



## NEC3 Term Service Contract (TSC3)

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

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

for [•]

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

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**CONTRACT No. [Insert at award stage]**

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## **PART C1: AGREEMENTS & CONTRACT DATA**

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

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# C1.1 Form of Offer & Acceptance

**Offer**

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

**Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week,24 hours per day for five (5) Years.**

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

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

Options A	The offered total of the Prices exclusive of VAT is	
	Sub total	<b>R</b>
	Value Added Tax @ 15% is	<b>R</b>
	The offered total of the amount due inclusive of VAT is <sup>1</sup>	<b>R</b>
	(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:

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

PROJECT OR CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

**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.

PROJECT OR CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week,24 hours per day for five (5) Years.**

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

Note:

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

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

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

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

**For the tenderer:**

**For the Employer**

Signature .....

.....

Name .....

.....

Capacity .....

.....

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

*(Insert name and address of organisation)*

Name & signature of witness .....

.....

Date .....

.....

# 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	<b>General</b>	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:  <div style="background-color: #cccccc; width: 80px; height: 60px; margin-bottom: 5px;"></div> dispute resolution Option and secondary Options  <div style="background-color: #cccccc; width: 80px; height: 20px; margin-bottom: 5px;"></div>  <div style="background-color: #cccccc; width: 80px; height: 20px; margin-bottom: 5px;"></div>	<b>A: Priced contract with price list</b>  <b>W1: Dispute resolution procedure</b>  <b>X1: Price adjustment for inflation</b> <b>X2: Changes in the law</b>  <b>X17: Low service damages</b> <b>X18: Limitation of liability</b> <b>X19: Task Order</b>  <b>Z: Additional conditions of contract</b>
	of the NEC3 Term Service Contract April 2013 <sup>2</sup> (TSC3)	
10.1	The <i>Employer</i> is (name):  Address  Tel No.  Fax No.	<b>Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg</b>  [•]  [•]

<sup>2</sup> Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 539 1902 [www.ecs.co.za](http://www.ecs.co.za)

PROJECT OR CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week,24 hours per day for five (5) Years.**

10.1	The <i>Service Manager</i> is (name):	
	Address	<b>Matla Power station Delmas Road Kriel 2271</b>
	Tel	<b>017 612 6860</b>
	Fax	
	e-mail	
11.2(2)	The Affected Property is	<b>Matla Power Station Ash and Dust Plant</b>
11.2(13)	The <i>service</i> is	<b>Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week,24 hours per day for five (5) Years.</b>
11.2(14)	The following matters will be included in the Risk Register	<b>Unprotected strike</b>
11.2(15)	The Service Information is in	<b>Part 3: Scope of Work and all documents and drawings to which it makes reference.</b>
12.2	The <i>law of the contract</i> is the law of	<b>the Republic of South Africa</b>
13.1	The <i>language of this contract</i> is	<b>English</b>
13.3	The <i>period for reply</i> is	<ul style="list-style-type: none"> <li>• <b>Three (3) working days after notification</b></li> <li>• <b>Twenty-four (24) hours in case of emergency</b></li> </ul>
2	<b>The Contractor's main responsibilities</b>	<b>Data required by this section of the core clauses is also provided by the Contractor in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data</b>
21.1	The <i>Contractor</i> submits a first plan for acceptance within	<b>One (1) week of the Contract Date</b>
3	<b>Time</b>	
30.1	The <i>starting date</i> is.	<b>TBC</b>
30.1	The <i>service period</i> is	<b>Five (5) Years</b>
4	<b>Testing and defects</b>	<b>Refer to Clause 4 of the NEC3 TSC.</b>
5	<b>Payment</b>	
50.1	The <i>assessment interval</i> is	<b>between the [25] day of each successive month.</b>
51.1	The <i>currency of this contract</i> is the	<b>South African Rand</b>
51.2	The period within which payments are made is	<b>Sixty (60) days as per the Finance procedure</b> <b>ATTENTION: Eskom's standard policy on payment</b>

		term for all contracts valued above R50 000 0000 (Fifty Million Rand), including VAT, is 60 days. Bidders are requested to bear this payment term in mind when submitting bids and concluding contracts
51.4	The <i>interest rate</i> is	the publicly quoted prime rate of interest (calculated on a 365-day year) charged by from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands and  (.
<b>6</b>	<b>Compensation events</b>	Refer to Clause 6 of the NEC3 TSC.
<b>7</b>	<b>Use of Equipment Plant and Materials</b>	Refer to Clause 7 of the NEC3 TSC.
<b>8</b>	<b>Risks and insurance</b>	Refer to Clause 8 of the NEC3 TSC.
80.1	These are additional <i>Employer's</i> risks	<ol style="list-style-type: none"> <li>1. Participating on the unprotected strike</li> <li>2. Failure to maintain the good housekeeping</li> </ol>
<b>9</b>	<b>Termination</b>	Refer to Clause 9 of the NEC3 TSC
<b>10</b>	<b>Data for main Option clause</b>	
<b>A</b>	<b>Priced contract with price list</b>	
20.5	The <i>Contractor</i> prepares forecasts of the final total of the Prices for the whole of the <i>service</i> at intervals no longer than	<b>Two (2) weeks.</b>
<del>20.4</del>		
<del>20.4</del>		
<b>11</b>	<b>Data for Option W1</b>	
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 <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a> ). 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: <b>the Chairman of ICE-SA a joint Division of the South African Institution of Civil Engineering and the Institution of Civil Engineers (London) (see <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a> ) or its successor body.</b>
W1.4(2)	The <i>tribunal</i> is: <b>arbitration</b>
W1.4(5)	The <i>arbitration procedure</i> is <b>the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.</b>
	The place where arbitration is to be held is <b>[•]Johannesburg South Africa</b>
	The person or organisation who will choose an arbitrator
	- if the Parties cannot agree a choice or
	- if the arbitration procedure does not state who selects an arbitrator, is <b>the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.</b>

**12 Data for secondary Option clauses**

<b>X1</b>	<b>Price adjustment for inflation</b>																					
X1.1	<p>The <i>base date</i> for indices is <b>July 2025</b></p> <p>The proportions used to calculate the Price Adjustment Factor are:</p> <p>The contract will be fixed and firm for Sixteen Months Months(16) and thereafter will escalate according to the SEIFSA tables</p> <table border="1"> <tr> <td>proportion</td> <td>linked to index for</td> <td>Index prepared by</td> </tr> <tr> <td>0.</td> <td><b>Cleaning Section Labour Fixed</b></td> <td><b>SEISFA Table C3</b></td> </tr> <tr> <td>0.</td> <td><b>Machinery Section Machinery Fixed</b></td> <td><b>SEISFA Table P2</b></td> </tr> <tr> <td>0.</td> <td><b>Preliminary and General Section</b></td> <td></td> </tr> <tr> <td>0.</td> <td><b>Transport Fixed</b></td> <td><b>SEISFA Table L2</b></td> </tr> <tr> <td>0.</td> <td><b>CPI Fixed</b></td> <td><b>SEISFA Table D</b></td> </tr> <tr> <td colspan="3"><b>100%</b></td> </tr> </table>	proportion	linked to index for	Index prepared by	0.	<b>Cleaning Section Labour Fixed</b>	<b>SEISFA Table C3</b>	0.	<b>Machinery Section Machinery Fixed</b>	<b>SEISFA Table P2</b>	0.	<b>Preliminary and General Section</b>		0.	<b>Transport Fixed</b>	<b>SEISFA Table L2</b>	0.	<b>CPI Fixed</b>	<b>SEISFA Table D</b>	<b>100%</b>		
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<b>100%</b>																						
<b>X2</b>	<b>Changes in the law</b>																					
	<b>There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.</b>																					
<b>X13</b>	<b>Performance bond</b>																					
X13.1	The amount of the performance bond is																					
<b>X17</b>	<b>Low service damages</b>																					

X17.1	The <i>service level table</i> is in	
- <b>Low service damage Description</b>	- <b>Value of Low Serve Damage</b>	- <b>Limits of Low Service Damage</b>
Rework due to poor workmanship	- 2% of Task order per day	- Limited to 10% of the Task Order value
Daily Progress updated program	- 0.5% of Task Order per day	- Limited to 10% of the Task Order value
Failure to respond to NCR withing three (3) days	- 1% of Task order per day	- Limited to 10% of the Task Order value
Audit findings on poor Housekeeping	- 0.5% of Task Order per day	- Limited to 10% of the Task Order value
Submission of documents as per agreed upon CDSS in this service agreement	- 1% of Task order per day	- Limited to 10% of the Task Order value
<b>X18</b>	<b>Limitation of liability</b>	
X18.1	The <i>Contractor's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to	<b>R0.0 (zero Rand)</b>
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	<b>the amount of the deductibles relevant to the event</b>
X18.3	The <i>Contractor's</i> liability for Defects due to his design of an item of Equipment is limited to	<b>The greater of</b> <ul style="list-style-type: none"> <li>• the total of the Prices at the Contract Date and</li> <li>• 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</li> </ul>
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	<b>the total of the Prices other than for the additional excluded matters.</b>  <b>The <i>Contractor's</i> total liability for the additional excluded matters is not limited.</b>  <b>The additional excluded matters are amounts for which the <i>Contractor</i> is liable under this contract for</b> <ul style="list-style-type: none"> <li>• Defects due to his design, plan and specification,</li> <li>• Defects due to manufacture and fabrication</li> </ul>

X18.5	The <i>end of liability date</i> is	<p>outside the <b>Affected Property</b>,</p> <ul style="list-style-type: none"> <li>• <b>loss of or damage to property (other than the <i>Employer's</i> property, Plant and Materials),</b></li> <li>• <b>death of or injury to a person and</b></li> <li>• <b>infringement of an intellectual property right.</b></li> </ul> <p><b>2 months after the end of the <i>service period</i>. After completion of Task Order.</b></p>
<b>X19</b>	<b>Task Order</b>	
X19.5	The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within	<b>5 days of receiving the Task Order</b>
<b>Z</b>	<b>The <i>additional conditions of contract</i> are</b>	<b>Z1 to Z14 always apply.</b>

**Z1 Cession delegation and assignment**

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

**Z2 Joint ventures**

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

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

- Z3.1 Where a change in the *Contractor's* legal status, ownership or any other change to his business composition or business dealings results in a change to the *Contractor's* B-BBEE status, the *Contractor* notifies the *Employer* within seven days of the change.
- Z3.2 The *Contractor* is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the *Service Manager* within thirty days of the notification or as otherwise instructed by the *Service Manager*.
- Z3.3 Where, as a result, the *Contractor's* B-BBEE status has decreased since the Contract Date the *Employer* may either re-negotiate this contract or alternatively, terminate the *Contractor's* obligation to Provide the Service.

PROJECT OR CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

- Z3.4 Failure by the *Contractor* to notify the *Employer* of a change in its B-BBEE status may constitute a reason for termination. If the *Employer* terminates in terms of this clause, the procedures on termination are P1, P2 and P4 as stated in clause 92, and the amount due is A1 and A3 as stated in clause 93.

## **Z4 Confidentiality**

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

## **Z5 Waiver and estoppel: Add to core clause 12.3:**

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

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

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

PROJECT OR CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

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**

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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.

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**Z9 Employer's limitation of liability**

Z9.1 The *Employer's* liability to the *Contractor* for the *Contractor's* indirect or consequential loss is limited to R0.00 (zero Rand)

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

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

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

**Z11 Ethics**

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

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

**Coercive** means to harm or threaten to harm, directly or indirectly, an Affected Party or the

PROJECT OR CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week,24 hours per day for five (5) Years.**

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

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

**Z12 Insurance**

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

- Insurance cover** 83
  - 83.1 When requested by a Party, the other Party provides certificates from his insurer or broker stating that the insurances required by this contract are in force.
  - 83.2 The *Contractor* provides the insurances stated in the Insurance Table A from the *starting date* until the earlier of Completion and the date of the termination certificate.

**INSURANCE TABLE A**

Insurance against	Minimum amount of cover or minimum limit of indemnity
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PROJECT OR CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week,24 hours per day for five (5) Years.**

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	<b><u>Loss of or damage to property</u></b> The replacement cost  <b><u>Bodily injury to or death of a person</u></b> 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

**INSURANCE TABLE B**

<b>Insurance against or name of policy</b>	<b>Minimum amount of cover or minimum limit of indemnity</b>
Assets All Risk	Per the insurance policy document

PROJECT OR CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

Contract Works insurance	Per the insurance policy document
Environmental Liability	Per the insurance policy document
General and Public Liability	Per the insurance policy document
Transportation (Marine)	Per the insurance policy document
Motor Fleet and Mobile Plant	Per the insurance policy document
Terrorism	Per the insurance policy document
Cyber Liability	Per the insurance policy document
Nuclear Material Damage and Business Interruption	Per the insurance policy document
Nuclear Material Damage Terrorism	Per the insurance policy document

### Z13 Nuclear Liability

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

### Z14 Asbestos

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

- AAIA** means approved asbestos inspection authority.
- ACM** means asbestos containing materials.
- AL** means action level, i.e. a level of 50% of the OEL, i.e. 0.1 regulated asbestos fibres per ml of air measured over a 4 hour period. The value at which proactive actions is required in order to control asbestos exposure to prevent exceeding the OEL.
- Ambient Air** means breathable air in area of work with specific reference to breathing zone, which is defined to be a virtual area within a radius of approximately 30cm from the nose inlet.

PROJECT OR CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

<b>Compliance Monitoring</b>	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.
<b>OEL</b>	means occupational exposure limit.
<b>Parallel Measurements</b>	means measurements performed in parallel, yet separately, to existing measurements to verify validity of results.
<b>Safe Levels</b>	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.
<b>Standard</b>	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.
<b>SANAS</b>	means the South African National Accreditation System.
<b>TWA</b>	means the average exposure, within a given workplace, to airborne asbestos fibres, normalised to the baseline of a 4 hour continuous period, also applicable to short term exposures, i.e. 10-minute TWA.

- Z14.1 The *Employer* ensures that the Ambient Air in the area where the *Contractor* will Provide the Services conforms to the acceptable prescribed South African standard for asbestos, as per the regulations published in GNR 155 of 10 February 2002, under the Occupational Health and Safety Act, 1993 (Act 85 of 1993) ("Asbestos Regulations"). The OEL for asbestos is 0.2 regulated asbestos fibres per millilitre of air as a 4-hour TWA, averaged over any continuous period of four hours, and the short term exposure limit of 0.6 regulated asbestos fibres per millilitre of air as a 10-minute TWA, averaged over any 10 minutes, measured in accordance with HSG248 and monitored according to HSG173 and OESSM.
- Z14.2 Upon written request by the *Contractor*, the *Employer* certifies that these conditions prevail. All measurements and reporting are effected by an independent, competent, and certified occupational hygiene inspection body, i.e. a SANAS accredited and Department of Employment and Labour approved AAIA. The *Contractor* may perform Parallel Measurements and related control measures at the *Contractor's* expense. For the purposes of compliance the results generated from Parallel Measurements are evaluated only against South African statutory limits as detailed in clause Z14.1. Control measures conform to the requirements stipulated in the AAIA-approved asbestos work plan.
- Z14.3 The *Employer* manages asbestos and ACM according to the Standard.
- Z14.4 In the event that any asbestos is identified while Providing the Services, a risk assessment is conducted and if so required, with reference to possible exposure to an airborne concentration of above the AL for asbestos, immediate control measures are implemented and relevant air monitoring conducted in order to declare the area safe.
- Z14.5 The *Contractor's* personnel are entitled to stop working and leave the contaminated area forthwith until such time that the area of concern is declared safe by either Compliance Monitoring or an AAIA approved control measure intervention, for example, per the emergency asbestos work plan, if applicable.
- Z14.6 The *Contractor* continues to Provide the Services, without additional control measures presented, on presentation of Safe Levels. The contractually agreed dates to Provide the Services, including the Completion Date, are adjusted accordingly. The contractually agreed dates are extended by the notification periods required by regulations 3 and 21 of the Asbestos Regulations, 2001.
- Z14.7 Any removal and disposal of asbestos, asbestos containing materials and waste, is done by a

PROJECT OR CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

registered asbestos contractor, instructed by the *Employer* at the *Employer's* expense, and conducted in line with South African legislation.

# C1.2 Contract Data

## Part two - Data provided by the Contractor

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

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

**Notes to a tendering contractor:**

1. Please read both the both the NEC3 Term Service Contract April 2013 and the relevant parts of its Guidance Notes (TSC3-GN)<sup>3</sup> 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:	

<sup>3</sup> Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 5391902 or [www.ecs.co.za](http://www.ecs.co.za)

PROJECT OR CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

Job

Responsibilities:

Qualifications:

Experience:

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

<b>A</b>	<b>Priced contract with price list</b>
11.2(12)	The <i>price list</i> is in <b>Rands</b>
11.2(19)	The tendered total of the Prices is <b>R</b>
<b>C</b>	<b>Target contract with price list</b>
11.2(12)	The <i>price list</i> is in
11.2(20)	The tendered total of the Prices is <b>R</b>
<b>E</b>	<b>Cost reimbursable contract</b>
11.2(12)	The <i>price list</i> is in

## 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.

PROJECT OR CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week,24 hours per day for five (5) Years.**

**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.

PROJECT OR CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week,24 hours per day for five (5) Years.**

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 200\_

Signature(s)

Name(s) (printed)

Position in parent company

Signature of Witness(s)

Name(s) (printed)

PROJECT OR CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

## 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]

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 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]
  - 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 “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].
  - 1.6 “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
  - 1.7 “Guaranteed Sum” - means the sum of R [●] ([●] Rand);
  - 1.8 “Services” - means [insert as applicable.].
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 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.
3. A demand for payment under this guarantee shall be made in writing at the Bank’s address and shall:
  - 3.1 be signed on behalf of Eskom by a Group Executive, Divisional Executive, Senior General Manager or its delegate;

**PROJECT OR CONTRACT TITLE: Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

- 3.2 state the amount claimed ("the Demand Amount");
- 3.3 state that the Demand Amount is payable to Eskom 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 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 Eskom and the Contractor.
6. 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.
7. 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.
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 7 above, personal to Eskom 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

PROJECT OR CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week,24 hours per day for five (5) Years.**

Bank Signatory: \_\_\_\_\_

Bank Signatory: \_\_\_\_\_

Witness: \_\_\_\_\_

Witness: \_\_\_\_\_

Bank's seal or stamp

**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]*

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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.

PROJECT OR CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week,24 hours per day for five (5) Years.**

- 4. 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:
  - 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 7 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

PROJECT OR CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

## **PART 2: PRICING DATA**

### **TSC3 Option A**

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

## C2.1 Pricing assumptions: Option A

### How work is priced and assessed for payment

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

<b>Identified and defined terms</b>	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"> <li>• the Price for each lump sum item in the Price List which the <i>Contractor</i> has completed and</li> <li>• 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.</li> </ul> (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.
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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.

**PROJECT OR CONTRACT TITLE: Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

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

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

**Format of the *price list***

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

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

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

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

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

## C2.2 the *price list*

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week,24 hours per day for five (5) Years.**

Item	Description	Unit	No of Years	Days in a year	hours in a day	Quantity	Rate	Totals
<b>LABOUR</b>								
<b>NORMAL TIME DAY SHIT</b>								
1	General Workers	Hrs						R 0.00
2	Opperators	Hrs						R 0.00
	<b>Total</b>							<b>R 0.00</b>
<b>OVER TIME</b>								
1	General Workers	Hrs						R 0.00
2	Opperators	Hrs						R 0.00
	<b>Total</b>							<b>R 0.00</b>
<b>HOLIDAYS</b>								
1	General Workers	Hrs						R 0.00
2	Opperators	Hrs						R 0.00
	<b>Total</b>							<b>R 0.00</b>
	<b>Total Labour</b>							<b>R 0.00</b>
<b>PLANT / MATERIAL</b>								
1	10 m3 Tipper Truck	month						R 0.00
2	TLB	month						R 0.00
3	Bobcat	month						R 0.00
4	Vacum Truck	month						R 0.00
5	Cleaning Equipment	month						R 0.00
6								R 0.00
7								R 0.00
	<b>Total</b>							<b>R 0.00</b>
<b>PRELIMINARIES &amp; GENERAL</b>								
1	Site Manager	Hrs						R 0.00
2	Saftey Officer	Hrs						R 0.00
3	Supervisor	Hrs						R 0.00
1	Site Establishment	No						R 0.00
2	Site De-establishment	No						R 0.00
3	Transport	month						R 0.00
4	SHEQ File	No						R 0.00
6	Entry Medical	No						R 0.00
7	Annual	No						R 0.00
8	Exit	No						R 0.00
9	PPE	No						R 0.00
	<b>Total</b>							<b>R 0.00</b>
<b>TOTAL</b>							<b>R</b>	<b>-</b>

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week,24 hours per day for five (5) Years.**

**PART 3: SCOPE OF WORK**

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

## C3.1: EMPLOYER'S SERVICE INFORMATION

### Contents

When the document is complete, insert a 'Table of Contents'. To do this go to: Insert, → Reference, → Index and tables → Table of Contents. Three levels and the title (but not the subtitle) may be shown if the formats used in this template are retained.

Otherwise insert list of contents manually.

Part 3: Scope of Work v

C3.1: Employer's service Information vi

1	Description of the <i>service</i>	viii
1.1	Executive overview.....	viii
1.2	<i>Employer's</i> requirements for the <i>service</i> .....	xvii
1.3	Interpretation and terminology.....	xviii
2	Management strategy and start up.	xix
2.1	The <i>Contractor's</i> plan for the <i>service</i> .....	xix
2.2	Management meetings .....	xix
2.3	<i>Contractor's</i> management, supervision and key people .....	xx
2.4	Provision of bonds and guarantees .....	xx
2.5	Documentation control.....	xxi
2.6	Invoicing and payment.....	xxi
2.7	Contract change management .....	xxi
2.8	Records of Defined Cost to be kept by the <i>Contractor</i> .....	xxii
2.9	Insurance provided by the <i>Employer</i> .....	xxii
2.10	Training workshops and technology transfer.....	xxii
2.11	Design and supply of Equipment.....	xxii
2.12	Things provided at the end of the <i>service period</i> for the <i>Employer's</i> use .....	xxiii
2.12.1	Equipment	xxiii
2.12.2	Information and other things	xxiii
2.13	Management of work done by Task Order .....	xxiii
3	Health and safety, the environment and quality assurance	xxv
3.1	Health and safety risk management.....	xxv
3.2	Environmental constraints and management.....	xxv
3.3	Quality assurance requirements.....	xxvi
4	Procurement	xxvii
4.1	People.....	xxvii

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week,24 hours per day for five (5) Years.**

- 4.1.1 Minimum requirements of people employed xxvii
- 4.1.2 BBBEE and preferencing scheme xxvii
- 4.1.3 Accelerated Shared Growth Initiative – South Africa (ASGI-SA) xxvii
- 4.2 Subcontracting.....xxviii
  - 4.2.1 Preferred subcontractors xxviii
  - 4.2.2 Subcontract documentation, and assessment of subcontract tenders xxviii
  - 4.2.3 Limitations on subcontracting xxviii
  - 4.2.4 Attendance on subcontractors xxviii
- 4.3 Plant and Materials.....xxviii
  - 4.3.1 Specifications xxviii
  - 4.3.2 Correction of defects xxix
  - 4.3.3 *Contractor's* procurement of Plant and Materials xxix
  - 4.3.4 Tests and inspections before delivery xxix
  - 4.3.5 Plant & Materials provided “free issue” by the *Employer* xxix
  - 4.3.6 Cataloguing requirements xxx
- 5 Working on the Affected Property xxxi
  - 5.1 *Employer's* site entry and security control, permits, and site regulations..... xxxi
  - 5.2 People restrictions, hours of work, conduct and records ..... xxxi
  - 5.3 Health and safety facilities on the Affected Property ..... xxxi
  - 5.4 Environmental controls, fauna & flora ..... xxxi
  - 5.5 Cooperating with and obtaining acceptance of Others .....xxxii
  - 5.6 Records of *Contractor's* Equipment.....xxxii
  - 5.7 Equipment provided by the *Employer* .....xxxii
  - 5.8 Site services and facilities .....xxxii
    - 5.8.1 Provided by the *Employer* xxxii
    - 5.8.2 Provided by the *Contractor* xxxiii
  - 5.9 Control of noise, dust, water and waste .....xxxiii
  - 5.10 Hook ups to existing works.....xxxiii
  - 5.11 Tests and inspections .....xxxiii
    - 5.11.1 Description of tests and inspections xxxiii
    - 5.11.2 Materials facilities and samples for tests and inspections xxxiii
- 6 List of drawings xxxiv
  - 6.1 Drawings issued by the *Employer* .....xxxiv

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week,24 hours per day for five (5) Years.**

**Description of the service**

Provision of Cleaning Services on Ash Plant & Dust Plant at Matla Power Station for five (5) years

**Executive overview**

Put yourself in the position of the *Contractor's* senior management who need a high-level overview of what is involved – the scope of work - so that they can decide when tendering whether they have the resources and capability to undertake the work. Include a description of the different services and disciplines of work involved within the *service* and the location where most of the work will be carried out.

**GENERAL**

Data books, reviews, reports, and diagrams/drawings shall be submitted to Engineering after the completion of the work. Engineering to forward the data books to Quality Department

(Document Control)

All QCP's to be submitted to Engineering and Quality for approval prior to outage/project or maintenance work commencement.

SCOPE OF WORK DESCRIPTION / ACTIVITY	PROCEDURE, SPECIFICATION, ENG. REQUIREMENTS / DOCUMENTATION	HOLD POINTS, WITNESS, REPORTS	HOLD POINTS, WITNESS, REPORTS	RESPONSIBLE PARTY
1.1	Occupational Health and Safety	<ul style="list-style-type: none"> <li>- Health and safety file should be approved by Safety risk management department prior to any work commences on site.</li> <li>- All work is to be done in accordance with OHS Act 85 of 1993, Matla plant procedures and Plant Safety Regulations. (240-150642762).</li> <li>- Matla power station SHEQ induction must be done before access to site can be granted.</li> <li>- The contractor should ensure that all employees have acquired the required competency for the task they are performing.</li> <li>- The contractor to ensure compliance to updated legal requirements and other requirements.</li> <li>- The contractor is subjected to Safety auditing at any point in time during execution of scope</li> </ul>	Eskom to witness.	Contractor

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week,24 hours per day for five (5) Years.**

<p>1.2</p>	<p>Environmental Management.</p>	<p>All activities listed in the National Environmental Act 107 of 1998, EIA Regulations as amended, must have environmental AUTHORISATION before commencement of work.                  The contractor shall comply with all applicable legal and other requirements.                  The polluter pays principle will be applied.                  The contractor manager shall ensure compliance with Eskom Matla Environmental procedures to ensure the prevention of pollution (refer: OMOP 4090 and 4402).                  The last payment will be processed based on the status of the last housekeeping check sheet (Annexure C: OMOP 4402) of designated area.                  EMS file based on ISO14001 will be required.                  The contractor is subjected to Environmental auditing at any point in time during execution of scope</p>	<p>Eskom to witness.</p>	<p>Contractor</p>
<p>1.3</p>	<p>Quality Management</p>	<ul style="list-style-type: none"> <li>- The contractor/executioner of work will be responsible for drawing up all QCP documentation and this must be approved by engineering and authorised by the Quality Department before commencing with the work.</li> <li>- Contractors/executioner to adhere to QM 58 and OMOP4497 requirements.</li> <li>- Number of NCR issued can affect your next tendering process.</li> <li>- The QCP shall be signed progressively by the Engineer/Supervisor, Eskom QC Inspector, Contractor QC Inspector and/or AIA.</li> <li>- No procuring of outage items without the approval of scopes by quality</li> <li>- All outage scopes creep and scopes addition should be approved by quality.</li> <li>- No contractor should be in the possession of scopes for execution without the scopes approved by quality.</li> <li>- The contractor is subjected to quality auditing at any point in time during execution of scope</li> </ul>	<p>Hold point</p>	<p>Contractor</p>

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

1.4	Inputs from other departments			
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**DECOMMISSION AND/OR PLANT ISOLATION**

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week,24 hours per day for five (5) Years.**

Item No	SCOPE OF WORK DESCRIPTION / ACTIVITY	PROCEDURE, SPECIFICATION, ENG. REQUIREMENTS / DOCUMENTATION	HOLD POINTS, WITNESS, REPORTS	RESPONSIBLE PARTY
2.0	Not applicable to scope of work	Not applicable to scope of work	Not applicable to scope of work	Not applicable to scope of work
	<b>SCOPE OF WORK DESCRIPTION / ACTIVITY</b>	<b>PROCEDURE, SPECIFICATION, ENG. REQUIREMENTS / DOCUMENTATION</b>	<b>HOLD POINTS, WITNESS, REPORTS</b>	<b>RESPONSIBLE PARTY</b>
<p>This scope of work gives the requirements and specifications for the provision of cleaning services at Matla Power Station for a period of five (5) years for the purpose of maintaining plant cleanness and create conducive working environment for Eskom employees, contractors &amp; Visitors</p>				

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week,24 hours per day for five (5) Years.**

<p>3.1</p>	<p><b>Plant Area &amp; Activities</b></p> <p><u>Ash Plant (unit 1 to unit 6)</u>  Mills  Feather dust plant structures  Sweep ash plant floors around ash hoppers.  Remove rubble, any foreign and unwanted material.  Remove ash &amp; coal pile ups from the plant to the designated dumping site.  Floor wash plant floor when necessary  Clean inside, on top of nitrogen bottles stations  Clean on and remove PF on top of DB boxes.  FD fans (unit 1 to unit 6)  clean around the fans structure, staircases, and platforms  ID fans (unit 1 to unit 6)  -clean around the fans structure, staircases and platforms  PA fans (unit 1 to unit 6)  clean around the fans structure, staircases, and platforms  Inertia Pits (unit 1 to unit 6)  Clean, take-out ash, vacuum sludge, or pf from the pits  Bildge Sumps (unit 1 to unit 6)  Clean, take-out ash, vacuum sludge, or pf from the pits  Ash Hoppers Inside  Clean ash inside ash hoppers (unit to 6)  Remove ash inside the ash hoppers  All foreign materials/debris to be removed around plant.  Ensuring good housekeeping at times  Emptying of coal bunkers (unit 1 to unit 6)</p>	<p><b>Cleaning Frequency &amp; Recommended Tools/Equipment</b></p> <p>Daily- Brooms, Feather Dusters, Shovels, &amp; Wheelbarrows  Scrappers  Bobcat, TLB, Tipper Truck  Vacuum  Submissible Pump  Daily- Brooms, Feather Dusters, Shovels, &amp; Wheelbarrows  Scrappers  Bobcat, TLB, Tipper Truck  Vacuum  Submissible Pump  Daily- Brooms, Feather Dusters, Shovels, &amp; Wheelbarrows  Scrappers  Bobcat, TLB, Tipper Truck  Submissible Pump  Potable lights  Daily- Brooms, Feather Dusters, Shovels, &amp; Wheelbarrows  Scrappers  Bobcat, TLB, Tipper Truck  Vacuum  Submissible Pump  Shovels  Potable lights  On Request  Shovels, wheelbarrow TLB, Bobcat, potable lights  Tipper Truck  On-Request  Tipper Trucks  TLB  Bobcat</p>	<p>Hold</p>	<p>Contractor  Contractor</p>
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PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week,24 hours per day for five (5) Years.**

	<p><b>Project Team</b></p>	<p><b>1x Site Manager</b></p> <ul style="list-style-type: none"> <li>- Grade 12 certificate</li> <li>- Technical Diploma</li> <li>- Drivers licence code 10</li> <li>- Supervisory/ Management certificate</li> <li>- 5 years on Power station or related experience</li> <li>- Incident investigation certificate</li> </ul> <p><b>1x Safety officer</b></p> <ul style="list-style-type: none"> <li>- Grade 12 certificate</li> <li>- National diploma in safety management</li> <li>- 5 years on Power station or related experience</li> <li>- Incident investigation certificate</li> </ul> <p><b>4 x Supervisors Cleaning</b></p> <ul style="list-style-type: none"> <li>- Minimum experience of three (3) years at Power Station or Similar environment.</li> <li>- Grade 12</li> <li>- Supervisory/Management certificate</li> <li>- Intro to SAMTRAC certificate</li> </ul> <p><b>48 General Workers/Cleaners</b></p> <ul style="list-style-type: none"> <li>- Grade 10</li> </ul>		
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PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week,24 hours per day for five (5) Years.**

3.2	<p><b>Contractual Obligations</b> The contractor is to make provision for the following allowances within the contract:</p> <ul style="list-style-type: none"> <li>- Home-work-home transportation of employees during normal working hours and in event of emergency.</li> <li>- Duty&amp; Responsibilities of the supplier to ensure yellow machines have beacon lights and fuel at all times and ensure machine are in good condition to execute cleaning activities.</li> <li>- The yellow machines must be fully serviced.</li> <li>- All Supervisors to undergo PSR Access course within the first six (6) months of the contract duration.</li> <li>- All Supervisors will be on probation provided they pass the Access PSR course.</li> <li>- The standby team must be always reachable for easy communication(telephonic) and must respond to a call out within one (1) hour.</li> </ul>		Hold	Contractor
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**BILL OF MATERIAL**

Item No	Full description of Material/Spares/Equipment	Specifications of Material/Spares/Equipment	Stock No	Part Number	Required Quantity
1	<b>Site Manager</b>	<ul style="list-style-type: none"> <li>- Minimum experience of five (5) years at Power Station or Similar environment.</li> </ul> <p><b>Grade 12</b></p> <ul style="list-style-type: none"> <li>- Technical Diploma</li> <li>- Incident Investigation certificate</li> <li>- Intro to SAMTRAC</li> </ul>	N/A	N/A	One

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week,24 hours per day for five (5) Years.**

2	<b>Safety Officer</b>	<ul style="list-style-type: none"> <li>- Minimum experience of five (5) years at Power Station or Similar environment.</li> <li>- Grade 12</li> <li>- Minimum Diploma in Safety Management</li> <li>- Incident Investigation Certificate</li> </ul>	N/A	N/A	One
3	<b>4 x Supervisors Cleaning</b>	Minimum experience of three (3) years at <ul style="list-style-type: none"> <li>- Power Station or Similar environment.</li> <li>- Grade 12</li> <li>- Supervisory/Management certificate0</li> <li>- Intro to SAMTRAC certificate</li> </ul>	N/A	N/A	One
4	<b>48 x General Worker/Cleaners</b>	Grade 10	N/A	N/A	Forty-Eight
5	<b>Tipper Truck</b>	10 cube Tipper	N/A	N/A	Six
6	<b>TLB (Tractor Loader Backhoe)</b>	<ul style="list-style-type: none"> <li>- Water-Cooled Diesel. Rated Output: 90kW. Rated Motor Speed: 2400rpm.</li> <li>- Drive: 4x4. Steering: ADT</li> </ul>	N/A	N/A	Two
7	<b>Bobcat (Skidsteer Loader)</b>	<ul style="list-style-type: none"> <li>- Rated Operating Capacity :2900 lb</li> </ul>	N/A	N/A	Two
8	<b>Vacuum Truck</b>	<ul style="list-style-type: none"> <li>- Vacuuming Wet &amp; dry ash, PF, and slurry</li> </ul>	N/A	N/A	Two

SCOPE COMPILATION REFERENCES				
SOURCE & Ref No.	Yes	No	N/A	Comments
Cleaning service reports		X		
Cleaning service package before Outage		X		
SAP defects		X		
Online Condition Monitoring		X		
GPSS/ Plant Performance data on UCLF incurred		X		
Audits Reports		X		
Risk controls (IRM system)		X		
Previous audits and reviews		X		

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week,24 hours per day for five (5) Years.**

Corrective actions	X			
Statutory Requirements		X		
Pre-Outage plant walks		X		
Risk based inspection report		X		
House keeping audits		X		
Insurance audit		X		
Main SHEQ		X		

Key performance indicators								
				Floor	Kick	Target	Stretch	Ceiling
KPA description	Performance indicator/measure	Source of evidence	Weight	1	2	3	4	5
No load losses caused by contractor negligence	Daily Production losses	Production stats						
Plant defects reporting and follow-ups	Plant availability	PM's						
House keeping	Plant cleanliness	Plant inspections and reports/Gemba Walks						
Safety incidents	Promote safe working environment and comply to all safety processes and procedures	Safety statistics						
Station Meetings attendance	To attend all required meetings as per the station requirement by contractor	Attendance registers and feedback						
Performing supervisory activities	Provide required feedback related to plant activities	Production report						
PM's compliance	PM's completion as per schedules	Works management report						
Dust emissions	No contravention caused/related to contractor	Environmental report						

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week,24 hours per day for five (5) Years.**

Resources availability	Management of staff availability 24/7	Attendance registers and HR report						
Overtime management	Not to exceed the monthly targets on overtime	Monthly Assessments and Finance report						
<b>Score</b>								

**Employer’s requirements for the service**

Either  
 Task orders will be issued by Service Manager on monthly basis. The liability of Employer is limited to a total the prices stated in the Specific Task order and not the total Price stated in the service information. The employer is not obliged to issue the ask Order to the Contractor despite the Contractor being awarded a contract.  
 The Contractor will be notified by the Service Manager a minimum a month in advance if he comes aware of any cleaning service date that is delayed within two days.

The Contractor to comply to the following documentation within the service information.

ORHVS Regulation – EPC – 32-846  
 36-681 Rev 01- Plant Safety Regulation  
 Driving Machinery Regulation 1988  
 Projects control Requirements -240- 85065548

Contractor to avail a person /Supervisor who is capable to be trained and be authorised to Supervise work/activities to adhere to Plant safety Regulation and ORHVS. Electrical installation Regulation to be adhered to, all electrical boards must be inspected before connecting to power supply and then a CoC must be issued. The contractor to issue the trained personnel to issue CoC is onsite when any equipment which requires CoC before use, is connected.

Work to be done by Contractor

Provision of cleaning for Ash and dust plant for period of five years at Matla power station.

Note

- The contractor must provide all labour tools
- The contractor will be working at ash and dust plant at Matla power station

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

- Interfacing with others will occur daily
- Scaffolding will be provided when required

Electrical installation

### Interpretation and terminology

If required include here definitions additional to those used in the *conditions of contract* which are required only for the purpose of making the Service Information easier to draft and read. Also list abbreviations used and provide a full interpretation of each one, for example:

The following abbreviations are used in this Service Information:

Abbreviation	Meaning given to the abbreviation
NEC	New Engineering contracts
TSC	Term service contract
CDSS	Contract submission documents
ORHVS	Operation regulation of high voltage
CoC	Certificate of compliance

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

## Management strategy and start up.

### The Contractor’s plan for the service

In the TSC3 the Contractor’s plan is his “design” for performing the service throughout the service period. Section 2 of the conditions of contract describes what the Contractor is to show in his plan both in the core clauses and some additional requirements in each of the main Options.

The extent of the Contractor’s plan will depend on whether the Contractor is required to develop a plan in accordance with the Employer’s broad outline of the service or whether the Employer has provided a plan for the Contractor to follow. Read the TSC3 Guidance Notes pages 21 and 22 for more information on the Contractor’s plan.

Use this section to describe any particulars which must be taken into account by the Contractor in developing his plan as required by clause 21.2. For example, information about the order and timing or method of carrying out particular items of work.

List technical reporting and scheduling requirements which are to be incorporated into the Contractor’s plan.

## Management meetings

The conditions of contract (e.g. Clause 16.2) and other sections of the Service Information (e.g. safety risk management) may require that a meeting shall be held. However, the intention of all NEC contracts is that the Parties and their agents use the techniques of partnering to manage the contract by holding meetings designed to pro-actively and jointly manage the administration of the contract with the objective of minimising the adverse effects of risks and surprises for both Parties.

Depending on the size and complexity of the service, it is probably beneficial for the Service Manager to hold a weekly risk register meeting (Clause 16.2). This could be used to discuss safety, compensation events, subcontracting, overall co-ordination and other matters of a general nature. Separate meetings for specialist activities such as planning and activities of a technical nature may also be warranted.

Describe here the general meetings and their purpose. Provide particulars of approximate times, days, location, and attendance requirements, stipulating that attendees shall have the necessary delegated authority to make decisions in respect of matters discussed at such meetings.

The following text could be used as a model for this section:

**Regular meetings of a general nature may be convened and chaired by the Supply Manager as follows:**

Title and purpose	Approximate time & interval	Location	Attendance by:
Risk register and compensation events	Weekly on Tuesdays at 11:00	Matla PS/MS teams	Service Manager and Contract Supervisor

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

Overall contract progress and feedback	Monthly on Tuesdays at 11:00	Contract Supervisors Office office	<i>Employer, Contractor</i> and Contract supervisor
Contractor Toolbox talk	Daily at 07:00	Contractors yard	Site manager, safety officer and employees
Daily Plant Walk	Daily	Ash and dust plant	Site manager, Safety office and Supervisors
Contractor's meeting/clock in	Daily	Contract supervisors' office	Site Manager and Safety office
Departmental statutory meeting	Monthly on Tuesdays at 14:00	Production board room/ MS teams	Site managers/Supervisors /safety officer
Contractors' engagement sessions	Monthly on Fridays at 08:00 – 09:00	Thandanani hall	Directors /Site managers/Supervisors /safety officer

Meetings of a specialist nature may be convened as specified elsewhere in this Service Information or if not so specified by persons and at times and locations to suit the Parties, the nature and the progress of the *service*. Records of these meetings shall be submitted to the *Service Manager* by the person convening the meeting within five days of the meeting.

All meetings shall be recorded using minutes or a register prepared and circulated by the person who convened the meeting. Such minutes or register shall not be used for the purpose of confirming actions or instructions under the contract as these shall be done separately by the person identified in the *conditions of contract* to carry out such actions or instructions.

### **Contractor's management, supervision and key people**

State any additional constraining requirements on *Contractor's* supervision and key people that are not already stated in other sections such as for Health and Safety. This section could be used to solicit an organogramme from the *Contractor* showing his people and their lines of authority / communication. This would be essential if the *Contractor* is a Joint Venture.

### **Provision of bonds and guarantees**

The form in which a bond or guarantee required by the *conditions of contract* (if any) is to be provided by the *Contractor* is given in Part 1 Agreements and Contract Data, document C1.3, Sureties.

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

The *Employer* may withhold payment of amounts due to the *Contractor* until the bond or guarantee required in terms of this contract has been received and accepted by the person notified to the *Contractor* by the *Service Manager* to receive and accept such bond or guarantee. Such withholding of payment due to the *Contractor* does not affect the *Employer's* right to termination stated in this contract.

## Documentation control

Specify how documentation will be identified with an alpha numeric which indicates source, recipient, communication number etc. Provide details of any particular format or other constraints; for example that all contractual communications will be in the form of properly compiled letters or forms attached to e mails and not as a message in the e mail itself. State any particular routing requirements but note from TSC3 who issues what to whom.

## Invoicing and payment

The Z clauses make reference to invoicing procedures stated here in this Service Information. Also include a list of information which is to be shown on an invoice.

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

The *Contractor* shall address the tax invoice to

\_\_\_\_\_ and include on each invoice the following information:

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

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

## Contract change management

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

This section is intended to deal with any additional requirements to the compensation event clauses in section 6 of the core clauses; such as the use of standard forms. Not the same thing as documentation control.

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

If Option C or E applies first read clause 52.2 and then state whether the *Contractor* is required to keep any other records. Include any other constraint which may be required in regard to format and filing of the records, and whether access for the *Service Manager* shall be provided in hard copy or electronically.

Could delete if Option A applies unless the *Employer* requires some form of control over the *Contractor's* record keeping for the purpose of compensation event management.

### **Insurance provided by the Employer**

First read TSC3 Core Clause 86.1 and then add anything necessary for the management of insurance related issues such as a cross reference to where procedures for making claims can be found. Also provide contact details for persons capable of being able to answer any insurance related queries the *Contractor* may have, as well as to whom the information required by Marine Insurance (if any) may be addressed.

### **Training workshops and technology transfer**

Describe type and frequency of any on job training workshops, as well as any obligation for technology transfer being included as part of the *service* or at the end of the *service period*.

### **Design and supply of Equipment**

On some complex services (e. g. nuclear) it could be in the Parties best interests that some details of the design of Equipment are shared with the *Service Manager*, not necessarily for his acceptance but as an assurance that the Equipment will be able to allow the *Contractor* to Provide the Service efficiently and without delay. For example specialised handling Equipment for a particular maintenance operation. Clause 23.1 is always available to the *Service Manager* if this paragraph is not used.

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

Also the *Employer* may wish to exercise constraints or include witness and hold points during manufacture, assembly or delivery of such Equipment. Include these constraints here.

Draft in such a way that there is no doubt that the liability for such design supply and use of the Equipment remains with the *Contractor*.

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

### Equipment

The *Employer* may wish to use some of the Equipment used by the *Contractor* after the end of the *service period*. Clause 70.2 requires that details of such requirement be stated in the Service Information. Complete here or if not applicable retain the heading and state 'None'.

### Information and other things

Clause 70.2 requires that information and other things which the *Contractor* is to provide at the end of the *service period* be stated in the Service Information.

## Management of work done by Task Order

Only use this heading if Option X19 applies to this contract.

In some cases, all work may be done in terms of Task Orders in which case it may be logical to move this section closer to the start of this part 2 of the Service Information. In some cases, only parts of the *service* may require to be handled by Task Order, for example a major repair which has become necessary during a continuous maintenance service contract.

Please read Option X19 before drafting requirements here as much of the procedure for the administration of Task Orders is already provided in X19, for example X19.2 specifies what a task Order should include

A Task Order format could be provided in an Annexure to this Service Information.

Many considerations can apply to Task Orders, such as availability of resources, arrangements for emergency work, Task Order reporting (work carried out and service results), assessment of additional Prices for *service* not included in the Price List etc.

Clause X19.6 requires information which should be included on a Task Order programme.

ESKOM HOLDINGS SOC Ltd

CONTRACT NUMBER \_\_\_\_\_

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

Further requirements for Task Orders include things to be provided by the *Employer* under a Task Order and the conditions under which the *Employer* or Others are to work.

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

## Health and safety, the environment and quality assurance

### Health and safety risk management

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

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

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

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

- Generation: Roley McIntyre
- Transmission: Tony Patterson
- Distribution: Alex Stramrood
- Enterprises: Jace Naidoo
- Corporate: Kerseri Pather

The *Contractor* shall comply with the health and safety requirements contained in Annexure \_\_\_\_\_ to this Service Information.

### Environmental constraints and management

Describe or cross refer to environmental constraints applicable to the *Contractor's* plan and his activities on the Affected Property and how they should be managed. Include here or cross refer to an Annexure to the Service Information.

The *Contractor* shall comply with the environmental criteria and constraints stated in Annexure \_\_\_\_\_

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

### **Quality assurance requirements**

Specify minimum requirements for the *Contractor's* Quality Plan and Work Procedures or provide the *Employer's* Quality Plan if that is to be used. Make sure witness and hold points are identified generally and describe any particular requirements for QA outside the Affected Property. Indicate how the *Contractor's* QA documentation is to be submitted for acceptance and any conditions that need to be imposed relating to acceptance. State whether ISO compliance is a condition and if so which ISO standard shall apply.

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

## Procurement

There is a cross reference from the core clause 11.2(6) definition of Disallowed Cost to the Service Information regarding procurement procedures. This part of the Service Information MUST include any such procedures to be able to administer Disallowed Cost.

## People

### Minimum requirements of people employed

Specify any constraints relating to people employed to Provide the Service; for example permits for foreigners, training (other than H & S), use of labour from designated areas and industrial relations.

### BBBEE and preferencing scheme

Specify constraints which *Contractor* must comply with after contract award in regard to any Broad Based Black Economic Empowerment (B-BBEE) or preferencing scheme measures.

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

If the ASGI-SA requirements are to be included in this contract specify constraints which *Contractor* must comply with after contract award in regard to any ASGI-SA requirements. The ASGI-SA Compliance Schedule completed in the returnable tender schedules is reproduced here. If ASGI-SA does not apply, delete this paragraph.

The *Contractor* complies with and fulfils the *Contractor's* obligations in respect of the Accelerated and Shared Growth Initiative - South Africa in accordance with and as provided for in the *Contractor's* ASGI-SA Compliance Schedule stated below

[Insert the agreed ASGI-SA Compliance Schedule here]

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

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

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

## Subcontracting

### Preferred subcontractors

TSC3 does not make use of nominated subcontracting, but the *Employer* may list which subcontractors or suppliers the *Contractor* is required to enter into subcontracts with. This is usually only required where specialist services need to be obtained from a particular supplier or group of suppliers in order to comply with operational standards.

### Subcontract documentation, and assessment of subcontract tenders

Specify any constraints on how the *Contractor* is to prepare subcontract documentation, whether use of the NEC system is compulsory or not (compulsory is recommended) and how subcontract tenders are to be issued, received, assessed (using a joint report?) and awarded.

### Limitations on subcontracting

The *Employer* may require that the *Contractor* must subcontract certain specialised work, or that the *Contractor* shall not subcontract more than a specified proportion of the whole of the contract.

### Attendance on subcontractors

State requirements for attendance on Subcontractors, if any

## Plant and Materials

### Specifications

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

Plant and Materials are defined as items intended to be included in the Affected Property. This will refer to replacement of worn or defective parts, routine replacement as part of regular preventative maintenance and supply of spare parts. Quality is usually designed in or specified in the technical specifications. However, to cover circumstances where quality may not be prescribed, this sub-paragraph could also be used to state an overarching default requirement – fitness for purpose etc.

Either specify here or provide a list of the applicable specifications and attach them as Annexure or state where they can be obtained from.

### **Correction of defects**

State any constraints when dealing with defective Plant and Materials such as how repairs are carried out - can the item be fixed up or must it be replaced by a new one.

### **Contractor's procurement of Plant and Materials**

Specify any constraints on how the *Contractor* is to order, codify, expedite, freight, import, transport to the Affected Property and any other requirements for delivery and storage before installation. The *Employer* may require warranties from suppliers to be in favour of the *Employer* and not just to the *Contractor*. The *Employer* may also need schedules of vendor data for his own use after the end of the *service period*.

### **Tests and inspections before delivery**

Core Clause 41.1 makes reference to the Service Information stating which Plant and Materials are to be inspected and tested before delivery. Specify any requirements particularly if such tests and inspections are to be carried out by agents of the *Employer* overseas.

### **Plant & Materials provided "free issue" by the Employer**

List any Plant and Materials which are to be provided by the *Employer*.

State arrangements for collection by *Contractor* or delivery by others on behalf of the *Employer*, off loading, inspection, storage, care custody and control, return of unused Plant and Materials, etc. Always include a statement to the effect that 'all other Plant and Materials are to be provided by the *Contractor*'.

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

**Cataloguing requirements by the *Contractor***

State whether cataloguing is applicable, if it is, reference the requirements for cataloguing that need to be satisfied by the *Contractor* (consult Procurement Instruction Number 1 of 2018 – Incorporating Cataloguing into the Procurement Environment, Unique Identifier 240-1289988974).

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

## Working on the Affected Property

This part of the Service Information addresses constraints, facilities, services and rules applicable to the *Contractor* whilst he is doing work on the Affected Property.

### ***Employer's* site entry and security control, permits, and site regulations**

Sites such as Koeberg Nuclear Power Station have very strict entrance requirements which tendering contractors need to allow for in their prices, and the *Contractor* has to comply with. State these or similar requirements here.

In addition to the above there may be other restrictions once on the site, plus rules relating to roads, walkways and the provision of barricades

### **People restrictions, hours of work, conduct and records**

Restrictions and hours of work may apply on some sites. It is very important that the *Contractor* keeps records of his people working on the Affected Property, including those of his Subcontractors. State that the *Service Manager* shall have access to them at any time. These records may be needed when assessing compensation events.

### **Health and safety facilities on the Affected Property**

Section 3 deals with contractual H & S requirements in addition to those of the OHSA Act. This section allows the *Employer* to state what measures are to be taken on the Affected Property by describing where First Aid facilities provided by the *Employer* are located and any other emergency arrangements. Do not use if already addressed in 2.3.

### **Environmental controls, fauna & flora**

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

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

### **Cooperating with and obtaining acceptance of Others**

This sub-paragraph could be used to deal with two issues.

- 1) The cross reference from core clause 25.1 about cooperation generally as well as details about Others with whom the *Contractor* may be required to share the Affected Property. See clause 11.2(9) for the definition of Others.
- 2) Requirements for liaison with and acceptance from statutory authorities or inspection agencies.

### **Records of *Contractor's* Equipment**

This sub-paragraph is intended to address how records are to be kept of Equipment on Site including whether it is owned or hired. Include any constraints about scaffolding, rigs, heavy lifts and cranes, including removal from the Affected Property.

### **Equipment provided by the *Employer***

Provide details of equipment (e.g. overhead cranes) made available for use by the employer and set out conditions relating thereto.

### **Site services and facilities**

#### **Provided by the *Employer***

This is a mandatory cross reference from clause 25.2 in TSC3. State what the *Employer* will provide in the way of power, water, waste disposal, telecomms, ablutions, fire protection and lighting (etc) on the Affected Property. Give hook up locations and any constraints on how the hook up is to be done. Always conclude by stating that the *Contractor* shall provide everything else necessary for Providing the Service.

PROJECT AND CONTRACT TITLE: **Provision of Cleaning Services on Coal Plant, Auxiliary and Outside Plant at Matla Power Station, seven days a week, 24 hours per day for five (5) Years.**

**Provided by the Contractor**

Describe what the *Contractor* is to provide in the way of accommodation, laboratories, storage, vehicles and office equipment for the *Service Manager* and any restrictions or minimum requirements concerning the *Contractor's* own facilities. Also state what happens to these facilities upon completion of the contract.

**Control of noise, dust, water and waste**

State requirements, if any.

**Hook ups to existing works**

State any constraints

**Tests and inspections**

**Description of tests and inspections**

Describe the tests and inspections to be carried out by the *Contractor* and the *Service Manager* and others [40.1].

**Materials facilities and samples for tests and inspections**

State what materials facilities and samples for tests and inspections the *Contractor* and the *Employer* are to provide, per core clause 40.2.

