NEC3 Term Service Contract (TSC3)

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

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

for **SERVICING OF MAN AND GEN TOOLS AT LETHABO POWER STATION FOR A PERIOD OF FIVE (5) YEARS ON AN AS AND WHEN REQUIRED BASIS.**

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

PART C1: AGREEMENTS & CONTRACT DATA

Contents: **No of pages**

C1.1 Form of Offer and Acceptance [3]

[to be inserted from Returnable Documents at award stage]

C1.2a Contract Data provided by the *Employer* [6]

C1.2b Contract Data provided by the *Contractor* [18]

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:

SERVICING OF MAN AND GEN TOOLS AT LETHABO POWER STATION FOR A PERIOD OF FIVE (5) YEARS ON AN AS AND WHEN REQUIRED BASIS.

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**
	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*.

Servicing of MAN & GEN Tools at Lethabo Power Station for a period of five (5) years on as and when required basis.

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	**Power Station General Manager: Lethabo Power Station**	
for the Employer	**Eskom Holdings SOC Ltd, Megawatt Park, Maxwell Drive, Sandon, Johannesburg**	
	(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.

Servicing of MAN & GEN Tools at Lethabo Power Station for a period of five (5) years on as and when required basis.

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		**Power Station General Manager: Lethabo Power Station**
On behalf of	*(Insert name and address of organisation)*	***Eskom Holdings SOC Ltd, Megawatt Park, Maxwell Drive, Sandton, Johannesburg,2199***
Name & signature of witness		
Date		

C1.2 TSC3 Contract Data

Part one - Data provided by the *Employer*

Clause	Statement	Data
1	**General**	
	The *conditions of contract* 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 **X13 Performance Guarantee (if the supplier is not financially sound)**
		X17: Low service damages
		X19: Task Order
		Z: *Additional conditions of contract*
	of the NEC3 Term Service Contract April 2013[2] (TSC3)	
10.1	The *Employer* 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.	**011 800 8111**
	Fax No.	**N/A**
10.1	The *Service Manager* is (name):	**Mr Samkelo Mgobo**
	Address	**Lethabo Power Station** **Private Bag X 415**
	Tel	**0164575329**
	Fax	**NA**
	e-mail	**MgoboS@eskom.co.za**

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

11.2(2)	The Affected Property is	**Lethabo Power Station**
11.2(13)	The *service* is	**Servicing of MAN & GEN Tools at Lethabo Power Station for a period of five (5) years on as and when required basis.**
11.2(14)	The following matters will be included in the Risk Register	• **Unavailability of Access to site due to road closure.** • **Unavailability of personnel or resources to offload** • **Industrial action onsite**
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 *law of the contract* is the law of	**the Republic of South Africa**
13.1	The *language of this contract* is	**English**
13.3	The *period for reply* is	**Two (2) working days after notification**
2	**The *Contractor*'s main responsibilities**	**Data required by this section of the core clauses is also provided by the *Contractor* in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data**
21.1	The *Contractor* submits a first plan for acceptance within	**30 days before the start of the Contract Date**
3	**Time**	
30.1	The *starting date* is.	**Date of last signature of the contract as agreed by both parties**
30.1	The *service period* is	**Five (5) years**
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 *assessment interval* is	**Completion of each task order.**
51.1	The *currency of this contract* is the	**South African Rand**
51.2	The period within which payments are made is	**4 weeks.**
51.4	The *interest rate* is	**the publicly quoted prime rate of interest (calculated on a 365 day year) charged by from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands and**

		(ii) the LIBOR rate applicable at the time for amounts due in other currencies. LIBOR is the 6 month London Interbank Offered Rate quoted under the caption "Money Rates" in The Wall Street Journal for the applicable currency or if no rate is quoted for the currency in question then the rate for United States Dollars, and if no such rate appears in The Wall Street Journal then the rate as quoted by the Reuters Monitor Money Rates Service (or such service as may replace the Reuters Monitor Money Rates Service) on the due date for the payment in question, adjusted *mutatis mutandis* every 6 months thereafter (and as certified, in the event of any dispute, by any manager employed in the foreign exchange department of The Standard Bank of South Africa Limited, whose appointment it shall not be necessary to prove.
6	**Compensation events**	**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 *Employer*'s risks	**1. NO**
83.1	The *Employer* provides these insurances from the Insurance Table	**as stated for "Format TSC3" available on** http://www.eskom.co.za/live/content.php?Item_ID=9248 (See Annexure A for basic guidance).
	The *Employer* provides these additional insurances	**as stated for "Format TSC3" available on** http://www.eskom.co.za/live/content.php?Item_ID=9248 **(See Annexure A for basic guidance)**
	The minimum amount of cover for insurance against loss and damage caused by the *Contractor* to the *Employer*'s property is	**the amount of the deductibles relevant to the event described in the "Format TSC3" insurance policy available on** http://www.eskom.co.za/live/content.php?Item_ID=9248
	The minimum amount of cover for loss of or damage to Plant and Materials provided by the *Employer* is:	**the amount of the deductibles relevant to the event described in the "Format TSC3" insurance policy available on** http://www.eskom.co.za/live/content.php?Item_ID=9248
	The minimum amount of cover for insurance in respect of loss of or damage to property (except the *Employer*'s property, Plant and Materials and	**whatever the *Contractor* deems necessary in addition to that provided by the *Employer*.**

	Equipment) and liability for bodily injury to or death of a person (not an employee of the *Contractor*) arising from or in connection with the *Contractor*'s Providing the Service for any one event is:	
	The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the *Contractor* arising out of and in the course of their employment in connection with this contract for any one event is:	**As prescribed by the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 and the *Contractor's* common law liability for people falling outside the scope of the Act with a limit of Indemnity of not less than R500 000 (Five hundred thousand Rands)..**
9	**Termination**	**NEC Contract clause will be used.**
10	**Data for main Option clause**	
A	**Priced contract with price list**	
20.4	The *Contractor* prepares forecasts of the final total of the Prices for the whole of the *service* at intervals no longer than	• **4 weeks before start of each outage.** • **For callouts; within 24 hours after assessing the defects.**
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	**[●]**
	Tel No.	**[●]**
	Fax No.	**[●]**
	e-mail	**[●]**
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	**[●] South Africa**

	The person or organisation who will choose an arbitrator - if the Parties cannot agree a choice or - if the arbitration procedure does not state who selects an arbitrator, is	**the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.**

12 Data for secondary Option clauses

X1 Price adjustment for inflation

X1.1 The *base date* for indices is **[●].**

The proportions used to calculate the Price Adjustment Factor are:

proportion	linked to index for	Index prepared by
15%	**non-adjustable**	
100%		

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.**

X17 Low service damages

X17.1 The *service level table* is in **Page 13**

X18 Limitation of liability

X18.1 The *Contractor*'s liability to the *Employer* for indirect or consequential loss is limited to R500-00 Five hundred Rand per day

X18.2 For any one event, the *Contractor*'s liability to the *Employer* for loss of or damage to the *Employer*'s property is limited to **the amount of the deductibles relevant to the event described in the "Format TSC3" insurance policy available on** http://www.eskom.co.za/live/content.php?Item_ID=9248

X18.3 The *Contractor*'s liability for Defects due to his design of an item of Equipment is limited to **The greater of**

- **the total of the Prices at the Contract Date and**
  the amounts excluded and unrecoverable from the *Employer*'s insurance (other than the resulting physical damage to the *Employer*'s property which is not excluded) plus the applicable deductibles in the *Employer*'s assets and works / maintenance policies available on

		http://www.eskom.co.za/live/content.php?Item_ID=9248
X18.4	The *Contractor*'s total liability to the *Employer*, for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	**the total of the Prices other than for the additional excluded matters.** **The *Contractor's* total liability for the additional excluded matters is not limited.** **The additional excluded matters are amounts for which the *Contractor* is liable under this contract for** • **Defects due to his design, plan and specification,** • **Defects due to manufacture and fabrication outside the Affected Property,** • **loss of or damage to property (other than the *Employer*'s property, Plant and Materials),** • **death of or injury to a person and** • **infringement of an intellectual property right.**
X18.5	The *end of liability date* is	**12 months after the end of the *service period*.**
X19	**Task Order**	
X19.5	The *Contractor* submits a Task Order programme to the *Service Manager* within	**2 days of receiving the Task Order**
Z	**The *additional conditions of contract* 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 *Contractor* to the *Employer*'s property	The replacement cost where not covered by the *Employer*'s insurance. The *Employer*'s policy deductible as at Contract Date, where covered by the *Employer*'s insurance.
Loss of or damage to Plant and Materials	The replacement cost where not covered by the *Employer*'s insurance. The *Employer*'s policy deductible as at Contract Date, where covered by the *Employer*'s insurance.
Loss of or damage to Equipment	The replacement cost where not covered by the *Employer*'s insurance. The *Employer*'s policy deductible as at Contract Date, where covered by the *Employer*'s insurance.
The *Contractor*'s liability for loss of or damage to property (except the *Employer*'s property, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the *Contractor*) arising from or in connection with the *Contractor*'s Providing the Service	Loss of or damage to property The replacement cost Bodily injury to or death of a person The amount required by the applicable law.
Liability for death of or bodily injury to employees of the *Contractor* 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 *Employer*'s 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.

X17 Low service damages

X17.1 The *service level table* is

CRITERIA	WEIGHT	UNIT	TARGET	PENALTY 10%	PENALTY 20%	PENALTY 30%
PSR	50%	Months	2	3	4	5
Overdue SHEQ Audit findings	20%	Days	0	1	3	5
Non-conformance Reports (NCR) issued to contractor	20%	Number	0	1 per month	2 per month	3 per month
Medical Expiry	5%	Days	0	1	2	3
Strike	5%	Days	0	1	2	3

The penalty will be effective as soon as the target has been missed.
The weight is of the total assessment value.

Low Service Damage Description	Value of Low Service Damages	Limit of Low Service Damages
Service delaying the outage Critical Path and other Contractor(s) from starting or completing their work.	1% per day of the Task Order value.	Limited to 15% of the Task Order value.
Service delays not finishing as per agreed upon schedule submitted to the Contract Manager.	1% per day of the Task Order value.	Limited to 15% of the Task Order value.
Rework due to poor workmanship.	1% per day of the Task Order value.	Limited to 15% of the Task Order value.
Response to NCR and Early warnings within 3 days.	1% per day of the Task Order value.	Limited to 15% of the Task Order value.
Failure to maintain housekeeping and closure of any housekeeping issues	0.5% per day of the Task Order value.	Limited to 15% of the Task Order value.

raised within 24 hours both in the plant and the Contractor's yard.		
Not providing appropriate PPE (SABS approved & company brand/logo)	0.5% per day of the Task Order value.	Limited to 15% of the Task Order value.
Failure to use FME covers as per FME procedure during the refurbishment of the valves; which may lead to foreign material ingressing the system.	0.5% per day of the Task Order value.	Limited to 15% of the Task Order value.
Use of substandard tools/equipment or any form of machinery i.e., non-road worthy vehicles, uncalibrated tools, etc	0.5% per day of the Task Order value.	Limited to 15% of the Task Order value.

Service Manager: **Signature:** **Date:**	**Contractor Manager:** **Signature:** **Date:**

C1.2 Contract Data

Part two - Data provided by the *Contractor*

[Instructions to the contract compiler: (delete this notes before issue to tenderers with an enquiry) Whenever a cell is shaded in the left hand column it denotes this data is optional and would be required in relation to the option selected. In the event that the option is not required select and delete the whole row.]

Notes to a tendering contractor:

1. Please read both the both the NEC3 Term Service Contract April 2013 and the relevant parts of its Guidance Notes (TSC3-GN)[3] in order to understand the implications of this Data which the tenderer is required to complete.
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 *Contractor* is (Name): Address Tel No. Fax No.	
11.2(8)	The *direct fee percentage* is The *subcontracted fee percentage* 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:	

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

Servicing of MAN & GEN Tools at Lethabo Power Station for a period of five (5) years on as and when required basis.

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 *price list* is in	
11.2(19)	The tendered total of the Prices is	**R**
C	**Target contract with price list**	
11.2(12)	The *price list* is in	
11.2(20)	The tendered total of the Prices is	**R**
E	**Cost reimbursable contract**	
11.2(12)	The *price list* is in	

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PART 2: PRICING DATA

TSC3 Option A

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

Servicing of MAN & GEN Tools at Lethabo Power Station for a period of five (5) years on as and when required basis.

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 *price list* 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 *Contractor* has completed and • where a quantity is stated for an item in the Price List, an amount calculated by multiplying the quantity which the *Contractor* 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.

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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.

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C2.2 the *price list*

Item nr	Description	Unit	Expected Quantity	Rate	Price
1	Manifold	EA	5		
2	5Ton Thrust Jacks	EA	3		
3	100ton Hydraulic Jack	EA	5		
4	50ton Hydraulic Jack	EA	3		
5	20ton Hydraulic Jack	EA	6		
6	30ton Telephonic Jack	EA	9		
7	50ton Foundation Bolt H/J	EA	3		
8	100ton Hydraulic Jack Various sizes	EA	27		
9	80ton Stub Shaft Jack	EA	3		
10	Hydraulic Hand Pump	EA	10		
11	Moc Devices	EA	10		
12	Maximator for Moc	EA	5		
13	Hydraulic Power Pack	EA	2		
14	Pressure Gauges	EA	3		

The total of the Prices

PART 3: SCOPE OF WORK

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

C3.1: EMPLOYER'S SERVICE INFORMATION

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Otherwise insert list of contents manually.

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1 Description of the *service*

1.1 Executive overview

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

Scope of work and Specifications

The appointed contractor is required to Pressure test the relevant MAN and GEN tools to be utilized during GO Outages as per the Outage plan and on as and when required basis. A list of the required tools will be shared with the contractor during the preparation of the Outage so they can pressure test the relevant tools.

The list of the GEN tools required is as follows:

Equipment's	Quantity	Type of Test/Certificate
Manifold	5	Pressure Test-1200 bar
5ton Thrust Jacks	3	Load Test
100ton Hydraulic Jack	5	Load Test
50ton Hydraulic Jack	3	Load Test
20ton Hydraulic Jack	6	Load Test
30ton Telephonic Jack	9	Load Test
50ton Foundation Bolt H/J	3	Load Test
100 ton Hydraulic Jack Various sizes	27	Load Test
80 ton Stub Shaft Jack	3	Load Test
Hydraulic Hand Pump	10	Load Test- 700 bar
Moc Devices	10	Pressure Test -1200 bar
Maximator for Moc	5	Pressure Test -1200bar
Hydraulic Power Pack	2	Pressure Test – 700 bar
Pressure Gauges	3	Pressure Test – 1600 bar

1.2 *Employer*'s requirements for the *service*

Either
Describe in detail what the *Employer* requires the *Contractor* to do and how he is to do it if the *Contractor* is mainly providing labour and tools to carry out the *Employer*'s requirements
Or
Provide the *Employer*'s operating philosophy / user requirement specification (URS) / performance specification giving deliverables and constraints for the *service* from which the *Contractor* is to plan in detail how he is to achieve the required deliverables.

Reference could be made to an Annexure for a detailed classification of services or to the Price List in the case of Option A or C and if the Price List descriptions are complete.

1.3 Interpretation and terminology

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

The following abbreviations are used in this Service Information:

Abbreviation	Meaning given to the abbreviation
OBL	Outside battery limits

2 Management strategy and start up.

2.1 The *Contractor*'s plan for the *service*

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

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

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

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

2.2 Management meetings

The *conditions of contract* (e.g. Clause 16.2) and other sections of the Service Information (e.g. safety risk management) may require that a meeting shall be held. However the intention of all NEC contracts is that the Parties and their agents use the techniques of partnering to manage the contract by holding meetings designed to pro actively and jointly manage the administration of the contract with the objective of minimising the adverse effects of risks and surprises for both Parties.
Depending on the size and complexity of the *service*, it is probably beneficial for the *Service Manager* to hold a weekly risk register meeting (Clause 16.2). This could be used to discuss safety, compensation events, subcontracting, overall co-ordination and other matters of a general nature. Separate meetings for specialist activities such as planning and activities of a technical nature may also be warranted.
Describe here the general meetings and their purpose. Provide particulars of approximate times, days, location, and attendance requirements, stipulating that attendees shall have the necessary delegated authority to make decisions in respect of matters discussed at such meetings.
The following text could be used as a model for this section:

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

Title and purpose	Approximate time & interval	Location	Attendance by:

Risk register and compensation events	Weekly on _____ at ___		
Overall contract progress and feedback	Monthly on _____ at ___		*Employer*, *Contractor* and ___

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

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

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

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

2.6 Invoicing and payment

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

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

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The *Contractor* shall address the tax invoice to

_____

and include on each invoice the following information:

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

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

2.7 Contract change management

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

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

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

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

2.9 Insurance provided by the *Employer*

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

2.10 Training workshops and technology transfer

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

2.11 Design and supply of Equipment

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

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

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

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

2.12.1 Equipment

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

2.12.2 Information and other things

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

2.13 Management of work done by Task Order

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

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

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

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

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

Clause X19.6 requires information which should be included on a Task Order programme.
Further requirements for Task Orders include things to be provided by the *Employer* under a Task Order and the conditions under which the *Employer* or Others are to work.

3 Health and safety, the environment and quality assurance

3.1 Health and safety risk management

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

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

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

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

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

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

The tenderer must submit the following returnable as part of its tender. Mandatory returnable are indicated by a tick (□), tenders that do not include this returnable will be disqualified from further evaluation.

Reference	Description of returnable	Returnables	To be returned with tender
Safety	COIDA - Original certificate of good standing or proof of application issued by the Compensation Fund (COID) or a licensed compensation insurer (South African tenderers only)		✓
Safety	SHE Plan as per scope of work		✓
Safety	Safety costing		✓
Safety	OHS Policy signed by CEO		✓
Safety	OHS competency		✓
	Risk Assessment as per scope of work		✓
Quality	Category 3: Quality Requirements (See Attached document)		✓

Environmental	Contractor shall comply to the following environmental procedures: • LBE23003 Environmental non-conformance; investigation and reporting • LBE22005 Environmental spill management procedure LBE22004 Environmental waste management procedure		✓

3.2 Environmental constraints and management

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

ENVIRONMENTAL – what is the influence on the environment, and will we need an EIA or has it been done, any servitude, buying of land, water issues?

No EIA needed, however, to ensure compliance to environmental requirements ISO14001:25, the following Lethabo environmental procedures will be provided with tender documents. LBE21001; LBE21002; LBE22001: LBE22002; LBE2204; LBE23001; LBE23003; LBE23004

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

3.3 Quality assurance requirements

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

QUALITY – Any National and/or International Standards to be adhered to ensure conformance to Quality Management Systems Standards such as:

- ISO 9001:2015 Quality Management System requirements
- ISO10005 – Quality Management System Guidelines for Quality Plans
- ISO10006 – Quality Management Systems Guidelines for Quality Management in Projects
- ISO10007 – Quality Management Systems Guidelines for Configuration Management
- ISO10012 - Measurement Management Systems, Requirements for Measurement Processes and Measuring Equipment
- ISO31000 – Risk Management Principles & Guideline

RISK	MITIGATING FACTORS	LEVEL (HIGH/MEDIUM/LOW)
Delays: Failure to supply the tools as per agreed timelines.	Delay damages to be imposed on the delayed key date as per the contract data and in line with the approved schedule at 2% per day up to a maximum of 15% per task order. This also applies all defects notifications that will be issued during execution.	Medium

Safety
 	
Non- compliance to all legal requirements.
	Contractor safety plans that shall be signed and approved by the responsible managers and their safety practitioners. Ensure what is listed on the file shall be implemented during project execution.
	• Hazard Identification and Risk Assessments submitted to the Client must be in alignment with the Risk Assessment issued by the Client during the tendering phase.
	• Contractor shall ensure that a full time Safety Practitioner registered with the statutory body approved by DOL is appointed on full time basis.
	• PPE and Vehicle inspections must be conducted on daily basis and records must be kept.
	• Contractor to be familiarised with Eskom's Health & safety policy.
	• Compliance to the SHE requirements for the Eskom commercial process.
	• Employer's project manager to also ensure that all required permits are issued to the contractor's authorised supervisor on daily basis. (Both the contractor and Eskom).
	• The contractor's personnel shall undergo PSR training to be qualified as Authorised supervisor to carry out the works under the permit.
	• The contractor shall be expected to conduct task risk assessment and pre- job briefs every time before performing work.
	• The contractor must ensure that they align themselves with the requirements of PTW wherever it is issued.
	• Strict adherence to the PPE requirement by the contractor.
	• The contractor shall prepare a safety file for approval by Safety Risk Management before work commences.
	  • Adherence to vehicle maintenance plans and daily/pre-trip inspections.
	  • Strict adherence to travelling task risk assessment.
	• The contractor to ensure that the employees are trained and competent on the activities to be done.
		High

Quality: Non-adherence to documented procedures and quality requirements governing the scope of work may result in recurring compromised equipment reliability, and substandard workmanship, leading to operational inefficiencies and safety risks Failure to demonstrate and maintain technical competence during the work execution may result in improper servicing,	The supplier is required to comply with all applicable technical specifications and SHERQ (Safety, Health, Environment, Risk, and Quality) processes to ensure the accuracy, reliability, and safe execution of the work Ensure that all servicing and overhaul activities are performed by qualified and competent personnel in accordance with applicable technical and safety standards	Medium

leading to equipment malfunction, compromised system reliability Inadequate risk management may result in equipment failures Failure to manage Non-Conforming Outputs Failure to manage documentation and traceability may result in loss of significant records Failure to demonstrate performance History and Reference Failure to include necessary returnable or adhere to the tender requirements may result in delays from the bidding process.	Implement a formal risk assessment and control plan covering routine and non-routine activities Eskom shall be informed of non-conforming products and services as soon as such non-conformances are recognized by the supplier. The supplier/contractor shall implement the respective processes which must adequately reflect Eskom involvement. Documentation of completed activities must be submitted to the client representative for record-keeping and historical reference such as data books, test certificates…. Suppliers must provide verifiable documentation of past performance, including references and records of similar work executed. The supplier is required to submit all documentation specified under Category 2	
Environment Non-compliance to Environmental requirements	Contactor to be familiarized with Lethabo Environmental statement of commitment (PS010) SHE File to be approved by the Environmental department. Contractor to be ISO14001:2015 compliant. Upon commencement of work contractor shall submit: An Aspect and Impact Register that complies with the ISO 14001:2015 standard. Contractor shall submit an Environmental Management Plan (EMP) associated with environmental risks related to the project, EMP shall comply with the ISO 14001 standard. Contactor shall familiarise him/herself with the Environmental procedures related to the activity. Self-audits during work execution will be conducted weekly whereby environmental risks are identified. Environmental awareness to be conducted through toolbox talks. All waste generated during execution of work must be disposed through proper pathways. Contractor shall report all incidents or risks whilst on the job to the Eskom Contract Supervisor who will inform the environmental department. Contractor shall comply to the following environmental procedures: • LBE23003 Environmental non-conformance; investigation and reporting • LBE22005 Environmental spill management procedure • LBE22004 Environmental waste management procedure	Low

4 Procurement

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

4.1 People

4.1.1 Minimum requirements of people employed

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

4.1.2 BBBEE and preferencing scheme

As per the SDL&I requirements

SDL&I Commitments: Undertakings by the Supplier

- The Supplier shall adhere to the SDL&I Obligations set out below, covering Local Content; procurement/subcontracting from Black Designated Groups, Skills development, and Job Creation.

- The Supplier undertakes to achieve and fulfil these SDL&I Obligations during the Contract Period or at an earlier date.

Local Procurement Content

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

	Eskom target	Tenderer Proposal
Local Procurement Content	100%	

Jobs

Tenderers are required to submit proposals for the type and number of jobs that will be created and retained in South Africa as a direct result of being awarded a contract.

Type of Jobs to be created	Number of Jobs to be created

Type of Jobs to be retained	Number of Jobs to be retained

- The Supplier shall keep accurate records and provide to Eskom reports on the actual delivery against the above SDL&I obligations on a quarterly basis.

- Following the receipt of the report in clause 1.3 above, Eskom shall review the report, request supporting evidence where necessary and issue the supplier with a performance review report.

- The supplier shall have one opportunity to request revision of the outcome by submitting new evidence to support its claims.

- The supplier's failure to comply with the above SDL&I obligations constitutes substantial failure on the part of the contractor to comply with his obligations under this contract, therefore a penalty of 1% of the contract value shall be imposed.

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

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

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

.

[Insert the agreed ASGI-SA Compliance Schedule here]

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

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

4.2 Subcontracting

4.2.1 Preferred subcontractors

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

4.2.2 Subcontract documentation, and assessment of subcontract tenders

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

Refer to SDLI requirements on the Invitation to Tender.

4.2.3 Limitations on subcontracting

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

4.2.4 Attendance on subcontractors

State requirements for attendance on Subcontractors, if any

4.3 Plant and Materials

4.3.1 Specifications

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

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

4.3.2 Correction of defects

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

4.3.3 *Contractor*'s procurement of Plant and Materials

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

4.3.4 Tests and inspections before delivery

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

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

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

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

4.3.6 Cataloguing requirements by the *Contractor*

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

5 Working on the Affected Property

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

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

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

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

5.2 People restrictions, hours of work, conduct and records

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

5.3 Health and safety facilities on the Affected Property

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

5.4 Environmental controls, fauna & flora

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

5.5 Cooperating with and obtaining acceptance of Others

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

5.6 Records of *Contractor*'s Equipment

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

5.7 Equipment provided by the *Employer*

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

5.8 Site services and facilities

5.8.1 Provided by the *Employer*

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

5.8.2 Provided by the *Contractor*

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

5.9 Control of noise, dust, water and waste

State requirements, if any.

5.10 Hook ups to existing works

State any constraints

5.11 Tests and inspections

5.11.1 Description of tests and inspections

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

5.11.2 Materials facilities and samples for tests and inspections

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

6 List of drawings

6.1 Drawings issued by the *Employer*

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

Drawing number	Revision	Title