



NEC3 Term Service Contract (TSC3)

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

and

(Reg No. _____)

for

**The provision of Oil Spillage clean-up,
involving soil remediation, clean-up of oil
trays and spills on concrete area, surface
water, including the disposal of Oil
contaminated waste within Limlanga
Cluster on an “as and when” required
basis over a period of 5 years**

Contents:

Part C1 Agreements & Contract Data

Part C2 Pricing Data

Part C3 Scope of Work

ENQUIRY No. LP0061TB

DOCUMENT PREPARED BY: CONTRACTS MANAGEMENT DEPARTMENT

PART C1: AGREEMENTS & CONTRACT DATA

Contents:

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C1.1 Form of Offer & Acceptance

Offer

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

The provision of Oil Spillage clean-up, involving soil remediation, clean-up of oil trays and spills on concrete area, surface water, including the disposal of Oil contaminated waste within Limlanga Cluster on an “as and when” required basis over a period of 5 years

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
	(in words) Excl. VAT R	

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:

N/A

Acceptance

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

The terms of the contract, are contained in:

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

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

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

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

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

Signature(s)

Name(s)

Capacity

**for the
Employer**

(Insert name and address of organisation)

Name &
signature of
witness

Date

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

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

Note:

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

No.	Subject	Details
1		
2		
3		
4		
5		
6		
7		

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

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

For the tenderer:

For the Employer

Signature

Name

Capacity

On behalf
of

(Insert name and address of organisation)

(Insert name and address of organisation)

Name &
signature
of witness

Date

C1.2 TSC3 Contract Data

Part one - Data provided by the *Employer*

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:	
		A: Priced contract with price list
	dispute resolution Option	W1: Dispute resolution procedure
	and secondary Options	
		X1: Price adjustment for inflation
		X2: Changes in the law
		X17: Low service damages
		X18: Limitation of liability
		X19: Task Order
		X20: Key performance indicators
		Z: <i>Additional conditions of contract</i>
	of the NEC3 Term Service Contract April 2013 ¹ (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):	Teresa Bronkhorst
	Address	Maxwell Drive Megawatt Park, Sunninghill, 2196
	Tel.	+27 11 709 3700
	Fax	N/A
	e-mail	BronkhTB@eskom.co.za
11.2(2)	The Affected Property is	LimLanga cluster

¹ Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 539 1902 www.ecs.co.za

11.2(13)	The <i>service</i> is	The provision of Oil Spillage clean-up, involving soil remediation, clean-up of oil trays and spills on concrete area, surface water, including the disposal of Oil contaminated waste within Limlanga Cluster on an “as and when” required basis over a period of 5 years
11.2(14)	The following matters will be included in the Risk Register	<ol style="list-style-type: none"> 1. Late response to the task order 2. Non- compliance of terms and conditions of the contract.
11.2(15)	The Service Information is in	Part 3: Scope of Work and all documents and drawings to which it makes reference.
12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa
13.1	The <i>language of this contract</i> is	English
13.3	The <i>period for reply</i> is	1 week
2	The Contractor's main responsibilities	
21.1	The <i>Contractor</i> submits a first plan for acceptance within	1 week of the Contract Date
3	Time	
30.1	The <i>starting date</i> is	To be advised
30.1	The <i>service period</i> is	60 months
4	Testing and defects	
		As per terms and conditions of the NEC3 Term Service Contract April 2013 ² (TSC3)
5	Payment	
50.1	The <i>assessment interval</i> is	Between the 25th day of each successive month.
51.1	The <i>currency of this contract</i> is the	South African Rand
51.2	The period within which payments are made is	3 weeks.
51.4	The <i>interest rate</i> is	<p>the publicly quoted prime rate of interest (calculated on a 365 day year) charged by from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands and</p> <p>(ii) the LIBOR rate applicable at the time for amounts due in other currencies. LIBOR is the 6 month London Interbank Offered Rate quoted under the caption “Money Rates” in The Wall</p>

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

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

6	Compensation events	As per terms and conditions of the NEC3 Term Service Contract April 2013 ³ (TSC3)
7	Use of Equipment Plant and Materials	As per terms and conditions of the NEC3 Term Service Contract April 2013 ⁴ (TSC3)
8	Risks and insurance	
80.1	These are additional <i>Employer's</i> risks	1. as stated for "Format TSSC3" available on http://www.eskom.co.za/Contracts/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx (See Annexure A for basic guidance)
83.1	The <i>Employer</i> provides these insurances from the Insurance Table	as stated for "Format TSC3" available on http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx (See Annexure A for basic guidance).
83.1	The <i>Employer</i> provides these additional insurances	as stated for "Format TSC3" available on http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx (See Annexure A for basic guidance)
83.1	The <i>Contractor</i> provides these additional insurances:	None
83.1	The minimum amount of cover for insurance against loss and damage caused by the <i>Contractor</i> to the <i>Employer's</i> property is	the amount of the deductibles relevant to the event described in the "Format TSC3" insurance policy available on http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx
83.1	The minimum amount of cover for insurance in respect of loss of or damage to property (except the <i>Employer's</i> property, Plant and Materials and Equipment) and liability for	

³ Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 539 1902 www.ecs.co.za

⁴ Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 539 1902 www.ecs.co.za

	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 for any one event is:	whatever the <i>Contractor</i> deems necessary in addition to that provided by the <i>Employer</i> .
83.1	The minimum limit of indemnity for insurance in respect of 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 for any one event is:	As prescribed by the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 and the <i>Contractor's</i> common law liability for people falling outside the scope of the Act with a limit of Indemnity of not less than R500 000 (Five hundred thousand Rands)..
9	Termination	As per terms and conditions of the NEC3 Term Service Contract April 2013 ⁵ (TSC3)
10	Data for main Option clause	
A	Priced contract with price list	
20.5	The <i>Contractor</i> prepares forecasts of the final total of the Prices for the whole of the service at intervals no longer than	2 weeks.
11	Data for Option W1	
W1.1	The <i>Adjudicator</i>	the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see www.ice-sa.org.za). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).
W1.2(3)	The <i>Adjudicator nominating body</i> is:	the Chairman of ICE-SA a joint Division of the South African Institution of Civil Engineering and the Institution of Civil Engineers (London) (see www.ice-sa.org.za) or its successor body.
W1.4(2)	The <i>tribunal</i> is:	arbitration
W1.4(5)	The <i>arbitration procedure</i> is	the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.
	The place where arbitration is to be held is	South Africa
	The person or organisation who will choose an arbitrator	
	- if the Parties cannot agree a choice or	
	- if the arbitration procedure does not state who selects an arbitrator, is	the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.
12	Data for secondary Option clauses	
X1	Price adjustment for inflation	

⁵ Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 539 1902 www.ecs.co.za

X1.1	The <i>base date</i> for indices is	Unregulated rates will be fixed and firm for the first 12 months of the contract. At the anniversary date of the contract the prices will be adjusted in accordance with the published SEIFSA (CPI) INDICES.
X2	Changes in the law	As per terms and conditions of the NEC3 Term Service Contract April 2013 ⁶ (TSC3)
X17	Low service damages	
X17.1	The <i>service level table</i> is	Refer to TABLE 1: Schedule of Deficiencies and Penalties.
X18	Limitation of liability	
X18.1	The <i>Contractor's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to	R0.0 (zero Rand)
X18.2	For any one event, the <i>Contractor's</i> liability to the <i>Employer</i> for loss of or damage to the <i>Employer's</i> property is limited to	the amount of the deductibles relevant to the event described in the "Format TSC3" insurance policy available on http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx
X18.3	The <i>Contractor's</i> liability for Defects due to his design of an item of Equipment is limited to	<p>The greater of</p> <ul style="list-style-type: none"> the total of the Prices at the Contract Date <p>and</p> <ul style="list-style-type: none"> 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 in the <i>Employer's</i> assets and works / maintenance policies available on http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx
X18.4	The <i>Contractor's</i> total liability to the <i>Employer</i> , for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	<p>the total of the Prices other than for the additional excluded matters.</p> <p>The <i>Contractor's</i> total liability for the additional excluded matters is not limited.</p> <p>The additional excluded matters are amounts for which the <i>Contractor</i> is liable under this contract for</p> <ul style="list-style-type: none"> Defects due to his design, plan and specification,

⁶ Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 539 1902 www.ecs.co.za

		<ul style="list-style-type: none"> • 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	52 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	2 days of receiving the Task Order
X20	Key Performance Indicators (not used when Option X12 applies)	
X20.1	A report of performance against each Key Performance Indicator is provided at intervals of	3 months
Z	The <i>additional conditions of contract</i> are	Z1 to Z12 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.
- Z 11.1 A Committing Party may not take any Prohibited Action during the course of the procurement of this contract or in execution thereof.
- Z 11.2 The *Employer* may terminate the *Contractor's* obligation to Provide the Service 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 Service for this reason.
- Z 11.3 If the *Employer* terminates the *Contractor's* obligation to Provide the Service for this reason, the procedures and amounts due on termination are respectively P1, P2, P3 and P4, and A1 and A3.
- Z 11.4 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.
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Annexure A: Insurance provided by the Employer

These notes are provided as guidance to tendering contractors and the Contractor about the insurance provided by the Employer. The Contractor must obtain its own advice. Details of the insurance itself are available from the internet web link given below.

1. Services provided in a TSC3 contract could include some element of construction or refurbishment as well as a continuous maintenance or operational service activity. If an event occurs which causes loss or damage, a claim could be made either against the *Employer's* "works" type policy which may be in place for the *Employer's* portion of the Affected Property concerned or against the *Employer's* assets policy which may be in place for the *Employer's* portion of the Affected Property concerned, or both.
2. The cover provided and the deductibles under the works policy are different to those under the assets policy. Each policy has a range of applicable deductibles depending on the location of the Affected Property and the nature of the insurable event.
3. The *Contractor* is required in terms of Contract Data for clause 83 to provide cover for the deductibles in the insurance provided by the *Employer*. This can be provided from his own resources on a 'self insured' basis or obtained by him from his own insurers. In order to assess the extent of this cover, tendering contractors and their brokers should consult the internet web link given below and scroll to '**Format TSC3**' to establish both the cover and the deductibles in relation to the *service* provided in terms of this contract.
4. Tendering contractors should note that cover provided by the *Employer* is only per the policies available on the internet web link listed below and may not be the cover required by the tendering contractor or as intended by each of the listed insurances in the left hand column of the Insurance Table in clause 83.2. In terms of clause 83.1 "the *Contractor* provides the insurances stated in the Insurance Table except any insurance which the *Employer* is to provide". Hence the *Contractor* provides insurance which the *Employer* does not provide and in cases where the *Employer* does provide insurance the *Contractor* insures for the difference between what the Insurance Table requires and what the *Employer* provides.
5. If Marine Insurance is required the *Contractor* needs to obtain a copy of the latest edition of Eskom's Marine Policies Procedures found at internet website given below.
6. Further information and full details of all Eskom provided policies and procedures may be obtained from:

[http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_
From_1_April_2014_To_31_March_2015.aspx](http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx)

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)⁷ 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.

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	5% 5%
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:	

⁷ Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 5391902 or www.ecs.co.za

2 Name:
 Job
 Responsibilities:
 Qualifications:
 Experience:

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

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

C1.3 Forms of Securities

Proformas for Bonds & Guarantees- NOT APPLICABLE FOR THIS CONTRACT

For use with the NEC3 Term Service Contract (TSC3)

[Note to contract compiler:

Once it has been decided which securities are required for this contract delete from this file the ones not required, revise the notes below accordingly and delete this note.]

The *conditions of contract* stated in the Contract Data Part 1 include the following Secondary Options:

Option X4: Parent company guarantee

Option X13: Performance Bond

Each of these secondary Options requires a bond or guarantee “in the form set out in the Service Information”. Pro forma documents for these bonds and guarantees are provided here for convenience but are to be treated as part of the Service Information.

The *Contractor* shall guarantee his ASGI-SA Obligations by providing the *Employer* with an ASGI-SA Guarantee in the form provided here.

[Note to contract compiler: If there are no ASGI-SA Obligations in this contract, delete the above statement and the ASGI_SA bond]

The organisation providing the bond / guarantee does so by copying the pro forma document onto his letterhead without any change to the text or format and completing the required details. The completed document is then given to the *Employer* within the time stated in the contract.

PART 2: PRICING DATA

TSC3 Option A

Document reference	Title
C2.1	Pricing assumptions: Option A
C2.2	The <i>price list</i>

C2.1 Pricing assumptions: Option A

How work is priced and assessed for payment

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

- | | | |
|-------------------------------------|------|--|
| Identified and defined terms | 11 | |
| | 11.2 | <p>(12) The Price List is the <i>price list</i> unless later changed in accordance with this contract.</p> <p>(17) The Price for Services Provided to Date is the total of</p> <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. <p>(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.</p> |

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

Item	Service no.	Description	Unit	Rates
10	3000013342	PAY FEE: Overheads once off (This includes paperwork, office overheads, telephone calls etc.)	%	7%
20	3000017305	PAY FEE: PPE and site safety NT: OT (including job specific risk assessment. (% of labour cost)	%	5%
30	3000017301	CLEAN, AREA:OIL SPILL ON CONCRETE;MANUAL	EA (m ²)	R42,07
40	3000017302	CLEAN, AREA:SURFACE CLEAN AND TREATMENT	EA (m ²)	R79,72
50	3000017303	CLEAN, AREA:MINOR (UP TO 300MM DEEP)	EA (m ²)	R233,63
60	3000017304	CLEAN, AREA:MINOR (UP TO 500MM DEEP) (MEDIUM) (UP TO 400MM DEEP)	EA (m ²)	R302,27
70	3000017307	CLEAN, AREA:MAJOR (MORE THAN 500MM DEEP)	(m ²)	R343,35
80	3000017308	PRVD ACCOMDTN:LODGING;PER PERSON	DAY	R775,06
90	3000017309	ANLYZ SAMPL:PETROLEUM HYDROCARBONS	EA	R708,63
100	3000017312	DISPOSE WST:BATTERY ACID 210L DRUM	EA	R1 502,34
120	3000017313	Dispose WST: Battery acid disposal 50L drum (transportation and packaging included)	EA	R914,92
130	3000017314	Dispose WST: Hydrocarbon contaminated PCB free	EA	R1 105,28
140	3000017315	Dispose WST: Hazardous: Oil contaminated rags PCB free	EA	R1 105,28
150	3000017316	Dispose WST: Silica gel 210L drum	EA	R1 105,28
		Washing of stone		
160	3000017317	HNDL MTRL:PLACE STONE;MANUALLY	m3	R254,66
170	3000017318	HNDL MTRL:REMOVE STONE;MANUALLY	m3	R285,55
180	3000017319	CLEAN EQP:STONE (OIL SPILLED)	m3	R127,33
190	3000017138	CLEAN, AREA:OIL SPILLAGE (labour transport and chemical inclusive)	EA	R31,56
200	3000017320	CLEAN SMP:SLUDGE REMOVAL IN OIL PITS	m ³	R1 165,91
210	3000017321	CLEAN EQP: Oil Trays large (4m x 2m)	EA	R361,52
220	3000017322	TRNSP MTRL:OIL SPILLAGE LOAD WASTE;ROAD (LDV) (1-5 drums)	km	R7,18
230	3000017323	TRNSP MTRL:OIL SPILLAGE LOAD WASTE;ROAD (TRUCK 5-8 ton)	km	R19,81
240	3000017324	TRNSP MTRL:MEDIUM VEHICLE LOAD;ROAD (6–12 drums)	km	R15,73
250	3000012617	PAY FEE:CALL OUT;AS AND WHEN REQUIRED	KM	R7,18
260	3000017508	TRNSP EQP:TRUCK 5-8 TON WITH CRANE;ROAD	KM	R23,31
270	3000017507	TRNSP EQP:TRUCK 9-14 TON;ROAD;TRUCK	KM	R25,58
280	3000017509	TRNSP MTRL:0-210L DRUMS;ROAD;NONE	KM	R23,31

Item	Service no.	Description	Unit		Rates
		Oil Spill Kits			
290	30000	Oil Spill replacement kit 240l complete inclusive of: 2m spark proof brooms, spark proof shovel, 1x pair of PVC gloves, Dust Masks, Safety Goggles (chemical and fireproof), Liquid Chemical Product 25l and absorbent material	each		R945,49
		Items below may be purchased separately as required:			
291	30000	2m spark proof brooms	each		R155,00
292	30000	Spark proof Shovel	each		R249,00
293	30000	1x pair of PVC gloves	each		R49,90
294	30000	Dust Masks	each		R94,90
295	30000	Safety Goggles (chemical and fireproof)	each		R62,67
296	30000	Liquid Chemical Product 25 L	litre		R302,72
297	30000	Absorbent material	kg		R31,30

Price escalation on anniversary date of the contract:

Each year's CPA will be guided by that years CPI percentage and SEIFSA table L1-A for transportation.

Important Note:

Transport cost can only be claimed from the Limlanga Zones closest to site where the oil spillage occurred.

In the case that a service provider **is not from the Limlanga Region** and does not have an office local to site within Limlanga Zones

then transport cost from their premises may not be claimed!

NOTE: populated rates must not be changed.

Acceptance of Rates: Yes/No (please circle your choice)

Signature: _____ Contractor Name: _____

Date: _____

PART 3: SCOPE OF WORK

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

C3.1: EMPLOYER'S SERVICE INFORMATION

Description of the *service*

Executive overview

The scope of work / specification The provision of Oil Spillage clean-up, involving soil remediation, clean-up of oil trays and spills on concrete area, surface water, including the disposal of Oil contaminated waste within Limlanga Cluster on an "as and when" required basis over a period of 5 years

The strategy will cover the need for Oil Spillage clean-up, involving soil remediation, clean-up of oil trays and spills on concrete area, surface water, including the disposal of Oil contaminated waste within Limlanga Cluster on an "as and when" required basis over a period of 5 years. When an incident occurs the service provider will be required to travel to the site to do an investigation of the extent of the spill and conduct a site assessment on and what will be needed for that specific incident. After the inspection and assessment, the service provider will provide a quote based on the site conditions. That will enable an effective spill remediation for that specific incident.

CONTRACT REQUIREMENTS:

a) Commercial statutory documents

- Tax Compliance Status (TCS) e-filing PIN from SARS.
- Valid Original certificate of good standing or proof of application issued by the Compensation Fund (COID).
- Companies and Intellectual Property Commission (CIPC) company registration documents or CIPRO documents.
- Proof of National Treasury Central Supplier Database registration (CSD) that has a tax compliant status at award.
- B-BBEE Certificates or Sworn Affidavits.
- Compliance with Employment Equity Act.

It should be noted that as per National Treasury Instruction No: 09 of 2017/18; a tender will not be awarded to a recommended tenderer that has a tax non-compliance status.

Paragraph 4.2 states that "where the recommended bidder is tax no-complaint, the bidder must be notified in writing of their non-compliant status and the bidder must be requested to submit written proof from SARS of their tax compliance status or proof that they have made an arrangement to meet their outstanding tax obligations within 7 working days."

Should the recommended bidder fail to provide written proof of their tax compliance status in terms of the paragraph 4.2 above, then their submitted bid must be rejected.

b) SHE Tender Requirements

These **OHS Legal requirements** are generally a legal compliance and/or risk-related based criteria for which points will not be allocated but they need to be fully met by the contractors before tender award.

Please take a note that all section A OHS requirements shall be submitted at the date and time of the tender inquiry closing

c) Quality Tender Requirements • Completion and submission of Category 4 Quality Requirements.

- Completion and submission of Contract Quality Plan.
- Completion and submission of Method Statement.
- Copy of Category 4 Quality Assessment Criteria.
- 240-105658000 (QM58), Rev 3 for reference only.

d) Environmental Tender Requirements

- **Environmental policy** signed by top management (CEO / managing director), dated and version controlled. Policy must commit to compliance to all relevant legislation/laws, Pollution prevention and continual improvement.
- **Eskom's Environmental Law certificate:** Validity period - within 3 years), (required at contract execution)
- **Company Organogram**, indicating the site supervisor or site supervisors.
- **Environmental Appointment letter** of the employee responsible for environmental issues within the company. Appointment letter to be accepted and dated by the employee appointed.
- **Company's communication plan** / procedure on what, how & when relevant environmental issues will be communicated.
- **Emergency preparedness procedure/plan** specific to environmental emergencies, with emergency contact details
 - If an oil resurfaces within a month period, rework will be at the cost of the contractor.
 - Contractor (supervisor) to be authorised to conduct work at the substation. In addition, the CNC representative to be on site (at the substations) in order to ensure adherence to safety requirements (risk assessment) as well as site conditions.
 - Contractors who do not have competency training certificate, i.e., Environmental law or relevant training course (Internal Eskom training for Environmental Legislation) will be required to be trained prior to task order allocation).

e) Skills, development, localization and industrialization

Eskom reserves the right to negotiate with the tenderer on Eskom's requirements.

The outcome of the negotiations will be a contractual obligation and tenderer's SDL&I undertaking will become a contractual condition.	Target Number of Persons to be Trained
Skills Type (Occupation) Local to South Africa	
Waste Removal Artisan	1
Oil Spill Truck Driver	1
Safety Officer	1
Office Administrator	1

LEGISLATION KNOWLEDGE AND COMPLIANCE

- i. Income Tax Act, Act 58 of 1962
- ii. Firearms Control Act, Act 60 of 2000
- iii. Public Liability Insurance
- iv. Basic Condition of Employment Act
- v. Private Security Industry Regulation Authority Act
- vi. To act as authorized officers in terms of the Control of Access to Public Premises and Vehicles, Act 53 of 1985
- vii. Occupational Health and Safety, Act 85 of 1993
- viii. Compensation for Occupational Injuries and Diseases Act 130 of 1993
- ix. Companies' Act or Registration with CIPRO.

THE COMPANY MUST COMPLY WITH THE FOLLOWING:

- Reliability checks by relevant National Intelligence structures, security screening of security officials and signing of declaration of secrecy by security officials
- Adherence to all internal security policies and procedures of Eskom including Standard Operating Procedures (SOP)
- Contract security officers must not be allowed to access IT networks registries, communication networks or any sensitive/zoned sites when responding to the alarm
- To sign a Service Level Agreement with reference to Performance Standard Agreement and Non-performance Punitive Clauses
- In the event of non-performance by the contractor, Eskom Distribution Limbanga Cluster-Limpopo reserves the right to cancel the contract immediately and replace that contractor
- All cost incurred as a result of such action will be recovered from the contractor
- Security officers must always present an acceptable image and appearance
- Agree on reference checks
- Report any breach at any of the Eskom sites and infrastructure.
- Accurate records of all occurrences are to be kept safe for the period of the contract and should be made readily available for inspection at any time by Eskom Security Manager
- Non-conformance reports to be issued by Eskom if the contractor fails to comply with the contract

REQUIREMENTS

- A monitoring device to be installed by the contractor on Eskom Property to indicate the time that the contractor responded to the alarm.
- The monitoring device to be installed and be linked directly to Company Control Room.
- Document to be submitted to Eskom to indicate how the contractor will respond to the alarms.
- Reports to be sent on a weekly basis to Eskom.

SUBCONTRACTING AND ASSIGNMENTS

- The contract shall not be assigned or subcontracted in whole or in part, by the service provider without prior approval from ESKOM. Any attempted assignment or subcontracting hereunder without the prior written consent of ESKOM shall be void.

TASK ORDERS

- No Emergency work is to commence before a Task order with a SAP Order number has been supplied to the contractor by Eskom and such Task order is signed by the supplier and returned to Eskom.

NON-CONFORMANCE

- Non-conformances are to be issued by Eskom should the Service provider fail to comply with the contract terms.
- After the three (3) non-conformance, contractual management process shall be ensued which will include the suspension of company.

Specifications

Title	Date or revision	Tick if publicly available
<u>General Specifications:</u>		
Health and Safety requirements	Latest	
Environmental requirements	Latest	
Site regulations and access control	Latest	
Environnemental Management Environnemental Management Programme (EMP) Procedure SHEQ Policy	Latest	
Quality Quality Requirements for the Procurement of Assets, Goods & Services	Latest	
Safety Occupational Health and Safety Requirements to be met by Contractors and Subcontractors Employed by Eskom. Co-ordination of Safety on Capital Projects. Standard applicable to Contractors working in Close Proximity to Live Apparatus	Latest	
Management of Substance Abuse	Latest	
Business Conduct Suspending Suppliers from Eskom's Supplier Lists Eskom Business Conduct Policy and Guidelines Declaration of Conflict of Interest Copies of the abovementioned documents are not attached but are available from Eskom's Tender Advise Centre, Clare Loittering, (031) 710 5429	Latest	

Interpretation and terminology

The following abbreviations are used in this Service Information:

Abbreviation	Meaning given to the abbreviation
	None

Management strategy and start up.

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

Management strategy and start up.

Management meetings

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

Title and purpose	Approximate time & interval	Location	Attendance by:
Risk register and compensation events	As required	Service Manager's office	Both parties
Overall contract progress and feedback	As required	Service Manager's office	Both parties

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

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

Contractor's management, supervision and key people

N/A

Provision of bonds and guarantees

N/A

Documentation control

All contractual Documentation must have relevant contract number and Purchase Order Number as reference as per Eskom Holdings SOC Ltd Standards . Contractual communications will be in the form of properly compiled letters, letters attached to emails, emails, NEC3 template and urgent contractor meetings can be in the form of sms. The use of sms's, emails does not override the use of applicable and relevant NEC3 standard templates, forms and Eskom Holdings SOC Limited procedures.

Invoicing and payment

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

The *Contractor* shall address the tax invoice to _____

and include on each invoice the following information:

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

Add procedures for invoice submission and payment (e. g. electronic payment instructions)
Within one week of receiving a payment certificate from the *Service Manager* the *Contractor* provides the *Employer* with a tax invoice showing the amount due for payment equal to that stated in the *Service Manager's* payment certificate.

Contract change management

For any change in scope, such changes must be treated as Compensation Events.

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

In order to substantiate the Defined Cost of compensation events, the *Employer* may require the *Contractor* to keep records of amounts paid by him for people employed by the *Contractor*, Plant and Materials, work subcontracted by the *Contractor* and Equipment. A site diary will be required.

Insurance provided by the *Employer*

The insurance provided by the Employer, is addressed under the contract data.

Training workshops and technology transfer

To be advised by the Service Manager, as required

Design and supply of Equipment

N/A

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

Equipment

As per Task Order

Information and other things

As per Task Order

Management of work done by Task Order

NB: No work that falls outside the approved scope of works will be undertaken without a Task Order.

Health and safety, the environment and quality assurance

Health and safety risk management

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

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

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

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

- Distribution: Alex Stramrood

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

The following Occupational Health and Safety Requirements (32-136) are required:

Personal Protective Equipment appropriate to the task to be performed shall be provided by Principal Contractor.

- Steel toe capped safety boot
- **Appropriate protective clothing, Operator's Overalls**
 - Colour coded hardhats [Blue for labourer, Red for First Aider, Green for SHE Reps and White for Supervisors and/or Managers]
- Eye protection appropriate to task performed
- Ear Protection e.g (Ear Plugs etc)
- Dust mask where possible
- Safety Googles - specific to task requirements
- Gloves appropriate to the task performed.

Supply and Provision for Safety and Emergency Response Equipment

- First Aid Box Equipments
- Fire Fighting Equipment (Fire Extinguishers (9kg)
- Fire and First Aid Box Symbolic Signs
- Alco Tester
- Provision of symbolic safety construction signs
- **Human Resources**

- Comply with Statutory Health & Safety appointments and required competencies in terms of the **OHS Act and Regulations. (Costing for training should be in accordance with the required listed training as per SHE returnables Annexure C1).**

Occupational Health and Hygiene

- Pre Medical Screening per employee assigned for a particular project (Principal Contractor subject to on annually for 2 - 4 assigned employees).

Covid 19 Compliance

- Fabric/ Cloth washable masks minimum two per employee
- Hand Sanitiser with 70% alcohol based content
- Sanitizer/ handwasher handsfree 50-100mm deep trough
- Temperature scanners

Environmental constraints and management

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

Guidelines of Compiling an Environmental Policy

Environmental policy

The environmental policy is the driver for implementing and improving the organization's environmental management system so that it can maintain and potentially improve its environmental performance. The policy should therefore reflect the commitment of top management to comply with applicable laws and to demonstrate continual improvement. The policy forms the basis upon which the organization sets its objectives and targets. The policy should be sufficiently clear to be capable of being understood by internal and external interested parties and should be periodically reviewed and revised to reflect changing conditions and information.

Top management shall define the organization's environmental policy and ensure that it:

Top management includes people on site, at head office, or any member of a controlling group designated to be management of the organization.

A site or an operating unit does not need to document its formal adoption of a corporate environmental policy if the corporate policy, as defined by its scope, applies to the site or operating unit. In addition, the corporate policy will need to be adequately specific to the site or operating unit.

If the site or corporate policy is modified to suit the site or operating unit, then these changes must be documented.

a) is appropriate to the nature, scale and environmental impacts of its activities, products or services; for example, an organization involved in activities with a high environmental risk (for example, scheduled processes) would be expected to provide more specific undertakings in its environmental policy than an organization involved in low risk activities. The environmental policy should also address the different types of environmental impacts of the organization's activities, products or services.

This does not imply that all environmental impacts be addressed in the policy but that the framework of the policy covers all significant impacts (see 4.2 d).

b) includes a commitment to continual improvement and prevention of pollution;

The words "continual improvement" and "pollution prevention" do not need to be explicitly mentioned as long as similar words are used or there are clear statements in the policy that directly address pollution reduction (for example, waste minimization, source reduction and cleaner technologies) and continual improvement. Pollution prevention is more than just pollution control and requires preventive measures, instead of only control.

c) includes a commitment to comply with relevant environmental legislation and regulations,

Compliance with all relevant legislated and other requirements (National, provincial and local) is a minimum requirement for certification.

Exceptions to this are where:

- a) The authorities have been informed of the non-compliance in writing;*
- b) A corrective action programme is in place;*
- c) Evidence is available that the authorities have accepted the corrective action programme;*
- d) Evidence is available that the corrective action programme is being implemented.*

Where a permit for a process of the organization has expired and the organization can provide evidence of due diligence, for example, records of telephone calls, faxes to the regulator or minutes of meetings with the regulator showing that they are in the process of applying for new permits.

The word comply does not need to be explicitly mentioned in the environmental policy, as long as there are similar words (for example, adhere to, in accordance with) clearly communicating commitment to compliance with legislation and regulations.

d and with other requirements to which the organization subscribes;

The “other requirements” may include:

- a) Industry initiatives, non-regulatory guidelines or codes of practice such as Responsible Care or more general environmental initiatives such as the business Charter for Sustainable Development to the extent that the organization has formally adopted them;
- b) Agreements with public authorities;
- c) Formal management systems such as SABS ISO 9001/2, NOSA and ISRS; and
- d) Corporate or Head office requirements.

If an organization subscribes to other requirements (as in 4.2(c) a) and b) above in their environmental policy then:

- 1) The certification body will verify compliance with these requirements;
- 2) Compliance with those requirements will not be included in the scope of the certificate; and
- 3) Non-compliance with these requirements could provide grounds for not granting certification.

If an organization subscribes to other requirements (as in 4.2(c)) c) above then the certification body will only verify compliance with the SABS ISO 14001 requirements and not to those other formal management systems. (An exception to this is where the organization requests a combined SABS ISO 14001 and SABS ISO 9000 certification assessment/audit).

e) Provides the framework for setting and reviewing environmental objectives and targets;

The policy should be sufficiently detailed to provide a yardstick against which the organization’s environmental performance can be evaluated.

The policy wording must be specific enough so that specific objectives and targets can be formulated from it by the organization in order to implement the policy.

f) Is documented, implemented and maintained ...

The policy can be documented in any form (i.e. paper or electronic).

All the requirements of SABS ISO 14001 shall be addressed and an organization cannot elect to omit any of these requirements from its environmental management system.

Policies tend to set long-term goals.

The policy should be periodically reviewed and revised in response to new information and changing circumstances.

The policy must be reviewed periodically – at least annually.

It is not expected that the policy be reissued annually. A well-developed policy can effectively drive the organization’s environmental management system for several years.

g) ... and communicated to all employees;

Communication involves both the transmission and the understanding of the policy.

Communication mechanisms can include posting the policy in common areas, distributing it by memo, and reviewing it at staff or “toolbox talks” meetings.

A person’s level of knowledge of the policy should be proportional to his/her level of responsibility in the environmental management system i.e. senior staff responsible for ensuring implementation need a greater knowledge of the policy than personnel at shop-floor level. In the South African context, unskilled, illiterate workers cannot be expected to have in-depth knowledge of the contents of the environmental policy, however all employees are expected to have an idea of the concepts of the environment, why it is important to protect the environment, and of their role in achieving this (see also 4.4.2).

h) is available to the public

The policy must be available to any interested party on request.

The words “is available” do not necessarily mean that the organization has to pro-actively distribute the policy to the public. The organization should however make the public aware of the fact that the policy is available.

A mechanism should be in place to have the policy available to the public.

i) Key component of the policy

The policy provides an environmental purpose and set of values for the organization to follow.

The policy should:

- a) Be relevant and straightforward;
- b) Relay that protection of the environment is a top priority of the organization;
- c) Show commitment to continued improvement of environmental performance and compliance with the laws and regulations;
- d) Clearly specify which organizational activities are covered by the statement;

- e) Be a natural jumping-off point for setting environmental objectives and targets;
- f) Provide a framework for assessing progress made with the targets and objectives that are oriented towards minimizing environmental impacts.

j) Communication, promotion and support of policy

The policy statement will be totally ineffective if the commitment it contains is not communicated, made available, promoted and supported by all. It is important to note that the policy:

- a) Should be available to all employees in the organization;
- b) Should be communicated repeatedly after a period of time as a reminder;
- c) Should be made available to the public;
- d) Should be promptly provided whenever a copy is required;
- e) Should be signed by top management to show commitment and support.

Repeated exposure is the key to communicating the policy effectively thus it can be posted, communicated through news letters or sent to desktop personal computers.

Quality assurance requirements

As per scope of works.

Procurement

People

Minimum requirements of people employed

N/A

BBBEE and preferencing scheme

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

Subcontracting

Preferred subcontractors

The NEC Engineering & Construction Short Contract refers:

Contractors are requested to submit names of proposed "Subcontractors" to be utilized on this project.

Contractors are advised that only Eskom Approved Consultants and Contractors who have completed the necessary Eskom Contractor Training & Accreditation may be used.

Subcontractor	Section of Work to be Subcontracted	Vendor No.

Subcontract documentation, and assessment of subcontract tenders

As per Terms and Conditions of NEC Term Services Contract

Limitations on subcontracting

Tenderers are not allowed to sub-contract more than 25% of the contract value to another enterprise that does not have equal or higher BBBEE status level, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.

Attendance on subcontractors

None

Plant and Materials

Specifications

As per Task Order

Correction of defects

Defects to be corrected within 1 Week

Contractor's procurement of Plant and Materials

Material to be procured Locally, from Eskom approved Supplier.

Tests and inspections before delivery

The inspection to be done by the Service Manager

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

N/A

Working on the Affected Property

The Contractor must adhere the OHSA Act.

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

As per the scope of works.

People restrictions, hours of work, conduct and records

As per the scope of works.

Health and safety facilities on the Affected Property

As per the scope of works.

Environmental controls, fauna & flora

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

Equipment provided by the *Employer*

None

Site services and facilities

Provided by the *Employer*

Site

Provided by the *Contractor*

As per Task Order.

Control of noise, dust, water and waste

The Contractor to adhere to Environment Management Act.

Hook ups to existing works

The Contractor to adhere to Eskom life saving rules.

Tests and inspections

Description of tests and inspections

N/A

Materials facilities and samples for tests and inspections

N/A

List of drawings

Drawings issued by the *Employer*

Drawing number	Revision	Title
		N/A

Access to the Eskom Web Page

All contractors must make sure that they can access Eskom Web page at any given time to get the latest drawings and specifications before commencement of any task. Web Access applications can be done through the assistance of Brenda Morrison @ 011 629 5266 or MorrisEF@eskom.co.za

Acknowledgement of Web Access/and or application for Web Access

Ido hereby acknowledge having/applied for access to the Eskom Distribution Website with all Distribution Procedures, Standards and Drawings as they will be listed in the index of the Task Order documents.

I undertake to study and abide by these requirements at all times. If for any reason I cannot access or open any of the files on the web, I will contact the *Employer* immediately.

Contractors Signature:

Signed at: on the day of

SECTION 37(2) AGREEMENT CONCLUDED BETWEEN ESKOM HOLDINGS SOC LIMITED
(Hereinafter referred to as Eskom)

AND

.....
(Name of contractor/supplier)

I,[(name)representing
..... [insert name of contractor/supplier], do hereby
acknowledge that [insert name of contractor/supplier] is an
employer in his/her own right, with duties as prescribed in the Occupational Health and Safety Act No. 85 of
1993 ("the Act"), as amended, and agree to ensure that all work will be performed and/or machinery or plant
used in accordance with the provisions of the Act.

I undertake that [insert name of contractor/supplier] shall strictly
adhere to, and ensure that his/her employees adhere to, the provisions of the Occupational Health and
Safety Act, 1993 (Act 85 of 1993).

I have been provided with SHE specifications for project/service[insert brief
details of project/service, for example, name, contract/project number]
and will comply with the requirements set out in these.

I accept and agree that the SHE specifications constitute arrangements and procedures between
..... [insert name of contractor/supplier] and Eskom, which
will ensure compliance by [insert name of contractor/supplier]
with the provisions of the Act, as contemplated in section 37(2) of the Act.

This agreement constitutes the sole agreement between the parties, and no variation, modification, or waiver
of any of the provisions of this agreement or consent to any departure from these shall, in any manner, be of
any force or effect, unless confirmed in writing and signed by both parties, and such variation, modification,
waiver, or consent shall be effective

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only in the specific instance and for the specific purpose and to the extent for which it was made or given.
This agreement is signed on behalf of the parties, each signatory to this warranting that he/she has the
requisite authority to do so.

Signed this day of 20 at

..... (Place)

(Full name)..... (Signature)on

behalf of **(supplier/contractor)**

Contractor Responsible Manager (responsible for signing the Eskom contract on
behalf of the contractor)

Witnesses

1.

2.

Signed this day of 20.....

at (Place)

(Full name)..... (Signature).....on

Behalf of **Eskom Holdings SOC Limited.**

(Contracts and/or Project Manager or Eskom's representative)

Witnesses

1.

2.