

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station



NEC3 Term Service Contract (TSC3)

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

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

for [•]

Contents:

**No of
pages**

Part C1 Agreements & Contract Data

[•]

Part C2 Pricing Data

[•]

Part C3 Scope of Work

[•]

CONTRACT No. [Insert at award stage]

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station**PART C1: AGREEMENTS & CONTRACT DATA**

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

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C1.1 Form of Offer & Acceptance

1.1 Offer

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

2 Title of the Contract

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

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

Signature(s)

Name(s)

Capacity

**For the
tenderer:**

(Insert name and address of organisation)

Name &
signature of
witness

Date

Tenderer's CIDB registration number:

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

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station**2.1 Acceptance**

By signing this part of this Form of Offer and Acceptance, the Employer identified below accepts the tenderer's Offer. In consideration thereof, the Employer shall pay the Contractor the amount due in accordance with the *conditions of contract* identified in the Contract Data. Acceptance of the tenderer's Offer 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**

(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.

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station**2.2 Schedule of Deviations to be completed by the *Employer* prior to contract award**

Note:

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

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

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

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

2.2.1.1 For the tenderer:**2.2.1.2 For the Employer**

Signature

Name

Capacity

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

Date

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C1.2 TSC3 Contract Data

Part one - Data provided by the *Employer*

[Instructions to the contract compiler: (delete these two notes in the final draft of a contract)]

1. Please read the relevant clauses in the conditions of contract before you enter data. 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.
2. Some TSC3 options are always selected by Eskom Holdings SOC Ltd. The remaining TSC3 options are identified by shading in the left hand column. In the event that the option is not required select and delete the whole row. Where the following symbol is used "■" - data is required to be inserted relevant to the specific option selected.]

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

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:	
■		A: Priced contract with price list
	dispute resolution Option	W1: Dispute resolution procedure
	and secondary Options	
■		X1: Price adjustment for inflation
		X2: Changes in the law
■		
		X17: Low service damages
		X18: Limitation of liability
		X19: Task Order
		X20: Key performance indicators
■		Z: Additional conditions of contract
	of the NEC3 Term Service Contract April 2013 ² (TSC3)	

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

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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):	Alpheus Digoro
	Address	Komati Power Station
	Tel	013 295 9455
	Fax	[•]
	e-mail	DigoroAF@eskom.co.za
11.2(2)	The Affected Property is	Komati Power Station
11.2(13)	The <i>service</i> is	Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station
11.2(14)	The following matters will be included in the Risk Register	[•]
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	2 weeks
2	The Contractor's main responsibilities	Data required by this section of the core clauses is also provided by the <i>Contractor</i> in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data
21.1	The <i>Contractor</i> submits a first plan for acceptance within	[•] 2 weeks of the Contract Date
3	Time	
30.1	The <i>starting date</i> is.	[•]
30.1	The <i>service period</i> is	36 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 25th day of each successive month.

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51.1	The <i>currency of this contract</i> is the	South African Rand
51.2	The period within which payments are made is	4weeks after receipt of a valid tax invoice correctly submitted in accordance to the requirements of the Tax invoices provided under works information.
51.4	The <i>interest rate</i> is	<p>the publicly quoted prime rate of interest (calculated on a 365 day year) charged by from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands and</p> <p>(ii) the LIBOR rate applicable at the time for amounts due in other currencies. LIBOR is the 6 month London Interbank Offered Rate quoted under the caption "Money Rates" in The Wall Street Journal for the applicable currency or if no rate is quoted for the currency in question then the rate for United States Dollars, and if no such rate appears in The Wall Street Journal then the rate as quoted by the Reuters Monitor Money Rates Service (or such service as may replace the Reuters Monitor Money Rates Service) on the due date for the payment in question, adjusted <i>mutatis mutandis</i> every 6 months thereafter (and as certified, in the event of any dispute, by any manager employed in the foreign exchange department of The Standard Bank of South Africa Limited, whose appointment it shall not be necessary to prove.</p>
6	Compensation events	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data
7	Use of Equipment Plant and Materials	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data
8	Risks and insurance	
80.1	These are additional <i>Employer's</i> risks	<p>1. [●]</p> <p>2. [●]</p> <p>3. [●]</p>
9	Termination	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
10	Data for main Option clause	
A	Priced contract with price list	

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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	[•] weeks.	
C	Target contract with price list		
20.4	The <i>Contractor</i> prepares forecasts of the total Defined Cost for the whole of the service at intervals no longer than	[•] weeks.	
50.6	The <i>exchange rates</i> are those published in	[•] on [•] (date)	
53.1	The <i>Contractor's</i> share percentages and the share ranges are	share range less than [•] % from [•]% to [•]% from [•]% to [•]% greater than [•]%	Contractor's share %-age [•]% [•]% [•]% [•]%
53.3	The <i>Contractor's</i> share is assessed on (dates)	[•]	
E	Cost reimbursable contract		
20.4	The <i>Contractor</i> prepares forecasts of the total Defined Cost for the whole of the service at intervals no longer than	weeks /months	
	The <i>exchange rates</i> are those published in	[•] on [•] (date)	
11	Data for Option W1		
W1.1	The <i>Adjudicator</i>	the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see www.ice-sa.org.za). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).	
	Address	[•]	
	Tel No.	[•]	
	Fax No.	[•]	
	e-mail	[•]	
W1.2(3)	The <i>Adjudicator nominating body</i> is:	the Chairman of ICE-SA a joint Division of the South African Institution of Civil Engineering and the Institution of Civil Engineers (London) (see www.ice-sa.org.za) or its successor body.	
W1.4(2)	The <i>tribunal</i> is:	arbitration	
W1.4(5)	The <i>arbitration procedure</i> is	the latest edition of Rules for the Conduct of Arbitrations published by The Association of	

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	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		
	- 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	The <i>base date</i> for indices is	[•].		
	The proportions used to calculate the Price Adjustment Factor are:	proportion	linked to index for	Index prepared by
		0.	[•]	[•]
		0.	[•]	[•]
		0.	[•]	[•]
		0.	[•]	[•]
		0.	[•]	[•]
		[•]	non-adjustable	
		1.00		
X2	Changes in the law	There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.		
X3	Multiple currencies			
X3.1	The <i>Employer</i> will pay for these items or activities in the currencies stated	Items & activities	Other currency	Maximum payment in other currency
		[•]		
		[•]		
		[•]		
		[•]		
X3.1	The <i>exchange rates</i> are those published in	[•] on [•] (date)		
		The items & activities will be paid in the other currency		
		- to a foreign Bank account nominated by the Contractor		
		- to a valid SARB approved CFC account in South Africa		
		- in accordance with an alternative payment		

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		method agreed with the <i>Employer</i> before the Contract Date. (select one of the three methods as agreed with the successful tenderer prior to contract award and delete the others and this note)
X4	Parent company guarantee	There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.
X12	Partnering	
X12.1(1)	The <i>Client</i> is (Name):	[•]
	Address	[•]
	Contact details	[•]
	Telephone:	[•]
	Fax	[•]
	e-mail	[•]
X12.1(4)	The Partnering Information is in	Part 3 Scope of Work, section C3.[•]
X12.2(1)	The <i>Client's objective</i> is:	[•]
X13	Performance bond	
X13.1	The amount of the performance bond is	R [•]
X17	Low service damages	
X17.1	The <i>service level table</i> is in	[•]
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
X18.3	The <i>Contractor's</i> liability for Defects due to his design of an item of Equipment is limited to	The greater of <ul style="list-style-type: none"> the total of the Prices at the Contract Date and the amounts excluded and unrecoverable from the <i>Employer's</i> insurance (other than the resulting physical damage to the <i>Employer's</i> property which is not excluded) plus the applicable deductibles
X18.4	The <i>Contractor's</i> total liability to the <i>Employer</i> , for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	the total of the Prices other than for the additional excluded matters. The <i>Contractor's</i> total liability for the additional excluded matters is not limited.

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		<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	[•] months after the end of the <i>service period</i>.
X19	Task Order	
X19.5	The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within	[•] days of receiving the Task Order
X20	Key Performance Indicators (not used when Option X12 applies)	
X20.1	The <i>incentive schedule</i> for Key Performance Indicators is in	Annexure [•] to this Contract Data
X20.2	A report of performance against each Key Performance Indicator is provided at intervals of	[•] months
Z	The <i>additional conditions of contract</i> 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.

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station**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

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- 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”:

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

Z11 Ethics

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

Affected Party means, as the context requires, any party, irrespective of whether it is the *Contractor* or a third party, such party's employees, agents, or Subcontractors or Subcontractor's employees, or any one or more of all of these parties' relatives or friends,

Coercive Action means to harm or threaten to harm, directly or indirectly, an Affected Party or the property of an Affected Party, or to otherwise influence or attempt to influence an Affected Party to act unlawfully or illegally,

Collusive Action means where two or more parties co-operate to achieve an unlawful or illegal purpose, including to influence an Affected Party to act unlawfully or illegally,

Committing Party means, as the context requires, the *Contractor*, or any member thereof in the case of a joint venture, or its employees, agents, or Subcontractors or the Subcontractor's employees,

Corrupt Action means the offering, giving, taking, or soliciting, directly or indirectly, of a good or service to unlawfully or illegally influence the actions of an Affected Party,

Fraudulent Action means any unlawfully or illegally intentional act or omission that misleads, or attempts to mislead, an Affected Party, in order to obtain a financial or other benefit or to avoid an obligation or incurring an obligation,

Obstructive Action means a Committing Party unlawfully or illegally destroying, falsifying, altering or concealing information or making false statements to materially impede an investigation into allegations of Prohibited Action, and

Prohibited Action means any one or more of a Coercive Action, Collusive Action Corrupt Action, Fraudulent Action or Obstructive Action.

Z11.1 A Committing Party may not take any Prohibited Action during the course of the procurement of this contract or in execution thereof.

Z11.2 The *Employer* may terminate the *Contractor's* obligation to Provide the Services if a Committing Party has taken such Prohibited Action and the *Contractor* did not take timely and appropriate action to prevent or remedy the situation, without limiting any other rights or remedies the *Employer* has. It is not required that the Committing Party had to have been found guilty, in court or in any other similar process, of such Prohibited Action before the *Employer* can terminate the *Contractor's* obligation to Provide the Services for this reason.

Z11.3 If the *Employer* terminates the *Contractor's* obligation to Provide the Services for this reason, the amounts due on termination are those intended in core clauses 92.1 and 92.2.

Z11.4 A Committing Party co-operates fully with any investigation pursuant to alleged Prohibited Action. Where the *Employer* does not have a contractual bond with the Committing Party, the *Contractor* ensures that the Committing Party co-operates fully with an investigation.

Z12 Insurance**Z 12 .1 Replace core clause 83 with the following:****Insurance cover 83**

83.1 When requested by a Party, the other Party provides certificates from his insurer or broker stating that the insurances required by this contract are in force.

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- 83.2 The *Contractor* provides the insurances stated in the Insurance Table A from the *starting date* until the earlier of Completion and the date of the termination certificate.

INSURANCE TABLE A

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

Z 12.2 Replace core clause 86 with the following:**Insurance by the Employer**

86

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

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station**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.

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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.

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- 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.

Z15 Exit Clause – Early Termination

- Z15.1 This contract may be terminated by the Employer by giving the Contractor one (1) month written notice. The Employer will only be liable for payment of the following costs incurred by the Contractor on valid Task Orders issued up to date of the notification. The termination costs will be based on the assessment of activities and resources that will be in effect of the particular month.

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station

C1.3 Forms of Securities

Pro formas for Bonds & Guarantees

For use with the NEC3 Term Service Contract (TSC3)

[Note to contract compiler:

Once it has been decided which securities are required for this contract delete from this file the ones not required, revise the notes below accordingly and delete this note.]

The *conditions of contract* stated in the Contract Data Part 1 include the following Secondary Options:

Option X4: Parent company guarantee
Option X13: Performance Bond

Each of these secondary Options requires a bond or guarantee "in the form set out in the Service Information". Pro forma documents for these bonds and guarantees are provided here for convenience but are to be treated as part of the Service Information.

The *Contractor* shall guarantee his ASGI-SA Obligations by providing the *Employer* with an ASGI-SA Guarantee in the form provided here.

[Note to contract compiler: If there are no ASGI-SA Obligations in this contract, delete the above statement and the ASGI_SA bond]

The organisation providing the bond / guarantee does so by copying the pro forma document onto his letterhead without any change to the text or format and completing the required details. The completed document is then given to the *Employer* within the time stated in the contract.

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station**Pro forma Parent Company Guarantee (for use with Option X4)***(to be reproduced exactly as shown below on the letterhead of the Contractor's Parent Company)*

**Eskom Holdings SOC Ltd
Megawatt Park
Maxwell Drive
Sandton
Johannesburg**

Date:

Dear Sirs,

Parent Company Guarantee for Contract No

With reference to the above numbered contract made or to be made between

Eskom Holdings SOC Ltd(the *Employer*) and**{Insert registered name and address of the *Contractor*}**(the *Contractor*), for**{Insert details of the *works* from the Contract Data}**(the *works*).

I/We the undersigned

on behalf of the *Contractor's*
parent company

of physical address

and duly authorised thereto do hereby unconditionally guarantee to the *Employer* that the *Contractor* shall Provide the Service in accordance with the above numbered Contract.

1. If for any reason the *Contractor* fails to Provide the Service, we hereby agree to cause to Provide the Service at no additional cost to the *Employer*.
2. If we fail to comply with the terms of this Deed of Guarantee, the *Employer* may itself procure such performance (whether or not the Agreement be formally determined). The *Employer* is to notify us and we shall indemnify the *Employer* for any additional cost or expense it incurs.
3. Our liability shall be as primary obligor and not merely as surety and shall not be impaired or discharged by reason of any arrangement or change in relationship made between the *Contractor* and the *Employer* and/or between us and *Contractor*; nor any alteration in the obligations undertaken by the *Contractor* or in the terms of the Agreement; nor any indulgence, failure, delay by you as to any matter; nor any dissolution or liquidation or such other analogous event of the *Contractor*.
4. The *Employer* shall not be obliged before taking steps to enforce the terms of this Deed of Guarantee to obtain judgement against the *Contractor* in any court or other tribunal, to make or file any claim in liquidation (or analogous proceedings) or to seek any remedy or proceed first against the *Contractor*.
5. This Deed of Guarantee shall be governed by and construed in accordance with the laws of the Republic of South Africa and we hereby submit to the non-exclusive jurisdiction of the High Court of South Africa.

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station

Signed at _____ on this _____ day of _____ 200_

Signature(s)	
Name(s) (printed)	
Position in parent company	
Signature of Witness(s)	
Name(s) (printed)	

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station**Pro forma Performance Bond – Demand Guarantee (for use with Option X13)***(to be reproduced exactly as shown below on the letterhead of the Bank providing the Guarantee)*

**Eskom Holdings SOC Ltd
Megawatt Park
Maxwell Drive
Sandton
Johannesburg**

Reference No. [●] *[Drafting Note: Bank reference number to be inserted]*

Date:

Dear Sirs

Performance **Bond – Demand Guarantee:** *[Drafting Note: Name of Contractor to be inserted]*

Project [] Contract Reference: *[Drafting Note: Contractor contract reference number to be inserted]*

In this Guarantee the following words and expressions shall have the following meanings:-

“Bank” - means [●], [●] Branch, (Registration No. [●]); *[Drafting Note: Name of Bank to be inserted]*

“Bank’s Address” - means [●]; *[Drafting Note: Bank’s physical address to be inserted]*

“Contract” – means the written agreement relating to the Services, entered into between Eskom and the Contractor, on or about the [●] day of [●] 200[●] (Contract Reference No. [.] as amended, varied, restated, novated or substituted from time to time; *[Drafting Note: Signature Date and Contract reference number to be inserted]*

“Contractor” – means [●] a company registered in accordance with the laws of [●] under Registration Number [●]. *[Drafting Note: Name and details of Contractor to be inserted]*

“Eskom” - means Eskom Holdings SOC Ltd, a company registered in accordance with the laws of the Republic of South Africa under Registration Number 2002/015527/30].

“Expiry Date” - means the earlier of

- the date that the Bank receives a notice from Eskom stating that all amounts due from the Contractor as certified in terms of the contract have been received by Eskom and that the Contractor has fulfilled all his obligations under the Contract, or
- the date that the Bank issues a replacement Bond for such lesser or higher amount as may be required by Eskom

“Guaranteed Sum” - means the sum of R [●] ([●] Rand);

“Services” - means [insert as applicable.].

At the instance of the Contractor, we the undersigned _____ and _____, in our respective capacities as _____ and _____ of the Bank, and duly authorized thereto, confirm that we hold the Guaranteed Sum at the disposal of Eskom, as security for the proper performance by the Contractor of all of its obligations in terms of and arising from the Contract and hereby undertake to pay to Eskom, on written demand from Eskom received prior to the Expiry Date, any sum or sums not exceeding in total the Guaranteed Sum.

A demand for payment under this guarantee shall be made in writing at the Bank’s address and shall:

be signed on behalf of Eskom by a Group Executive, Divisional Executive, Senior General Manager or its delegate;

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station

state the amount claimed ("the Demand Amount");

state that the Demand Amount is payable to Eskom in the circumstances contemplated in the Contract.

Notwithstanding the reference herein to the Contract the liability of the Bank in terms hereof is as principal and not as surety and the Bank's obligation/s to make payment:

is and shall be absolute provided demand is made in terms of this bond in all circumstances; and

is not, and shall not be construed to be, accessory or collateral on any basis whatsoever.

The Bank's obligations in terms of this Guarantee:

shall be restricted to the payment of money only and shall be limited to the maximum of the Guaranteed Sum; and

shall not be discharged and compliance with any demand for payment received by the Bank in terms hereof shall not be delayed, by the fact that a dispute may exist between Eskom and the Contractor.

Eskom shall be entitled to arrange its affairs with the Contractor in any manner which it sees fit, without advising us and without affecting our liability under this Guarantee. This includes, without limitation, any extensions, indulgences, release or compromise granted to the Contractor or any variation under or to the Contract.

Should Eskom cede its rights against the Contractor to a third party where such cession is permitted under the Contract, then Eskom shall be entitled to cede to such third party the rights of Eskom under this Guarantee on written notification to the Bank of such cession.

This Guarantee:

shall expire on the Expiry Date until which time it is irrevocable;

is, save as provided for in 0 above, personal to Eskom and is neither negotiable nor transferable;

shall be returned to the Bank upon the earlier of payment of the full Guaranteed Sum or expiry hereof;

shall be regarded as a liquid document for the purpose of obtaining a court order; and

shall be governed by and construed in accordance with the law of the Republic of South Africa and shall be subject to the jurisdiction of the Courts of the Republic of South Africa.

Any claim which arises or demand for payment received after expiry date will be invalid and unenforceable.

The Bank chooses domicilium citandi et executandi for all purposes in connection with this Guarantee at the Bank's Address.

Signed at _____

Date _____

For and behalf of the Bank

Bank Signatory: _____

Bank Signatory: _____

Witness: _____

Witness: _____

Bank's seal or stamp

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station**Pro forma ASGI-SA Guarantee***(to be reproduced exactly as shown below on the letterhead of the Bank providing the Guarantee)*

Eskom Holdings SOC Ltd
Megawatt Park
Maxwell Drive
Sandton
Johannesburg

Reference No [●] [Drafting Note:
 Bank reference
 number to be inserted]

Date:

Dear Sirs

Pro-Forma ASGI-SA Guarantee: [Drafting Note: Name of Contractor to be inserted]

Project [] Contract Reference: [●] [Drafting Note: Contractor contract reference number to be inserted]

1. In this Guarantee the following words and expressions shall have the following meanings:-
 - 1.1 "Bank" - means [●], [●] Branch, (Registration No. [●]); [Drafting Note: Name of Bank to be inserted]
 - 1.2 "Bank's Address" - means [●]; [Drafting Note: Bank's physical address to be inserted]
 - 1.3 "Contract" – means the written agreement relating to the Project, entered into between the *Employer* and the *Contractor*, on or about the [●] day of [●] 200[●] (Contract Reference No. [●] as amended, varied, restated, novated or substituted from time to time; [Drafting Note: Signature Date and Contract reference number to be inserted])
 - 1.4 "*Contractor*" – means [●] a company registered in accordance with the laws of [●] under Registration Number [●]. [Drafting Note: Name and details of Contractor to be inserted]
 - 1.5 "*Contractor's ASGI-SA Obligations*" – means the *Contractor's ASGI-SA Obligations* under and as defined in the Contract.
 - 1.6 "*Employer*" - means Eskom Holdings SOC Ltd, a company registered in accordance with the laws of the Republic of South Africa under Registration Number 2002/015527/30.
 - 1.7 "Expiry Date" - means the [●] day of [●] 200[●]; [Drafting Note: anticipated date of issue of ASGI-SA Performance Certificate to be inserted.]
 - 1.8 "Guaranteed Sum" - means the sum of R [●] ([●] Rand);
 - 1.9 "Project" – means the
2. At the instance of the *Contractor*, we the undersigned _____ and _____, in our respective capacities as _____ and _____ of the Bank, and duly authorized thereto, confirm that we hold the Guaranteed Sum at the disposal of the *Employer*, as security for the proper performance by the *Contractor* of the *Contractor's ASGI-SA Obligations* and hereby undertake to pay to the *Employer*, on written demand from the *Employer* received prior to the Expiry Date, any sum or sums not exceeding in total the Guaranteed Sum.
3. A demand for payment under this guarantee shall be made in writing at the Bank's address and shall:
 - 3.1 state the amount claimed ("the Demand Amount");
 - 3.2 state that the Demand Amount is payable to the *Employer* in the circumstances contemplated in the Contract.
4. Notwithstanding the reference herein to the Contract the liability of the Bank in terms hereof is as

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station

principal and not as surety and the Bank's obligation/s to make payment:

- 4.1 is and shall be absolute provided demand is made in terms of this bond in all circumstances; and
- 4.2 is not, and shall not be construed to be, accessory or collateral on any basis whatsoever.
5. The Bank's obligations in terms of this Guarantee:
 - 5.1 shall be restricted to the payment of money only and shall be limited to the maximum of the Guaranteed Sum; and
 - 5.2 shall not be discharged and compliance with any demand for payment received by the Bank in terms hereof shall not be delayed, by the fact that a dispute may exist between the *Employer* and the *Contractor*.
6. The *Employer* shall be entitled to arrange its affairs with the *Contractor* in any manner which it sees fit, without advising us and without affecting our liability under this Guarantee. This includes, without limitation, any extensions, indulgences, release or compromise granted to the *Contractor* or any variation under or to the Contract.
7. Should the *Employer* cede its rights against the *Contractor* to a third party where such cession is permitted under the Contract, then the *Employer* shall be entitled to cede to such third party the rights of the *Employer* under this Guarantee on written notification to the Bank of such cession.
8. This Guarantee:
 - 8.1 shall expire on the Expiry Date until which time it is irrevocable;
 - 8.2 is, save as provided for in **0** above, personal to the *Employer* and is neither negotiable nor transferable;
 - 8.3 shall be returned to the Bank upon the earlier of payment of the full Guaranteed Sum or expiry hereof;
 - 8.4 shall be regarded as a liquid document for the purpose of obtaining a court order; and
 - 8.5 shall be governed by and construed in accordance with the law of the Republic of South Africa and shall be subject to the jurisdiction of the courts of the Republic of South Africa.
 - 8.6 Any claim which arises or demand for payment received after expiry date will be invalid and unenforceable.
9. The Bank chooses domicilium citandi et executandi for all purposes in connection with this Guarantee at the Bank's Address.

Signed at _____

Date _____

For and behalf of the Bank

Bank Signatory: _____

Bank Signatory: _____

Witness: _____

Witness: _____

Bank's seal or stamp

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PART 2: PRICING DATA

TSC3 Option A

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

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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*:

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station

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

Format of the *price list*

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

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

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

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

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

The Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station**C2.2 the *price list*****A: Labour**

Item	Resource	No of personnel	No of hours/month	Period	TOTAL PRICE
1	Site Manager	1	173	36	
2	Site Supervisor - Rigging	1	173	36	
3	Riggers	2	173	36	
4	Rigger Assistants	2	173	36	
5	Site Supervisor	1	173	36	
6	Artisan	4	173	36	
7	Artisan Assistants	4	173	36	
8	Planner	1	173	36	
9	BoilerMaker	1	173	36	
10	BoilerMaker Assistant	1	173	36	
11	Welder	1	173	36	
12	Welder Assistant	1	173	36	

B: Overtime**C: SATURDAY AND AFTER HOURS**

Item	Resource	No of personnel	No of hours/month	Period	TOTAL PRICE
1	Site Supervisor Rigging	1	100	36	
2	Site Supervisor	1	100	36	
3	Rigger	2	200	36	
4	Rigger assistants	2	200	36	
5	Welder	1	100	36	
6	Welder Assistants	1	100	36	
7	Artisan	4	400	36	
8	Artisan Assistants	4	400	36	
9	BoilerMaker	1	100	36	
10	BoilerMaker Assistants	1	100	36	

C: SUNDAY AND PUBLIC HOLIDAYS

1	Site Supervisor Rigging	1	36	36	
2	Site Supervisor	1	36	36	
3	Rigger	2	72	36	

The Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station

4	Rigger assistants	2	72	36	
5	Welder	1	36	36	
6	Welder Assistants	1	36	36	
7	Artisan	4	114	36	
8	Artisan Assistants	4	114	36	
9	BoilerMaker	1	36	36	
10	BoilerMaker Assistants	1	36	36	
D: STANDBY ALLOWANCES					
1	Standby Allowance (Supervisor)	1	1	36	
2	Standby Allowance (Rigging Supervisor)	1	1	36	
3	Standby Allowance (Rigger)	1	1	36	
4	Standby Allowance (Rigger Assistant)	1	1	36	
5	Standby Allowance (Welder)	1	1	36	
6	Standby Allowance (Welder Assistant)	1	1	36	
7	Standby Allowance (BoilerMaker)	1	1	36	
	Standby Allowance (BoilerMaker Assistant)	1	1	36	
	Standby Allowance (Artisan)	1	1	36	
	Standby Allowance (Artisan Assistant)	1	1	36	
E: PREMENALIRIES AND GENERALS					
1	Site Establishment	1	1	1	
2	Site De-establishment	1	1	1	
3	Stationery	1	1	36	
4	Beverages	1	1	36	
5	PPE	1	1	36	
6	Safety File	1	1	1	
8	Transport			36	
10	Medicals Yearly	1	1	3	
11	Equipment	1	1	36	
	50 ton mobile Crane	1	144		
	30 tonne mobile Crane	1	144		
	1060 CFM Compressor 7 bar	1	144		
	5 ton Forklift	1	144		

The Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station

The total of the Prices

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The Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station

C1.2 Contract Data

Part two - Data provided by the Contractor

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

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

Notes to a tendering contractor:

1. Please read both the both the NEC3 Term Service Contract April 2013 and the relevant parts of its Guidance Notes (TSC3-GN)³ in order to understand the implications of this Data which the tenderer is required to complete.
2. The number of the clause which requires the data is shown in the left hand column for each statement however other clauses may also use the same data.
3. Where a form field like this [] appears, data is required to be inserted relevant to the option selected. Click on the form field **once** and type in the data. Otherwise complete by hand and in ink.

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

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

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

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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 R _____
C	Target contract with price list
11.2(12)	The <i>price list</i> is in _____
11.2(20)	The tendered total of the Prices is R _____
E	Cost reimbursable contract
11.2(12)	The <i>price list</i> is in _____

PART 3: SCOPE OF WORK

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

Purpose

2. The purpose for this scope of work is to establish the maintenance contract for “the provision of Mechanical maintenance services for the period of 36 months at Komati Power Station”

Applicability

The scope of this contract is applicable to plants affected in the provision of Mechanical Maintenance services for Komati Power Station.

Employer's requirements for the service

The contractor must execute the works according to the scope of work.

The maintenance of this plant should be in line with the current and updated Reliability Based Maintenance Strategies (RBO), which will give rise to the Works Management (WM) Preventative Maintenance (PM) Strategy including WM principles, Safety, Health, Quality and Environmental (SHQE) requirements including those of Eskom or any other systems Eskom implements to achieve the same results or manage the above

Effective date

[This document is effective from the authorisation date.](#)

Normative/Informative References

Parties using this document shall apply the most recent edition of the documents listed in the following paragraphs.

Normative

ISO 9001 Quality Management Systems

Informative

Eskom's Generation Issue Management – Work Instruction: 240 – 64257586

Eskom's Quality Control Plan Procedure – Document Identifier 235 –1363

Definitions

Definition	Description
Break Down	When machinery unexpectedly stops working due to an internal malfunction or a broken part(s), requiring the repair or replacement of that equipment
Maintenance	Combination of technical, administrative and managerial actions during the life cycle of an asset intended to retain it, or restore it to, a state in which it can perform the required function. This includes both inspection and service.
Running Hours	The number of hours that a machine has been actively operating over a stated time period.
Task Order	A Task Order is the Service Manager's instruction to carry out a Task.

Abbreviations

Abbreviation	Explanation
CM	Corrective Maintenance
FFFR	Fossil Fuel Firing Regulations

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station

Abbreviation	Explanation
NEC	New Engineering Construction Contract 2013
NCR	Non Conformance Report
OEM	Original Equipment Manufacturer
OSH act	Occupational Health and Safety Act of South Africa
PM	Preventative Maintenance
RBO	Reliability Based Optimisation
PSR	Plant Safety regulation
TSC	Term Service Contract
WM	Work Management
SAP	System Acquisition Programme

Roles and Responsibilities**Service Manager**

The *Service manager* will be responsible for the following

- Issuing of the Task order to the *Contractor* on a monthly basis for the maintenance of the plant, indicating the estimated value of the work to be done for that particular month.
- Issuing of the Early warnings to the *Contractor* within 72 hours should there be any risk emanating from the plant.
- Hold Risk Meetings (refer to risk meeting terms of reference) with the *Contractor* on monthly basis.
- Ensure payments are done to the *Contractor* on time as per the agreed date on the NEC.

The Contractor

- Ensure that maintenance is carried out on the plant in accordance to the required maintenance intervals regimes to ensure 90% availability and 10% planned maintenance.
- Ensure that a budget quote is submitted and accepted by the *Contract Manager* prior Work is carried out on site
- Ensure that his/her employees execute maintenance work on the plant safely in accordance to the Health and Safety Act, Environment and Quality requirement (reference)
- Has knowledge regarding the NEC and will at all times stick to its requirements.

Responsibilities of the Contractor's Site management:

The *Employer* expects the Site management team of the *Contractor's* to ensure and drive compliance in terms of the maintenance philosophy of the *Employer*

As a minimum requirement, the *Employer* expects the *Contractor's* Site management to have the authority to make decisions on the operational and managerial aspects of the service.

The responsibilities of the Site management team shall amongst other things include:

- Attendance of all daily supervisor feedback meetings, safety meetings, and meetings with the *Service Manager* or his delegates;
- Ability to converse with own staff and *Employer's* staff on technical and operational matters;

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- Ability to represent the *Contractor* on the *Employer's* management meetings when so required;
- Administer all planning and reporting requirements;
- Ensure sufficient quality control and assurance;
- Ensure that all Construction regulations and OHSA requirements are complied with
- Ensure that all required permits are requested and issued prior to the commencement of work;
- Human resource development activities, recruitment, industrial relations issues;
- Conduct monthly safety meetings with its staff, and documentation of all safety issues;
- Be actively involved in its staff's health & safety issues;
- Administrate all payroll activities and issues that may arise;
- Monitor and control its staff's sick leave and absenteeism record;
- Administrate all quotations and invoices from Site;
- Be fully conversant with New Engineering Contracts (NEC)
- Be the single point of contact for all *Employer* requests concerning its staff.
- Conduct post-mortems after a major breakdowns for learning and improvement purposes
- Write technical report upon every major repairs completion and submit to *Service manager* within one month after the major repairs had been completed.

The *Contractor* and his employees are required to conduct themselves at all times in a professional manner.

Process for Monitoring

Performance is measured by the *Employer* against those areas which contribute to the *Employer's* business. Areas of measurement include the *Employer's* key business indicators, as defined from time to time.

KPI (Key performance indicator)

The *Contractor's* performance shall be measured against the agreed Key Performance Indicators (KPI's).

Safety criteria (e.g. LTI's) shall form part of the station's KPI's

The performance of the *Contractor* will be reviewed monthly and assessed in terms of the agreed criteria.

Related/Supporting Documents

- **2.7.1 Records Generated**

Not applicable

SCOPE OF WORK**3.1 General**

The Parties are committed to the following:

- **Continuous improvement of Plant performance**
- **Retention of critical skills**
- **Cost efficiency**
- **Safety (Zero harm policy)**

The parties respond to changing needs whilst also pursuing the parties' long term goals .In order to achieve this, the parties have a mutual understanding of each other's expectations. The parties undertake to develop and provide:

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station

- Clearly defined mutual goals
- Commitment by senior management to these goals and long term support to the objectives of this contract
- Integrity, trust and co-operation between the parties and the sharing of risks and rewards
- Transparent reporting of invoiced costs and performance between the Parties
- Improvement programmes to enhance plant performance and achieve cost efficiencies
- Implementation of productive plant engineering, operating and maintenance expertise
- Excellent levels of safety
- Development of all critical skills pertaining to this contract in order to ensure long term sustainability

3.2 Scope of Work

The scope is the Provision the provision of Mechanical maintenance services for the period of 36 months at Komati Power Station.

Description of the services:**Central Ash Removal Plants**

Scheduled and corrective maintenance work on the following parts of the ash-plant.

- From the AWR Dam, including isolating valves and all pumps at the ash dams, up to and including the Sluice pumps and components, hopper spray pumps and components and all pipe-work and Johnson couplings.
- All bilge sump pump with associated components.
- Central ash sump and coarse ash lifting liners and agitating nozzles.
- Seal water pumps and components, pipe work including valves.
- The central ash sump, discharge piping, ash pumps and its auxiliaries (pulleys, v-belts, taper locks and bearings), ash piping, isolation and crossover valves including the isolation valves on the circumference of the ash dams excluding actuators.
- All the other mechanical components of the ash-plant including activities like unblocking ash-line and ash sump, ash-line turning and replacing, draining flooded bilge, ash and ash crusher sumps.

Milling & Draught Plants

Scheduled and corrective maintenance work on the following parts of the milling and Draught plants and related components, including but not limited to:

- i. Cutting and welding of components.
- ii. Removal and/or replacement of components.
- iii. Assist with lifting activities.
- iv. Filling and draining of lubricants.
- v. Rotate spare fans in the plant.
- vi. Mill gearbox removal from plant and transport to the workshop.
- vii. Maintain cleanliness in these plant and across the power station.
- viii. Rotating of Spare fans and impellers in the plant and the warehouse.

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station**Boiler & Turbine Plants**

Any Mechanical work on these plants and the related components including but not limited to:

- i. Cutting and welding of components.
- ii. Removal and/or replacement of components.
- iii. Assist with lifting activities.
- iv. Assist with maintenance on the plant that are still running e.g. the SO3 boilers
- v. Filling and draining of lubricants.

Water Treatment Plant

1.1 Carry out Schedule Maintenance, Corrective Maintenance and Inspections on the following parts of plant:

- Terminal reservoirs — Mechanical Maintenance on the following but not limited to A and B main lines piping, valves and flow meters.
- Station — Mechanical Maintenance on the following, but not limited to A and B main lines piping and valves.
- Water Treatment Plant — Mechanical Maintenance on the following but not limited to, AA pumps, piping, valves and flow meters up to Station fence.
- Water Treatment Plant — Mechanical Maintenance on but not limited to raw water lines, valves and flow meters to clarifiers.
- Clarifiers — Mechanical Maintenance on but not limited to piping, valves, gearboxes, stirrers and scrapers.
- Flow Meter – All mechanical flow meters to be inspected, calibrated and maintained at all times
-

1.2 Service Water Systems

- WTP — Mechanical Maintenance on the following but not limited to, 8 x service water pumps, valves and piping.
- Station — Mechanical Maintenance on the following but not limited to, piping, strainers, valves, tundishes and orifices up to fore bays (aux cooling supply but excluding coolers)
-

1.3 Dosing Systems

- Mechanical Maintenance on all (WTP and units) dosing pump systems including pipe work

1.4 Fire System Water

WTP — Mechanical Maintenance on the following but not limited to Fire diesel engine, Electric booster pumps and fire jockey pump and all relevant valves and piping.

- Station — Mechanical maintenance and PM's on the following but not limited fire system piping, valves, sprinklers, detection and protection on all transformers, Turbines, Generators and Station Diesel engine.

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station**1.5 Potable water**

- WTP — Mechanical Maintenance on the following but not limited to sand filters, valves and piping.
- Mechanical Maintenance on the following but not limited to Potable pumps, valves and piping to station.
- Mechanical Maintenance and PM's on the following but not limited to potable sumps, valves, mechanical flow meters and piping.
- **Station** — Mechanical Maintenance on the following but not limited to Potable head tanks and relevant piping and valves.
- **3rd Party users** — Mechanical Maintenance on the following but not limited to all piping, valves and flow meters to 3rd party users up to the Station fence.

1.6 Diesel engines

- 1st line maintenance and test run of all diesel engines including Mechanical Maintenance on the following but not limited to all relevant piping and valves.

1.7 Effluent System and Station drains**Lakes Stoffel and Finn**

- All mechanical maintenance on the following but not limited to pumps, valves and piping in and out of the Dams.
- Mechanical Maintenance on the following but not limited to oil skimmers, drizit plant as well as all relevant piping, pumps and valves.

3rd Recovery Dam

- Mechanical Maintenance on the following but not limited to effluent lines to 3rd recovery dams including relevant valves and piping.
- Seepage water pumps
- Valve pits
- Boreholes and Manholes in and around Komati power station
- Cleaning of water treatment plant sumps and tanks

Raw Water dam

- Mechanical Maintenance on the following but not limited to raw water dams pipes

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station**Fuel Oil plant**

- All mechanical maintenance on the following but not limited to HP and LP pumps, valves, and supply and return piping from Fuel oil pump house to fuel oil regulating station and back.
- Mechanical Maintenance on the following but not limited to fuel oil off loading and transfer pumps, valves and piping to off-loading and storage tanks.
- Cleaning of strainers on HP, LP and transfer pumps.

1.11 Cooling towers

All mechanical maintenance on distribution piping inside cooling towers as well as cleaning of distribution pipes.

Mechanical Maintenance on drain valves from cooling towers and fore bays to Station drains.

Assist with cleaning of cooling tower ponds.

1.12 CW piping and ducts

All mechanical maintenance on CW ducts and valves excluding CW pumps, suction and discharge valves and condensers and coolers.

Mechanical maintenance on ADV strainers

1.13 Compressor plant and compressed air system including valves, pipework, and water traps etc.

All mechanical maintenance on components downstream the compressor plant going into various plants excluding all components in the compressor house.

All relevant statutory PM's on all statutory equipment including, but not limited to air receivers, driers and oil separators

Leak repairs on the compressed air system including but not limited to all pipework going to various plant components.

1.14 Reverse Osmosis (RO Plant)

Mechanical Maintenance on all components in the RO plant, including but not limited to pumps, flow meters, pipe work and filters.

1.15 Potable Reverse Osmosis (RO) Plant

Mechanical Maintenance on all components in the RO plant including but not limited to pumps, flow meters, pipe work and filters.

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station**1.16 Propane Gas System**

Mechanical Maintenance on all components on the Propane gas system but not limited to pipework, vessels etc.

Statutory testing of the vessels and any other vessels under pressure on this system.

Leak detection and repairs on the system.

1.18 Neutralization Plant

Mechanical Maintenance on the following but not limited to pumps, valves and piping from neutralization sump up to AWR.

Maintenance Operations Management software with the following capabilities:

- i. Complete and detailed asset register of all serviced equipment.
- ii. Plant equipment notification reported on the SAP Maintenance Management System.
- iii. On-demand reporting.
- iv. Detailed monthly reporting on all the above-mentioned data to be submitted to the Eskom Project Manager.
- v.

Note: Provide Authorized Responsible Persons on all plant on a 24 hours basis.

Staffing requirements:

Resource required	Specific requirements	Number required
Site Manager	<ul style="list-style-type: none"> Project manager with a PM/Technical qualification and 5 years management experience. B-Tech/BSc Mechanical Eng. Submit the certified copies of the highest qualification and the CV demonstrating the relevant experience in the Maintenance environment. Knowledge of SAP including but not limited to SAP Plant Maintenance and SAP Material Management. Plant knowledge in terms of the scope of work covered knowledge Safety procedures Must be able to conduct incident investigations To be able to conduct Risk assessments 	1
Site Supervisor - Rigging	Site Supervisor must have a minimum of N6 Mechanical qualification with trade test, a Certificate in Supervisory Course and 5 years working Experience on a Supervisory level in the Maintenance environment. LMI registered. Ability to be authorised as a Responsible Person under Eskom Plant safety Regulations	1
Riggers	Riggers should have minimum of N4 Certificate in Mechanical Engineering Rigging Filed, Trade test and 3 Years' Experience in the Power Station Maintenance environment	2
Rigger Assistance	Rigger assistance should have minimum 3 years with minimum grade 12/or standard 10.	2
Site	Site Supervisor must have a minimum of N6 Mechanical qualification with trade test, a Certificate in Supervisory Course and 5 years working Experience on a	1

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station

Supervisor	Supervisory level in the Power Station Maintenance environment.	
Artisan	Artisan should have minimum of N4 Certificate in Mechanical Engineering Filed, Trade test and 3 Years' Experience in the Power Station Maintenance environment with minimum 2 artisans previously authorised as Responsible Person in terms of Eskom Plant safety regulation with reference to Eskom Unique Number as proof of training also ability to be re-authorised as a Responsible Person under Eskom Plant safety Regulations and also plastic welding competency certificate.	4
Artisan Assistance	Artisan assistance should have minimum 3 years with minimum grade 12/or standard 10.	4
Planner	Planner should have a minimum of N6 Mechanical qualification with a trade test and 3 years' experience in the planning environment with the knowledge of SAP, Primavera and Microsoft Projects Power Station Environment.	1
Boiler Maker	3 years relevant experience with NQF level 3 qualification with trade test. Submit the certificate (copy) of the highest qualification and the CV demonstrating the relevant experience in Power Station Environment	1
Boiler Maker Assistance	Boiler Maker Assistance with minimum grade 12/or standard 10.	1
Welder	Welder to have must have Trade test certificate in Welding and N4 Welding Qualifications. Additional to this an A-Class welder should have 3 years welding experience and SAIW Level 2 Welding Certificate	1
Welder Assistance	Artisan assistance with minimum grade 12/or standard 10.	1

The *works* envisage these complementary services to improve plant and labour performance:

- Master planning
- Programming and scheduling
- Project management
- Procedure and documentation writing and review
- Operational and production process review

3.3 Work to be performed by the Contractor

3.3.1 Task Orders

The *Contractor* performs work in accordance with the prior issue of a Task Order from the *Service Manager* or his delegate and completes it within the time period as agreed to between the parties.

The *Contractor* also performs plant maintenance work; work on related outages after the issue of a Task Order. If requested the *Contractor* also develops procedures applicable to the performance of designated tasks and submits the procedures to the *Project Manager* for acceptance. All *works* provided comply with the standard specifications, procedures and Site regulations.

Should the *Contractor* be unable to supply the resources required to complete a Task Order within the period specified, he immediately notifies the *Service Manager* to this effect. The notification includes recommendations as to how the work can be completed.

3.3.2 Emergency work

Emergency work is work required when normal administration cannot be achieved and permits the *Contractor* to start work on a verbal instruction. The Task Order is confirmed in writing within 24 hours. The *Contractor*, without the prior issue of a Task Order, but upon the verbal instruction of the *Service Manager*,

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Provides the Work in an emergency. This may entail the *Contractor* securing a sub-Contractor to carry out the work.

3.3.3 Base crews and other resources

The base crew is supervised by the *Contractor*. Changes to the base crew are negotiated with the *Service Manager* and must be confirmed in writing.

The base crew shall have all applicable hand tools required for the works, and shall be certified to work on the applicable Plant and Equipment. The base crew is negotiated and agreed with the *Service Manager*. The number and mix of which may change from time to time with co-operation between the Parties. The base crew generally performs assigned inspections, planned and corrective maintenance and supplies maintenance documentation as per the *Employer's* Maintenance Management System (SAP).

The base crew may (to differing degrees) be involved in the following additional duties and/or activities:

- The writing and/or revising of station plant and work related instructions and procedures.
- The writing and/or revising of related quality control documents and programs.
- Condition and performance monitoring.
- Trouble shooting and problem solving.
- Attend plant related meetings where required (Works Management meetings, Occurrence Management meetings etc.)
- Plant checks and plant stand-by making for return to service requirements.
- Corrective and planned work that is best performed during plant shut downs including input regarding the scope, planning, and reports etc.
- The Contractor provides standby service outside normal working hours. Call outs for emergency work associated with the plant identified in the scope. The stand-by requirements and the call out response time shall not exceed one hour after receiving a call to the time when the standby person reports on site
- An agreed minimum number of persons on the permanent base crews, must be authorised Responsible Persons, to take out plant permits as per Eskom's Plant Safety Regulations, and such authorisation shall maintained through the term of this contract.
- During major maintenance tasks, overhauls, outages and project specific work the base crew staff may manage and co-ordinate these major maintenance tasks, outages and project specific work. During this time the *Contractor* may replace the base crew staff to ensure continuation of routine maintenance.
- During periods of lower work assignments, the Base Crew may execute other work assignments e.g. plan future outages, review maintenance instructions, perform general maintenance, etc.
- Major maintenance tasks, overhauls and project specific work may require additional resources on a temporary basis. The *Contractor* supplies these additional temporary resources after a Task Order for the project or work is issued to this effect

The *Contractor's* employees may be required to sign an ethics and non-disclosure agreement prior to providing the Work required by this contract.

The *Contractor's* base crew normal working hours are to (as closely as possible) match those of the *Employer's* maintenance department working hours (**minimum 40 hours per week**).

The *Contractor's* supervisor(s) of the base crew will be required to perform at least, but not limited to, the following duties:

- Report on a daily basis to the relevant *Employer's* *Service Manager* (or *Delegate*), or Outage Controller during outages, as required.
- Liaise with the *Employer's* various groups other than maintenance (such as Engineering and Operating etc.) with regard to identified potential problems, modifications etc., as required.
- Obtain authorisation as a Responsible Person, in terms of Eskom's Plant Safety Regulations.

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station**Overtime**

Overtime shall be approved by the *Service Manager* or his Delegate prior to the commencement of such overtime. For emergency work, where overtime is required, written approval shall be given within 24 hours after giving the notification to work. The *Service Manager* or Supervisor (Outage Controller/Shift Manager) is required to sign the *Contractor's* applicable time sheets upon completion of the overtime.

Overtime hours shall be governed by the Basic Conditions of Employment Act. The *Contractor* shall comply with all local and statutory labour laws (LRA, BCEA, UIF, etc.) and agreements and shall promptly attend to any labour grievances that may arise.

3.3.5 Management of Mechanical Equipment and Workshop Machinery

The *Contractor* ensures that an adequate and sufficient number of equipment, tools and lifting equipment are maintained in the *Employer's* stores, and the *Contractor* informs the *Service Manager* of changes required if any.

The *Contractor* to ensure ownership of the forklift which will be used to move equipment around e.g. pumps and valves and during any other rigging activities.

The *Contractor* recommends to the delegated *Service Manager* the optimal Mechanical Equipment and Tools that should be kept

- Develop and maintain an up to date mechanical equipment list.
- Carry out routine checks and advise the *Employer* on the status of Equipment.
- Perform quality checks on spares delivered at stores

3.3.6 Training

The *Contractor* trains the *Employer's* staff in technical maintenance requirements for the *works* if required.

The *Contractor* will provide a Responsible Person (authorised in terms of plant safety regulations) on the start date of the contract.

The *Employer* will provide SAP related and Plant Safety Regulations training, The *Employer* will only be liable for the training costs of initial courses. If the *Contractor's* employees fail the course, the cost to repeat the course will be for the *Contractor's* own account. The same applies if an employee of the *Contractor* resigns / re-allocates, the *Contractor* will train a new employee at his cost, inclusive of the employee's normal labour costs for the duration of the course.

The *Contractor* is to ensure a sufficient number of employees trained to compensate for the unavailability of employees.

All the employees of the *Contractor* must attend a Safety Induction Course, free of charge, before they will be allowed to work on the Site. It is the responsibility of the *Contractor* to ensure that all employees have attended the safety induction.

3.3.7 Quality assurance

The *Contractor* complies with the *Employer's* quality requirements, and all site regulations issued by the *Employer*.

Eskom Generation subscribes to an Integrated Business Improvement (IBI) approach. Through IBI the organisation strives to reduce error which might result in incidents or other performance deviations, in support of the Generation mandate. The *Contractor* shall support this approach by adhering to the Generation IBI Policy (GGPP 1355) and to the *Employer's* local procedures, policies, or instructions, related thereto.

The quality Control Programme must meet the Requirements of the Code of Practice for Quality Systems, ISO9001:2000.

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station

All Quality Control documentation is submitted to the *Employer's* Representative prior to starting with the work.

3.3.8 Environmental

All work complies with the relevant environmental regulations as required.

The *works* may include the use of some toxic or hazardous substances during normal and routine maintenance activities. In this case the *Contractor* uses such hazardous substances in accordance with the applicable regulations and procedures and are disposed of by the *Contractor* in accordance with the applicable law. The *Contractor* shall not use, remove or in any way deal with asbestos.

4 Work and things supplied by the Employer**4.1 General**

Workshop facilities will be supplied by the *Employer*. Unless otherwise agreed to the contrary, the *Employer* does not supply accommodation and feeding facilities for the *Contractor*, the *Contractor's* employees or their families.

The *Employer's* computerised maintenance management system (SAP) is used for all planned maintenance, defects, and history recording etc. The *Employer* will provide Plant Safety Regulations training to the *Contractor*.

The Workshop, complete with:

- Store Room, Offices, Ablution facilities, Kitchen and Tearoom.
- Workshop heaters
- Work benches
- Overhead Crane
- Compressed Air supply
- 220V and 380V power supplies
- Potable water
- Common ablution facilities
- Telecommunication connection and telephone (instrument), usage costs for the *Contractor's* account
- LAN connection points
- Desktop computer hardware (number to be agreed upon) loading with the *Employer's* supplied software.
- Office Equipment
- Radios: the contractors need to motivate their specific hand-held radio requirement to the *Service Manager*, who, if approved, will issue an agreed number of radios to the *Contractor*.
- Office furniture
- Equipped kitchen (fridge and microwave)
- Tearoom furniture
- Change room lockers

The *Employer* does not guarantee continuity of water and electricity supply and no claims for standing time as a result of water shortages or power failure will be considered.

A written request, indicating the *Contractor's* requirements is submitted to the *Supervisor/Service Manager* as soon as possible after the Contract Date.

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station**4.2 Task Orders**

The *Service Manager* issues a Task Order to the *Contractor* which specifies clearly the work to be provided, additional specifications and procedures and any other constraints the *Contractor* complies with in providing the works. The Task Order is issued before the *Contractor* provides the work.

Should resources additional to the base crew be required to complete the Task Order, the order includes the agreed forecast of the additional resources and the dates of completion

4.3 Emergency work

The *Service Manager* may issue a verbal instruction to the *Contractor* to undertake emergency work. This verbal instruction is confirmed in writing within 24 hours from when the instruction is issued.

4.4. Key persons

Key persons may be mutually agreed upon between the Parties. Such key persons can only be replaced by mutual agreement between the *Contractor* and the *Employer's Site Service Manager*.

In the absence of any of the *Contractor's* key persons for any reason the *Contractor* shall ensure that provision of the works is not affected by making available suitably qualified replacements

5. Programme and Planning

The *Contractor* submits a programme of durations to the *Service Manager*, the *Service Manager* reviews the programme and agrees with the *Contractor* on durations and the *Contractor* adheres to the agreed programmes. Should the *Service Manager* not agree with the *Contractor* regarding the durations on the programme, the *Contractor* reviews the programme and re-submits the programme according to the *Service manager* and the *Contractor's* agreement.

The *Contractor* submits the programme of durations to the *Service Manager* within 24 hours for every activity planned except for emergent work. In the case of Emergent work, the *Contractor* submits the programme of durations to the *Service Manager* within 3 hours of the breakdown.

The *Contractor* adheres to the *Employer's* maintenance planning system (SAP). All defects and potential failures will be recorded on the *Employer's* maintenance planning system (SAP). Defects are listed and corrective actions planned according to priority. Where a Permit to Work is required the work will be planned in conjunction with the relevant Production Manager.

The *Contractor's* is expected to make use of software project management tools to assist them in the planning and scheduling of their work load and have the functionality to provide the *Employer* with a project plan, in the event of an outage, or a schedule of work for day-to-day activities.

In the event of an outage or project related work, the original duration, remaining duration, back log, delays experienced etc, are to be clearly reflected in a general planning report.

The *Employer's Supervisor* shall meet with the *Contractor* on a daily basis to discuss the activity list that must be performed. The *Contractor* shall be required to perform these activities in accordance with all relevant information, guidelines and restrictions contained in each work package, and report back to the Supervisor on a daily basis.

Completion of each activity shall consist of the closing of the completed activity on the *Employer's* Computerised Maintenance Management System, and the receipt by the *Employer* of the written record of the activity as completed by the *Contractor*.

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station**6. Site services, procedures and Site regulations****6.1 General**

The *Employer* provides water, power, compressed air, sanitation, garbage collection and any other services that may be applicable to provide the Work on or near the Working Areas. The *Contractor* pays for all medical facilities, first aid and telecommunication facilities.

The *Employer* allows the *Contractor* to use Overhead Cranes and Hoists, provided the *Contractor's* employee is an authorised Lifting Machine operator.

The *Contractor* complies with all site regulations issued by the *Service Manager*.

6.2. Constraints on how the Contractor provides the works

6.2.1 Work is done inside and around the Power Station

6.2.2. Technicians and Artisans or any other skill on request must supply a copy of accreditation before commencement of work for approval by the *Employer*.

6.2.3. Komati uses various Service Providers to carry out maintenance and there will be interfaces amongst Service Providers that will be required

6.3 Security Arrangement**Security Arrangement in concordance with Komati Power Station Reference PAB20028**

- a) The *Contractor* applies for permits at the Security gate, prior to the starting date.
- b) All *Contractors'* personnel will be issued with a temporary access permit, which will contain the following information:
 - Name.
 - ID Number.
 - Company.
 - Validity date.
- c) In order to assist Protective Services with the using of permits and the identification of the personnel on site, the *Contractor* is to supply a list of all personnel that he intends using on site, at least 24-hours prior to entry of the Security Area. The list, identified with the *Contractor's* name, is to contain the following information:
 - Employee name.
 - Employee ID number.
 - *Employer's Service Manager* Signature.
 - Copy of the first page of the ID book of every employee of the *Contractor*.
- d) The *Contractor* personnel will be required to be in possession of their *Contractor's* permit at all times. All *Contractors'* permits must be submitted to Protective Service when the relevant personnel leave the site after completion of the works.
The *Contractor's* visitors and all personnel conform at all times, to the security arrangements in force at the time.
- e) No unauthorized vehicles are allowed on site. Only *Contractor's* vehicles with displayed contract vehicle permit disks will be allowed on site. Contract vehicle Permit Applications should be directed to the *Employer's* Representative.

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station

- f) The Contractor is restricted to the working areas associated with his place of work. The Contractor is forbidden to enter any other areas, and must ensure that his employees abide by these regulations.
- g) Lost or damaged permits may be re-issued at a cost to be paid to the Employer by the Contractor.
- h) Road sign's and the speed limit on site are adhered to. Vehicles may only be parked in designated areas.
- i) Personnel and vehicles entering and leaving the Site are subject to routing searches.
- j) Cameras including cell phones with camera facilities must be declared and handed in at the Security reception.
- k) No fire arms, Ammunition or explosives are allowed on the Power Station premises.
- l) No recruiting of casual Labour may be done on the Power Station premises, including the immediate area outside the Power station security gate.

The *Employer* provides electrical power from an existing distribution point to the *Contractor* for the purpose of construction. The *Contractor* is responsible for all connections and cable from the supply point. 220V supply is available, however continuous supply is not guaranteed.

The *Employer* supplies, free of charge, reasonable quantities of potable water required for the purposes of this contract from the existing taps. The *Contractor* provides, at his own cost, all connection fittings, pipe work, temporary plumbing, and pumps necessary to lead the water from the *Employer's* points of supply to the various points where it is required. The *Contractor* further maintains and removes these on completion of the contract.

A Medical Station, Fire Protection and Rescue Service are available on site during normal working hours at a cost to be agreed to with the various services and through consultation with the *Service Manager*.

Outside the *Employer's* office hours, the *Employer's* First Aid Service is available on standby. The *Employer* is entitled, however, to recover the cost incurred for the use of the above facilities from the *Contractor*.

The *Contractor* must ensure that all his personnel attend a Health and Safety Induction Course presented by the Power station free of charge prior to commencement with the Works. This is a three (3) hour course and is valid for the duration of one (1) year at the Power Station.

Employer's Health and Safety Requirements:

In carrying out obligations to the *Employer* in terms of this contract; in providing the *works*; in using Plant, Materials and Equipment; and while at the Site for any reason, the *Contractor* complies and procures and ensures the compliance by its employees, agents, Subcontractors and mandatories with:

The provisions of the Occupational Health and Safety Act 85 of 1993 (as amended) and all regulations in force from time to time in terms of that Act ("the OHSA"); and

The Eskom "Safety, Health and Environmental Requirements for Contractors" document attached to the Works Information (as amended from time to time) and such other Eskom Safety Regulations as are applicable to the Works and are provided in writing to the Contractor (collectively "the Eskom Regulations"). The Eskom Regulations may be amended from time to time by the Employer and all amendments will be provided in writing to the *Contractor*. The Contractor complies with the provisions of the latest written version of the Eskom Regulations.

The health and safety plan prepared by the *Contractor* in accordance with the SHEQ Requirements.

(The OHSA and the Eskom Regulations are collectively referred to as the "SHEQ Requirements".) The Contractor, at all times, considers itself to be the "Employer" for the purposes of the OHSA and shall not consider itself under the supervision or management of the Employer with regard to

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station

compliance with the SHEQ Requirements, the Contractor shall furthermore not consider itself to be a subordinate or under the supervision of the Employer in respect of these matters. The Contractor is at all times responsible for the supervision of its employees, agents, Subcontractors and mandatories and takes full responsibility and accountability for ensuring they are competent, aware of the SHEQ Requirements and execute the Works in accordance with the SHEQ Requirements.

The *Contractor* ensures that all statutory appointments and appointments required by any Eskom Regulations are made and that all appointees fully understand their responsibilities and is trained and competent to execute their duties. The Contractor supervises the execution of their duties by all such appointees.

The Employer, or any person appointed by the Employer, may, at any stage during the currency of this contract:

- Conduct health and safety audits regarding all aspects of compliance with the SHEQ Requirements, at any off-site place of work, or the site establishment of the Contractor;
- refuse any employee, Subcontractor or agent of the Contractor access to the premises if such person has been found to commit an unsafe act or any unsafe working practice or is found not to be qualified or authorised in terms of the SHEQ Requirements;
- Issue the Contractor with a stop order should the Employer become aware of any unsafe working procedure or condition or any non-compliance with any provision of the SHEQ Requirements.
- The Contractor immediately reports any disabling injury as well as any threat to health or safety of which it becomes aware at the Works or on the Site to the Project Manager.
- The Contractor appoints a person, qualified in accordance with the SHEQ Requirements, as the liaison with the Eskom Safety Officer for all matters related to health and safety, this person shall be contactable 24 hours a day.

The Contractor confirms that it has been provided with sufficient written information regarding the health and safety arrangements and procedures applicable to the Works to ensure compliance by it and all employees, agents, Subcontractors or mandatories with the SHEQ Requirements while providing the Works in terms of this contract. As such, the Contractor confirms that this contract and the relevant Eskom Regulations referred to in this contract constitute written arrangements and procedures between the Contractor and the Employer regarding health and safety for the purposes of section 37(2) of the OHSA.

The Contractor agrees that the Employer is relieved of any and all of its responsibilities and liabilities in terms of Section 37(1) of OHSA in respect of any acts or omissions of the Contractor, and the Contractor's employees, agents or Subcontractors, to the extent permitted by the OHSA.

The Contractor hereby indemnifies the Employer and holds the Employer harmless in respect of any and all loss, costs, claims, demands, liabilities, damage, penalties or expense that may be made against the Employer and/or suffered or incurred by the Employer (as the case may be) as a result of, any failure of the Contractor, its employees, agents, Subcontractors and/or mandatories to comply with their obligations in terms of this clause 18, and/or the failure of the Employer to procure the compliance by the Contractor, its employees, agents, Subcontractors and/or mandatories with their responsibilities and/or obligations in terms of or arising from the OHSA.

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station**6.4 Safety**

The *Contractor* complies with the Occupational Health and Safety Act, 1993, (the Act) the Employers Plant Safety Regulations GGR 0992, and all Safety procedures issued by the *Employer*. All Responsible Persons in terms of the Plant Safety Regulations are required to be in possession of arc flash protection suites. The cost for the suites will be for the *Contractor's* account and should be included in the Contractor's offer. Washing of the suites will be in accordance with the *Employer's* procedure.

The *Contractor* employs only people who have received sufficient training to ensure that they comply with the Act.

The *Contractor* appoints a person who liaises with the *Employer's* designated Safety Officer. The appointed person, on the request of the *Service Manager*.

- Undertakes safety audits at the Site and on the *Contractor's* employees.
- Refuses any employee, Sub-Contractor or agent of the *Contractor* access to the Site if such person is found to commit any unlawful act or any unsafe working practice or is found to be not authorised or qualified in terms of the Act.
- Issues the *Contractor* with a work stop order should he become aware of any unsafe working procedure or conditions of non-compliance with the Act, Regulations and Procedures by the *Contractor*, Sub-Contractors or agents.

The *Contractor* attends the *Employer's* safety meetings (monthly for base crew and weekly during outages).

The *Employer* follows an accident prevention policy that includes the investigation of all accidents involving personnel and property. This is done with the intention of introducing control measures to prevent a recurrence of the same incidents. The *Contractor* is expected to co-operate fully to achieve this objective. The *Employer's* must be informed immediately of any injuries or damage to property or equipment.

7 Financial**7.1 Payment**

In terms of core clause 50 the *Contractor* assesses the amount due and applies to the *Employer* for payment. The *Contractor* applies for payment with a tax invoice addressed to the *Employer* as follows:

The *Contractor* includes the following information on each tax invoice:

Name and address of the *Contractor*

The contract number and title;

Contractor's VAT registration number;

The *Employer's* VAT registration number 4740101508;

The total Price for Work Done to Date which the *Contractor* has completed;

Other amounts to be paid to the *Contractor*;

Less amounts to be paid by or retained from the *Contractor*;

The change in the amount due since the previous payment being the invoiced amount - excluding VAT, the VAT and including VAT;

(add other as required)

The *Contractor* attaches the detail assessment of the amount due to each tax invoice showing the Price for Work Done to Date for each item in the Price List for work which he has completed.

Invoices should be submitted directly to the Accounts Payable of the Employer, not to the Contract Manager or Contract Supervisor. Invoices to reach Account Payable before the last day of each month, preferable as soon as the assessment is finished, the invoice must be submitted.

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station**8. Records and information**

Either Party may request the other to provide free of charge non third party technical information and general arrangement drawings, operational and maintenance histories, operating advisory information, quality assurance and control records, copies of job reports, general arrangement drawings and sketches of modifications or repair procedures, technical procedures or any other matter of like kind for work being done under this contract, excluding proprietary information.

Both Parties shall allow access to their facilities as requested by the other Party within the control procedures of both organisations. All records and information shall be retained for the duration of this contract.

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

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

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station**APPENDIX A****POLICIES, PROCEDURES AND STANDARDS ETC**

The Contractor undertakes the works in accordance with the appropriate Policies, Procedures, and Standards agreed with the Employer, including but not limited to:

32-7	Quality Management Policy
	SABS ISO 9001:2000 Quality Management Systems – Requirements
32-94	Safety, Health and Environment (SHE) Policy
32-95	Procedure for the Effective Management of Safety, Health and Environmental Related Incidents
32-96	Environmental Procedure: Environmental Control Document
32-421	Eskom Cardinal Rules
GGPP 1355	IBI: Prevention and Improvement
GGP 1495	Generation Strategic Spares Health Programme
GGR 0992	Eskom Plant Safety Regulations

Occupational Health & Safety Act No 85 of 1993 (and amendments)

Komati Specific Documentation

Copies of the *Employer's* specific documentation such as policies, standards, procedures, etc. applicable to the Works are available from the *Employer's* Documentation Centre (see contact details below). The Contractor takes note that any such copies obtained are subject to regular revision and possible change. Further, the documentation pack is still in the development phase, thus the documentation specified in the table below is not definitive.

The *Employer* subscribes to the Generation Division Plant Management Fundamental Policies. A series of the *Employer's* specific documentation will flow from this subscription. It is expected that the Contractor supports and complies with these policies and the supporting documentation and future documentation flowing from it, the policies being:

GGPP 0592	Plant Classification
GGPP 0600	Inspection and Test Plans
GGPP 0597	Maintenance Quality Control
GGPP 0598	Procurement and Material Control
GGPP 0593	Maintenance History
GGPP 0594	Modification Control
GGPP 0599	Design Control
GGPP 0596	Operating Technical Specifications
GGPP 0595	Configuration Management

Other documentation and statutes that must be complied with:

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station

OHS Act	Occupational Health and Safety Act
MS 20099	Komati Power Station Safety, Health and Environmental Standards
	Technical Services Group Quality Management Procedure
PAB20266	Testing for gasses in confined spaces
PAB19977	Standard Isolations low Voltage and Mechanical Plant
PAB20045	Hot Work Approval System
PAB20436	Radio Handover Process
PAB20417	Work team Sessions
GGPP0975	Generation Asset Management
GGG1283	Materials Control
GGR0992	Plant Safety Regulations
PAB 20100	Waste Management and Disposal Procedure
PAB20241	Komati Power Station Modification Management
GGG0774	Training, Testing and Authorisation of personnel operating under statutory and Eskom Health and Safety Requirements
PAB20240	Komati Power Station Occurrence Management
GGG 0715	Milling Costs Collection

Note: The list of documents and content that must be complied with will change over time. It is expected that the Contractor familiarise himself with the changes and comply where relevant.

APPENDIX B**ACCEPTANCE**

This document has been seen and accepted by:

Name	Designation
Alpheus Digoro	Mechanical Maintenance Manager
Bongani Mashimbye	Maintenance/Engineering Manager

DEVELOPMENT TEAM

Not Applicable

ACKNOWLEDGEMENTS

Not Applicable

Provision of Mechanical Maintenance Services for period of 36 Months at Komati Power Station

1. List of drawings

2. 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