



NEC3 Term Service Contract (TSC3)

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

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

For: **Refurbishment, supply and delivery of Electro Precipitator
Hammers at Duvha Power Station**

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

CONTRACT No. [Insert at award stage]

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:

Refurbishment, supply and delivery of Electro Precipitator Hammers at Duvha Power Station

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

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

Options A	The offered total of the Prices exclusive of VAT is	R
	Sub total	R
	Value Added Tax @ 15% is	R
	The offered total of the amount due inclusive of VAT is ¹	R
	(in words) [●]	

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

Signature(s)

Name(s)

Capacity

**For the
tenderer:**

Name & signature of witness

Date

Tenderer's CIDB registration number:

Acceptance

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*.

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 and Acceptance)	Agreements and Contract Data, (which includes this Form of Offer
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**

Name &
signature of
witness

(Insert name and address of
organisation)

Date

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

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

Note:

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

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

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

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

For the tenderer:

For the Employer

Signature

Name

Capacity

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

(Insert name and address of organisation)

Name & signature of witness

Date

C1.2 TSC3 Contract Data

Part one - Data provided by the *Employer*

1. Please read the relevant clauses in the conditions of contract before you enter data. The number of the clause which requires the data is shown in the left hand column for each statement however other clauses may also use the same data.
2. Some TSC3 options are always selected by Eskom Holdings SOC Ltd. The remaining TSC3 options are identified by shading in the left hand column. In the event that the option is not required select and delete the whole row. Where the following symbol is used "[•]" - data is required to be inserted relevant to the specific option selected.]

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

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:	
		A: Priced contract with price list
	dispute resolution Option	W1: Dispute resolution procedure
	and secondary Options	
		X1: Price adjustment for inflation
		X2: Changes in the law
		X17: Low service damages
		X19: Task Order
		Z: Additional conditions of contract
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	Duvha Power Station PO Box 2199 Witbank 1035
	Tel No.	013 690 0365
	Fax No.	[•]

10.1	The <i>Service Manager</i> is (name):	Ronnie Tladi
	Address	Duvha Power Station PO Box 2199 Witbank 1035
	Tel	013 690 0365
	Fax	n/a
	e-mail	TladiRT@eskom.co.za
11.2(2)	The Affected Property is	N/A
11.2(13)	The <i>service</i> is	The Refurbishment and delivery of Electro precipitator Hammers.
11.2(14)	The following matters will be included in the Risk Register	N/A
11.2(15)	The Service Information is in	Part 3: Scope of Work and all documents and drawings to which it makes reference.
12.2	The <i>law of the contract</i> is the law of	The Republic of South Africa
13.1	The <i>language of this contract</i> is	English
13.3	The <i>period for reply</i> is	One day
2	The Contractor's main responsibilities	To collect damaged hammers from Duvha Power Station, Refurbish and delivery back to Duvha Power Station.
21.1	The <i>Contractor</i> submits a first plan for acceptance within	N/A
3	Time	N/A
30.1	The <i>starting date</i> is.	01 September 2023 or as soon as possible
30.1	The <i>service period</i> is	36 Months (3 year)
4	Testing and defects	
5	Payment	
50.1	The <i>assessment interval</i> is	• 25th day of each month for maintenance work. • On completion of each task order.
51.1	The <i>currency of this contract</i> is the	South African Rand
51.2	The period within which payments are made is	4 weeks.

51.4 The *interest rate* is

the publicly quoted prime rate of interest (calculated on a 365 day year) charged by from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands and

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

6	Compensation events	N/A
7	Use of Equipment Plant and Materials	N/A
8	Risks and insurance	N/A
80.1	These are additional <i>Employer's</i> risks	1. N/A
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	4 weeks.

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	[•] South Africa	
	The person or organisation who will choose an arbitrator	the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.	
	- if the Parties cannot agree a choice or		
	- if the arbitration procedure does not state who selects an arbitrator, is		
X1	Price adjustment for inflation		
X1.1	The <i>base date</i> for indices is	[•].	
	The proportions used to calculate the Price Adjustment Factor are:	proportion	linked to index for
		0.	[•]
		0.	[•]
		0.	[•]
		0.	[•]
		0.	[•]
		[•]	non-adjustable
		1.00	

X17	Low service damages	to a maximum of 5% of the task order value.
Amount	Performance level	
R1000	The contractor has a 3 days to come and collected damaged hammers after being notified. Failure to do so 2% of that task order will not be paid	
R1000	The contractor has 5 days after collecting the damaged hammers to contact Eskom for a failure analysis and QCPs. 2% of the task order will not be paid if the contractor does not adhere.	
R1000	Failure to deliver on the communicated deliver date will be charged.	
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 http://www.eskom.co.za/live/content.php?Item_ID=9248
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	N/A
X19	Task order	
Z	The <i>additional conditions of contract</i> are	Z1 to Z11 always apply.
Z1	Cession delegation and assignment	
	Z1.1	The <i>Contractor</i> does not cede, delegate or assign any of its rights or obligations to any person without the written consent of the <i>Employer</i> .
	Z1.2	Notwithstanding the above, the <i>Employer</i> may on written notice to the <i>Contractor</i> 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 and the Electricity Distribution Industry.
Z2	Joint ventures	
	Z2.1	If the <i>Contractor</i> 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 <i>Employer</i> for the performance of this contract.
	Z2.2	Unless already notified to the <i>Employer</i> , the persons or organisations notify the <i>Service Manager</i> within two weeks of the Contract Date of the key person who has the authority to bind the <i>Contractor</i> on their behalf.
	Z2.3	The <i>Contractor</i> does not substantially alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without the consent of the <i>Employer</i> having been given to the <i>Contractor</i> in writing.
	Z3.4	Failure by the <i>Contractor</i> to notify the <i>Employer</i> of a change in its B-BBEE status may constitute a reason for termination. If the <i>Employer</i> 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. 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	<u>Loss of or damage to property</u> The replacement cost

Employer's property, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Contractor</i>) arising from or in connection with the <i>Contractor's</i> Providing the Service	<u>Bodily injury to or death of a person</u> The amount required by the applicable law.
Liability for death of or bodily injury to employees of the <i>Contractor</i> arising out of and in the course of their employment in connection with this contract	The amount required by the applicable law

Z 12.2 Replace core clause 86 with the following:

Insurance by the Employer

86

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

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 44 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 44 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)² 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:	

² Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 5391902 or www.ecs.co.za

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 *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.

Signed
at

on this

day of

200_

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

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;
 - 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

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]*

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

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

1.2 "Bank's Address" - means **[●]**; *[Drafting Note: Bank's physical address to be inserted]*

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

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

1.5 "*Contractor's ASGI-SA Obligations*" – means the *Contractor's ASGI-SA Obligations* under and as defined in the Contract.

- 1.6 “*Employer*” - means Eskom Holdings SOC Ltd, a company registered in accordance with the laws of the Republic of South Africa under Registration Number 2002/015527/30.
- 1.7 “*Expiry Date*” - means the [●] day of [●] 200[●]; [Drafting Note: anticipated date of issue of ASGI-SA Performance Certificate to be inserted.]
- 1.8 “*Guaranteed Sum*” - means the sum of R [●] ([●] Rand);
- 1.9 “*Project*” – means the
2. At the instance of the *Contractor*, we the undersigned _____ and _____, in our respective capacities as _____ and _____ of the Bank, and duly authorized thereto, confirm that we hold the *Guaranteed Sum* at the disposal of the *Employer*, as security for the proper performance by the *Contractor* of the *Contractor's* ASGI-SA Obligations and hereby undertake to pay to the *Employer*, on written demand from the *Employer* received prior to the *Expiry Date*, any sum or sums not exceeding in total the *Guaranteed Sum*.
3. A demand for payment under this guarantee shall be made in writing at the Bank's address and shall:
- 3.1 state the amount claimed (“the Demand Amount”);
- 3.2 state that the Demand Amount is payable to the *Employer* in the circumstances contemplated in the Contract.
4. Notwithstanding the reference herein to the Contract the liability of the Bank in terms hereof is as 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

PART 2: PRICING DATA
TSC3 Option A

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

C2.1 Pricing assumptions: Option A

How work is priced and assessed for payment

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

- | | | |
|-------------------------------------|------|---|
| Identified and defined terms | 11 | |
| | 11.2 | (12) The Price List is the <i>price list</i> unless later changed in accordance with this contract. |
| | | (17) The Price for Services Provided to Date is the total of <ul style="list-style-type: none">• the Price for each lump sum item in the Price List which the <i>Contractor</i> has completed and• where a quantity is stated for an item in the Price List, an amount calculated by multiplying the quantity which the <i>Contractor</i> has completed by the rate. |
| | | (19) The Prices are the amounts stated in the Price column of the Price List. Where a quantity is stated for an item in the Price List, the Price is calculated by multiplying the quantity by the rate. |

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

Function of the Price List

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

Link to the *Contractor's* plan

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

Preparing the *price list*

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

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

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

Format of the *price list*

(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

Supply and delivery of Electro Precipitator Hammers at Duvha Power Station as follows:

Item nr	Description	Unit	Expected Qty	Price e.a	Price
53506	Complete Wire rapper hammer; S.E CLIP TYPE;8.30 KG; STL	e.a	1 200		
53507	Complete Plate rapper hammer N.E. CLIP TYPE;11.2 KG	e.a	1 500		

The total of the Prices

Refurbishment of Electro Precipitator Hammers at Duvha Power Station as follows:

Item nr	Description	Unit	Expected Qty	Price e.a	Price
53506	Complete Wire rapper hammer; S.E CLIP TYPE;8.30 KG; STL		N/A		
n/a	Hammer head	e.a	1200		
n/a	Flat bar 50x8x310	e.a	1200		
n/a	Flat bar 50x8x55	e.a	1200		
n/a	Washer	e.a	1200		
n/a	Carrier bolt	e.a	1200		
n/a	Bolts, nuts and washer	e.a	1200		
n/a	Clip connection	e.a	1200		
n/a	Rivet	e.a	1200		
n/a	Bush	e.a	1200		
Red oxide	Paint	e.a	1200		
53507	Complete Plate rapper hammer N.E. CLIP TYPE;11.2 KG				
n/a	Hammer head	e.a	1 500		
n/a	Flat bar 50x8x310	e.a	1 500		
n/a	Washer	e.a	1 500		
n/a	Carrier bolt	e.a	1 500		
n/a	Bolts, nuts and washer	e.a	1 500		
n/a	Clip connection	e.a	1 500		
n/a	Rivet	e.a	1 500		
n/a	Bush	e.a	1 500		

Red oxide	Paint	e.a	1 500		
	Collection of damaged hammers	km	4 500		
	Delivery of repaired hammers	km	4 500		

Contractor:

.....
PRINT NAME

.....
SIGNATURE

.....
DATE

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

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 Work3

C3.1: Employer's service Informationiv

1	Description of the <i>service</i>	vi
1.1	Executive overview	vi
1.2	<i>Employer's</i> requirements for the <i>service</i>	vi
1.3	Interpretation and terminology	vii
2	Management strategy and start up. Error! Bookmark not defined.	
2.1	The <i>Contractor's</i> plan for the <i>service</i>	Error! Bookmark not defined.
2.2	Management meetings	Error! Bookmark not defined.
2.3	<i>Contractor's</i> management, supervision and key people	Error! Bookmark not defined.
2.4	Provision of bonds and guarantees.....	Error! Bookmark not defined.
2.5	Documentation control.....	Error! Bookmark not defined.
2.6	Invoicing and payment.....	Error! Bookmark not defined.
2.7	Contract change management.....	Error! Bookmark not defined.
2.8	Records of Defined Cost to be kept by the <i>Contractor</i>	Error! Bookmark not defined.
2.9	Insurance provided by the <i>Employer</i>	Error! Bookmark not defined.
2.10	Training workshops and technology transfer	Error! Bookmark not defined.
2.11	Design and supply of Equipment	Error! Bookmark not defined.
2.12	Things provided at the end of the <i>service period</i> for the <i>Employer's</i> use. Error! Bookmark not defined.	
2.12.1	Equipment Error! Bookmark not defined.	
2.12.2	Information and other things Error! Bookmark not defined.	
2.13	Management of work done by Task Order	Error! Bookmark not defined.
3	Health and safety, the environment and quality assurance Error! Bookmark not defined.	
3.1	Health and safety risk management.....	Error! Bookmark not defined.
3.2	Environmental constraints and management	Error! Bookmark not defined.
3.3	Quality assurance requirements	Error! Bookmark not defined.
4	Procurement Error! Bookmark not defined.	
4.1	People	Error! Bookmark not defined.
4.1.1	Minimum requirements of people employed Error! Bookmark not defined.	
4.1.2	BBBEE and preferencing scheme Error! Bookmark not defined.	
4.1.3	Accelerated Shared Growth Initiative – South Africa (ASGI-SA) Error! Bookmark not defined.	
4.2	Subcontracting.....	Error! Bookmark not defined.
4.2.1	Preferred subcontractors Error! Bookmark not defined.	
4.2.2	Subcontract documentation, and assessment of subcontract tenders Error! Bookmark not defined.	
4.2.3	Limitations on subcontracting Error! Bookmark not defined.	
4.2.4	Attendance on subcontractors Error! Bookmark not defined.	
4.3	Plant and Materials	Error! Bookmark not defined.
4.3.1	Specifications Error! Bookmark not defined.	

- 4.3.2 Correction of defects **Error! Bookmark not defined.**
- 4.3.3 *Contractor's* procurement of Plant and Materials **Error! Bookmark not defined.**
- 4.3.4 Tests and inspections before delivery **Error! Bookmark not defined.**
- 4.3.5 Plant & Materials provided "free issue" by the *Employer* **Error! Bookmark not defined.**
- 4.3.6 Cataloguing requirements **Error! Bookmark not defined.**
- 5 Working on the Affected Property **Error! Bookmark not defined.**
 - 5.1 *Employer's* site entry and security control, permits, and site regulations. **Error! Bookmark not defined.**
 - 5.2 People restrictions, hours of work, conduct and records **Error! Bookmark not defined.**
 - 5.3 Health and safety facilities on the Affected Property **Error! Bookmark not defined.**
 - 5.4 Environmental controls, fauna & flora **Error! Bookmark not defined.**
 - 5.5 Cooperating with and obtaining acceptance of Others **Error! Bookmark not defined.**
 - 5.6 Records of *Contractor's* Equipment **Error! Bookmark not defined.**
 - 5.7 Equipment provided by the *Employer* **Error! Bookmark not defined.**
 - 5.8 Site services and facilities **Error! Bookmark not defined.**
 - 5.8.1 Provided by the *Employer* **Error! Bookmark not defined.**
 - 5.8.2 Provided by the *Contractor* **Error! Bookmark not defined.**
 - 5.9 Control of noise, dust, water and waste **Error! Bookmark not defined.**
 - 5.10 Hook ups to existing works **Error! Bookmark not defined.**
 - 5.11 Tests and inspections **Error! Bookmark not defined.**
 - 5.11.1 Description of tests and inspections **Error! Bookmark not defined.**
 - 5.11.2 Materials facilities and samples for tests and inspections **Error! Bookmark not defined.**
- 6 List of drawings xiv
 - 6.1 Drawings issued by the *Employer*xiv

C3: Scope of Work

C3.1 Employer service information

1 Description of the service

1.1 Executive overview

The service is to collect damaged Electro Static Precipitator (ESP) Hammers from Duvha Power Station, repair them and deliver them back to Duvha Power Station.

1.2 Employer's requirements for the service

- The content of this section is the meet of the scope of work and will depend on the nature of the *goods* required. For example the *goods* may already be available from the *Supplier*, and just need minor alterations to meet the *Purchaser's* requirements, or they may be unique and designed specifically for this contract. Accordingly there may be a need to:
- Transporting of the damaged/failed hammers within 72 hours after removal notification from the Duvha representative, in a safely and securely by the Contractor
- Test to be in accordance with the instruction as per Duvha requirements prior to strip down.
- Strip and inspect Hammer as outlined and within the limits of the component/operation price time schedule (See price list)
- Compile inspection report listing all the parts with condition and also if needed to be replaced or refurbished as outlined and within the limits of the component/operation price time schedule
- All parts to be marked with a unique job/project number and small parts to be stored in a suitable container also marked with the unique job/project number
- All parts/stripped components to be stored in a manner not to incur environmental / accidental damaged
- Submit scope of work based on inspection report and QCP to the Duvha representative for acceptance and signatures and approval to start work.
- Submit comprehensive quotation with referenced unique job/project number to Duvha representative for acceptance
- Submit comprehensive time schedule to the Service Manager for approval
- Hammers to be repaired according to the agreed scope of work
- Assembling of hammers and adhering to the hold points on the QCP which must be communicated in writing 72 hours prior to this event. Contact the Duvha representative when required
- The Service Manager or his delegate accepts the Hammers and signs off the QCP before the Hammers leave the Contractor's premises unless instructed otherwise.
- The data pack shall be submitted to Duvha power station within seven days of the delivery of the Hammers to the station
- The Hammers to be transported safely and securely to Duvha power station by Contractor
- The Contractor shall supply engineering services as and when required
- The Contractor shall supply training as and when required
- The Contractor to do material analysis as and when required.
- The supply of hammer components as on price list to Duvha main stores as per request with relevant certificates.

The contractor may be required to come to site and give maintenance recommendations as and when required

1.3 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
OBL	Outside battery limits

2. Management meetings

Random meetings will be held with the contractor
--

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.

3. Documentation control

- All procedures, work instructions, forms and all contractual communications must be controlled for the duration of the contract.
- The following will appear on all controlled documentation as a title page, page header or page footer:
 - Title
 - Document Unique identifier
 - Revision number, original documents will be noted as revision 0. All subsequent revisions will be number sequentially (1, 2, 3, 4....)
 - Revision Date
 - Date when document was last changed. This date will change with each revision.
 - Effective Date
 - Date when document first came into use. This date will not change as the document is revised.
- 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.
- Inspections reports to be compiled and submitted within two weeks.
- Data package after all the work has been finished to be submitted within one week after the repairs

4. Invoicing and payment

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

The Contractor shall address the tax invoice to Eskom Holdings Limited's VAT (4740101508) and Company Registration Number (2002/015527/06). The tax invoice shall be saved in PDF and sent to invoiceseskomlocal@mp2rc110.eskom.co.za 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)

5. Contract change management

See documentation control

6. Insurance provided by the Employer

First read TSC3 Core Clause 86.1 and then add anything necessary for the <u>management</u> 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.

7. Management of work done by Task Order

- The *Service Manager(s)* issues a *Task Order* to the *Contractor* which specifies clearly the work to be provided, additional specifications and procedures and any other constraints the *Contractor* complies with in providing the *Service*. The *Task Order* is issued before the *Contractor* Provides the *Service*.
- The *Service Manager(s)* issues *Task Orders* to the *Contractor* in a timely manner that allows the *Contractor* to properly plan the work within the time periods stated on the *Task Order*.
- The *Service Manager(s)* issues to the *Contractor* any information relative to the *Employer's* need and circumstance surrounding forecast future work required from the *Contractor*. This information allows the *Contractor* to provide staff in a cost effective and efficient manner.

8. Health and safety, the environment and quality assurance

Health and safety risk management

8.1 Environmental constraints and management

- The Contractor shall comply with the environmental requirements contained in SAS0012: Duvha Power Station Contractors safety manual (latest revision obtainable from the Service Manager).
- Refuse Disposal:
- The Employer will provide special colour coded bins for refuse disposal. The Employer will empty these bins.
- The Contractor ensures that all workers under his control strictly adhere to the correct use of refuse bins:
 - Maroon bins:- Scrap metal only
 - White bins:- Lagging and general household rubbish
 - Yellow bins:- Ash, dust, coal dust and sand
- For the full duration of the Works, the Contractor is responsible to keep the work area clean of any rubble, and to place all refuse into the bins provided.

8.2 Quality assurance requirements

- All work is carried out under the supervision of an experienced Supervisor.
- All quality control documentation is submitted to the Project Manager within 7 days before the outage can commence to be approved by System engineer.
- The *Contractor* complies with the Employer's Quality Requirements as specified in Eskom Generation Standard QM58. Annexure B to this Standard indicates the specific application thereof.
- The contract shall be ISO 9001 or approved Quality Management System
- The Contractor, when using materials that are required to comply with a standard specification. The Contractor shall, if so ordered, furnish the Engineer with certificates showing that the materials do comply.
- Where specified, materials shall bear the official mark of the appropriate standard.
- Samples ordered or specified shall be delivered to the Engineer's office on the Site.
- Unless otherwise specified, all proprietary materials shall be used and placed in strict accordance with the published instructions of the relevant manufacturer.

9. Plant and Materials

9.1 Specifications

The contractor shall adhere to the following standards listed below:

- Occupational Health and Safety Act: Act 85 of 1993 and its Regulations.
- Generation Plant Safety Regulations 36-681
- Supplier Contract Quality Requirements Specification (QM58)
- Maintenance Quality Control Manual (MGM0001)
- Duvha Power Station Contractors Safety Manual (SAS 0012)
- Work in Confined Spaces (SAP0006)
- Criteria for environmental monitoring of work (SAI 0082)
- ENVP0005 - Duvha Power Station Waste Management procedure
- RMP0001 - Risk and Impact Assessment – Duvha Power Station.
- 36-1126 - Specification for Corrosion Protection of Plant and Equipment with Coatings
- 240-43156827 - Introduction to the welding rule book
- 36-505 - Personnel and entities performing welding related special processes on Eskom plant
- 36-775 - Control of plant construction repair and maintenance welding activities
- 36-1162 - Weld defect classification and reporting procedures

9.2 Plant & Materials provided “free issue” by the Employer

- a) The *Employer* will provide power supply, water and land for the storage of equipment and material.
- b) The *Employer* will supply all the necessary material required to execute the *Service*. Once these are handed over to the *Contractor*, the *Contractor* is responsible for collection of these, transportation from Eskom stores and ensuring safeguarding of these.
- c) Should the *Contractor* need to use of any of the Employer’s Equipment, including compressed air, electricity, water supply and crane, it must be specified by the *Contractor*. The *Employer* does not guarantee continuity of supply of any of these items.

9.3 Contractor’s Equipment

- The Contractor must supply all tools and equipment that are needed for the entire contract period.
- The Contractor provides his/her own lifting equipment and welding machines
The Contractor provides his/her own personal gas monitors for carrying out work in confined spaces

10. Working on the Affected Property

10.1 Employer’s site entry and security control, permits, and site regulations

- a) The contractor applies for access permits for all works exceeding four (4) weeks via the Project Manager, who will co-ordinate this.
- b) The Contractor applies for Contractor’s Permits for all his employees and/or subcontractors at the Security gate, at least 24 hours prior to entry of the Duvha Power Station Security Area.
- c) The Contractor completes the specific form in the Duvha Power Station Contractors Safety Manual, listing all of the personnel that he intends using on site.
- d) The completed list, identified with the Contractor’s name, contains the following information:
 - Employee Name
 - Employee ID Number
 - Eskom Safety Co-ordinator signature
 - Eskom Project Manager signature
 - Validity Date
- e) No permits are issued to personnel who have not attended safety induction.
- f) The Contractor photocopies the first page of the ID book of every one of his employees; reduced to the size 65%.
- g) This completed list, together with the photocopies of the ID books is delivered to Protective Services for the preparation of the Contractor’s Permits.
- h) The Contractor allows at least 24 hours for the preparation of the security permits, before he collects the permits from the Protective Services offices.
- i) The Contractor’s personnel are required to be in possession of a Contractor’s Permit at all times inside Duvha Power Station.
- j) All Contractors’ permits are submitted back to Protective Services when the workers leave the site after completion of the works. Failure to return the permits will result in a R25,00 penalty for each non returned permit.
- k) The Contractor compiles detailed Tool Lists (obtainable from Protective Services) of all tools and equipment to be taken on site before arriving at the power station.
- l) Authorised copies of these lists are retained to be used again when the tools and equipment is removed from site.
- m) The Contractor’s visitors and all personnel conform to the security arrangements that are in force at Duvha Power Station.

- n) Application forms for visitors are filled in by the Contractor's Site Manager and approved by the Project Manager, and submitted to the Employer's Protective Services office one day prior to the visit.
- o) Visitors will not be allowed on site if the necessary forms are not in the possession of security staff.
- p) The Chief Security Officer may, with valid cause, remove any of the Contractor's personnel from site, either temporarily or permanently. He may deny access to the site to any person whom, in the opinion of the said Chief Security Officer, constitutes a security risk.
- q) No unauthorised vehicles will be allowed on site. Only Contractor's vehicles with displayed Contract Vehicle Permits disks will be allowed on site. Contract Vehicle Applications are directed to the Project Manager for consideration and approval.
- r) The Contractor is restricted to the Site. The Contractor is forbidden to enter any other areas, and ensures that his employees abide by these regulations.
- s) Parking inside the power station is strictly forbidden, except for loading purposes.
- t) No recruiting of casual labour may be done on Eskom premises, including the area outside the Power Station Security Gate.
- u) Security personnel may search any premises, property or person within the security area of Duvha Power Station
- v) No Photographic equipment will be allowed within the security area of the Power Station without obtaining permission.
- w) Application forms for such permission is available from the Protective Services offices.
- x) Any person found in possession of such equipment will be prosecuted in terms of the National Key Point Act

10.2 People restrictions, hours of work, conduct and records

The Contractor personnel to work the same working hours as Eskom personnel which are: Mondays to Thursday's 7:00 – 16:15, and Fridays 07:00 – 16:00 and the lunch break is 12:00 – 12:30 for maintenance department and 8 hrs shifts for Outages during weekdays and weekends unless if there is a breakdown.

10.3 Site services and facilities

- a) Potable Water Supply
 - Potable water is available at the existing points.
- b) Electrical Power Supply
 - Power is available at the existing points.
 - The Contractor provides his own portable 380V electrical distribution boards, and supply cables to and from the boards, for all his power supply requirements to execute the works.
 - Contractors' Electrical Distribution Boards complies with OHSA as referred to in the Electrical Installation Regulations and the Electrical Machinery Regulations.
 - Each board brought onto site must have a Certificate of Compliance issued by an accredited person.
 - The Contractors' electrical distribution boards are installed at the works on a time negotiated with the project manager, prior to the possession date.
 - The Employer connects distribution boards to a 380V three-phase AC power supply, only after the Contractor has submitted the valid Certificate of Compliance.
 - All Contractors' Electrical Distribution Boards are earthed to the steel structure of the plant.
- c) Toilet Facilities
 - The Employer provides the Contractor access to existing toilet facilities. The Contractor is to provide this facility for its employees working area.
- d) Catering Facilities
 - The Contractor are not allowed to use the Employer's dining facilities.
 - The Contractor may buy take away meals from the fast foods outlet on Site.

e) Medical Facilities

- The Contractor provides a First Aid service to his employees and subcontractors. In the case where these prove to be inadequate, like in the event of a serious injury, the Employer's Medical Centre and facilities will be available.
- Outside the Employer's office hours, the Employer's First Aid Services are only available for serious injuries and life threatening situations.
- The Employer recovers the costs incurred, in the use of the above Employer's facilities, from the Contractor

10.4 Restrictions on Site, roads, walkways and barricades

- a) Pedestrian crossings are marked on the power station roads and should be used.
- b) Walkways are clearly marked on the Power Station and should be used when walking to keep safe on any object that might fall.
- c) Barricades are provided where there are open trenches and around the sumps and manholes.
- d) The contractor shall occupy only such ground as is necessary to carry out the works.
- e) All fences and other structure that have been damaged or interfered with by the contractor shall be restored to be in a condition at least equivalent to their original condition.

10.5 Eskom Life-saving Rules

The Contractor shall comply with the health and safety requirements contained in SAS0012: Duvha Power Station Contractors safety manual (latest revision obtainable from the Service Manager).

- The Contractor submits all the documents as indicated in the Safety, Health & Environmental Specifications relevant to the work to Safety Risk Management before the induction course.
- The Contractor's personnel is to undergo Safety Induction Training at Duvha prior to commencement of this contract and all the relevant Documentation is to be approved by Safety Officials and the Project Manager before any activities can be started on site.
- The induction course is presented by the Safety Risk Department at Duvha Power Station. The Contractor makes arrangements with Safety Risk Management at telephone number 013-690-0143.

Life-saving rules have been developed that will apply to all Eskom employees, agents, consultants and contractors.

- Rule 1: Open, Isolate, Test, Earth, Bond, and/or Insulate before touch - that is any plant operating above 1 000 V.
- Rule 2: Hook up at heights - no person may work at a height where there is a risk of falling.
- Rule 3: Buckle up - no person may drive any vehicle on Eskom business and/or on Eskom premises unless the driver and all passengers are wearing seat belts.
- Rule 4: Be sober (no person is allowed to work under the influence of drugs and alcohol.
- Rule 5: Use a permit to work - where an authorization limitation exists, no person shall work without the required permit to work.
- Rule 6: Wear correct PPE.
- Rule 7: Report all injuries before end of shift.

10.6 Provided by the Contractor

The contractor should provide facilities they deem necessary in executing the work. This must be discussed with the Service Manager prior to commencement of work.

2 List of drawings

2.1 Drawings issued by the *Employer*

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

Drawing number	Revision	Title
B 2.8-031E	1	Hammer bolted clip connection NE
B 1.8-051E	1	Hammer bolted clip connection SE
0.57/21839	1	CE rapper bar