



NEC3 Term Service Contract (TSC3)

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

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

for **The provision of Boiler and Ducting Refractory work
on Unit 1 – 6 during Outages on" as-and-when"
required basis" at Kendal Power Station**

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

CONTRACT No. [Insert at award stage]

PART C1: AGREEMENTS & CONTRACT DATA

Contents:	No of pages
C1.1 Form of Offer and Acceptance	[•]
[to be inserted from Returnable Documents at award stage]	
C1.2a Contract Data provided by the <i>Employer</i>	[•]
C1.2b Contract Data provided by the <i>Contractor</i>	[•]
[to be inserted from Returnable Documents at award stage]	
C1.3 Proforma Guarantees	[•]

C1.1 Form of Offer & Acceptance

Offer

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

The provision of Boiler and Ducting Refractory work on Unit 1 – 6 during Outages on" as-and-when" required basis" at Kendal Power Station

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 or C	The offered total of the Prices exclusive of VAT is	R [●]
Option E	The first forecast of the total Defined Cost plus the Fee exclusive of VAT is	R [●]
	Sub total	R [●]
	Value Added Tax @ 15% is	R [●]
	The offered total of the amount due inclusive of VAT is ¹	R [●]
	(In words) [●]	

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

Signature(s)

Name(s)

Capacity

For the tenderer:

.....
(Insert name and address of organisation)

Name & signature of witness

Date

Tenderer's CIDB registration number:

Acceptance

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

The terms of the contract, are contained in:

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

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

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

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

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

Signature(s)

Name(s)

Capacity

**for the
Employer**

.....
.....
.....
*KENDAL POWER STATION
PRIVATE BAG X72727
WITBANK
1035*
.....

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 _____

*KENDAL POWER STATION
PRIVATE BAG X72727
WITBANK
1035*

On behalf of _____
(Insert name and address of organisation)

Name & signature of witness _____

Date _____

C1.2a TSC3 Contract Data

Part one - Data provided by the *Employer*

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:	
	dispute resolution Option and secondary Options	<p>A: Priced contract with price list</p> <p>W1: Dispute resolution procedure</p> <p>X1: Price adjustment for inflation</p> <p>X2 Changes in the law</p> <p>X17: Low service damages</p> <p>X18: Limitation of liability</p> <p>X19: Task Order</p> <p>X20: Key performance indicators</p> <p>Z: Additional conditions of contract</p>
	of the NEC3 Term Service Contract April 2013 ² (TSC3)	
10.1	The <i>Employer</i> is (name):	Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state-owned company incorporated in terms of the company laws of the Republic of South Africa
	Address	Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg
	Tel No.	xxxxxxxxxx
	Fax No.	xxxxxxxxxx
10.1	The <i>Service Manager</i> is (name):	Tsumbedzo Budeli
	Address	Private Bag x7272 Witbank 1035
	Tel	013 647 9111
	Fax	N/A
	e-mail	BudeliT@eskkom.co.za

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

11.2(2)	The Affected Property is	Kendal Power Station
11.2(13)	The <i>service</i> is	The provision of Boiler and Ducting Refractory work on Unit 1 – 6 during Outages on" as-and-when" required basis" at Kendal Power Station
11.2(14)	The following matters will be included in the Risk Register	Any plant related risk to person falling under the contractor during any task performed as stipulated in the Works information Any risk pertaining to the Future failure of any components while performing the Works information must be declared in order to define material lead times
11.2(15)	The Service Information is in	Part 3: Scope of Work and all documents and drawings to which it makes reference.
12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa
13.1	The <i>language of this contract</i> is	English
13.3	The <i>period for reply</i> is	One week
2	The Contractor's main responsibilities	Data required by this section of the core clauses is also provided by the Contractor in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data
21.1	The <i>Contractor</i> submits a first plan for acceptance within	12 weeks before the start of the Outage
3	Time	
30.1	The <i>starting date</i> is.	
30.1	The <i>service period</i> is	5 years (60 months)
4	Testing and defects	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
5	Payment	
50.1	The <i>assessment interval</i> is	Within 14 days after the each Completed Task
51.1	The <i>currency of this contract</i> is the	South African Rand
51.2	The period within which payments are made is	4 weeks.
51.4	The <i>interest rate</i> is	the publicly quoted prime rate of interest (calculated on a 365-day year) charged by from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands and (ii) the LIBOR rate applicable at the time for

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

6	Compensation events	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data
7	Use of Equipment Plant and Materials	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data
8	Risks and insurance	
80.1	These are additional <i>Employer's</i> risks	1. [●] 2. [●] 3. [●]
83.1	The <i>Employer</i> provides these insurances from the Insurance Table	as stated for "Format TSC3" available on http://www.eskom.co.za/Tenders/InsurancePolicies_Procedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx (See Annexure A for basic guidance).
83.1	The <i>Employer</i> provides these additional insurances	as stated for "Format TSC3" available on http://www.eskom.co.za/Tenders/InsurancePolicies_Procedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx (See Annexure A for basic guidance)
83.1	The <i>Contractor</i> provides these additional insurances:	[●]
83.1	The minimum amount of cover for insurance against loss and damage caused by the <i>Contractor</i> to the <i>Employer's</i> property is	the amount of the deductibles relevant to the event described in the "Format TSC3" insurance policy available on http://www.eskom.co.za/Tenders/InsurancePolicies_Procedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx
83.1	The insurance against loss of or damage to the <i>works</i> , Plant and Materials is to include cover for Plant and Materials provided by the <i>Employer</i> for an amount of	[●]

83.1	The minimum amount of cover for insurance in respect of loss of or damage to property (except the <i>Employer's</i> property, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Contractor</i>) arising from or in connection with the <i>Contractor's</i> Providing the Service for any one event is:	whatever the <i>Contractor</i> deems necessary in addition to that provided by the <i>Employer</i>.
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83.1	The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the <i>Contractor</i> arising out of and in the course of their employment in connection with this contract for any one event is:	As prescribed by the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 and the <i>Contractor's</i> common law liability for people falling outside the scope of the Act with a limit of Indemnity of not less than R500 000 (Five hundred thousand Rands)..
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9	Termination	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. Z clauses
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10	Data for main Option clause	
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A	Priced contract with price list	
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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	4 weeks.
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11	Data for Option W1	
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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 www.ice-sa.org.za). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).
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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 www.ice-sa.org.za) or its successor body.
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W1.4(2)	The <i>tribunal</i> is:	arbitration
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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.

Data for secondary Option

12 clauses																						
X1	Price adjustment for inflation																					
X1.1	<p>The <i>base date</i> for indices is [•].</p> <p>The proportions used to calculate the Price Adjustment Factor are:</p> <table border="1"> <thead> <tr> <th>proportion</th> <th>linked to index for</th> <th>Index prepared by</th> </tr> </thead> <tbody> <tr> <td>0.</td> <td>[•]</td> <td>[•]</td> </tr> <tr> <td>0.</td> <td>[•]</td> <td>[•]</td> </tr> <tr> <td>0.</td> <td>[•]</td> <td>[•]</td> </tr> <tr> <td>0.</td> <td>[•]</td> <td>[•]</td> </tr> <tr> <td>0.15</td> <td colspan="2">non-adjustable</td> </tr> <tr> <td>1.00</td> <td colspan="2"></td> </tr> </tbody> </table>	proportion	linked to index for	Index prepared by	0.	[•]	[•]	0.	[•]	[•]	0.	[•]	[•]	0.	[•]	[•]	0.15	non-adjustable		1.00		
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X2	Changes in the law																					
	There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.																					
X17	Low service damages																					
X17.1	The <i>service level table</i> is in [•]																					
X18	Limitation of liability																					
X18.1	<p>The <i>Contractor's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to</p> <p>R0.0 (zero Rand)</p>																					
X18.2	<p>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</p> <p>the amount of the deductibles relevant to the event described in the "Format TSC3" insurance policy available on http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx</p>																					
X18.3	<p>The <i>Contractor's</i> liability for Defects due to his design of an item of Equipment is limited to</p> <p>The greater of</p> <ul style="list-style-type: none"> • the total of the Prices at the Contract Date and • 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 in the <i>Employer's</i> assets and works / maintenance policies available on <p>http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx</p>																					
X18.4	<p>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</p> <p>the total of the Prices other than for the additional excluded matters.</p> <p>The <i>Contractor's</i> total liability for the additional excluded matters is not limited.</p>																					

		<p>The additional excluded matters are amounts for which the <i>Contractor</i> is liable under this contract for</p> <ul style="list-style-type: none"> • Defects due to his design, plan and specification, • Defects due to manufacture and fabrication outside the Affected Property, • loss of or damage to property (other than the <i>Employer's</i> property, Plant and Materials), • death of or injury to a person and • infringement of an intellectual property right.
X18.5	The <i>end of liability date</i> is	12 months after the end of the <i>service period</i>.
X19	Task Order	
X19.5	The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within	24 hrs of receiving the Task Order
X20	Key Performance Indicators	
X20.1	The <i>incentive schedule</i> for Key Performance Indicators is in	Annexure B
X20.2	A report of performance against each Key Performance Indicator is provided at intervals of	1 month after completion of a task order
Z	The <i>additional conditions of contract</i> are	Z1 to Z11 always apply.

Z1 Cession delegation and assignment

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

Z2 Joint ventures

- Z2.1 If the *Contractor* constitutes a joint venture, consortium, or other unincorporated grouping of two or more persons or organisations then these persons or organisations are deemed to be jointly and severally liable to the *Employer* for the performance of this contract.
- Z2.2 Unless already notified to the *Employer*, the persons or organisations notify the *Service Manager* within two weeks of the Contract Date of the key person who has the authority to bind the *Contractor* on their behalf.
- Z2.3 The *Contractor* does not alter the composition of the joint venture, consortium, or other unincorporated grouping of two or more persons without the consent of the *Employer* having been given to the *Contractor* in writing.

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

- Z3.1 Where a change in the *Contractor's* legal status, ownership or any other change to his business composition or business dealings results in a change to the *Contractor's* B-BBEE status, the *Contractor* notifies the *Employer* within seven days of the change.
- Z3.2 The *Contractor* is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the *Service Manager* within thirty days of the notification or as otherwise instructed by the *Service Manager*.
- Z3.3 Where, as a result, the *Contractor's* B-BBEE status has decreased since the Contract Date the *Employer* may either re-negotiate this contract or alternatively, terminate the *Contractor's* obligation to Provide the Service.
- Z3.4 Failure by the *Contractor* to notify the *Employer* of a change in its B-BBEE status may constitute a reason for termination. If the *Employer* terminates in terms of this clause, the procedures on termination are P1, P2 and P4 as stated in clause 92, and the amount due is A1 and A3 as stated in clause 93.

Z4 Confidentiality

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

Z5 Waiver and estoppel: Add to core clause 12.3:

- Z5.1 Any extension, concession, waiver or relaxation of any action stated in this contract by the Parties, the *Service Manager* or the *Adjudicator* does not constitute a waiver of rights and does not give rise to an estoppel unless the Parties agree otherwise and confirm such agreement in writing.

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

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

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

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

Z8 Notifying compensation events

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

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

Z9 Employer's limitation of liability

- Z9.1 The *Employer's* liability to the *Contractor* for the *Contractor's* indirect or consequential loss is limited to R0.00 (zero Rand)
- Z9.2 The *Contractor's* entitlement under the indemnity in 82.1 is provided for in 60.1(12) and the *Employer's* liability under the indemnity is limited to compensation as provided for in core clause 63 and X19.11 if Option X19 Task Order applies to this contract.

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

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

Z11 Ethics

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

Affected Party	means, as the context requires, any party, irrespective of whether it is the <i>Contractor</i> or a third party, such party's employees, agents, or Subcontractors or Subcontractor's employees, or any one or more of all of these parties' relatives or friends,
Coercive Action	means to harm or threaten to harm, directly or indirectly, an Affected Party or the property of an Affected Party, or to otherwise influence or attempt to influence an Affected Party to act unlawfully or illegally,
Collusive Action	means where two or more parties co-operate to achieve an unlawful or illegal purpose, including to influence an Affected Party to act unlawfully or illegally,
Committing Party	means, as the context requires, the <i>Contractor</i> , or any member thereof in the case of a joint venture, or its employees, agents, or Subcontractors or the Subcontractor's employees,
Corrupt Action	means the offering, giving, taking, or soliciting, directly or indirectly, of a good or service to influence the actions of an Affected Party unlawfully or illegally,
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.

- Z 11.1 A Committing Party may not take any Prohibited Action during the course of the procurement of this contract or in execution thereof.
- Z 11.2 The *Employer* may terminate the *Contractor's* obligation to Provide the Service 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 Service for this reason.
- Z 11.3 If the *Employer* terminates the *Contractor's* obligation to Provide the Service for this reason, the procedures and amounts due on termination are respectively P1, P2, P3 and P4, and A1 and A3.
- Z 11.4 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.

Annexure A: Insurance provided by the Employer

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

1. Services provided in a TSC3 contract could include some element of construction or refurbishment as well as a continuous maintenance or operational service activity. If an event occurs which causes loss or damage, a claim could be made either against the *Employer's* "works" type policy which may be in place for the *Employer's* portion of the Affected Property concerned or against the *Employer's* assets policy which may be in place for the *Employer's* portion of the Affected Property concerned, or both.
2. The cover provided and the deductibles under the works policy are different to those under the assets policy. Each policy has a range of applicable deductibles depending on the location of the Affected Property and the nature of the insurable event.
3. The *Contractor* is required in terms of Contract Data for clause 83 to provide cover for the deductibles in the insurance provided by the *Employer*. This can be provided from his own resources on a 'self-insured' basis or obtained by him from his own insurers. To assess the extent of this cover, tendering contractors and their brokers should consult the internet web link given below and scroll to '**Format TSC3**' to establish both the cover and the deductibles in relation to the *service* provided in terms of this contract.
4. Tendering contractors should note that cover provided by the *Employer* is only per the policies available on the internet web link listed below and may not be the cover required by the tendering contractor or as intended by each of the listed insurances in the left-hand column of the Insurance Table in clause 83.2. In terms of clause 83.1 "the *Contractor* provides the insurances stated in the Insurance Table except any insurance which the *Employer* is to provide". Hence the *Contractor* provides insurance which the *Employer* does not provide and in cases where the *Employer* does provide insurance the *Contractor* insures for the difference between what the Insurance Table requires and what the *Employer* provides.
5. If Marine Insurance is required, the *Contractor* needs to obtain a copy of the latest edition of Eskom's Marine Policies Procedures found at internet website given below.
6. Further information and full details of all Eskom provided policies and procedures may be obtained from:

http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx

C1.2b Contract Data

Part two - Data provided by the Contractor

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 Service 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: Job: Responsibilities: Qualifications: Experience: 2 Name: Job: Responsibilities: Qualifications: Experience:	

All qualified personnel shall provide prove of the qualifications and have prove of previous track record in the maintenance environment of maintaining conveyour belts and their assoiciated drives preferably in a power station environment.

CV's: All CV's of candidates appointed by the contractor shall be submitted within a week after order has been placed with the service provider for scrutinizing by the contracts manager.

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

C2.1 Pricing assumptions: Option A

How work is priced and assessed for payment

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

Identified and defined terms	11	
	11.2	(12) The Price List is the <i>price list</i> unless later changed in accordance with this contract.
		(17) The Price for Services Provided to Date is the total of <ul style="list-style-type: none">• the Price for each lump sum item in the Price List which the <i>Contractor</i> has completed and• where a quantity is stated for an item in the Price List, an amount calculated by multiplying the quantity which the <i>Contractor</i> has completed by the rate.
		(19) The Prices are the amounts stated in the Price column of the Price List. Where a quantity is stated for an item in the Price List, the Price is calculated by multiplying the quantity by the rate.

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

Function of the Price List

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

Link to the *Contractor's* plan

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

Preparing the *price list*

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

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

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

Format of the *price list*

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

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

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

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

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

C2.2 the *price list*

a. Boiler and Ducting Refractory

Item No	Description	Unit	Estimated Qnt	Price Each	Total Price
1	Breaking out of the existing liners and recasting of two top scaffolding doors 800mm x 1500 x400	Each	44		
2	Recasting the penthouse floor cracks “Protection Boxes”	Each	152		
3	Breaking out of the existing refractory, remove and recast LH & RH side of the walkways of the penthouse floor. (5m x 100mm per side)	Each	42		
4	Breaking out and recasting of 5m of the baffle wall (various areas)	Each	210		
5	Back pass rear outlet header, screen, and header support refractory section of nineteen meters by 50mm thick. Supply of 200 off 50mm anchors	Each	72		
6	Four off Boiler Inspection doors 500mm x 500mm x 1500mm thick	Each	68		
7	Rear of screen tubes, break out refractory 150mm x 300mm refractory back in position. 12 meters of wall	Each	34		
8	Break out existing refractory boxes at screen tube doors. 800 x 500 x 50	Each	38		
9	Carry out repairs to boiler scaffolding door opening both sides of the boiler (4000mm x 200mm x 30mm per side)	Each	302		
10	Recast furnace roof tubes after tube repairs, 500mm x 50mm x 5m long	Each	20		
11	Carry out repairs to floor area at top dead space, break out and recast 5000mm x 500mm x 200mm deep	Each	20		
12	Carry out repairs around soot blower opening	Each	302		
13	Break out and recast areas internal to the Boiler above and below access doors 600mm x 400mm x 50mm thick	Each	302		
14	Provision to be made for General Maintenance. This will require the installation of two tons over the period of the contract	Each	14		
15	Break out and recast Air Heater tube plate (4320mm x 8220mm 50mm)	Each	34		
16	Remove and recast Wall blower refractor box (618mm x 315mm x 90mm)	Each	68		
17	Break and recast burner corner refractory	Each	280		
18	Break and recast 5m level access door (2400mm x 200mm x 30mm)	Each	68		
19	Break and recast the bullnose dead space floor (1000 x 1000mm x 200mm)	Each	14		

20	Break and recast Rear wall hanger tube slope refractory (1000mm x 1000mm x 200mm)	Each	14		
21	Break and recast 5m level Seal boxes (600mm x 400mm x 300mm)	Each	68		
22	Break and recast 13m level Ducting curved surface area 1500mm x 6000mm	Each	112		
23	Break and recast 13m level Ducting vertical surface area 1500mm x 6000mm	Each	112		
24	Break and recast 13m level Ducting Horizontal wall refractory	Each	112		
25	Break and recast 13m level Ducting Divisional wall refractory (1500mm x 6000mm)	Each	56		
26	PPE and safety (once off payment per annum	Each	5		
TOTAL Price (excluding VAT					

Note:

- The above prices exclude VAT, but include consumable, accommodation (if applicable), bonuses (if applicable) transport & travelling costs and all other associated costs.
- ♦ **Suppliers are not, under any circumstances, to deviate from the required stipulated format for**

HEALTH AND SAFETY

Item	Description	Qty	Price each/ person	Total price
1	Medical (only if annual medical certificate expired)			
2	Health and Safety File			
3	Safety Training			
4	Health and Safety Officer (if <40 employees)			
5	Site establishment and de-establishment	N/A		
6	Hard hats strip			
7	Grit Blasting kit			
8	Overalls			
9	Gloves			
9	Shoes			
11	Hearing protection			
12	Safety goggles			
13	Safety harnesses			
14	Dust mark (FFP2)			
15	First Aid box for every 50 employees			
TOTAL VALUE FOR HEALTH & SAFETY IS FOR THE TOTAL CONTRACT PERIOD				R

PART C3: SCOPE OF WORK

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

C3.1 EMPLOYER'S SERVICE INFORMATION

Description of the *service*

Executive overview

The purpose of the contract is to carry out controlled Refractory Boiler Internal, Boiler Penthouse/roof, Burner Corner External, Burner Nozzles and Ducting internal during outages on an "as-and-when required basis" at Kendal Power Station.

There are six units, which comprise of one boiler per unit from 0ml to 85ml level.

Employer's requirements for the service

The works on the grit blasting:

Outages

1. To carry out Refractory work as per the outage scope of work on the Boiler.
2. Variations in the presented scope of work must be discussed and approved prior to execution.
3. All refractory work activities to be taken during day and nightshift.
4. All material used in the execution of the work must be stored so as not to obstruct any walkways or working areas.
5. The lifts and work areas are to be cleaned after transporting and execution of work from all refractory material every day.
6. The contractor to supply all material and equipment with the necessary certificates

Critical Equipment and Machinery required, but not limited

1. All tools and equipment required to execute the work.

Management strategy and start up.

The Contractor's Responsibilities

1. Provide the employees with Personal Protective Equipment (PPE)
2. Provide all consumables, material, equipment, tools and machinery required for work
3. Ensure safe working conditions at all the time
4. Perform risk assessment for every activity
5. Keep workers register current
6. Ensure that there is a permit to work enforce where required
7. Dispose all debris to the relevant skip provided by the *Employer*

Critical Equipment and Machinery required, but not limited

1. All tools and equipment required to execute the work

Interpretation and terminology

The following abbreviations are used in this Service Information:

Abbreviation	Meaning given to the abbreviation
BMD	Boiler Maintenance Division
M	Meters
ML	Meter Level
mm	Millimetres
OHS	Occupational Health and Safety
PS	Power Station
PSR	Plant Safety Regulations
SANS	South African National Standards
TBC	To be confirmed

The Contractor's plan for the service

1. The Contractor submits a program in MS Project / Primavera format (confirmation required upfront)

The program includes:

- a) Activities
- b) Durations in hours
- c) Predecessors
- d) Successors
- e) Total float
- f) No constraints (linking to be done properly)
- g) No resources
- h) No unnecessary calendars (remove all)
- i) No empty lines

2. Daily feedback on progress required for duration of each task order program

3. The Contractor draws up a Quality Control Plan prior to commencement of the work, for approval by the Employer. The Services Manager and the Contractor agrees on hold and witness points.

Management meetings

Title and purpose	Approximate time & interval	Location	Attendance by:
KPI Meeting	Monthly 13:30 – 15:30	Boardroom	Employer, Contractor and ____
Outage Meeting (When there's an outage)	Daily 10:00 – 11:00	Outage Boardroom	Employer, Contractor and ____

- 1. The Contractor's site manager is to attend a daily Planned Outage or Unplanned Outages meetings at the time and in the venue specified by the Employer.
- 2. The Contractor is to attend other planning meetings as specified by the Employer during the Planned and Unplanned Outage meetings.

Section 1.01 Contractor's management, supervision and key people

The following key people must meet the minimum requirements tabled under each designation

Supervisor

1. Minimum of 2 years Supervisory experience in Refractory on Eskom Power plant.
2. Obtain authorisation as a 'Responsible Person' at the relevant Power Station within 3 months from start of contract.
3. Be able to communicate clearly between Eskom site representatives, contract representatives and other relevant persons.
4. Ability to interpret Eskom instructions and task orders to correctly calculate and organise equipment requirements within the allocated time programs.
5. Have expert knowledge of the refractory as well as the legal requirements for the safe use of this equipment.
6. Be able to Plan, Lead, Organise and Control the work being carried out by sub-ordinates.
7. Submit accurate documentation to the Eskom representatives as and when required. This includes daily timesheets, reports, program updates and permit related documentation.
8. Ensure that all legal requirements are adhered to regarding all aspects of the work and equipment under this contract. This includes but is not limited to Safety files, Load testing, PPE requirements, working hours, substance abuse, safe transport of employees and all other Safety related matters.
9. Maintain a high standard of Ethics and Quality to ensure work is carried out in the best interests of all parties involved.
10. Perform first line Supervision, on job training and quality control of related activities.
11. Maintain good relations between all parties and resolve issues timeously.
12. Be able to remain calm under pressure and ensure safe work is not jeopardised due to pressure.

Documentation control

1. **Use of standard forms**
 1. Task order forms
 2. Quality Control Plans (QCPs)
 3. Early warning forms.
 4. Defect notification (NCR) forms for non-compliance or poor workmanship
2. All procedures, work instructions, forms and all contractual communications must be controlled for the duration of the contract.
3. The following will appear on all controlled documentation as a title page, page header or page footer.
4. Title.
5. Document Unique identifier.
6. Revision number, original documents will be noted as revision 0. All subsequent revisions will be numbered sequentially (1, 2, 3, 4....)
7. Revision Date.
8. Date when document was last changed. This date will change with each revision.
9. Effective Date.
10. Date when document first came into use. This date will not change as the document is revised.
11. All contractual communications will be in the form of properly compiled letters or forms attached to e-mails and not as a message in the e-mail itself.
12. Inspections reports to be compiled and submitted within two weeks.
13. Data package after all the work has been finished to be submitted within one week after the repairs.

14. On completion of the contract all documents, records and files relating to the project/contract need to be submitted to the *Service Manager* for record keeping.

Invoicing and payment

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

The *Contractor* shall address the tax invoice to Eskom Holdings Limited's VAT (4740101508) and Company Registration Number (2002/015527/06). The tax invoice shall be saved in PDF and sent to invoiceseskomlocal@mp2rc110.eskom.co.za and include on each invoice the following information:

Name and address of the *Contractor* and the *Service Manager*.

The contract number and title.

Contractor's VAT registration number.

The *Employer's* VAT registration number 4740101508.

Description of service provided for each item invoiced based on the Price List.

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

(Add other as required)

Section 1.02 Contract change management

1. The *Service Manager* issues a Task order to the *Contractor* to authorise the execution of work.
2. In the event where it is identified that there is additional work to be done outside the scope of work on the Task Order, the *Contractor* will give the *Service Manger* an early warning with a written quotation.
3. If agreed, the *Service Manager* issues a revised Task Order or additional Task Order.
4. The *Contractor* starts the work on the starting date of the task order.
5. The Task Order is signed by both the *Service Manager* and the *Contractor* before work commences

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

1. If a compensation event takes place, Hourly rates of personnel and daily hire rate of equipment cost sheet to be submitted daily reflecting the day before, a budget quote to be submitted before work can start.

Training workshops and technology transfer

Kendal Power Station will from time-to-time schedule Plant Safety Regulations training; it is the responsibility of the *Contractor* to book his personnel for the training.

Plant Safety Regulations:

1. At least two staff members from the *Contractor* must be authorised to take permits (two Responsible person {RP}) at Kendal Power Station, within four (4) months of being awarded the contract.
2. The *Employer* will pay for the first attempt, should the *Contractor* fail, he will make the payment thereafter.

3. All *Contractors'* staff being utilised in the execution of the contract must always comply with Eskom Plant and safety regulations.
4. Prior to commencing the works, the authorised personnel should explain the entire requirement in terms of the Eskom Plant Safety Regulation to all personnel.
5. The *Contractor's* personnel to be signed on the permit before commencing work of any nature
6. Any breach of Eskom 's Plant and Safety Regulations by the *Contractor's* staff will immediately lead to the suspension of the contract. The contract will not resume until a full investigation has been concluded. Pending the findings of the investigation

Management of work done by Task Order

1. Task Orders are issued 8 hours prior to the start of an outage and at any time during opportunity maintenance.
2. The Task Order includes the scope of work for the specific outage.
3. A Task Order is the instruction to commence work.
4. No work shall commence until a Task Order is issued and has been finalised, accepted, and signed by both the *Employer* and *Contractor*.
5. All work will be issued on a Task Order system. The Work Order, Purchase Requisition and Purchase Order will be created via the SAP PM system.
6. Task Orders are issued for all activities. Assessment of work will be conducted after work complete. Proof for assessments to be supplied to the *Service Manager*

Health and safety, the environment and quality assurance

General Specifications:		
Health and Safety requirements		
Eskom Safety, health, environmental and quality (SHEQ) policy 32-727	Rev2 Rev 2	
Eskom contractor Health and Safety requirements standards 32-136		
Project SHE specification		√
Occupational Health and Safety Act 85 of 1993		√
Compensation for Occupational Diseases and Illnesses Act 130 of 1993		
Environmental requirements		
Eskom Environmental Requirements for the Procurement of Assets, Goods, and services Procedure number 41-120 Rev 2		
Site regulations and access control		
<ul style="list-style-type: none"> • Environmental Management System (ISO 14001, 2015) • National Environmental Management Act (Act 107 of 1998) 		
Kendal Waste Management Procedure: *1024102		
Kendal Emergency preparedness Plan *1015702		
Kendal Environmental Management Procedure for contractors *1018332		
Kendal Environmental Aspects and Impacts Identification, Rating and Management *1015586		
Kendal Environmental Monitoring and Measurement Procedure *1015691		
Non-Conformance, Corrective and Preventative Action work instruction *1017357		

Identification

1. The *Contractor's* personnel to display the *Contractor's* company name and/or logo prominently on their clothing at all times.
2. The *Contractor's* cabins, cubicles, and large equipment to display the *Contractor's* company name and/or logo prominently at all times.
3. The *Contractor's* equipment to be identifiable by serial numbers, company name or company logo as belonging to the *Contractor*.

Personal Protective Equipment

1. The *Contractor* supplies his personnel with the personal protective equipment required for the job at hand.
2. The *Contractor's* expenditure on personal protective equipment is declared to the *Employer's* safety personnel before and after each outage.
3. The *Contractor's* expenditure on personal protective equipment is auditable at any point by the *Employer*.
4. If irregularities are found in the audit in (3), the *Employer* reserves the right to deduct the declared expenditure from the *Contractor's* invoice.
5. All personal protective equipment in use by the *Contractor's* personnel shall be in good order and clearly marked with the *Contractor's* name. If in the *Employer's* opinion the personal protective equipment is not in good order, the *Contractor* replaces it with new personal protective equipment at the *Contractor's* cost.

Security Arrangements:

1. The Contracting Party applies for a photo permit (if on site for longer than two (2) months) at Protective Services at the Kendal Power Station main security gate, prior to the start of any work on site.
2. To assist Protective Services with the issuing of permits and the identification of personnel on site, the Contracting Party supplies a list of all personnel that he intends using on site, at least 24-hours prior to entry of the Kendal Power Station Security Area. This list is hand delivered to Protective Services or can be faxed to (013) 647-9100. The list, identified with the Contracting Party's name, contains the following information:
 - Employee name and surname
 - Employee ID Number
 - Signature of the contract person representing Eskom Holdings SOC Limited
 - Copy of the first page of the ID book of every employee of the Contracting Party

3. The list of details is completed on the special form attached to the Contractor's Safety Manual, available on request from the contract person representing Eskom Holdings SOC Limited.
4. The Contracting Party's personnel are required to be always in possession of their Contractor's Permits.
5. All Contractor Permits are submitted to Protective Services when the relevant personnel leave the site after completion of the work.
6. Lost permits are paid for by the Contracting Party to Protective Services at a cost per permit to be confirmed at security.
7. The Contracting Party's visitors and all personnel always conform to the security arrangements in force at the time. Application forms for visitors are filled in by the Contracting Party's Site Manager and approved by the contract person representing Eskom Holdings SOC Limited, one (1) day before the visit and submitted to the Protective Services office. Visitors are not allowed on site if the necessary forms are not in the possession of security staff.
8. The Chief of Protective Services may with valid cause remove any of the Contracting Party's personnel from the site, either temporarily or permanently. He may deny access to the site to any person, whom, in the opinion of the said Chief of Protective Services, constitutes a security risk.
9. No unauthorised vehicles are allowed on site. Only the Contracting Party's vehicles with displayed Contract Vehicle Permit disks are allowed on site. Contract Vehicle Permit applications are directed to the contract person representing Eskom Holdings SOC Limited.
10. The Contracting Party is restricted to the areas associated with his place of work. The Contracting Party is forbidden to enter any other areas, and ensures that his employees, subcontractors and/or sub-consultants abide to these regulations.
11. Parking inside the Kendal Power Station building is strictly forbidden, except for loading and off-loading purposes.
12. No recruiting of labour, casual or otherwise, may be done on the Kendal Power Station premises, including the area outside the Kendal Power Station main security gate.
13. At completion of the contract the *Contractor* will hand back the permits to the *Service Manager*

Outage Safety Induction

1. The *Contractor's* personnel to attend an outage safety induction session at Kendal Power Station before going onto any plant area.
2. The *Employer* issues each member of the *Contractor's* personnel with an outage safety induction sticker as proof of attendance to the outage safety induction session.

3. The *Contractor's* personnel prominently always display the outage safety induction sticker on their safety hats.

Plant Safety Regulations:

1. The Employer shall, on request from the Contractor, isolate required plant from all sources of danger as described in the Plant Safety Regulations.
2. The *Employer* shall, on request, make available a copy of the latest revision of the Plant Safety Regulations to the *Contractor*.
3. The *Contractor* shall conform to all rules and regulations applicable to Plant Safety and shall complete the Workman's Register prior to working on the plant.

Fire Precautions:

1. All exit doors, fire escapes routes, walkways, stairways, landings, and access to electrical boards must be kept free of obstructions and not to be used for work or storage at any time. Firefighting equipment must always remain accessible.
2. In case of fire, report the location and extent of the fire to the Electrical Operating Desk at **(6796 / 6 / 7)**.
3. Take the necessary action to safeguard the area to prevent injury and the spreading of the fire.

Speed limit:

1. All vehicles must be driven with due consideration for personnel and property. A maximum speed limit of 40 km per hour will be always adhered to on the premises.

Reporting of accidents:

1. The *Employer* follows an accident prevention policy that includes the investigation of all accidents involving personnel and property. This is done with the intention of introducing control measures to prevent a recurrence of the same incidents. The *Contractor* is expected to cooperate fully to achieve this objective. The *Project Manager/Employer's Representative/Employer's Agent* must be informed immediately of any Category B or C incidents. Category A incidents and any damage to property or equipment must be reported to the *Project Manager/Employer's Representative/Employer's Agent* within 24-hours.

NOTE: This report does not relieve the *Contractor* of his legal obligation to report certain incidents to the *Department of Labour*, or to keep records in terms of.

Use of the *Employer's* Tools and Equipment:

1. For the purpose of expediting the works, the *Employer* may make facilities and services available to the *Contractor* as provided at no cost to the *Contractor*. The *Contractor* will not receive any reimbursement or make any change to the beneficial use of the facilities or services.
2. The *Employer* may allow the *Contractor*, for the execution of the works, the reasonable use of its workshop, cranes, tools, and equipment, provided that the *Employer's* own work and business are not interfered with in any manner by such use. The *Contractor* shall leave all workshops, cranes, tools, and equipment in as good a condition as he found them, fair wear and tear excepted, and shall be liable for any damages by the *Employer* as a result of any act of negligence by the *Contractor*, his *employees* or sub-contractor while using such workshop, cranes, tools and equipment.
3. The *Contractor* is responsible for the repair, replacement, or correction as necessary of all pieces of tools and equipment supplied by the *Employer* which are damaged and/or lost whilst in the *Contractor's* custody and control.
4. The *Contractor* must ensure that any one of his employees or Sub-contractors, operating hoist equipment belonging to the *Employer*, is authorised by the *Contractor*.

Construction, Erection and Maintenance work on site:

1. The *Contractor* will be responsible for the safeguarding, care and security of all items whilst in the *Contractor's* custody and control, until Completion of the whole of the works.
2. The *Contractor* will be responsible for all carnage and equipment that is required to complete the work.
3. The *Contractor* will be responsible to check and verify the correctness of civil work installed by others prior to commencement of installation/erection.
4. The *Contractor* will be responsible for the repair, replacement and/or correction as necessary of all items of plant and/or materials supplied by the *Employer*, which are damaged and/or lost while in the *Contractor's* custody and control.

Barricading / Screens and Scaffolding:

1. The *Contractor* shall provide and install barricades and warning devices to ensure that equipment and persons are not exposed to danger, or to prevent access to dangerous areas.

2. The Employer will supply scaffolding. Arrangements of such must be made at least one (1) week in advance by the Contractor. (Tampering of any approved scaffold is not allowed for any adjustments – The *Project Manager/ Employer's Representative/ Employer's Agent* should be notified for any adjustments.).

Plant Identification Labels:

The *Contractor* is responsible to replace or repair all plant identification labels that are removed or damaged during the execution of the works.

The Contractor to note and comply with the following:

1. The *Employer* reserves the right to have any of the *Contractor's* personnel removed off site without cancelling the contract if, in the Employer's opinion, it is warranted.
2. The *Employer* reserves the right to request disciplinary/corrective action if, and when, required.

The Contractor shall maintain a high standard of workmanship expected by the Employer and shall comply with any quality assurance and quality procedures implemented by the Employer.

Police clearance

1. All *Contractor* personnel to undertake Police clearance. Certificates to be provided to the Service Manager at the contract placement.
2. The Service Manager reserves the right to refuse entry to all persons whose criminal records indicate that their presence on site might create an unsafe and insecure environment to Kendal Power Station.
3. The following website can be used to guide the process.
http://www.saps.gov.za/services/applying_clearance_certificate.php

Environmental constraints and management

The *Contractor* shall comply with the environmental criteria and constraints at Kendal Power Station
Environmental requirements

Eskom Environmental Requirements for the Procurement of Assets, Goods and services Procedure number 41-120 Rev 2

Contractor must comply with the following

1. Environmental Management System (ISO 14001, 2015)
2. National Environmental Management Act (Act 107 of 1998)
3. Kendal Waste Management Procedure: *1024102
4. Kendal Emergency preparedness Plan *1015702
5. Kendal Environmental Management Procedure for contractors *1018332
6. Kendal Environmental Aspects and Impacts Identification, Rating and Management *1015586
7. Kendal Environmental Monitoring and Measurement Procedure *1015691

- Non-Conformance, Corrective and Preventative Action work instruction *1017357

Quality assurance requirements

- Safety files at contract placement and annually update the file
- Quality plans and QCP documents to be submitted by the *Contractor* and approved before Forced Outage work commences as per client requirements, prior task order start date.
- Budget quotation for Forced Outage/Opportunity maintenance work to be submitted by the *Contractor* before work is to commence, budget quote to be submitted 8 hours after receiving task order.
- All QCPs to be signed off before payment will take place.
- QCPs are a live document, and an audit may be required at any time and will be made available as and when required.
- The *Contractor* must provide daily strength sheets (format is to be supplied by client) to the *Service Manager*, during a Forced Outage/Opportunity Maintenance before 09h00

Article II. Annexure A: Table of low service damages (X17)

Low Service Damage Description	Value of Low Service Damages	Limit of Low Service Damage
Service delays not finishing as per agreed upon project plan submitted and approved by the <i>Service Manager</i>	0.25% per total value of the Task Order(s) for the outage per day	Limited to 5% of the total value of the Task Order(s) for the outage
Submission of QCP documents as per agreed upon Contract Document Submittal Schedule in this service agreement	0.25% per total value of the Task Order(s) for the outage per day	Limited to 5% of the total value of the Task Order(s) for the outage
Using Personnel which are not Qualified/ experienced as per the contract conditions	0.25% per total value of the Task Order(s) for the outage per day	Limited to 5% of the total value of the Task Order(s) for the outage

Article III. Annexure B: Key Performance Indicators (X20)

Key Performance Indicators (KPI's) are used as means of improving efficiency and encouraging better performance by *Contractor* with a view of continuous improvement. There will be no bonus payment. The performance targets will be measured against each KPI after outage completion

Performance will be measured against the following Key Performance Indicators (KPI's). The KPI's will be reviewed after the completion of each Task order/ Outage.

	Please mark with a √					Comments
	RATINGS					
	1	2	3	4	5	
1. Safety statistics Fatalities, LTIR, Medicals and first aid						

<p>2. Plant safety regulations Number of authorised personnel.</p>						
<p>3. Due date performance Duration to install and remove suspended platforms as per agreed program, including response time.</p>						
<p>4. Internal quality audits Employer risk and assurance department conducts ad-hoc quality audits on contractors during outage.</p>						
<p>5. Inspection of equipment quality. Valid certification.</p>						