



NEC3 Term Service Contract (TSC3)

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

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

for **The servicing of Backup generators in the Northern
Cape Operating Unit (NCOU)**

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

CONTRACT No. [Insert at award stage]

PART C1: AGREEMENTS & CONTRACT DATA

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

C1.1 Form of Offer & Acceptance

Offer

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

The servicing of generators in the Northern Cape Operating Unit (NCOU)

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	Rate Only
	Sub total	Rate Only
	Value Added Tax @ 15% is	Rate Only
	The offered total of the amount due inclusive of VAT is ¹	Rate Only
	(in words) (as per agreed rates)	

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

Signature(s)

Name(s) _____

Capacity _____

For the tenderer:

(Insert name and address of organisation)

Name & signature of witness

Date

Tenderer's CIDB registration number:

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

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 _____

Ntombi Nkuhlu

Capacity _____

Middle Manager Property Management
(Acting)

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

(Insert name and address of organisation)
Eskom Holdings SOC Ltd

Name & signature of witness _____

Date _____

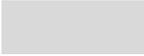
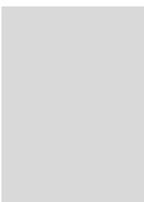
C1.2 TSC3 Contract Data

Part one - Data provided by the *Employer*

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

- 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.
- Some TSC3 options are always selected by Eskom Holdings SOC Ltd. The remaining TSC3 options are identified by shading in the left hand column. In the event that the option is not required select and delete the whole row. Where the following symbol is used “[•]” - data is required to be inserted relevant to the specific option selected.]

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

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:	
		A: Priced contract with price list
	dispute resolution Option	W1: Dispute resolution procedure
	and secondary Options	
		X1: Price adjustment for inflation
		X2: Changes in the law
		X18: Limitation of liability
		X19: Task Order
		Z: Additional condition of contract
	of the NEC3 Term Service Contract April 20132 (TSC3)	
10.1	The <i>Employer</i> is (name):	Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state owned company incorporated in terms of the company laws of the Republic of South Africa
	Address	Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg
	Tel No.	[•]

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

	Fax No.	[•]
10.1	The <i>Service Manager</i> is (name):	[•]
	Address	[•]
	Tel	[•]
	Fax	[•]
	e-mail	[•]
11.2(2)	The Affected Property is	Multiple Properties in the Northern Cape
11.2(13)	The <i>service</i> is	The servicing of generators in the Northern Cape Operating Unit (NCOU)
11.2(14)	The following matters will be included in the Risk Register	The Risk Register is of risks which are listed in this contract and the risks which the <i>Service Manager</i> or the <i>Contractor</i> has notified as an early warning matter. It includes a description of the risk and a description of the actions which are to be taken to avoid or reduce the risk
11.2(15)	The Service Information is in	Part 3: Scope of Work and all documents and drawings to which it makes reference.
12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa
13.1	The <i>language of this contract</i> is	English
13.3	The <i>period for reply</i> is	Three (3) days
2	The Contractor's main responsibilities	Data required by this section of the core clauses is also provided by the <i>Contractor</i> in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data
21.1	The <i>Contractor</i> submits a first plan for acceptance within	One (1) weeks of the Contract Date
3	Time	
30.1	The <i>starting date</i> is.	tbc
30.1	The <i>service period</i> is	tbc
4	Testing and defects	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data
5	Payment	
50.1	The <i>assessment interval</i> is	Between the 25th day of each successive month.
51.1	The <i>currency of this contract</i> is the	South African Rand

51.2	The period within which payments are made is	Four (4) weeks.
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
6	Compensation events	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data
7	Use of Equipment Plant and Materials	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data
8	Risks and insurance	
80.1	These are additional <i>Employer's</i> risks	1.10 % Retention will be deducted for each task order (for each payment) 2.5% Will be released at the completion of each task. 3.Remaining 5% will released at the end of the defect period (52 Weeks)
83.1	The Employer provides these insurances from the Insurance Table	as stated for "Format TSC3" available on  General ACAR Confirmation of Insur.
83.1	The Employer provides these additional insurances	as stated for "Format TSC3" available on  General ACAR Confirmation of Insur.
83.1	The minimum amount of cover for insurance against loss and damage caused by the Contractor to the Employer's property is	the amount of the deductibles relevant to the event described in the "Format TSC3" insurance policy available on  General ACAR Confirmation of Insur.
83.1	The insurance against loss of or damage to the works, Plant and Materials is to	

	include cover for Plant and Materials provided by the Employer	
83.1	The minimum amount of cover for insurance in respect of loss of or damage to property (except the Employer's property, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the Contractor) arising from or in connection with the Contractor's Providing the Service for any one event is:	whatever the Contractor deems necessary in addition to that provided by the Employer.
83.1	The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the <i>Contractor</i> arising out of and in the course of their employment in connection with this contract for any one event is	As prescribed by the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 and the Contractor's common law liability for people falling outside the scope of the Act with a limit of Indemnity of not less than R500 000 (Five hundred thousand Rands).
9	Termination	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
10	Data for main Option clause	
A	Priced contract with price list	
20.5	The <i>Contractor</i> prepares forecasts of the final total of the Prices for the whole of the <i>service</i> at intervals no longer than	Monthly
11	Data for Option W1	
W1.1	The <i>Adjudicator</i>	the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (See www.ice-sa.org.za). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).
W1.2(3)	The <i>Adjudicator nominating body</i> is:	the Chairman of ICE-SA a joint Division of the South African Institution of Civil Engineering and the Institution of Civil Engineers (London) (see www.ice-sa.org.za) or its successor body.
W1.4(2)	The <i>tribunal</i> is:	arbitration
W1.4(5)	The <i>arbitration procedure</i> is	the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.
	The place where arbitration is to be held is	Northern Cape, South Africa
	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	the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.
12	Data for secondary Option clauses	
X1	Price adjustment for inflation	Reviewed per annum at the anniversary of the <i>starting date</i> of this contract
X1.1	The <i>base date</i> for indices is	This Contract will be fixed rates for first year and subject to CPI escalation for the remaining period. CPI escalation will be applied at the anniversary of this contract date and for each respective year thereafter
X2	Changes in the law	There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.
X18	Limitation of liability	
X18.1	The <i>Contractor's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to	R0.0 (zero Rand)
X18.2	For any one event, the <i>Contractor's</i> liability to the <i>Employer</i> for loss of or damage to the <i>Employer's</i> property is limited to	the amount of the deductibles relevant to the event described in the "Format TSC3 insurance policy available on
X18.3	The <i>Contractor's</i> liability for Defects due to his design of an item of Equipment is limited to	The greater of the total of the Prices at the Contract Date and the amounts excluded and unrecoverable from the <i>Employer's</i> insurance (other than the resulting physical damage to the <i>Employer's</i> property which is not excluded) plus the applicable deductibles
X18.4	The <i>Contractor's</i> total liability to the <i>Employer</i> , for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	the total of the Prices other than for the additional excluded matters. The <i>Contractor's</i> total liability for the additional excluded matters is not limited. The additional excluded matters are amounts for which the <i>Contractor</i> is liable under this contract for Defects due to his design, plan and specification, Defects due to manufacture and fabrication outside the Affected Property, loss of or damage to property (other than the <i>Employer's</i> property, Plant and

		Materials), death of or injury to a person and infringement of an intellectual property right.
X18.5	The <i>end of liability date</i> is	Six (6) months after the end of the <i>service period</i>.
X19	Task Order	
X19.5	The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within	Two (2) days of receiving the Task Order
Z	The <i>additional conditions of contract</i> are	Z1 to Z14 always apply.

Z1 Cession delegation and assignment

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

Z2 Joint ventures

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

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

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

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

Z4 Confidentiality

Z4.1 The *Contractor* does not disclose or make any information arising from or in connection with this contract available to Others. This undertaking does not, however, apply to information which at the time of disclosure or thereafter, without default on the part of the *Contractor*, enters the public domain or to information which was already in the possession of the *Contractor* at the time of disclosure (evidenced by written records in existence at that time). Should the *Contractor* disclose information to Others in terms of clause 25.1, the *Contractor* ensures that the provisions of this clause are complied with by the recipient.

Z4.2 If the *Contractor* is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the *Service Manager*.

Z4.3 In the event that the *Contractor* is, at any time, required by law to disclose any such information which is required to be kept confidential, the *Contractor*, to the extent permitted by law prior to disclosure, notifies the *Employer* so that an appropriate protection order and/or any other action can be taken if possible, prior to any disclosure. In the event that such protective order is not, or cannot, be obtained, then the *Contractor* may disclose that portion of the information which it is required to be disclosed by law and uses reasonable efforts to obtain assurances that confidential treatment will be afforded to the information so disclosed.

Z4.4 The taking of images (whether photographs, video footage or otherwise) of the Affected Property or any portion thereof, in the course of Providing the Service and after the end of the *service period*, requires the prior written consent of the *Service Manager*. All rights in and to all such images vests exclusively in the *Employer*.

Z4.5 The *Contractor* ensures that all his subcontractors abide by the undertakings in this clause.

Z5 Waiver and estoppel: Add to core clause 12.3:

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

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

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

Regulations and with all applicable health & safety laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his Subcontractors, employees and others under the *Contractor's* direction and control, likewise observe and comply with the foregoing.

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

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

Z7.1 Within one week of receiving a payment certificate from the *Service Manager* in terms of core clause 51.1, the *Contractor* provides the *Employer* with a tax invoice in accordance with the *Employer's* procedures stated in the Service Information, showing the amount due for payment equal to that stated in the payment certificate.

Z7.2 If the *Contractor* does not provide a tax invoice in the form and by the time required by this contract, the time by when the *Employer* is to make a payment is extended by a period equal in time to the delayed submission of the correct tax invoice. Interest due by the *Employer* in terms of core clause 51.2 is then calculated from the delayed date by when payment is to be made.

Z7.3 The *Contractor* (if registered in South Africa in terms of the companies Act) is required to comply with the requirements of the Value Added Tax Act, no 89 of 1991 (as amended) and to include the *Employer's* VAT number 4740101508 on each invoice he submits for payment.

Z8 Notifying compensation events

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

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

Z9 Employer's limitation of liability

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

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

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

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

Z11 Ethics

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

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

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

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

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

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

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

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

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

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

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

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

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

Z12 Insurance

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

Insurance cover 83

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

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

INSURANCE TABLE A

Insurance against	Minimum amount of cover or minimum limit of indemnity
Loss of or damage caused by the <i>Contractor</i> to the <i>Employer's</i> property	The replacement cost where not covered by the <i>Employer's</i> insurance.  General ACAR Confirmation of Inst 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.  General ACAR Confirmation of Inst 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.  General ACAR Confirmation of Inst 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	<p><u>Loss of or damage to property</u> The replacement cost</p> <p><u>Bodily injury to or death of a person</u> The amount required by the applicable law.</p>
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

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

Z13 Nuclear Liability

- Z13.1 The *Employer* is the operator of the Koeberg Nuclear Power Station (KNPS), a nuclear installation, as designated by the National Nuclear Regulator of the Republic of South Africa, and is the holder of a nuclear licence in respect of the KNPS.
- Z13.2 The *Employer* is solely responsible for and indemnifies the *Contractor* or any other person against any and all liabilities which the *Contractor* or any person may incur arising out of or resulting from nuclear damage, as defined in Act 47 of 1999, save to the extent that any liabilities are incurred due to the unlawful intent of the *Contractor* or any other person or the presence of the *Contractor* or that person or any property of the *Contractor* or such person at or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.
- Z13.3 Subject to clause Z13.4 below, the *Employer* waives all rights of recourse, arising from the aforesaid, save to the extent that any claims arise or liability is incurred due or attributable to the unlawful intent of the *Contractor* or any other person, or the presence of the *Contractor* or that

person or any property of the *Contractor* or such person at or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.

Z13.4 The *Employer* does not waive its rights provided for in section 30 (7) of Act 47 of 1999, or any replacement section dealing with the same subject matter.

Z13.5 The protection afforded by the provisions hereof shall be in effect until the KNPS is decommissioned.

Z14 Asbestos

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

AAIA	means approved asbestos inspection authority.
ACM	means asbestos containing materials.
AL	means action level, i.e. a level of 50% of the OEL, i.e. 0.1 regulated asbestos fibres per ml of air measured over a 4 hour period. The value at which proactive actions is required in order to control asbestos exposure to prevent exceeding the OEL.
Ambient Air	means breathable air in area of work with specific reference to breathing zone, which is defined to be a virtual area within a radius of approximately 30cm from the nose inlet.
Compliance Monitoring	means compliance sampling used to assess whether or not the personal exposure of workers to regulated asbestos fibres is in compliance with the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.
OEL	means occupational exposure limit.
Parallel Measurements	means measurements performed in parallel, yet separately, to existing measurements to verify validity of results.
Safe Levels	means airborne asbestos exposure levels conforming to the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.
Standard	means the <i>Employer's</i> Asbestos Standard 32-303: Requirements for Safe Processing, Handling, Storing, Disposal and Phase-out of Asbestos and Asbestos Containing Material, Equipment and Articles.
SANAS	means the South African National Accreditation System.
TWA	means the average exposure, within a given workplace, to airborne asbestos fibres, normalised to the baseline of a 4 hour continuous period, also applicable to short term exposures, i.e. 10-minute TWA.

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

- Z14.2 Upon written request by the *Contractor*, the *Employer* certifies that these conditions prevail. All measurements and reporting are effected by an independent, competent, and certified occupational hygiene inspection body, i.e. a SANAS accredited and Department of Employment and Labour approved AAIA. The *Contractor* may perform Parallel Measurements and related control measures at the *Contractor's* expense. For the purposes of compliance the results generated from Parallel Measurements are evaluated only against South African statutory limits as detailed in clause Z14.1. Control measures conform to the requirements stipulated in the AAIA-approved asbestos work plan.
- Z14.3 The *Employer* manages asbestos and ACM according to the Standard.
- Z14.4 In the event that any asbestos is identified while Providing the Services, a risk assessment is conducted and if so required, with reference to possible exposure to an airborne concentration of above the AL for asbestos, immediate control measures are implemented and relevant air monitoring conducted in order to declare the area safe.
- Z14.5 The *Contractor's* personnel are entitled to stop working and leave the contaminated area forthwith until such time that the area of concern is declared safe by either Compliance Monitoring or an AAIA approved control measure intervention, for example, per the emergency asbestos work plan, if applicable.
- Z14.6 The *Contractor* continues to Provide the Services, without additional control measures presented, on presentation of Safe Levels. The contractually agreed dates to Provide the Services, including the Completion Date, are adjusted accordingly. The contractually agreed dates are extended by the notification periods required by regulations 3 and 21 of the Asbestos Regulations, 2001.
- Z14.7 Any removal and disposal of asbestos, asbestos containing materials and waste, is done by a registered asbestos contractor, instructed by the *Employer* at the *Employer's* expense, and conducted in line with South African legislation.

C1.2 Contract Data

Part two - Data provided by the *Contractor*

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

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

Notes to a tendering contractor:

1. Please read both the both the NEC3 Term Service Contract April 2013 and the relevant parts of its Guidance Notes (TSC3-GN)³ in order to understand the implications of this Data which the tenderer is required to complete.

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

2. The number of the clause which requires the data is shown in the left hand column for each statement however other clauses may also use the same data.
3. Where a form field like this [] appears, data is required to be inserted relevant to the option selected. Click on the form field **once** and type in the data. Otherwise complete by hand and in ink.

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

Clause	Statement	Data
10.1	The <i>Contractor</i> is (Name): Address Tel No. Fax No.	
11.2(8)	The <i>direct fee percentage</i> is	%
	The <i>subcontracted fee percentage</i> is	%
11.2(14)	The following matters will be included in the Risk Register	
11.2(15)	The Service Information for the <i>Contractor's</i> plan is in:	
21.1	The plan identified in the Contract Data is contained in:	
24.1	The key people are: 1 Name: Job: Responsibilities: Qualifications: Experience: 2 Name: Job: Responsibilities: Qualifications: Experience:	
		CV's (and further key person's data including CVs) are in .
A	Priced contract with price list	
11.2(12)	The <i>price list</i> is in	
11.2(19)	The tendered total of the Prices is	R
C	Target contract with price list	

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

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.

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 <i>Employer</i>) and
{Insert registered name and address of the Contractor}	(the <i>Contractor</i>), for
{Insert details of the works from the Contract Data}	(the <i>works</i>).

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.

Signed at _____ on this _____ day of _____ 20_

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

C2.1 Pricing assumptions: Option A

How work is priced and assessed for payment

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

Identified and defined terms	11	
	11.2	(12) The Price List is the <i>price list</i> unless later changed in accordance with this contract.
		(17) The Price for Services Provided to Date is the total of the Price for each lump sum item in the Price List which the <i>Contractor</i> has completed and where a quantity is stated for an item in the Price List, an amount calculated by multiplying the quantity which the <i>Contractor</i> has completed by the rate.
		(19) The Prices are the amounts stated in the Price column of the Price List. Where a quantity is stated for an item in the Price List, the Price is calculated by multiplying the quantity by the rate.

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

Function of the Price List

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

Link to the *Contractor's* plan

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

Preparing the *price list*

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

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

- Has taken account of the guidance given in the TSC3 Guidance Notes relevant to Option A;
- Understands the function of the Price List and how work is priced and paid for;
- Is aware of the need to link operations shown in his plan to items shown in the Price List;
- Has listed and priced items in the *price list* which are inclusive of everything necessary and incidental to Providing the Service in accordance with the Service Information, as it was at the time of tender, as well as correct any Defects not caused by an *Employer's* risk;
- Has priced work he decides not to show as a separate item within the Prices or rates of other listed

items in order to fulfil the obligation to complete the *service* for the tendered total of the Prices.

- Understands there is no adjustment to items priced as lump sums if the amount, or quantity, of work within that item later turns out to be different to that which the *Contractor* estimated at time of tender. The only basis for a change to the (lump sum) Prices is as a result of a compensation event.

Format of the *price list*

(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

Executive overview

The listed facilities are current Eskom facilities that will require the service; however the tenderer is informed that the below areas are subject to change.



NOTE: Kilometre base point for Upington Zone is Upington, and Kimberley for the Kimberley Zone (applicable only if more than a 50km radius from Contractor's Base)

(No claim for travel time will be paid for employees)

Any additional /exclusion shall be communicated in writing following the process. Tenderers are advised, but not compulsory, to visit the site prior tendering to familiarise themselves with magnitude of the possible work

Item nr	Description	Unit	Expected Quantity	Rate	Price
1	Generator 10 KVA	Each	1		
2	Generator 20 KVA				
3	Generator 30 KVA				
4	Generator 40 KVA				
5	Generator 50 KVA				

6	Generator 60 KVA				

The total of the Prices

PART 3: SCOPE OF WORK

The scope of work to be performed for the Mechanical and Electrical Trades includes but not limited to the following: The repairs and maintaining of Diesel Generators on the Following buildings / Sites in the Northern Cape Operating Unit :NB Buildings sites are subject to Change .

<u>List of generators:</u>			
<u>Site</u>	<u>Address</u>	<u>Make</u>	<u>Size in KVA</u>
Letsatsi Building	80 Bultfontein road Kimberley	Caterpillar	500
BBV fire pumpstation	Off Boshof Road, Blanckenbergvlei, Kimberley	Deutz	10
BBV NMC & RMC	Off Boshof Road, Blanckenbergvlei, Kimberley	Caterpillar	20
Calvinia CNC	Van Riebeeck Road, Calvinia	Perkins	40
Colesberg CNC	HS van der Walt Street, Colesberg	AKSA	50
De Aar CNC	Power Road, De Aar	Perkins	60
Douglas CNC	De Villiers Street, Douglas	AKSA	50
Petrusville CNC	Kommissie Street, Petrusville	FAW	50
Prieska CNC	Hedley Street Prieska	Green Power	30
Letsati building	80 Bultfontein Kimberly	Volvo	600
	<u>Upington Zone</u>		
Groblershoop CNC	Industrial area, Groblershoop	Perkins	60
Kakamas CNC	Cnr 1 Avenue & Oosthuizen Str, Kakamas	John Deere	50
Kathu CNC	5 Jaspis Street, Kathu	Perkins	60
Kuruman CNC	Eskom Road, Industrial area, Kuruman	Perkins	50
Postmasburg CNC	Hodget Street, Postmasburg	FAW	50
Upington CNC	Industrial road, Upington	AKSA	50

Description of the service

Minor Inspection and service

1. Check Fan belt, condition and tension
2. Check that radiator passages are clean
3. Check radiator hoses and clamps
4. Add water conditioner
5. Drain radiator/system and refill
6. Drain oil and refill
7. Change fuel filters
8. Change oil filters
9. Change water conditioner filters
10. Change air filters (if required)
11. Check seal faces of elements, air cleaner, hoses and clamps for dust ingress
12. Check thermo heater operation and temperature
13. Check if all guards in position and secure
14. Check battery charger
15. Check batteries, lugs, clean and tighten

Battery test:

16. Check hydrometer
17. Check casing condition
18. Check terminals
19. Note Volts
20. Note Amps
21. Compile battery report

Start engine

22. Fill fuel tank with 20 litres of fuel
23. Check for any leaks
24. Check charge alternator operation
25. Take oil pressure gauge reading
26. Take engine temperature gauge reading
27. Check low radiator level
28. Check low fuel level
29. When engine has stopped, top up with oil
30. Check alternator coupling
31. Check air vents on alternator
32. Check fuel system
33. Drain water trap
34. Check all pipes and fittings
35. Check exhaust, manifold, silencer and pipes
36. Check base and anti-vibration mounts
37. Run plant on load
38. Clean plant and equipment

Annual Service

All of the above items are to be attended to in addition to the following items:

1. Drain radiator
2. Refill with new water conditioner
3. Drain oil
4. Supply and fit new oil filters
5. Refill with new oil
6. Remove and replace fuel filters
7. Remove and replace air filter

8. Run the set up to temperature and top up all levels afterwards.
9. Check entire panel operation

Description of the service

Employer's requirements for the service

All services and works will be issued and managed through a task order system on an as and when required basis.

All services and works must be accompanied by the required documentation so that it is auditable and complies with good corporate governance.

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
FSS	Finance Shared Services
OEM	Original Equipment Manufacturer
PO	Purchase order
SAP	Financial Accounting System
TO	Task order
NCOU	Northern Cape Operating Unit

The Contractor’s plan for the service

Contractor to partner with employer to draft a service plan for the provision of services as instructed in the Task Order abiding to identified standards and regulations

Management meetings

Quarterly and adhoc meetings will be schedules by the Eskom Representative. Records of these meetings shall be submitted to the *Service Manager* by the person convening the meeting within three 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

All staff working on employer’s premises shall adhere to access control requirements of the specific site
 All contractors staff to report to employers representative before commencing any work on site
 All contractor staff to be clearly identifiable

Documentation control

All services and works will be issued and managed through a task order system
 All quotations and claims to be done on the task order system and invoices shall refer to the TO number for ease of administration.
 All contract communication to be done using the standard forms as per this contract (Early Warning, Notification of Default, Payment Certificates, Task Orders, Risk Register etc.) and will be attachments to email.

Invoicing and payment

PAYMENT PROCESS:

In an endeavour to reduce the time taken to pay suppliers/contractors, the process now allows submission of invoices from manual to electronic submission via e-mail to invoiceseskomlocal@eskom.co.za

The *Contractor* assesses the amount due and applies to the *Employer* for payment adhering to the following payment process:

item	ACTIVIT ▼	RESPONSIBLE PERSON
1	The <i>Contractor</i> to forward to the Eskom Representative an Assessment of work/service completed on the <i>assessment day</i> . The format of the assessed claim to be the Task Order with claimed Bill of Quantities and cost).	<i>Contractor</i>
The <i>Contractor</i> attaches the detail assessment of the amount due to each tax invoice showing the Price for Work Done to Date for each item in the Price List for work which he has completed. The cost format to invoice to be similar to the Eskom NEC Payment Certificate		

2	The Eskom Representative together with the <i>Contractor</i> agrees to the Assessment.	Eskom Representative and <i>Contractor</i>
Any possible issues regarding the claim of actual work completed will be addressed with the <i>Contractor</i> .		
3	The Eskom Representative will check the Payment Certificate with Assessment and request the Office Admin to process the required detail on the SAP system by creating a SE (Service Entry) with Service Entry Number	Office Admin
4	The Office Admin notifies the Eskom Representative once the SE number is generated. Thereafter the Eskom Representative will approve the SE on SAP by generating a Good Receipt (GR) number	Eskom Representative
9	The SE number and the GR number to be populated on the Payment Certificate and signed by the Eskom Representative	Eskom Representative
11	On receipt of the Payment Certificate with the SE and GR numbers, the <i>Contractor</i> will sign the Payment Certificate and, together with the relevant invoice, submit directly to Eskom Finance Shared Services (FSS) (i.e. via email to invoiceseskomlocal@eskom.co.za). Note: <i>Contractor</i> to resend copy of fully signed Payment Certificate to the Eskom Representative via email	<i>Contractor</i>

INVOICING:

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

1. The words "**TAX INVOICE**" in a prominent place (preferably at the top of the page).
2. **Name, address** and **VAT registration number** of the ***Contractor***.
3. **Name, address** and **VAT registration number** of the **recipient (Eskom Representative)**.
Please note: Eskom's name has to be reflected as **Eskom Holdings SOC Limited** on all tax invoices and Eskom's VAT number is **4740101508**. The word just Eskom is not acceptable.
4. An **individual serial number** (tax invoice number) and **date issued**.
5. A **full and proper description** of goods and/or services supplied.
Please note: Merely referring to a contract is not sufficient.
6. The **quantity** or **volume** of goods or services supplied.(i.e. to align with the Task Order detail)
7. Invoice must also reflect the Task Order Tracking Number
8. Ensure that the Contract Number (i.e. **46000...number**) and Contract Name is clearly indicated
9. Ensure that the Eskom Purchase Order Number(i.e. **450...number**) is clearly indicated on your invoice together with the line number on the order you are billing for
10. Costs on invoice should entail,
 - The total Price for Work Done to Date which the Contractor has completed;
 - Other amounts to be paid to the Contractor;
 - Less amounts to be paid by or retained from the Contractor;
 - The change in the amount due since the previous payment being the invoiced amount - excluding VAT, the VAT(15%) and including VAT;

Invoice Submission:

All electronic invoices must be sent in PDF format only
Each PDF file should contain one invoice; or one debit note; or one credit note only. Eskom SAP system does not support more than one PDF being linked into workflow at a time
Only one PDF file per email. (i.e. one invoice or one debit note or one credit note only)
Send all invoices in PDF straight from your system to the Eskom email address i.e. invoiceseskomlocal@eskom.co.za

Follow-up with Finance Shared Services (FSS):

All queries and follow-up on invoice payments should be made by contacting the FSS Contact Centre at +27 11 800 5060 or email fss@eskom.co.za
Introducing electronic invoicing does not guarantee payment, but will ensure visibility of all invoices as well as ensure that no invoices are lost. If the Goods Receipt (GR) is **not** done, the invoice will be parked and the system will automatically send an email to the end user to do the GR. This is also tracked by Eskom through the park invoice report.

Your company can request a park invoice report from the Finance Shared Services (FSS) Contact Center which can then be followed up and corrected. You are welcome to forward the details of invoices corrected to the FSS Contact Center.

Contract change management

Changes as per the contract will be notified and addressed as per the NEC3 – TSC3
Changes to the Task Order, regarding scope, cost and time will be managed via the Eskom Task Order Committee for approval and will be noted as Modification on the Task Order. Modifications to work/service can only resume once TOC approval is obtained and as instructed by the Eskom Representative.

Records of Defined Cost to be kept by the Contractor

As a control measure, it is required by the *Contractor* to maintain record keeping of all defined cost items for the purpose of compensation event management. A schedule of these cost components not listed in the contract *price list* to be provided.

Training workshops and technology transfer

Not applicable

Design and supply of Equipment

Not applicable

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

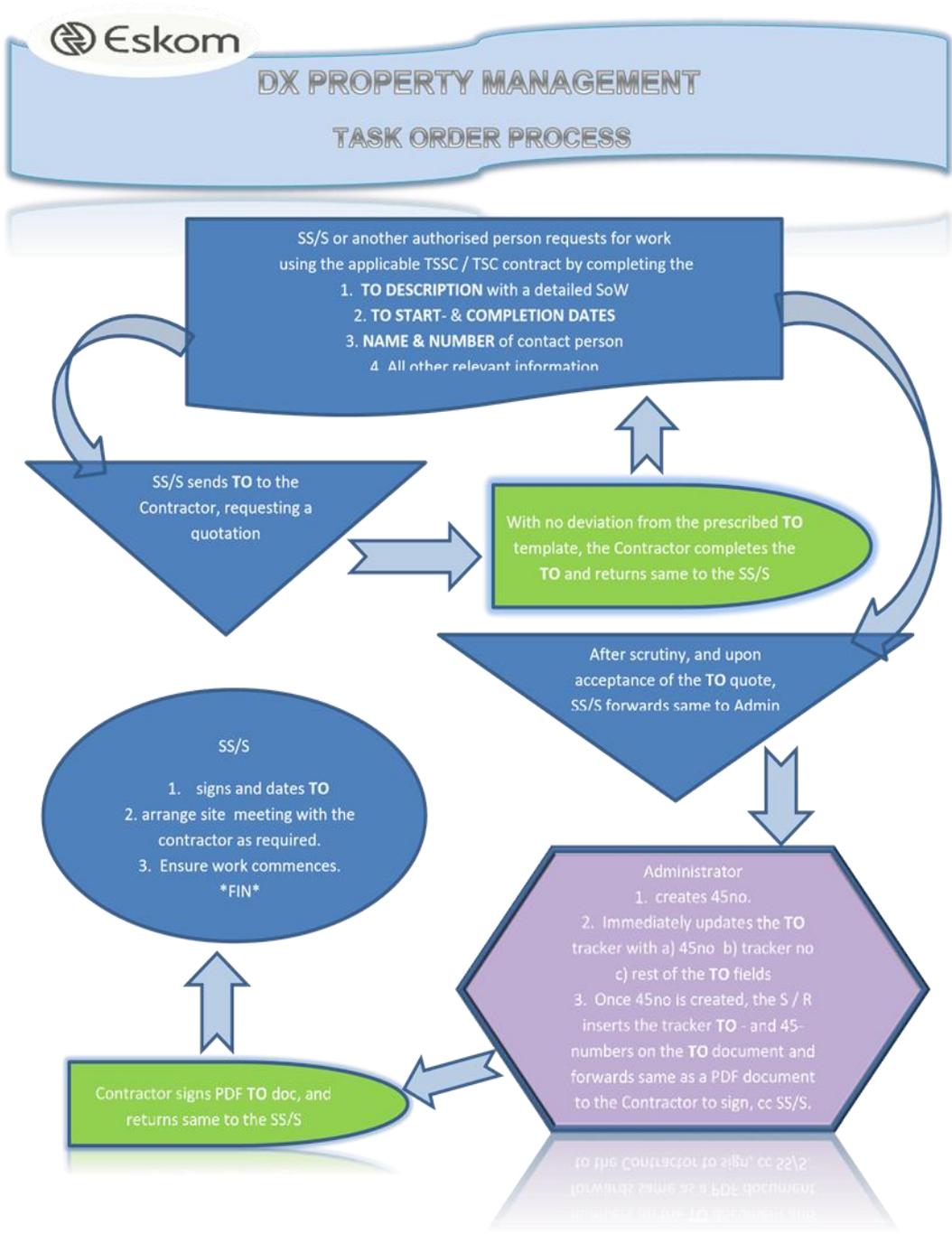
Equipment

None

Information and other things

Where stated in the *price list* and Service Information at the end of each task completed the Contractor to provide a concise Report. The task is not complete unless the Report noted is provided for the specified item.

Management of work done by Task Order



Turnaround times will be discussed and agreed at task order

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 *Contractor* shall therefore comply with all the health and safety requirements as prescribed in the; "Maintenance Contract for Eskom Holdings NCOU - SHE Specification" attached to this document
Annexure B : Acknowledgement Form for the Eskom SHE Rules and other requirements 240-43921804
Rev3

In addition, as scope specific where applicable,

Safety instruction – while on an Eskom property:

No person may be transported in a vehicle that is not intended for the conveyance of people at all times. Therefore no-one will be transported at the back of an LDV regardless of whether it is covered with a canopy.

Note: Contravention to any of the Eskom Life Saving rules, can result in termination of the contract subject to the outcome on an investigation.

RULE 1: OPEN, ISOLATE, TEST, EARTH, BOND AND/OR INSULATE BEFORE TOUCH

No person may work on any electrical network unless:

He / she is trained and authorised as competent for the task to be done.

A pre-task risk assessment to identify all risks and hazards must be conducted prior to any work commencing.

An equi-potential zone is created for each worker on the job site by earthing, bonding and/or insulating according to approved divisional procedures.

All conducting material is connected together, all staff onsite wear electrical safety shoes and insulating techniques are applied according to standards.

The authorised person (Team leader) has certified and shown all team members that the apparatus is safe to work on. He / she is trained and authorised as competent for the task to be done.

Contractor to take precautionary measures when working in close proximity to other power lines.

Jumper covering is provided to serve as an overhead jumper protection covering above solid cut-outs to reduce bird electrocutions

RULE 2 : HOOK UP AT HEIGHTS

Working at height is defined as any work where an activity above 2 metres is performed from ladders, scaffolds, platforms, buckets, excavation, structures or where there is a potential for a fall. A pre-task risk assessment to identify all risks and hazards must be conducted prior to any work at height commencing.

No person may work at height where there is a risk of falling unless:

You are appropriately trained.

You are appropriately secured during ascending and descending.

You are using an approved fall arrest system where applicable

The *Contractor* must be aware of the operating heights when working under HV lines.

RULE 3 : BUCKLE UP

No person may drive any vehicle on Eskom business:

Unless the driver and all passengers are wearing seat belt

RULE 4: BE SOBER

No person is allowed to work under the influence of drugs and alcohol. Under-the-influence' means

the use of alcohol, drugs and /or a controlled substance to the extent that:

The individuals faculties are in any way impaired by the consumption or use of the substances or;

The individual is unable to perform in a safe, productive manner or;

The individual has a level of any such substance in his body that corresponds with or exceeds accepted medical/legal standards. The individual has a level of alcohol in his body that is greater than 0,02 % blood alcohol concentration.

Any level of an illegal substance in the body' irrespective of when the substance was used

RULE 5: ENSURE THAT YOU HAVE A PERMIT TO WORK

Where an authorisation limitation dictates, no person shall work without the required Permit to Work. (PTW)

Work is as defined in the Plant Safety Regulations (PSR) and Operating Regulations for High Voltage Systems (ORHVS) of Eskom.

A Risk Assessment must be carried out jointly by the Authorised (AP) and Responsible Person (RP) on all work before it commences.

The PTW must be issued by an AP, in accordance with the PSR.

The PTW must be accepted in writing by an authorised RP.

The PTW shall be shown to everyone working on the job and the risks explained.

The RP must ensure that all staff working on that job is entered on a Workers' Register and the risks explained to each one.

The RP must ensure that the conditions of the PTW are enforced for the duration of the work.

SHEQ REQUIREMENTS:

In compliance to Eskom's SHEQ Policy, the Contractor to ensure.

Commitment to safety, health and environmental excellence

Conduct business with respect and care for people and minimise or avoid impact on the environment

Compliance to environmental legislation, conditions of Environmental Authorisations and requirements set out in environmental management plans

Acceptance that all injuries and occupational illnesses, as well as safety and environmental incidents are preventable

Report, respond to, investigate, close-out, and share learning from safety and environmental incidents

That SHE is an integral part of your operations and that:

no operating condition, or urgency of service, can justify endangering the life of anyone or cause injury or damage to the environment

In addition, the *Contractor* to ensure as a **tender returnable** the following information (as per organogram) is provided, stating who the relevant qualified person is as per various role levels of the below organogram with all required credentials.



One of the fundamental requirements focuses on professional registration, where a contractor must appoint in writing, a full time or part time Construction Health and Safety Officer (CHSO) after consultation with the client and after having considered the size of the project, the degree of danger likely to be encountered or the accumulation of hazards or risks on the site. No contractor may appoint a CHSO who is not registered with the South African Council for the Project and Construction Management Professions (SACPCMP) and has necessary competencies and resources. The CHSO’s involvement is generally to assist with the control of all health and safety related aspects on site. This will be effective as of 6th August 2015.”

The person so appointed shall:

Supply the Eskom Safety Officer with copies of minutes of all Health and Safety Committee meetings (if relevant), on a monthly basis.

Supply the Eskom Safety Officer with copies of all appointments in respect of employees employed on this contract, in terms of the Act and Regulations and shall advise the Eskom Safety Officer of any changes thereto – to be handed over to the *Employer* prior to construction start.

Eskom may, at any stage during the currency of this agreement, be entitled to;

do safety audits at the *Contractor’s* premises, its work-places and on its employees;
refuse any employee, sub-contractor or agent of the *Contractor* access to its premises if such person has been found to commit any unlawful act or any unsafe working practice or is found to be not authorized or qualified in terms of the Act
issue the *Contractor* with a work stop order or a compliance order should Eskom become aware of any unsafe working procedures or conditions or any non-compliance with the Act, Regulations and Procedures referred to in 1 above by the *Contractor* or any of its employees, sub-contractors or agents.

No extension of time will be allowed as a result of any action taken by Eskom in terms of the above and the *Contractor shall* have no claim against Eskom as a result thereof. Furthermore, no amendments to the Act or the Regulations or reasonable amendment to Eskom’s Safety and Operating Procedures will entitle the *Contractor* to claim any additional costs incurred in complying therewith from Eskom.

The *Contractor* shall be responsible for all expenses incurred to ensure adherence to Health and Safety Regulations as stipulated above which includes but is not restricted to ORHVS training courses, etc.

Typically, the identified risks as listed in the “Health & Safety Specification” for this contract which could endanger persons/*works* as per scope of work to be completed by the *Contractor*. Specific risks, related to projects as will be issued per Task Order are as follows:

Typical Risks to be assessed where applicable
LIVE UNDERGROUND CABLES
WORK IN LIVE CHAMBERS/RESTRICTED AREAS
LIVE OVERHEAD CONDUCTORS/CROSSINGS
CLOSE PROXIMITY WORK TO LIVE EQUIPMENT
OPERATING OF CRANES/VEHICLE MOUNTED
STATIC ELECTRICITY/INDUCTION
WORK WITH CHAINSAWS/MECHANICAL CUTTERS
MATERIALS HANDLING/ HEAVY EQUIPMENT HANDLING
CONDUCTOR STRINGING AND TENSIONING
VEHICLE RISKS
WORK IN OPEN TRENCHES/EXCAVATIONS
COVID-19 pandemic
BIOLOGICAL/HEALTH RISKS (CAMPS)
WEATHER RELATED RISKS (UV, HEAT, COLD, WIND, RAIN, SNOW, ETC.)
ENVIRONMENTAL RISKS
ERGONOMIC RISKS (BODY POSITION, FATIGUE)
WORK ON/DISMANTLING OF RUSTED & ROTTEN POLES AND STRUCTURES
FIRE RISKS
PUBLIC SAFETY RISKS

WORK CLOSE TO PUBLIC ROADS
WORKING IN ENVIRONMENTAL SENSITIVE AREA
HISTORICAL EVENTS THAT COULD INFLUENCE THE PROJECT, I.E. CURRENT STRUCTURE DESIGNS, AGE OF STRUCTURES TO BE WORKED ON, ETC
DEMOGRAPHICS OF THE AREA

THE CONTRACTOR SHALL IDENTIFY MITIGATION ACTIONS FOR ALL IDENTIFIED RISKS, AS WELL AS IDENTIFY ANY ADDITIONAL RISKS AND INCLUDE IT IN THE HEALTH AND SAFETY PLAN TO BE PROVIDED TO THE EMPLOYER ON TENDER RETURN.

The *Contractor* shall comply with other Safety application provisions of Government, Provincial, Municipal

Safety Laws, Building, Construction, Electricity Regulations and Eskom Distribution Standards.

The *Contractor* shall accept full responsibility for the means, methods, sequence or procedures of construction for safety precautions or programmes incident to the work of the *contractor*.

The *Contractor* is required to submit a working methodology statement with regards to the Safety

Standards while working within hazardous areas such as live substations or in close proximity of energized apparatus and/or lines.

The *Contractor* shall indemnify the *Employer* and the Engineer against responsibility for safety on the site of the works.

Reference of the Safety Methodology Statement can be found in the Government

Occupational

Health and Safety Act (Act 85 of 1993) and Construction Regulations Document which is publicly available.

Typically, RISK ANALYSIS IDENTIFYING RISKS THAT could endanger the work as done by the *Contractor*

will be done per Works Order. The *Contractor* should identify mitigation actions for these risks, as well as identify any additional risks and submit at tender

The safety of the *Contractors* personnel and employees acquire precedence over the construction works.

The *Contractor* shall submit a Safety Plan to the *Employer* within one week of award of contract prior to starting on site. The Safety Plan to be assessed by the *Employers* Representative where after on approval will the *Contractor* be allowed access to site.f

Environmental constraints and management

The *Contractor* shall comply with the environmental laws and regulations as well as criteria and constraints as provided at tender stage. The *Contractor* will take due care of to ensure compliance.

All environmental legal Liabilities and claims arising from the activities of the *Contractor* shall be for the *Contractors* expense. The *Contractor* is required to have an understanding of Eskom's basic environmental principles and commitments.

Environmental Management Programme (EMPr) and conditions of the Environment Authorization must be adhered to.

Eskom Environmental Incident Management Procedure.

Existing/previously applied for licenses/permits must be verified to ensure validity date of license/permit

Contractor Owner to attend the Eskom Environmental Legislation Training for Contractors before accepting task order.

Contractor staff to be given environmental awareness by Contractor owner.

Environmental induction required before construction begins, particular about any relevant environmental license/permit

Quality requirements

- Suppliers to comply with Supplier Quality Management Specification: 240-105658000 (QM58)
- Quality Plans (Contract Quality Plan + Quality Control Plan) will be requested as part of the tender QM58 returnable.
- End-user / Project Owners to monitor the implementation of Quality Plans thereafter

General

Except for site management and specialized labour such as operators for plant and equipment, the *Contractor* is encouraged to use "local" labour on a temporary basis for all manual tasks.

The *Contractor* will attend all site meetings as arranged by the *Employer*

The *Contractor* will report all obstacles on site that could impact on time and cost to the *Employer* in writing. Where applicable Early Warnings should be issued

All work/services shall be carried out in accordance with all the statutory requirements applicable to the area and scope, Eskom's specifications, standards and regulations

The *Contractor* will be given access to the proposed site and the *Contractor* must comply with Eskom's, National, Provincial and Local environmental policies, safety standards and laws.

The onus is on the *Contractor* to obtain the latest revision of standards applicable.

The *Employer* reserves the right to alter the scope of the works, programme and constraints.

The Clerk of Works of the *Employer* will do Quality Control Checks and inspections on the *works*.

The *Contractor* notifies the Clerk of Works or *Employer's* Representative of any inspections to be done three days in advance.

The *Contractor* shall ensure that caution is exercised when working in close proximity of live electrical equipment

Supplier Development Localisation and industrialisation (SDL & I)

Section 1: Specific Goals

A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender. The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places. Subject to section 2(1)(f) of the Preferential Procurement Policy Framework Act, the contract must be awarded to the tenderer scoring the highest points.

Section 2: SDL&I Objectives in line with Reconstruction and Development Programme (RDP) Goals

Tenderers who complete and submit the objectives as required, but who do not meet Eskom's targets, will not be disqualified. SDL&I objectives do not form part of scoring, but commitments will form part of contractual obligations

1. Transformation – BBEE Improvement or Retention Plan

Transformation remains an area of focus, where Eskom continuously strives to align itself with national transformation imperatives to unlock growth, drive industrialization, create employment and contribute to skills development.

Eskom encourages its suppliers to constantly strive to improve their B-BBEE rating. Whereas Tenderer/s will be allocated points in terms of a preference point system based on specific goals, Eskom also requests that tenderer/s submits their B-BBEE improvement or retention plan within 30 days of signing the contract.

Tenderer/s are therefore requested to indicate the extent to which they will maintain (only if the respondent is a Level 1) or may improve/maintain their B-BBEE status over the contract period if their B-BBEE status is level 2 or 3. Tenderer/s with a B-BBEE status level 4 at the time of contract award, shall migrate and achieve as a non-negotiable a milestone of B-BBEE Level 3 by the end of the first year of the contract and thereafter improve their B-BBEE status level or migrate by one level higher.

Tenderer/s with a B-BBEE recognition status of Level 5 to Level 8 or non-compliant at the time of contract award, shall migrate and achieve as a non-negotiable a milestone of Level 4 by the end of the first year of the contract and thereafter improve at least one B-BBEE Level higher of each year from the second year of the contract.

Tenderer/s are requested to submit their B-BBEE Improvement Plan as an essential document within 30 days of signing the contract.

NB: A valid B-BBEE certificate or Sworn Affidavit is a condition for contract award, if your company's annual Total Revenue is R10 Million or less you qualify as an Exempted Micro Enterprise therefore you can submit Sworn Affidavit. If your annual Total Revenue is R50 Million or less, you qualify as Qualifying Small Enterprise and must comply with all of the elements of QSE score card relevant to

your sector unless an entity is at least 51% Black owned you are required to obtain a Sworn affidavit. If your Annual Total Revenue is above R50m you need to submit a Valid B-BBEE certificate

2. Local Procurement Content

“Local Procurement Content” refers to value added in South Africa by South African resources. Where a single contract involves a combination of local and imported goods and/or services, the tender response must be separated into its components as per the Price Schedule included with the tender documents. Local procurement content is total spending minus the imported component.

Tenderers are required to submit their proposals in the table below.

Local Procurement Content	Eskom target	Tenderer Proposal
	100%	

3. Jobs. Tenderers to indicate the possible number of jobs they can create for the duration of the contract as well as number of jobs to be retained in Northern Cape as a direct result of being awarded a contract.

Eskom target of jobs to be created	Proposal of number of Jobs to be created
Type of Jobs to be created	Number of Jobs to be retained

4. Skills development

Tenderers are required to submit proposals in a table below for developing the skills of unemployed candidates in the country. Skills development is intended to address Eskom’s core, scarce and critical skills and the scarce and critical skills. These skills are also included in a 2020 list of occupations in high demand as stipulated in the Government Gazette 43937. Candidates shall be from Northern Cape province in the country, and their composition shall be representative of the population demographics of South Africa.

Proposed skill	Eskom target	Tenderer proposal
Electrical 1 and 2	2 candidates	
Generator technician	2 candidates	

The process of developing these skills shall involve the participation by tenderers directly and through their supply network. In certain cases, the SETA's accredited training providers can be approached to participate in developing critical and scarce skills.

Note : That these targets for skills development candidates categorically exclude Eskom employees and registered learners. The tenderers are required to take full responsibility for the total cost of developing the requisite skills, and Eskom shall not make any financial contribution towards the fulfilment of this obligation. Tenderers also are advised to approach their relevant SETAs to access grants, subsidies, and incentives as well as South African Revenue Services for tax rebates that are earmarked for skills development initiatives.

Section 5: Reporting and Monitoring

- The suppliers shall on a quarterly basis submit a report to Eskom in accordance with Data Collection Template on their compliance with the SDL&I obligations described above.
- Eskom shall review the SDL&I reports submitted by the suppliers within 30 (thirty) days of receipt of the reports and notify the suppliers in writing if their SDL&I obligations have not been met.
- Upon notification by Eskom that the suppliers have not met their SDL&I obligations, the suppliers shall be required to implement corrective measures to meet those SDL&I obligations before the commencement of the following report, failing which Retention clauses shall be invoked.
- Every contract shall be accompanied by the SDL&I Implementation Schedule, which must be completed by the suppliers and returned to SDL&I representative for acceptance 28 days after contract award. This will be used as a reference document for monitoring, measuring and reporting on the supplier's progress in delivering on their stated SDL&I commitments

Section 6: General Information on Validity of Sworn Affidavits

The following must be considered when it comes to validity of Affidavits;

Tenderers submitting B-BBEE Sworn Affidavits must ensure that the affidavits meet the following key pointers to ensure their validity:

- Name/s of deponent as they appear in the identity document and the identity number.
- Designation of the deponent as the **director, owner or member** must be indicated in order to know that person is duly authorised to depose of an affidavit. **(Mark the applicable option).**
- Name of enterprise as per enterprise registration documents issued by the CIPC, where applicable, and enterprise business address.
- Percentage of black ownership, black female ownership and designated group. In the case of specialised enterprises as per Statement 004, the percentage of black beneficiaries must be reflected. **(No blank spaces to be left).**
- Indicate total revenue for the year under review and whether it is based on **audited financial statements or management account. (Mark the applicable option).**
- Financial year end as per the **enterprise's registration documents**, which was used to determine the total revenue. **(Financial year end to be stipulated by day/month/year).**
- B-BBEE Status level. An enterprise can only have one status level. **(Tick applicable level)**
- Empowering supplier status must be indicated. For QSEs, the deponent must select the basis for the empowering supplier status.
- Date deponent signed and date of Commissioner of Oath must be the same. **(The sworn affidavit must be signed in the presence of the Commissioner of Oath. Furthermore the Commissioner must also sign and stamp)**
- Commissioner of Oath cannot be an employee or ex officio of the enterprise because, a person cannot by law, commission a sworn affidavit in which they have an interest.

Working on the Affected Property

Tenderers are to note that some of the works are to be carried out in existing occupied facilities and work need to planned properly.

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

Eskom Sites have strict entrance requirements which tendering contractors need to comply with. State

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.

List of drawings and documents:

Drawings issued by the Employer

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

Drawing number	Revision	Title
NOTE: Drawings specific to site and scope of service will be issued when tasks are instructed via Task Order		

Documents issued by the *Employer*

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

Document Reference	Revision	Title
<u>General Specifications:</u>		
Health and Safety requirements		
Environmental requirements		
Site regulations and access control		
At issue of each Task Order		Access to site Certificate