARLY	1	3		
	<b>Ankerlig2: Stack Sampling</b>				
12.	Calibration Equipment: DURAG 320;2 YEARLY	1	3		
13.	Calibration Equipment:				

	CEMS;2 YEARLY	1	3		
	<b><u>SUBTOTAL</u></b>				
	<b><u>TOTAL</u></b>				
	<b><u>ADDITIONAL</u></b>				
1	<b>ADDITIONAL CALIBRATIONS SERVICE ON EQUIPMENT NOT LISTED ABOVE (Documentary proof of service plus a fee)</b>	To Be Confirmed	Each		
2	<b>FEE PERCENTAGE FOR ADDITIONAL SERVICES</b>	To Be Confirmed	%		
3	<b>SUPPLY AND DELIVERY OF REPLACEMENT EQUIPMENT</b>	To Be Confirmed	Each		
4	<b>PROOF OF PROCUREMENT PLUS A FEE</b>	To Be Confirmed	Each		
	<b><u>SUBTOTAL</u></b>				
	<b><u>TOTAL</u></b>				

The total of the Prices

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## PART 3: SCOPE OF WORK

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## 1. Description of the Service

### 1.1 Executive overview

To perform calibration, dust correlation, gaseous parallel tests and BTEX passive sampling (Gourikwa only) at Ankerlig & Gourikwa Power Stations in compliance with applicable environmental legislation and Atmospheric Emission Licence (AEL) conditions.

The scope of work involves performing correlation tests, where Particulate Matter (PM) measurements will be obtained using the isokinetic measurement method. As well as performing gaseous monitoring parallel to existing CEMS systems. The existing CEMS system comprises of an Ultramat 23 gas analyser and a Durag DR320 Particular Monitor. The service has a pre-test requirement of the verification/calibration of the Ultramat 23 analyser and dust monitor that also needs to be performed no later than one month prior to the full Dust Correlations and Gaseous Parallel tests. Passive BTEX fenceline sampling needs to be performed at Gourikwa Power Station on a six-monthly interval.

### 1.2 Employer's requirements for the Service

#### 1.2.1 Purpose

The *Employer* requires the Service Provider to provide labour, including special tools, equipment, calibration laboratories, according to the relevant legislation and standards to carry out the service.

The Contractor shall provide compliance to the relevant standard that specifies general requirements for the competence of testing and calibration laboratories.

#### 1.2.2 Applicability

This scope of work will apply to all units at Ankerlig and Gourikwa Power Stations.

#### 1.2.3 Normative

- [1] ISO 9001 Quality Management Systems
- [2] AEL LICENCE ESKOM GOURIKWA Renewal 2023 (WCED013)
- [3] Eskom Ankerlig Final AEL 2024 (WCCT 036)

#### 1.2.4 Interpretation and terminology

The following abbreviations are used in this Service Information:

Abbreviation	Meaning given to the abbreviation
IEC	International Electrotechnical Commission
ISO	International Organisation for Standardization
NEC	New Engineering Contract
OEM	Original Equipment Manufacturer
OHS	Occupational Health and Safety
PPE	Personal Protective Equipment
PS	Power Station



SANS	South African National Standards
SHE	Safety, Health and Environmental
AEL	Atmospheric Emission Licence
BTEX	Benzene, Toluene, Ethylbenzene, Xylenes
CEMS	Continuous Emission Monitoring System
MES	Minimum Emission Standard
PM	Particulate Matter
SANAS	South African National Accreditation System
VOC	Volatile Organic Compound

### 1.2.5 Definitions

Definition	Description
Dust Correlation	The process to correlate the mass emissions with the output of the dust monitor
Gaseous Verification / Parallel Test	The process to verify the online emission with a certified parallel test monitor to produce a correction factor

### 1.2.6 Contractor Requirements

- Service providers need to be accredited with SANAS for Stack Emissions Testing. The test facility utilised for analysis must be accredited for the ISO/IEC 17025 standard.
- The test facility for BTEX analysis need to be accredited for the ISO/IEC 17025 standard in terms of volatile organic compounds
- All relevant test equipment used must be accompanied with a valid SANAS accredited calibration certificate.
- All test gas cylinders need to be accompanied with a valid certificate of analysis.

### 1.2.7 Contractor Scope

- Provide the test gas for Ultramat 23 verification/calibration.
- Perform verification/calibration of CEMS systems at the respective sites.
- Perform Correlation tests on all 14 stacks.
- Perform Gaseous monitoring on all 14 stacks.
- Analysis of samples in test facilities.
- Provide correlation and gaseous test result report.
- Perform six monthly passive BTEX fence line sampling – Gourikwa Power Station.
- Provide BTEX sampling analysis report.

### 1.2.8 CEMS Equipment Installed Base

- Particulate Monitor – Durag DR320 dust monitor.
- Gaseous Monitor – Siemens Ultramat 23
  1. NO – Nitrogen Oxide
  2. CO – Carbon Monoxide

### 3. SO<sub>2</sub> – Sulphur Dioxide

#### 1.2.9 Test Gas Composition Requirements

- Type: Carbon/Nitrogen/Monoxide; Purity: 100ppm Co; 140ppm No; Container: Cyl; Multi Component Of 100ppm Carbon Monoxide(Co) And 140ppm Nitrogen Oxide(No) In Mg/Nm<sup>3</sup> Expressed As No With A Relative Uncertainty Of 0.5% To 1%
- Type: Dioxide/Sulphur; Purity: 15 (+/- 0.16) X 10<sup>-6</sup>mol.Mol<sup>-1</sup> (15 Ppm)

#### 1.2.10 Pre Correlation Test Requirements

Before testing is carried out, the service provider must ensure that all equipment to be used for testing are fully functional and reliable. The Ultramat analyser and dust monitor must be calibrated by qualified personnel within 1 month prior to the commencement of the correlation tests. The Service provider undertaking the correlation shall witness this calibration and a calibration certificate will be issued for inclusion in the correlation test report.

#### 1.2.11 PM Correlation Testing

The isokinetic measurements will be in accordance with an MES/Eskom approved equivalent (e.g. VDI, EN or ISO Standards). This requires the use of a calibrated gas meter, pitot tube, thermocouple instrumentation and simultaneous flow measurement and sampling.

The determination of particulate concentration is carried out in accordance with European Standard EN13284-1 and ISO 12141 for all plant with emission limit values below 75 mg/Nm<sup>3</sup>. The use of ISO 12141 and EN 13284-1 is preferable due to the sensitivity when measuring at low concentrations when compared to ISO 9096 and VDI 2066.

#### 1.2.12 Gaseous Testing

Standard Reference Method EN 14181 to be used for parallel gaseous testing. Note that the service provider doing the parallel test must measure both NO and NO<sub>2</sub>. Guidelines for Gaseous monitoring tests are outlined in Eskom's Emissions Monitoring and Reporting Standard (240-56242363)

- Emission Gasses
  1. Sulphur Dioxide (SO<sub>2</sub>)
  2. Oxides of Nitrogen (NO<sub>x</sub>) comprising of: Nitric Oxide (NO) & Nitrogen Dioxide (NO<sub>2</sub>)
  3. Carbon Monoxide (CO)
  4. Carbon Dioxide (CO<sub>2</sub>)
- Parameters
  1. Oxygen (O<sub>2</sub>)
  2. Stack Temperature
  3. Stack Velocity
  4. Moisture Content
  5. Stack Pressure

#### 1.2.13 BTEX Requirements

Passive fence line testing for the following Volatile Organic Compounds needs to be performed at Gourikwa Power Station on a six-monthly basis. One two-week sampling run in April and one two-week sampling run in October of each year. The concentrations of BTEX may not exceed the limits indicated in the table below.

<b>Pollutant</b>	<b>Averaging Period</b>	<b>Standard/Guideline (<math>\mu\text{g}/\text{m}^3</math>)</b>
Benzene	Calendar year	10 5
Toluene	24-hour 30-min	7 500 (CNS effect) 1 000 (odour detection)
Xylene	1-hour 24-hour	2 300 700
Ethyl benzene	1-hour	2 000

\* Source EAL: WCED013

## 2. Management strategy and start up

### 2.1 Management meetings

<b>Meetings</b>	<b>Approximate time &amp; interval</b>	<b>Location</b>	<b>Attendance by:</b>
Kick-off	Once-off	MS Teams or Site	<i>Service Manager, Contractor, Employer's representatives</i>
Risk Reduction	As required	MS Teams or Site	<i>Service Manager, Contractor, Employer's representatives, and relevant stakeholders</i>

The *Contractor* conducts daily toolbox talks prior to commencement of work activities.

Regular meetings of a general nature may be convened and chaired by the Service Manager in accordance with the table above.

The Service Manager and the Contractor attend such meetings. Either Party may invite others to attend as necessary, subject to agreement, but responsibility for the meeting remains with the Service Manager and the Contractor.

The purpose of management meetings is to promote cooperative working and to proactively manage the administration of the contract, with the objective of minimising risks, issues and surprises for both Parties. At management meetings, the Service Manager and the Contractor may review, as appropriate:

- safety matters, including good practices and improvement suggestions;
- any major incidents, unplanned work or significant events during the period under review;
- the assessed amount due for the period in accordance with the contract;
- any substantial disagreements or disputes notified in terms of the contract;
- Early Warnings and Defect Notifications issued during the period and the status of the relevant registers;
- the Contractor's general comments on the Service provided;
- the Service Manager's general comments on the Service provided;
- notable achievements;
- contractual or commercial matters; and
- performance against agreed key performance indicators.

The Service Manager prepares minutes of management meetings and circulates them to the Contractor within a reasonable time after the meeting. The Service Manager and the Contractor confirm agreement to the minutes.

Minutes or registers of meetings are records only and are not used to give instructions, confirm actions or make decisions under the contract. Instructions, notifications and assessments are given separately by the person identified in the conditions of contract as responsible for such actions.

Meetings of a specialist nature may be convened as specified elsewhere in this Service Information, or

otherwise by agreement between the Parties. Records of such meetings are submitted to the Service Manager by the person convening the meeting within five days of the meeting. The Contractor ensures that its personnel attend workshops or meetings reasonably required for the provision of the Service, including safety inductions and operational briefings.

## **2.2 Contractor's management, supervision and key people**

The *Contractor* provides the management and supervision necessary to Provide the Service in accordance with Clause 24 of the Conditions of Contract.

Within two weeks of the starting date, the *Contractor* submits an organogram showing the structure, reporting lines and contact details of personnel dedicated to the Service.

Personnel performing calibration, correlation testing and support services shall be suitably qualified and experienced.

The *Service Manager* may require the removal of a person in accordance with Clause 24.2 of the Conditions of Contract.

## **2.3 Warranty and Defects Liability**

The Contractor warrants that calibrations performed under this Contract are performed in accordance with the manufacturer's Product Data Sheet and this Service Information.

Where Calibration Defects attributable to non-compliant application are identified within the Defects Correction Period, the Contractor shall rectify such Defects in accordance with Clause 42 of the Conditions of Contract.

## **2.4 Documentation control**

### **2.4.1 Identification and Control**

All reports and documents submitted under this Contract shall be provided in both electronic and hard copy format unless otherwise agreed with the *Service Manager*.

Electronic documents shall be submitted in commonly used Microsoft Office formats (e.g. Word, Excel or equivalent editable format) unless otherwise specified.

Documentation and drawings (where applicable) are prepared in South African English and SI units are used.

Each document shall include a title, reference number, date and revision number.

Formal communications between the *Contractor* and the *Employer* are made through the *Service Manager* in accordance with Clause 13 of the Conditions of Contract.

The *Contractor* maintains an up-to-date register of all submissions and communications related to *Providing the Service*.

### **2.4.2 Documentation to be provided by the Employer**

Upon written request to the *Service Manager*, the *Employer* provides access to applicable *Employer* standards, procedures, guides, forms and available Site documentation required for *Providing the Service*.

Requests shall clearly identify the required document reference numbers.

Documentation shall be provided within a reasonable period consistent with the Accepted Programme.

### **2.4.3 Communication**

Communication under this Contract is in accordance with Clause 13 of the Conditions of Contract.

Formal communications shall be addressed to the *Service Manager* or *Supervisor*, as applicable to the matter concerned.

Each communication shall clearly reference:

- The Contract number;
- The Contract title;
- Any relevant previous correspondence;
- The applicable clause of the Conditions of Contract where relevant;
- Whether a response is required; and
- A unique correspondence reference number.

## 2.5 Invoicing and payment

The Contractor shall address the tax invoice to  
Eskom Holdings SOC Limited  
P O Box 1091  
Johannesburg  
2000

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

- a) The Service Manager to be copied in on all electronic invoices emailed.
- b) Failure to submit the invoice to the correct address could result in delays in payment.
- c) The Contractor's Tax Invoices comply with the requirements as stated in clause Z7 of the Contract Data
- d) Invoices are submitted electronically to:

Local Eskom Invoices - [invoiceseskomlocal@eskom.co.za](mailto:invoiceseskomlocal@eskom.co.za)  
Foreign Eskom Invoices - [invoiceseskomforeign@eskom.co.za](mailto:invoiceseskomforeign@eskom.co.za)

- e) Details required when submitting invoices and additional data:

The subject line on your email should only contain your vendor number  
Each invoice in PDF should be named with your invoice number only  
All electronic invoices are be sent in PDF format only  
Attach the proof of delivery to your invoice  
Where applicable, supporting documents are be attached to the scanned PDF invoice as one attachment  
A copy of the signed assessment certificate  
Any other appropriate documents, e.g.

For shipping invoices, please ensure the following documents are attached

Invoice (this should only reflect the shipping cost)

Commercial invoice

Delivery note

Your shipping costs calculation relevant to that invoice – not a generic calculation (The amount of the shipping costs calculation balances on the amount on the invoice.)

Forwarding agent's invoice

The customs document

Please do not attach unnecessary documents as this will make the file too large.

Other requirements:

For foreign invoices, suppliers are still required to physically deliver hard copies of original documents to the respective Service Manager even though the invoices have been submitted electronically

Ensure compliance with the tax requirements for submitting invoices electronically

Each PDF should contain one credit note, one debit note or one credit note only. More than one invoice can be submitted per email

Include the following information on the Invoice:

Name and address of the Contractor and the Service Manager;

The contract number and title;

Contractor's VAT registration number;

The Employer's VAT registration number 4740101508;

Total amount invoiced excluding VAT, the VAT and the invoiced amount including VAT;

Contractor's company registration number if applicable

Contractor's banking details

Name and address of recipient

Tax invoice number and date of issue,

Description of goods/service provided,

Quantity or volume of goods/services

Period time for which the Tax Invoice is being rendered,

Relevant Task Order Number (commencing with a 45 prefix),

Relevant line item number,

Statement whether value added tax is included or excluded

## 2.6 Contract change management

Contract changes are managed strictly in accordance with the conditions of contract.

Compensation events are identified, notified, assessed and implemented in accordance with core clause 60 and the related compensation event procedures. Notifications and communications relating to compensation events are made using the standard NEC TSC3 forms.

Additional services or changes to the scope of the Service that are instructed through a Task Order are managed in accordance with the Task Order provisions of the contract. The issue of a Task Order does not of itself constitute a compensation event unless the conditions of contract state otherwise.

No change to the Service, Prices or completion dates is effective unless it is instructed or confirmed by the Service Manager in accordance with the contract.

## 2.7 Records of *Defined Cost* to be kept by the *Contractor*

Where *Compensation Events* are assessed using *Defined Cost*, the *Contractor* keeps records in accordance with Clause 52 of the Conditions of Contract.

Records shall include:

- Labour resources utilised (including timesheets);
- Plant and *Equipment* used;
- Materials incorporated;
- Subcontracted services;
- Associated expenses; and
- Any other cost components forming part of *Defined Cost*.

Records shall be maintained in a clear and auditable format and shall be made available to the *Service Manager* upon request.

## 2.8 Insurance provided by the Employer

Insurance arrangements are as stated in the Conditions of Contract and the applicable Z clauses.

## 2.9 Training workshops and technology transfer

Where applicable, the *Contractor* provides training and skills development in accordance with the SDL&I requirements stated in the *Contract Data*, SDL&I strategy or applicable Annexures.

Details of training content, duration and reporting shall be agreed with the *Service Manager* and recorded in the Accepted Programme where required.

## **2.10 Things provided at the end of the service period**

Upon *Completion* of the Contract, the *Contractor* provides the *Employer* with all records and documentation generated under this Contract which are required for the *Employer's* ongoing operation and maintenance of the assets, as specified in this *Service Information* or in the applicable *Task Orders*.

1. Completion is when the Contractor has done all the work, which the Works Information states he is to do by the Completion Date and has corrected all notified Defects, which would have prevented the Employer from using the Works.
2. The Site is handed back to the Employer in a condition acceptable to the Service Manager.

## **2.11 Management of work done by Task Order**

Work under this Contract is instructed by *Task Orders* issued in accordance with Option X19 of the Conditions of Contract.

No work shall commence without a valid *Task Order* issued by the *Service Manager*, except in the case of emergency mobilisation, in which case a *Task Order* shall be issued within 24 hours.

No minimum quantity of work is guaranteed under this Contract.

A *Task Order* shall include:

- Description of the service required;
- *Task Order* reference number;
- Applicable Contract reference;
- The person designated for technical coordination (where applicable).

The *Contractor* shall notify the *Service Manager* in accordance with Clause 16 if any aspect of a *Task Order* is unclear, incorrect or prevents compliance with the Contract.

Administrative SAP *Task Orders* are for internal processing purposes and do not replace the requirement for a *Task Order* issued under Option X19.

No *Task Order* may be issued after the Contract end date unless the Contract has been formally extended in accordance with the Conditions of Contract.

## **3. Health and safety, the environment and quality assurance**

### **3.1 Health and safety risk management**

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 "Main Contractor" for the Affected Property;
- warrants that the total of the Prices as at the Contract Date includes a sufficient amount for proper compliance with 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 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.
- 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.

- warrants that the total of the Prices as at the Contract date includes a sufficient amount for proper compliance with 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. The Contractor complies with all applicable occupational health and safety legislation, the Employer's OHS Requirements and the approved Safety File for the Service.

Where the *Employer* amends its OHS Requirements during the Contract, such amendments are implemented in accordance with the Conditions of Contract.

The Section 37(2) agreement in terms of the Occupational Health and Safety Act 85 of 1993 shall be signed by the *Employer* and the *Contractor* prior to commencement of work.

The *Contractor's* appointed OHS professional conducts periodic internal audits to verify compliance with contractual and legal OHS requirements.

The *Contractor* cooperates with any internal or external audits conducted by the *Employer* and provides reasonable access to relevant documentation and work areas.

### 3.1.1 Site Access Requirements

- The *Contractor* shall comply with the health and safety requirements contained in OHS Requirements and the approved safety file by the *Employer*. The *Employer* reserves the right to review the OHS Requirements to address the Operational risks and the *Contractor* shall comply with the latest OHS Requirements as amended at no cost for the duration of the contract at Ankerlig and Gourikwa Power Station
- The section 37(2) agreement as stipulated under the OHS Act no 85 of 1993 must be signed by *Contractor* and *Employer* representatives.
- The *Contractor* OHS professional must conduct internal audits at planned intervals (for the duration of the contract at Ankerlig and Gourikwa Power Station) to monitor compliance to the contractual health and safety requirements.
- The *Service Manager* conducts inspections at planned intervals (for the duration of the contract) to monitor compliance to the contractual health and safety and legal requirements.
- The *Contractor* may be selected during internal and/or external Ankerlig and Gourikwa Power Station audits to verify compliance to legal and contractual OHS requirements. The *Service Manager* will communicate this at relevant time periods and the contractor shall avail themselves for this audit.
- In addition to the requirements of the applicable laws governing the occupational health and safety, at Ankerlig and Gourikwa Power Station OHS requirements particular to the service and the Affected Property for this contract shall be adhered to for the duration of the contract.

The minimum requirements for the *Contractor* to gain access to Ankerlig and Gourikwa Power Station include the but not limited to:

- Valid Medical fitness certificate
- Police clearance from SAPS or accredited supplier/service provider linked to SAPS AFIS system not older than thirty (30) days.
- Identification document (RSA ID or equivalent)
- National Drivers Licence (applicable to drivers)
- Adherence to the Eskom Life-saving rules 3 and 4, Be Sober and Buckle up

Rule	Description of rule
3	BUCKLE UP No person may drive any vehicle on Eskom business and/or on Eskom premises: Unless the driver and all passengers are wearing seat belts
4	BE SOBER No person is allowed to be under the influence of intoxicating liquor or drugs while on duty

- Applicable risk-based PPE.



- Valid letter of good standing (COIDA or equivalent). Access to site to perform work will be denied should the Letter of good standing not be valid.
- The *Contractor* who is working alone and not eligible to register with the compensation fund, shall provide the *Employer* with the member benefit statement of the insurance cover which include life and disability cover to the minimum fund of R500 000. Note: Induction will only after the above documents have been submitted and accepted by *Employer*.

Induction shall only be conducted after the required documentation has been submitted and accepted by the *Employer*.

Where access is denied due to non-compliance with these requirements, the *Contractor* is responsible for ensuring that compliant personnel are provided.

### 3.1.2 Contractor Management Key Performance Indicators (KPI's)

1. Maintain Health and Safety file and compliance to the health and safety plan, Eskom OHS requirements and applicable legislation as amended.
2. Always maintain good housekeeping where the task is being executing and/or within the area of responsibility.
3. Implement and monitor near miss reporting strategy / programme (reporting of near misses).
4. Develop and comply to Behavioral Safety Observation (BSO) and Planned Job Observation programmes (PJO).
5. Maintain Zero Fatalities for the duration of the contract.
6. At any given point, the OHS performance must be within the lost time injury (LTI) tolerance level as amended.
7. All incidents must be reported immediately or before the end of the particular shift during which the incident occurred.
8. All incident investigations shall be completed within 07 working days of the occurrence of an incident.
9. Incident investigation recommendations shall be closed within the recommended time frame recorded in the Incident investigation report.
10. Close audit findings as per the Eskom procedure or audit report recommended time frames.
11. Close Non-conformance as per the recommended time frames.

Note: Monitoring of the above mentioned KPI's will take place through regular audits and inspection.

### 3.1.3 Contract completion and sign off

On completion of the project/contract, the *Employer*, *Service Manager* and Others (those who have been involved in the project or as deemed relevant by the *Service Manager*) together with the *Contractor* shall conduct the final meeting to identify the gaps prior to the contract close out. Before the final invoice is paid/processed, the *Service Manager* shall ensure that the below requirements are met:

- a. Close all incidents and audit findings.
- b. Clean the respective area and ensure good housekeeping where the *Contractor* was working.
- c. *Contractor* shall submit safety statistics and a safety file to Eskom Safety Department for closeout and filling.
- d. Completion of a closeout report (Annexure D form as per 32-726) & Generation OHS Post Contract Review (form) to close the contractual work.

The *Contractor* complies with all applicable occupational health and safety legislation, the *Employer's* OHS Requirements and the approved Safety File for the Service.

Where the *Employer* amends its OHS Requirements during the Contract, such amendments are implemented in accordance with the Conditions of Contract.

The Section 37(2) agreement in terms of the Occupational Health and Safety Act 85 of 1993 shall be signed by the *Employer* and the *Contractor* prior to commencement of work.

The *Contractor's* appointed OHS professional conducts periodic internal audits to verify compliance with contractual and legal OHS requirements.

The *Contractor* cooperates with any internal or external audits conducted by the *Employer* and provides reasonable access to relevant documentation and work areas.

#### 3.1.4 SHE File

The *Contractor* prepares and submits a SHE File for review and acceptance by the *Service Manager* at least ten (10) working days prior to commencement of work under the first *Task Order*.

#### 3.1.5 Quality Assurance

The *Contractor* is responsible for implementing and maintaining an effective Quality Control and Quality Assurance to ensure that all activities, services, and deliverables comply with the Employer's requirements and applicable standards.

Quality assurance, inspection, calibration, testing, documentation, and submission requirements shall include, but not be limited to, the following:

The *Contractor shall* submit a draft Contract Quality Plan (CQP) specific to the scope of work described in the tender documents. The CQP shall comply, as a minimum, with ISO 10005 requirements and shall clearly define quality objectives, responsibilities, procedures, controls, and records.

- No work shall commence without a Quality Control Plan (QCP) that has been reviewed and accepted by the Employer. A QCP shall be submitted for each activity or work item no later than three (3) days after receipt of Task Order.
- Each QCP shall include a dedicated section, separate from individual intervention points, for the printed names and signatures of the nominated Quality Representatives of both the Contractor and the Employer, to ensure clear identification of approving parties.
- Intervention points *shall be* signed progressively as work advances. Backdating of inspection or intervention records *shall not be* permitted.
- The Contractor shall provide advance notification of inspection and intervention points as follows:
  1. A minimum of 24 hours' notice for on-site interventions
  2. A minimum of 72 hours' notice for off-site interventions
- All QCPs shall make provision for referencing applicable drawings, specifications, standards, procedures, and supporting documentation relevant to the work.
- The *Contractor* shall ensure that monitoring and measuring Equipment are calibrated and verified to confirm serviceability before usage, and records of such will be kept at the Affected Property
- Calibration certificates for all measuring and testing equipment used shall be valid and traceable, and copies shall be submitted to the Employer upon completion of the service or testing activity.
- The *Contractor shall* compile and submit reports in accordance with the NEC Contract requirements and the Employer's specifications.
- Reports shall be submitted to the Employer within the agreed contractual timeframes and shall be complete, accurate, and traceable. Partial or incomplete submissions may be rejected.
- On completion of the task order, the *Contractor* shall hand in all applicable reports.
- Submission of all quality requirements, to comply with the Supplier Quality Management: Specification 240-105658000 to the *Employer* for acceptance at least thirty (30) days before the execution of the project

## 4. Procurement

### 4.1 People

#### 4.1.1 Minimum requirements of people

The *Contractor* provides personnel in accordance with Clause 24 of the Conditions of Contract.

The *Contractor* ensures that:

- All foreign nationals hold valid work permits;
- Personnel possess adequate verbal and written communication skills in English;
- Personnel are suitably qualified and experienced for the work they perform;
- Labour legislation, including the Labour Relations Act, is complied with.

The *Service Manager* may verify qualifications of key personnel in accordance with Clause 24.

Where site access control requires criminal clearance, the *Contractor* ensures that personnel submitted for site access comply with the *Employer's* access requirements.

#### 4.1.2 BBBEE Compliance

Contractor to ensure Employer has an updated, valid, certified copy of B-BBEE certificate or sworn affidavit during the contract period. Failure to do so could result in the Eskom Vendor Management Department blocking vendor details on the Eskom vendor management system, which affects payment processing of invoices.

### 4.2 Subcontracting

Subcontracting is in accordance with Clause 26 of the Conditions of Contract.

The *Contractor* remains responsible for the acts and omissions of its sub*Contractors*.

Supervision and overall management of the Service shall not be subcontracted without the prior acceptance of the *Service Manager*.

## 5. Working on the Affected Property

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

Peaking Power Stations are designated as Critical Infrastructure in terms of the Critical Infrastructure Protection Act 8 of 2019 (previously designated as a National Key Point) and all applicable security and access control requirements shall apply.

- The *Contractor* shall comply with all *Employer* Life-Saving Rules, emergency procedures and site-specific safety instructions.
- The *Contractor* shall ensure that no passengers are transported in the back of any truck, light domestic vehicle or enclosed light commercial vehicle.
- Each person shall sign the site entrance register. The *Contractor* shall maintain a corresponding attendance register for its personnel.
- Parking is allowed in the demarcated areas only and should it be required to drive on site, then the following must be adhered to:
  1. Speed limit
  2. Obey all road signs
  3. Any damage caused to the *Employer's* property by the *Contractor* shall be remedied at the *Contractor's* cost.
- All *Contractor* personnel are in possession of clearance certificate obtained from South African Police Service (SAPS) Criminal Record Centre (CRC) or an accredited supplier linked to the SAPS Automated Fingerprint Identification System (AFIS), along with a copy of their identity document or passport. Verification records are submitted as part of the safety file together with ID copies as well

as valid work permits for foreigners. Only personnel with a cleared criminal record will go through safety induction.

- Original Identity document (ID) or passport is presented to Security on arrival
- No weapons may be taken on site
- No drugs allowed on site
- No explosives allowed on site
- No firearms and ammunition allowed on site
- No photographs may be taken whilst on site
- All persons entering the *Employer's* premises shall undergo breathalyser testing (including random testing). Any person testing positive shall be denied entry. The *Employer* operates a zero-tolerance policy towards alcohol.
- Tool registers is verified on arrival by security personnel
- Only reverse parking is allowed on site
- *Contractor* shall be subject to searches, including vehicles, tools, *Equipment*, objects, or materials, or anything else deemed appropriate for searching, at any time when entering or exiting the *Employer's* premises.
- Removal of *Equipment* or materials from site without proper authorisation is strictly prohibited.
- The *Contractor* communicates any resignations or suspensions to the *Service Manager* and ensures that replacement personnel have undergone criminal background checks and work permit verifications prior to reporting to the *Employer's* premises.
- *Contractor* is required to comply with the access control standard and security instructions to maintain a secure working environment at the *Employer's* premises.
- No recruitment on site or at the main access gates or any of the *Employer's* premises is allowed.
- All activities shall be preceded by a task-specific risk assessment in accordance with the *Employer's* standard. Risk assessments shall remain current and shall be treated as live documents.
- Asset registers of all tools and *Equipment* incorporated or consumed in *Providing the Service* shall be maintained by the *Contractor* and shall be audited and inspected by *Employer* from time to time.

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

The *Contractor* shall maintain records of all personnel working on the *Affected Property*, including those of *SubContractors*. The *Service Manager* shall have access to such records at any time.

During the execution of this contract, other *Contractors* or *Employer's* personnel may be performing work on the plant and the *Contractor* must take due cognisance of this in planning and *Providing the Service*.

Working times will be agreed upon by the *Contractor* and *Service Manager*

## 5.3 Health and safety facilities on the Affected Property

The *Contractor* shall provide and maintain a fully stocked first aid box in accordance with applicable legislation.

In case of an injury on duty, the *Contractor's* first aider must attend to the injured. An injury on duty must be reported to the *Service Manager*.

## 5.4 Cooperating with and obtaining acceptance of Others

It is likely that other *Contractors* will be working in the same area. *Others* might however from time to time require limited access to the same area in order to execute maintenance activities and the *Contractor* is to be accommodating in such instances.

The *Contractor* shall co-operate with *Others* and shall not delay, impede or otherwise interfere with the work of *Others*.

## 5.5 Records of Contractor's Equipment

The *Contractor* shall declare all *Equipment*, tools and materials brought onto the *Affected Property* to the *Employer's* security personnel upon arrival.

Security personnel shall register all declared *Equipment* and issue a record thereof. The *Contractor* shall retain a copy of the registered record.

Upon removal of any *Equipment*, tools or materials from the *Affected Property*, the items shall be verified against the security register.

The *Contractor* shall ensure that all lifting *Equipment* brought onto site has valid load test certificates and statutory inspection records in accordance with applicable legislation. Such certificates shall be available for inspection at any time.

## **5.6 Calibration Certificates**

Upon *Completion* of the works or *Task Order* (as applicable), the *Contractor* shall submit to the *Service Manager* Calibration Certificates containing all relevant Quality Control documentation and records pertaining to the service.

## **6. Site Services and Facilities**

### **6.1 Services and Facilities Provided by the Employer**

#### **6.1.1 Electricity Supply**

The *Employer* shall make available existing electrical supply points at locations identified by the *Service Manager*.

220V and 380V supplies may be available within the power station complex.

The *Contractor* shall satisfy itself as to the suitability, capacity and adequacy of the available electrical supply for its purposes.

The *Employer* does not guarantee uninterrupted supply and no failure or interruption of such supply shall constitute a *Compensation Event* unless otherwise stated in the Contract.

The *Contractor* shall be responsible for all temporary distribution, extension leads and connections required to utilise the supply and shall ensure compliance with applicable legislation and regulations.

#### **6.1.2 Potable Water**

The *Employer* shall make available potable water at existing supply points in reasonable quantities.

The *Contractor* shall make its own arrangements for storage or contingency supply.

The *Employer* does not guarantee uninterrupted supply and interruption shall not constitute a *Compensation Event*.

#### **6.1.3 Pneumatic air**

The *Employer* shall make available pneumatic air at existing supply points in reasonable quantities.

The *Contractor* shall verify compatibility and extension hose requirements.

Interruption of supply shall not constitute a *Compensation Event*.

#### **6.1.4 Ablution facilities**

The *Contractor* may make use of the *Employer's* ablution facilities subject to site rules.

### **6.2 Services and Facilities Provided by the Contractor**

#### **6.2.1 Transportation**

The *Contractor* shall provide safe transportation for its personnel in compliance with applicable legislation and *Employer* Standard 240-62946386.

**6.2.2 Personal Consumables**

The *Contractor* shall provide all consumables required for its personnel.

**6.2.3 IT Equipment**

The *Contractor* shall provide all computers, printers and associated accessories required for *Providing the Service*.

**6.2.4 Accommodation and Meals**

The *Contractor* shall provide accommodation and meals for its personnel. The cost thereof shall be deemed to be included in the Prices.

**6.2.5 PPE**

The *Contractor* shall provide all personal protective *Equipment* in compliance with GSR 2 of the OHS Act and Eskom PPE Specification Standard 240-44175132.

**6.2.6 Electrical Extensions**

The *Contractor* shall provide all necessary electrical extensions and hose extensions at its own cost.

**6.2.7 Communication Systems**

The *Contractor* shall provide its own communication systems, including two-way radios where required.

## 7. Applicable Legislation, Standards and Employer Specifications

Title	Date or revision	Tick if publicly available
<b><u>General Specifications:</u></b>		
ISO 9001 Quality Management Systems	Latest Revision	✓
OHS Act No 85 of 1993: Occupational Health & Safety Act and Regulations.	Latest Revision	✓
Employer's Procurement and Supply Chain Management Procedure 32-1034 Available: <a href="https://www.eskom.co.za/Tenders/EskomPurchasingPolicies/Pages/Eskom_Purchasing_Policies.aspx">https://www.eskom.co.za/Tenders/EskomPurchasingPolicies/Pages/Eskom_Purchasing_Policies.aspx</a>	Latest Revision	✓
The Compensation for Occupational Injuries and Diseases Act 130 of 1993, As amended or equivalent	Latest Revision	✓
32-93 Eskom Procedure for Vehicle and Driver Safety Management	Latest Revision	✓
320-727 Eskom SHEQ Policy	Latest Revision	✓
32/421 Eskom Life Saving Rules	Latest Revision	*
<b><u>Technical Specifications</u></b>		
ISO/IEC ISO/IEC 17025 standard on general requirements for the competence of testing and calibration laboratories	Latest Revision	*
240-56242363 Emissions Monitoring and Reporting Standard	Latest Revision	*
AEL LICENCE ESKOM GOURIKWA Renewal 2023 (WCED013)	Latest Revision	*
Eskom Ankerlig Final AEL 2024 (WCCT 036)	Latest Revision	*

\* Available on request once the Contract and NDA's are in place.

## APPENDIX A: TASK ORDER

### TASK ORDER

To the <i>Contractor</i>	[•]	Tel:	[•]
Address	[•]	Fax:	[•]
Attention	[name] [•]	Date:	[•]
E mail	[•]	Ref:	[•]

Dear Sirs,

Contract title	[•]	Number:	[•]
Contract action	Clause X19.2 Task Order		

Further to our consultations dated [•.....] about the content of this Task Order and in terms of clause X19.1(1) and X19.1(2) in secondary Option X19 of the above contract, I hereby instruct the *Contractor* to carry out the below stated work as a Task within the *service*.

Task Order No.	[•]	<i>service</i>	[•]
Detailed description of the work in the Task:	[•]		
Starting date for the Task	[•]		
Task Completion Date	[•]		
Delay damages (if any)	[•]		
A priced list of items of work in the Task in which items are taken from the Price List is attached			
Total of Prices for items of work taken from the Price List per the attached priced list is:	R. _____		
Total of Prices for items of work not in the Price List (details attached) is:	R. _____		
Total of the Prices for this Task Order	R. _____		

Yours faithfully,

\_\_\_\_\_  
Signature (**Service Manager**)      Name      Date

Distribution:				