

## NEC3 Term Service Contract (TSC3)

Between **NTCSA SOC Ltd**  
(Reg No. 2021/539129/30)

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

for **PROVISION OF HAZARDOUS ASSESSMENTS,  
INSPECTIONS AND TESTING CONTRACT FOR  
NTCSA NORTHERN GRID FOR A PERIOD OF 3  
YEARS ON AN AS AND WHEN REQUIRED BASIS.**

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

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## 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 HAZARDOUS ASSESSMENTS, INSPECTIONS AND TESTING CONTRACT FOR NTCSA NORTHERN GRID FOR A PERIOD OF 3 YEARS ON AN AS AND WHEN REQUIRED BASIS.**

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

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

|           |                                                                      |                  |
|-----------|----------------------------------------------------------------------|------------------|
| Options A | The offered total of the Prices exclusive of VAT is                  | <b>Rate only</b> |
|           | Value Added Tax @ 15% is                                             | <b>Rate only</b> |
|           | The offered total of the amount due inclusive of VAT is <sup>1</sup> | <b>Rate only</b> |
|           | (in words)                                                           |                  |

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

Signature(s)

Name(s)

Capacity

**For the  
tenderer:**

(Insert name and address of organisation)

Name &  
signature of  
witness

Date

Tenderer's CIDB registration number:

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

## Acceptance

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

The terms of the contract, are contained in:

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

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

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

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

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

Signature(s)

Name(s)

Capacity

**for the  
Employer**

\_\_\_\_\_  
*NTCSA SOC Ltd, Megawatt Park, Maxwell drive,  
Sandton, Johannesburg, 2199*

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)

**NTCSA SOC Ltd, Megawatt Park, Maxwell Drive,  
Sandton, Johannesburg, 2199**

Name &  
signature  
of witness

Date

## C1.2 TSC3 Contract Data

### Part one - Data provided by the *Employer*

| Clause | Statement                                                                               | Data                                                                                                                                    |
|--------|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| 1      | <b>General</b>                                                                          |                                                                                                                                         |
|        | The <i>conditions of contract</i> are the core clauses and the clauses for main Option: |                                                                                                                                         |
|        | dispute resolution Option                                                               | A: Priced contract with price list                                                                                                      |
|        | and secondary Options                                                                   | W1: Dispute resolution procedure                                                                                                        |
|        |                                                                                         | X1: Price adjustment for inflation X2                                                                                                   |
|        |                                                                                         | Changes in the law                                                                                                                      |
|        |                                                                                         | X17: Low service damages                                                                                                                |
|        |                                                                                         | X18: Limitation of Liability                                                                                                            |
|        |                                                                                         | X19: Task Order                                                                                                                         |
|        |                                                                                         | Z: <i>Additional conditions of contract</i>                                                                                             |
|        | of the NEC3 Term Service Contract April 2013 <sup>1</sup> (TSC3)                        |                                                                                                                                         |
| 10.1   | The <i>Employer</i> is (name):                                                          | NTCSA SOC Ltd (reg no: 2021/539129/30), 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.                                                                                 | TBA                                                                                                                                     |
|        | Fax No.                                                                                 | N/A                                                                                                                                     |
| 10.1   | The <i>Service Manager</i> is (name):                                                   | TBA                                                                                                                                     |
|        | Address                                                                                 | TBA                                                                                                                                     |
|        | Tel                                                                                     | TBA                                                                                                                                     |
|        | Fax                                                                                     | N/A                                                                                                                                     |
|        | e-mail                                                                                  | TBA                                                                                                                                     |

<sup>1</sup> Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 539 1902 [www.ecs.co.za](http://www.ecs.co.za)

|          |                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|----------|------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 11.2(2)  | The Affected Property is                                         | <b>Commercial buildings and substations in various locations within the Northern Grid</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 11.2(13) | The <i>service</i> is                                            | <b>Provision of Hazardous Assessments, Inspections and Testing Contract</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 11.2(14) | The following matters will be included in the Risk Register      | <b>Unforeseen site conditions, delays in approvals, extreme weather conditions, accidents during installation and public protests, Slips, trips, fall of employees</b>                                                                                                                                                                                                                                                                                                                                                                                                      |
| 11.2(15) | The Service Information is in                                    | <b>Part 3: Scope of Work and all documents and drawings to which it makes reference.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 12.2     | The <i>law of the contract</i> is the law of                     | <b>the Republic of South Africa</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 13.1     | The <i>language of this contract</i> is                          | <b>English</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 13.3     | The <i>period for reply</i> is                                   | <b>Two (02) weeks</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 2        | <b>The Contractor's main responsibilities</b>                    | <b>Data required by this section of the core clauses is also provided by the <i>Contractor</i> in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data</b>                                                                                                                                                                                                                                                                                                                                                                       |
| 21.1     | The <i>Contractor</i> submits a first plan for acceptance within | <b>Two (02) weeks of the Contract Date</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 3        | <b>Time</b>                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 30.1     | The <i>starting date</i> is.                                     | <b>TBC</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 30.1     | The <i>service period</i> is                                     | <b>Three (03) years</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 4        | <b>Testing and defects</b>                                       | <b>There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data</b>                                                                                                                                                                                                                                                                                                                                                                                                  |
| 5        | <b>Payment</b>                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 50.1     | The <i>assessment interval</i> is                                | <b>between the 25<sup>th</sup> day of each successive month.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 51.1     | The <i>currency of this contract</i> is the                      | <b>South African Rand</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 51.2     | The period within which payments are made is                     | <b>As per Eskom payment terms linked to vendor registration</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 51.4     | The <i>interest rate</i> is                                      | <b>the publicly quoted prime rate of interest (calculated on a 365 day year) charged by from time to time by the Standard Bank of South Africa 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</b><br><br><b>(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</b> |

|         |                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|---------|------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|         |                                                                                                                                    | no rate is quoted for the currency in question then the rate for United States Dollars, and if no such rate appears in The Wall Street Journal then the rate as quoted by the Reuters Monitor Money Rates Service (or such service as may replace the Reuters Monitor Money Rates Service) on the due date for the payment in question, adjusted <i>mutatis mutandis</i> every 6 months thereafter (and as certified, in the event of any dispute, by any manager employed in the foreign exchange department of The Standard Bank of South Africa Limited, whose appointment it shall not be necessary to prove. |
| 6       | <b>Compensation events</b>                                                                                                         | There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 7       | <b>Use of Equipment Plant and Materials</b>                                                                                        | There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 8       | <b>Risks and insurance</b>                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 80.1    | These are additional <i>Employer's</i> risks                                                                                       | 1. None<br>2. Unprotected Strike                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 9       | <b>Termination</b>                                                                                                                 | There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 10      | <b>Data for main Option clause</b>                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| A       | <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 service at intervals no longer than | Eight (08) weeks.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 11      | <b>Data for Option W1</b>                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| W1.1    | The <i>Adjudicator</i>                                                                                                             | the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a> ). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).                                                                                                                                                                                                      |
| W1.2(3) | The <i>Adjudicator nominating body</i> is:                                                                                         | the Chairman of ICE-SA a joint Division of the South African Institution of Civil Engineering and the Institution of Civil Engineers (London) (see <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a> ) or its successor body.                                                                                                                                                                                                                                                                                                                                                                              |
| W1.4(2) | The <i>tribunal</i> is:                                                                                                            | arbitration                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| W1.4(5) | The <i>arbitration procedure</i> is                                                                                                | the latest edition of Rules for the Conduct of Arbitrations published by The Association of                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

|                   |                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                   |                            |                          |            |                                 |                         |            |                       |                     |            |                       |  |             |  |  |
|-------------------|------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|----------------------------|--------------------------|------------|---------------------------------|-------------------------|------------|-----------------------|---------------------|------------|-----------------------|--|-------------|--|--|
|                   |                                                                                                                              | <p><b>Arbitrators (Southern Africa) or its successor body.</b></p> <p>The place where arbitration is to be held is <b>Republic of South Africa (Gauteng)</b></p> <p>The person or organisation who will choose an arbitrator</p> <ul style="list-style-type: none"> <li>- if the Parties cannot agree a choice or</li> <li>- if the arbitration procedure does not state who selects an arbitrator, is <b>the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.</b></li> </ul>                   |                   |                            |                          |            |                                 |                         |            |                       |                     |            |                       |  |             |  |  |
| <b>12</b>         | <b>Data for secondary Option clauses</b>                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                   |                            |                          |            |                                 |                         |            |                       |                     |            |                       |  |             |  |  |
| <b>X1</b>         | <b>Price adjustment for inflation</b>                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                   |                            |                          |            |                                 |                         |            |                       |                     |            |                       |  |             |  |  |
| X1.1              | <p>The <i>base date</i> for indices is</p> <p>The proportions used to calculate the Price Adjustment Factor are:</p>         | <p><b>One (1) month prior to tender closing date CPA will become effective after 16 months from the base date.</b></p> <table> <tr> <td><b>proportion</b></td><td><b>linked to index for</b></td><td><b>Index prepared by</b></td></tr> <tr> <td><b>55%</b></td><td><b>Labour/professional fees</b></td><td><b>SEIFSA Table C-3</b></td></tr> <tr> <td><b>30%</b></td><td><b>Transportation</b></td><td><b>Table L-1(B)</b></td></tr> <tr> <td><b>15%</b></td><td><b>non-adjustable</b></td><td></td></tr> <tr> <td><b>100%</b></td><td></td><td></td></tr> </table> | <b>proportion</b> | <b>linked to index for</b> | <b>Index prepared by</b> | <b>55%</b> | <b>Labour/professional fees</b> | <b>SEIFSA Table C-3</b> | <b>30%</b> | <b>Transportation</b> | <b>Table L-1(B)</b> | <b>15%</b> | <b>non-adjustable</b> |  | <b>100%</b> |  |  |
| <b>proportion</b> | <b>linked to index for</b>                                                                                                   | <b>Index prepared by</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                   |                            |                          |            |                                 |                         |            |                       |                     |            |                       |  |             |  |  |
| <b>55%</b>        | <b>Labour/professional fees</b>                                                                                              | <b>SEIFSA Table C-3</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                   |                            |                          |            |                                 |                         |            |                       |                     |            |                       |  |             |  |  |
| <b>30%</b>        | <b>Transportation</b>                                                                                                        | <b>Table L-1(B)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                   |                            |                          |            |                                 |                         |            |                       |                     |            |                       |  |             |  |  |
| <b>15%</b>        | <b>non-adjustable</b>                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                   |                            |                          |            |                                 |                         |            |                       |                     |            |                       |  |             |  |  |
| <b>100%</b>       |                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                   |                            |                          |            |                                 |                         |            |                       |                     |            |                       |  |             |  |  |
| <b>X2</b>         | <b>Changes in the law</b>                                                                                                    | <b>There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                    |                   |                            |                          |            |                                 |                         |            |                       |                     |            |                       |  |             |  |  |
| <b>X17</b>        | <b>Low service damages</b>                                                                                                   | <b>10% of the total task order issued.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                   |                            |                          |            |                                 |                         |            |                       |                     |            |                       |  |             |  |  |
| X17.1             | The <i>service level table</i> is in                                                                                         | <b>Annexure A in the Service Information</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                   |                            |                          |            |                                 |                         |            |                       |                     |            |                       |  |             |  |  |
| <b>X18</b>        | <b>Limitation of liability</b>                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                   |                            |                          |            |                                 |                         |            |                       |                     |            |                       |  |             |  |  |
| <b>X18.1</b>      | The Contractor's liability to the Employer for indirect or consequential loss is limited to                                  | <b>The sum of the Task Orders issued in terms of this contract.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                   |                            |                          |            |                                 |                         |            |                       |                     |            |                       |  |             |  |  |
| <b>X18.2</b>      | For any one event, the Contractor's liability to the Employer for loss of or damage to the Employer's property is limited to | <b>the amount of the deductibles relevant to the event as per the ACAR document.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                   |                            |                          |            |                                 |                         |            |                       |                     |            |                       |  |             |  |  |
| <b>X18.3</b>      | The Contractor's liability for Defects due to his design of an item of Equipment is limited to                               | <p><b>The greater of</b></p> <p><b>the total of the Prices at the Contract Date and the amounts excluded and unrecoverable from the Employer's insurance (other than the resulting physical damage to the Employer's property which is not excluded) plus the applicable deductibles</b></p> <p><b>the total of the Prices other than for the</b></p>                                                                                                                                                                                                                |                   |                            |                          |            |                                 |                         |            |                       |                     |            |                       |  |             |  |  |

|              |                                                                                                                                                                     |                                                                                                                                                                                                                                                                    |
|--------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>X18.4</b> | The Contractor's total liability to the Employer, for all matters arising under or in connection with this contract, other than the excluded matters, is limited to | <p><b>additional excluded matters.</b></p> <p><b>The Contractor's total liability for the additional excluded matters is not limited.</b></p> <p><b>The additional excluded matters are amounts for which the Contractor is liable under this contract for</b></p> |
| <b>18.5</b>  | The end of liability date is                                                                                                                                        | <b>06 months after the end of the service period.</b>                                                                                                                                                                                                              |
| <b>X19</b>   | <b>Task Order</b>                                                                                                                                                   |                                                                                                                                                                                                                                                                    |
| <b>X19.5</b> | The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within                                                                           | <b>Three (03) days of receiving the Task Order</b>                                                                                                                                                                                                                 |
| <b>Z</b>     | <b>The <i>additional conditions of contract</i> are</b>                                                                                                             | <b>Z1 to Z14 always apply.</b>                                                                                                                                                                                                                                     |

## **Z1 Cession delegation and assignment**

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

## **Z2 Joint ventures**

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

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

- Z3.1 Where a change in the *Contractor's* legal status, ownership or any other change to his business composition or business dealings results in a change to the *Contractor's* B-BBEE status, the *Contractor* notifies the *Employer* within seven days of the change.
- Z3.2 The *Contractor* is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the *Service Manager* within thirty days of the notification or as otherwise instructed by the *Service Manager*.
- Z3.3 Where, as a result, the *Contractor's* B-BBEE status has decreased since the Contract Date the *Employer* may either re-negotiate this contract or alternatively, terminate the *Contractor's* obligation to Provide the Service.

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

## **Z4 Confidentiality**

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

## **Z5 Waiver and estoppel: Add to core clause 12.3:**

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

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

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

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

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

- Z7.1 Within one week of receiving a payment certificate from the *Service Manager* in terms of core clause 51.1, the *Contractor* provides the *Employer* with a tax invoice in accordance with the *Employer's* procedures stated in the Service Information, showing the amount due for payment equal to that stated in the payment certificate.
- Z7.2 If the *Contractor* does not provide a tax invoice in the form and by the time required by this contract, the time by when the *Employer* is to make a payment is extended by a period equal in time to the delayed submission of the correct tax invoice. Interest due by the *Employer* in terms of core clause 51.2 is then calculated from the delayed date by when payment is to be made.
- Z7.3 The *Contractor* (if registered in South Africa in terms of the companies Act) is required to comply with the requirements of the Value Added Tax Act, no 89 of 1991 (as amended) and to include the *Employer's* VAT number 4710303126 on each invoice he submits for payment.

**Z8 Notifying compensation events**

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

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

**Z9 Employer's limitation of liability**

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

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

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

**Z11 Ethics**

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

- Affected Party** means, as the context requires, any party, irrespective of whether it is the *Contractor* or a third party, such party's employees, agents, or Subcontractors or Subcontractor's employees, or any one or more of all of these parties' relatives or friends,
- Coercive Action** means to harm or threaten to harm, directly or indirectly, an Affected Party or the property of an Affected Party, or to otherwise influence or attempt to influence an Affected Party to act unlawfully or illegally,
- Collusive** means where two or more parties co-operate to achieve an unlawful or illegal

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

- Z11.1 A Committing Party may not take any Prohibited Action during the course of the procurement of this contract or in execution thereof.
- Z11.2 The *Employer* may terminate the *Contractor's* obligation to Provide the Services if a Committing Party has taken such Prohibited Action and the *Contractor* did not take timely and appropriate action to prevent or remedy the situation, without limiting any other rights or remedies the *Employer* has. It is not required that the Committing Party had to have been found guilty, in court or in any other similar process, of such Prohibited Action before the *Employer* can terminate the *Contractor's* obligation to Provide the Services for this reason.
- Z11.3 If the *Employer* terminates the *Contractor's* obligation to Provide the Services for this reason, the amounts due on termination are those intended in core clauses 92.1 and 92.2.
- Z11.4 A Committing Party co-operates fully with any investigation pursuant to alleged Prohibited Action. Where the *Employer* does not have a contractual bond with the Committing Party, the *Contractor* ensures that the Committing Party co-operates fully with an investigation.

## Z12 Insurance

### 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.<br><br>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.<br><br>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.<br><br>The <i>Employer's</i> policy deductible as at Contract Date, where covered by the <i>Employer's</i> insurance. |
| The <i>Contractor's</i> liability for loss of or damage to property (except the <i>Employer's</i> property, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Contractor</i> ) arising from or in connection with the <i>Contractor's</i> Providing the Service | <u>Loss of or damage to property</u><br>The replacement cost<br><br><u>Bodily injury to or death of a person</u><br>The amount required by the applicable law.                                   |
| Liability for death of or bodily injury to employees of the <i>Contractor</i> arising out of and in the course of their employment 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 li of indemnity |
|---------------------------------------------------|----------------------------------------------------|
| Assets All Risk                                   | Per the insurance policy document                  |
| Contract Works insurance                          | Per the insurance policy document                  |
| Environmental Liability                           | Per the insurance policy document                  |
| General and Public Liability                      | Per the insurance policy document                  |
| Transportation (Marine)                           | Per the insurance policy document                  |
| Motor Fleet and Mobile Plant                      | Per the insurance policy document                  |
| Terrorism                                         | Per the insurance policy document                  |
| Cyber Liability                                   | Per the insurance policy document                  |
| Nuclear Material Damage and Business Interruption | Per the insurance policy document                  |
| Nuclear Material Damage Terrorism                 | Per the insurance policy document                  |

**Z13 Nuclear Liability**

- Z13.1 The *Employer* is the operator of the Koeberg Nuclear Power Station (KNPS), a nuclear installation, as designated by the National Nuclear Regulator of the Republic of South Africa, and is the holder of a nuclear licence in respect of the KNPS.
- Z13.2 The *Employer* is solely responsible for and indemnifies the *Contractor* or any other person against any and all liabilities which the *Contractor* or any person may incur arising out of or resulting from nuclear damage, as defined in Act 47 of 1999, save to the extent that any liabilities are incurred due to the unlawful intent of the *Contractor* or any other person or the presence of the *Contractor* or that person or any property of the *Contractor* or such person at or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.
- Z13.3 Subject to clause Z13.4 below, the *Employer* waives all rights of recourse, arising from the aforesaid, save to the extent that any claims arise or liability is incurred due or attributable to the unlawful intent of the *Contractor* or any other person, or the presence of the *Contractor* or that person or any property of the *Contractor* or such person at or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.
- Z13.4 The *Employer* does not waive its rights provided for in section 30 (7) of Act 47 of 1999, or any replacement section dealing with the same subject matter.
- Z13.5 The protection afforded by the provisions hereof shall be in effect until the KNPS is decommissioned.

## **Z14 Asbestos**

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

|                              |                                                                                                                                                                                                                                                                                                              |
|------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <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 occupational hygiene inspection body, i.e. a SANAS accredited and Department of Employment and Labour approved AAIA. The *Contractor* may perform Parallel Measurements and related control measures at the *Contractor's* expense. For the purposes of compliance the results generated from Parallel Measurements are evaluated only against South African statutory limits as detailed in clause Z14.1. Control measures conform to the requirements stipulated in the AAIA-approved asbestos work plan.

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

Z14.4 In the event that any asbestos is identified while Providing the Services, a risk assessment is conducted and if so required, with reference to possible exposure to an airborne concentration of

above the AL for asbestos, immediate control measures are implemented and relevant air monitoring conducted in order to declare the area safe.

- Z14.5 The *Contractor's* personnel are entitled to stop working and leave the contaminated area forthwith until such time that the area of concern is declared safe by either Compliance Monitoring or an AAIA approved control measure intervention, for example, per the emergency asbestos work plan, if applicable.
- Z14.6 The *Contractor* continues to Provide the Services, without additional control measures presented, on presentation of Safe Levels. The contractually agreed dates to Provide the Services, including the Completion Date, are adjusted accordingly. The contractually agreed dates are extended by the notification periods required by regulations 3 and 21 of the Asbestos Regulations, 2001.
- Z14.7 Any removal and disposal of asbestos, asbestos containing materials and waste, is done by a registered asbestos contractor, instructed by the *Employer* at the *Employer's* expense, and conducted in line with South African legislation.

## C1.2 Contract Data

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

#### Notes to a tendering contractor:

1. Please read both the both the NEC3 Term Service Contract April 2013 and the relevant parts of its Guidance Notes (TSC3-GN)<sup>1</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):<br><br>Address<br><br>Tel No.<br><br>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:<br><br>1 Name:<br><br>Job:<br><br>Responsibilities:<br><br>Qualifications:<br><br>Experience:<br><br>2 Name:<br><br>Job<br><br>Responsibilities:<br><br>Qualifications: |      |

<sup>1</sup> Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 5391902 or [www.ecs.co.za](http://www.ecs.co.za)

Experience:

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

|          |                                     |   |       |
|----------|-------------------------------------|---|-------|
| A        | Priced contract with price list     |   |       |
| 11.2(12) | The <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 | 02          |
| C2.2               | The <i>price list</i>         | 02          |

## 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:

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

This 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*

Refer to **Annexure P** Enquiry BOQ for Hazardous Assessments, Inspections and Testing contract for NTCSA

## PART 3: SCOPE OF WORK

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| C3.2                      | <i>Contractor's Service Information</i> |                    |
|                           | Total number of pages                   |                    |

## C3.1: EMPLOYER'S SERVICE INFORMATION

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# 1 Description of the service

## 1.1 Executive overview

The National Transmission Company South Africa (NTCSA) Northern Grid has five (5) Customer Load Networks (CLN), namely Carletonville, Rustenburg, Lephalale, Polokwane and Phalaborwa. The Grid has a total of 27 substations (including two new ones). Substations consist of battery rooms (Haz Loc) that do not have any valid Certificates of Compliance (CoC) and accompanying test reports as required by the Electrical Installations Regulations of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993) (OHS Act). Also, there is considerable lack of documentation that is needed for compliance to statutory requirements and good practice of managing Haz Loc. These non-compliances could lead to a contravention of the OHS Act Regulations. The unavailability of the CoCs, Hazardous Area Zone Classification, zoning drawings, equipment certificates, maintenance records, etc. were identified as a serious safety risk that may have serious consequences to the health and safety of persons working or accessing the battery rooms at Northern Grid substations. Management took a decision to initiate a project to ensure that all battery rooms at Northern Grid substations be assessed, tested and issued with all required documentation in accordance with the OHS Act and applicable South African National Standards (SANS). The project will ensure legislative compliance of Northern Grid battery rooms and address any unsafe working conditions that may exist

## 1.2 Employer's requirements for the service

An MIE is required to do the inspections, testing and issuing of the CoC in accordance with applicable SANS in the Northern Grid battery rooms. The services will be provided in various Northern Grid substations (27 substations (including two new ones). The service provider shall provide the hazardous location (Haz Loc) classification report where such report does not exist. Assess battery room electrical installations, test and issue certificates of compliance (CoC) for specialised (hazardous locations) and normal electrical installations after reparations, modifications or new installations. Do inspections and issue valid CoC's as per SANS requirements. Assess and analyse any other Haz Loc areas and recommend appropriate classifications on existing, modified and new plant and equipment as and when required for the duration of the contract period.

## 1.3 Interpretation and terminology

| Abbreviation | Explanation                                             |
|--------------|---------------------------------------------------------|
| AC           | Alternating Current                                     |
| HV           | High Voltage                                            |
| PPE          | Personal Protective Equipment                           |
| GMR 2.1      | General Machinery Regulation 2(1)                       |
| COC          | Certificate of Compliance                               |
| kV           | Kilo Volts                                              |
| MIE          | Master Installation Electrician                         |
| OHS Act      | Occupational Health and Safety Act (Act No. 85 of 1993) |

|         |                       |
|---------|-----------------------|
| HAZ-LOC | Hazardous Location    |
| LEL     | Lower Explosive Limit |
| UEL     | Upper Explosive Limit |

## 2 Management strategy and start up.

### 2.1 The Contractor's plan for the service

In the TSC3 the *Contractor's* plan is his "design" for performing the *service* throughout the *service period*. Section 2 of the *conditions of contract* describes what the *Contractor* is to show in his plan both in the core clauses and some additional requirements in each of the main Options.

The extent of the *Contractor's* plan will depend on whether the *Contractor* is required to develop a plan in accordance with the *Employer's* broad outline of the *service* or whether the *Employer* has provided a plan for the *Contractor* to follow. Read the TSC3 Guidance Notes pages 21 and 22 for more information on the *Contractor's* plan.

Use this section to describe any particulars which must be taken into account by the *Contractor* in developing his plan as required by clause 21.2. For example information about the order and timing or method of carrying out particular items of work.

List technical reporting and scheduling requirements which are to be incorporated into the *Contractor's* plan.

- Contractor to provide project plan of execution to the employer for approval before the works.

### 2.2 Management meetings

The *conditions of contract* (e.g. Clause 16.2) and other sections of the Service Information (e.g. safety risk management) may require that a meeting shall be held. However the intention of all NEC contracts is that the Parties and their agents use the techniques of partnering to manage the contract by holding meetings designed to pro actively and jointly manage the administration of the contract with the objective of minimising the adverse effects of risks and surprises for both Parties.

Depending on the size and complexity of the *service*, it is probably beneficial for the *Service Manager* to hold a weekly risk register meeting (Clause 16.2). This could be used to discuss safety, compensation events, subcontracting, overall co-ordination and other matters of a general nature. Separate meetings for specialist activities such as planning and activities of a technical nature may also be warranted.

Describe here the general meetings and their purpose. Provide particulars of approximate times, days, location, and attendance requirements, stipulating that attendees shall have the necessary delegated authority to make decisions in respect of matters discussed at such meetings.

The following text could be used as a model for this section:

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

| Title and purpose          | Approximate time & interval        | Location       | Attendance by:                |
|----------------------------|------------------------------------|----------------|-------------------------------|
| Kick off meeting           | Once off                           | Online/on Site | Employer, Contractor and EA's |
| Progress feedback meetings | Monthly or as and when required    | Online/On site | Employer, Contractor and EA's |
| Contractual Meeting        | Biannually or as and when required | Online/Onsite  | Employer, Contractor and EA's |

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

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

## 2.3 Contractor's management, supervision and key people

State any additional constraining requirements on *Contractor's* supervision and key people that are not already stated in other sections such as for Health and Safety. This section could be used to solicit an organogramme from the *Contractor* showing his people and their lines of authority / communication. This would be essential if the *Contractor* is a Joint Venture.

## 2.4 Provision of bonds and guarantees

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

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

## 2.5 Documentation control

- Inspection Logs: Keep detailed records of all Inspection and assessment activities, including
- dates, actions taken.
- Reporting: Provide reports to the client on the status of the Hazardous Locations,
- and any recommendations for future actions.
- Document management control will be handled as per the Employer's document and records management procedure 32-1216 which is obtainable from the Employers Representative All communication will be in writing.
- All NEC standard forms shall be used, e.g. Task orders, Early Warnings, Defect certificates and Assessments.

## 2.6 Invoicing and payment

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

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

The *Contractor* shall address the tax invoice to

\_\_\_\_\_ and include on each invoice the following information:

- Name and address of the *Contractor* and the *Service Manager*;

- The contract number and title;
- *Contractor's* VAT registration number;
- The *Employer's* VAT registration number 4710303126;
- 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)

Add procedures for invoice submission and payment (e. g. electronic payment instructions)

## 2.7 Contract change management

- a) *The Service Manager* issues a Task order to *The Contractor* to authorise the execution of the work.
- b) 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 Manager* an early warning with a written quotation.
- c) If agreed, the *Service Manager* issues a revised Task Order or additional Task Order.
- d) *The Contractor* starts the work on the starting date of the Task Order.

## 2.8 Records of Defined Cost to be kept by the Contractor

If Option C or E applies first read clause 52.2 and then state whether the *Contractor* is required to keep any other records. Include any other constraint which may be required in regard to format and filing of the records, and whether access for the *Service Manager* shall be provided in hard copy or electronically.

Could delete if Option A applies unless the *Employer* requires some form of control over the *Contractor's* record keeping for the purpose of compensation event management.

## 2.9 Insurance provided by the Employer

First read TSC3 Core Clause 86.1 and then add anything necessary for the management of insurance related issues such as a cross reference to where procedures for making claims can be found. Also provide contact details for persons capable of being able to answer any insurance related queries the *Contractor* may have, as well as to whom the information required by Marine Insurance (if any) may be addressed.

## 2.10 Training workshops and technology transfer

**User Training:** *Contractor* to provide training materials and support to the *Employer* personnel doing maintenance and inspections in the Hazardous location.

**Technical Support:** *Contractor* shall offer ongoing technical support to address any operational issues or questions from the *Employer*.

## 2.11 Design and supply of Equipment

On some complex services (e. g. nuclear) it could be in the Parties best interests that some details of the design of Equipment are shared with the *Service Manager*, not necessarily for his acceptance but as an assurance that the Equipment will be able to allow the *Contractor* to Provide the Service efficiently and without delay. For example specialised handling Equipment for a particular maintenance operation. Clause 23.1 is always available to the *Service Manager* if this paragraph is not used.

Also the *Employer* may wish to exercise constraints or include witness and hold points during manufacture, assembly or delivery of such Equipment. Include these constraints here.

Draft in such a way that there is no doubt that the liability for such design supply and use of the Equipment remains with the *Contractor*.

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

### 2.12.1 Equipment

The *Employer* may wish to use some of the Equipment used by the *Contractor* after the end of the *service period*. Clause 70.2 requires that details of such requirement be stated in the Service Information. Complete here or if not applicable retain the heading and state 'None'.

### 2.12.2 Information and other things

Clause 70.2 requires that information and other things which the *Contractor* is to provide at the end of the *service period* be stated in the Service Information.

## 2.13 Management of work done by Task Order

Only use this heading if Option X19 applies to this contract.

In some cases all work may be done in terms of Task Orders in which case it may be logical to move this section closer to the start of this part 2 of the Service Information. In some cases only parts of the *service* may require to be handled by Task Order, for example a major repair which has become necessary during a continuous maintenance service contract.

Please read Option X19 before drafting requirements here as much of the procedure for the administration of Task Orders is already provided in X19, for example X19.2 specifies what a task Order should include

A Task Order format could be provided in an Annexure to this Service Information.

Many considerations can apply to Task Orders, such as availability of resources, arrangements for emergency work, Task Order reporting (work carried out and service results), assessment of additional Prices for *service* not included in the Price List etc.

Clause X19.6 requires information which should be included on a Task Order programme. Further requirements for Task Orders include things to be provided by the *Employer* under a Task Order and the conditions under which the *Employer* or Others are to work.

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

#### 3.1 Health and safety risk management

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

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

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

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

- Generation: Roley McIntyre
- Transmission: Tony Patterson
- Distribution: Alex Stramrood
- Enterprises: Jace Naidoo
- Corporate: Kerseri Pather

The *Contractor* shall comply with the health and safety requirements contained in Annexure \_\_\_\_\_ to this Service Information.

#### 3.2 Environmental constraints and management

Describe or cross refer to environmental constraints applicable to the *Contractor's* plan and his activities on the Affected Property and how they should be managed. Include here or cross refer to an Annexure to the Service Information.

The *Contractor* shall comply with the environmental criteria and constraints stated in Annexure \_\_\_\_\_

#### 3.3 Quality assurance requirements

Specify minimum requirements for the *Contractor's* Quality Plan and Work Procedures or provide the *Employer's* Quality Plan if that is to be used. Make sure witness and hold points are identified generally and describe any requirements for QA outside the Affected Property. Indicate how the *Contractor's* QA documentation is to be submitted for acceptance and any conditions that need to be imposed relating to acceptance. State whether ISO compliance is a condition and if so which ISO standard shall apply.

## 4 Procurement

There is a cross reference from the core clause 11.2(6) definition of Disallowed Cost to the Service Information regarding procurement procedures. This part of the Service Information MUST include any such procedures to be able to administer Disallowed Cost.

### 4.1 People

#### 4.1.1 Minimum requirements of people employed

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

#### 4.1.2 BBBEE and preferencing scheme

Specify constraints which *Contractor* must comply with after contract award in regard to any Broad Based Black Economic Empowerment (B-BBEE) or preferencing scheme measures.

#### 4.1.3 Accelerated Shared Growth Initiative – South Africa (ASGI-SA)

If the ASGI-SA requirements are to be included in this contract specify constraints which *Contractor* must comply with after contract award in regard to any ASGI-SA requirements. The ASGI-SA Compliance Schedule completed in the returnable tender schedules is reproduced here. If ASGI-SA does not apply, delete this paragraph.

The *Contractor* complies with and fulfils the *Contractor's* obligations in respect of the Accelerated and Shared Growth Initiative - South Africa in accordance with and as provided for in the *Contractor's* ASGI-SA Compliance Schedule stated below

[Insert the agreed ASGI-SA Compliance Schedule here]

The *Contractor* shall keep accurate records and provide the *Service Manager* with reports on the *Contractor's* actual delivery against the above stated ASGI-SA criteria. [Elaborate on access to and format of records and frequency of submission etc.]

The *Contractor's* failure to comply with his ASGI-SA obligations constitutes substantial failure on the part of the *Contractor* to comply with his obligations under this contract.

### 4.2 Subcontracting

#### 4.2.1 Preferred subcontractors

Not applicable for this service

#### 4.2.2 Subcontract documentation, and assessment of subcontract tenders

Specify any constraints on how the *Contractor* is to prepare subcontract documentation, whether use of the NEC system is compulsory or not (compulsory is recommended) and how subcontract tenders are to be issued, received, assessed (using a joint report?) and awarded.

#### 4.2.3 Limitations on subcontracting

The *Employer* may require that the *Contractor* must subcontract certain specialised work, or that the *Contractor* shall not subcontract more than a specified proportion of the whole of the contract.

#### 4.2.4 Attendance on subcontractors

State requirements for attendance on Subcontractors, if any

### 4.3 Plant and Materials

#### 4.3.1 Specifications

System Upgrades: *Contractor* shall Implement upgrades or modifications to the equipment as required or requested by the employer.

#### 4.3.2 Correction of defects

None: as the contractor will only be doing inspections and issuing of the report.

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

Not applicable for this service

#### 4.3.4 Tests and inspections before delivery

Not applicable for this service

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

1. Access to the plant and plant availability will be provided by the *Employer*

#### 4.3.6 Cataloguing requirements by the *Contractor*

*Contractor* is not required to catalogue any spares.

## 5 Working on the Affected Property

Works/inspections on all substations will be carried out as per the signed SOW.

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

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

- a) The *Contractor's* safety file is approved by *Employer's* Safety department.
- b) All personnel have attended site-specific safety induction training.
- c) Compiled with the requirements as stated in the General Works Information

It is very important that the *Contractor* keeps records of his people working on the Affected Property. The *Service Manager* shall have access to them at any time.

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

The *Contractor* shall have timesheets that shall be acknowledged and signed off by the *Employer* after execution of the services/works for record of hours worked.

### 5.3 Health and safety facilities on the Affected Property

Section 3 deals with contractual H & S requirements in addition to those of the OHSA Act. This section allows the *Employer* to state what measures are to be taken on the Affected Property by describing where First Aid facilities provided by the *Employer* are located and any other emergency arrangements. Do not use if already addressed in 2.3.

### 5.4 Environmental controls, fauna & flora

The *Contractor* shall dispose of any waste or hazardous materials in compliance with NTCSA environmental regulations.

### 5.5 Cooperating with and obtaining acceptance of Others

Except as directed by the *Employer*, the *Contractor* shall in no way interfere with, remove, adjust or operate plant, materials and /or equipment of or being supplied or operated by Other Contractors.

### 5.6 Records of *Contractor's* Equipment

Not applicable to the services required.

### 5.7 Equipment provided by the *Employer*

Not applicable for the services required.

## 5.8 Site services and facilities

### 5.8.1 Provided by the *Employer*

The employer shall provide restrooms, waste disposal, power, and water. should they be required. the Contractor shall provide everything else necessary for Providing the Services.

### 5.8.2 Provided by the *Contractor*

Contractor is responsible for accommodation and transportation to drive to the sites. Due to the nature of the activities to be performed, site establishment in terms of storage and office is not required unless stated otherwise by the contractor of which the contractor shall provide and employer shall reserve/find a location for such establishment.

For the assessment of travel-related costs, the Contractor is compensated only for kilometres travelled between the Site and the closer of the Contractor's registered office or the Employer's relevant CLN office (Rustenburg or Polokwane). The Contractor submits a route plan and distance calculation for acceptance by the Employer before execution of the Works. No payment is made for travel distances exceeding the accepted distance or for travel from any other location. Reimbursement is limited to accepted routes and distances only. Any additional travel distance, deviation from accepted routes, or travel originating from locations further than the nearest of the above points is at the Contractor's own cost and is not reimbursable by the Employer.

The Contractor shall provide labour, tools appropriate PPE to carry out the Employer's requirements. The Contractor to note that only one vehicle will be paid per Task Order. The Employer will plan Task Order in such a way that travelling costs are minimized.

In exceptional cases where Contractor needs to utilize more than one vehicle, the Employers approval needs to be obtained in writing.

## 5.9 Control of noise, dust, water and waste

- *Contractor* shall adhere to Eskom PPE policy and ensure that all technicians executing the works are wearing the correct PPE and are protected against noise, dust, water and waste.
- The *contractor* and the *employer* shall discuss a baseline risk assessment and ensure that all identified risks for the activities to be performed have controls.

## 5.10 Hook ups to existing works

Not applicable

## 5.11 Tests and inspections

### 5.11.1 Description of tests and inspections

- Assess battery room electrical installations, test and issue certificates of compliance (CoC) for specialised (hazardous locations) and normal electrical installations after reparations, modifications or new installations.
- Assess and analyse any other Haz Loc areas and recommend appropriate classifications on existing, modified and new plant and equipment as and when required for the duration of the contract period.
- Do inspections and issue valid CoC's as per SANS requirements:

- Assess and perform appropriate tests on connections of conductors, earthing and bonding.  
Ensure the circuit is mechanically sound and electrically continuous.

#### **5.11.2 Materials facilities and samples for tests and inspections**

State what materials facilities and samples for tests and inspections the *Contractor* and the *Employer* are to provide, per core clause 40.2.

The *contractor* will provide all materials and test equipment to complete the works in the Hazardous Locations as per the approved SOW.

6 List of drawings

6.1 Drawings issued by the Employer

This is the list of drawings issued by the Employer at or before the Contract Date and which apply to this contract.

## Annexure A - Low Service Damages

| Incidents                                                                                                                                                         | Allowance / Response Time | Frequency | Target | Penalties for non-conformances                                      |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|-----------|--------|---------------------------------------------------------------------|
| Failure to supply 2 overalls, and 2 uniforms, one pair safety boots and 2 warmer jackets prior the start of employees on site and replacement of the worn-out PPE | None                      | All times | 100%   | R5000 per incident                                                  |
| Workers on site without mandatory PPE                                                                                                                             | None                      | All times | 100%   | R5000 per incident                                                  |
| Workers on site without proper non sparking tools and equipment to use in Hazardous locations                                                                     | None                      | All times | 100%   | R5000 per incident                                                  |
| Failure for workers to wear task specific (risk based) PPE. for the activity.                                                                                     | None                      | All times | 100%   | R5000 per incident                                                  |
| Workers on site with torn PPE.                                                                                                                                    | None                      | All times |        | R5000 per incident                                                  |
| Failure to supply and deliver the ordered materials on time, and site.                                                                                            | Within 10 working days    | All times | 100%   | R 5000, 00 per incident after 5 working days until date of delivery |
| Failure for Contractor's employees to report to work.                                                                                                             | None                      | All times | 100%   | R 1 000per week / per incident – until incident rectification       |
| Work stoppage due to noncompliance with COIDA                                                                                                                     | None                      | All times |        | R25 000 per incident                                                |
| Non-conformance with NTCSA's Life Saving Rules                                                                                                                    | None                      | All times | 100%   | R10 000, 00 per incident                                            |
| Non-compliance with GHS requirements                                                                                                                              | None                      | All times | 100%   | R5000, 00 per incident                                              |
| LDV vehicle on site without the valid licence disc                                                                                                                | None                      | All times | 100%   | R600,00 per day                                                     |
| Workers on site without a valid medical certificate of fitness from Occ. Health Practitioner                                                                      | None                      | All times | 100%   | R3000, 00 per incident                                              |