



NEC3 Term Service Contract (TSC3)

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

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

for **THE PROVISION OF FACILITIES MANAGEMENT
SERVICES (TECHNICAL SERVICES) FOR ESKOM
PROPERTY MANAGEMENT IN THE CAPE COASTAL
CLUSTER EASTERN CAPE – ALIWAL NORTH ZONE
ON AN AS AND WHEN REQUIRED BASIS**

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CONTRACT No. [_____]

PART C1: AGREEMENTS & CONTRACT DATA

Contents:	No of pages
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C1.2b Contract Data provided by the <i>Contractor</i>	[02]
[to be inserted from Returnable Documents at award stage]	

C1.1 Form of Offer & Acceptance

Offer

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

THE PROVISION OF FACILITIES MANAGEMENT SERVICES (TECHNICAL SERVICES) FOR ESKOM PROPERTY MANAGEMENT IN THE CAPE COASTAL CLUSTER EASTERN CAPE – ALIWAL NORTH ZONE ON AN AS AND WHEN REQUIRED BASIS

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

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

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

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*.

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)	Nosipho Manyonga
Capacity	Business Enablement Senior Manager
for the Employer	Eskom Holdings SOC Limited 1 Maxwell Drive, Sunninghill, Sandton, 2157

(Insert name and address of organisation)

Name &
signature of
witness

Date

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

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

Note:

1. This part of the Offer & Acceptance would not be required if the contract has been developed by negotiation between the Parties and is not the result of a process of competitive tendering.
2. The extent of deviations from the tender documents issued by the Employer prior to the tender closing date is limited to those permitted in terms of the Conditions of Tender.
3. A tenderer's covering letter must not be included in the final contract document. Should any matter in such letter, which constitutes a deviation as aforesaid be the subject of agreement reached during the process of Offer and Acceptance, the outcome of such agreement shall be recorded here and the final draft of the contract documents shall be revised to incorporate the effect of it.

No.	Subject	Details
1	[•]	[•]
2	[•]	[•]
3	[•]	[•]
4	[•]	[•]
5	[•]	[•]
6	[•]	[•]
7	[•]	[•]

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

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

For the tenderer:**For the Employer**

Signature

Name

Capacity

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

Date

Nosipho Manyonga

Business Enablement
Senior Manager*(Insert name and address of organisation)*Eskom Holdings SOC Limited
1 Maxwell Drive, Sunninghill, Sandton, 2157

C1.2 TSC3 Contract Data

Part one - Data provided by the *Employer*

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:	
		A: Priced contract with price list
	dispute resolution Option	W1: Dispute resolution procedure
	and secondary Options	
		X1: Price adjustment for inflation
		X2 Changes in the law
		X17: Low service damages
		X18: Limitation of liability
		X19: Task Order
		Z: Additional conditions of contract
	of the NEC3 Term Service Contract April 2013 ¹ (TSC3)	
10.1	The <i>Employer</i> is (name):	Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state owned company incorporated in terms of the company laws of the Republic of South Africa
	Address	Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg
	Tel No.	[•]
	Fax No.	[•]
10.1	The <i>Service Manager</i> is (name):	Ndzondelelo Simunca
	Address	ESKOM, Private Bag X1, Beacon Bay, 5205
	Tel	043 703 2104
	Fax	[•]
	e-mail	simuncn@eskom.co.za
11.2(2)	The Affected Property is	ESKOM PROPERTY MANAGEMENT IN THE CAPE COASTAL CLUSTER EASTERN CAPE – ALI WAL NORTH ZONE

¹ Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 539 1902 www.ecs.co.za

11.2(13)	The <i>service</i> is	THE PROVISION OF FACILITIES MANAGEMENT SERVICES (TECHNICAL SERVICES) FOR ESKOM PROPERTY MANAGEMENT IN THE CAPE COASTAL CLUSTER EASTERN CAPE – ALI WAL NORTH ZONE ON AN AS AND WHEN REQUIRED BASIS
11.2(14)	The following matters will be included in the Risk Register	Labour strikes, Power supply interruptions or failures, Municipal water interruptions
11.2(15)	The Service Information is in	Part 3: Scope of Work and all documents and drawings to which it makes reference.
12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa
13.1	The <i>language of this contract</i> is	English
13.3	The <i>period for reply</i> is	One (1) week
2	The <i>Contractor's</i> main responsibilities	Data required by this section of the core clauses is also provided by the <i>Contractor</i> in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data
21.1	The <i>Contractor</i> submits a first plan for acceptance within	One (1) month prior to the starting date of the Contract Date
3	Time	
30.1	The <i>starting date</i> is.	01 May 2024
30.1	The <i>service period</i> is	60 Months
4	Testing and defects	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data
5	Payment	
50.1	The <i>assessment interval</i> is	Period agreed upon by <i>Service Manager</i> and <i>Contractor</i> from the <i>Starting Date</i>.
51.1	The <i>currency of this contract</i> is the	South African Rand
51.2	The period within which payments are made is	Either 14 (fourteen) days or 30 (thirty) days depending on the <i>Contractor's</i> BBBEE status at the date of payment.
51.4	The <i>interest rate</i> is	the publicly quoted prime rate of interest (calculated on a 365 day year) charged by from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands and (ii) the LIBOR rate applicable at the time for amounts due in other currencies. LIBOR is the 6 month London Interbank Offered Rate quoted under the caption "Money Rates" in The Wall Street Journal for the applicable currency or if

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

6 Compensation events

There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data

7 Use of Equipment Plant and Materials

There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data

8 Risks and insurance

80.1 These are additional *Employer's* risks

None

83.1 The *Employer* provides these insurances from the Insurance Table

Insurance against	Minimum amount of cover or minimum limit of indemnity
Assets All Risk	As per the Eskom Insurance policy document, which is available on request from the Eskom Insurance department.
Project insurance	As per the Eskom Insurance policy document, which is available on request from the Eskom Insurance department.
General and Public Liability	As per the Eskom Insurance policy document, which is available on request from the Eskom Insurance department.
SHEQ Liability	As per the Eskom Insurance policy document, which is available on request from the Eskom Insurance department.
Transport (Marine)	As per the Eskom Insurance policy document, which is available on request from the Eskom Insurance department.
Motor Fleet and Mobile Plant	As per the Eskom Insurance policy document, which is

83.1

The *Contractor* provides these additional insurances:

	available on request from the Eskom Insurance department.
Terrorism	As per the Eskom Insurance policy document, which is available on request from the Eskom Insurance department.
Cyber Liability	As per the Eskom Insurance policy document, which is available on request from the Eskom Insurance department.

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 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 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 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.

		<div>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</div> <div>The amount required by the applicable law</div>
9	Termination	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
10	Data for main Option clause	
A	Priced contract with price list	
20.5	The <i>Contractor</i> prepares forecasts of the final total of the Prices for the whole of the service at intervals no longer than	Four (4) weeks
11	Data for Option W1	
W1.1	The <i>Adjudicator</i>	<div>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).</div> <div>Address TO BE APPOINTED WHEN DISPUTE ARISE</div> <div>Tel No.</div> <div>Fax No.</div> <div>e-mail</div>
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	East London, Eastern Cape, South Africa.
	The person or organisation who will choose an arbitrator	
	- if the Parties cannot agree a choice or	the Chairman for the time being or his nominee

	- if the arbitration procedure does not state who selects an arbitrator, is	of the Association of Arbitrators (Southern Africa) or its successor body.															
12	Data for secondary Option clauses																
X1	Price adjustment for inflation																
X1.1	<p>The <i>base date</i> for indices is</p> <p>The proportions used to calculate the Price Adjustment Factor are:</p> <p>The prices will be fixed and firm rates for the first 12 months of the contract. At the anniversary date of the contract the prices will be adjusted by Contracts Management team for inflation using CPA. The relevant publications to be used are published by the SIEFSA.</p>	<p>1 month prior to Tender Closing Date</p> <table> <tr> <th>proportion</th><th>linked to index for</th><th>Index prepared by</th></tr> <tr> <td>0. 65 (65%)</td><td>Labour (Table C-3a for labour rates)</td><td>SIEFSA</td></tr> <tr> <td>0. 20 (20%)</td><td>Transport (Table L-2 for road freight costs)</td><td>SIEFSA</td></tr> <tr> <td>0.15 (15%)</td><td>non-adjustable</td><td></td></tr> <tr> <td>Total</td><td>1.00</td><td></td></tr> </table>	proportion	linked to index for	Index prepared by	0. 65 (65%)	Labour (Table C-3a for labour rates)	SIEFSA	0. 20 (20%)	Transport (Table L-2 for road freight costs)	SIEFSA	0.15 (15%)	non-adjustable		Total	1.00	
proportion	linked to index for	Index prepared by															
0. 65 (65%)	Labour (Table C-3a for labour rates)	SIEFSA															
0. 20 (20%)	Transport (Table L-2 for road freight costs)	SIEFSA															
0.15 (15%)	non-adjustable																
Total	1.00																
X2	Changes in the law	There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.															
X17	Low service damages																
X17.1	The <i>service level table</i> is in	The Service Information C3.1 - 2.14															
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	Value of the Task Order															
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	1 Year 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	One (1) day of receiving the Task Order
Z	The additional conditions of contract are	Z1 to Z14 always apply.

Z1 Cession delegation and assignment

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

Z2 Joint ventures

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

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

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

Z4 Confidentiality

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

Z5 Waiver and estoppel: Add to core clause 12.3:

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

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

- Z6.1 The *Contractor* undertakes to take all reasonable precautions to maintain the health and safety of persons in and about the execution of the *service*. Without limitation the *Contractor*:
- accepts that the *Employer* may appoint him as the "Principal Contractor" (as defined and provided for under the Construction Regulations 2014 (promulgated under the Occupational

- Health & Safety Act 85 of 1993) ("the Construction Regulations") for the Affected Property;
- warrants that the total of the Prices as at the Contract Date includes a sufficient amount for proper compliance with the Construction Regulations, all applicable health & safety laws and regulations and the health and safety rules, guidelines and procedures provided for in this contract and generally for the proper maintenance of health & safety in and about the execution of the *service*; and
- undertakes, in and about the execution of the *service*, to comply with the Construction Regulations and with all applicable health & safety laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his Subcontractors, employees and others under the *Contractor's* direction and control, likewise observe and comply with the foregoing.

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

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

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

Z8 Notifying compensation events

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

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

Z9 *Employer's* limitation of liability

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

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

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

Z11 Ethics

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

Affected Party	means, as the context requires, any party, irrespective of whether it is the <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
	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 <i>Contractor</i> provides the insurances stated in the Insurance Table A from the <i>starting date</i> until the earlier of Completion and the date of the termination

certificate.

INSURANCE TABLE A

Insurance against	Minimum amount of cover or minimum limit of indemnity
Loss of or damage caused by the <i>Contractor</i> to the <i>Employer's</i> property	The replacement cost where not covered by the <i>Employer's</i> insurance. The <i>Employer's</i> policy deductible as at Contract Date, where covered by the <i>Employer's</i> insurance.
Loss of or damage to Plant and Materials	The replacement cost where not covered by the <i>Employer's</i> insurance. The <i>Employer's</i> policy deductible as at Contract Date, where covered by the <i>Employer's</i> insurance.
Loss of or damage to Equipment	The replacement cost where not covered by the <i>Employer's</i> insurance. The <i>Employer's</i> policy deductible as at Contract Date, where covered by the <i>Employer's</i> insurance.
The <i>Contractor's</i> liability for loss of or damage to property (except the <i>Employer's</i> property, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Contractor</i>) arising from or in connection with the <i>Contractor's</i> Providing the Service	<u>Loss of or damage to property</u> The replacement cost <u>Bodily injury to or death of a person</u> The amount required by the applicable law.
Liability for death of or bodily injury to employees of the <i>Contractor</i> arising out of and in the course of their employment in connection with this contract	The amount required by the applicable law

Z 12.2 Replace core clause 86 with the following:

Insurance 86
by the
Employer

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

INSURANCE TABLE B

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

Z13 Nuclear Liability

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

Z14 Asbestos

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

- AAIA** means approved asbestos inspection authority.
- ACM** means asbestos containing materials.
- AL** means action level, i.e. a level of 50% of the OEL, i.e. 0.1 regulated asbestos fibres per ml of air measured over a 4 hour period. The value at which proactive actions is

required in order to control asbestos exposure to prevent exceeding the OEL.

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

Z14.1 The *Employer* ensures that the Ambient Air in the area where the *Contractor* will Provide the Services conforms to the acceptable prescribed South African standard for asbestos, as per the regulations published in GNR 155 of 10 February 2002, under the Occupational Health and Safety Act, 1993 (Act 85 of 1993) ("Asbestos Regulations"). The OEL for asbestos is 0.2 regulated asbestos fibres per millilitre of air as a 4-hour TWA, averaged over any continuous period of four hours, and the short term exposure limit of 0.6 regulated asbestos fibres per millilitre of air as a 10-minute TWA, averaged over any 10 minutes, measured in accordance with HSG248 and monitored according to HSG173 and OESSM.

Z14.2 Upon written request by the *Contractor*, the *Employer* certifies that these conditions prevail. All measurements and reporting are effected by an independent, competent, and certified occupational hygiene inspection body, i.e. a SANAS accredited and Department of Employment and Labour approved AAIA. The *Contractor* may perform Parallel Measurements and related control measures at the *Contractor's* expense. For the purposes of compliance the results generated from Parallel Measurements are evaluated only against South African statutory limits as detailed in clause Z14.1. Control measures conform to the requirements stipulated in the AAIA-approved asbestos work plan.

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

Z14.4 In the event that any asbestos is identified while Providing the Services, a risk assessment is conducted and if so required, with reference to possible exposure to an airborne concentration of above the AL for asbestos, immediate control measures are implemented and relevant air monitoring conducted in order to declare the area safe.

Z14.5 The *Contractor's* personnel are entitled to stop working and leave the contaminated area forthwith until such time that the area of concern is declared safe by either Compliance Monitoring or an AAIA approved control measure intervention, for example, per the emergency asbestos work plan, if applicable.

Z14.6 The *Contractor* continues to Provide the Services, without additional control measures presented, on presentation of Safe Levels. The contractually agreed dates to Provide the Services, including

the Completion Date, are adjusted accordingly. The contractually agreed dates are extended by the notification periods required by regulations 3 and 21 of the Asbestos Regulations, 2001.

- Z14.7 Any removal and disposal of asbestos, asbestos containing materials and waste, is done by a registered asbestos contractor, instructed by the *Employer* at the *Employer's* expense, and conducted in line with South African legislation.

C1.2 Contract Data

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)¹ 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: Experience: 2 Name: Job	

¹ Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 5391902 or www.ecs.co.za

**THE PROVISION OF FACILITIES MANAGEMENT SERVICES (TECHNICAL SERVICES) FOR ESKOM PROPERTY MANAGEMENT
IN THE CAPE COASTAL CLUSTER EASTERN CAPE – ALIWAL NORTH ZONE ON AN AS AND WHEN REQUIRED BASIS**

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 _____
11.2(19)	The tendered total of the Prices is RATES BASED

PART 2: PRICING DATA

TSC3 Option A

Document reference	Title	No of pages
C2.1	Pricing assumptions: Option A	[02]
C2.2	The <i>price list</i>	[01]

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

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

2. Function of the Price List

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

3. Link to the *Contractor's* plan

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

4. Preparing the *price list*

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

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

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

4.1. Format of the *price list*

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

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

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

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

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

C2.2 the *price list*

NB: Prices to include labour, supply of all materials, overheads, safety, protective clothing, profits, hiring of equipment.

The price list is contained in Annexure A – Aliwal North FMS BOQ

Notes to the *price list*

1. The rates in the Price List exclude VAT.
2. The rates will remain fixed and firm for the first 12 months of the contract period; thereafter escalation may be applied for, in writing, annually based on CPI by the Contractor.
3. The escalation will only be applicable from the date of approval.
4. CPI will not apply to items relating to % Markups and P&Gs
5. There will be no P&Gs on all marked up items.
6. There will be no P&Gs on travelling.
7. There will be no P&Gs on directly hired plant/equipment by Eskom from the supplier.
8. Where quotations are required, Eskom will not pay the *Contractor* to supply quotations.

PART 3: SCOPE OF WORK

Document reference	Title	No of pages
C3.1	This cover page	1
	<i>Employer's Service Information</i>	20
Total number of pages		21

C3.1: EMPLOYER'S SERVICE INFORMATION

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Otherwise insert list of contents manually.

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1 Description of the service

1.1 Executive overview

The purpose of this contract is to appoint a suitably qualified *Contractor* for the Provision of Facilities Management Services (Technical Services) for the Eastern Cape Operating Unit on an as and when required basis in the Aliwal North Zone.

Below are the sites covered within the Aliwal North Zone; but not limited to. It also indicates the Home Centre for the Zone.

Sector 1	Sector 2
Aliwal North CNC (Base Site)	Kokstad Office (Base Site)
Aliwal North Customer Services	Bizana CNC AND Customer Services
Sterkspruit CNC	Matatiele CNC
Molteno CNC	Mt Ayliff CNC
Elliot CNC	Mt Frere CNC
Houses	Tsolo CNC
12 Steenkamp Street - Aliwal North	Flagstaff CNC
5 Gericke Street - Elliot	Lusikisiki CNC
29/31 Thompson Street - Elliot	Matatiele MEW site
66 Thompson Street - Elliot	
2 Webber Street - Elliot	
29 Smith Street - Molteno	

In addition to the primary sites listed in the allocated Zone, Eskom may request the *Contractor* to execute works on other Eskom sites in the region, on an “as and when” required basis. In an event that a new site is added the contractor will be notified in writing.

Closure of a Site

In the event that a site closes down then the services at that site must come to a stop. No compensation will be paid to the *Contractor* when a site is closed down.

1.2 Employer's requirements for the service

The scope includes the provision of the following facilities management services:

- Alterations and building works
- Electrical Maintenance
- Plumbing Maintenance
- Lift Maintenance
- Generator Maintenance
- Fire Prevention and Protection System Maintenance
- Water and Waste Water Treatment Plant Maintenance
- On Site Services
- Other Associated Works
- Air-conditioning Maintenance and Installations

- The *Contractor* shall provide all labour, supervision, administration and management, equipment, tools, supplies and material required to perform the facilities management services specified herein.
- Eskom reserves the right to award any works detailed in the bill to any other supplier it deems necessary.
- Eskom may request qualification certificates of trades of contractor employees as was stipulated in Technical requirements of the tender document.
- The *Contractor* is to action within 24hrs all task orders/call-outs issued by the *Service Manager* or his representative. Should an emergency arise the *Contractor* must action within a response time of 2 hours of the task order/call issued by the *Service Manager* or his representative.
- The response time for the *Contractor* to supply quotations on planned maintenance is 3 working days from the date of request failing which another service provider may be requested to provide a quotation. Eskom will not pay the *Contractor* for obtaining quotations, unless otherwise agreed by the *Service Manager*.
- The *Contractor* will be subject to performance appraisals based on Eskom's key performance indicators. Based on outcomes of these performance appraisals, the *Service Manager* reserves the right to withhold allocation of works to non-performing contractors.
- The *Contractor* must submit remittance advices of the sub-contractors to the *Service Manager* upon request. The *Service Manager* has the right to request the remittance advices directly from sub-contractors employed by the *Contractor* at any time.

1.3 Interpretation and terminology







1.3.1 Abbreviations





The following abbreviations are used in this Service Information:

Abbreviation	Meaning given to the abbreviation
ERE	Eskom Real Estate Department
N/A	Not Applicable
AFC	Approved for construction
OBL	Outside battery limits
EMP	Environmental Management Program

1.3.2 Acceptance of Eskom SHEQ Policies and Procedures

The attached documents form part of this legal binding contract, the **Contractor** confirms that he has familiarized himself with all the embedded documents from 1 to 25 as indicated

No	UNIQUE IDENTIFIER	REVISION	DOCUMENT TITLE
1	32 - 727	LATEST	SAFETY, HEALTH, ENVIRONMENT AND QUALITY (SHEQ) POLICY 32-727  Safety, Health, Environment and Qua
2	ESKOM LIFE SAVING RULES	LATEST	ESKOM LIFE SAVING RULES 240-62196227  Eskom life-saving rules.pdf  Life saving rules (2)Acknowledgement.
3	CONSTRUCTION REG 4	LATEST	NOTIFICATION OF CONSTRUCTION WORK TO DEPARTMENT OF LABOUR  Notification of construction work (2).
4	CONSTRUCTION REG 4 & 5	LATEST	APPOINTMENT LETTERS FOR CLIENT REPRESENTATIVE, PRINCIPAL CONTRACTOR & CONTRACTOR  Principal Contractor appointment.docx
5 & 6	OHS ACT	LATEST	WRITTEN AGREEMENT ON OHS ACT SECTION 37(2) & STANDARD CLAUSE  Section 37 (2) Agreement (2).docx
7, 8 & 9	34 - 1063	LATEST	EXPANDED PUBLIC WORKS REPORT 34-1063.
10	<u>DST 34-961</u>	LATEST	LEGAL APPOINTMENTS AND AUTHORIZATIONS

11	TPC 41-55	LATEST	TRANSPORTING PERSONS ON BACK OF VEHICLES  Vehicle and Driver Safety Management.p
12	LTIR	LATEST	LOST TIME INJURY REPORT
13	1. Contractor Performance Evaluation	LATEST	
14	SHE Requirements for the Eskom Commercial Process	LATEST	 SHE Requirements for the Eskom Comm
15	2. Supplier Contract Quality Requirements	LATEST	
16	3. Work at Heights Procedure	LATEST	 Work at Height Standard.pdf
17	4. Contract Specification for Vegetation Management Services on Eskom Networks	LATEST	 DST_240-52456757 vegetation.pdf
	5. Environmental Incident Management Procedure 240- 133087117		
	6. Eskom Wildlife Interaction and Management Standard 7. 32-829		
	8. Eskom Waste Standard 32-245		

2 Management strategy and start up.

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

The *Contractor* must detail below a plan which stipulates how he intends on performing the *service* throughout the *service* period, as required by clause 21.2.

- Staff structure/Organogram
- List technical reporting and scheduling requirements which are to be incorporated into the *Contractor's* plan.

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:
Overall contract progress/feedback in terms of contract obligations	Monthly intervals or when deemed required by the <i>Service Manager</i> .	ERE – Aliwal North Customer Services and Kokstad Eskom office	<i>Employer / Service Manager / relevant Eskom representatives and appointed 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* shall also provide a detailed organization chart showing the personnel to be employed for the *Services*, along with Training certificates of all key personnel. Contractors to submit proof to Eskom that their Contracts manager or delegated employee representative has NEC TSC training. A full definition of ONE team shall form part of the organization chart per project and identity number shall form part of this document.

2.4 Provision of bonds and guarantees

N/A

2.5 Documentation control

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*.

Any required service will be communicated to the *Contractor* via a Task Order.

Feedback questionnaires must be duly completed by all delegates and forwarded to the Eskom Real Estate Department.

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

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 sms 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.

2.6 Invoicing and payment

The *Contractor* provides a statement on the 15th and 25th of every month for the duration of the contract. The statement will reflect the following information of on all invoices submitted for payment, from the start of the contract:

- Date of Invoice
- Date of delivery of Service
- Invoice Number
- Invoice Amount excluding VAT
- PO Number
- Task Order Number
- GR Number
- Payment Status (either Paid or Unpaid)

The statement will also reflect the following summaries:

- Invoice payments outstanding <= 30days
- Invoice payments outstanding > 30days <=60 days
- Invoices payment outstanding > 60days <=90 days
- Invoices payment outstanding > 60days <=90 days
- Invoices payment outstanding > 90days
- Total of Invoices where the *Contractor* has received payment
- Total of Invoices where the *Contractor* is awaiting payment

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

The *Contractor* shall address the tax invoice to
ESKOM HOLDINGS SOC LIMITED
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 or accepted quotations;

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

The *Contractor* shall comply with the *Employer's* E-Invoicing process when submitting invoices for payment.

2.6.1 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.

2.6.2 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".

2.6.3 Measurement Meetings

The *Contractor* shall attend monthly meetings with the *Service Manager* and Supervisor where all matters concerning payment shall be discussed. In particular the *Contractor* shall submit for the meeting a monthly statement together with all calculations and supporting data in substantiation of any payments.

2.7 Contract change management

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*.

2.8 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*.

2.9 Insurance provided by the *Employer*

The insurance provided by the *Employer*, is addressed under the **contract data by the *Employer* under Clause 83.1** Insurances "Insurance provided by the *Employer*". In this case Format Dx is applicable for this contract.

2.10 Training workshops and technology transfer

- The *Contractor* shall provide training for personnel at dates as agreed upon by the *Contractor* and the *Service Manager*.

- All SHEQ training to be risk based and in accordance with Eskom Procedures and National Regulations
- The *Contractor* shall ensure that the employees are adequately to execute the services required in this contract.

2.11 Design and supply of Equipment

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

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

2.12.1 Equipment


None

2.12.2 Information and other things

- Summary of all quantity of items supplied by *Contractor* as per the Price List and accepted quotations for the duration of the contract.
- Summary of lessons learnt during the contract period.
- Summary of training undertaken by the *Contractor's* employees over the duration of the contract.
- Copy of all complaints registers
- Copy of all completed questionnaires
- Copy of all monthly reports
- All Safety Files and all other relevant safety documentation relevant to this contract.

2.13 Management of work done by Task Order

The *Contractor* must only carry out work if he receives a signed Task Order from the *Service Manager* or his delegates. Below is an example of a Task Order Form, whereby the format be changed at any time by the *Service Manager*.

	TASK ORDER	Template Identifier	240 - 774601027	Rev	
		Effective Date	12 August 2015		
		Next Review Date	August 2018		
		Eskom Real Estate			

TASK ORDER NO:		SAP No:	
ISSUED BY:		SIGN:	
DATE ISSUED:			
CONTRACTOR:			
ORDER NUMBER:			
PLANNED START DATE :			
PLANNED COMPLETION:			
DELAY DAMAGES:			
LOCATION:		INTERNAL ORDER	

CONTACT PERSON ON SITE :						
TYPE						
I authorize you to carry out the following task/s on the above site as per scope of works listed below:						

Scope of Work: (tick) **Complete** ☐ **Incomplete** ☐

Date Complete _____

Contractor: _____ **Eskom Responsible Person:** _____

Date: _____ **Date:** _____

Signature: _____ **Signature:** _____

2.14 Low service damages table

Item	Amount
Non-compliance to Eskom's Cardinal Rules	R1000 per finding
Non-compliance to Eskom Procedures and Policies	R500 per finding
Non-compliance to the OHSACT	R500 per finding
Penalty for late completion of task orders	R500 per day
Non-payment to subcontractors causing disruption of service to Eskom	R1000 per incident
Penalty for not actioning of task orders/call-outs on time	R500 per day

3 Health and safety, the environment and quality assurance

3.1 Health and safety risk management

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

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

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

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

- Dx CCC B/E Nosipho Manyonga
- Dx CCC SHEQ-Lindelwa Ngcaba
- Dx CCC Contractors Vuyiseka Ngamlana
- Dx CCC Contractors Nathen Felkers

The *Contractor* shall comply with the health and safety requirements contained in Annexure 32-136 to this Employer Service Information.

The contractor SHE files should be submitted and approved within 5 working days. The contractor is given **one opportunity** to correct within one day of failing which Eskom reserves the right not to issue the task order.

The Contractors Project SHEQ File is to be updated on a continuous basis. The Contractor is to ensure that all relevant documentation and authorisations are contained in the file pertaining to the project. Upon completion of the project, the Contractor is to convert all documentation contained in the SHEQ file into electronic format and save it as a PDF File. The file name should contain the name of the Contractor and the project. The file should then be saved onto a disk or removal storage device and handed over to the *Project Manager* upon completion of the project.

3.2 Environmental constraints and management

The *Contractor* shall comply with the environmental criteria and constraints stated in Part 5 Environmental

3.3 Quality assurance requirements

Quality management

System requirements

Clause 3.3.1 requires that the *Contractor* operate a quality management system as stated in the Scope.

The *Contractor* shall control his activities and processes in accordance with Eskom's Quality Assurance Standard **QM58: Supplier contractor quality requirements specification**

The *Contractor* will be responsible for the verification and signing of the quality inspection points which must be maintained by the *Contractor* and presented to Eskom on request.

Information in the quality plan

Clause 3.3.2 requires that the *Contractor* provide a quality policy statement and quality plan which complies with requirements stated in the Scope.

- (a) The *Contractor* shall demonstrate, provide and maintain a Quality Management System (QMS) that is ISO 9001 compliant or provide Quality Policy and Method statement or Contract Quality Plan
- (b) The *Contractor* agrees to control and professionally preserve and store appropriate documents , records and recordings to guarantee the traceability of the services rendered and inspection thereof;
- (c) The delivered services shall be uniform in Quality and condition, consistent with good industry practices and adhere to requested Eskom requirements, without deviation.
- (d) Eskom shall have the right to conduct surveys and perform surveillance of the *Contractor's* facilities to
- (e) Eskom reserves the right to inspect any or all of the work. Verification by Eskom shall not absolve the *Contractor* of the responsibility to provide acceptable services, nor shall it preclude subsequent rejection by
- (f) The services must comply with the agreed specifications and the applicable directives set out in the agreement. Defects notified by Eskom shall be remedied by the *Contractor* upon demand by Eskom without undue delay and at no extra cost. The *Contractor* shall continuously monitor and identify non-conformances, relating to the scope of work, as signals of opportunities for improvement making process and other relevant changes to prevent recurrence
- (g) The Contractor / Consultant shall further identify potential problems before they occur by identifying deviations in patterns or trends in service or process performance.
- (h) Nothing contained in the Contract shall relieve in any way the Contractor / Consultant from the obligation of Quality control thereof.
- (i) The Contractor / Consultant guarantees that the quantity, Quality and outward appearance of the delivered services will comply with the requirements of the contract and/or relevant specifications.
- (j) The Contractor / Consultant shall prove its ability, on request, to relate to the proposed scope of work which establishes the manner in which the Contractor / Consultant intends to perform the Contract.
- (k) The Contractor / Consultant shall, on request, prove its organisational, logistics and support resources to ensure the requirements of the contract can be achieved.

Eskom reserves the right to assess and measure , in the selection process, the qualifications , capability and competence of the key staff (assigned personnel) in relation to the scope of work and to interview any / all Contractor / Consultant to confirm the Quality evaluation

The *Contractor* shall comply with the quality requirements contained in Part 4 Quality.

4 Procurement

4.1 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.

4.1.1 Minimum requirements of people employed

- All of the *Contractor's* staff must be able to communicate in English.
- All of the *Contractor's* staff must have the necessary qualifications to execute the designated functions
- All of the *Contractor's* staff who are not South African citizens, must have valid work permits.

4.1.2 BBBEE and preferencing scheme

SANAS accredited BBBEE certificate (certified copy) or valid original sworn affidavit (DTI template, stamped by commissioner of oath) for EME/QSE level 1 to 4.

4.1.3 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

Each contractor will be required to train a minimum of 1 skill per R600 000 accumulated value invoiced, as per the SD&L specification – will be monitored by SD&L.

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

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

4.2 Subcontracting

4.2.1 Preferred subcontractors

In certain sites there are specialist equipment and services that are required, and Eskom reserves the right to choose the subcontractor that is required to execute such function.

Eskom also reserves the right to choose subcontractors based on quality and price.

4.2.2 Subcontract documentation, and assessment of subcontract tenders

N/A

4.2.3 Limitations on subcontracting

The use of Sub Contractors by the *Contractor* must be approved in writing by the *Service Manager* before commencement on site.

4.2.4 Attendance on subcontractors

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.

4.3 Plant and Materials

4.3.1 Specifications

N/A

4.3.2 Correction of defects

N/A

4.3.3 *Contractor's* procurement of Plant and Materials

N/A

4.3.4 Tests and inspections before delivery

N/A

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

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

5 Working on the Affected Property

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

The *Contractor* and all of his staff shall undergo Eskom induction prior to entering the Affected Property.

5.1.1 Roads and Vehicles

- All vehicles used on site, by the *Contractor* will be compliant with Eskom Standards.
- All road signs and traffic laws / regulations on site will be adhered to. Employees of the *Contractor* failing to comply will be removed from site and denied any further access.

5.1.2 Security

- The *Contractor's* staff will be subject to all security measures, rules and regulations of the Eskom Security Services
- Vehicles and staff agree and accept the searching of all staff, bags, briefcases and vehicles.

5.1.3 Access to and Departure from the Site

- Access to the site will be via the main security gate. The *Employer* informs the *Contractor* of the access procedures, and it should be expected that such procedures may change depending on the prevailing security situation.
- The *Employer* reserves the right for its Security personnel to search persons or vehicles entering or leaving the premises. This includes, but is not limited to staff, briefcases, bags and toolboxes.
- All persons entering Eskom sites are subjected to alcohol testing.

5.1.4 Temporary Gate Permits

- The *Contractor* provides the *Employer* with the personal details of their staff at least two weeks prior to the contract start date. All names and details to be submitted to the *Employer* who arranges for all gate permits.
- If an employee is no longer in the employ of the *Contractor*, the *Contractor* shall notify the *Employer* in advance, and replacements communicated to the *Employer* as well, whereby they will have to attend induction as well.
- The *Contractor* ensures that all equipment and materials brought through the security gate is signed in at the main security gate on the approved Eskom security form.

5.1.5 Removal

- The *Contractor* is not allowed to remove any equipment or materials from site without producing the relevant Eskom security forms and the equipment lists.
 - If the equipment or material is to be removed the same day, on which they were brought on to site, then the security form will need to be produced at the gate when leaving the site.
 - The removal of any item at a later stage of the contract will require a security form with the necessary approval and responsible manager's signature.
 - If the equipment or material is removed after this time then a Non-Returnable Gate Release will be provided by the *Employer's Representative*, on receipt of the original security form, with which the *Contractor* brought the equipment on site.

5.2 People restrictions, hours of work, conduct and records

- The *Contractor* is responsible for the provision of meals of his own personnel, and the cost thereof.
- The *Contractor* is responsible for the provision of transportation for all personnel to site, from site and on Site.
- The *Contractor* is responsible for the training and development of his staff whilst employed.
- The *Contractor* keeps records of his people working on the Affected Property, including those of his Subcontractors and the *Service Manager* shall have access to these records at any time.

5.3 Health and safety facilities on the Affected Property

Contractor to provide own Emergency preparedness procedure and align to site emergency procedure.

5.4 Environmental controls, fauna & flora

5.4.1 Protection of Flora

The removal, damage and disturbance of indigenous flora are prohibited.

5.4.2 Protection of the Fauna

The *Contractor* shall protect fauna living within the Site and shall ensure that hunting, snaring, poisoning, shooting, nest raiding or egg collecting and disturbance does not occur.

The *Contractor* is to ensure that his employees are instructed not to feed wild animals.

The use of pesticides is prohibited unless accepted by the *Service Manager*.

No domestic pets or livestock are permitted on site.

5.5 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.

5.6 Records of *Contractor's* Equipment

Prior to starting work on the Affected Site, the *Contractor* will compile a list his equipment, either owned or hired, which will be used for the execution of this contract. It should include the make, type, year of manufacture, colour and function or use. This list will be signed off by the *Contractor* and the *Service Manager*.

- Any electrical equipment or appliances used by the *Contractor* must comply with all relevant safety regulations and requirements and be maintained in safe and proper working condition.
- The *Employer* has the right to stop the *Contractor's* use of any electrical equipment or appliance, which in the *Employer's* opinion does not conform to the foregoing.

5.7 Equipment provided by the *Employer*

Prior to starting work on the Affected Site, the *Contractor* will compile is list of the *Employer's* equipment which is on site and will be used for the execution of the contract. This list will be signed off by the *Contractor* and the *Service Manager*.

All of the *Employer's* equipment will be returned to the *Employer* by the *Contractor* upon completion of the task.

5.8 Site services and facilities

5.8.1 Provided by the *Employer*

5.8.1.1 Water and Electricity usage

- Water and Electricity will be supplied by the *Employer*, if available, and must be used in accordance with the Eskom Environmental objectives.
- Where Water and Electricity is not available, this must be provided for by the *Contractor*.

5.8.1.2 Offices, Workshops and Stores

- None

5.8.2 Provided by the *Contractor*

The *Contractor* shall provide everything else necessary for providing the service.

5.9 Control of noise, dust, water and waste

Comply to the Occupational Health and Safety Act, Act 85 of 1993 and the applicable Regulations relating to noise and dust. The Water Act, Act 54 of 1956 for water and the Waste Act, Act 107 of 1998

Having due regard for local communities and dwellings, the *Contractor* shall restrict any of his operations which result in undue noise disturbance to those communities and dwellings.

The *Contractor* shall take appropriate measures to minimise the generation of dust as a result of his works, operations and activities to the satisfaction of the *Service Manager*.

The management of waste on site shall be strictly controlled and monitored. Only accepted waste disposal methods shall be allowed;

Littering shall be avoided;

(a) Domestic waste

All domestic waste shall be disposed of in an accepted domestic waste disposal site.

(b) Organic waste

All organic waste shall be disposed of in an accepted organic waste disposal site.

(c) Hazardous waste

All hazardous waste shall be disposed of in an accepted hazardous waste disposal site and a disposal certificate supplied to the *Service Manager*.

5.10 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*.

5.11 Tests and inspections

5.11.1 Description of tests and inspections

N/A

5.11.2 Materials facilities and samples for tests and inspections

N/A

6 List of drawings

6.1 Drawings issued by the *Employer*

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

Drawing number	Revision	Title