



NEC3 Term Service Contract (TSC3)

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

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

for Provision of National Key Point and Firearm Training

Contents:	No of pages
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CONTRACT No. [Insert at award stage]

PART C1: AGREEMENTS & CONTRACT DATA

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

PROVISION OF NATIONAL KEY POINT AND FIREARM TRAINING

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 National Key Point Training

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

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

Signature(s)

Name(s) _____

Capacity _____

For the tenderer:

(Insert name and address of organisation)

Name & signature of witness

Date

Tenderer's CIDB registration number: _____

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*.

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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 Eskom Holdings SOC Limited
 Duvha Power Station
 Old Bethal Road
 1035

Name & signature of witness *(Insert name and address of organisation)*

Date _____

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

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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	_____	_____

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

(Insert name and address of organisation)
Eskom Holdings SOC Limited
Duvha Power Station
Old Bethal Road
1035

Name & signature of witness

Date

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C1.2 TSC3 Contract Data

Part one - Data provided by the Employer

Clause	Statement	Data
1	General	
	<p>The <i>conditions of contract</i> are the core clauses and the clauses for main Option:</p> <p>_____</p> <p>dispute resolution Option</p> <p>and secondary Options</p> <p>_____</p> <p>_____</p> <p>of the NEC3 Term Service Contract April 2013² (TSC3)</p>	<p>A: Priced contract with price list</p> <p>W1: Dispute resolution procedure</p> <p>X2 Changes in the law</p> <p>X17: Low service damages</p> <p>X18: Limitation of liability</p> <p>X19: Task Order</p> <p>Z: Additional conditions of contract</p>
10.1	<p>The <i>Employer</i> is (name):</p> <p>Address</p> <p>Tel No.</p> <p>Fax No.</p>	<p>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</p> <p>Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg</p> <p>[•]</p> <p>[•]</p>
10.1	<p>The <i>Service Manager</i> is (name):</p> <p>Address</p> <p>Tel</p> <p>Fax</p> <p>e-mail</p>	<p>Robert Hlahu</p> <p>Duvha Power Station Old Bethal Road</p> <p>013 691 6397</p> <p>[•]</p> <p>HlahuMR@eskom.co.za</p>

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

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11.2(2)	The Affected Property is	Duvha Power Station, Duvha properties and its boundaries
11.2(13)	The <i>service</i> is	Provision of National Key Point Training
11.2(14)	The following matters will be included in the Risk Register	<ol style="list-style-type: none"> 1. Community Unrest 2. Labour strike 3. High Noise Exposure 4. Slip, Trip and Fall 5. Covid 19 6. Falling Objects 7. Criminal Attacks 8. Vehicle accidents
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	Two days
2	The Contractor's main responsibilities	Data required by this section of the core clauses is also provided by the Contractor in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data
21.1	The <i>Contractor</i> submits a first plan for acceptance within	2 weeks of contract award
3	Time	
30.1	The <i>starting date</i> is.	01 September or as soon as possible
30.1	The <i>service period</i> is	N/A- Until the training is completed
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	25th day of each month The Employer has the right to reject or refuse to make payment if the amount stipulated on the invoice received from the Contractor does not correspond with the price assessed by the Service Manager on the approved payment certificate.
51.1	The <i>currency of this contract</i> is the	South African Rand
51.2	The period within which payments are made is	30 days

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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 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.</p>
6	Compensation events	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data
7	Use of Equipment Plant and Materials	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data
8	Risks and insurance	
80.1	These are additional <i>Employer's</i> risks	
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	A Priced contract with price list	
20.5	The <i>Contractor</i> prepares forecasts of the final total of the Prices for the	Four (4) weeks

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	whole of the <i>service</i> at intervals no longer than	
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	To be appointed when dispute arise
	Tel No.	
	Fax No.	
	e-mail	
W1.2(3)	The <i>Adjudicator nominating body</i> is:	the Chairman of ICE-SA a joint Division of the South African Institution of Civil Engineering and the Institution of Civil Engineers (London) (see www.ice-sa.org.za) or its successor body.
W1.4(2)	The <i>tribunal</i> is:	arbitration
W1.4(5)	The <i>arbitration procedure</i> is	the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.
	The place where arbitration is to be held is	South Africa
	The person or organisation who will choose an arbitrator	
	- if the Parties cannot agree a choice or	the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.
	- if the arbitration procedure does not state who selects an arbitrator, is	
12	Data for secondary Option clauses	
X2		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	Annexure A
X17.1	The <i>service level table</i> is in	[•] Low Services table: Annexure A

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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	R0.00 (Zero)
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 of the deductibles relevant to the event
X18.3	The <i>Contractor's</i> liability for Defects due to his design of an item of Equipment is limited to	<p>The greater of</p> <ul style="list-style-type: none"> • the total of the Prices at the Contract Date and • the amounts excluded and unrecoverable from the <i>Employer's</i> insurance (other than the resulting physical damage to the <i>Employer's</i> property which is not excluded) plus the applicable deductibles
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	<p>the total of the Prices other than for the additional excluded matters.</p> <p>The <i>Contractor's</i> total liability for the additional excluded matters is not limited.</p> <p>The additional excluded matters are amounts for which the <i>Contractor</i> is liable under this contract for</p> <ul style="list-style-type: none"> • Defects due to his design, plan and specification, • Defects due to manufacture and fabrication outside the Affected Property, • loss of or damage to property (other than the <i>Employer's</i> property, Plant and Materials), • death of or injury to a person and • infringement of an intellectual property right.
X18.5	The <i>end of liability date</i> is	Six (6) months after the end of the service period.
X19	Task Order	
X19.5	The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within	3 days of receiving the Task Order

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Z	The <i>additional conditions of contract</i> are	Z1 to Z14 always apply.
Z1	Cession delegation and assignment	
Z1.1	The <i>Contractor</i> does not cede, delegate or assign any of its rights or obligations to any person without the written consent of the <i>Employer</i> .	
Z1.2	Notwithstanding the above, the <i>Employer</i> may on written notice to the <i>Contractor</i> cede and delegate its rights and obligations under this contract to any of its subsidiaries or any of its present divisions or operations which may be converted into separate legal entities as a result of the restructuring of the Electricity Supply Industry.	
Z2	Joint ventures	
Z2.1	If the <i>Contractor</i> constitutes a joint venture, consortium or other unincorporated grouping of two or more persons or organisations then these persons or organisations are deemed to be jointly and severally liable to the <i>Employer</i> for the performance of this contract.	
Z2.2	Unless already notified to the <i>Employer</i> , the persons or organisations notify the <i>Service Manager</i> within two weeks of the Contract Date of the key person who has the authority to bind the <i>Contractor</i> on their behalf.	
Z2.3	The <i>Contractor</i> does not alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without the consent of the <i>Employer</i> having been given to the <i>Contractor</i> in writing.	
Z3	Change of Broad Based Black Economic Empowerment (B-BBEE) status	
Z3.1	Where a change in the <i>Contractor's</i> legal status, ownership or any other change to his business composition or business dealings results in a change to the <i>Contractor's</i> B-BBEE status, the <i>Contractor</i> notifies the <i>Employer</i> within seven days of the change.	
Z3.2	The <i>Contractor</i> is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the <i>Service Manager</i> within thirty days of the notification or as otherwise instructed by the <i>Service Manager</i> .	
Z3.3	Where, as a result, the <i>Contractor's</i> B-BBEE status has decreased since the Contract Date the <i>Employer</i> may either re-negotiate this contract or alternatively, terminate the <i>Contractor's</i> obligation to Provide the Service.	
Z3.4	Failure by the <i>Contractor</i> to notify the <i>Employer</i> of a change in its B-BBEE status may constitute a reason for termination. If the <i>Employer</i> 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 <i>Contractor</i> 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	

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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.

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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:

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

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- 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:

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**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.

PROVISION OF NATIONAL KEY POINT AND FIREARM TRAINING**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.

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- 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

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

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

Notes to a tendering contractor:

1. Please read both the both the NEC3 Term Service Contract April 2013 and the relevant parts of its Guidance Notes (TSC3-GN)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.

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

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

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- Experience:
- 2 Name:
- Job
- Responsibilities:
- Qualifications:
- Experience:

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

A	Priced contract with price list
11.2(12)	The <i>price list</i> is in C2.2
11.2 (21)	The tendered total of the Prices is

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PART 2: PRICING DATA

TSC3 Option A

Document reference	Title	No of pages
C2.1	Priced contract with price list	2
C2.2	The <i>price list</i>	1

C2.1 Pricing assumptions: Option A

1. How work is priced and assessed for payment

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

Identified and defined terms	11	
	11.2	(12) The Price List is the <i>price list</i> unless later changed in accordance with this contract.
		(17) The Price for Services Provided to Date is the total of <ul style="list-style-type: none"> • the Price for each lump sum item in the Price List which the <i>Contractor</i> has completed and • where a quantity is stated for an item in the Price List, an amount calculated by multiplying the quantity which the <i>Contractor</i> has completed by the rate.
		(21) 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.

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.

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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*

Schedule A: General costs

Item nr	Description	No.	Unit	Expected Quantity	Rate	Price
1.	SHEQ provision (inclusive of safety file preparation, safety training, medicals, Security clearance, PPE etc)	Sum	Once Off	1		
2	National Key Point Training	Sum	Monthly	48		
3	Firearm Training - Handgun Shot Gun, & Rifle	Sum	Monthly	48		
4	Ammunitions- Shotgun, Handgun & Rifles	Sum	Monthly	48		
5	Accommodation facilities- excluding weekends	Sum	Monthly	48		
6	Food and beverages – excluding weekends	Sum	monthly	48		
7	Operate an X-ray effectively- Walk-through/Handheld metal detectors	Sum	Monthly	48		
8.	Demonstrate physical defensive restraining techniques How to effect arrest at a National Key Point	Sum	Monthly	48		
9.	Response to incidents/accidents	Sum	Monthly	48		
11	Security report writing and statement taking	Sum	Monthly	48		
12	Training on the use of Pepper Spray	Sum	Monthly	48		

The total of the Prices

Note: Provide a breakdown for SHEQ, Preliminary and General costs

The total Contract Price

PART 3: SCOPE OF WORK

Document reference	Title	No of pages
	This cover page	1
C3.1	<i>Employer's Service Information</i>	4
C3.2	<i>Contractor's Service Information</i>	9
	Total number of pages	14

C3.1: EMPLOYER'S SERVICE INFORMATION

1. Description of the service

1.1 Executive overview

Duvha Power Station sites and its boundaries have different dynamics associated with the specific sites; the provision of National Key Point and firearm training is essential to safeguard all these areas.

The service is the provision of National Key Point and Firearm Training

2. SCOPE OF WORK

The scope of work consists of categories A and B, where:

- a) Category A includes National Key Point training
- b) Category B Firearm Training

2.1. National Key Point Training shall cover the following

- 2.1.1. Apply Legal Aspects in a security environment
- 2.1.2 Conducting security patrols at the National Key Points
- 2.1.3 All the National Key Point Regulations
- 2.1.4. All the latest sections of the National Key Point such as Functions of the Minister of Police and the NKP owner, Recruitment and Selection of Security Officers, Power of Security Officers, Prohibition of Acts and Deeds on the NKP,
- 2.1.5 Access and Egress control at the National Key Point
- 2.1.6 Security report writing and Statement Taking
- 2.1.7 Training on the use of Pepper Spray
- 2.1.8 Operate an X-ray effectively- Walk-through/Handheld metal detectors
- 2.1.9 Demonstrate physical defensive restraining techniques - How to effect arrest at a National Key Point
- 2.1.10 Response to incident/accident
- 2.1.11 Basic crime scene management

2.2. Firearm Training

Security Officers Shall be trained in the use and Handling of three categories of firearms namely: Handgun, Shot gun and Rifle. In terms of Firearm Control Act 60 of 2000. **The preferred type of a handgun to be used is Berretta PX4 Storm**

NB: For the purpose of this training, the successful supplier will be responsible for the cost of ammunitions and all training materials

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

The Contractor shall also provide a detailed organization chart showing the personnel to be employed for the Services, along with Training certificates of all key personnel as listed below.

2.3.1. Training Manager

- ❖ Matric

- ❖ Minimum 5 years previous work experience in security Training Facilities
- ❖ Management qualification- advantageous
- ❖ Psira Grade A.
- ❖ NKP Qualification
- ❖ SAPS Firearm competency for Business Purposes: Handgun, Rifle and Shotgun
- ❖ Computer literate
- ❖ Security Clearance Certificate- less than 30 days

2.3.2. NKP Instructor

- ❖ Matric – Grade 12
- ❖ Psira Grade B
- ❖ National Key Point Qualification
- ❖ Be able to communicate in English.
- ❖ Must be computer literate
- ❖ Minimum 3 years' experience as NKP Instructor
- ❖ SAPS Firearm competency for Business Purposes: Handgun, Rifle and Shotgun
- ❖ NKP Instructor Certificate
- ❖ SASSETA Accredited

2.3.3. Assessor

- ❖ Matric – Grade 12
- ❖ Psira Grade B
- ❖ National Key Point Qualification
- ❖ Be able to communicate in English.
- ❖ Minimum 3 years' experience as a National Key Point Training assessor
- ❖ SAPS Firearm competency for Business Purposes: Handgun, Rifle and Shotgun
- ❖ SASSETA Accredited

2.3.4. Moderator

- ❖ Matric (Grade 12)
- ❖ National Key Point Qualification
- ❖ Minimum 3 years' experience as NKP Moderator
- ❖ Be able to communicate in English.
- ❖ Minimum 3 years' experience as a National Key Point Training assessor
- ❖ SASSETA Accredited

2.3.5. Range Officer

- ❖ Matric
- ❖ Psira Grade B
- ❖ National Key Point Qualification
- ❖ Be able to communicate in English.
- ❖ Minimum 3 years' experience as security officer.
- ❖ SAPS Firearm competency for Business Purposes: Handgun, Rifle and Shotgun
- ❖ Must have undergone Regulation 21 training
- ❖ SASSETA Accredited
- ❖ Range Officer's course

2.3.6. Shooting Range

3. Firearms

- ❖ Only Eskom approved firearms namely, handguns Rifles and shotgun shall be allowed for usage in terms of this contract. **NB: Revolver is not allowed to be used for the purpose of this contract**
- ❖ Security Company is responsible for providing firearms excluding handguns, ammunition, firearm safe and registers as per Firearm Control Act 60 of 2000
- ❖ Only company firearms licensed in the security service providers name may be utilised as per this contract.
- ❖ The contractor must ensure provision of equipment / facilities for making firearms safe and safe keeping of the firearms. A procedure to that effect, should also be in place.
- ❖ The service provider must ensure that Security officer's private firearms are not utilised for their business purposes, in terms of this contract.
- ❖ Firearms must comply with the firearm Control Act Requirements as indicated below:
- ❖ Company's Firearm licence valid for 5 years (Mandatory)
- ❖ Appointment of the responsible person / Armoury manager/Supervisor (Mandatory).
- ❖ Firearm competency certificates of owner or appointed responsible person (Mandatory) training records of owner or appointed responsible person for handle and use of firearms for business purposes – all prescribed firearms and Knowledge of Firearm Control Act (FCA) - (Mandatory).
- ❖ The company must have a firearm safe handling procedure. (Info required before contract commencement).

4. Incident Reporting and Investigation

- ❖ All incidents must be handled according to the relevant Standard Operating Procedures (SOPS) and/or work instructions for each site.
- ❖ All incidents must be reported immediately to the Eskom control room.
- ❖ The SAPS must be contacted immediately only for criminal incidents or suspected ongoing criminal activities.
- ❖ Weekly status reports are to be supplied by the service provider.
- ❖ The contractor is to ensure that all involved personnel are available for relevant court proceedings, incident investigations and assist Eskom and the SAPS in their investigations as and when required.
- ❖ All incidents (including incidents in terms of the Occupational Health and Safety Act), should be reported immediately and a preliminary investigation report provided within 24 hours as well as a final Incident investigation report within Seven (7) days.

5. Uniforms

- ❖ The contractor must comply with legislative requirement (PSIRA Regulation 13). Uniform items must be kept in clean, neat, and good condition always.
- ❖ Uniform or training gear must be always in good condition in terms of the environment where the training is provided

6. Security Safety requirements

- ❖ All Security officers should receive a safety induction before the training commences.
- ❖ Rule and regulation of the training
- ❖ Security of the facilities
- ❖ Code of conduct

7. Weekly and Monthly report

Security weekly and monthly report must be submitted to the security management regarding but not limited to the following:

- ❖ Areas of concern
- ❖ Training progress
- ❖ Training starts and end times.

8. Interpretation and terminology

The following abbreviations are used in this Service Information:

Abbreviation	Meaning given to the abbreviation
TET	Technical Evaluation Team
TSC	Term Service Contract
PISRA	Private Security Industry Regulatory Authority
NKP	National Key Point
SAPFTC	South African Professional Firearm Trainers Council
PS	Power Station
NCRS	National regulator for compulsory Specifications
QC	Quality Control
QCP	Quality Control Plan
QM	Quality Management
SANS	South African National Standards
SM	Security Manager
SHEQ	Safety, Health, Environment and Quality
PPE	Personal Protective Equipment
OHSACT	Occupational Health and Safety Act
SOP	Standard Operating Procedures

9. Specifications

Title	Date or revision	Tick if publicly available
<u>General Specifications:</u>		
Occupational Health and Safety Act 85 of 1993 and its regulations		✓
Basic Conditions of Employment Act		✓
Eskom SHEQ standard/s		
Safety, Health and Environmental Specifications for Contractors (SAS 0012)	Rev 8 or latest revision	Available from the service manager

Generation Plant Safety Regulations 36-681	Rev 4 or latest revision	Available from the service manager
<u>Security related specifications:</u>		
<ul style="list-style-type: none"> 32-0126M_Contractor_Access_Control_Standard 	Rev 1 or latest revision	Available from the service manager
<ul style="list-style-type: none"> Standard for Ballistic Protection Body Armour 240-91252214_final (002) signed (003) 	Rev 3 or latest revision	✓
<ul style="list-style-type: none"> Firearm procedure 		✓

10. Management strategy and start up.

10.1. The Contractor’s plan for the service

The Contractor must submit a plan which stipulates how he/she intends on performing the service., as required by clause 21.2.

2.1.1 The plan to include the site-specific staff structure/organogram

2.1.2 The plan includes the following documentation to be submitted within two weeks of contract award:

- a) List of all and personnel intended to be involved in the training in terms of this contract.
- b) Certified ID copies, PSIRA certificates and security clearance certificates of Trainers
- c) Certified copies of firearm competency certificates of the training personnel
- d) List of all firearms to be used and certified copies of the licenses- Shot gun and Rifles
- e) Certified copies of the company and Directors PSIRA registrations certificates.
- f) All relevant accreditation certificates such as NKP, PSIRA, SAPFTC, NRCS, and educational background, CV, and Certificates all training personnel.
- g) A compressive risk assessment and a site risk assessment report for all sites.
- h) Emergency Preparedness procedure with relevant contact details.
- i) Certified copies of all Security officers’ firearm competency certificates
- j) Criminal check records as proof that the Training personnel, instructors, assessors and moderators have not been convicted of any criminal offence.
- k) Equipment list per site
- l) Standard operating procedures per site to include the following but not limited to and should be approved by Eskom representative before application:
 - ❖ Communication procedure.
 - ❖ Firearm handling procedure.
 - ❖ Training procedure
 - ❖ Incident management procedures

10.2. Management meetings

Regular meetings of a general nature may be convened and chaired by the Service Manager or delegated official as follows:

Title and purpose	Approximate time & interval	Location	Attendance by:
Risk registers and compensation events	As and when required	Supplier’s training centre	Employer and Contractor and relevant stakeholders

Overall training progress and feedback	Biweekly	Supplier's training centre	Employer and Contractor and relevant stakeholders
Training strategies	At the start of each training cycle	Supplier's training centre	Employer and Contractor and relevant stakeholders

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.

10.3. Documentation control

10.3.1. Security Registers

- ❖ The Security Service provider will be required to provide the training manual.
- ❖ Occurrence book to be correctly completed by Security officer listing all occurrences / incidents.
- ❖ Contractor must ensure that quality registers are provided.
- ❖ Accurate records of all occurrences are to be kept for a minimum of 12 months post the occurrence and should be made readily available to Eskom at any time.
- ❖ Incident register
- ❖ Firearm register
- ❖ Shooting range register
- ❖ Daily attendance register

The Contractor to ensure that all documentation relating to this contract is filed and kept on site for viewing by the Service Manager at any time. The Contractor must ensure that all documents are also kept in soft copy and backed up on a hard drive which must be handed to the Service Manager at the end of the contract. Files are to be neatly labelled and indexed.

All correspondence shall be dated and sequentially numbered and distributed in accordance with a procedure as agreed and accepted by the Service Manager.

All contractual communications will be in the form of properly compiled letters or forms attached to e mails and not as a message in the e mail itself.

Eskom will periodically request detailed reports from the Contractor regarding the gaps, problems and highlights. Possible solutions will be required with this detailed report.

At the end of the service period or earlier termination of this contract the Contractor shall make available to the Employer all records and information relating to the work carried out under this contract at no extra cost to the Employer. The Contractor may not retain copies of any third party records and drawings of a proprietary nature. However, if the service period is extended, or a new contract between the Parties comes into existence at the end of the service period which effectively ensures continuity of the Contractor Providing the Service, the records and information shall be retained by the Contractor and dealt with in terms of the new contract.

No records and information exchanged shall be divulged to others without the prior consent in writing of both Parties during this contract.

All contractual Documentation must have relevant contract number and Purchase Order Number as reference as per Eskom Holdings SOC Limited Standards (List). Contractual communications will be in the form of properly compiled letters, letters attached to emails, emails, NEC template and urgent contractor meetings can be in the form of SMSs and as outlined on core clause 13 of the NEC3 TSC.

The use of SMS's, emails does not override the use of applicable and relevant NEC3 TSC standard templates, forms, and Eskom Holdings SOC Limited procedures.

Note: It is the contractor responsibility to acquire and familiarize themselves with the NEC3 TSC.

10.4. Invoicing and payment

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

The *Contractor* shall address the tax invoice to

The Contractor shall address the tax invoice to
Eskom Holdings SOC Ltd
Reg. No. 2002/015527/30
Accounts Payable
Email to: Invoiceseskomlocal@eskom.co.za
and include on each invoice the following information.

- Name and address of the *Contractor* and the *Service Manager*.
- The contract number and title;
- *Contractor's* VAT registration number.
- The *Employer's* VAT registration number 4740101508;
- Description of service provided for each item invoiced based on the Price List;
- Total amount invoiced excluding VAT, the VAT and the invoiced amount including VAT;
- (add other as required)

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

10.4.1. Payment Item Descriptions

The descriptions given for the payment items in the Price List, indicate the work to be allowed for in the tendered rates and prices for such payment items, and are for the guidance of the Contractor and do not necessarily repeat all the details of work and materials required by and described in the Service Information

10.4.2. Prices to be inclusive.

The Contractor shall accept the payment provided in the Contract and represented by the rates and prices tendered by him in the Price List, as payment in full for executing and completing the work as specified.

Where the Contractor has priced an item as "nil" or "0-00" it will be deemed that no charges are or will be incurred against such an item. In the event of no price having been entered against any item, the tendered rate, price or sum will be taken as "nil" or "0-00".

10.5. Contract change management.

Any change of the Contractor's company ownership, training personnel, facilitators should be communicated through to the Service Manager. Failing to do this may lead to contract termination with legal consequences.

For any compensation event relating to changes to scope and additions to scope which were not part of the original scope, such changes shall be treated under compensation event core clause section 6 of the NEC3.

The contractor shall notify the Service Manager of any changes to Site Personnel within 5 (Five) working day

- Templates in terms of NEC3 as prepared by the Service Manager for payment certificates, early warnings and defect notifications can only be used in this contract.
- The Contractor shall request this form from the Service Manager

If the Employer's Service Manager Change the Contractor will be notified by the Employer as soon as possible to ensure that the Contractor follow the correct communication channels.

10.6. Records of Defined Cost to be kept by the Contractor.

All records as required to back up any defined costs must be kept on file by the Contractor and be made available when requested by the Service Manager.

10.7. Insurance provided by the Employer.

The Contractor's insurers or insurance brokers are required to provide a certificate stating that the requisite insurances under the contract are in force. As per Insurance table A

10.8. Training workshops and technology transfer

N/A

10.9. Design and supply of Equipment

The Contractor takes full liability for the use of all equipment in the execution of Services for this contract.

10.10. Things provided at the end of the *service period* for the *Employer's* use.

10.10.1. Equipment

None

3.10.2. Information and other things

- ❖ Copy of all monthly training reports
- ❖ Safety File and all other relevant safety documentation relevant to this contract including training records
- ❖ Inspection records
- ❖ Training certificates.

10.11. Management of work done by Task Order

The Service Manager(s) issues a Task Order to the Contractor which specifies clearly the work to be provided, additional specifications and procedures and any other constraints the Contractor complies with in providing the Works. The Task Order is issued before the Contractor Provides the Work.

- The Service Manager(s) issues Task Orders to the Contractor in a timely manner that allows the Contractor to properly plan the work within the time periods stated on the Task Order.

- The Service Manager(s) issues to the Contractor any information relative to the Employer's need and circumstance surrounding forecast future work required from the Contractor. This information allows the Contractor to provide staff in a cost effective and efficient manner. Any required service will be communicated to the Contractor via a Task Order.

11. Health and safety, the environment and quality assurance

11.1. Health and safety risk management

- The Contractor shall comply with the health and safety requirements contained in SAS0012: Safety, Health and Environmental Specification for Contractors (latest revision obtainable from the Service Manager).
- The Contractor submits all the documents as indicated in the Safety, Health & Environmental Specifications relevant to the work to Safety Risk Management before the induction course.
- The Contractor's personnel are to undergo Safety Induction Training at Duvha prior to commencement of this contract and all the relevant Documentation is to be approved by Safety Officials and the Project Manager before any activities can be started on site.
- The induction course is presented by the Safety Risk Department at Duvha Power Station. The Contractor makes arrangements with Safety Risk Management at telephone number 013-690-0143
The Contractor shall comply with the health and safety requirements contained in Annexure _____ to this Service Information.

SAFETY DEPARTMENT TO PROVIDE DATA

11.2. 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 _____

ENVIRONMENTAL DEPARTMENT TO PROVIDE DATA

11.3. 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 particular 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.

QUALITY DEPARTMENT TO PROVIDE DATA

12. Procurement

12.1. People

The Contractor is solely responsible for the resolution of any dispute or problems that may occur between himself and his staff.

The Contractor undertakes to hold the Employer harmless against any determination or award made in terms of the Labour Relations Act No.66 of 1995 as amended.

12.1.1. Minimum requirements of people employed.

As per 2.3 Contractor's management, supervision, and key people

12.1.2. 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.

PROCUREMENT TO PROVIDE DATA

12.1.3. Accelerated Shared Growth Initiative – South Africa (ASGI-SA)

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.

12.2. Subcontracting

12.2.1. Preferred subcontractors

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.

12.2.2. Limitations on subcontracting

The use of Sub Contractors by the Contractor must be approved in writing by the Service Manager before commencement of the training

12.2.3. Attendance on subcontractors

It is the sole responsibility of the Contractor. The Contractor is to ensure that any upfront payments or deposits required by the subcontractor are fulfilled by the Contractor such that the service is executed by the subcontractor timeously.

12.3. Plant and Materials

12.3.1. Plant & Materials provided "free issue" by the Employer

The *Employer* will not provide any materials for use by the *Contractor*

13. Working on the Affected Property

13.1. Contingency plan

The service provider must have contingency plans in place for the following:

- Own Strike/Labour unrest amongst own staff.
- Shortage of Manpower due to e.g. absenteeism, sick leave annual leave.
- Equipment Failure e.g. Firearms

13.2. People restrictions, hours of work, conduct and records.

13.3. Health and safety facilities on the Affected Property

SAFETY DEPARTMENT TO PROVIDE DATA

13.4. Environmental controls, fauna & flora

This sub-paragraph may not be required in a service contract or if these matters are dealt with in the general environmental requirements referred to in section 3 above.

ENVIRONMENTAL DEPARTMENT TO PROVIDE DATA

13.5. Cooperating with and obtaining acceptance of Others

- The Contractor will cooperate with the Service Manager, his delegates and support structures, in matters relating to this contract.
- The Contractor will cooperate with the management staff of the Affected Property.
- The Contractor will cooperate with all statutory authorities or inspection agencies.

13.6. Records of Contractor's Equipment

13.7. Equipments Provided by the Employer.

- 6.7.1. Earmuffs
- 6.7.2. Safety goggles

14. Provided by the Contractor

14.1. The Contractor shall provide everything else necessary for the provision of the Service.

This includes:

- ❖ Provision of equipment / facilities for making firearms safe.
- ❖ Provision of Handgun Shotguns and Rifles
- ❖ Shooting range, ammunitions for handgun, shotgun and rifle.
- ❖ Training facilities
- ❖ Safe and secure accommodation of all trainees
- ❖ Training uniform or gear excluding the shoes or boots.
- ❖ Security of the training facilities, safety of the trainees and safe storage of the firearm provided by the employer.

14.2. Control of noise, dust, water and waste

SAFETY DEPARTMENT TO PROVIDE DATA

14.3. Hook ups to existing works

Should the Contractor require interfacing his equipment to the Affected Facility, this will be done at the contractor's cost based on approval by the Service Manager.

Compliance to the Eskom Life Saving procedure and Work at Height Standard, 32-418.

All securing points and necessary equipment required to Work at Heights must be provided for by the Contractor.

14.4. Tests and inspections

14.4.1. Description of tests and inspections

N/A

7.3.2 Materials facilities and samples for tests and inspections

N/A

15. List of drawings

15.1. 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

16. Annexure A- Low service damage- schedule of deficiency and penalties

X17 Low service damages

X17.1 The *service level table* is Listed below

	Low Service Damage Description	Value Of Low Service Damages	Value Of Low Service Damages	Limit of the low service damage
a	Delay in submission of documents as detailed in this agreement	05% of fixed monthly service or Task order value for an ad-hoc service	10% of monthly task order service value / task order value for ad-hoc service	Limited to 15% of monthly task order service value / task order value for ad-hoc service
b	No response of NCR/Early Warning/Letter within 2 days	1% of fixed monthly service or Task order value for an ad-hoc service	10% of monthly task order service value / task order value for ad-hoc service	Limited to 15% of monthly task order service value / task order value for ad-hoc service
c	Violation of Eskom Lifesaving Rule/s / policies and procedures	Permanent removal of Security officer from Eskom contract duties and one shift cost deduction	Issue Early Waring and NCR	Issue Early Waring and NCR
d	Legal /Legislative contravention	100% of fixed monthly service or Task order value for an ad-hoc service & Issue Early Waring and NCR	Notification of default	Failure to rectify, the contract must be terminated
e	Loss suffered by the employer due to incidents emanating from contractor negligence/ wilful misconduct	100% deduction of the total cost of the loss value	Notification of default	Failure to rectify, the contract must be terminated
f	Failure to report / record incident	5% of fixed monthly service or Task order value for an ad-hoc service	Limited to 20% of monthly task order service value / task order value for ad-hoc service	Issue Early Waring and NCR

