



## NEC3 Term Service Contract (TSC3)

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

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

for **Chimneys (West and East) Civil Inspection and  
Repairs During Outage at Kusile Power Station for 5  
Years**

---

<b>Contents:</b>	<b>No of pages</b>
<b>Part C1 Agreements &amp; Contract Data</b>	<b>[•]</b>
<b>Part C2 Pricing Data</b>	<b>[•]</b>
<b>Part C3 Scope of Work</b>	<b>[•]</b>

---

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

---

## **PART C1:        AGREEMENTS & CONTRACT DATA**

---

<b>Contents:</b>	<b>No of pages</b>
<b>C1.1 Form of Offer and Acceptance</b>	<b>[•]</b>
[to be inserted from Returnable Documents at award stage]	
<b>C1.2a Contract Data provided by the <i>Employer</i></b>	<b>[•]</b>
<b>C1.2b Contract Data provided by the <i>Contractor</i></b>	<b>[•]</b>
[to be inserted from Returnable Documents at award stage]	



## NEC3 Term Service Contract (TSC3)

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

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

for **Chimneys (West and East) Civil Inspection and  
Repairs During Outage at Kusile Power Station for 5  
Years**

---

<b>Contents:</b>	<b>No of pages</b>
<b>Part C1 Agreements &amp; Contract Data</b>	<b>[•]</b>
<b>Part C2 Pricing Data</b>	<b>[•]</b>
<b>Part C3 Scope of Work</b>	<b>[•]</b>

---

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

---

## **PART C1:        AGREEMENTS & CONTRACT DATA**

---

<b>Contents:</b>	<b>No of pages</b>
<b>C1.1 Form of Offer and Acceptance</b>	<b>[•]</b>
[to be inserted from Returnable Documents at award stage]	
<b>C1.2a Contract Data provided by the <i>Employer</i></b>	<b>[•]</b>
<b>C1.2b Contract Data provided by the <i>Contractor</i></b>	<b>[•]</b>
[to be inserted from Returnable Documents at award stage]	
<b>C1.3 Proforma Guarantees</b>	<b>[•]</b>

---

## 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:

### Chimneys (West and East) Civil Inspection and Repairs During Outage at Kusile Power Station for 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 or C	The offered total of the Prices exclusive of VAT is	R [•]
Option E	The first forecast of the total Defined Cost plus the Fee exclusive of VAT is	R [•]
	Sub total	R [•]
	Value Added Tax @ 15% is	R [•]
	The offered total of the amount due inclusive of VAT is <sup>1</sup>	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:

<sup>1</sup> 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)

Christopher Nani

Capacity

General Manager

**for the  
Employer**

Eskom Holding SOC Ltd

(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:

Signature \_\_\_\_\_

Name \_\_\_\_\_

Capacity \_\_\_\_\_

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

Name & signature of witness \_\_\_\_\_

Date \_\_\_\_\_

### For the Employer

Christopher Nani \_\_\_\_\_

General Manager \_\_\_\_\_

Eskom Holding SOC Ltd \_\_\_\_\_

*(Insert name and address of organisation)* \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## C1.2 TSC3 Contract Data

### Part one - Data provided by the *Employer*

[Instructions to the contract compiler: (delete these two notes in the final draft of a contract)]

1. Please read the relevant clauses in the conditions of contract before you enter data. 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.
2. Some TSC3 options are always selected by Eskom Holdings SOC Ltd. The remaining TSC3 options are identified by shading in the left hand column. In the event that the option is not required select and delete the whole row. Where the following symbol is used "[•]" - data is required to be inserted relevant to the specific option selected.]

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

Clause	Statement	Data
1	<b>General</b>	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:	
		<b>A: Priced contract with price list</b>
	dispute resolution Option	<b>W1: Dispute resolution procedure</b>
	and secondary Options	
		<b>X1: Price adjustment for inflation</b>
		<b>X2 Changes in the law</b>
		<b>X18: Limitation of liability</b>
		<b>X19: Task Order</b>
		<b>Z: Additional conditions of contract</b>
	of the NEC3 Term Service Contract April 2013 <sup>1</sup> (TSC3)	
10.1	The <i>Employer</i> is (name):	<b>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</b>
	Address	<b>Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg</b>
	Tel No.	<b>[•]</b>
	Fax No.	<b>[•]</b>
10.1	The <i>Service Manager</i> is (name):	<b>Pogiso Mavusa</b>
	Address	<b>Eskom Holdings SOC Limited Kusile Power Station</b>

<sup>1</sup> Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 539 1902 [www.ecs.co.za](http://www.ecs.co.za)



R545 Kendal/Balmoral Road  
Hartebeesfontein Farm  
Postnet Suite 283  
Witbank  
1034

Tel

013 680 3237

e-mail

mavusapj@eskom.co.za

11.2(2)	The Affected Property is	Unit 1 to 6 at Kusile Power Station
11.2(13)	The <i>service</i> is	Chimneys (West and East) Civil Inspection and Repairs During Outage at Kusile Power Station for 5 Years
11.2(14)	The following matters will be included in the Risk Register	<ul style="list-style-type: none"> <li>• Unavailability of the Plant</li> <li>• Others will be agreed by Parties when they arise</li> </ul>
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	<ul style="list-style-type: none"> <li>• within 8 hours unless otherwise stated in the Task Order.</li> </ul>
2	<b>The Contractor's main responsibilities</b>	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	5 days after receiving a Task Order or any other period agreed by Parties.
3	<b>Time</b>	
30.1	The <i>starting date</i> is.	After the final signature
30.1	The <i>service period</i> is	60 Months
4	<b>Testing and defects</b>	
5	<b>Payment</b>	
50.1	The <i>assessment interval</i> is	After completion of each task order unless otherwise stated in the task order.
51.1	The <i>currency of this contract</i> is the	South African Rand
51.2	The period within which payments are made is	30 days
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 South African Reserve Bank (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	<b>Compensation events</b>	As per core clause 60.1
7	<b>Use of Equipment Plant and Materials</b>	As per core clause 70.1
8	<b>Risks and insurance</b>	
80.1	These are additional <i>Employer's</i> risks	<ul style="list-style-type: none"> <li>None</li> </ul>
9	<b>Termination</b>	As per clause Z11
10	<b>Data for main Option clause</b>	
A	<b>Priced contract with price list</b>	
20.5	The <i>Contractor</i> prepares forecasts of the final total of the Prices for the whole of the <i>service</i> at intervals no longer than	4 weeks unless otherwise stated in the Task order.
11	<b>Data for Option W1</b>	
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 <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a> ). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).
	Address	[•]
	Tel No.	[•]
	Fax No.	[•]
	e-mail	[•]
W1.2(3)	The <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 <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a> ) 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	Johannesburg, South Africa
	The person or organisation who will choose an arbitrator	
	<ul style="list-style-type: none"> <li>- if the Parties cannot agree a choice or</li> <li>- if the arbitration procedure does not state who selects an arbitrator, is</li> </ul>	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	Prices are fixed for the first 12 months of the Contract Period and Thereafter, the following indices shall apply for adjustment on each anniversary date of the contract.																					
X1.1	<p>The <i>base date</i> for indices is</p> <p>The proportions used to calculate the Price Adjustment Factor are:</p>	<p>One-month prior tender closing date.</p> <table> <tr> <th>proportion</th><th>linked to index for</th><th>Index prepared by</th></tr> <tr> <td>0.</td><td>[•]</td><td>[•]</td></tr> <tr> <td>0.</td><td>[•]</td><td>[•]</td></tr> <tr> <td>0.</td><td>[•]</td><td>[•]</td></tr> <tr> <td>0.</td><td>[•]</td><td>[•]</td></tr> <tr> <td>0.15</td><td colspan="2">non-adjustable</td></tr> <tr> <td>1.00</td><td colspan="2"></td></tr> </table>	proportion	linked to index for	Index prepared by	0.	[•]	[•]	0.	[•]	[•]	0.	[•]	[•]	0.	[•]	[•]	0.15	non-adjustable		1.00		
proportion	linked to index for	Index prepared by																					
0.	[•]	[•]																					
0.	[•]	[•]																					
0.	[•]	[•]																					
0.	[•]	[•]																					
0.15	non-adjustable																						
1.00																							
X2	Changes in the law	There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.																					
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	<p>the amount of the deductibles relevant to the event described in the "Format TSC3" insurance policy available on</p> <p><a href="http://www.eskom.co.za/Tenders/InsurancePolicies/Procedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx">http://www.eskom.co.za/Tenders/InsurancePolicies/Procedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx</a></p>																					
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"> <li>the total of the Prices at the Contract Date and</li> <li>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</li> </ul> <p><a href="http://www.eskom.co.za/Tenders/InsurancePolicies/Procedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx">http://www.eskom.co.za/Tenders/InsurancePolicies/Procedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx</a></p>																					
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"> <li>• Defects due to his design, plan and specification,</li> <li>• Defects due to manufacture and fabrication outside the Affected Property,</li> <li>• loss of or damage to property (other than the <i>Employer's</i> property, Plant and Materials),</li> <li>• death of or injury to a person and</li> <li>• infringement of an intellectual property right.</li> </ul>
X18.5	The <i>end of liability date</i> is	12 months after the end of the service period
<b>X19</b>	<b>Task Order</b>	
X19.5	The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within	Five [5] days after a Task Order has been issued by the <i>Service Manager</i>
<b>Z</b>	<b>The additional conditions of contract are</b>	<b>Z1 to Z11 always apply.</b>

## **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.

## **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)



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>	4

## C2.1 Pricing assumptions: Option A

### 1. How work is priced and assessed for payment

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

<b>Identified and defined terms</b>	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"> <li>the Price for each lump sum item in the Price List which the <i>Contractor</i> has completed and</li> <li>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.</li> </ul>
		(19) The Prices are the amounts stated in the Price column of the Price List. Where a quantity is stated for an item in the Price List, the Price is calculated by multiplying the quantity by the rate.

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

### 2. Function of the Price List

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

### 3. Link to the *Contractor's* plan

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

### 4. Preparing the *price list*

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

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

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

#### 4.1. Format of the *price list*

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

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

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

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

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

## C2.2 the *price list*

CHIMNEYS (WEST AND EAST) CIVIL INSPECTION AND REPAIRS DURING OUTAGE AT KUSILE POWER STATION FOR A PERIOD OF FIVE (5) YEARS							
ITEM NO	DESCRIPTION	UNIT	NO	DURATION	RATE	AMOUNT	
	<b>ITEM 1</b>						
<b>1</b>	<b>PRELIMINARIES AND GENERAL</b>						
<b>1.1</b>	<b>Fixed Charges</b>						
1.1.1	Entry Medicals	Once/Year	19	5			
1.1.2	Exit Medicals	Once Off	19	1			
1.1.3	Security / Police Clearance certification	Once/Year	19	5			
1.1.4	Safety File	Once Off	1	1			
<b>1.2</b>	<b>PPE (Once per Outage):</b>						
1.2.1	Eye protection (safety goggles)	Once/Outage	19	27			
1.2.2	Ear protection (ear plugs)	Once/Outage	19	27			
1.2.3	Dust mask	Once/Outage	19	27			
1.2.4	Gloves	Once/Outage	19	27			
1.2.5	White dust overall	Once/Outage	19	27			
1.2.6	Overall	Once/Outage	19	27			
1.2.7	Boots	Once/Outage	19	27			
1.2.8	Hardhats	Once/Outage	19	27			
<b>1.3</b>	<b>Site Establishment and De-Establishment:</b>						
1.3.1	Establishment of Facilities on the Site	Once Off	1	5			
1.3.2	Site Office Container (1 No , with Air-Con): 12m x 3m	Once Off	1	1			
1.3.3	Site Office Container (1 No for 5 years insulated, with Air-Con): 6m x 3m	Once Off	1	1			
1.3.4	Site Storage Container (1 No for 5 years): 6m x 3m	Once Off	1	1			
1.3.5	Kitchen Container (1 No for 5 years): 6m x 3m	Once Off	1	1			
1.3.6	Meeting Container (1 No for 5 years insulated, with Air-Con): 6m x 3m	Once Off	1	1			

<b>1.4</b>	<b>Transportation:</b>					
1.4.1	Transport - Kombi (1No for 34 months): 22 Seater	Monthly	1	34		
1.4.2	Travelling LDV (1 No @ Maximum 180km/round trip for 34 Months)	KM	6 120	34		
	<b>Sub-Total Item 1 (Preliminaries and General) Carried to Final Summary</b>					
	<b>ITEM 2</b>					
<b>2</b>	<b><u>SITE RESOURCES</u></b>					
<b>2.1</b>	<b><u>NORMAL TIME</u></b>					
	<b><u>Normal working hours are working hours that fall within the following periods:</u></b>					
	<i>Mondays - Fridays: 07:00 - 16:00</i>					
2.1.1	Site Manager (B.Tech - Civil Eng / B.Eng - Civil Eng with +5 Years Experience) (1 No.)	Hours	1	5 496		
2.1.2	Supervisor (N.Dip - Civil Eng with +5 Years Experience) (1 No.)	Hours	1	5 496		
2.1.3	Planner (N.Dip - Planning with +3 Years Experience) (1 No.)	Hours	1	5 496		
2.1.4	Site Clerk (N.Dip - Business Administration with +3 Years Experience) (1 No.)	Hours	1	5 496		
2.1.5	Safety Officer (N.Dip - Safety or SAMTRAC Qualification with +5 Years Experience) (1 No.)	Hours	1	5 496		
2.1.6	Quality Inspector (N.Dip - Quality Qualification with +3 Years Experience) (1 No.)	Hours	1	5 496		
2.1.7	Civil Engineer (B.Tech - Civil Eng / B.Eng - Civil Eng with +3 Years Experience) (1 No.)	Hours	1	5 496		
2.1.8	Technician (Cert. / B.Tech - Civil Eng / B.Eng - Civil Eng with +3 Years Experience) (2 No.)	Hours	2	5 496		
2.1.9	Rigger (Grade 12 and Rigging Certificate with +3 Years Experience) (2 No.)	Hours	2	5 496		
2.1.10	Fitter (Grade 12 and Trade Test with +2 Years Experience) (4 No.)	Hours	4	5 496		
2.1.11	General Workers (Grade 12 with +1 Years Experience) (4 No.)	Hours	4	5 496		
	<b>Subtotal Item 2.1 Normal Time</b>					
<b>2.2</b>	<b><u>NORMAL OVERTIME</u></b>					
	<b><u>Normal overtime working hours are working hours that fall within the following periods:</u></b>					
	<i>Mondays - Fridays: 16:00 - 07:00</i>					
	<i>Saturdays: 00:00 - 23:59</i>					
2.2.1	Site Manager (B.Tech - Civil Eng / B.Eng - Civil Eng with +5 Years Experience) (1 No.)	Hours	1	3 876		
2.2.2	Supervisor (N.Dip - Civil Eng with +5 Years Experience) (1 No.)	Hours	1	3 876		

2.2.3	Planner (N.Dip - Planning with +3 Years Experience) (1 No.)	Hours	1	3 876		
2.2.4	Site Clerk (N.Dip - Business Administration with +3 Years Experience) (1 No.)	Hours	1	3 876		
2.2.5	Safety Officer (N.Dip - Safety or SAMTRAC Qualification with +5 Years Experience) (1 No.)	Hours	1	3 876		
2.2.6	Quality Inspector (N.Dip - Quality Qualification with +3 Years Experience) (1 No.)	Hours	1	3 876		
2.2.7	Civil Engineer (B.Tech - Civil Eng / B.Eng - Civil Eng with +3 Years Experience) (1 No.)	Hours	1	3 876		
2.2.8	Technician (Cert. / B.Tech - Civil Eng / B.Eng - Civil Eng with +3 Years Experience) (2 No.)	Hours	2	3 876		
2.2.9	Rigger (Grade 12 and Rigging Certificate with +3 Years Experience) (2 No.)	Hours	2	3 876		
2.2.10	Fitter (Grade 12 and Trade Test with +2 Years Experience) (4 No.)	Hours	4	3 876		
2.2.11	General Workers (Grade 12 with +1 Years Experience) (4 No.)	Hours	4	3 876		
	<b>Subtotal Item 2.2 Normal Overtime</b>					
<b>2.3</b>	<b><u>OVER TIME: SUNDAYS &amp; PUBLIC HOLIDAYS</u></b>					
	<b><u>Overtime: Sundays and Public Holidays working hours are working hours that fall within the following periods:</u></b>					
	<i>Sundays: 00:00 - 23:59</i>					
	<i>Public Holidays: 00:00 - 23:59</i>					
2.3.1	Site Manager (B.Tech - Civil Eng / B.Eng - Civil Eng with +5 Years Experience) (1 No.)	Hours	1	2 208		
2.3.2	Supervisor (N.Dip - Civil Eng with +5 Years Experience) (1 No.)	Hours	1	2 208		
2.3.3	Planner (N.Dip - Planning with +3 Years Experience) (1 No.)	Hours	1	2 208		
2.3.4	Site Clerk (N.Dip - Business Administration with +3 Years Experience) (1 No.)	Hours	1	2 208		
2.3.5	Safety Officer (N.Dip - Safety or SAMTRAC Qualification with +5 Years Experience) (1 No.)	Hours	1	2 208		
2.3.6	Quality Inspector (N.Dip - Quality Qualification with +3 Years Experience) (1 No.)	Hours	1	2 208		
2.3.7	Civil Engineer (B.Tech - Civil Eng / B.Eng - Civil Eng with +3 Years Experience) (1 No.)	Hours	1	2 208		
2.3.8	Technician (Cert. / B.Tech - Civil Eng / B.Eng - Civil Eng with +3 Years Experience) (2 No.)	Hours	2	2 208		
2.3.9	Rigger (Grade 12 and Rigging Certificate with +3 Years Experience) (2 No.)	Hours	2	2 208		
2.3.10	Fitter (Grade 12 and Trade Test with +2 Years Experience) (4 No.)	Hours	4	2 208		
2.3.11	General Workers (Grade 12 with +1 Years Experience) (4 No.)	Hours	4	2 208		
	<b>Subtotal Item 2.3 Sundays and Public Holidays Overtime</b>					
	<b>Sub-Total Item 2 (Site Resources) Carried to Final Summary</b>					

	<b>ITEM 3</b>					
<b>3</b>	<b><u>PLANT, TOOLS AND EQUIPMENT</u></b>					
	-					
	<u>Rope Access Equipment</u>					
3.1.1	Singing Rock Expert III Std #M-L (1 per resource, per outage)	Once/Outage	19	27		
3.1.2	Petzl Vertex Best Helmet (1 per resource, per outage)	Once/Outage	19	27		
3.1.3	Petzl Croll (10 per resource, per outage)	Once/Outage	190	27		
3.1.4	Petzl Ascension Right Hand (new 2015) (5 per resource, per outage)	Once/Outage	95	27		
3.1.5	Gravity Etrier 5 step Double A3 (10 per resource, per outage)	Once/Outage	190	27		
3.1.6	Singing Rock Locker (5 per resource, per outage)	Once/Outage	95	27		
3.1.7	Singing Rock Locker Sling (5 per resource, per outage)	Once/Outage	95	27		
3.1.8	Petzl Rig (1 per resource, per outage)	Once/Outage	19	27		
3.1.9	Cow Tail Set (5 per resource, per outage)	Once/Outage	95	27		
3.1.10	Steel Oval S/Gate 25kN (5 per resource, per outage)	Once/Outage	95	27		
3.1.11	Gravity Anchor Sling 1,5m S9 (5 per resource, per outage)	Once/Outage	95	27		
3.1.12	Gravity 120cm Open Round Sling S14 (15 per resource, per outage)	Once/Outage	95	27		
3.1.13	Gravity 60cm open Round Sling S13 (5 per resource, per outage)	Once/Outage	95	27		
3.1.14	Steel Scaffold Hook (5 per resource, per outage)	Once/Outage	95	27		
3.1.15	Gravity Rope Edge Protector 50cm A4 (5 per resource, per outage)	Once/Outage	95	27		
3.1.16	Gravity PVC Kitbag 110L B3 (5 per resource, per outage)	Once/Outage	95	27		
3.1.17	Beal Antipode Semi - Static 10,5mm 2x100m or 1x200m (1 per resource, per outage)	Once/Outage	19	27		
3.1.18	Petzel Rescue Pulley (5 per resource, per outage)	Once/Outage	95	27		
3.1.19	Singing Rock 11cm Sling-Budget (5 per resource, per outage)	Once/Outage	95	27		
3.1.20	Petzl Stop (5 per resource, per outage)	Once/Outage	95	27		
	<u>Windshield Cleaning Equipment</u>					
3.2.1	Pressure water washer (max pressure of 150Bar)	Once-Off	2	1		
3.2.2	Wire brushes	Once/Year	14	5		
	<b>Sub-Total Item 3 (Plant, Tools and Equipment) to Final Summary</b>					
	<b><u>FINAL SUMMARY</u></b>					
	-					
ITEM 1	PRELIMINARIES AND GENERAL					
ITEM 2	SITE RESOURCES					
ITEM 3	PLANT, TOOLS AND EQUIPMENT					

		Final Summary					



## PART 3: SCOPE OF WORK

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

## C3.1: EMPLOYER'S SERVICE INFORMATION

### Contents

<b>Part 3: Scope of Work .....</b>	<b>1</b>
<b>C3.1: Employer's service Information .....</b>	<b>2</b>
<b>1 Description of the service.....</b>	<b>4</b>
1.1 Executive overview .....	4
1.2 <i>Employer's</i> requirements for the <i>service</i> .....	4
1.2.1 Materials.....	4
1.3 Interpretation and terminology .....	4
<b>2 Management strategy and start up. ....</b>	<b>5</b>
2.1 The <i>Contractor's</i> plan for the <i>service</i> .....	5
2.2 Flexibility with the start of outages or Outage opportunities .....	5
2.3 Travelling Time .....	5
2.4 Site Establishment .....	5
2.5 The Contractor's plan for service.....	5
2.6 Management Meetings .....	6
2.7 <i>Contractor's</i> management, supervision and key people .....	6
2.8 Provision of bonds and guarantees .....	6
2.9 Documentation control.....	6
2.10 Invoicing and payment.....	6
2.11 Contract change management .....	7
2.12 Records of Defined Cost to be kept by the <i>Contractor</i> .....	7
2.13 Insurance provided by the <i>Employer</i> .....	7
2.14 Training workshops and technology transfer.....	7
2.15 Design and supply of Equipment.....	7
2.16 Things provided at the end of the <i>service period</i> for the <i>Employer's</i> use .....	8
2.16.1 Equipment.....	8
2.16.2 Information and other things .....	8
2.17 Management of work done by Task Order .....	8
<b>3 Health and safety, the environment and quality assurance .....</b>	<b>9</b>
3.1 Health and safety risk management .....	9
3.2 Environmental constraints and management .....	9
3.3 Quality assurance requirements .....	9
<b>4 Procurement .....</b>	<b>9</b>
4.1 People.....	9
4.1.1 Minimum requirements of people employed.....	9

4.1.2	BBBEE and preferencing scheme .....	9
4.1.3	Accelerated Shared Growth Initiative – South Africa (ASGI-SA).....	10
4.2	Subcontracting .....	10
4.2.1	Preferred subcontractors .....	10
4.2.2	Subcontract documentation, and assessment of subcontract tenders .....	10
4.2.3	Limitations on subcontracting .....	10
4.2.4	Attendance on subcontractors .....	10
4.3	Plant and Materials .....	10
4.3.1	Specifications .....	10
4.3.2	Correction of defects .....	11
4.3.3	<i>Contractor's</i> procurement of Plant and Materials .....	11
4.3.4	Tests and inspections before delivery .....	11
4.3.5	Plant & Materials provided “free issue” by the <i>Employer</i> .....	11
4.3.6	Cataloguing requirements by the <i>Contractor</i> .....	11
<b>5</b>	<b>Working on the Affected Property.....</b>	<b>11</b>
5.1	<i>Employer's</i> site entry and security control, permits, and site regulations .....	11
5.2	People restrictions, hours of work, conduct and records.....	11
5.3	Health and safety facilities on the Affected Property .....	11
5.4	Environmental controls, fauna & flora.....	11
5.5	Cooperating with and obtaining acceptance of others .....	11
5.6	Records of <i>Contractor's</i> Equipment.....	12
5.7	Equipment provided by the <i>Employer</i> .....	12
5.8	Site services and facilities.....	12
5.8.1	Provided by the <i>Employer</i> .....	12
5.8.2	Provided by the <i>Contractor</i> .....	12
5.9	Control of noise, dust, water and waste .....	12
5.10	Hook ups to existing works .....	12
5.11	Tests and inspections .....	12
5.11.1	Description of tests and inspections .....	12
5.11.2	Materials facilities and samples for tests and inspections .....	13
<b>6</b>	<b>List of drawings.....</b>	<b>13</b>
6.1	Drawings issued by the <i>Employer</i> .....	13

# 1 Description of the service

## 1.1 Executive overview

The service is Chimneys (West and East) Civil Inspection and Repairs During Outage at Kusile Power Station for 5 years.

Refer to the Kusile document unique identifier 240-151683907, Chimneys (West and East) Civil Inspection and Repairs During Outage at Kusile Power Station for 5 Years specification; (See attached Annexure A).

## 1.2 Employer's requirements for the service

The Employer shall ensure the following:

- a) Inform and issue the Contractor with the updated outage plan
- b) Ensure the scope of work (SOW) is issued to the Contractor in time to allow for planning for the Outage
- c) Performance is measured by the Employer against those areas which contribute to the Employer's business and the Contractor shall be compensated accordingly as per the agreed contract clauses. (e.g. reliability, availability, and safety).
- d) Areas of measurement include the Employer's key business indicators and will be redefined from time to time.
- e) Employer shall provide training for plant safety regulations (PSR), fossil fuel firing regulation (FFFR) and any other training as deemed necessary by the Employer in line with the scope requirements.
- f) The Employer and Contractor in this SOW is committed towards the following:
  - i. Retention of critical skills
  - ii. Continuous cost reduction
  - iii. Health and environment safety
  - iv. Transfer of operational experience and skills

### 1.2.1 Materials

1. All material stated in this contract will be provided by the contractor in accordance to the bill of quantities.

## 1.3 Interpretation and terminology

Definitions	Explanations
<b>Client</b>	The owner of the Power Station at which the inspections are to be done. Normally the Power Station or Plant Engineer will represent the Client
<b>Contractor</b>	Service provider contracted for supplying specific service to Eskom, Kusile Power Station.
<b>Employer</b>	Eskom, Kusile Power Station
<b>Employer Representative</b>	Any person appointed in writing by Employer as the delegated Employer representative in terms of the provisions.
<b>Flue ducts</b>	The ducts are circular or rectangular steel ducts and convey the flue gasses from the gas cleaning plant through to the chimneys. The ducts have thermal insulation on the outside. The thermal insulation is protected against the weather by cladding.

<b>Outages</b>	Outage is a planned period of time where the machine is unable to perform its functions.
<b>Plant</b>	Any structure, machinery, apparatus or equipment which does not fall within the scope of the operating regulations for high voltage systems, and excludes, mobile, portable lifting equipment, domestic circuits' appliances and tools.
<b>Plant Engineer</b>	A person designated by the Client as having engineering responsibility for a specific plant
<b>Subcontractor</b>	An individual or business which has a contract with a contractor to provide some portion of the work or services on a project which the contractor has agreed to perform

## 2 Management strategy and start up.

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

The 5 year outage plan is documented in the table below. Due to rescheduling performed on a continuous basis, the plan might change from time to time. The latest updates can be obtained from the service manager when required.

### 2.2 Flexibility with the start of outages or Outage opportunities

1. The planned/Unplanned Outages start-date, is stated on the Task Order.
2. Movement of planned/unplanned Outage dates can take place due to the country's demand for electricity.
3. Any movement of planned/unplanned Outage dates is to be communicated in writing by the Service Manager at least 48 hours before outage or 24 hours before planned/unplanned Outage starts. Notification of change to the outage or 24 hours before the planned/unplanned Outage start date will have no claims for compensation.
4. A new Task Order is to be issued, which specifies the revised planned/unplanned Outage start date as soon as the new start date is available.

### 2.3 Travelling Time

During Outage, the contractor will be compensated for travelling hours as per the agreed contract rates.

### 2.4 Site Establishment

The Contractor will be allowed to have a small site establishment permanently left on site for the duration of the contract in case of the need for Outage opportunities. The containers might be placed in an area where there is no water, power or sewer connection. Extra precautions should be taken to prevent the possibility of theft as the container might be put down in an isolated area and security patrols might not be able to prevent break-ins.

### 2.5 The Contractor's plan for service

1. The contractor submits a program in MS Project/Primavera format ( soft copy format)
2. Daily feedback on progress required for duration of each task order program
3. The Contractor draws up a quality Control Plan prior to commencement of the work, for approval by the Employer. The Employer and the Contractor agrees on hold and witness point.

## 2.6 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:
Outage and contract kick off meeting	Just before start of an Outage	Kusile Power Station	Employer, Contractor
Overall contract progress and feedback	During outage execution	Kusile Power Station	Employer, Contractor
Daily Outage Meeting	During planned outage	Kusile Power Station	Employer, Contractor
Safety Meeting	Weekly	Kusile Power Station	Employer, Contractor
Assessment Meeting	After completion of each task order	Kusile Power Station	Employer, Contractor
Post Mortem Meeting	After Outage Completion	Kusile Power Station	Employer, Contractor

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

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

## 2.7 Contractor's management, supervision and key people

There should be supervision throughout the service period and key people shall be made available at all times.

## 2.8 Provision of bonds and guarantees

N/A

## 2.9 Documentation control

- The Contractor keep record of all documentation related to this contract.
- All documentation to be provided to the Employer in a way as agreed with the site service manager during and at the end of the contract.

## 2.10 Invoicing and payment

The assessments will be done after completion of each task order by the Service Manager and Contractor Within one week of receiving a payment certificate from the *Service Manager* in terms of core clause 51.1, the *Contractor* provides the *Employer* with a tax invoice showing the amount due for payment equal to that stated in the *Service Manager's* payment certificate.

The *Contractor* shall address the tax invoice to [invoiceseskomlocal@eskom.co.za](mailto:invoiceseskomlocal@eskom.co.za)

and include on each invoice the following information:

- Name and address of the *Contractor* and the *Service Manager*;

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

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

## 2.11 Contract change management

- The Service Manager issues a Task Order to the contractor to authorise the execution of work.
- In the event where it is identified that there is additional work to be done outside the scope of work on the Task Order, the Contractor will give the Service Manager an early warning with a written quotation.
- If agreed, the Service Manager issues a revised Task Order or additional Task Order.
- The Contractor starts the work on the starting date on Task Order.
- The Task Order is signed by both the Service Manager and the Contractor before work commences.

## 2.12 Records of Defined Cost to be kept by the Contractor

The Contractor keeps accurate and complete books of accounts, records and other evidence relating to the Actual Cost, or Rates for Resources, as applicable. Where Actual costs are claimed, the records pertaining thereto will be subject to audit. The Employer may audit applicable Contractor's records, which have relevance to the contract. The results and findings of the audit are submitted to the Employer and the Contractor.

## 2.13 Insurance provided by the Employer

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

## 2.14 Training workshops and technology transfer

Internal training will be provided by the *Employer through training department* . All other required/ related training e.g. HIRA shall be provided by the *Contractor*.

## 2.15 Design and supply of Equipment

The applicable specification or designs will be provided where possible by the Employer.

		Unit	No.	Duration
	<b><u>Rope Access Equipment</u></b>			
1.	Singing Rock Expert III Std #M-L (1 per resource, per outage)	Once/Outage	19	27
2.	Petzl Vertex Best Helmet (1 per resource, per outage)	Once/Outage	19	27
3.	Petzl Croll (10 per resource, per outage)	Once/Outage	190	27
4.	Petzl Ascension Right Hand (new 2015) (5 per resource, per outage)	Once/Outage	95	27
5.	Gravity Etrier 5 step Double A3 (10 per resource, per outage)	Once/Outage	190	27
6.	Singing Rock Locker (5 per resource, per outage)	Once/Outage	95	27
7.	Singing Rock Locker Sling (5 per resource, per outage)	Once/Outage	95	27
8.	Petzl Rig (1 per resource, per outage)	Once/Outage	19	27
9.	Cow Tail Set (5 per resource, per outage)	Once/Outage	95	27
10.	Steel Oval S/Gate 25kN (5 per resource, per outage)	Once/Outage	95	27
11.	Gravity Anchor Sling 1,5m S9 (5 per resource, per outage)	Once/Outage	95	27
12.	Gravity 120cm Open Round Sling S14 (15 per resource, per outage)	Once/Outage	95	27

13.	Gravity 60cm open Round Sling S13 (5 per resource, per outage)	Once/Outage	95	27
14.	Steel Scaffold Hook (5 per resource, per outage)	Once/Outage	95	27
15.	Gravity Rope Edge Protector 50cm A4 (5 per resource, per outage)	Once/Outage	95	27
16.	Gravity PVC Kitbag 110L B3 (5 per resource, per outage)	Once/Outage	95	27
17.	Beal Antipode Semi - Static 10,5mm 2x100m or 1x200m (1 per resource, per outage)	Once/Outage	19	27
18.	Petzel Rescue Pulley (5 per resource, per outage)	Once/Outage	95	27
19.	Singing Rock 11cm Sling-Budget (5 per resource, per outage)	Once/Outage	95	27
20.	Petzl Stop (5 per resource, per outage)	Once/Outage	95	27
	<b>Windshield Cleaning Equipment</b>			
21.	Pressure water washer (max pressure of 150Bar)	Once-Off	2	1
22.	Wire brushes	Once/Year	14	5

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

### 2.16.1 Equipment

None

### 2.16.2 Information and other things

A service report should be compiled after the outage, service report should have the following documents the results of the test performed during the outage, the plan or schedule of the outage planned versus actual work performed, the indication of the work or activities performed during the outage and any additional work should also make part of this document. The cost of the outage should also form part of the document (quotation before work is performed and the final invoice after assessments agreed by both the contractor and the contract manager).

NOTE: The document must be handed to Outage management for record keeping and in order to assist all stakeholders in the planning of the next outage on that specific unit.

## 2.17 Management of work done by Task Order

- The Employer issues a Task Order to the Contractor which specifies clearly the work to be provided, additional specifications. Task Order is issued before the Contractor Provides the Work.
- The Employer issues Task Orders to the Contractor in a timely manner that allows the Contractor to properly plan the work within the time periods stated on the Task Order.
- The Contractor performs work in accordance with the prior issue of a Task Order from the site service manager or his delegate and completes it within the time period specified in the Task Order.
- The Contractor develops procedures applicable to the performance of designated tasks and submits the procedures to the Employer for acceptance. All works provided comply with the standard specifications, procedures and Site regulations.
- Should the Contractor be unable to supply the resources required to complete a Task Order within the period specified, he immediately notifies the Employer. The notification includes recommendations as to how the work can be completed.



### 3 Health and safety, the environment and quality assurance

#### 3.1 Health and safety risk management

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

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

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

#### 3.2 Environmental constraints and management

The Contractor shall adhere the Legal and Site Environmental requirements.

#### 3.3 Quality assurance requirements

The Contractor shall adhere to the quality requirements e.g. Quality plan, quality control plan and work procedure.

### 4 Procurement

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

#### 4.1 People

##### 4.1.1 Minimum requirements of people employed

The Contractor shall provide suitable resources as stated in the Service description and they shall employ majority of the resources around Witbank Community through the local forum.

##### 4.1.2 BBBEE and preferencing scheme

Specify constraints which *Contractor* must comply with after contract award in regard to any Broad Based Black Economic Empowerment (B-BBEE) or preferencing scheme measures.

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

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

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

[Insert the agreed ASGI-SA Compliance Schedule here]

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

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

## 4.2 Subcontracting

### 4.2.1 Preferred subcontractors

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

### 4.2.2 Subcontract documentation, and assessment of subcontract tenders

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

### 4.2.3 Limitations on subcontracting

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

### 4.2.4 Attendance on subcontractors

State requirements for attendance on Subcontractors, if any

## 4.3 Plant and Materials

### 4.3.1 Specifications

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

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

#### **4.3.2 Correction of defects**

The Employer to notify the Contractor within seven (7) days after the Defect becomes visible. The time to respond to a Defect notification will be between one (1) and seven (7) days depending on the extent of the Defect and access to the Affected Property. The inspections and repairs to be done according to the resolution meetings consisting of, project manager Eskom, system engineer and Contractor Quality Control inspectors, planner and site manager / Supervisor.

#### **4.3.3 Contractor's procurement of Plant and Materials**

Delivery and storage of consumables must be in line with procedures and must be agreed with the Employer

#### **4.3.4 Tests and inspections before delivery**

Eskom must approve all QCP's prior to any commencement of each task order. Eskom appointed QC to inspect and be involved in all inspection activities. The contractor will adhere to international and Eskom specifications.

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

All plant and materials are to be provided by Eskom. The contractor shall provide people to assist with the handling of the material at the workshops. The employer shall provide the workshop which is equipped with machines and artisans preparing the required material and spares. The contractor shall notify the project manager 3 days in advance for the notification of the workshop booking

#### **4.3.6 Cataloguing requirements by the Contractor**

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

## **5 Working on the Affected Property**

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

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

The Contractor shall adhere to site access control requirements; this will be explained during Site Inductions

### **5.2 People restrictions, hours of work, conduct and records**

Contractor employees shall work according to the stipulated hours in the scope of work or as agreed by the Service Manager and the Contractor.

### **5.3 Health and safety facilities on the Affected Property**

The Contractor shall comply with Health and Safety requirements, Refer to the SHE spec.

### **5.4 Environmental controls, fauna & flora**

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

### **5.5 Cooperating with and obtaining acceptance of others**

This sub-paragraph could be used to deal with two issues.

- The cross reference from core clause 25.1 about cooperation generally as well as details about others with whom the Contractor may be required to share the Affected Property. See clause 11.2(9) for the definition of others.
- Requirements for liaison with and acceptance from statutory authorities or inspection agencies.

## 5.6 Records of *Contractor's* Equipment

- The Contractor shall issue a clear, detailed printed list of all their equipment and tools (with serial numbers, wherever possible) to the site Security officer for approval before the items are taken into site.
- The Contractor shall maintain the approved document with a revision number for any changes.
- Equipment brought on site not listed in the tool/equipment list cannot be removed from site.
- Equipment and vehicles left on site is done so at the Contractor's own risk.

## 5.7 Equipment provided by the *Employer*

- The Employer may provide workshop and machining facilities to assist the Contractor with the execution of the Contract Works. The Employer to connect Contractor's DB boards termination point within the station which are placed in close proximity of the working area.
- Eskom may at its discretion provide any spare parts, materials or equipment as may be required for the execution of the contract works.

## 5.8 Site services and facilities

### 5.8.1 Provided by the *Employer*

- The following services are provided by the Employer during the periods stated:
  - The *Employer* will provide a *Contractor* a site for the duration of works.
  - Electricity, potable water, toilet facilities, compressed Air and internal line for telecommunication
  - *Employer* to provide RP and AS training and certification
- The Contractor complies with all site regulations issued by the Employer.

### 5.8.2 Provided by the *Contractor*

- All Office Container, equipment and change rooms for their employees
- The Contractor shall provide his/her own accommodation.
- Telephone bills will be paid by the Contractor.
- The Contractor will supply the machinery, tools, access ladders, DB boards, equipment and consumables.
- The Quality control plan and budget quote for the actives that will be performed during the outage should be submitted four months before the outage after the Contractor has received a formal notification to perform work in term of the following documents scope of work for that specific outage.
- A schedule or plan and safety file for the actives that will be performed during the outage should be submitted three months before the outage after the Contractor has received a formal notification to perform work in term of the following documents scope of work for that specific outage, task order with a 45 number.
- The schedules should be either in Microsoft projects or primavera and daily process feedback should be submitted to the outage planner for update of the integrated program of the outage.
- Removal of redundant material to allocated sites. No scrap shall be stored in the Contractor's yard. Scrap is to be cleared from Site daily
- Service Report (hard and soft copy) must be handed to outage management within a month after the outage execution, this documents must include the inspection report and findings decisions after the inspection.

NOTE: Due to the system planning some outages are scheduled during December period, therefore Contractor is required to perform work around that time as per the contract.

## 5.9 Control of noise, dust, water and waste

The Contractor shall manage waste accordingly and always use appropriate Personal Protective Equipment.

## 5.10 Hook ups to existing works

The Contractor shall adhere to Eskom Cardinal Rules; they will be explained in detail during site inductions.

## 5.11 Tests and inspections

### 5.11.1 Description of tests and inspections

The Contractor shall do inspections; refer to the scope of work.

#### 5.11.2 Materials facilities and samples for tests and inspections

The Contractor shall do inspections and repairs in all the plant areas covered under this scope.

## 6 List of drawings

### 6.1 Drawings issued by the *Employer*

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

Drawing number	Revision	Title