



NEC3 Term Service Contract (TSC3)

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

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

for **Medupi Power Station Fire and Emergency Medical
Services**

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

CONTRACT No. 46000

PART C1: AGREEMENTS & CONTRACT DATA

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

C1.1 Form of Offer & Acceptance

1.1 Offer

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

2 Medupi Power Station Fire and Emergency Medical Services

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

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

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

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

Signature(s)

Name(s) _____

Capacity _____

For the tenderer: _____

(Insert name and address of organisation)

Name &
signature of
witness

Date

Tenderer's CIDB registration number:

2.1 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

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

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**

Eskom Holdings SOC Limited
Medupi Power Station
Private Bag x9003
LEPHALALE
0555

(Insert name and address of organisation)

Name &
signature of
witness

Date

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

2.2 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.

2.2.1.1 For the tenderer:

Signature _____

Name _____

Capacity _____

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

Name & signature of witness _____

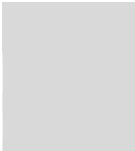


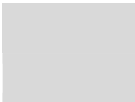
Date _____

2.2.1.2 For the Employer

Eskom Holdings SOC Limited
Medupi Power Station
Private Bag x9003
LEPHALALE
0555
Manager: Procurement

C1.2 TSC3 Contract Data

Part one - Data provided by the *Employer*

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:	
		A: Priced contract with price list
	dispute resolution Option	W1: Dispute resolution procedure
	and secondary Options	
		X1: Price adjustment for inflation
		X2 Changes in the law
		X17: Low service damages
		X18: Limitation of liability
		X19: Task Order
		X20: Key performance indicators
		Z: Additional conditions of contract
	of the NEC3 Term Service Contract April 2013 ² (TSC3)	
10.1	The <i>Employer</i> is (name):	Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state owned company incorporated in terms of the company laws of the Republic of South Africa
	Address	Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg
	Tel No.	[•]
	Fax No.	N/A
10.1	The <i>Service Manager</i> is (name):	TBA
	Address	Medupi Power Station, Steenbokpan Road, Lephalale
	Tel	TBA

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

	Fax	N/A
	e-mail	TBA
11.2(2)	The Affected Property is	Medupi Power Station
11.2(13)	The <i>service</i> is	Fire and Medical Emergency Services
11.2(14)	The following matters will be included in the Risk Register	<ul style="list-style-type: none"> • Delayed response Time • Employees not trained
11.2(15)	The Service Information is in	Part 3: Scope of Work and all documents and drawings to which it makes reference.
12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa
13.1	The <i>language of this contract</i> is	English
13.3	The <i>period for reply</i> is	1 week(s)
2	The Contractor's main responsibilities	Data required by this section of the core clauses is also provided by the <i>Contractor</i> in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data
21.1	The <i>Contractor</i> submits a first plan for acceptance within	1 weeks of the Contract Date
3	Time	
30.1	The <i>starting date</i> is.	TBC
30.1	The <i>service period</i> is	5 years
4	Testing and defects	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data
5	Payment	
50.1	The <i>assessment interval</i> is	between the 20th day of each successive month.
51.1	The <i>currency of this contract</i> is the	South African Rand
51.4	The <i>interest rate</i> is	<p>the publicly quoted prime rate of interest (calculated on a 365 day year) charged by from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands and</p> <p>(ii) the LIBOR rate applicable at the time for amounts due in other currencies. LIBOR is the 6 month London Interbank Offered Rate quoted under the caption "Money Rates" in The Wall Street Journal for the applicable currency or if no rate is quoted for the currency in question then the rate for United States Dollars, and if no such rate appears in The Wall Street Journal then the</p>

		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	Compensation events	<p>If the <i>Contractor</i> 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.</p> <p>There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data</p>
7	Use of Equipment Plant and Materials	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data
8	Risks and insurance	
80.1	These are additional <i>Employer's</i> risks	<p>1. [•]</p> <p>2. [•]</p> <p>3. [•]</p>
9	Termination	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
10	Data for main Option clause	
A	Priced contract with price list	
20.5	The <i>Contractor</i> prepares forecasts of the final total of the Prices for the whole of the <i>service</i> at intervals no longer than	5 weeks.
11	Data for Option W1	
W1.1	The <i>Adjudicator</i>	the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see www.ice-sa.org.za). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).
	Address	1st Floor, Maisels Chamber, 4 Protea Place, Sandton
	Tel No.	011 320 0600

Fax No. **011 320 0533**

e-mail **info@arbitration.co.za**

W1.2(3) The *Adjudicator nominating body* is: **the Chairman of ICE-SA a joint Division of the South African Institution of Civil Engineering and the Institution of Civil Engineers (London) (see www.ice-sa.org.za) or its successor body.**

W1.4(2) The *tribunal* is: **arbitration**

W1.4(5) The *arbitration procedure* is **the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.**

The place where arbitration is to be held is **Johannesburg, South Africa**

The person or organisation who will choose an arbitrator

- if the Parties cannot agree a choice or
- if the arbitration procedure does not state who selects an arbitrator, is **the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.**

12 Data for secondary Option clauses

X1 Price adjustment for inflation

X1.1	The <i>base date</i> for indices is	[•].		
	The proportions used to calculate the Price Adjustment Factor are:	proportion	linked to index for	Index prepared by
	Labour	70%	Table C3	SEIFSA
	Transport	10%	Table L2	SEIFSA
	Stats SA	5 %	[•]	[•]
		15 %	non-adjustable	
		1.00		

X2 **Changes in the law** **There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.**

X17 Low service damages

X17.1		Action	Penalty
		Response Time	2% of the total monthly PO related to the delay in response
		Trained not trained Staff	1% of the contract value for each training not done on time

X18	Limitation of liability	
X18.1	The <i>Contractor's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to	R0.0 (zero Rand)
X18.2	For any one event, the <i>Contractor's</i> liability to the <i>Employer</i> for loss of or damage to the <i>Employer's</i> property is limited to	the amount not covered by the employer's insurance
X18.3	The <i>Contractor's</i> liability for Defects due to his design of an item of Equipment is limited to	The greater of <ul style="list-style-type: none"> • the total of the Prices at the Contract Date and • the amounts excluded and unrecoverable from the <i>Employer's</i> insurance (other than the resulting physical damage to the <i>Employer's</i> property which is not excluded) plus the applicable deductibles
X18.4	The <i>Contractor's</i> total liability to the <i>Employer</i> , for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	the total of the Prices other than for the additional excluded matters. The <i>Contractor's</i> total liability for the additional excluded matters is not limited. The additional excluded matters are amounts for which the <i>Contractor</i> is liable under this contract for <ul style="list-style-type: none"> • Defects due to his design, plan and specification, • Defects due to manufacture and fabrication outside the Affected Property, • loss of or damage to property (other than the <i>Employer's</i> property, Plant and Materials), • death of or injury to a person and • infringement of an intellectual property right.
X18.5	The <i>end of liability date</i> is	12 months after the end of the <i>service period</i>.
X19	Task Order	
X19.5	The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within	5 days of receiving the Task Order
Z	The additional conditions of contract are	Z1 to Z14 always apply.

Z1 Cession delegation and assignment

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

Z2 Joint ventures

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

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

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

Z4 Confidentiality

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

Z4.5 The *Contractor* ensures that all his subcontractors abide by the undertakings in this clause.

Z5 Waiver and estoppel: Add to core clause 12.3:

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

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

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

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

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

Z8 Notifying compensation events

Z8.1 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 Action** means where two or more parties co-operate to achieve an unlawful or illegal purpose, including to influence an Affected Party to act unlawfully or illegally,
- Committing Party** means, as the context requires, the *Contractor*, or any member thereof in the case of a joint venture, or its employees, agents, or Subcontractors or the Subcontractor's employees,
- Corrupt Action** means the offering, giving, taking, or soliciting, directly or indirectly, of a good or service to unlawfully or illegally influence the actions of an Affected Party,
- Fraudulent Action** means any unlawfully or illegally intentional act or omission that misleads, or attempts to mislead, an Affected Party, in order to obtain a financial or other benefit or to avoid an obligation or incurring an obligation,
- Obstructive Action** means a Committing Party unlawfully or illegally destroying, falsifying, altering or concealing information or making false statements to materially impede an investigation into allegations of Prohibited Action, and
- Prohibited Action** means any one or more of a Coercive Action, Collusive Action, Corrupt Action, Fraudulent Action or Obstructive Action.

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

Action. Where the *Employer* does not have a contractual bond with the Committing Party, the *Contractor* ensures that the Committing Party co-operates fully with an investigation.

Z12 Insurance

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

Insurance cover 83

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

INSURANCE TABLE A

Insurance against	Minimum amount of cover or minimum limit of indemnity
Loss of or damage caused by the <i>Contractor</i> to the <i>Employer's</i> property	The replacement cost where not covered by the <i>Employer's</i> insurance. The <i>Employer's</i> policy deductible as at Contract Date, where covered by the <i>Employer's</i> insurance.
Loss of or damage to Plant and Materials	The replacement cost where not covered by the <i>Employer's</i> insurance. The <i>Employer's</i> policy deductible as at Contract Date, where covered by the <i>Employer's</i> insurance.
Loss of or damage to Equipment	The replacement cost where not covered by the <i>Employer's</i> insurance. The <i>Employer's</i> policy deductible as at Contract Date, where covered by the <i>Employer's</i> insurance.
The <i>Contractor's</i> liability for loss of or damage to property (except the <i>Employer's</i> property, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the <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> The replacement cost <u>Bodily injury to or death of a person</u> 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 86
by the
Employer**

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

INSURANCE TABLE B

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

Z13 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:

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

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

3 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)³ 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.

3.1 Clause	3.2 Statement	3.3 Data
10.1	The <i>Contractor</i> is (Name): Address Tel No. Fax No.	
11.2(8)	The <i>direct fee percentage</i> is The <i>subcontracted fee percentage</i> is	% %
11.2(14)	The following matters will be included in the Risk Register	
11.2(15)	The Service Information for the <i>Contractor's</i> plan is in:	
21.1	The plan identified in the Contract Data is contained in:	
24.1	The key people are: 1 Name: Job: Responsibilities: Qualifications: Experience: 2 Name: Job Responsibilities:	

³ Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 5391902 or www.ecs.co.za

Qualifications:

Experience:

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

A	Priced contract with price list	
11.2(12)	The <i>price list</i> is in	The document called “price list” in Part 2 C2.2 of this tender
11.2(19)	The tendered total of the Prices is	R

- **PART 2: PRICING DATA**

TSC3 Option A

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

C2.1 Pricing assumptions: Option A

How work is priced and assessed for payment

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

Identified and defined terms	11	
	11.2	(12) The Price List is the <i>price list</i> unless later changed in accordance with this contract.
		(17) The Price for Services Provided to Date is the total of the Price for each lump sum item in the Price List which the <i>Contractor</i> has completed and where a quantity is stated for an item in the Price List, an amount calculated by multiplying the quantity which the <i>Contractor</i> has completed by the rate.
		(19) The Prices are the amounts stated in the Price column of the Price List. Where a quantity is stated for an item in the Price List, the Price is calculated by multiplying the quantity by the rate.

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

Function of the Price List

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

Link to the *Contractor's* plan

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

Preparing the *price list*

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

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

- Has taken account of the guidance given in the TSC3 Guidance Notes relevant to Option A;
- Understands the function of the Price List and how work is priced and paid for;

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

Format of the *price list*

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

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

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

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

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

C2.2 the *price list*

See attached Price list

PART 3: SCOPE OF WORK

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

C3.1: EMPLOYER'S SERVICE INFORMATION

Contents

PART C1: AGREEMENTS & CONTRACT DATA.....	ii
1.1 Offer	iii
2 Medupi Power Station Fire and Emergency Medical Services	iii
2.1 Acceptance.....	iii
2.2 Schedule of Deviations to be completed by the <i>Employer</i> prior to contract award	vv
Part one - Data provided by the <i>Employer</i>	66
3 Part two - Data provided by the <i>Contractor</i>	1848
3.1 Clause	1848
3.2 Statement	1848
3.3 Data	1848
• PART 2: PRICING DATA	14
How work is priced and assessed for payment	14
Function of the Price List	14
Link to the <i>Contractor's</i> plan	14
Preparing the <i>price list</i>	14
Part 3: Scope of Work.....	14
C3.1: Employer's service Information	2
1 Description of the <i>service</i>	44
1.1 Executive overview.....	44
1.2 <i>Employer's</i> requirements for the <i>service</i>	44
1.3 Interpretation and terminology	44
2 The <i>Contractor's</i> plan for the <i>service</i>	44
2.1 Management meetings.....	44
2.2 Contractor's management, supervision, and key people	55
2.3 Provision of bonds and guarantees.....	55
2.4 Documentation control	55
2.5 Invoicing and payment	55
2.6 Contract change management.....	66
2.7 Records of Defined Cost to be kept by the Contractor	66
2.8 Insurance provided by the Employer.....	66
2.9 Training workshops and technology transfer	77
2.10 Design and supply of Equipment.....	77
2.11 Things provided at the end of the service period for the Employer's use	77
2.11.1 Equipment.....	77
2.11.2 Information and other things	77
2.12 Management of work done by Task Order	77
• A Task Order starting with 45* series number will be issued to the <i>Contractor</i> at the beginning of every month for the service.....	77
3 Health and safety, the environment and quality assurance	77
3.1 Health and safety risk management.....	77
3.1.1 General	77
3.1.2 Fire Precautions	88
3.1.3 Reporting of accidents	88
3.1.4 Barricading.....	88
3.1.5 Speed Limit	88
3.1.6 Safety	88
3.1.7 Environmental constraints and management	99
3.1.8 Quality assurance requirements	99
4 Procurement.....	1040
4.1 People	1040
4.1.1 Minimum requirements of people employed (Refer to resources stated on the price list)	1040

4.1.2	BBBEE and preferencing scheme	1040
4.1.3	Supplier Development and Localisation (SD&L).....	1040
4.2	Subcontracting	1144
4.2.1	Preferred subcontractors	1144
4.2.2	Subcontract documentation, and assessment of subcontract tenders	1144
4.2.3	Limitations on subcontracting	1144
4.2.4	Attendance on subcontractors	1144
5	Plant and Materials	1242
5.1.1	Specifications	1242
5.1.2	Correction of defects	1242
5.1.3	Contractor's procurement of Plant and Materials	1242
5.1.4	Tests and inspections before delivery	1242
5.1.5	Plant & Materials provided "free issue" by the Employer	1242
5.1.6	Cataloguing requirements by the Contractor	1242
6	Working on the Affected Property	1242
6.1	Employer's site entry and security control, permits, and site regulations	1242
6.1.1	Site Entry.....	1242
6.2	People restrictions, hours of work, conduct and records	1242
6.2.1	Hours of work	1242
6.3	Health and safety facilities on the Affected Property	1343
6.4	Environmental controls, fauna & flora	1343
6.5	Cooperating with and obtaining acceptance of Others	1343
6.6	Records of Contractor's Equipment	1343
6.7	Equipment provided by the Employer	1444
6.8	Site services and facilities	1444
1.1.1	Provided by the <i>Employer</i>	1444
1.1.2	Provided by the <i>Contractor</i>	1444
6.9	Control of noise, dust, water, and waste	1444
6.10	Hook ups to existing works.....	1444
6.11	Tests and inspections	1444
6.11.1	Description of tests and inspections	1444
6.11.2	Materials facilities and samples for tests and inspections	1444
7	List of drawings.....	1444
7.1	Drawings issued by the Employer.....	1444

1 Description of the service

1.1 Executive overview

Fire Emergency Medical Services is required to respond to any fires, medical calls and hazmat incidents at Eskom Medupi Power Station Generation division, Lephalale according to Fire Brigade Service Act 99 of 1987, Occupational Health and Safety Act 85 of 1993, National Environmental Management Act 107 of 1998 and Disaster Management Act 57 of 2002.

1.2 Employer's requirements for the service

The Supplier is required to place Fire Rescue services and emergency medical capability employees at Medupi power station; these employees must be available 24 hours on a daily basis per year for any emergencies that may occur at the Medupi Power Station relevant areas in Lephalale. The supplier must comply with the OSH Act and Eskom Health Safety and Environmental Policies.

The supplier shall ensure provision of services in accordance to Price list mentioned in the pricelist section of this contract document.

The supplier will be guided by the scope of works document 240-139477273 Medupi Power Station Fire and emergency medical services

1.3 Interpretation and terminology

The supplier will be guided by the scope of works document 240-139477273 Medupi Power Station Fire and emergency medical services. Abbreviations and definitions are provided.

2 The Contractor's plan for the service

The *Contractor's* plan must be in line with the 240-92362749 Medupi Power Station Cleaning User Specific Requirement. The *Contractor* must note that the scope and timeliness for the scope will be provided by the *Employer*.

2.1 Management meetings

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:
Risk register and compensation events	As an when required	MS Teams/ Medupi Power Station	<i>Employer and Contractor</i>
Overall contract progress and feedback	Monthly, date & time to be communicated per month	MS Teams/ Medupi Power Station	<i>Employer and Contractor</i> __
SHEQ executive meeting	Monthly, date & time to be communicated per month	MS Teams/ Medupi Power Station	<i>Employer and Contractor</i>

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.

2.2 Contractor's management, supervision, and key people

The number of skills on this contract is as per resources stated on the price list. The Partner is expected to provide the total infrastructure to competently fulfil the requirements of this contract. This shall include adequate management and supervision at all levels. The Partner is required to submit a staff structure indicating management and supervisory levels. Eskom's Service Manager must approve any change to such staff structure and after such approval; the Partner shall submit an updated staff structure to the Service Manager.

- a) The *Contractor's* shall ensure that only competent persons be allowed to work on plant. The *Service Manager* is entitled to verify the qualifications of the *Contractor's* personnel.
- b) The Contractor must be knowledgeable about the condition and scope of work contained in this contract and capable of executing the scope of work.
- c) The *Service Manager* may, having stated reasons, instruct the *Contractor* to remove a key person. The *Contractor* then arranges that, after one day, the key person has no further connection with the work included in this contract.
- d) The *Contractor* may not replace any of the key persons without prior written request and approval thereof from the *Service Manager*.

2.3 Provision of bonds and guarantees

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.

2.4 Documentation control

The *Contractor* implements the following procedures or paperwork over the first month of this Contract:

- Business Organisation Chart
- Safety procedures

The following policies, procedures and specifications will always be complied by

- Site Regulations – Medupi site Regulations
- BIA/RM/STD/01 – Safety, health and environmental requirements to be met by Contractors
- Hot work procedures
- Eskom Medupi Site transport requirements
- Construction Regulations
- Medupi Maintenance Quality Manual
- Occupational, health and Safety Act
- Eskom Lifesaving Rules
- BIA/QA/STD/01 – Quality requirements for engineering and construction works
- All Relevant Medupi Power Station standards, policies, and procedures
- All quality, health, environmental and safety costs are included in the contract price

2.5 Invoicing and payment

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

Invoices can be submitted using emails to invoiceseskomlocal@eskom.co.za

- Ensure that the Eskom order number is clearly indicated on your invoice together with the line number on the order you are billing for.
- All Electronic invoices must be sent in PDF format only.
- Each PDF file should contain one invoice; or one debit note; or one credit note only as Eskom's SAP system does not support more than one PDF being linked into workflow at a time.
- Your E-mail may contain more than one PDF file (e.g. 2 invoices on 2 separate PDF files in one e-mail)
- For Foreign invoices, suppliers will still be required to physically deliver hard copies of original documents to the respective documentation management centres even though you have e-mailed those invoices
- A PDF file that was created directly from a system meets the definition of original document and is allowed (including saving documents from excel to PDF, word to PDF etc.)
- An Invoice that was printed and then scanned to PDF by the Vendor is **not acceptable** as this is not an original tax invoice by SARS definition but a copy.
- The following wording needs to appear on the invoice: "Your invoice is encrypted in order to comply with SARS requirements that invoices, and statements sent electronically are tamperproof."
- If there is Cost Price Adjustment (CPA) on your invoice we recommend that you issue a separate invoice for CPA so that if there are any issues on the CPA the rest of the invoice can be paid while resolving the CPA issues.
- You do not require a goods receipt (GR) number to submit your invoices. When the GR number is received you can then send the GR number to the FSS contact centre at FSS@eskom.co.za or 011 800 5060.
- All queries and follow up on invoice payments should be made by contacting the FSS Contact Centre: **Tel: 011 800 5060**

Payment will be made within 30 Days after receipt of an acceptable invoice at the address stated in the order and the acceptance of the goods by Eskom. Payments are made on Friday's only. and include on each invoice the following information:

and include on each invoice the following information:

Name and address of the Contractor and the Service Manager;
The contract number and title;
Contractor's VAT registration number;
The Employer's VAT registration number 4740101508;
Description of service provided for each item invoiced based on the Price List;
Total amount invoiced excluding VAT, the VAT and the invoiced amount including VAT;

2.6 Contract change management

Refer to NEC3 TSC Core clause 6(Compensation events), in the event any change to the Contract needs to be managed.

2.7 Records of Defined Cost to be kept by the Contractor

The *Contractor* is required to keep record and submit proof of all the actuals, to be verified at the completion of the Payment Certificate and assessment, should the Service Manager request to do so.

2.8 Insurance provided by the Employer

Below is information with regards to the Eskom Insurance Management Services, for in case the *Contractor* has any inquiry:

Names & Surname	Contact details	e-mails address
Mr Krishan Chaithoo	+27 11 800 4455	ChaithK@eskom.co.za

2.9 Training workshops and technology transfer

Training and transfer of skills will be provided by either the *Contractor* or the *Employer*, if required by the contract conditions. The *Contractor* must ensure that their employees are trained and competed on the works and machines and equipment to be used for this service.

2.10 Design and supply of Equipment

Equipment supplied must always be in safe working order, irrespective whether the equipment is supplies by the *Employer* or *Contractor*. Regular maintenance must be done on all equipment used to execute the service required.

2.11 Things provided at the end of the service period for the Employer's use

2.11.1 Equipment

Any equipment (assets) bought during the service period will be transferred to the Employer at the end of the service period.

2.11.2 Information and other things

If the information and other things are required, it will be discussed by the two Parties, and the provision of information and other things will be mutually agreed upon.

2.12 Management of work done by Task Order

- A Task Order starting with 45* series number will be issued to the *Contractor* at the beginning of every month for the service.
- In the case of emergency repairs outside the SOW started in Medupi Document Identifier:240-92362749, different Task Order will be sent to the *Contractor* for the works. Respond to the issued Task Order must be dealt with as per secondary option X19 of the agreement.

3 Health and safety, the environment and quality assurance

3.1 Health and safety risk management

3.1.1 General

- The Contractor must ensure that all his personnel attend a Health and Safety Induction Course prior to starting with their work. The Induction Course can, on request, be provided by the *Employer* and will be valid for the duration of one year.
- Safety Risk Management has the right and authority to visit and inspect the *Contractor's* workplace or site establishment to ensure that tools, machinery and equipment comply with the minimum safety requirements.
- *Service Manager* shall be entitled to instruct the *Contractor* to stop work, without penalty to the *Employer*, where the *Contractor's* personnel fail to confirm to safety standards or contravene health and safety regulations. The *Service Manager* is entitled to cause the *Contractor* to discipline his employees and to submit disciplinary action and submit a report. The *Contractor* shall implement additional health and safety precautions where necessary.
- The *Contractor* shall provide safety file prior start of work. The safety file will be approved by Eskom safety department. The index of the Safety file can be obtained from Eskom Safety department.
- All Construction Regulation - safety requirements should also be adhered to.
 - Safety Plan
 - Fall Protection Plan
 - 16.1 and 16.2 appointments

3.1.2 Fire Precautions

- Any tampering with the *Employer's* fire equipment is strictly forbidden.
- All exit doors, fire escape routes, walkways, stairways, stair landings and access to electrical distribution boards must be kept free of obstruction, and not be used for work or storage at any time. Firefighting equipment must always remain accessible.
- In case of a fire, report the location and extent of the fire to the Electrical Operating Desk at extension 6091.
- Take the necessary action to safeguard the area to prevent injury and spreading of the fire.

3.1.3 Reporting of accidents

- The *Employer* follows an accident prevention policy that includes the investigation of all accidents involving personnel and property. This is done with the intention of introducing control measures to prevent a recurrence of the same incidents.
- The *Contractor* is expected to fully co-operate to achieve this objective. The *Service Manager* must be informed immediately/before end of shift of any incidents and any damage to property. The preliminary incident report must be produced within 24 hours by the *Contractor*.
- NOTE! This report does not relieve the *Contractor* of his legal obligation to report certain incidents to the Department of Labour, or to keep records in terms of the Occupational Health and Safety Act, and Compensation for Occupational Injuries and Diseases Act.

3.1.4 Barricading

The *Contractor* will provide and install barricades and warning devices to ensure that equipment and persons are not exposed to danger.

3.1.5 Speed Limit

All vehicles must be driven with due consideration for personnel and property. A maximum speed limit of 40 kilometres per hour on the roads will always be adhered to on the premises. The speed limit on the plant is 20 kilometres per hour.

3.1.6 Safety

- The *Contractor* complies with the Occupational Health and Safety Act, 1993, (the Act) and all Safety procedures issued by the *Employer*. The *Contractor* must furthermore comply with the *Employer's* Safety, health and Environmental requirements for *Contractors*, BIA/RM/STD/ 240-73416879, which is available from the Medupi Documentation Centre.
- The *Contractor* will carry out work according to Procedure GGR 0992 (Plant Safety Regulations).
- The *Employer* will provide the Plant Safety Regulation training to the *Contractor* if required.
- The *Contractor* provides all personal safety equipment, including safety belts and harnesses.
- The *Contractor* will appoint a full-time safety officer for the entire duration of the contract.
- The Contractor will not be allowed to transport any of its workers in open vehicles to and from site as prescribed in the Eskom safety policy.
- The *Contractor* should provide the following documents:
 - Baseline SHE risk assessment as per the scope of work
 - H&S costing for the scope of work
 - Proof of SHE competency
 - Acknowledgement of Eskom's rules and requirements
 - Health and Safety plan as per the scope of work
 - Valid letter of good standing
 - Medical fitness certificates or medical surveillance programme

- SHE policy
- Covid 19 Policy
- Covid 19 Risk Assessment
- Covid 19 Management Plan
- Covid 19 Compliance Officer Appointment
- Proof Of Covid 19 Screening

3.1.7 Environmental constraints and management

- The *Contractor* should align to Environmental Management System 14001:2015 which includes
 - Aspects and Impacts register
 - Signed Environmental Policy
 - Method statement (related to scope of work).
- The *Contractor* should provide Environmental Management plan which includes:
 - Handling of Hazardous Chemical Substances
 - Water Management
 - Environmental Training
 - Environmental Incident Reporting
- The *Contractor* will be responsible for complying to any new environmental requirements, relevant to the Works Information, that may come into effect as part of Medupi Power Station's EMS for the duration of this contract.
- If there is uncertainty around any environmental issues, the Environmental Department at Medupi Power Station may be contacted.
- All work complies with the relevant environmental regulations. In this case the *Contractor* uses such hazardous substances in accordance with the applicable regulations and procedures and is disposed of by the *Contractor* in accordance with the applicable law.
- Signed Environmental proforma

3.1.8 Quality assurance requirements

3.1.8.1 Quality Requirements

The *Contractor* shall comply with the Eskom's QM 58 (240-105658000) Supplier Quality Management Specification

- Quality requirements include visual inspection by the *Employer*, who will be entitled to witness progress of work at any time. The *Employer* shall also have the right to stop work and re-instruct the *Contractor*, who will comply with the requests.
- The *Employer* may, by arrangement, inspect completed work. If, in opinion of the *Employer*, the work does not comply with the quality requirements expected from the *Contractor*, the *Employer* shall instruct the *Contractor* to rectify the faults. The *Contractor* will comply with the instructions.

3.1.8.2 QCP's, Safe Work Procedures and Job Observations

- QCP's with action plans, safe work procedures and job observations shall be produced at the request of the *Employer*. QCP's must be signed and approved by quality controller.

3.1.8.3 Quality

- The *Contractor* will comply with the *Employer's* Quality Requirements as specified in procedure BIA/QA/STD/01 latest revision, which is available from the Documentation Centre or the internal Medupi Web site.
- All Quality Control documentation must be submitted to the *Employer's* Representative for acceptance prior to any work commencing.

4 Procurement

4.1 People

4.1.1 Minimum requirements of people employed (Refer to resources stated on the price list)

4.1.2 BBBEE and preferencing scheme

Eskom intends to do business with supplier that are B-BBEE level 1-4 compliant, therefore the SANS accredited B-BBEE certificate or affidavit from CIPC/DTI certified by commissioner of oath are returnable.

The company shall maintain or improve upon their current B-BBEE Contribution level for the duration of the contract. The supplier will be required to submit a new B-BBEE certificate within 3 months, should ownership of the company change during the life of the contract.

4.1.3 Supplier Development and Localisation (SD&L)

1. Skills Development Requirement

The SD&L Matrix is not an evaluation criterion; however, Tenderer are encouraged to make proposals before they are eligible for award in accordance with develop the skills in line with the SOW as illustrated on a below table. Skills development candidates should be from the Lephalale Municipality area.

The supplier will be required to train number of learners per annum,

Tenderers are required to propose against the following training initiatives:

Skill type	Eskom Target	Entry Level	Output	Tenderer Proposal
Fire Fighter	3	N3/Matric	Certificate in Supervision	
Paramedic	5	N3/Matric	Certificate	

2. Job Opportunities

Tenderer to indicate number of Jobs to be created and/or retained due to this contract.

Number of Jobs to be created	Number of Jobs to be retained
TBC	

3. SDL&I Penalty

Eskom will apply a penalty of 2,5% of the Contract Value for failure to meet SD&L obligations. For the duration of the contract, Eskom will retain 2,5% of every invoice (excluding VAT) as security for the fulfilment of all SD&L Obligations. The retained amounts shall only be released to the Contractor upon fulfilment of all SD&L obligations at the end of the contract.

4. Reporting and Monitoring

- The suppliers shall on a monthly/quarterly basis submit a report to Eskom in accordance with Data Collection Template on their compliance with the SDL&I obligations described above.
- Eskom shall review the SDL&I reports submitted by the suppliers within 60 (sixty) days of receipt of the reports and notify the suppliers in writing if their SDL&I obligations have not been met.
- Upon notification by Eskom that the suppliers have not met their SDL&I obligations, the suppliers shall be required to implement corrective measures to meet those SDL&I obligations before the commencement of the following report, failing which Retention clauses shall be invoked.
- Every contract shall be accompanied by the SDL&I Implementation Schedule which must be completed by the suppliers and returned to SDL&I representative for acceptance 28 days after contract award. This will be used as a reference document for monitoring, measuring and reporting on the supplier's progress in delivering on their stated SDL&I commitments

4.2 Subcontracting

4.2.1 Preferred subcontractors

The *Contractor* may not use a Subcontractor unless a written request is made to the *Employer* and approval is given. All terms and conditions applicable to the *Contractor*, will also apply to the approved Subcontractors e.g. legal requirements, appointments, authorisations, safety, quality and therefore all relevant documentation must be submitted for the *Employer* to consider the Subcontractor for approval.

Additionally, the prices listed in the price list will remain unchanged if any Subcontractors are used.

4.2.2 Subcontract documentation, and assessment of subcontract tenders

NOTE 1: Tenders shall submit the following Mandatory Returnable for Subcontracting:

1. Subcontracting agreement (signed by both parties) with subcontractor company registration documents (CK, CSD, B-BBEE certificate or sworn affidavit).
2. Copies of sub-contracting contracts (agreements) or copies of letters from the tenderer to the sub-contractors, stating the intent to sub-contract. Both documents should be signed by the Tenderer and the Sub-contractor(s) earmarked.
3. B-BBEE certificate from SANAS accredited rating agency or Sworn Affidavit from National Treasury / DTI certified by commissioner of oath will be used to verify supplier's status

4.2.3 Limitations on subcontracting

Whenever feasible and once agreed upon, the *Contractor* will subcontract 30% of the contract amount to designated groups. Below are subcontracting opportunities:

- a) Medicals
- b) Resources +/- 181
- c) Home-work-home transport services(65 seated and 22 seated)
- d) Industrial cleaning machines
- e) Rope access services

4.2.4 Attendance on subcontractors

Not applicable

5 Plant and Materials

5.1.1 Specifications

Plant and materials provided by the *Contractor* and the maintenance thereof will be the responsibility of the *Contractor*.

5.1.2 Correction of defects

This will be governed by as per core clause 4, testing and defects.

5.1.3 Contractor's procurement of Plant and Materials

Replacement materials/components will be kept as the *Employer's* Inventory/stock and issued as stock items when required. The *Contractor* must inform the *Employer* immediately of any constraints experienced during the procurement process of plant and materials whenever required to procure any materials.

5.1.4 Tests and inspections before delivery

- It is the *Contractor's* responsibility to ensure the machinery and equipment intended for use on this contract are inspected, tested, and certified prior to delivery to site.
- Regular inspections can be carried out by the *Employer* on an as and when required basis.
- The *Contractor* and the *Employer* must maintain communication regarding the test and inspections that must be done and give feedback on the result obtained. The *Contractor* must inform the *Employer* in time for a test or inspection to be arranged and done before doing the work that will obstruct the test or inspection.

5.1.5 Plant & Materials provided "free issue" by the Employer

Both parties shall agree if there is any Plant and Material that the *Contractor* require to execute work. All other Plant and Materials are to be provided by the *Contractor*.

5.1.6 Cataloguing requirements by the Contractor

Not applicable

6 Working on the Affected Property

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

6.1.1 Site Entry

The Entry to site is only approved once the following minimum requirements are adhered to:

1. The *Contractors* Safety file is to be approved by the *Employer's* Safety department.
2. Site-specific induction is to be done by all personnel.

6.2 People restrictions, hours of work, conduct and records

6.2.1 Hours of work

- All work will be coordinated by the *Employer*. Working times can be subject to change, the *Employer* will inform The *Contractor* well in advance.
- The Contractor will align his operating shifts to that of the Employer's shift cycle.
 1. Normal working hours is:
 - a. Monday to Friday **07:00 - 17:00(One hour lunch)**
 - b. Saturday & Sunday **Overtime**
 2. Outage working hours is:
 - a. Monday to Friday **07:00 - 17:00**

- b. Saturday & Sunday **Overtime**
- c. Nightshift for first two weeks
3. All Timesheets are to be kept for records purposes i.e. man-hours worked safely etc.
4. Other hours will be determined as per critical path activities during outages/breakdowns.
5. Overtime to be approved by the Service Manager
6. Daily time sheet must always be kept up to date of normal and overtime worked.
7. All overtime worked must comply with Eskom rest period requirements

6.3 Health and safety facilities on the Affected Property

There is a medical station on site and a fire and rescue service for assistance with serious incidents and treatment of all serious injuries during normal working hours. Emergency services are available during normal working hours by dialling this phone number 078 100 5614/ 014 762 2555 (fire and rescue) and also available after hours or else contacting the Electrical Operating Desk (EOD) at 014 762 6491. However, the *Contractor* is expected to handle all minor incidents in-house by providing a first aider and a first aid kit. The *Contractor* must familiarise themselves with the emergency procedure which will be provided by the *Employer*.

6.4 Environmental controls, fauna & flora

The *Contractor* shall comply with the environmental procedure and policies applicable to Medupi Power Station. The Partner and/or supplier shall prepare an environmental management plan relating to their activities that will be carried out. The environmental management plan shall be based on, amongst others, Eskom Medupi Power Station's OEMP and any other applicable environmental legislation. The environmental management plan must include all the aspects and impacts relating to the activity and address the principle of continual improvement.

Eskom Medupi Power Station shall issue non-conformances where there are deviations from Eskom Medupi Power Station Procedures and any other environmental requirements. f) Method statements shall be submitted for approval by the Eskom Medupi Power Station Senior Environmental Advisor, prior to commencement of and activity. Non-conformance and incident reporting and investigations shall be done by the partner, such reports must include but not limited to the following information:

- The cause of the non-conformance/incident
- The proposed actions to correct and prevent recurrence

6.5 Cooperating with and obtaining acceptance of Others

Proper co-ordination and work planning must be done when working in any area where others are performing work or activities. Interfacing may be required with the *Contractors*.

6.6 Records of Contractor's Equipment

1. The *Contractor* to declare all equipment and tools via a pre-set-up list at the main entrance, where removal permit will be issued by Security personnel.
2. The *Contractor* need to have a list of inventories of their equipment on site.
3. Proof of site entrance needs to be provided before equipment can be removed from site.
4. The *Contractor* shall ensure that there is a process in place to manage his equipment and tools. The statutory inspections and testing shall be done according to the requirements of the law.
5. The equipment shall be inspected as per the requirements by the law. The small equipment and tools that are used daily by the cleaners shall be marked with unique codes and signed in and out by the employee using them.

6.7 Equipment provided by the Employer

Equipment provided by the *Employer* is to be signed out on the tools register and returned in a serviceable condition.

6.8 Site services and facilities

1.1.1 Provided by the *Employer*

Sanitary services, water, compressed air, and electricity shall be provided by Eskom at fixed points on the plant. There is also a tuck-shop on site, but both only operate on weekdays and are for the *Contractor's* own cost.

1.1.2 Provided by the *Contractor*

The *Contractor* is to supply all the personal protective equipment, transport, accommodation, tools, equipment, and consumables to perform all the required tasks on site.

6.9 Control of noise, dust, water, and waste

Employees to wear safety ear protection when working at the plant where the noise is more than 80 db.

6.10 Hook ups to existing works

Hooking up on heights is a non-negotiable lifesaving rule of Eskom, Medupi Power Station applies Zero Tolerance to non-compliance of the rule or any other lifesaving rule. The same disciplinary process and procedure will be followed when any of the lifesaving rules have been breached.

6.11 Tests and inspections

6.11.1 Description of tests and inspections

The test and inspection to be carried out by the *Contractor*, the *Employer* and others will be determined and communicated by the *Employer* when Contract commenced.

6.11.2 Materials facilities and samples for tests and inspections

The materials facilities and samples for test and inspection to be carried out by the *Contractor*, the *Employer* and others will be determined and communicated by the *Employer* when the Contract commences.

7 List of drawings

7.1 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.

Drawing number	Revision	Title