



NEC3 Term Service Contract (TSC3)

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

and

for **Provision for Supply, Delivery, Installation and
Commissioning of a Solar Meteorology Station with
Soiling Detection Unit at Lethabo Power Station.**

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PART C1: AGREEMENTS & CONTRACT DATA

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.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 for supply, delivery, installation, and commissioning of a solar meteorology station with soiling detection unit at Lethabo Power Station.

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

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

Options A	The offered total of the Prices exclusive of VAT is	
	Value Added Tax @ 15% is	
	The offered total of the amount due inclusive of VAT is ¹	

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

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*.

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
Megawatt Park
Maxwell Drive
Sandton
Johannesburg
2000

Name &
signature of
witness

Date

Schedule of Deviations to be completed by the *Employer* prior to contract award

No.	Subject	Details
1	None	None

By the duly authorised representatives signing this Schedule of Deviations below, the Employer and the tenderer agree to and accept this Schedule of Deviations as the only deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Tender Schedules, as well as any confirmation, clarification or changes to the terms of the Offer agreed by the tenderer and the Employer during this process of Offer and Acceptance.

It is expressly agreed that no other matter whether in writing, oral communication or implied during the period between the issue of the tender documents and the receipt by the tenderer of a completed signed copy of this Form shall have any meaning or effect in the contract between the parties arising from this Agreement.

For the tenderer:

For the Employer

Signature _____ Name _____ Capacity _____ On behalf of _____ <i>(Insert name and address of organisation)</i> _____ Name & signature of witness _____ _____ Date _____	_____ _____ Employer's Agent Eskom Holdings SOC Limited Megawatt Park Maxwell Drive Sandton Johannesburg 2000 _____ _____ _____
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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:	
	dispute resolution Option and secondary Options	A: Priced contract with price list W1: Dispute resolution procedure X1: Price adjustment for inflation X2: Changes in the law X18: Limitation of liability X19: Task Order Z: Additional conditions of contract
	of the NEC3 Term Service Contract April 2013 ² (TSC3)	
10.1	The <i>Employer</i> is (name): Address	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 Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg
10.2	The <i>Service Manager</i> is (name): Address Tel Fax e-mail	TBA Eskom Holdings SOC Limited PO Box 382 VOLKSRUST 2490 TBA TBA TBA
11.2(2)	The Affected Property is	Majuba Underground Coal Gasification
11.2(13)	The <i>service</i> is	Provision for Supply, delivery, installation, and commissioning of a solar meteorology station

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

with soiling detection unit at Lethabo Power Station.

11.2(14)	The following matters will be included in the Risk Register	Labour unrest
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	7 working days
2	The Contractor's main responsibilities	Provision for Supply, delivery, installation and commissioning of a solar meteorology station with soiling detection unit at Lethabo Power Station.
21.1	The <i>Contractor</i> submits a first plan for acceptance within	7 Days of the Contract Date
3	Time	
30.1	The <i>starting date</i> is.	TBC
30.1	The <i>service period</i> is	12 Months
4	Testing and defects	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data
5	Payment	
50.1	The <i>assessment interval</i> is	between the 25 th day of each successive month.
51.1	The <i>currency of this contract</i> is the	South African Rand
51.2	The period within which payments are made is	4 weeks.
51.4	The <i>interest rate</i> is	<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</p>

Service) on the due date for the payment in question, adjusted *mutatis mutandis* every 6 months thereafter (and as certified, in the event of any dispute, by any manager employed in the foreign exchange department of The Standard Bank of South Africa Limited, whose appointment it shall not be necessary to prove.

6	Compensation events	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data
7	Use of Equipment Plant and Materials	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data
8	Risks and insurance	
80.1	These are additional <i>Employer's</i> risks	N/A
83.1	The <i>Employer</i> provides these insurances from the Insurance Table	as stated for "Format TSC3" available on http://www.eskom.co.za/Tenders/InsurancePolicies/Procedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx (See Annexure A for basic guidance).
83.1	The <i>Employer</i> provides these additional insurances	as stated for "Format TSC3" available on http://www.eskom.co.za/Tenders/InsurancePolicies/Procedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx (See Annexure A for basic guidance)
83.1	The <i>Contractor</i> provides these additional insurances:	N/A
83.1	The minimum amount of cover for insurance against loss and damage caused by the <i>Contractor</i> to the <i>Employer's</i> property is	the amount of the deductibles relevant to the event described in the "Format TSC3" insurance policy available on http://www.eskom.co.za/Tenders/InsurancePolicies/Procedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx
83.1	The insurance against loss of or damage to the <i>works</i> , Plant and Materials is to include cover for Plant and Materials provided by the <i>Employer</i> for an amount of	N/A
83.1	The minimum amount of cover for insurance in respect of loss of or damage to property (except the <i>Employer's</i> property, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Contractor</i>) arising from or in connection with the <i>Contractor's</i> Providing the Service for any one event is:	whatever the <i>Contractor</i> deems necessary in addition to that provided by the <i>Employer</i> .

83.1	The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the <i>Contractor</i> arising out of and in the course of their employment in connection with this contract for any one event is:	As prescribed by the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 and the <i>Contractor's</i> common law liability for people falling outside the scope of the Act with a limit of Indemnity of not less than R500 000 (Five hundred thousand Rands)..
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9	Termination	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data. In case of non-compliance this contract will be terminated as per additional clauses of contract.
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10	Data for main Option clause
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A	Priced contract with price list
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20.5	The <i>Contractor</i> prepares forecasts of the final total of the Prices for the whole of the service at intervals no longer than	2 weeks.
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11	Data for Option W1
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W1.1	The <i>Adjudicator</i>	the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see www.ice-sa.org.za). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).
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W1.2(3)	The <i>Adjudicator nominating body</i> is:	the Chairman of ICE-SA a joint Division of the South African Institution of Civil Engineering and the Institution of Civil Engineers (London) (see www.ice-sa.org.za) or its successor body.
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W1.4(2)	The <i>tribunal</i> is:	arbitration
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W1.4(5)	The <i>arbitration procedure</i> is	the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.
	The place where arbitration is to be held is	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
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X1	Price adjustment for inflation
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X1.1	The <i>base date</i> for indices is	Rates are Fixed for a period of one year, thereafter CPI escalation will apply Stats SA – Table is the Source of Indices
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X2	Changes in the law	South African Law.
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 of the deductibles relevant to the event described in the "Format TSC3" insurance policy available on <i>http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx</i>
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 in the <i>Employer's</i> assets and works / maintenance policies available on <i>http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx</i>
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	6 weeks 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	3 days of receiving the Task Order
Z	The <i>additional conditions of contract</i> are	Z1 to Z11 always apply.

Z1 Cession delegation and assignment

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

- Z4.1 Any offer, payment, consideration, or benefit of any kind made by the *Contractor*, which constitutes or could be construed either directly or indirectly as an illegal or corrupt practice, as an inducement or reward for the award or in execution of this contract constitutes grounds for terminating the *Contractor's* obligation to Provide the Service or taking any other action as appropriate against the *Contractor* (including civil or criminal action).
- Z4.2 The *Employer* may terminate the *Contractor's* obligation to Provide the Service if the *Contractor* (or any member of the *Contractor* where the *Contractor* constitutes a joint venture, consortium or other unincorporated grouping of two or more persons or organisations) is found guilty by a competent court, administrative or regulatory body of participating in illegal or corrupt practices.

Such practices include making of offers, payments, considerations, or benefits of any kind or otherwise, whether in connection with any procurement process or contract with the *Employer*

or other people or organisations and including in circumstances where the *Contractor* or any such member is removed from an approved vendor data base of the *Employer* as a consequence of such practice.

Z4.3 Notwithstanding the provisions of core clause 90.2, the procedures on termination in terms of this clause are P1, P2 and P4 as stated in the core clause 92 and the amount due is A1 and A3 as stated in core clause 93.

Z5 Confidentiality

Z5.1 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.

Z5.2 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*.

Z5.3 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.

Z5.4 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*.

Z5.5 The *Contractor* ensures that all his subcontractors abide by the undertakings in this clause.

Z6 Waiver and estoppel: Add to core clause 12.3:

Z6.1 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.

Z7 Health, safety and the environment: Add to core clause 27.4

Z7.1 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.

Z7.2 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.

Z8 Provision of a Tax Invoice and interest. Add to core clause 51

Z8.1 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.

Z8.2 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.

Z8.3 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.

Z9 Notifying compensation events

Z9.1 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.

Z10 Employer's limitation of liability

Z10.1 The *Employer's* liability to the *Contractor* for the *Contractor's* indirect or consequential loss is limited to R0.00 (zero Rand)

Z10.2 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.

Z11 Termination: Add to core clause 91.1, at the second main bullet point, fourth sub-bullet point, after the words "against it":

Z11.1 or had a business rescue order granted against it.

Annexure A: Insurance provided by the Employer

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

If Marine Insurance is required the *Contractor* needs to obtain a copy of the latest edition of Eskom's Marine Policies Procedures found at internet website given below.

5. Further information and full details of all Eskom provided policies and procedures may be obtained from:

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

C1.2 Contract Data

Part two - Data provided by the Contractor

Completion of the data in full, according to Options chosen, is essential to create a complete contract.

Clause	Statement	Data
10.1	The <i>Contractor</i> is (Name): Address Tel No.	
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:	The scope of work
21.1	The plan identified in the Contract Data is contained in:	The scope of work
24.1	The key people are: 1 Name: Responsibilities:	
A	Priced contract with price list	
11.2(12)	The <i>price list</i> is in	C2.2
11.2(19)	The tendered total of the Prices is	As per the pricing data

C2.1 Pricing assumptions: Option A

How work is priced and assessed for payment

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

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

by the rate.

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

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

Function of the Price List

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

Link to the *Contractor's* plan

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

Preparing the *price list*

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

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

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

Format of the *price list*

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.

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C2.2 the price list

No	Details	Units	Quantities	Rate®	Total
1	Preliminaries and General				
1.1	Pre-installation site visit, site establishment and de-establishment	Sum	1		
1.2	Compliance to SHEQ requirement including Safety File	Sum	1		
1.3	Traven and subsistence during installation	Sum	1		
2	Equipment				
2.1	Pyranometer (Primary and Secondary GHI)	Sum	2		
2.2	Pyranometer (RHI)	Sum	1		
2.3	Pyranometer (Diffused (DHI) measurements)	Sum	1		
2.4	Wind Speed and Direction Sensor	Sum	1		
2.5	Rain Gage	Sum	1		
2.6	Temperature and Humidity	Sum	1		
2.7	Soiling Detection (3 reference cells)	Sum	1		
2.8	Data Logger	Sum	1		
2.9	Cellular modem and antenna	Sum	1		
2.10	Station Mounting Structure	Sum	1		
2.11	Mounting brackets	Sum	1		
2.12	Enclosure IP66 (for Data logger)	Sum	1		
2.13	Power supply system (Solar panel, battery, enclosure, etc)	Sum	1		
2.14	Station wiring, programming and testing	Sum	1		
2.15	Sundry auxiliary equipment for installation	Sum	1		
3	Services	Sum	1		
3.1	Shipping Transport and delivery	Sum	1		
3.2	Installation and commissioning	Sum	1		
3.3	Documentation pack (O&M manuals, FAT, calibration certificates, etc)	Sum	1		
3.4	Training and hand over	Sum	1		
3.5	Service Technician (as and when required)	Rate / Hour	24		
3.6	Rate for Travel km	Rand / km	800		

The total of the Prices

PART 3: SCOPE OF WORK

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

C3.1: EMPLOYER’S SERVICE INFORMATION

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1 Description of the service

1.1 Executive overview

Provision for Supply, delivery, installation and commissioning of a solar meteorology station with soiling detection unit at Lethabo Power Station.

During the solar PV cleaning technologies research work carried out at Lethabo Power station in 2023, severe losses of up to 70% in PV performance was observed, especially during winter months. This is as a direct result of soiling on the PV panels caused by coal and ash dust generated at the power stations. This soiling will affect plant productivity and essentially return on investment.

1.2 Employer's requirements for the service

1.2.1 Services

- Supply, delivery, installation and commissioning of a solar meteorology station with soiling detection unit at Lethabo Power Station.
- The solar meteorology station must be installed at the selected location near the Lethabo Power Station. The employer will provide the location.
- The following sensors are required (technical specification provided in Table 1), pyranometer, rain gauge, soiling detection, wind speed and direction.
- All the components required for data logging and transmission of the data so that it is accessible via internet must be supplied (GPS/GPRS Modem and antenna).
- The system must include solar power supply and battery backup (lithium-ion), including auxiliary equipment requirements such as charge controller, protection system (battery-reversal, surge & ESD protection (as needed)) and enclosure as required for the installed equipment and sensors.
- All structures and equipment required for installation must be supplied including tripod, IP66 enclosures, foundation blocks or cement slab (if required), brackets, cabling, earthing equipment and any mounting structures required such as for solar panel, etc.
- All sensors must be calibrated or be supplied with factory acceptance test/calibration certificate.
- All products and sensors operational and maintenance manuals are to be provided after commission (Data sheet are to be provided with the tender returnable).
- The supplier is required to provide Eskom personal with access to raw data via internet connection. This data must be downloadable via standard computer software and compatible with excel. Additional software requirements must be specified with the tender returnables.
- Handover to include:
 - Operational and maintenance manuals for all equipment and calibration certificates.
 - Basic training on data acquisition and software (software packages to be specified in tender document including detail of licences requirements etc)
-

13. All field equipment installations are required to comply with Field Instrument Installation Standard, 240-56355754.

- **The Contractor shall provide a system that enables the Eskom to retrieve data at any period to guard against data loss, corruption, calibration deviations, and instrument malfunctions.**

Item	Equipment	Units	Specifications
1	Pyranometer	2	Primary and secondary GHI. To be used for comparison and redundancy
			Must comply with the secondary standard of the ISO 9060:2018 classification for the ISO Pyranometer categories.
			To be supplied with calibration certificates. Pyranometers shall be calibrated as stipulated by ISO 9846 or ISO 9847.
			Must each have a standard 10m long cable with a pre-wired waterproof connector plug
2	Pyranometer	1	For Albedo measurement (Reflected Horizontal Irradiance (RHI))
3	Pyranometer	1	Diffused DHI measurements (Delta-T model SPN1 or similar)
4	Wind speed & direction sensor	1	Maximum sampling interval of 3s according to IEC 61724-1: 2017
			Wind speed sensor measurement uncertainty shall be ≤ 0.5 m/s for winds ≤ 5 m/s and $\leq 10\%$ of the reading for wind speeds > 5 m/s according to IEC 61724-1: 2017
			Wind direction to be measured with an accuracy of 5° according to IEC 61724-1: 2017

5	Rain gauge	1	Maximum sampling interval of 1min according to IEC 61724-1: 2017
6	Temperature & Humidity sensor	1	Ambient Temperature measurement accuracy of $\pm 1^{\circ}\text{C}$ (Pt 100 class B according to IEC 60751)
			Relative Humidity sensor shall have maximum sampling interval of 1min according to IEC 61724-1: 2017
7	Soiling Measurements System	1	Soiling device must comply to IEC 61724
			Must have 3 reference cells (Campbell Scientific DustVUE or similar)
8	Data Logger		Shall have rapid sampling speeds
			Low power consumption, Voltage input 10 – 18VDC, Input Current Limit at 12 VDC, Total Internal Memory of 128MB of flash + 4 MB battery -backed SRAM (minimum)
			To be supplied with calibration certificates

Additional information and document to be provided with the tender.

- The contractor will be required to submit a safety file prior to commencement.
- The contractor is to specify the warranty period of the full installation (workmanship) as well as the warranty of each component (sensors, data logger, battery, solar panel, etc).
- A service technician must be available for a period of 1 year after installation for non-warranty related defects or queries.
- The company profile must be provided with the tender documents detailing company structure (organogram), core business areas, products, and services offered, breakdown of previous projects.
- A detailed equipment list must be submitted document, of equipment as well as all technical data sheets.
- The contractor is to submit the scope and execution plan. Details of software to be provided, list of documents to be handed over on commissioning and any exclusion must be provided.

1.2.2 SHEQ Requirements

- The contractor must comply with all the requirements of the Occupational Health and Safety Act,
- The contractor is to provide a Safety Officer to enforce compliance to the requirements of the OHS Act.
- The Contractor will be required to supply a SHE file for approval prior to starting of work.
- The Contractor must provide all necessary personal protective equipment (PPE). All costs involved must be allowed in the price list.
- All employees will require an entry, annual and exit medical.
- The Contractor must protect existing works, structures and buildings against damage due to the provision of the scope of the work.
- The Contractor must ensure that all risks are managed to enable the successful execution of the scope. In accordance with Eskom's Risk Management Policies and procedures; which include daily tool box talks, baseline and pre-job risk assessments, incident reporting procedures.

1.2.5 Minimum Resource Requirements

The contractor provides all the resources that are required to execute the scope of this contract.

1.2.6 Additional Requirements

- The Contractor will be instructed to work as per works order in terms of the price list to supply services for work identified by the Service Manager.
- The Employer will provide a Task Order duly signed by the Employer's Representative to the contractor for each Task to be carried out. The Contractor signs the accepted Task Order and Provides the Services in accordance with the Scope on receipt of each Task Order. No work shall commence without the Task Order and the assigned Purchase Order number (45 series number), method statement and risk assessment.
- The Contractor must work according to the Employer's working hours and will supply his staff suitable communication tools to enable the Service Manager to communicate at all hours with the Supervisor or his representative.
- The Contractor provides transport for its own staff (home-work-home) and includes these cost items in the price list.
- All personnel operating any machinery or equipment must be trained and have the necessary permits or drivers' licences.
- The Contractor must apply for access permits for all his / her personnel at the main security gate and all related costs must be allowed in the price list.
- All Contractor personnel engaged on Site are required to do induction at Lethabo Power Station.

1.3 Interpretation and terminology

The following abbreviations are used in this Service Information:

Abbreviation	Meaning given to the abbreviation
NEC	New Engineering Contracts
OSH Act	Occupational Health and Safety Act
PPE	Personal Protective Equipment
SHE	Safety Health & Environment

2 Management strategy and start up.

2.1 The Contractor's plan for the service

2.2 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 registers and compensation events	As and when required	On Site or MS Teams	Directors and supervisor of Contractor
Overall contract progress and feedback	Daily	On Site or MS Teams	<i>Employer, Contractor</i> —
SHE meetings	Daily	On Site or MS Teams	<i>Employer, Contractor</i>
Ethics Awareness	As and when required	On Site or MS Teams	<i>Employer, 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.

2.3 Contractor's management, supervision and key people

- *The contractor is responsible for management and supervision of its employees.*

2.4 Provision of bonds and guarantees

Not applicable

2.5 Documentation control

As per Quality Plan provided by Contractor.

2.6 Invoicing and payment

Within one week of receiving a payment certificate from the *Service Manager* in terms of core clause 51.1, the *Employer* will provide an assessment to the contractor for signature. The *Contractor* provides the *Employer* with a tax invoice thereafter showing the amount due for payment equal to that stated in the *Service Manager's* payment certificate and / or time sheets.

The *Contractor* shall address the tax invoice to

and include on each invoice the following information:

- Name and address of the *Contractor* and the *Service Manager*.
- The contract number and title.
- *Contractor's* VAT registration number.
- The *Employer's* VAT registration number 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.
- Banking details of *Contractor*
- Purchase order number (Task order 45.....) as given by the *Employer*

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

2.7 Contract change management

Not applicable

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

Not applicable

2.9 Insurance provided by the *Employer*

Not applicable

2.10 Training workshops and technology transfer

The contractor provides training on operating and maintenance of the installed equipment.

2.11 Design and supply of Equipment

- *The contractor provides all the design and equipment that are required for the scope of this contract.*

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

- All equipment that is provided for this scope.
- Operating and maintenance manuals.
- All inspect, test and calibration certificates.
- Operating and Maintenance Manuals
- Commissioning Procedures
- Critical Spares list

2.12.1 Information and other things

None

2.13 Management of work done by Task Order

Task order will be issued by the Service Manager when a need arise.

In the event that the services are not required anymore, the Service Manager will inform the *Contractor* in advance.

The *Contractor* must provide all necessary personal protective equipment (PPE).

2.14 Environmental controls, fauna & flora

The contractor complies to the legislative environmental requirements that are applicable. The contractor provides the environmental management plan for this service that will be approved by the employer.

2.15 Cooperating with and obtaining acceptance of Others

Not applicable

2.16 Records of *Contractor's* Equipment

Contractor equipment to be used must be declared and signed in at the security gate. If not signed in it will become the property of the Employer.

2.17 Equipment provided by the *Employer*

The contractor provides all equipment that is required to execute the scope of this service.

2.18 Site services and facilities

2.18.1 Provided by the *Employer*

None.

2.18.2 Provided by the *Contractor*

. The contractor provides all equipment that is required to execute the scope of this service.

2.19 Control of noise, dust, water and waste

Controls to be implemented based on their Baseline Risk Assessments

2.20 Hook ups to existing works

N/A

2.21 Tests and inspections

The contractor provides the quality inspection plan that will be approved by the employer.

2.21.1 Description of tests and inspections

The contractor provides the Inspection test plan (ITP's) that will be approved by the employer.

2.21.2 Materials facilities and samples for tests and inspections

3 List of drawings

3.1 Drawings issued by the *Employer*

N/A