



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 Calibration and Refurbishment of
Safety Valves at Medupi Power Station for a period of
60 months**

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

CONTRACT No. [Insert at award stage]

PART C1: AGREEMENTS & CONTRACT DATA

Contents:	No of pages
C1.1 Form of Offer and Acceptance	[•]
C1.2a Contract Data provided by the <i>Employer</i>	[•]
C1.2b Contract Data provided by the <i>Contractor</i>	[•]
C1.3 Proforma Guarantees	[•]

C1.1 Form of Offer & Acceptance

Offer

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

The Provision of Calibration and Refurbishment of Safety Valves at Medupi Power Station for a period of 60 months

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

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

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

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

Signature(s)

Name(s) _____

Capacity _____

For the tenderer:

(Insert name and address of organisation)

Name & signature of witness

Date

Tenderer's CIDB registration number:

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

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 _____ _____ Name & signature of witness _____ _____ Date _____	_____ _____ _____ _____ _____ _____ _____ _____
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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:	
	dispute resolution Option and secondary Options	<p>A: Priced contract with price list</p> <p>W1: Dispute resolution procedure</p> <p>X1: Price adjustment for inflation</p> <p>X2: Changes in the law</p> <p>X4: Parent company guarantee</p> <p>X18: Limitation of liability</p> <p>X19: Task Order</p> <p>Z: Additional conditions of contract</p>
	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
10.1	The <i>Service Manager</i> is (name):	[•]
	Address	Medupi Power Station Steenbokpan Road Lephalale, 0555
	Tel	[•]
	Fax	[•]
	e-mail	[•]
11.2(2)	The Affected Property is	Medupi Power Station
11.2(13)	The <i>service</i> is	Calibration and Refurbishment of Safety Valves
11.2(14)	The following matters will be included in the Risk Register	<ul style="list-style-type: none"> Delays in the works

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

		<ul style="list-style-type: none"> Employee(s) clear criminal records
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	3 calendar days
2	The Contractor's main responsibilities	Data required by this section of the core clauses is also provided by the <i>Contractor</i> in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data
21.1	The <i>Contractor</i> submits a first plan for acceptance within	Any other period agreed by Parties
3	Time	
30.1	The <i>starting date</i> is.	[•]
30.1	The <i>service period</i> is	60 Months
4	Testing and defects	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data
5	Payment	
50.1	The <i>assessment interval</i> is	between the 25th day of each successive month or after successful completion of the outage works.
51.1	The <i>currency of this contract</i> is the	South African Rand
51.2	The period within which payments are made is	30 days after receipt of valid tax invoice.
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
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	Only the risks under sub-clause 80.1 of the NEC3 TSC

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	Four 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).
	Address	1st Floor, Maisels Chamber, 4 Protea Place, Sandton
	Tel No.	011 320 0600
	Fax No.	011 320 0533
	e-mail	info@arbitration.co.za
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	
	- if the Parties cannot agree a choice or	the Chairman for the time being or his nominee
	- if the arbitration procedure does not state who selects an arbitrator, is	of the Association of Arbitrators (Southern Africa) or its successor body.
12	Data for secondary Option clauses	
X1	Price adjustment for inflation	
X1.1	The <i>base date</i> for indices is	One-month prior to the tender closing date. Prices are fixed for the first 12 months of the contract. CPA can only then be applied after the

	The proportions used to calculate the Price Adjustment Factor are:	<p>first 12 months.</p> <table border="1"> <thead> <tr> <th>proportion</th> <th>linked to index for</th> <th>Index prepared by</th> </tr> </thead> <tbody> <tr> <td>0.</td> <td>[•]</td> <td>[•]</td> </tr> <tr> <td>0.</td> <td>[•]</td> <td>[•]</td> </tr> <tr> <td>0.</td> <td>[•]</td> <td>[•]</td> </tr> <tr> <td>0.</td> <td>[•]</td> <td>[•]</td> </tr> <tr> <td>0.</td> <td>[•]</td> <td>[•]</td> </tr> <tr> <td>0.15</td> <td colspan="2">non-adjustable</td> </tr> <tr> <td>1.00</td> <td colspan="2"></td> </tr> </tbody> </table>	proportion	linked to index for	Index prepared by	0.	[•]	[•]	0.	[•]	[•]	0.	[•]	[•]	0.	[•]	[•]	0.	[•]	[•]	0.15	non-adjustable		1.00		
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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.																								
X4	Parent company guarantee	There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.																								
X18	Limitation of liability																									
X18.1	The <i>Contractor's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to	R0.0 (zero Rand)																								
X18.2	For any one event, the <i>Contractor's</i> liability to the <i>Employer</i> for loss of or damage to the <i>Employer's</i> property is limited to	the amount of the deductibles relevant to the event																								
X18.3	The <i>Contractor's</i> liability for Defects due to his design of an item of Equipment is limited to	<p>The greater of</p> <ul style="list-style-type: none"> the total of the Prices at the Contract Date and the amounts excluded and unrecoverable from the <i>Employer's</i> insurance (other than the resulting physical damage to the <i>Employer's</i> property which is not excluded) plus the applicable deductibles 																								
X18.4	The <i>Contractor's</i> total liability to the <i>Employer</i> , for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	<p>the total of the Prices other than for the additional excluded matters.</p> <p>The <i>Contractor's</i> total liability for the additional excluded matters is not limited.</p> <p>The additional excluded matters are amounts for which the <i>Contractor</i> is liable under this contract for</p> <ul style="list-style-type: none"> Defects due to his design, plan and specification, Defects due to manufacture and fabrication outside the Affected Property, 																								

		<ul style="list-style-type: none"> • 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	12 months after the end of the <i>service period</i>.
X19	Task Order	
X19.3	Delay damages	The delay damages, owing to Contractor's delays, shall be 0.5% per week of delay calculated on the Task Order value up to a maximum of 10% of such value, and cumulatively for all delays under this Contract to a maximum of 10% of the Contract Price
X19.5	The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within	Any other period agreed by Parties after 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
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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 lir of indemnity
Assets All Risk	Per the insurance policy document
Contract Works insurance	Per the insurance policy document

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

Z13 Nuclear Liability

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

Z14 Asbestos

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

- AAIA** means approved asbestos inspection authority.
- ACM** means asbestos containing materials.
- AL** means action level, i.e. a level of 50% of the OEL, i.e. 0.1 regulated asbestos fibres per ml of air measured over a 4 hour period. The value at which proactive actions is required in order to control asbestos exposure to prevent exceeding the OEL.
- Ambient Air** means breathable air in area of work with specific reference to breathing zone, which is defined to be a virtual area within a radius of approximately 30cm from the nose inlet.
- Compliance Monitoring** means compliance sampling used to assess whether or not the personal exposure of workers to regulated asbestos fibres is in compliance with the Standard's requirements

for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.

OEL	means occupational exposure limit.
Parallel Measurements	means measurements performed in parallel, yet separately, to existing measurements to verify validity of results.
Safe Levels	means airborne asbestos exposure levels conforming to the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.
Standard	means the <i>Employer's</i> Asbestos Standard 32-303: Requirements for Safe Processing, Handling, Storing, Disposal and Phase-out of Asbestos and Asbestos Containing Material, Equipment and Articles.
SANAS	means the South African National Accreditation System.
TWA	means the average exposure, within a given workplace, to airborne asbestos fibres, normalised to the baseline of a 4 hour continuous period, also applicable to short term exposures, i.e. 10-minute TWA.

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

C1.2 Contract Data

Part two - Data provided by the Contractor

Clause	Statement	Data
10.1	The Contractor 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 Contractor's plan is in:	
21.1	The plan identified in the Contract Data is contained in:	
24.1	The key people are: 1 Name: Job: Responsibilities: Qualifications: Experience: 2 Name: Job: Responsibilities: Qualifications: Experience:	
		CV's (and further key person's data including CVs) are in .
A	Priced contract with price list	
11.2(12)	The <i>price list</i> is in	
11.2(19)	The tendered total of the Prices is	R

C1.3 Forms of Securities

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)

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

1. 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 andwhere 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.

2. 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.

3. 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).

4. 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.

4.1. 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

1. PRELIMINARIES AND GENERAL	Unit	Quantity	Rate	Total
10 ton truck	km	31620		R -
16 Seater bus	km	94400		R -
Accommodation (Site supervisor, Trevi-test Technicians, QC)	months	19		R -
Medical (Entry amd Exit)	Annually	5		R -
SHEQ Requirements (PPE, Safety file etc)	Item	1		R -
				R -
2.WORKFORCE(ON SITE)	Unit	Quantity	Rate	Total
Site Supervisor (1)	Hours	2360		R -
Mechanical fitter (5)	Hours	11800		R -
Assistants (5)	Hours	11800		R -
Rigger (2)	Hours	4720		R -
safety officer (1)	Hours	2360		R -
Trevi-test Technicians (2)	Hours	4720		R -
Quality Controller (1)	Hours	2360		R -
				R -
Weir Safety Valves	Unit	Quantity	Rate	Total
Refurbishment				
NPS 1" / NPS 2"	Ea	36		R -
NPS 1" 1/2 / NPS 3"	Ea	72		R -
NPS 3" / NPS 4"	Ea	12		R -
NPS 4" / NPS 6"	Ea	24		R -
NPS 6" / NPS 8"	Ea	12		R -
NPS 8" / NPS 10"	Ea	42		R -
Pressure Test				
NPS 1" / NPS 2"	Ea	36		R -
NPS 1" 1/2 / NPS 3"	Ea	72		R -
NPS 3" / NPS 4"	Ea	12		R -
NPS 4" / NPS 6"	Ea	24		R -
NPS 6" / NPS 8"	Ea	12		R -
NPS 8" / NPS 10"	Ea	42		R -
Trevitest				
NPS 1" / NPS 2"	Ea	18		R -
NPS 1" 1/2 / NPS 3"	Ea	36		R -
NPS 3" / NPS 4"	Ea	6		R -

NPS 4" / NPS 6"	Ea	12		R	-
NPS 6" / NPS 8"	Ea	6		R	-
NPS 8" / NPS 10"	Ea	21		R	-
Leser Safety Valves	Unit	Quantity	Rate	Total	
<i>Refurbishment</i>					
DN10	Ea	300		R	-
DN15	Ea	300		R	-
DN20	Ea	250		R	-
DN25	Ea	250		R	-
DN32	Ea	250		R	-
DN40	Ea	250		R	-
DN50	Ea	250		R	-
DN65	Ea	240		R	-
DN80	Ea	160		R	-
DN100	Ea	160		R	-
DN125	Ea	160		R	-
DN150	Ea	160		R	-
DN200	Ea	100		R	-
DN250	Ea	60		R	-
DN300	Ea	60		R	-
DN350	Ea	50		R	-
DN400	Ea	50		R	-
				R	-
<i>Pressure Test</i>				R	-
DN10	Ea	300		R	-
DN15	Ea	300		R	-
DN20	Ea	250		R	-
DN25	Ea	250		R	-
DN32	Ea	250		R	-
DN40	Ea	250		R	-
DN50	Ea	250		R	-
DN65	Ea	240		R	-
DN80	Ea	160		R	-
DN100	Ea	160		R	-
DN125	Ea	160		R	-
DN150	Ea	160		R	-
DN200	Ea	100		R	-
DN250	Ea	60		R	-
DN300	Ea	60		R	-
DN350	Ea	50		R	-
DN400	Ea	50		R	-
				R	-
Trevitest				R	-

DN10	Ea	150		R	-
DN15	Ea	150		R	-
DN20	Ea	125		R	-
DN25	Ea	125		R	-
DN32	Ea	125		R	-
DN40	Ea	125		R	-
DN50	Ea	125		R	-
DN65	Ea	120		R	-
DN80	Ea	80		R	-
DN100	Ea	80		R	-
DN125	Ea	80		R	-
DN150	Ea	80		R	-
DN200	Ea	50		R	-
DN250	Ea	10		R	-
DN300	Ea	10		R	-
DN350	Ea	10		R	-
DN400	Ea	10		R	-
				R	-
Allowance for hard and soft spares(Actual Cost)				R	-
Overheads %				R	-
				R	-
Total value exc vat and cpa				R	-

The total of the Prices

PART 3: SCOPE OF WORK

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C3.2	<i>Contractor's Service Information</i>	
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C3.1: EMPLOYER'S SERVICE INFORMATION

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1 Description of the service

1.1 Executive overview

Medupi Power Station Management has taken a decision to outsource refurbishment and calibration of safety valves scope to a suitably qualified, experienced, and well-established Contractor.

1.2 Employer's requirements for the service

Works Information

1.2.1 General

- 1) The scope is for refurbishment and calibration of safety valves during planned outages.
- 2) The contractor is required to disassemble, inspect, repair or refurbish and reassemble all the safety valves.
- 3) The Contractor shall ensure availability of competent and skilled staff for all works.
- 4) The Contractor shall compile data books which include the minimum requirements as stated in 240-154283718 "Pressure Equipment Regulations - Compliance Manual Section" 10.2
- 5) The Contractor shall ensure that any service rendered with regards to planned outages, is completed within the time frames as committed to by the Contractor.
- 6) The Contractor shall supply the required original OEM spares and consumables for all planned outages. The Contractor shall ensure that all spares required are readily available as and when required.
- 7) The Contractor shall supply a comprehensive total spares list with costing of each spare, as well as the lead time of every spare item.
- 8) The Contractor shall ensure that the work area is to be left in the same or a better state on completion of any work.
- 9) Prior to commencement of any refurbishment and/or calibration activities the Contractor shall ensure that a QCP is developed and approved by Eskom and/or his representative. The Contractor shall ensure that any witness and hold inspection points are strictly adhered to.
- 10) The Contractor shall provide full engineering 'root cause analysis' and corrective action reports on any breakdown or failure of any part or component and is applicable to all safety valves.
- 11) The Contractor shall be responsible for repairing equipment that has failed based on the recommendations within the corrective action reports mentioned above. This should be conducted after a task order is received from the Employer, as the Employer will assess and agree to the failure report before repair works are conducted by the Contractor.
- 12) After refurbishment of safety valves at contractor's premises, the contractor shall be responsible for re-installing the refurbished valves at Medupi Power Station.

1.2.2 Valves

1. Works Information

- 13) The scope is for refurbishment and calibration of safety valves during planned outages.
- 14) The contractor is required to disassemble, inspect, repair or refurbish and reassemble all the safety valves.
- 15) The Contractor shall ensure availability of competent and skilled staff for all works.
- 16) The Contractor shall compile data books which include the minimum requirements as stated in 240-154283718 "Pressure Equipment Regulations - Compliance Manual Section" 10.2
- 17) The Contractor shall ensure that any service rendered with regards to planned outages, is completed within the time frames as committed to by the Contractor.
- 18) The Contractor shall supply the required original OEM spares and consumables for all planned outages. The Contractor shall ensure that all spares required are readily available as and when required.
- 19) The Contractor shall supply a comprehensive total spares list with costing of each spare, as well as the lead time of every spare item.
- 20) The Contractor shall ensure that the work area is to be left in the same or a better state on completion of any work.
- 21) Prior to commencement of any refurbishment and/or calibration activities the Contractor shall ensure that a QCP is developed and approved by Eskom and/or his representative. The Contractor shall ensure that any witness and hold inspection points are strictly adhered to.
- 22) The Contractor shall provide full engineering 'root cause analysis' and corrective action reports on any breakdown or failure of any part or component and is applicable to all safety valves.
- 23) The Contractor shall be responsible for repairing equipment that has failed based on the recommendations within the corrective action reports mentioned above. This should be conducted after a task order is received from the Employer, as the Employer will assess and agree to the failure report before repair works are conducted by the Contractor.
- 24) After refurbishment of safety valves at contractor's premises, the contractor shall be responsible for re-installing the refurbished valves at Medupi Power Station.

2. Valves

- 1) Strip the valve by means of removing the assembling nuts, bolts and screws.
- 2) Spindle of valve to be inspected for scoring, pitting and erosion and surface crack tested (NDT) and conduct dimensional checks. Perform spindle run out test. Spindle to be repaired or replaced if damage or bend.
- 3) Valve seats to be inspected for any damages or wear, all valves with damage seats must be repaired/replaced. Blue check shall be performed on all seats, followed by possible lapping. Blue check shall be accepted and approved by Eskom and/or its Representative.
- 4) Studs & Nuts -All gland retaining studs and nuts to be removed and inspected. All studs and nuts to be of same dimension with respect to the valve. Damage studs or nuts to be replaced.
- 5) Gland stuffing boxes- to be cleaned inspected and conducted dimensional checks. Worn press-in neck rings in stuffing boxes are to be replaced. Preformed packing graphite rings are to be used on all valves (as per the OEM specification).
- 6) Pressure seals -Valves fitted with pressure seals to be inspected for wear of retaining segments and segment location areas. Plug jacking screws to be inspected for thread damage and should not be seized. All heads to be inspected for stretching, splitting or oversize. Replace retaining screws as required. Pressure seals to be replaced, ensuring correct size and density. Plug size and body size to be checked to ensure tolerances are correct to avoid extrusions of pressure seal.

- 7) Other items to inspect include stem threads, bush, and flange, thrust rings, grease nipples, condition of springs, ball bearings and plate rings check existence of packing metal ring. All items for inspection found to be defective shall be replaced.
- 8) Valve body must be inspected for cracks or damages, NDT must be done where crack like indications is noted. If the valve body is damaged repairs shall be done preferably in situ, where not possible the valve body shall be cut out to affect the necessary corrective actions.
- 9) Perform pressure test or trevi-test on the safety valves as required.
- 10) Assemble valve with new seals, gaskets and packing.

1.2.3 Continuous Improvement

1.3 Interpretation and terminology

The following abbreviations are used in this Service Information:

Abbreviation	Meaning given to the abbreviation
NDT	Non-Destructive Testing
OEM	Original Equipment Manufacturer
SOW	Scope of Work
QCP	Quality Control Plan

2 Management strategy and start up.

2.1 The Contractor's plan for the service

The *Contractor* must submit project plan before any work commencement. Any deviation from the plan needs to be pre-approved by *Service Manager* before any work execution.

The *Contractor's* performance evaluation shall be done after the outage between the *Contractor* and the *Service Manager*.

2.2 Management meetings

Before work starts on site, an inaugural meeting is to be held by where the Contractor and the Employer will be present, to explain in detail all requirements of the Site Regulations.

The *Contractor* will be required to attend all mandatory liaison meetings and any ad-hoc meetings that may arise to address any contract related matters.

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

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

2.3 Contractor's management, supervision and key people

2.3.1 Correspondence

All verbal and non – verbal communication between the *Employer* and *Contractor* which this contract requires shall be communicated in a form which can be read, copied and recorded. All correspondence between the Parties shall be in written format and exchanged by means of electronic mail service. The rules of NEC3; Term Service Contract will set out the requirement for both Parties.

2.3.2 Key people

1. Site Supervisor (1)
2. Mechanical fitter (5)
3. Rigger (2)
4. Safety officer (1)
5. Trevi-test Technicians (2)
6. Quality Controller (1)

2.4 Provision of bonds and guarantees

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

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

2.5 Documentation control

All contractual communication between the *Employer* and *Contractor* shall be in written format accompanied by an official letterhead and signed by the authorised Parties.

All attached documentation shall be in the format of Microsoft Word/ Excel and/ or Power Point.

All contractual communication letterheads and attached documentation shall be electronically mailed as per PDF format.

2.6 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 Invoiceseskomlocal@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;
- The Purchase order number;
- The service entry number;
- The GR number

Note: The *Contractor* shall not submit tax invoice for payment if the above information is not available

2.7 Records of Defined Cost to be kept by the Contractor

The *Contractor* shall keep all records of Define Cost for the purpose of the compensation event management. The records shall be retained for the duration of the contract.

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

2.8.1 Equipment

Any equipment (assets) bought during the service period will be transferred to the *Employer* at the end of the service period.

2.8.2 Information and other things

If the information and other things are required, it will be discussed by the two Parties, and the provision of information and other things will be mutually agreed upon.

2.9 Management of work done by Task Order

The contract entered with the *Contractor* is non-exclusive and work against this contract can only be performed upon receipt of a task order.

3 Health and safety, the environment and quality assurance

3.1 Health and safety risk management

- a) Before any work starts on site the Contractor is responsible to submit their Safety File to the Employer for review and acceptance.
- b) All Contractor responsible personnel shall comply with Eskom's policies and site regulations, including adherence to Eskom's lifesaving rules.
- c) The Contractor shall immediately report any injuries as well as any threat to health or safety of which it becomes aware of on the site to the Employer.
- d)

3.2 Environmental constraints and management

- The *Contractor* should align to Environmental Management System 14001:2015 which includes
 - Aspects and Impacts register
 - Signed Environmental Policy
 - Method statement (related to scope of work).
- The *Contractor* should provide Environmental Management plan which includes:
 - Handling of Hazardous Chemical Substances
 - Water Management
 - Environmental Training
 - Environmental Incident Reporting
- The *Contractor* will be required to contain spillages and clean up oil/grease spillages and will be held liable for all costs involved.
- The *Employer* shall be responsible for the removals of all waste in regard to this SOW e.g. oil and old spare items

3.3 Quality assurance requirements

The *Contractor* shall comply with the requirements of ISO 9001: 2015.

All works will be subject to anytime inspection from the Employer or his/her appointed representative.

The Employer and Contractor in this SOW is committed towards the following:

1. Continuous improvement and Plant performance
2. Retention of critical skills
3. Continuous cost reduction

3.4 People

3.4.1 Minimum requirements of people employed.

Personnel	Skill/ qualifications
Site Supervisor (1)	Mechanical Trade test /National Diploma 3 Years experience
Mechanical fitter (5)	Mechanical Trade test /National Diploma 1 Year experience
Assistants (5)	
Rigger (2)	
Safety officer (1)	
Trevi-test Technicians (2)	
Quality Controller (1)	

3.4.2 BBBEE and preferencing scheme

Eskom intends to do business with supplier that are B-BBEE level 1-4 compliant, therefore the SANS accredited B-BBEE certificate or affidavit from CIPC/DTI certified by commissioner of oath are returnable. The company shall maintain or improve upon their current B-BBEE Contribution level for the duration of the contract. The supplier will be required to submit a new B-BBEE certificate within 3 months, should ownership of the company change during the life of the contract.

The *Contractor's* B-BBEE is level _____

3.4.3 Skills Development Requirement

Tenderer are encouraged to make proposals before they are eligible for award in accordance with develop the skills in line with the SOW as illustrated on a below table. Skills development candidates should be from the Lephalale Municipality area.

The *Contractor* will be required to train number of learners for the duration of the contract,

Tenderers are required to propose against the following training initiatives:

Skill type	Eskom Target	Entry Level	Tenders' proposal
Welders	3	N3/Matric plus at least 2 years' experience	
Mechanical fitters	3	N2/Grade 12 or equivalent	

3.4.4 SDL&I Penalty

Eskom will apply a penalty of 2,5% of the Contract Value for failure to meet SD&L obligations. For the duration of the contract, Eskom will retain 2,5% of every invoice (excluding VAT) as security for the fulfilment of all SD&L Obligations. The retained amounts shall only be released to the *Contractor* upon fulfilment of all SD&L obligations at the end of the contract.

3.4.5 Reporting and Monitoring

- The *Contractor* shall on a monthly/quarterly basis submit a report to Eskom in accordance with Data Collection Template on their compliance with the SDL&I obligations described above.
- Eskom shall review the SDL&I reports submitted by the suppliers within 60 (sixty) days of receipt of the reports and notify the *Contractor* in writing if their SDL&I obligations have not been met.
- Upon notification by Eskom that the *Contractor* have not met their SDL&I obligations, the *Contractor* shall be required to implement corrective measures to meet those SDL&I obligations before the commencement of the following report, failing which Retention clauses shall be invoked.
- Every contract shall be accompanied by the SDL&I Implementation Schedule which must be completed by the *Contractor* and returned to SDL&I representative for acceptance 28 days after contract award. This will be used as a reference document for monitoring, measuring and reporting on the *Contractor's* progress in delivering on their stated SDL&I commitments.

3.5 Subcontracting

Eskom will do business with the *Contractor* that are prepared to sub-contract 30% of the contract value to EME or QSE's that are at least 51% Black Owned from rural / underdeveloped area / township.

3.6 Plant and Materials

3.6.1 Tests and inspections before delivery

- It is the *Contractor's* responsibility to ensure the machinery and equipment intended for use on this contract are inspected, tested, and certified prior to delivery to site.
- Regular inspections can be carried out by the *Employer* on an as and when required basis.
- The *Contractor* and the *Employer* must maintain communication regarding the test and inspections that must be done and give feedback on the result obtained. The *Contractor* must inform the *Employer* in time for a test or inspection to be arranged and done before doing the work that will obstruct the test or inspection.

3.6.2 Plant & Materials provided “free issue” by the *Employer*

Both parties shall agree if there is any Plant and Material that the *Contractor* require to execute work. All other Plant and Materials are to be provided by the *Contractor*.

The sites are Medupi Power Station, and any further information will be made available on request.

4 Working on the Affected Property

4.1 *Employer’s* site entry and security control, permits, and site regulations

4.1.1 *Contractor* Criminal Checks

1. “Acceptance of this tender is subject to the condition that both the contracting company’s management and its employees will provide Eskom with a clear criminal record not older than thirty (30) days from a reputable screening company. If the principal *Contractor* appoints a *Subcontractor*, the same provisions and measures will apply to the *Subcontractor*. Acceptance of the tender is also subject to the condition that the *Contractor* will implement all such security measures for the safe performance of the work as required in the scope of the contract.
2. For the purpose of clarity, *Contractors* who was previously found guilty of offences in terms of the National Road Traffic Act 93 of 1996 and/or has paid guilt admission fines, will be exempted and be allowed to access site.
3. *Contractors* are to submit proof of verification record(s) (Security clearance) from SAPS or accredited supplier linked to SAPS AFIS system not older than thirty (30) days, as part of Risk Management process in order to curb any threats against the Installation. It is compulsory for these documents to be submitted to Security for verification before access to site is granted. **Only individuals with clear criminal records will be considered.**
4. *Contractors* are required to submit the SAPS Clearance Certificate obtained by the employee along with a copy of his/her Identity Document or Passport to the site Security Manager. The Security Manager is required to verify the authenticity of the CRC Certificate with SAPS and to cross reference the employee seeking access against known HR databases and site databases to determine if the employee in question has in the past participated in disruptive labour actions and if the individual was dismissed from Eskom and the reason for such dismissal. Every employee applying for access must be evaluated as an individual and subsequent finding recorded. A risk analysis of the employee profile indicating whether the employee is a risk to the installation must be completed. Any risk rating allocated above a level III will be deemed unsuitable.
5. The process shall be repeated every 12 months for low-risk employees (Risk Rating 5, 4) and every 6 months for medium to high-risk employees (Risk Rating 3)

The Entry to site is only approved once the following minimum requirements are adhered to:

1. The *Contractors* Safety file is to be approved by the *Employer’s* Safety department.
2. Site-specific induction is to be done by all personnel.
3. Acceptance of this tender is subject to the condition that both the contracting company’s management and its employees will provide Eskom with a clear criminal record not older than thirty (30) days from a reputable screening company. If the principal *Contractor* appoints a *Subcontractor*, the same provisions and measures will apply to the *Subcontractor*. Acceptance of the tender is also subject to the condition that the *Contractor* will implement all such security

measures for the safe performance of the work as required in the scope of the contract. Should the awarded *Contractor* fail to comply with the criminal record check process requirements and/or critical staff identified as part of the contract, failing the screening requirements, the Employer may terminate the contract

4. All the assets must be declared and registered with security upon entering site. This includes portable assets such as laptop, toolbox and etc.

4.2 People restrictions, hours of work, conduct and records

Restrictions and hours of work may apply. It is very important that the *Contractor* keeps records of his people working on the *Employer's* property, including those of his *Subcontractors*. The *Employer's Agent* shall have access to these records at any time. These records may be needed when assessing compensation events.

4.2.1 Hours of work

- All work will be coordinated by the *Employer*. Working times can be subject to change, the *Employer* will inform the *Contractor* well in advance.
- The *Contractor* will align his operating shifts to that of the Employer's shift cycle.
 1. Outage working hours to be discussed with the *Service Manager*
 2. All Timesheets are to be kept for records purposes i.e., man-hours worked safely etc.
 3. Overtime to be approved by the *Service Manager*
 4. Daily time sheet must always be kept up to date of normal and overtime worked.
 5. All overtime worked must comply with Eskom rest period requirements

4.3 Health and safety facilities on the Affected Property

There is a medical station on site and a fire and rescue service for assistance with serious incidents and treatment of all serious injuries during normal working hours. Emergency services are available during normal working hours by dialling this phone number 078 100 5614/ 014 762 2555 (fire and rescue) and also available after hours or else contacting the Electrical Operating Desk (EOD) at 014 762 6491 However, the *Contractor* is expected to handle all minor incidents in-house by providing a first aider and a first aid kit. The *Contractor* must familiarise themselves with the emergency procedure which will be provided by the *Employer*.

4.4 Environmental controls, fauna & flora

The *Contractor* shall comply with the environmental procedure and policies applicable to Medupi Power Station. The Partner and/or supplier shall prepare an environmental management plan relating to their activities that will be carried out. The environmental management plan shall be based on, amongst others, Eskom Medupi Power Station's OEMP and any other applicable environmental legislation. The environmental management plan must include all the aspects and impacts relating to the activity and address the principle of continual improvement.

Eskom Medupi Power Station shall issue non-conformances where there are deviations from Eskom Medupi Power Station Procedures and any other environmental requirements. Method statements shall be submitted for approval by the Eskom Medupi Power Station Senior Environmental Advisor, prior to commencement of and activity. Non-conformance and incident reporting and investigations shall be done by the partner, such reports must include but not limited to the following information:

- The cause of the non-conformance/incident
- The proposed actions to correct and prevent recurrence

4.5 Cooperating with and obtaining acceptance of Others

Proper co-ordination and work planning must be done when working in any area where others are performing work or activities. Interfacing may be required with the *Contractor*.

4.6 Records of *Contractor's* Equipment

The *Contractor* shall supply their own tools, electrical equipment and other equipment when providing the services to the *Employer*.

The *Contractor* shall provide a comprehensive list of all tools and electrical equipment to be used for the calibration service before entering the premises of the *Employer*.

All tools and electrical equipment shall be checked for compliance purposes before commencement of work and during the period of contract by the *Employer*.

4.7 Equipment provided by the *Employer*

Equipment provided by the *Employer* is to be signed out on the tools register and returned in a serviceable condition.

Any tools, equipment, and appliances used by the *Contractor* conforms to the applicable OHS Act and Eskom safety standards and is maintained in a safe and proper working condition

4.8 Site services and facilities

4.8.1 Provided by the *Employer*

Sanitary services, water, compressed air, and electricity shall be provided by Eskom at fixed points on the plant. There is also a tuck-shop on site, but both only operate on weekdays and are for the *Contractor's* own cost.

4.8.2 Provided by the *Contractor*

The *Contractor* shall be required to supply a required service as per the works information

4.9 Control of noise, dust, water and waste

Employees to wear safety ear protection when working at the plant were the noise is more than 80 db.

4.10 Hook ups to existing works

Hooking up on heights is a non-negotiable lifesaving rule of Eskom, Medupi Power Station applies Zero Tolerance to non-compliance of the rule or any other lifesaving rule. The same disciplinary process and procedure will be followed when any of the lifesaving rules have been breached.

4.11 Tests and inspections

4.11.1 Description of tests and inspections

The test and inspection to be carried out by the *Contractor*, the *Employer* and others will be determined and communicated by the *Employer* when Contract commenced.

4.11.2 Materials facilities and samples for tests and inspections

The materials facilities and samples for test and inspection to be carried out by the *Contractor*, the *Employer* and others will be determined and communicated by the *Employer* when the Contract commences.

