



NEC3 Term Service Contract (TSC3)

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

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

for The provision of artisan accommodation for the
Kusile Power Station project

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CONTRACT No. [Insert at award stage]

PART C1: AGREEMENTS & CONTRACT DATA

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C1.1 Form of Offer & Acceptance

Offer

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

The provision of artisan accommodation for the Kusile Power Station project

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:**

(Insert name and address of organisation)

Name &
signature of
witness

Date

Tenderer's CIDB registration number:

Not applicable

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

Acceptance

By signing this part of this Form of Offer and Acceptance, the Employer identified below accepts the tenderer's Offer. In consideration thereof, the Employer shall pay the Contractor the amount due in accordance with the *conditions of contract* identified in the Contract Data. Acceptance of the tenderer's Offer shall form an agreement between the Employer and the tenderer upon the terms and conditions contained in this agreement and in the contract that is the subject of this agreement.

The terms of the contract, are contained in:

Part C1	Agreements and Contract Data, (which includes this Form of Offer and Acceptance)
Part C2	Pricing Data
Part C3	Scope of Work: Service Information

and drawings and documents (or parts thereof), which may be incorporated by reference into the above listed Parts.

Deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Returnable Schedules as well as any changes to the terms of the Offer agreed by the tenderer and the Employer during this process of offer and acceptance, are contained in the Schedule of Deviations attached to and forming part of this Form of Offer and Acceptance. No amendments to or deviations from said documents are valid unless contained in this Schedule.

The tenderer shall within two weeks of receiving a completed copy of this agreement, including the Schedule of Deviations (if any), contact the Employer's agent (whose details are given in the Contract Data) to arrange the delivery of any securities, bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the *conditions of contract* identified in the Contract Data at, or just after, the date this agreement comes into effect. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this agreement.

Notwithstanding anything contained herein, this agreement comes into effect on the date when the tenderer receives one fully completed and signed original copy of this document, including the Schedule of Deviations (if any).

Signature(s)

Name(s)

Capacity

**for the
Employer**

(Insert name and address of organisation)

Name &
signature of
witness

Date

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

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*

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
		X19: Task Order
		Z: Additional conditions of contract
	of the NEC3 Term Service Contract April 2013 ² (TSC3)	
10.1	The <i>Employer</i> is (name):	Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state owned company incorporated in terms of the company laws of the Republic of South Africa
	Address	Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg
	Tel No.	[•]
	Fax No.	[•]
10.1	The <i>Service Manager</i> is (name):	Alexander Matlou
	Address	[•]
	Tel	+27 13 693 4817
	e-mail	MatlouAM@eskom.co.za
11.2(2)	The Affected Property is	Accommodation Sites
11.2(13)	The <i>service</i> is	The provision of artisan accommodation for the Kusile Power Station Project
11.2(14)	The following matters will be included in the Risk Register	None
11.2(15)	The Service Information is in	Part 3: Scope of Work and all documents and

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

		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	1 weeks
2	The Contractor's main responsibilities	Data required by this section of the core clauses is also provided by the <i>Contractor</i> in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data
21.1	The <i>Contractor</i> submits a first plan for acceptance within	2 weeks of the Contract Date
3	Time	
30.1	The <i>starting date</i> is.	01 June 2022
30.1	The <i>service period</i> is	18 months
4	Testing and defects	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data
5	Payment	
50.1	The <i>assessment interval</i> is	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	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	None
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		Refer to C2.2		
20.5	The Contractor prepares forecasts of the final total of the Prices for the whole of the service at intervals no longer than		2 weeks.		
11	Data for Option W1				
W1.1	The Adjudicator		the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see www.ice-sa.org.za). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).		
	Address		To be advised		
	Tel No.		To be advised		
	Fax No.		To be advised		
	e-mail		To be advised		
W1.2(3)	The Adjudicator nominating body 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 tribunal is:		arbitration		
W1.4(5)	The arbitration procedure 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		Johannesburg 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				
12	Data for secondary Option clauses				
X1	Price adjustment for inflation				
X1.1	The base date for indices is		One month prior to the tender closing date		
	The proportions used to calculate the Price Adjustment Factor are:		proportion	linked to index for	Index prepared by
			0.85	PO141 CPI (Headline)	STASSA
			15%	non-adjustable	

		1.00
X2	Changes in the law	There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.
X19	Task Order	
X19.5	The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within	14 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. The <i>Employer's</i> policy deductible as at Contract Date, where covered by the <i>Employer's</i> insurance.
Loss of or damage to Plant and Materials	The replacement cost where not covered by the <i>Employer's</i> insurance. The <i>Employer's</i> policy deductible as at Contract Date, where covered by the <i>Employer's</i> insurance.

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

Z 12.2 Replace core clause 86 with the following:

Insurance by the Employer

86

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

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
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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*

Notes to a tendering contractor:

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

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

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

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

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	

PART 2: PRICING DATA
TSC3 Option A

Document reference	Title	No of pages
C2.1	Pricing assumptions: Option A	
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 • 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*

Refer to Excel spread sheet

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

C3.1: EMPLOYER'S SERVICE INFORMATION

Description of the *service*

Executive overview

To provide accommodation for Artisan workers who are working at the Eskom Kusile Power Station project. The service includes full accommodation Services as outlined below.

Employer's requirements for the service

- The service provider must provide a minimum of 30 rooms per site. (Letter confirming minimum capacity of 30 rooms).
- Business Occupation certificate or a letter from the local authority confirming business occupation.
- Electrical certificate of compliance
- Certificate of Acceptability under R 638 (Hygiene Regulations)
- Tender must be within 45 Km from the Kusile Power Station Project. The tenderers must provide a Google maps print out indicating that accommodation site is within a distance of 45 km using a public road from the Kusile Power Station Project.
- The facility must have a ratio of not more than 4 occupants per one ablution facility (4:1) and not less than 3 occupants per one ablution facility (3:1). The Ablution facilities may be within or outside the accommodation unit (Outside ablution must have a covered walkway and pathway from the rooms to the ablutions). A signed letter confirming the required ratio.

ACCOMMODATION SPECIFICATION

This section describes the minimum specification with regards to Artisan Accommodation Sites

Rooms

- Rooms shall have private entrance (no walk through by other occupant) and provided with lockable doors.
- Floor covers should be compliant with building regulations.
- Rooms must have a painted ceiling.
- Rooms must be fitted with at least one power socket per person.
- Rooms must be fitted with curtains / blinds.
- Rooms must be supplied with lighting.
- Rooms must be equipped with a dustbin.

Room Equipment

- Beds - single bed
- 150mm high density foam mattress as a minimum.
- Linen - 1x flat sheet, 1x fitted sheet, 1x pillow, 1x pillow case.
- 2 blankets (1.9kg each) or 1 blanket (1.9kg) and 1 duvet
- Lockable Clothing Cupboard – double door with shelve and hanging space.

- Study table and chair must be provided

Ablution Facilities

- The Ablution facilities may be within or outside the accommodation unit (Outside ablution must have a covered walkway and pathway from the rooms to the ablutions) at a ratio of One ablution facility per 4 occupants 4:1 or one ablution facility per 3 occupants 3:1.
- Each ablution facility must consist of:
 - Toilets
 - Showers (divided with front enclosures)
 - Hand wash basins

In the case where the ablutions facilities are not within the accommodation unit, paved and covered walkways with lighting shall be provided between the ablution facility and Accommodation unit. Toilet paper shall be provided at a ratio of 2 rolls per occupant per week. Sufficient hot water shall be provided for occupants at a ratio of 10 litres per person.

Resting area

The Accommodation shall have a resting area to be used by the occupants. The resting area shall have sufficient seating and tables.

LAUNDRY REQUIREMENTS:

Launderette Facilities

The Accommodation shall provide the following communal laundry facilities for the occupants:

- Washing troughs
- Washing lines
- Ironing facilities (i.e. iron & ironing board)

Laundry Services

The Accommodation shall ensure that a laundry service is available for occupants as follows:

- Linen (excluding pillow) – 1 set per occupant per week.
- Work clothes – 2 overall sets per occupant per week.
- Blankets and Pillow – quarterly.

A system must be implemented whereby linen and work clothes are returned to the same occupant after being laundered. Security of clothing and linen must be ensured to prevent loss during the service.

CLEANING REQUIREMENTS

The Accommodation shall be cleaned daily. (i.e. rooms, ablution facilities, dining areas, rest areas, recreational areas etc.)

SECURITY SPECIFICATIONS

- The Accommodation shall be secured with effective perimeter fencing and must be able to detect, delay and deter intruders.
- Security services shall allow for sufficient controlled pedestrian access and easy flow of pedestrians during peak times. Access to the living quarters must be restricted to registered occupants only.
- Only one access control point for vehicle access will be allowed. Access to the living quarters must be restricted to registered occupants only.

COMMON AREAS

Recreational Facilities

The residents shall have access to sports and recreational facilities. The facilities must consist of the following:

- Pool tables and or Soccer table
- Tuck shop facilities if in a remote area
- Minimum x2, 52 inch flat screen TV's to be located in the recreation areas.
- Provide DSTV premium package for both TV location points.
- Heating facilities which are safe and economical
- Hot water facilities for coffee / tea (Residents to provide their own beverages).

MEDICAL FACILITIES

The Accommodation shall be equipped with first aid equipment where basic first aid can be provided.

CATERING AND CATERING FACILITIES

- Provide breakfast and dinner (Monday-Friday)
- Provide Breakfast lunch and dinner (Saturday, Sunday & Public Holidays)
- Copies of menu cycles for Artisan employees will be provided. These proposed menus have been developed by a qualified dietician. Portion sizes and specifications on the menu must be adhered to. The Employer reserves the right to inspect and evaluate meals served at the Accommodation at any time.
- The Employer must be provided with an approved certificate of acceptability issued by the local municipal offices certifying the Accommodation to prepare and serve food at the relevant Accommodation site.
- The Accommodation shall have a dining facility which provides sufficient seating for 50% of the occupants' capacity. The dining facility shall have heating facilities which are safe and economical. All meals shall be prepared and served at the Accommodation. No food may be pre-packed or delivered in food containers for the occupants. No crockery & cutlery to be taken out of the dining areas.
- During the Covid 19 pademic, Service providers shall comply with all regulations regarding Covid 19. i.e. Using of facemask, wash hands / sanitize etc

ACCESS AND TERRAIN

Access roads to the Accommodation must be paved or tarred. In case of dirt roads, the Accommodation owner must ensure that the roads must be passable and maintained. Open areas must be covered with grass to avoid dust. Sufficient dust bins must be provided for hygiene and waste management.

GARDEN MAINTENANCE

Garden Maintenance and horticultural services must be provided.

MAINTENANCE

All occupied Accommodation must be maintained according to a planned maintenance schedule and ad-hoc defects as and when they are identified. A defect register must be available for occupants to report defects. The register must be maintained and kept safe for tracking purposes.

LEGAL REQUIREMENTS

All buildings at the Accommodation must comply with all legal requirements as prescribed by local authorities, which includes but not limited to a Certificate of Acceptability, building regulations, Certificate of Compliance & the OSH Act.

ACCOMMODATION MANAGEMENT

- The Accommodation shall be managed by competent management and staff to ensure the smooth operation. The Eskom Accommodation House Rules and Regulation (Annexure D) shall be used by the Service Provider to govern all Accommodation sourced for the Non-Local Workers.
- The Employer must ensure that a Resident's Committee is established at each Accommodation. The Resident Committee will be a communication channel between the Residents, the Service Provider, the Contractor and the Employer. Refer to Annexure E on the terms of reference of the Residents Committee.

ROOM OCCUPATION

No mass accommodation will be allowed. Room occupation must be as follows:

• Employee Description	• Max room occupation	• Minimum room size
• Artisan Workers	• 1 (one)	• 9 m ² (Ablution and passage excluded)

BACK UP FACILITIES

All Accommodation shall have the following back up equipment and facilities:

- Generator with sufficient capacity to support the kitchen. Safe lighting needs to be provided in the rooms during a power failure.
- Sufficient water storage to allow for supply of the kitchen. Provision of water for the toilets and for residents to freshen up must be made.

Interpretation and terminology

Not applicable

The following abbreviations are used in this Service Information:

Abbreviation	Meaning given to the abbreviation
N/A	

Management Strategy and start up.

The *Contractor's* plan for the service

- The Service provider must incorporate the plan for the following
 1. Book-in Procedure
 2. Book-out procedure
 3. Defect reporting procedure
 4. Back-up water & Electricity supply
 5. Residents Committee terms of reference
-

Management meetings

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

Title and purpose	Approximate time & interval	Location	Attendance by:
Supplier Evaluation Meetings	Monthly	Accommodation Site	Properties Officer/s Eskom Residential Manager
Contractor Operational Meeting	Monthly on 3 rd week of the month	Wilge Boardroom- Wilge	Contractors Eskom Residential Manager Eskom Property Manager Safety Officer
Health & Safety Audits	As and when required	Accommodation Site	Properties Officer/s Health & Safety Rep

All meetings shall be recorded using minutes and a register of attendance prepared and circulated by the chairperson convening the meeting. Such minutes and 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 and instructions.

Contractor's management, supervision and key people

1. Contract/Site Manager
2. Chef or Sous chef or Cook
3. Health & Safety Rep
4. Site Supervisor
5. Kitchen Supervisor

Provision of bonds and guarantees

Not applicable

Documentation control

A reliable filing system must be maintained by the Contractor to ensure that all data and information is stored in a safe manner. Record keeping of resident's information as well as special dietary requirements must be documented and filed.

Invoicing and payment

All invoices must be forwarded via email on the 25th of each month.

The Contractor shall address the tax invoice to

Eskom Holdings SOC Ltd
Group Capital Division
Kusile Power Station Projects
House 114- Cnr Jelicoe and Watermeyer Street
Witbank
1035

Vat No: 4740101508

Att: Mr Awie De Jager

Include on each invoice the following information:

Name and address of the *Contractor* and the *Service Manager*;
The contract number and title & Purchase order number
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;
Goods receipt number can be obtained from Nonkululeko Sisoka or Tshepang Mokoena.

OR

For invoice submission and payment (e. g. electronic payment instructions)

1. Ensure that the Eskom purchase order number is clearly indicated on your invoice together with the line number on the order you are billing for.
2. All electronic submissions of invoices must be sent through in PDF format only
3. Each PDF file should contain one invoice, or debit order note, or one credit note only as Eskom's SAP system does not support more than one PDF being linked into the workflow at a time.
4. Only one PDF file per email
5. Email to - InvoicesgrpcapitalKCT@eskom.co.za - No goods receipt (GR) number required to submit invoices electronically
6. You do not require a goods receipt (GR) number to submit invoices electronically. When the GR number is received you can email to FSS contact

Contract change management

The Employer may instruct changes to the scope at any time, each instruction shall set out the change and the date on which it becomes effective; and must be issued to the Contractor in writing to be valid.

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

The contractor must keep all documentation related to the compensation events, quotes, and instructions from the Employer for a period of 5 years after the contract completion for audit purposes.

Insurance provided by the *Employer*

The insurance policy provided by the Employer will be dealt with as specified in Clause 86.1 TSC.

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

Not applicable

Management of work done by Task Order

Applicable as per secondary clause X19 NEC 3 TSC

Health and safety, the environment and quality assurance

Health and safety risk management

The *Contractor* shall comply with the Environmental criteria and constraints stated in the SHE Specification Form- Safety, Health and Environmental Specification-240-148534823
Eskom GCD Facilities (Health & Safety officer) - Nkhetheni Sadiki

Environmental constraints and management

Ensure Waste management plan is in place to manage dry and wet waste at the accommodation site

Quality assurance requirements

QM-58 requirements.

- Form A of this specification shall be signed by the supplier responding to an Eskom invitation to tender.
- The supplier and sub-supplier shall develop, implement and maintain a formal quality management system that conforms to the latest ISO 9001 standard or any applicable standard of quality management system (latest applicable revision) and in accordance with the requirements of this specification. Refer to clause 3.1.1 of QM 58
- Such a formal system shall consist of the appropriate documentation such as a quality manual, quality plans, work procedures, work instructions, method statements, workflow documentation, etc., as the case may be. This requirement constitutes the most basic quality management system requirements. Refer to clause 3.1.2 of QM 58
- The supplier to comply to Quality Requirements) of QM 58
- NB: QM 58 is based on the latest ISO 9001 standard, i.e. ISO 9001:2015

Procurement

People

Minimum requirements of people employed

Service provider is encouraged to employ persons who are local to the Nkangala district where possible. Records of all employees should be kept on record at the site they are employed at.

BBBEE and referencing scheme

BBB-EE certificates of sub-contractors should be available upon request and records of purchases from suppliers in the Nkangala district should be readily available and kept on file.

Supplier Development Localisation & Industrialization

SDL & I Undertaking (refer to annexure J)

Sub-Contractors

SDL & I Undertaking (refer to annexure J)

Working on the affected property

Health and safety facilities on the Affected Property

The Contractor shall comply with the environmental criteria and constraints stated in the SHE specification form. **240-148534823**

Control of noise, dust, water and waste

Contractor should ensure adherence to the R638 Certificate of Acceptability issued by the local municipality and the management of waste.

Tests and inspections

Description of tests and inspections

Ensure adherence to Eskom GCD Facilities Work instruction in terms of menu sampling and Health & Safety Regulations.

Materials facilities and samples for tests and inspections

Ensure adherence to Eskom GCD Facilities Work instruction in terms of menu sampling and Health & Safety Regulations.