



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 Horticultural Maintenance Services
at Kusile Power Station Project including Kendal
Contractors' Village, Wilge Admin Offices and Wilge
Flats.**

Contents:	No of pages
Part C1 Agreements & Contract Data	19
Part C2 Pricing Data	3
Part C3 Scope of Work	28

CONTRACT No. [Insert at award stage]

PART C1: AGREEMENTS & CONTRACT DATA

Contents:	No of pages
C1.1 Form of Offer and Acceptance	3
C1.2a Contract Data provided by the <i>Employer</i>	12
C1.2b Contract Data provided by the <i>Contractor</i>	2
C1.3 Proforma Guarantees	N/A

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:

Provision of Horticultural Maintenance Services at Kusile Power Station Project including Kendal Contractor's Village, Wilge Admin Offices and Wilge Flats.

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

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

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

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

Signature(s)

Name(s)

Capacity

**For the
tenderer:**

(Insert name and address of organisation)

Name &
signature of
witness

Date

Tenderer's CIDB registration number:

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

Acceptance

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

The terms of the contract, are contained in:

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

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

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

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

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

Signature(s)

Name(s)

Capacity

**for the
Employer**

(Insert name and address of organisation)

Name &
signature of
witness

Date

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

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

Note:

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

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

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

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

For the tenderer:**For the Employer**

Signature

.....

Name

.....

Capacity

.....

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

Name & signature of witness

.....

Date

.....

C1.2 TSC3 Contract Data

Part one - Data provided by the *Employer*

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:	
	dispute resolution Option	A: Priced contract with price list
	and secondary Options	W1: Dispute resolution procedure
		X1: Price adjustment for inflation
		X2: Changes in the law
		X18: Limitation of liability
		X19: Task Order
		Z: <i>Additional conditions of contract</i>
	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):	Thobile Nzimande
	Address	Kusile Power Station
11.2(2)	The Affected Property is	Kusile Power Station Construction Site as indicated on the layout drawing (146838-OUYXS3825) including Kendal Contractor's Village, Wilge Admin Offices and Wilge Flats.
11.2(13)	The <i>service</i> is	The provision of horticultural maintenance services
11.2(14)	The following matters will be included in the Risk Register	
11.2(15)	The Service Information is in	Part 3: Scope of Work and all documents and

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

		drawings to which it makes reference.
12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa
13.1	The <i>language of this contract</i> is	English
13.3	The <i>period for reply</i> is	12 to 24 hours- emergency 2 working days- urgent 7 working days- Normal
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	Four (04) weeks of the Contract Start Date
3	Time	
30.1	The <i>starting date</i> is.	TBC
30.1	The <i>service period</i> is	16 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 15th and 20th day of each successive month.
51.1	The <i>currency of this contract</i> is the	South African Rand
51.2	The period within which payments are made is	14 working days after submission and approval of an invoice, excluding the time for correction of 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	Applicable as per core clause 6 NEC3 Term Service Contract April 2013.
7	Use of Equipment Plant and Materials	No data is required for this section of the conditions of the contract.
8	Risks and insurance	
80.1	These are additional <i>Employer's</i> risks	1. None
9	Termination	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.

10	Data for main Option clause		
A	Priced contract with price list		
20.5	The Contractor prepares forecasts of the final total of the Prices for the whole of the service at intervals no longer than	Four (04) weeks.	
11	Data for Option W1		
W1.1	The Adjudicator	the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see www.ice-sa.org.za). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).	
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	the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.	
	- if the Parties cannot agree a choice or		
	- if the arbitration procedure does not state who selects an arbitrator, is		
12	Data for secondary Option clauses		
X1	Price adjustment for inflation		
X1.1	The base date for indices is	May 2022	
	The proportions used to calculate the Price Adjustment Factor are:	proportion	linked to index for
		0.	[•]
		0.	[•]
		0.	[•]
		0.	[•]
		0.	[•]
		[•]	non-adjustable
		1.00	

X2	Changes in the law	There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.
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	The greater of <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	the total of the Prices other than for the additional excluded matters. The <i>Contractor's</i> total liability for the additional excluded matters is not limited. The additional excluded matters are amounts for which the <i>Contractor</i> is liable under this contract for <ul style="list-style-type: none"> Defects due to his design, plan and specification, Defects due to manufacture and fabrication outside the Affected Property, loss of or damage to property (other than the <i>Employer's</i> property, Plant and Materials), death of or injury to a person and infringement of an intellectual property right.
X18.5	The <i>end of liability date</i> is	Two (02) months after the end of the <i>service period</i>.
X19	Task Order	
X19.5	The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within	Five [05] days of receiving the Task Order
Z	The <i>additional conditions of contract</i> are	Z1 to Z14 always apply.

Z1 Cession delegation and assignment

Z1.1 The *Contractor* does not cede, delegate or assign any of its rights or obligations to any person

without the written consent of the *Employer*.

- Z1.2 Notwithstanding the above, the *Employer* may on written notice to the *Contractor* cede and delegate its rights and obligations under this contract to any of its subsidiaries or any of its present divisions or operations which may be converted into separate legal entities as a result of the restructuring of the Electricity Supply Industry.

Z2 Joint ventures

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

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

- Z3.1 Where a change in the *Contractor's* legal status, ownership or any other change to his business composition or business dealings results in a change to the *Contractor's* B-BBEE status, the *Contractor* notifies the *Employer* within seven days of the change.
- Z3.2 The *Contractor* is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the *Service Manager* within thirty days of the notification or as otherwise instructed by the *Service Manager*.
- Z3.3 Where, as a result, the *Contractor's* B-BBEE status has decreased since the Contract Date the *Employer* may either re-negotiate this contract or alternatively, terminate the *Contractor's* obligation to Provide the Service.
- Z3.4 Failure by the *Contractor* to notify the *Employer* of a change in its B-BBEE status may constitute a reason for termination. If the *Employer* terminates in terms of this clause, the procedures on termination are P1, P2 and P4 as stated in clause 92, and the amount due is A1 and A3 as stated in clause 93.

Z4 Confidentiality

- Z4.1 The *Contractor* does not disclose or make any information arising from or in connection with this contract available to Others. This undertaking does not, however, apply to information which at the time of disclosure or thereafter, without default on the part of the *Contractor*, enters the public domain or to information which was already in the possession of the *Contractor* at the time of disclosure (evidenced by written records in existence at that time). Should the *Contractor* disclose information to Others in terms of clause 25.1, the *Contractor* ensures that the provisions of this clause are complied with by the recipient.
- Z4.2 If the *Contractor* is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the *Service Manager*.
- Z4.3 In the event that the *Contractor* is, at any time, required by law to disclose any such information which is required to be kept confidential, the *Contractor*, to the extent permitted by law prior to disclosure, notifies the *Employer* so that an appropriate protection order and/or any other action can be taken if possible, prior to any disclosure. In the event that such protective order is not, or cannot, be obtained, then the *Contractor* may disclose that portion of the information which it

is required to be disclosed by law and uses reasonable efforts to obtain assurances that confidential treatment will be afforded to the information so disclosed.

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

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

Z5 Waiver and estoppel: Add to core clause 12.3:

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

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

Z6.1 The *Contractor* undertakes to take all reasonable precautions to maintain the health and safety of persons in and about the execution of the *service*. Without limitation the *Contractor*:

- accepts that the *Employer* may appoint him as the "Principal Contractor" (as defined and provided for under the Construction Regulations 2014 (promulgated under the Occupational Health & Safety Act 85 of 1993) ("the Construction Regulations") for the Affected Property;
- warrants that the total of the Prices as at the Contract Date includes a sufficient amount for proper compliance with the Construction Regulations, all applicable health & safety laws and regulations and the health and safety rules, guidelines and procedures provided for in this contract and generally for the proper maintenance of health & safety in and about the execution of the *service*; and
- undertakes, in and about the execution of the *service*, to comply with the Construction Regulations and with all applicable health & safety laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his Subcontractors, employees and others under the *Contractor's* direction and control, likewise observe and comply with the foregoing.

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

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

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

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

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

Z8 Notifying compensation events

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

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

Z9 Employer's limitation of liability

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

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

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

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

Z11 Ethics

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

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

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

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

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

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

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

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

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

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

Z11.2 The *Employer* may terminate the *Contractor's* obligation to Provide the Services if a Committing Party has taken such Prohibited Action and the *Contractor* did not take timely and

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

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

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

Z12 Insurance

Z_12_.1 Replace core clause 83 with the following:

Insurance cover 83

- 83.1 When requested by a Party, the other Party provides certificates from his insurer or broker stating that the insurances required by this contract are in force.
- 83.2 The *Contractor* provides the insurances stated in the Insurance Table A from the *starting date* until the earlier of Completion and the date of the termination certificate.

INSURANCE TABLE A

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

Z __12.2 Replace core clause 86 with the following:

Insurance 86
by the
Employer

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

INSURANCE TABLE B

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

Z13 Nuclear Liability

- Z13.1 The *Employer* is the operator of the Koeberg Nuclear Power Station (KNPS), a nuclear installation, as designated by the National Nuclear Regulator of the Republic of South Africa, and is the holder of a nuclear licence in respect of the KNPS.
- Z13.2 The *Employer* is solely responsible for and indemnifies the *Contractor* or any other person against any and all liabilities which the *Contractor* or any person may incur arising out of or resulting from nuclear damage, as defined in Act 44 of 1999, save to the extent that any liabilities are incurred due to the unlawful intent of the *Contractor* or any other person or the presence of the *Contractor* or that person or any property of the *Contractor* or such person at or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.
- Z13.3 Subject to clause Z13.4 below, the *Employer* waives all rights of recourse, arising from the aforesaid, save to the extent that any claims arise or liability is incurred due or attributable to the unlawful intent of the *Contractor* or any other person, or the presence of the *Contractor* or that person or any property of the *Contractor* or such person at or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.
- Z13.4 The *Employer* does not waive its rights provided for in section 30 (7) of Act 44 of 1999, or any replacement section dealing with the same subject matter.
- Z13.5 The protection afforded by the provisions hereof shall be in effect until the KNPS is decommissioned.

Z14 Asbestos

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

AAIA means approved asbestos inspection authority.

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

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

Z14.2 Upon written request by the *Contractor*, the *Employer* certifies that these conditions prevail. All measurements and reporting are effected by an independent, competent, and certified occupational hygiene inspection body, i.e. a SANAS accredited and Department of Employment and Labour approved AAIA. The *Contractor* may perform Parallel Measurements and related control measures at the *Contractor's* expense. For the purposes of compliance the results generated from Parallel Measurements are evaluated only against South African statutory limits as detailed in clause Z14.1. Control measures conform to the requirements stipulated in the AAIA-approved asbestos work plan.

Z14.3 The *Employer* manages asbestos and ACM according to the Standard.

Z14.4 In the event that any asbestos is identified while Providing the Services, a risk assessment is conducted and if so required, with reference to possible exposure to an airborne concentration of above the AL for asbestos, immediate control measures are implemented and relevant air monitoring conducted in order to declare the area safe.

Z14.5 The *Contractor's* personnel are entitled to stop working and leave the contaminated area forthwith until such time that the area of concern is declared safe by either Compliance Monitoring or an

AAIA approved control measure intervention, for example, per the emergency asbestos work plan, if applicable.

- Z14.6 The *Contractor* continues to Provide the Services, without additional control measures presented, on presentation of Safe Levels. The contractually agreed dates to Provide the Services, including the Completion Date, are adjusted accordingly. The contractually agreed dates are extended by the notification periods required by regulations 3 and 21 of the Asbestos Regulations, 2001.
- Z14.7 Any removal and disposal of asbestos, asbestos containing materials and waste, is done by a registered asbestos contractor, instructed by the *Employer* at the *Employer's* expense, and conducted in line with South African legislation.

C1.2 Contract Data

Part two - Data provided by the *Contractor*

Notes to a tendering contractor:

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

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

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

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

CV's (and further key person's data including
CVs) are in .

A	Priced contract with price list
11.2(12)	The <i>price list</i> is in
11.2(19)	The tendered total of the Prices is R

PART 2: PRICING DATA

TSC3 Option A

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

C2.1 Pricing assumptions: Option A

How work is priced and assessed for payment

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

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

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

Function of the Price List

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

Link to the *Contractor's* plan

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

Preparing the *price list*

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

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

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

Format of the *price list*

(From the example given in an Appendix within the TSC3 Guidance Notes)

Entries in the first four columns in the *price list* in section C2.2 are made either by the *Employer* or the tendering contractor.

If the *Contractor* is to be paid an amount for the item which is not adjusted if the quantity of work in the item changes, the tendering contractor enters the amount in the Price column only, the Unit, Expected Quantity and Rate columns being left blank.

If the *Contractor* is to be paid an amount for an item of work which is the rate for the work multiplied by the quantity completed, the tendering contractor enters the rate which is then multiplied by the Expected Quantity to produce the Price, which is also entered.

If the *Contractor* is to be paid a Price for an item proportional to the length of time for which a service is provided, a unit of time is stated in the Unit column and the expected length of time (as a quantity of the stated units of time) is stated in the Expected Quantity column.

C2.2 the *price list*

SEE ATTACHED ANNEXURE K

PART 3: SCOPE OF WORK

Document reference	Title	No of pages
C3.1	This cover page	1
	<i>Employer's Service Information</i>	27
	Total number of pages	28

C3.1: EMPLOYER'S SERVICE INFORMATION

Contents

Part 3: Scope of Work	25
C3.1: Employer's service Information	25
1 Description of the Service.....	30
1.1 Executive Overview	30
1.2 <i>Employer's</i> Requirements for the <i>Service</i>	30
1.2.1 Maintenance of Gardens and Lawn areas.....	30
1.2.2 Maintenance of Trees, Shrubs and Creepers.....	28
1.2.3 Designing, Preparation Maintenances of Flower Beds.....	28
1.2.4 Security Fence Area	28
1.2.5 Vegetation Control	28
1.2.6 Weed Control and Alien Control	28
1.2.7 Planting of Trees.....	29
1.2.8 Maintenance of Fire Breaks	29
1.2.9 Personnel/Resources.....	29
1.2.10 Partnership Agreement/ Site Specific Agreement	29
1.2.11 Frequency of Planned Horticultural Maintenance.....	29
1.3 Interpretation and Terminology.....	30
1.4 COVID- 19 COMPLIANCES.....	30
2 Management Strategy and Start Up	30
2.1 The <i>Contractor's</i> Plan for the <i>Service</i>	30
2.1.1 Contractor's Office	30
2.1.2 Pre-Mobilization Readiness Review Meeting	30
2.2 Management Meetings	30
2.3 Contractor's Management, Supervision and Key People.....	31
2.4 Provision of Bonds and Guarantees.....	31
2.5 Documentation Control	31
2.6 Invoicing and Payment	32
2.7 Contract Change Management.....	32
2.8 Records of Defined Cost to be kept by the <i>Contractor</i>	32
2.9 Insurance Provided by the <i>Employer</i>	32
2.10 Training Workshops and Technology Transfer.....	32
2.11 Design and Supply of Equipment	32
2.12 Things provided at the end of the <i>service period</i> for the <i>Employer's</i> use	32
2.12.1 Equipment.....	32
2.12.2 Information and other things	32

2.13	Management of work done by Task Order	33
3	Health and Safety, the Environment and Quality Assurance	33
3.1	Health and Safety Risk Management	33
3.2	Environmental Constraints and Management	33
3.3	Quality Assurance Requirements	33
4	Procurement	33
4.1	People	34
4.1.1	Minimum Requirements of People Employed	34
4.1.2	B-BBEE and Preferencing Scheme	34
4.1.3	Supplier Development and Localisation	34
4.2	Subcontracting	35
4.2.1	Preferred Subcontractors	35
4.2.2	Subcontract Documentation, and Assessment of Subcontract Tenders	35
4.2.3	Limitations on Subcontracting	35
4.2.4	Attendance on Subcontractors	35
4.3	Plant and Materials	35
4.3.1	Specifications	35
4.3.2	Correction of Defects	35
4.3.3	Contractor's Procurement of Plant and Materials	35
4.3.4	Tests and Inspections before Delivery	36
4.3.5	Plant & Materials provided "free issue" by the Employer	36
5	Working on the Affected Property	36
5.1	Employer's Site Entry and Security Control, Permits, and Site Regulations	36
5.1.1	Security and Access	36
5.1.2	Access Control for Persons	36
5.1.3	Removal of Persons from the Project Site and other places, if any, as may be specified under the Contract as forming part of the Site	36
5.1.4	Removal of Goods from the Project Site	37
5.1.5	Access Control for Vehicles	37
5.1.6	Visitors	37
5.1.7	Fire-arms	38
5.1.8	Project Site Fences	38
5.1.9	Helicopter Traffic	38
5.1.10	Contractor's Security	38
5.1.11	Cleanliness and Housekeeping	38
5.1.12	Waste Removal and Disposal	38
5.1.13	Signage	39
5.1.14	Works Area Limits	39
5.1.15	Project Site Traffic	39
5.1.16	Dust Suppression	40

5.2	People Restrictions, Hours of Work, Conduct and Records.....	40
5.2.1	Hours of Work	40
5.2.2	Competence Testing of Contractor's Personnel	40
5.2.3	Anti-poaching Undertaking.....	40
5.2.4	Transportation of Contractor's Personnel	40
5.2.5	Canteen.....	41
5.2.6	Project Site Induction Programme	42
5.2.7	Substance Abuse Testing.....	42
5.2.8	Accommodation Policy.....	44
5.2.9	Industrial Action Policy.....	44
5.3	Health and Safety Facilities on the Affected Property	44
5.3.1	Medical Facilities.....	44
5.4	Environmental Controls, Fauna and Flora	44
5.5	Cooperating with and Obtaining Acceptance of Others	44
5.6	Records of <i>Contractor's</i> Equipment.....	44
5.7	Equipment Provided by the <i>Employer</i>	44
5.8	Site Services and Facilities.....	44
5.8.1	Provided by the <i>Employer</i>	44
5.8.2	Provided by the Contractor	51
5.9	Hook ups to Existing Works.....	51
5.10	Tests and Inspections	51
5.10.1	Description of Tests and Inspections	51
5.10.2	Materials Facilities and Samples for Tests and Inspections.....	51
6	List of Drawings	51
6.1	Drawings issued by the <i>Employer</i>	51

1 Description of the Service

1.1 Executive Overview

The *works* to be performed by the Contractor includes the maintenance of all horticultural services at Kusile Power Station Construction Project, the Peripheral roads (the Main Access roads off R545 and D686), Kendal Contractors Village, Wilge Admin Offices and Wilge Flats.

1.2 Employer's Requirements for the Service

The Contractor shall perform routine and planned horticultural maintenance as directed by the Employer.

1.2.1 Maintenance of Gardens and Lawn areas

- The maintenance of gardens and lawns include, de-weeding, trimming and mowing of lawn by using suitable mowing machines;

1.2.2 Maintenance of Trees, Shrubs and Creepers

- The maintenance of trees, shrubs and creepers, by hoeing, pruning and trimming;
- Provision of frost covers, replacement of old by new ones and to ensure enough supply of air and water. This also includes the indigenous trees that are currently on site.

1.2.3 Designing, Preparation and Maintenances of Flower Beds

- The Contractor shall ensure that the existing flower beds of seasonal annual flowering plants at different locations in the lawns of the construction site are maintained. In between these flower beds perennials or shrubs are to be maintained.
- The Contractor is also to design and prepare flower beds of seasonal annual flowering plants as and when instructed by the Employer.
- The Contractor shall maintain the Nursery.

1.2.4 Security Fence Area

The Contractor shall maintain the areas between the two parallel permanent security fences free from weeds, plants or any growth. Maintenance will be done through brush cutting and through spraying of herbicides, weedicides, in compliance with the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act 36 of 1947 and any other applicable legislation, through applicable methods. and weed removal.

1.2.5 Vegetation Control

Control of vegetation includes but is not limited to all open areas, storage areas and embankments. Maintenance shall be done by using appropriate and suitable equipment. The Contractor is encouraged to use cuttings for the purpose of composting.

1.2.6 Weed Control and Alien Control

The Contractor shall control weed, by physical removal, on roads, trenches, walkways, paving, apron slabs around all buildings, parking areas, and as required by the Employer.

The Contractor shall control the alien invasive species on site as listed in the relevant regulations as per National Environment Management Biodiversity Act 10 of 2004. Alien control shall be executed through the application of approved organic and environmental friendly herbicides and weedicides in compliance with the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act 36 of 1947 and any other applicable legislation, through applicable methods.

1.2.7 Planting of Trees

The Contractor shall prepare holes for planting of trees including the supply of compost and fertilizer and ensure that the planted and current trees are watered.

1.2.8 Maintenance of Fire Breaks

The Contractor shall provide maintenance of the all existing firebreaks in accordance with the National Veld and Forest Fire Act, Act 101 of 1998 or as directed by the Employer. The fire breaks must be 4m wide and cleared off all vegetation.

1.2.9 Personnel/Resources

The Contractor shall appoint a qualified Environmental Officer in possession of a 3 years Degree/National Diploma in Environmental Management/Science with a minimum of 2 years' experience.

The Contractor shall provide all labour (maximum of 20 general workers), Supervision and a qualified Safety Officer.

The registered Pest Control Operator shall be appointed as required by the Environmental Management Plan and proof of registration shall be submitted prior mobilising to site.

1.2.10 Partnership Agreement/ Site Specific Agreement

Project Attendance (PA) bonus will be applicable to this contract. It shall be calculated as follows: 15.5 hours accumulated by the employees per month paid by the Employer and 0.5 hours accumulated by the employees per month paid by the Contractor.

1.2.11 Frequency of Planned Horticultural Maintenance

The following table indicates the minimum required intervals for the various services.

Description	Planned Maintenance Frequency
Gardens and Lawns	Twice a month in High season Monthly in Low season
Flower beds	Twice a month in High season Monthly in Low season
Site embankments	Monthly in High season Bi monthly in Low season
Security Fence	Monthly in High season Bi monthly in Low season
Vegetation control	Monthly in High season Bi monthly in Low season

Open areas	Monthly in High season Bi monthly in Low season
Weed control and Alien Plants	Monthly in High season Bi monthly in Low season
Fire Breaks	Annually completed by May

1.3 Interpretation and Terminology

None

1.4 COVID- 19 COMPLIANCES

Due to COVID- 19 (Corona Virus) the Contractor shall put in place all necessary measures to comply with all protocols to limit and/or stop the spread of the pandemic, policy should be outlined in line with the government compliances.

All Covid-19 Protocols must be observed during the execution of the works.

2 Management Strategy and Start Up

2.1 The Contractor's Plan for the Service

2.1.1 Contractor's Office

During the execution of the Works at the Project Site, the Contractor shall maintain a suitable office at the Project Site in the area allocated for that purpose by the Employer, which shall be the headquarters of the Contractor's Representative and authorised to receive drawings, instructions or other communications or notices under the Contract.

The Contractor shall maintain, at the Contractor's Project Site office, one complete, up-to-date copy of the Contract and all Contract related documents (including Contractor's Documents, drawings and documents issued by and to the Contractor, Compensation Events, Progress Reports, correspondence, non-conformance reports etc.). Without limitation the Contractor shall maintain at the Contractor's Project Site office one up-to-date copy of all approved shop drawings, product data, samples, and other submittals required of the Contractor. These documents shall be available to the Employer at all times.

2.1.2 Pre-Mobilization Readiness Review Meeting

The Contractor shall conduct a Pre-Mobilization Readiness Review Meeting (PMRRM) at the Project Site no later than forty-two (42) days prior to the Contractor's access to Site date (unless the period from the Contract Date to the Site access date is less than 42 days in which event the plan will be provided not later than 14 days after the Contract Date). The purpose of this meeting is to review the Work Coordination Process deliverables and Work Coordination Plan submitted for Employer's review. At the discretion of the Employer, additional PMRRMs may be required to confirm Contractor's readiness to mobilize prior to the Contractor's access to Site date. The Contractor's Representative, as well the Contractor's assigned site supervisor, health & safety officer, environmental officer and quality manager, shall be in attendance at all PMRRMs.

2.2 Management Meetings

The following requirements for conducting Project Site meetings apply to the Works. The Contractor and all Sub-Contractors shall actively participate in, and adhere to the Employer's requirements and other procedures initiated for the purpose of maintaining the Project Site administrative control. The

Contractor and all Sub-Contractors shall attend other Project Site meetings when deemed required by the Employer to coordinate the Works or the Project Works.

Title and Purpose	Approximate Time & Interval	Location	Attendance by:
Progress feedback meeting	Daily at <u>8:00</u> am	CM Building	Employer and Contractor Site Representative
Environmental management meeting	Weekly on <u>Monday</u> at <u>14:00</u> .	CM building	<i>Employer</i> and Contractor's Environmental Officer
Safety management meeting	Weekly	CM building	<i>Employer</i> and Contractor's Risk Officer
AsgiSA and Risk Management meeting	Monthly	CM building	Contractor's Management

2.3 Contractor's Management, Supervision and Key People

The Contractor shall provide the Employer with a detailed organogram of all staff and management on the contract. This must be revised quarterly and must reflect any changes to the staff and management structure.

The Employer reserves the right to audit and verify the structure.

2.4 Provision of Bonds and Guarantees

Not Applicable

2.5 Documentation Control

The Contractor will submit the following documents to the Employer for review, the Employer will review the documents for acceptance and inform the Contractor if the documents have been accepted or if it is not accepted and stating the reasons of not the accepting the documentation. The Employer will give the Contractor reasonable time which will be agreed to between the Contractor and the Employer to respond or re-submit the documents. The documents are as follows:

Title and purpose	Frequency
Weekly plan	Every Monday of the week
Weekly progress report, reporting on actual work completed.	Every Wednesday of the week, reporting on the previous week's progress
Three weeks look ahead plan – detailing planned activity during the period	Monthly
Application for excavation permit	When required
Power application permit	When required
Risk Register	Monthly
SD&L Reports	Not Applicable

All correspondence of either commercial or technical nature, whether hard copy or email, either to Contractor or from Contractor shall clearly include the following information; file number, package number, contract number and subject matter.

Documents shall be delivered in electronic format (Microsoft Office 2003 compatible or Adobe Acrobat (pdf) files). In addition a document list shall be delivered in Microsoft Excel format that contains the following fields: "document name", "document type", "version number", "date created" and "created by".

2.6 Invoicing and Payment

Within one week of receiving a payment certificate from the Employer in terms of Core Clause 51.1, the *Contractor* provides the Employer with a tax invoice, by no later than the first day of the month, showing the amount due for payment equal to that stated in the Employer's payment certificate.

The Contractor shall address the Tax Invoice to:

Eskom Holdings SOC Limited
Finance Department
Megawatt Park
Email: InvoicesgrpcapitalKCT@eskom.co.za

ONLY ORIGINAL INVOICES WILL BE ACCEPTED.

The following must be stated on the Tax Invoice:

Name and address of the *Contractor* and the Employer;

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; and

Total amount invoiced excluding VAT, the VAT and the invoiced amount including VAT.

2.7 Contract Change Management

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

2.8 Records of Defined Cost to be kept by the Contractor

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

2.9 Insurance Provided by the Employer

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

2.10 Training Workshops and Technology Transfer

Not Applicable

2.11 Design and Supply of Equipment

Not Applicable

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

2.12.1 Equipment

None

2.12.2 Information and other things

At the end of the service period the Contractor will be required to provide the Employer with the following:

- The Contractor's Safety file.
- The specifications and data of the plants, trees, and any other installations or plantation that was made by the Contractor during the service period.

2.13 Management of work done by Task Order

Not Applicable

3 Health and Safety, the Environment and Quality Assurance

3.1 Health and Safety Risk Management

The Contractor shall comply with the health and safety requirements contained in Kusile Safety, Health and Environmental Specification as updated.

The Employer's Safety Officers shall inspect the Contractor Working Areas and Facilities for compliance to Eskom's standards.

3.2 Environmental Constraints and Management

The Contractor shall comply with the environmental criteria and constraints stated in Kusile Environmental Management Plan (EMP) as updated and the Record of Decision (RoD).

3.3 Quality Assurance Requirements

The Contractor shall comply with the quality requirements as stated in QM-58 as updated.

4. Procurement

The Contractor provides the following procurement services in performing the scope:

- Preparation of Employer approved supplier and Sub-Contractor's lists for equipment and contracts to be submitted to the Employer for review and approval.
- Follows the least cost and time procurement strategies.
- Contract management services for the selection, appointment and management of Sub-Contractors requires to execute the scope.
- The services of all buyers, contracts officers, inspectors, expeditors and other personnel necessary to procure and deliver all plant, material, equipment, supplies and services necessary to provide the scope.
- Receives and evaluates all bids/quotations and compiles a bidders evaluation report detailing the technical, commercial and costing components of each bid;
- Obtains the Employers' approval prior to committing any contracts or orders;
- Obtains delivery dates from Sub-contractors and suppliers in order to realize the Completion Date;

- Receiving of invoices, verification thereof in terms of purchase orders and contract provisions, certification of invoices as being correct and payable and supply of correct invoices to the Employer within.
- Management of and negotiating of all suppliers and Sub-Contractors compensation events and recommendations to the Employer as to the validity, amount and payment of such events.
- Determination of penalties payable by suppliers and Sub-contractors and recommendation to the Employer as to the enforcement of such penalties prior to any communication to suppliers and Contractors.
- Ensuring that all suppliers and Sub-contractors, from whom the Contractor procures equipment and materials do not retain, encumber or reserve title to such items.

4.1 People

4.1.1 Minimum Requirements of People Employed

The Contractor will be required to recruit within the Nkangala District Municipality, including any other areas that are within 65km radius from the Kusile Construction Site. Kusile Power Station employment procedure will apply.

4.1.2 B-BBEE and Preferencing Scheme

The Contract shall:

- Maintain the Required B-BBEE Recognition Level for the duration of the Agreement;
- Provide Eskom with a valid Verification Certificate and such other information as Eskom may reasonably request, in respect of which the Contractor claims maintenance for the duration of the Agreement of the Required B-BBEE Recognition Level. For the purpose of this clause "verification Certificate" means a verification certificate and the accompanying documentary proof confirming the B-BBEE Status of a particular entity as issued by an accredited verification agency;
- Comply with and fulfil its obligations in respect of the Supplier Development and Localisation and the Industrialisation Programme (the latter, if any) in accordance with and as provided for in the Supplier's SD&L & Localisation Obligations Schedule.

Without limiting or derogating from Eskom's other rights under the Agreement including Eskom's rights to terminate the Agreement, Eskom shall be entitled to claim (and to deduct from the consideration payable) a penalty equal to ZAR 300 000.00 (three hundred thousand Rand) if the Contractor fails to maintain the Required B-BBEE Recognition Level for the Stated Time; subject to the proviso, however, that the penalty shall not be applied if the Contractor re-achieves the Required B-BBEE Recognition Level within 184 days of first losing it and thereafter maintains the Required B-BBEE Recognition Level for the balance of the Agreement.

4.1.3 Supplier Development and Localisation

The *Contractor* complies with and fulfils the *Contractor's* obligations in respect of the Accelerated and Shared Growth Initiative – South Africa in accordance with the *Contractor's* SD&L Compliance Schedule.

The *Contractor* shall keep accurate records and provide the Employer with reports on the *Contractor's* actual delivery against the SD&L criteria stated in the contract. The reporting templates will be provided on contract award. The *Contractor's* failure to comply with his SD&L obligations constitutes substantial failure on the part of the *Contractor* to comply with his obligations under the contract.

4.2 Subcontracting

This Contract does not constitute an agreement of employment, partnership, joint venture or agency between Eskom and the Contractor and shall not give rise to any relationship of employer and employee, master and servant or principal and agent between Eskom and the Contractor or between Eskom and any employee, agent or sub-Contractor of the Contractor. Accordingly, neither the Contractor nor Eskom shall have the power, nor purport to make a contract in the name of the other, to grant or pledge credit of the other, to incur liability on behalf of the other, or to employ any person on behalf of the other.

The Contractor shall not be entitled to sub-contract the whole of the services but shall, subject to Eskom's consent (which consent shall only be valid if given in writing and signed by the Eskom Representative), be entitled to sub-contract selected parts of its obligations in terms of this Agreement to any other person/s, provided that such sub-contracting shall not relieve the Contractor of its obligations and the Contractor shall remain liable for all and any acts or omissions of such person/s as though they were acts or omissions of the Contractor.

The Contractor shall not be entitled to cede, delegate, assign or otherwise transfer any of its rights and/or obligations without the prior written consent of Eskom, which consent shall not be unreasonably withheld.

4.2.1 Preferred Subcontractors

Not Applicable

4.2.2 Subcontract Documentation, and Assessment of Subcontract Tenders

Not Applicable

4.2.3 Limitations on Subcontracting

Not Applicable

4.2.4 Attendance on Subcontractors

Not Applicable

4.3 Plant and Materials

4.3.1 Specifications

The Contractor is responsible for providing plant and material necessary to provide the services.

4.3.2 Correction of Defects

The Contractor shall provide maintenance and repair of all the plant necessary to provide the services. All defects to the works shall be rectified as specified in the document QM 58.

4.3.3 Contractor's Procurement of Plant and Materials

The Contractor may be required to provide the Employer with a technical data sheet of the plant or material supplied to the Employer. A guarantees and warranties certificate may also be required for any plant and material supplied by the Contractor to the Employer.

4.3.4 Tests and Inspections before Delivery

Not Applicable

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

None

5. Working on the Affected Property

5.1. Employer’s Site Entry and Security Control, Permits, and Site Regulations

5.1.1 Security and Access

The Employer will provide perimeter security and access control for the Project Site. Strict access control shall be implemented 24 hours a day at all entrances to the Project Site. All persons and vehicles entering or exiting the Project Site may be subjected to searches and the Employer reserves the right to refuse entrance to Project Site to any person not meeting security and/or access requirements.

From time to time, and as required, the Employer will issue policies and procedures regarding Project Site security and access control. These policies and procedures shall be strictly adhered to by the Contractor. The Employer shall be entitled, at his discretion, to amend or relax the Project Site security and/or access requirements to deal with emergencies or other circumstances justifying such amendment or relaxation.

Any breach of security must be reported to the Employer immediately.

5.1.2 Access Control for Persons

The Contractor's Personnel and any visitors on the Project Site must be in possession of a valid identification card supplied by the Employer. Applications for identification cards shall be made in the form prescribed by the Employer. The identification cards and finger print identification shall be used to gain access to the Project Site and only persons with legitimate business on the Project Site and in possession of such identification cards will be allowed access.

Applications for identification cards and finger print imaging shall be made in good time prior to access being required. Lost, stolen or damaged cards shall be reported to the Employer immediately. A fee shall be charged for replacement cards.

Identification card holders will be required to produce their identification cards for a photo to face and finger print check at the security check points. Where a card holder's right of access to the Project Site is withdrawn, his identification card will be electronically cancelled. It is the responsibility of the Contractor to ensure the card is returned to the Employer.

5.1.3 Removal of Persons from the Project Site and other places, if any, as may be specified under the Contract as forming part of the Site

The Employer may remove from the Project Site (or from any other places, if any, as may be specified under the Contract as forming part of the Site) any person who poses a risk to the Project Works or to the progress thereof, or who poses a risk to security or to the health and safety of persons at the Project Site (or at such other places, if any, as may be specified under the Contract as forming part of the Site).

The Employer furthermore remove from the Project Site (or from any other places, if any, as may be specified under the Contract as forming part of the Site) any person who ceases, for any reason, to have legitimate business thereon.

If any such person was permitted access as Contractor's Personnel or as a visitor of the Contractor, the Contractor shall, at the request of the Employer, take all steps necessary to ensure his removal from the Project Site (or from such other places forming part of the Site, as the case may be).

5.1.4 Removal of Goods from the Project Site

All persons removing inter alia materials, equipment, toolboxes, temporary facilities etc. from the Project Site must be in possession of a valid gate release permit. Applications for general or specific gate release permits shall be made in the form prescribed by the Employer.

5.1.5 Access Control for Vehicles

Only a limited number of Contractor and Subcontractor non-construction vehicles will be allowed onto the Project Site. As a general rule, however, Contractors' and visitors' personal vehicles are not allowed within the Project Site and must be parked in the designated area and the Contractor is required to collect his visitors from the access point.

Vehicle entry discs will be issued at the discretion of the Employer on receipt of an application signed by the Contractor. Applications for vehicle entry discs shall be made in a form prescribed by the Employer.

5.1.6 Visitors

Before entering the Project Site, visitors (meaning any person other than the Contractor's Personnel) must be in possession of a valid identification card supplied by the Employer.

Applications shall be made in a form prescribed by the Employer prior to access being required and visitors must be in possession of positive identification.

The Contractor's visitors shall be subject to all Project Site rules and regulations including those related to Health & Safety and discipline. As a minimum requirement, visitors must wear safety shoes, hard hats and any other personal protective equipment as required by the Employer and must be accompanied by their hosts at all times whilst on the Project Site.

5.1.7 Fire-arms

Fire-arms will not be permitted on the Project Site (nor at other places, if any, as may be specified under the Contract as forming part of the Site). This restriction does not, however, apply to the South African Police Services (SAPS) in the pursuance of official duties.

5.1.8 Project Site Fences

The modification or removal of Project Site fences is strictly prohibited unless otherwise instructed by the Employer.

5.1.9 Helicopter Traffic

In addition to compliance with applicable Law, helicopter landings at the Project Site (except emergency aid Helicopters) require the prior approval of the Employer. Applications for landing shall be submitted in the form prescribed by the Employer. Applications shall include the following details, as a minimum:

- Purpose of visit;
- Date of landing;
- Estimated time of arrival on and departure from Project Site;
- Number and names of passengers; and
- Company represented and registration number of helicopter.

5.1.10 Contractor's Security

The Contractor is solely responsible for the protection and security of the Works and all areas allocated to him, including his allocated lay-down areas and areas outside the Project Site, if any, which are specified under the Contract as forming part of the Site.

For areas outside the Project Site which are specified under the Contract as forming part of the Site, the Contractor shall also be responsible for implementing access control for persons (including Contractor's Personnel and visitors) and vehicles. Such access control shall be to the satisfaction of the Employer and shall be subject to the direction and control of the Employer.

5.1.11 Cleanliness and Housekeeping

The Contractor shall maintain a high standard of cleanliness during the conduct of his activities on the Project Site (and at other places, if any, as may be specified under the Contract as forming part of the Site). The Contractor shall, at all times maintain, clean and attend to the upkeep of the Site and such other areas as may be allocated for storage of materials, site offices, etc. to the satisfaction of the Employer. The Contractor shall at all times keep these areas, clean and free from accumulation of waste materials and refuse regardless of the source.

During sweeping and dusting, the Contractor shall ensure that a minimum amount of dust is liberated into the atmosphere. Cleaning by vacuum cleaners is preferred and the use of compressed air for cleaning is prohibited.

5.1.12 Waste Removal and Disposal

The Contractor is responsible for the prompt removal of all waste to a designated disposal area. The disposal area will be on or in the vicinity of the Project Site and will be designated by the Employer. Waste must only be disposed of at a designated area.

For the purpose hereof, "waste" means any matter, whether liquid or solid or any combination thereof, which is a by-product, emission, residue or remainder of any process or activity carried out in connection with the Works and which is not reused on the Site in the ordinary course of carrying out the Works within 7 (seven) days of maintenance.

The Contractor shall provide an adequate number of marked bins and containers at offices, in yards, at workshops and on the Site for the temporary storage of waste. These bins and containers shall be to the satisfaction of the Employer.

The Contractor shall be required to segregate certain items of waste by type as designated by the Employer. Bins and containers shall be emptied and waste removed to the designated area at least once a week. All the temporary storage areas for bins and containers must be kept tidy and shall not constitute a nuisance to others. The Contractor shall take all steps required to avoid the spillage of waste alongside the bins and containers and during removal and disposal.

All waste that cannot be contained in either a bin or container must be placed on a temporary waste site the position of which shall be to the satisfaction of the Employer. The waste shall be removed as soon as possible but in any event at least once a week. No burning of waste shall be allowed on the Project Site (or at other places, if any, as may be specified under the Contract as forming part of the Site) unless otherwise approved by the Employer.

Hazardous waste shall be dealt with in accordance with the safety, health and/or environmental requirements of the Contract, as applicable, and the Contractor is solely responsible for the proper disposal thereof in accordance therewith.

5.1.13 Signage

No signage shall be erected by the Contractor at the Project Site (or at other places, if any, as may be specified under the Contract as forming part of the Site) without the prior specific or general approval of the Employer. The positioning and content of signage, whether required by applicable Law and/or otherwise required to be displayed by the Contractor under the Contract, shall be subject to applicable policies and procedures issued by the Employer from time to time.

No Contractor notice boards will be allowed on the main road, other than signs necessary to facilitate deliveries, but the Contractor will be permitted to erect his own notice board on the Project Site, in the vicinity of the Site, or at other places, if any, as may be specified under the Contract as forming part of the Site, the positioning of which, must have the prior approval of the Employer.

5.1.14 Works Area Limits

The Employer will designate the working area boundary limits and assign for the Contractor's use access roads, parking areas, storage areas, existing facilities areas and construction areas. The Contractor shall not trespass in or on areas not so designated. The Contractor shall be responsible for keeping Contractor's Personnel out of areas not designated for Contractor's use, except, in the case of isolated work located within such areas for which the Contractor shall have been authorised under the Work Co-ordination Process.

5.1.15 Project Site Traffic

The Contractor shall comply with the Employer's directions for the movement of traffic, vehicular or pedestrian, at the Project Site. The Contractor shall interfere as little as possible with Project Site traffic, vehicular or pedestrian, during the performance of the Works. When necessary to cross, obstruct or close roadways or walks, the Contractor shall provide advance notice to the Employer, obtain the permission from the Employer and maintain suitable detours or other expedients for the accommodation of other Project Site traffic. In making open cuts across traffic paths, the Contractor, unless otherwise approved by the Employer, shall cut only one-half of the traffic paths at a time.

These Project Site traffic provisions shall likewise apply to places, if any, outside the Project Site as may be specified under the Contract as forming part of the Site.

5.1.16 Dust Suppression

Except as otherwise directed by the Employer, the Contractor shall provide dust suppression for the Contractor's yard and for the Contractor's working areas. The Employer will, however, provide dust suppression for roads and other common areas which are not used exclusively or primarily by the Contractor.

5.2 People Restrictions, Hours of Work, Conduct and Records

5.2.1 Hours of Work

Working hours on the Construction site is from 7:00 till 17:00, Monday to Friday. The Contractor might be required to work on weekends as and when requested by the Employer.

5.2.2 Competence Testing of Contractor's Personnel

Contractor's Personnel to be employed at the Project Site (or at other places, if any, as may be specified under the Contract as forming part of the Site) for any semi-skilled or skilled operation may be tested by the Employer at any time at the Project Site. This may include, at the Employer's discretion, the actual performance of the operation and/or training and testing related to performance of the operation. The Employer reserves the right to prevent any person from carrying out any operation that such person is not fit or qualified to perform. The satisfactory passing of the induction operation test requirements will result in the certification of the Contractor's Personnel to perform that specific operation on the Project Site (and/or at such other places, if any, as may be specified under the Contract as forming part of the Site). This certification shall not reduce in any way the Contractor's responsibilities to perform the Works as per the Contract requirements, including in a safe manner. The certification may be revoked by the Employer if such person ceases to be fit or qualified to perform the work in question at any time.

5.2.3 Anti-poaching Undertaking

The Contractor shall not recruit or attempt to recruit staff and labour from amongst the personnel of Other Project Contractors during the execution of the Project Works.

5.2.3.1 This restriction shall not, however, prevent the Contractor from recruiting a person where:

- 5.2.3.1.1 That person has been demobilised or the employment of that person has been terminated for any reason other than by resignation;
- 5.2.3.1.2 The person has resigned and a period of 90 days has lapsed from the date of resignation; or
- 5.3.3.1.3 The person has been released by the Other Project Contractor for employment by the Contractor (evidenced by written confirmation to this effect by the Other Project Contractor).

Notwithstanding the above, if a person has been dismissed by any other Project Contractor for misconduct or for poor performance, he shall not be employed by the Contractor on the Project Site (or at any other places, if any, as may be specified under the Contract as forming part of the Site) without the prior approval of the Employer.

5.2.4 Transportation of Contractor's Personnel

Due to the remoteness of the Project Site, the Contractor is required to provide suitable mass transportation facilities to, from and shuttling within the Project Site (and/or to and from other places, if any, as may be specified under the Contract as forming part of the Site) for Contractor's Personnel, particularly for unskilled and semi-skilled workers.

The Employer will provide a bus loading and unloading area and bus parking outside the Project Site entrance for the Contractor's use. An unloading area for the Contractor's Personnel at the Contractor's yard will be permitted by prior arrangement with, and subject to the approval of the Employer.

Without limiting the Contractor's other obligations under the Contract relating to transport of persons, the Contractor shall ensure that Contractor's Personnel are transported only in licensed and roadworthy vehicles, driven by licensed drivers, which are fit for purpose, properly maintained and which comply with applicable Law as a minimum. Transport of Contractor's Personnel in the back of trucks, tractors or light delivery vehicles is strictly prohibited.

Note: The Contractor is encouraged to source the transport for the personnel within the Nkangala District Municipality, including any other areas that are within 65km radius from the Kusile Construction Site. Taxi Association prices are to be taken into consideration when pricing.

5.2.5 Canteen

The Employer will provide a Project Site canteen. The canteen will make available a mid-shift meal during the established break period. The mid-shift meal for the Contractor's unskilled and semi-skilled workers who are residents of the Contractors' Village is provided at the cost of the Employer. In order to ensure uniformity of meal benefits, the Employer will provide the same meal for the Contractor's other unskilled and semi-skilled workers at the Project Site, at the cost of the Contractor. Distribution of the meal service shall be at staggered periods at the meal services building on the Project Site (and, as the Project Works progress, at several temporary meal stations at various locations on the Project Site) to minimise the duration of the meal period.

All other foodstuffs supplied by the Project Site canteen to the Contractors' skilled and managerial staff will be charged for in the ordinary course and will be for the account of the Contractor or Contractor's Personnel (as may be arranged between them).

Meal Specification	
Breakfast	<ul style="list-style-type: none"> • Eggs (twice a week) • Starch (400gr) <ul style="list-style-type: none"> o Mealie meal (porridge) daily o Lumba lasi or maltabella (twice a week) • Bread with butter and jam • Milk, tea and coffee • Maghau (500ml)
Lunch	<p>Kusile Power Station Construction Site and Contractors Village (weekends/public holiday/shift workers/unforeseen circumstances)</p> <ul style="list-style-type: none"> • Protein 200-250gr (one meat per serving with alternative) <ul style="list-style-type: none"> o Beef o Lamb o Chicken • Starch (100gr) • Pap (200gr) • Vegetables (80gr) • Salad (80gr) • Dessert (hot or cold pudding of any kind) • Juice (250ml)

Dinner	<ul style="list-style-type: none"> • Protein 200-250gr (one meat per serving with alternative) <ul style="list-style-type: none"> o Beef o Lamb o Chicken • Starch (100gr) • Pap (200gr) • Vegetables (80gr) • Pudding (three times per week) • Juice (250ml p/p)
---------------	---

No other food or beverage services will be allowed on the Project Site unless approved by the Employer.

5.2.6 Project Site Induction Programme

The Employer will provide a generic Project Site induction program for personnel and visitors to the Project Site. This program will include, as appropriate, information regarding identification and access, work rules, environmental protection, industrial relations, health & safety, Project information, and miscellaneous Project Site-specific requirements. All persons entering the Project Site will be required to attend induction training and to attend repeat induction training as appropriate. The induction training is expected to take up one full day. Contractor's Personnel must be in possession of a valid identification card in order to undergo induction training.

The provision of a Project Site induction program by the Employer does not, however, relieve the Contractor of his obligation to ensure that Contractor's Personnel and visitors receive appropriate induction training and the Employer assumes no liability by providing induction training.

5.2.7 Substance Abuse Testing

There shall be zero tolerance for substance abuse at the Project Site (and at other places, if any, as may be specified under the Contract as forming part of the Site).

Throughout the Works at the Project Site (and/or to other places, if any, as may be specified under the Contract as forming part of the Site), periodic seminars and instruction programs may be given by the Employer on the recognition of the characteristics, behaviours, detection, and reporting of substance abuse and persons fitness for duty. All Contractor's supervisory personnel, (including superintendents and foremen), and other key Contractor's Personnel involved at in the Works at the Project Site (and/or to other places, if any, as may be specified under the Contract as forming part of the Site) shall be required to attend this training and the Contractor shall make Contractor's Personnel available for and encourage their participation in these programs.

Any person who is, or appears to the Employer to be, under the influence and/or has failed or refused to submit to a substance abuse test may be refused access to the Project Site. If such person is Contractor's Personnel, the Contractor shall take necessary steps against such person (including disciplinary action, where appropriate, and the removal of the person from the Project Site or from other places, if any, as may be specified under the Contract as forming part of the Site).

Being "under the influence" includes the presence of drugs or alcohol in a person's system (whether detectable through behaviour and/or testing) to the extent the person's facilities are in any way impaired and/or to the extent the person is unable to perform work in a safe and productive manner. Insofar as the consumption of alcohol is concerned, alcohol levels in the blood in excess of 0.02 percent shall be considered as being under the influence. Without limitation, persons shall likewise be considered to be under the influence where the presence of drugs or alcohol corresponds to or exceeds accepted medical standards or those prescribed under applicable Laws.

The Employer shall be entitled to conduct random testing of any person at the Project Site (or at other places, if any, as may be specified under the Contract as forming part of the Site) and/or require the Contractor to test any Contractor's Personnel suspected of being under the influence of any substance or suspected of being in possession of alcohol or drugs.

The Contractor shall, at his cost, put in place measures (including all required testing capabilities) necessary to ensure compliance herewith. The measures to be employed by the Contractor will include a drug detection and prevention program which will include, but not be limited to, the following:

5.2.7.1 Pre-Assignment Testing

Contractor's Personnel at the Project Site must pass a pre-assignment drug screening / alcohol test. This pre-assignment test must be undertaken within ten days prior to reporting for work to the Project Site. Contractor's Personnel will only be permitted initial access to the Project Site against evidence of this test having been passed and such person having been certified drug / alcohol free to the Employer's satisfaction. Contractor's Personnel who visit the Project Site on a short-term basis (being not longer than 14 days unless otherwise approved by the Employer) are not subject to this pre-assignment drug testing requirement.

5.2.7.2 Continuing Random Drug Testing

The Contractor shall conduct periodic unannounced (random) testing at the Project Site (and at other places, if any, as may be specified under the Contract as forming part of the Site) at least once each month. The date of such testing shall be selected using a means that, to the Employer's satisfaction, randomly selects the date within the time frame specified, so that the date is unpredictable to the potential subject of the testing.

Contractor's supervisory personnel at the Project Site (and at other places, if any, as may be specified under the Contract as forming part of the Site) will not be informed of the date of testing and the selected Contractor's Personnel will not be notified until the morning of the selected day.

Contractor's Personnel to be tested shall be selected using a means which, to the Employer's satisfaction, randomly selects the number of subjects (10% minimum) from among the pool of all Contractor's Personnel actually at the Project Site (and at other places, if any, as may be specified under the Contract as forming part of the Site). Possible subjects shall include all Contractor's Personnel present at the Project Site (and at other places, if any, as may be specified under the Contract as forming part of the Site) on the day selected for random testing, including those who have been selected for testing on previous occasions. The subjects shall be identified by a unique and individual identification number. It is therefore conceivable that an individual could be selected to undergo testing more than one time in any given period.

Testing shall, as a minimum:

- 5.2.7.2.1 Comprise onsite enzyme immunoassay screening and/or colorimetric alcohol saliva screening; and
- 5.2.7.2.2 Include for cocaine, opiates, amphetamines, and marijuana.

The Contractor shall be required to confirm all positive tests by gas chromatography / mass spectrometry laboratory analysis (or by other means acceptable to the Employer).

The Contractor shall provide regular updates of these random tests to the Employer. All positive tests shall be reported to the Employer immediately and in writing. Evidence that Contractor's Personnel has passed a substance test shall be provided to Employer within three days of completion of the test.

5.2.8 Accommodation Policy

No accommodation will be provided by the Employer. The Contractor will be required to recruit within the Nkangala District Municipality municipality, including any other areas that are within 65 km radius from the Kusile Construction Site.

5.2.9 Industrial Action Policy

The Contractor shall comply with the Partnership Agreement (PA) and Site Specific Agreement (SSA) conditions as applicable.

5.3 Health and Safety Facilities on the Affected Property

Medical Facilities

The Employer will provide a trauma and rescue medical facility at the Project Site to provide initial medical treatment to Project Site personnel. The facility will be staffed with professional medical personnel. These personnel will be on the Project Site when significant construction operations are in progress. The Contractor shall be responsible for all emergency transportation including ambulances and helicopters.

5.4 Environmental Controls, Fauna and Flora

The Contractor shall comply with the environmental criteria and constraints stated in Kusile Environmental Management Plan (EMP) as updated.

5.5 Cooperating with and Obtaining Acceptance of Others

Except as directed by the Employer, the Contractor shall in no way interfere with, remove, adjust or operate plant, materials and/or equipment of or being supplied or operated by Other Project Contractors. Without derogating from the foregoing, the Contractor shall not cut reinforcing steel, remove concrete, drill holes into concrete or structural steel, weld on to reinforcing bars or structural steel without the approval of the Employer. The Contractor shall, at all times, keep the work of Other Project Contractors free from dropping, dripping and spattering of materials used in the Works.

5.6 Records of Contractor's Equipment

The Contractor is responsible for replacement and replenishment of equipment and vehicle. Asset registers of such equipment shall be maintained by the Contractor and shall be audited by the Employer from time to time.

5.7 Equipment Provided by the *Employer*

None

5.8 Site Services and Facilities

5.8.1 Provided by the *Employer*

5.8.1.1 General

The Employer will, at his expense, arrange for, develop and maintain the various facilities and services indicated in the attached Project Site Facilities and Services Matrix at or near the Project Site, as applicable. These services and facilities are provided on the basis detailed below.

Project Site Facilities & Services Matrix

Site Facilities, Utilities and Services		Provided by		Details
Item	Contractor	Employer		
Field Office				
Field office structure	X			
Field office furniture	X			
Field office equipment	X			
Field office supplies	X			
Artisan change facilities	X			
Fabrication shops	X			
Tools				
Erection tools	X			
Special erection tools	X			
Equipment				
Construction equipment	X			
Contractor construction elevator	X			
Contractor equipment operator testing	X			
Communication				
Internet connection	X			
Radio & cell phone communication	X			
Telephone				
Construction telephone main service line		X		
Construction telephone line connection to Contractor field office	X			
Contractor's telephone equipment and system wiring	X			
Compressed Air				
Construction compressed air source	X			
Construction compressed air distribution	X			
Electrical Power				
Construction main power source and maintenance		X		
Construction power primary distribution system and maintenance		X		
Construction power Contractor's distribution system	X			
Construction power Contractor's distribution system maintenance	X			
Construction power energy usage payment		X		
Construction Lighting				
Structures interior temporary lighting and maintenance	X			

Site Facilities, Utilities and Services		Provided by		Details
Item	Contractor	Employer		
Contractor specific work area temporary lighting and maintenance	X			
General areas site lighting and maintenance		X		
Contractor areas site temporary lighting and maintenance	X			
Water - potable and non-potable				
Construction water source		X		
Construction water Contractor's distribution and maintenance system	X			
Construction water usage payment		X		
Drinking water distribution	X			
Heat				
Temporary heating facilities/system	X			
Sanitary Facilities				
Construction primary sanitary facilities and maintenance		X		
Contractor's structures construction sanitary facilities and maintenance	X			
Access Roads				
Primary access roads and maintenance		X		
Contractor specific access roads and maintenance	X			
Primary access road dust control		X		
General Work related dust control	X			
Provide construction parking area and maintenance		X		
Storage Facilities				
Onsite lay-down space		X		
Contractor storage area maintenance	X			
Construction warehousing	X			
Tool storage facilities	X			
Climate controlled storage facilities	X			
Construction equipment fuelling facilities	X			
Security				
Overall site security		X		
Contractor specific areas security	X			
Overall site security access card and finger print system and materials		X		
Medical Facilities				
Onsite first aid/medical services		X		
Project emergency ambulance		X		
Heliport Area		X		
Fire Protection				
Construction fire protection – fire extinguishers	X			
Construction fire protection - stand pipe	X			

Site Facilities, Utilities and Services		Provided by	
Item	Contractor	Employer	Details
Overall site fire brigade participation	X		
Construction fire equipment & vehicles		X	
Cleanup			
General refuse offsite disposal		X	
Contractor general refuse collection and onsite disposal	X		
Contractor field office cleaning service	X		
Hazardous waste disposal and clean up / rehabilitation	X		
Concrete source			
Concrete source	X		
Concrete usage payment	X		
Concrete test facilities and testing	X		
Scaffolding			
Scaffolding supply/erection	X		
Welding			
Welder testing	X		
Welder test facilities	X		
Welding/cutting consumables	X		
Railroad			
Railroad siding install & maintenance			None
Food Services			
Allowed onsite - Yes/No	No	Yes	
Canteen		X	
Canteen fee payment	X		

All facilities or services not specifically indicated as provided by the Employer in the attached Project Site Facilities and Services Matrix, but required for the Works (including roads, assigned lay-down yard improvements, and access needed by the Contractor in the performance of the Works), shall be provided, maintained and removed when no longer required, by the Contractor. Except as otherwise stated in the Contract, all Contractor provided facilities and services shall be to the satisfaction of the Employer.

The provision or cessation of such Contractor provided facilities or services, and the erection, installation and removal thereof and/or of related equipment, requires the Employer's approval.

5.8.1.2 Areas for Contractor's Yards and Offices

The Employer has indicated on the drawings the areas assigned to the Contractor for offices and laydown yard. The Contractor may erect temporary offices, stores and other similar structures necessary to carry out the Works on the area at the Project Site allocated to him for this purpose by the Employer.

Any such temporary offices, stores and other similar structures shall be erected to the satisfaction of the Employer. The Contractor shall not be permitted to occupy any other areas on the Project

Site. The Contractor's shall fence the yard area allocated to him with a 1.8m security fence to the satisfaction of the Employer.

The Employer shall clear and roll the ground initially allocated to the Contractor to ensure normal load bearing capacity under reasonably anticipated construction conditions. The Employer shall provide roads from the terrace to the boundary of the Contractor's yard. The Contractor shall provide all roads within his area and shall, at his own cost, maintain the whole of this area including buildings, offices and other structures. Should the Contractor require additional areas he shall request same, in the form prescribed by the Employer, indicating the additional area/s required. The Employer reserves the right to not provide any additional areas. The Employer shall not, however, be obliged to clear or roll any additional areas allocated to the Contractor.

The Contractor shall submit to the Employer an initial drawing and/or description indicating proposed layout and utilisation of the Contractor's allotted storage areas. The drawing and/or written description shall be kept current, shall indicate the location and description of all stored items under the responsibility of the Contractor, and shall be submitted to the Employer as updates are made.

5.8.1.3 Project Site Roads and Parking

The Employer will provide and maintain construction parking and general use roads on the Project Site. A construction parking lot will be located outside the main security fence for Contractor's Personnel and visitors. Parking facilities will be limited. Contractor's Personnel and visitors failing to park as directed while using this lot may have their vehicle removed and/or be banned from future use of the lot.

A limited number of Contractor and Sub-Contractor non-construction vehicles will be allowed onto the Project Site. The Employer's approval and an appropriate permit will be required as authorisation for such vehicles to be brought on to the Project Site.

5.8.1.4 Communication Services

The Contractor shall be responsible for his own internet connectivity.

The Employer will provide for an analogue / digital telephone line and connection point in the area assigned for Contractor's Site office. The Contractor shall provide all wiring, hardware, and equipment from this point to points of use and shall pay all service charges for his use of the telephone system. The number of lines will be determined by the Employer, subject to availability. The Contractor's application for telephone services shall be made in the form required by the Employer. There is cellular network coverage in the Project Site area. The Contractor shall make his own arrangement for cellular connectivity and shall pay all service charges for his use of the cellular communication network.

The Contractor shall make his own arrangements for radio communication at the Project Site, if required. The installation of radio communication equipment at the Project Site is subject to the approval of the Employer.

5.8.1.5 Post Box

A post box for the receipt of external mail will be allocated for the Contractor's use at the Employer's Project Site Office. The Employer and the Employer shall be entitled to use this post box for general Project Works correspondence to the Contractor.

5.8.1.6 Fire Fighting and Fire Protection

The Contractor shall comply with all applicable Laws and the Project fire protection requirements, as amended from time to time, in respect of fire protection requirements during construction. The Contractor alone shall be responsible for providing adequate fire protection.

Without limitation, the Contractor shall provide adequate fire protection equipment in each warehouse, office, and other temporary structures, and in each work area being occupied to the satisfaction of the Employer. Access to sources of fire water shall be identified and kept open at all times. Suitable fire extinguishers shall be provided in enclosed areas, in areas which are not accessible to fire water, or in areas which may be exposed to fire that cannot be safely extinguished with water. Each fire extinguisher shall be of a type suitable for extinguishing fires that might occur in the area in which it is located. In areas where more than one type of fire might occur, the type of fire extinguisher required in each case shall be provided. Each extinguisher shall be securely placed and maintained in a convenient, clearly identified location for accessibility in the event of fire. The Contractor shall check and service fire extinguishers as required by the applicable Law and standards.

Additionally, where the Works include elevations, the Contractor shall provide a dry firewater standpipe at a convenient location at the Site to which a pump truck (supplied by others) could be connected to provide water at the various upper elevations of the building. Hose connections and hoses shall also be provided at these elevations. Any operation with potential for starting a fire shall include a designated fire watch person.

Only work procedures which minimise fire hazards to the extent practicable shall be used. Combustible debris and waste materials shall be collected and removed from the Project Site each day. Fuels, solvents, and other volatile or flammable materials shall be stored away from the construction and storage areas in correctly marked, safe containers.

Unless specified in the Contract for a particular application, untreated canvas, paper, plastic, and other flammable flexible materials shall not be used on the Project Site for any purpose. Corrugated paper and other flammable packing materials will not be permitted for the storage or handling of materials in any areas where they present a fire hazard. If such flammable materials are on Plant or Materials that arrive at the Project Site, they shall be removed and replaced with an acceptable covering before the Plant or Materials are moved from the Contractor's yard into working areas.

Acceptable flexible materials for covering in the working areas shall be waterproof and flame resistant.

5.8.1.7 Water

The Contractor shall exercise economy in use of the water obtained from the Employer.

Potable water use shall be limited to servicing Project Works related activities requiring potable quality water. The Contractor shall provide, install, maintain, and remove when no longer required all pipes, fixtures, equipment, and metering (if necessary) from the Employer supplied source to the point of Contractor's use. Pipes shall be placed at least 900 mm underground or as otherwise approved by the Employer and on routes approved by the Employer. Installation shall meet all applicable codes and standards and be to the satisfaction of the Employer at all times.

5.8.1.8 Electricity

The Employer will supply electrical power for construction purposes at mini substations established on the Project Site until the issue of the Taking-Over Certificate for the Works or for the last Section (as may be applicable).

Electrical power to the Project Site is provided via a 22kV ring supply as well as a 22kV sub-station. The 22kV ring supply furnishes power to mini substations throughout the Project Site. Prior to furnishing power to the Contractor, a standard "Application for Power" form shall be completed and submitted to the Employer. The request must be made at least 2 (two) weeks prior to power supply being required. Power supply shall only be provided in the following 400V, 3-phase, 4-wire ratings: 20, 40, 63, 80, 100, 225, 250 and 400 amps.

The Contractor shall have indicated his requirements in the Tender. Neither the Employer nor the Employer shall, however, be bound to approve any revised requirements.

The Contractor shall use electricity efficiently in the course of the execution of his Works on the Project Site. There shall be no charge for electricity used for construction purposes, unless the Contractor's use thereof is unreasonable.

The Contractor shall take all necessary precautions not to damage the construction power supply during performance of the Work. No connection shall be made to the permanent installation of the Kusile Power Station electrical reticulation system without the prior approval of the Employer.

The Employer shall endeavour to provide a safe and reliable power supply with interruptions kept to a minimum. No guarantees of power supply quality are, however, given and power supply interruptions of extended duration may occur without warning.

The Employer shall, where practicable, give reasonable notice of interruption of supply. Planned outages are normally arranged and advised for low activity periods such as a Sundays and limited to 8 hours. The Employer, however, reserves the right, in case of uncontrollable interruptions, emergency, or when it is not reasonably practicable to give notice, to cut off the supply without warning.

To this end the Contractor shall make arrangements, at his own expense, to guarantee continuity and quality of power for all activities where same is required and shall furthermore be considered to have allowed for all Costs and time for 12 hours of power related interruptions to the Works at the Project Site per rolling 28 day period.

5.9.1.9 Sanitation and Sewage

The Employer will provide and operate a sewage treatment plant and general use toilet facilities at the Project Site. Until this plant and toilet facilities are in operation and to supplement Contractor's remote work areas, the Employer will provide the necessary sanitary facilities for all Contractors. This will include chemical toilets and toilets with holding tanks as needed. Routine maintenance and emptying of these facilities shall be based on the level of usage to assure sanitary and health requirements are met. The Contractor shall provide, maintain, and remove when no longer needed, all pipe, pumps, and hardware to connect the sewage treatment plant to his office facilities from a connection point designated by the Employer. Installations shall be to the satisfaction of the Employer.

5.8.1.10 Lighting

The Employer will provide and maintain general use Project Site lighting in the form of pole or mast mounted lighting fixtures. This general use lighting will comprise area lighting at the construction parking area and the Project Site entrance, at the site office areas, immediately outside the Boiler and Turbine houses and near power centres.

No local or Project Works lighting will be provided by the Employer. Accordingly, all temporary local lighting required by the Contractor, including lighting required to comply with the applicable Law, shall be provided by the Contractor at his own expense.

5.8.2 Provided by the Contractor

Facilities provided by the Contractor are described in Project Site Facilities & Services Matrix as paragraph 5.8.1.1.

5.9 Hook ups to Existing Works

The performance of the Works which affects the Employer's operations or the systems of Other Project Contractors shall be scheduled to be performed only at times approved by the Employer. The procedure for carrying out work which of necessity interrupts the Employer's operations, or the systems of Other Project Contractors, or imposes abnormal operating conditions on their systems, is subject to the Work Co-ordination Process and the approval of the Employer.

5.10 Tests and Inspections

5.10.1 Description of Tests and Inspections

The Contractor is responsible for providing quality inspections as per the scope requirements and rectifies all defects within agreed time period.

The Contractor shall supply the end of job documentation associated with the services. The end of job documentation consists of the signed off (where applicable) completion forms of acceptance by the Employer.

5.10.2 Materials Facilities and Samples for Tests and Inspections

Not Applicable

6 List of Drawings

6.1 Drawings issued by the *Employer*

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

Drawing number	Revision	Title
146838-OUYX-S3825	latest	Site Layout