



NEC3 Term Service Contract (TSC3)

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

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

for **PROVIDING A MONTHLY COAL PROFICIENCY
TESTING SCHEME FOR LETHABO POWER STATION
FOR A PERIOD OF 5 YEARS.**

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

CONTRACT No. [Insert at award stage]

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.**PART C1: AGREEMENTS & CONTRACT DATA**

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

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

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:

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR 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 or C	The offered total of the Prices exclusive of VAT is	R []
Option E	The first forecast of the total Defined Cost plus the Fee exclusive of VAT is	R [•]
	Sub total	R [•]
	Value Added Tax @ 15% is	R []
	The offered total of the amount due inclusive of VAT is ¹	R []
	(in words) [•]	

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

Signature(s)

Name(s)

Capacity

For the tenderer:

(Insert name and address of organisation)

Name &
signature of
witness

Date

Tenderer's CIDB registration number:

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

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.**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 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.

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

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)

ESKOM HOLDINGS SOC LIMITED


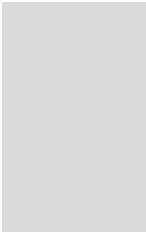
Name & signature of witness _____

Date _____

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

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: Change in the law X17: Low service damages X18: Limitation of liability X19: Task Order
		Z: Additional conditions of contract
	of the NEC3 Term Service Contract (June 2005) ²	
10.1	The <i>Employer</i> is (name):	Eskom Holdings Limited (reg no: 2002/015527/30), a juristic person incorporated in terms of the company laws of the Republic of South Africa
	Address	Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg
	Tel No.	[•]
	Fax No.	[•]
10.1	The <i>Service Manager</i> is (name):	Riaan Volschenk
	Address	Lethabo Power Station Private Bag X415 Vereeniging 1930
	Tel	(016) 457 5196

² Available from Engineering Contract Strategies Tel 011 803 3008 Fax 011 803 3009

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

e-mail

VolschAP@eskom.co.za

11.2(2)	The Affected Property is	LETHABO POWER STATION
11.2(13)	The <i>service</i> is	Provision of Coal samples for proficiency testing and report at Lethabo Power Station for a period of 5 years
11.2(14)	The following matters will be included in the Risk Register	
11.2(15)	The Service Information is in	Part 3: Scope of Work and all documents and 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	Two weeks
2	The Contractor's main responsibilities	(If the optional statement for this section is not used, no data will be required for this section)
21.1	The <i>Contractor</i> submits a first plan for acceptance within	One week
3	Time	
30.1	The <i>starting date</i> is.	TBA
30.1	The <i>service period</i> is	5 years
4	Testing and defects	No data is required for this section of the conditions of contract.
5	Payment	
50.1	The <i>assessment interval</i> is	After every results submission and acceptance
51.1	The <i>currency of this contract</i> is the	South African Rand
51.2	The period within which payments are made is	30 days after receipt of an invoice
51.4	The <i>interest rate</i> is	(i) zero percent above 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 (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 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)
6	Compensation events	

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

7	Use of Equipment Plant and Materials	No data is required for this section of the <i>conditions of contract</i> .
8	Risks and insurance	
80.1	These are additional <i>Employer's</i> risks	1. [•] 2. [•] 3. [•]
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/live/content.php?Item_ID=9248 (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/live/content.php?Item_ID=9248 (See Annexure A for basic guidance)
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/live/content.php?Item_ID=9248
83.1	The minimum amount of cover for loss of or damage to Plant and Materials provided by the <i>Employer</i> is:	the amount of the deductibles relevant to the event described in the "Format TSC3" insurance policy available on http://www.eskom.co.za/live/content.php?Item_ID=9248
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 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	
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	Monthly

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

11	Data for Option W1			
W1.1	The <i>Adjudicator</i> is (Name)	Mr Andrew Baird		
	Address	Megawatt Park		
	Tel No.	+27 11 803 3008		
	Fax No.	Not applicable		
	e-mail	andrewbaird@ecsconsult.co.za		
W1.2(3)	The <i>Adjudicator nominating body</i> is:	the Chairman of the Joint Civils Division of the South African Institution of Civil Engineering. (See www.jointcivils.co.za). Only when the dispute arises the adjudicator will be nominated from Annexure B.		
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	the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.		
	- if the Parties cannot agree a choice or - if the arbitration procedure does not state who selects an arbitrator, is			
12	Data for secondary Option clauses			
X1	Price adjustment for inflation			
X1.1	The <i>base date</i> for indices is	TBA		
	The proportions used to calculate the Price Adjustment Factor are: according to the CPI	SEIFSA D-3	0% 100%	Fixed portion Labour
X2	Changes in the law			
X19	Task Order			
X19.5	The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within	1 days of receiving the Task Order		
X20	Key Performance Indicators (not used when Option X12 applies)			
X20.1	The <i>incentive schedule</i> for Key Performance Indicators is in	See Section 4.3.1		

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

X20.2	A report of performance against each Key Performance Indicator is provided at intervals of	Monthly
Z	The additional conditions of contract are	Z1 to Z11 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 and the Electricity Distribution 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 substantially 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 Works.
- 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 Ethics

- Z4.1 Any offer, payment, consideration, or benefit of any kind made by the *Contractor*, which constitutes or could be construed either directly or indirectly as an illegal or corrupt practice, as an inducement or reward for the award or in execution of this contract constitutes grounds for

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

terminating the *Contractor's* obligation to Provide the Service or taking any other action as appropriate against the *Contractor* (including civil or criminal action).

- Z4.2 The *Employer* may terminate the *Contractor's* obligation to Provide the Service if the *Contractor* (or any member of the *Contractor* where the *Contractor* constitutes a joint venture, consortium or other unincorporated grouping of two or more persons or organisations) is found guilty by a competent court, administrative or regulatory body of participating in illegal or corrupt practices.

Such practices include making of offers, payments, considerations, or benefits of any kind or otherwise, whether in connection with any procurement process or contract with the *Employer* or other people or organisations and including in circumstances where the *Contractor* or any such member is removed from the an approved vendor data base of the *Employer* as a consequence of such practice.

- Z4.3 Notwithstanding the provisions of core clause 90.2, the procedures on termination in terms of this clause are P1, P2 and P4 as stated in the core clause 92 and the amount due is A1 and A3 as stated in core clause 93.

Z5 Confidentiality

- Z5.1 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.
- Z5.2 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*.
- Z5.3 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.
- Z5.4 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*.
- Z5.5 The *Contractor* ensures that all his subcontractors abide by the undertakings in this clause.

Z6 Waiver and estoppel: Add to core clause 12.3:

- Z6.1 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.

Z7 Health, safety and the environment: Add to core clause 27.4

- Z7.1 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*:

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

- accepts that the *Employer* may appoint him as the "Principal Contractor" (as defined and provided for under the Construction Regulations 2003 (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.

Z7.2 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.

Z8 Provision of a Tax Invoice and interest. Add to core clause 51

- Z8.1 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.
- Z8.2 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.
- Z8.3 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.

Z9 Notifying compensation events

- Z9.1 Delete from the last sentence in core clause 61.3, "unless the *Service Manager* should have notified the event to the *Contractor* but did not".

Z10 Employer's limitation of liability

- Z10.1 The *Employer's* liability to the *Contractor* for the *Contractor's* indirect or consequential loss is limited to R0.00 (zero Rand)
- Z10.2 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 under the compensation events stated in this contract.

Z11 Termination: Add to core clause 91.1, at the second main bullet point, fourth sub-bullet point, after the words "against it":

- Z11.1 or had a judicial management order granted against it.

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.**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. 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/live/content.php?Item_ID=9248

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

Annexure B: The *Employer's* Panel of Adjudicators

The following persons listed in alphabetical order of their surname have indicated their willingness to be included in the Eskom Panel of Adjudicators. Their CV's may be obtained by using the contact details provided.

Name	Location	Contact details (phone & e mail)
Nigel ANDREWS	Gauteng	+27 11 836-6760 nigela@quoin.net
Andrew BAIRD	Gauteng	+27 11 803 3008 andrewbaird@ecsconsult.co.za
Christopher BINNINGTON	Gauteng	+27 11 888-6141 cdb@bca.co.za
Peter HIGGINS	UK	+44 1293 873 868 peterhiggins@pdconsult.co.uk
Bruce LEECH	Gauteng	+27 11 290 4000 leech@counsel.co.za
Nigel NILEN	Gauteng	+27 11 465 3601; nilences@global.co.za
Robert St. LEGER	Cape Town	+27 21 794 7488 bobst@iafrica.com
Peter THURLOW	Gauteng	+27 11 787 6226 info@thurlowassoc.com

Information about the Panel and appointment of the selected *Adjudicator* is in _____

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

C1.2 Contract Data

Part two - Data provided by the *Contractor*

[Instructions to the contract compiler: (delete this notes before issue to tenderers with an enquiry)

Whenever a cell is shaded in the left hand column it denotes this data is optional and would be required in relation to the option selected. In the event that the option is not required select and delete the whole row.]

Notes to a tendering contractor:

1. Please read both the both the NEC3 Term Service Contract (June 2005) and the relevant parts of its Guidance Notes (TSC3-GN)³ in order to understand the implications of this Data which the tenderer is required to complete.
2. The number of the clause which requires the data is shown in the left hand column for each statement however other clauses may also use the same data
3. Where a form field like this [] appears, data is required to be inserted relevant to the option selected. Click on the form field **once** and type in the data. Otherwise complete by hand and in ink.

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

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

³ Available from Engineering Contract Strategies Tel 011 803 3008 Fax 011 803 3009

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

Responsibilities:

Qualifications:

Experience:

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

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

**MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER
STATION FOR A PERIOD OF 5 YEARS.****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>	[•]

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

C2.1 Pricing assumptions: Option A

The *conditions of contract*

How work is priced and assessed for payment

Clause 11 in NEC3 Term Service Contract, June 2005 (TSC3) core clauses and Option A states:

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

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

Function of the Price List

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

Link to the *Contractor's* plan

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

Preparing the *price list*

It will be assumed that the tendering contractor has read Pages 14, 15 and 73 of the TSC3 Guidance Notes before preparing the *price list*. Items in the *price list* may have been inserted by the *Employer* and the tendering contractor should insert any additional items which he considers necessary. Whichever party provides the items in the *price list* the total of the Prices is assumed to be fully inclusive of everything necessary to Provide the Service as described at the time of entering into this contract.

1 As the *Contractor* has an obligation to correct Defects (core clause 42.1) and there is no compensation event for this unless the Defect was due to an *Employer's* risk, the lump sum Prices and rates must also

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

include for the correction of Defects.

2 If the *Contractor* has decided not to identify a particular item in the *price list* at the time of tender the cost to the *Contractor* of doing the work must be included in, or spread across, the other Prices and rates in the *price list* in order to fulfil the obligation to complete the *service* for the tendered total of the Prices.

3 There is no adjustment to lump sum prices in the *price list* if the amount, or quantity, of work within that lump sum item of service later turns out to be different to that which the *Contractor* estimated at time of tender. The only basis for a change to the Prices is as a result of a compensation event. See Clause 60.1.

4 Hence the Prices and rates tendered by the *Contractor* in the *price list* 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.

5 The Contractor does not have to allow in his Prices and rates for matters that may arise as a result of a compensation event. It should be noted that the list of compensation events includes those arising as a result of an *Employer's* risk event listed in core clause 80.1.

Format of the *price list*

(From page 73 of 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.

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

C2.2 the *price list*

The following samples are to be supplied monthly:					
Item nr	Description	Unit	Price per sample	Frequency	Qty per year (EA)
1	1 x Coal Pulp samples including CV, Volatile and Ash; Frequency: 1 sample to be supplied for the month, minimum of 60g sample to be supplied	EA	R	1 sample per month	12
2	1x Abrasion Index samples; Frequency: 1 sample to be supplied for the month, minimum of 10kg sample to be supplied.	EA	R	1 sample per month	12
3	1x Hardgrove Index samples; Frequency: 1 sample to be supplied for the month, minimum of 1kg sample to be supplied.	EA	R	1 sample per month	12
Total Price per month (Item 1+2+3)			R		
Total Price per year [(Item 1+2+3) x 12months]			R		

The following samples are to be supplied bi-monthly:					
Item nr	Description	Unit	Price per sample	Frequency	Qty per year (EA)
4	1x Semi-prep/Total Moisture samples. Frequency: 1 sample to be supplied bi-monthly - Minimum of 10kg sample to be supplied	EA	R	1 sample every 2 months	6
Total Price per year [(Item 4) x 6 months]			R		
Total Combined Price per year			R		
Total Combined Price per 5 years			R		

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

ADDITIONALLY

The following Repeat samples may be requested on ADHOC basis:				
Item nr	Description	Unit	Price per sample	Frequency
2 (repeat)	1x Abrasion Index samples; Frequency: 1 sample to be supplied for the month, minimum of 10kg sample to be supplied.	EA	R	Adhoc
3 (repeat)	1x Hardgrove Index samples; Frequency: 1 sample to be supplied for the month, minimum of 1kg sample to be supplied.	EA	R	Adhoc
4 (repeat)	1x Semi-prep/Total Moisture samples. Frequency: 1 sample to be supplied bi-monthly - Minimum of 10kg sample to be supplied	EA	R	Adhoc

The total for 5 years Prices

R

NB: Delivery charges are to be included in the pricing and not quoted separately.

NB: The quantities on the contract are based on an "estimate", they may be less or more. Therefore, the contract value is not binding, only the rates apply.

PART 3: SCOPE OF WORK

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

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

C3.1: EMPLOYER'S SERVICE INFORMATION

Contents

Part 3: Scope of Work	22
C3.1: Employer's service Information	23
1 Description of the service	25
1.1 Executive overview	25
1.2 Employer's requirements for the service	25
1.3 Interpretation and terminology	Error! Bookmark not defined.
2 Management strategy and start up.	25
2.1 The Contractor's plan for the service	25
2.2 Management meetings	26
2.3 Contractor's management, supervision and key people	26
2.4 Provision of bonds and guarantees	Error! Bookmark not defined.
2.5 Documentation control	27
2.6 Invoicing and payment	27
2.7 Contract change management	Error! Bookmark not defined.
2.8 Records of Defined Cost to be kept by the Contractor	Error! Bookmark not defined.
2.9 Insurance provided by the Employer	Error! Bookmark not defined.
2.10 Training workshops and technology transfer	Error! Bookmark not defined.
2.11 Design and supply of Equipment	27
2.12 Things provided at the end of the service period for the Employer's use	27
2.12.1 Equipment	Error! Bookmark not defined.
2.12.2 Information and other things	28
2.13 Management of work done by Task Order	28
3 Health and safety, the environment and quality assurance	28
3.1 Health and safety risk management	28
3.2 Environmental constraints and management	29
3.3 Quality assurance requirements	29
4 Procurement	31
4.1 People	31
4.1.1 Minimum requirements of people employed	31
4.1.2 BBBEE and preferencing scheme	31
4.1.3 Accelerated Shared Growth Initiative – South Africa (ASGI-SA)	31
4.2 Subcontracting	31
4.2.1 Preferred subcontractors	31
4.2.2 Subcontract documentation, and assessment of subcontract tenders	31
4.2.3 Limitations on subcontracting	31
4.2.4 Attendance on subcontractors	31
4.3 Plant and Materials	Error! Bookmark not defined.
4.3.1 Specifications	Error! Bookmark not defined.
4.3.2 Correction of defects	Error! Bookmark not defined.
4.3.3 Contractor's procurement of Plant and Materials	Error! Bookmark not defined.
4.3.4 Tests and inspections before delivery	Error! Bookmark not defined.
4.3.5 Plant & Materials provided "free issue" by the Employer	Error! Bookmark not defined.
5 Working on the Affected Property	Error! Bookmark not defined.
5.1 Employer's site entry and security control, permits, and site regulations	Error! Bookmark not defined.
5.2 People restrictions, hours of work, conduct and records	Error! Bookmark not defined.
5.3 Health and safety facilities on the Affected Property	Error! Bookmark not defined.
5.4 Environmental controls, fauna & flora	Error! Bookmark not defined.
5.5 Cooperating with and obtaining acceptance of Others	Error! Bookmark not defined.
5.6 Records of Contractor's Equipment	Error! Bookmark not defined.
5.7 Equipment provided by the Employer	Error! Bookmark not defined.

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

5.8	Site services and facilities.....	Error! Bookmark not defined.
5.8.1	Provided by the <i>Employer</i>	Error! Bookmark not defined.
5.8.2	Provided by the <i>Contractor</i>	Error! Bookmark not defined.
5.9	Control of noise, dust, water and waste	Error! Bookmark not defined.
5.10	Hook ups to existing works	Error! Bookmark not defined.
5.11	Tests and inspections	Error! Bookmark not defined.
5.11.1	Description of tests and inspections	Error! Bookmark not defined.
5.11.2	Materials facilities and samples for tests and inspections	Error! Bookmark not defined.
6	List of drawings	31
6.1	Drawings issued by the <i>Employer</i>	31

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.**1 Description of the service****1.1 Executive overview**

Proficiency testing scheme:

- 1 x Coal Pulp samples including CV, Volatile and Ash; Frequency: 1 sample to be supplied for the month. Minimum of 60g sample to be supplied
- 1x Abrasion Index samples; Frequency: 1 sample to be supplied for the month
Minimum of 10kg sample to be supplied.
- 1x Hardgrove Index samples; Frequency: 1 sample to be supplied for the month
Minimum of 1kg sample to be supplied.
- 1x Semi-prep/Total Moisture samples. Frequency: 1 sample to be supplied bi-monthly -
Minimum of 10kg sample to be supplied
- Samples to be couriered to Lethabo Power station Chemical Services Laboratory
- Laboratory providing Proficiency testing scheme to be SANAS accredited laboratory, adhering to ISO/IEC17025 requirements.
- The Proficiency testing scheme to adhere to the requirements of ISO/IEC 17043 (Latest edition) Conformity assessment – General requirements for proficiency testing.
- Reports to state z-score on each parameter analysed by participating laboratory.

The proficiency testing scheme provider to adhere to latest edition of SANAS R80 Proficiency testing.

The samples for proficiency will be delivered to Lethabo power station. Delivery charges are to be included in the pricing and not quoted separately.

1.2 Employer's requirements for the service

Service provider must be accredited to perform proficiency testing.

2 Management strategy and start up.**2.1 The Contractor's plan for the service**

The purpose of this document is for Proficiency testing scheme provider to provide monthly coal samples and proficiency testing reports.

It is therefore imperative that the suitably qualified Contractor aligns his/her company/organisation fully to these specified scope activities and processes laid down in this document.

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

2.2 Management meetings

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

Contractor's management, supervision and key people

KPA Description
<u>COMPLIANCE AND BUSINESS STRUCTURE</u>
1.1 Valid Certificate of SANAS ISO/IEC 17043 Accreditation-coal analysis proficiency testing; stating the company trading name and the accredited facility address.
1.2 Laboratory Quality Manual - including all mandatory procedures.
1.3 Proof of current laboratories participating in proficiency testing scheme
1.4 The Proficiency testing scheme to adhere to the requirements of ISO/IEC 17043 and SANAS Document R80

2.3 Management and Reporting

- The type of reports, level of detail and frequency of reporting will be mutually agreed by the Employer and the Contractor during the contract negotiation phase of this agreement. These may change from time to time on request by the Employer.
- The Contractor to be represented at any ad-hoc meetings that may arise in order to address any work progress or safety related matters.
- Liaison meetings shall be held with the Employer's Representative or his/her delegate on a monthly basis to discuss any technical details, or concerns.

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.**2.4 Documentation control**

All contractual communications will be in the form of properly compiled letters or forms attached to e-mails and not as a message in the e-mail itself.

Every document or report should have the contract and purchase order number; Task order should have both contract and purchase order number and the invoice should have both contract and purchase order numbers.

The person representing the Employer at Lethabo Power Station will issue each Task Order to the Supplier. Each Task Order will be submitted at least one week prior to the starting date.

2.5 Invoicing and payment

The Z clauses make reference to invoicing procedures stated here in this Service Information.

The invoice must be sent to APS with details e.g. Contract number, Invoice number, VAT number and the Order number.

Breakdown with commensurate with price list is shown on each invoice.
Only original invoices will be accepted.

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:

Finance Department
Eskom Holdings Limited SOC Ltd
Lethabo Power Station
Private Bag X415
Vereeniging
1930

- 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)

2.6 Design and supply of Equipment

- The supplier to make use of own laboratory equipment in their own premises.

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

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

2.7.1 Information and other things

Proficiency report send, to be in alignment with SANAS document R80 (latest EDITION) and adhering to the requirements of ISO/IEC17043 (latest edition).

2.8 Management of work done by Task Order

The person representing the Employer at Lethabo Power Station will issue each Task Order to the Supplier. Each Task Order will be submitted at least one week prior to the starting date.

3 Health and safety, the environment and quality assurance

3.1 Health and safety risk management

A. Risks

Number	Hazard	Risks	Control
1	Noise (All over the plant)	NIHL	Ear Protection
2	Dust (Localised areas. Indicated by safety Signs)	Respiratory	Dust Mask
3.	Falling objects	Physical Injuries (WCS Death)	<ul style="list-style-type: none"> • Hard hat • Good House keeping
4	Tripping Hazard	Physical Injuries	Safety Shoes
5	Hot Components (Boiler and Turbine Side)	Burn	Overall (PPC)
6	Steam (Turbine side)	Burn	Overall(PPC)
7	Heat	Heat Stroke	Rotation of workers Fluids

- The type of PPE needed for the project will be determined by the task risk assessment but taking into consideration the generic risk found at our plant

B. Procedures and legislations:

1. Occupational health and safety act 85 of 1993 and Construction regulation
2. Cardinal Rules Procedure
3. Eskom Contractors Management procedure

C. Road Safety

- a. Speed limit: 40km/h in the station vicinity
- b. By passing Speed humps not allowed
- c. Transporting People at the back of the bakkie not allowed
- d. Life saving rules: Buckle up always and Be sober
- e. Park only at demarcated areas

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.**D. Sanitation**

- a. Toilets for both gender are available at the plant

E. Emergency

- a. Emergency alarm are tested every Wednesday 12H00 during the week.

F. Access

Before access can be granted the following must be met:

- i. SHE Induction attended

3.2 Environmental constraints and management

No EIA needed. No EIA is required for such an activity.

Note: Lethabo is home to various wild animals there for caution shall be taken on and off-site to ensure 0% animal collisions.

National Environmental Management **Biodiversity Act No 10 of 2004**

In terms of the National **Environmental National Environmental Management: Act No 107 of 1998**: Everyone has a duty of care to the environment.

3.3 Quality assurance requirements

The samples are to be analysed in accordance to the standards as prescribed by the employer. Transportation of samples shall be done in a manner that will not degrade the sample.

The contractor must demonstrate a clear understanding of, and commitment to, the scope of work relating to proficiency testing for coal samples at Lethabo Power Station, by submitting the required quality documentation prior to contract award. Furthermore, the contractor shall ensure effective implementation and ongoing maintenance of these quality requirements throughout the execution of the work.

- The Contractor is required to submit a comprehensive Quality Method Statement or Operational Plan that aligns with the project scope of work.
- Documented information for control of non-conforming outputs (Product/ Service) and including handling of customer complaints.
- Documented information for evaluating and ensuring that personnel involved possess the necessary knowledge, skills, and competency.
- Documented information for Control of Externally Provided Processes, Products and Services intended to be used in the project. (interface controls with subcontractors)
- Verifiable proof of documented information for the customer satisfaction survey conducted on the similar project (i.e. not a template but a record).
- Contract Quality Plan specific to the scope of work as described in the tender documents

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

(Ref ISO 10005)

- Product/ Service Risk Register (List all Risks associated with delivering the scope of work, what actions will be taken to minimize and mitigate the identified risks) Risks such as sample integrity risk, data entry or reporting errors, confidentiality breaches....
- The Contractor is required to submit documentation in alignment with Category 2 quality requirements, as they will be evaluated and rated accordingly under this classification

By signing and accepting Form A, the Contractor confirms their acknowledgment of and commitment to comply with Eskom's governance framework in relation to the contract scope of work.

3.4 Risk Analysis

Risk	MITIGATION FACTORS	LEVEL (HIGH/MEDIUM/LOW)
Time: Low Service due to: <ul style="list-style-type: none"> • Late sample delivery • Late proficiency reporting of results. • Loss of accreditation of scheme provider 	Strict low service damage to be imposed on the delayed key date as per the contract data and in line with the approved schedule at 2% per day up to a maximum of 15% per task order. Strict low service damage to be imposed on the delayed key date as per the contract data and in line with the approved schedule at 2% per day up to a maximum of 15% per task order. The service provider to ensure that re-instate their ISO/IEC 17043 within 3 months, or outsource the service to another accredited service provide at no additional cost to Eskom failure to do so the contract needs to be terminated.	High Medium High
Safety Non- compliance to all legal requirements.	The successful contractor shall be expected to have OHS system that is aligned to the clients. • The contractor is not going to be site based, will only send the coal through courier then our lab conduct tests then courier back the results	Low

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

	1.Driver training & competence 2.Strict adherence to the rules and Eskom vehicle specifications and other procedures 3.Strict adherence to Eskom offloading processes 4.Adherence to vehicle maintenance plans and daily/pre-trip inspections 5. Strict adherence to travelling task risk assessment.		
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4 Procurement

4.1 People

4.1.1 Minimum requirements of people employed

None

4.1.2 BBBEE and preferencing scheme

The *Contractor* shall provide the verification certificate

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

4.2 Subcontracting

4.2.1 Preferred subcontractors

4.2.2 Subcontract documentation, and assessment of subcontract tenders

4.2.3 Limitations on subcontracting

4.2.4 Attendance on subcontractors

5 List of drawings

5.1 Drawings issued by the *Employer*

N/A

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

C4 Site Information

4.4.1 C4.1: Information about the *site* at time of tender which may affect the work in this contract:

Site Procedures and Regulations

Health and Safety Requirements

The *Contractor* and his sub-*Contractors* ensure at all times compliance with safety regulations imposed by any Act of Parliament, ordinance or any regulation or by-law of any local or statutory authority.

- The *Contractor* acts in accordance with the health and safety requirements stated in the Works Information.
- In carrying out its obligations to the *Employer* in terms of this contract; in providing the Works; in using Plant, Materials and Equipment; and while at the Site for any reason, the *Contractor* complies and procures and ensures the compliance by its employees, agents, Sub-*Contractors* and mandataries with:
- the provisions of the Occupational Health and Safety Act 85 of 1993 (as amended) and all regulations in force from time to time in terms of that Act ("the OHSA"); and the Eskom "Health, Safety and Environmental specifications for *Contractors*" document attached to the Works Information (as amended from time to time) and such other Eskom Safety Regulations as are applicable to the Works and are provided in writing to the *Contractor* (collectively "the Eskom Regulations"). The Eskom Regulations may be amended from time to time by the *Employer* and all amendments will be provided in writing to the *Contractor*. The *Contractor* complies with the provisions of the latest written version of the Eskom Regulations with which it has been provided; and the health and safety plan prepared by the *Contractor* in accordance with the SHEQ Requirements

(The OHSA and the Eskom Regulations are collectively referred to as the "SHEQ Requirements".)

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

- The *Contractor*, at all times, considers itself to be the “*Employer*” for the purposes of the OHSA and shall not consider itself under the supervision or management of the *Employer* with regard to compliance with the SHEQ Requirements, the *Contractor* shall furthermore not consider itself to be a subordinate or under the supervision of the *Employer* in respect of these matters. The *Contractor* is at all times responsible for the supervision of its employees, agents, Sub-*Contractors* and mandataries and takes full responsibility and accountability for ensuring they are competent, aware of the SHEQ Requirements and execute the Works in accordance with the SHEQ Requirements.
- The *Contractor* acknowledges that it is fully aware of the requirements of all the above and undertakes to employ only people who have been duly authorized in terms thereof and who have received sufficient training to ensure that they can comply therewith.
- The *Contractor* ensures that all statutory appointments and appointments required by any Eskom Regulations are made and that all appointees fully understand their responsibilities and are trained and competent to execute their duties. The *Contractor* supervises the execution of their duties by all such appointees.
- The *Contractor* shall appoint a person who will liaise with the Eskom Safety Officer responsible for the premises relevant to this contract. The person so appointed shall, on request: supply the Eskom Safety Officer with copies of minutes of all Health And Safety Committee meetings, whenever he is required to do so; supply the Eskom Safety Officer with copies of all appointments in respect of employees employed on this contract, in terms of the Act and Regulations and shall advise the Eskom Safety Officer of any changes thereto.

The *Employer*, or any person appointed by the *Employer*, may, at any stage during the duration of this contract:

- conduct health and safety audits regarding all aspects of compliance with the SHEQ Requirements, at any off-site place of work, or the site establishment of the *Contractor*;
 - refuse any employee, Sub-*Contractor* or agent of the *Contractor* access to the premises if such person has been found to commit an unsafe act or any unsafe working practice or is found not to be qualified or authorised in terms of the SHEQ Requirements;
 - issue the *Contractor* with a stop order should the *Employer* become aware of any unsafe working procedure or condition or any non-compliance with any provision of the SHEQ Requirements.
 - The *Contractor* immediately reports any disabling injury as well as any threat to health or safety of which it becomes aware at the Works or on the Site to the *Employer's Representative*.
- The *Contractor* undertakes not to do, or not to allow anything to be done which will contravene any of the provisions of the Act, Regulations or Safety and Operating Procedures.
 - The *Contractor* appoints a person, qualified in accordance with the SHEQ Requirements, as the liaison with the Eskom Safety Officer for all matters related to health and safety, this person shall be reachable 24 hours a day.
 - The *Contractor* confirms that it has been provided with sufficient written information regarding the health and safety arrangements and procedures applicable to the Works to ensure compliance by it and all employees, agents, Sub-*Contractors* or mandataries with the SHEQ Requirements while providing the Works in terms of this contract. As such, the *Contractor* confirms that this contract and the relevant Eskom Regulations referred to in this contract constitute written arrangements and procedures between the *Contractor* and the *Employer* regarding health and safety for the purposes of section 37(2) of the OHSA.
 - The *Contractor* agrees that the *Employer* is relieved of any and all of its responsibilities and liabilities in terms of Section 37(1) of OHSA in respect of any acts or omissions of the *Contractor*, and the

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

Contractor's employees, agents or Sub-Contractors, to the extent permitted by the OHSA.

- The *Contractor* hereby indemnifies the *Employer* and holds the *Employer* harmless in respect of any and all loss, costs, claims, demands, liabilities, damage, penalties or expense that may be made against the *Employer* and/or suffered or incurred by the *Employer* (as the case may be) as a result of, any failure of the *Contractor*, its employees, agents, Sub-Contractors and/or mandataries to comply with their obligations in terms of clause 16, and/or the failure of the *Employer* to procure the compliance by the *Contractor*, its employees, agents, SubContractors and/or mandataries with their responsibilities and/or obligations in terms of or arising from the OHSA.
- In carrying out his obligation as the mandatory to the *Employer* for this contract in terms of the National Environmental Management Act No.107 of 1998, the *Contractor* ensures that he complies with the Act when Providing the Services or using plant, materials or equipment.

Permit to Work System

- NO work shall be carried out without a "PERMIT TO WORK"
- The *Contractor's* Responsible Person must satisfy himself that all sources of possible danger are isolated. Details of the Permit to Work system can be found in the Plant Safety Regulations for Lethabo Power Station, Eskom OPR 3305.
- A Master Permit to Work is used on declared major outages, details can be found in local procedure LBA 00085. Permit changes are made during the dead time, if it is required by the *Contractor* that a

certain supply be made available or plant tested than this can be applied for at the Outage Management Meeting at least 1 day in advance.

- Plant with a prohibitive sign attached may only be operated by appointed Eskom personnel. Any *Contractor* employee found tampering with such plant will be permanently removed from Site.
- The *Contractor* shall send one or two employees to attend Authorised supervisor course which is compulsory. After completion of the course the *Contractor's* employee will write a test and go for a panel test to be found competent before they can work on the plant.

Safety Induction Course

- All the employees of the *Contractor* must attend a safety induction course before they will be allowed to work on the Site. It is the responsibility of the *Contractor* to ensure that all employees have attended the safety induction.
- A list of employees requiring safety induction must be submitted at least 2 days in advance of arrival on site with the date and time of arrival so that the safety induction can be arranged.

IBI Awareness Techniques

- "To prevent incidents and ensure continuous improvement of Lethabo Power Stations business performance in all areas affecting safety, reliability and production, it is expected of all **CONTRACTORS** service personnel, to attend a three(3) hour training session on Integrated Business Improvement Awareness, which has to be done as soon as work has commenced; This is to ensure familiarisation and use of error-prevention tools/techniques inclusive of, Pre and Post-job briefs, Risk Assessments, Self checks(STAR principle), Job observations, Effective communications e.g.3-way, Questioning attitude, Procedural adherence, Hand overs and other related topics.
- A monthly IBI scorecard to be completed indicating the use of error prevention tools/ techniques; The assigned employee fulfilling the role of IBI representative has to attend the IBI representative's forum fortnightly, on Tuesdays, duration one hour.

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

- An IBI representative appointed by the *Contractor/Supplier/Consultant* to attend the IBI Representative Forum One (1) hour every Tuesday (forth nightly).
- IBI Awareness training will be provided by Lethabo Power Station personnel, free of charge, course bookings can be arranged by contacting Rabie Heymans on extension 5094".

Transportation of passengers: open LDV's:

No *Eskom employee* or *Contractor* would be allowed to transport passengers on the back of open light delivery vehicles (LDV's).

It is a legal requirement to provide safe transportation of *Eskom* and *Contractor* employees – therefore the following will be enforced:

- All passengers must be transported in a closed vehicle with proper and adequate seating, fitted with safety belt for the number of passengers to be transported. NO passengers may be transported on the back of a light delivery vehicle (LDV) whether open or closed.
- Tools and equipment must be properly secured.
- Only authorised drivers may transport passengers.
- Proof must be submitted on request in terms of valid roadworthiness of the vehicle/s.
- The above must apply to on site and off site transportation of passengers.

Eskom Life Saving Rules:

Five Life Saving Rules have been developed that will apply to all Eskom employees, agents, consultants and *Contractors*.

- **Rule 1:** Open, Isolate, Test, Earth, Bond, And/Or Insulate before touch - that is any plant operating above 1 000 V.
- **Rule 2:** Hook up at heights - no person may work at height where there is a risk of falling.
- **Rule 3:** Buckle up – no person may drive any vehicle on Eskom business and/or on Eskom premises: unless the driver and all passengers are wearing seat belts.
- **Rule 4:** Be sober (no person is allowed to work under the influence of drugs and alcohol.
- **Rule 5:** Use a permit to work – where an authorization limitations exists, no person shall work without the required permit to work.

Key points

1. Comply with all relevant life-saving rules at all times
2. Comply with all relevant safe work procedures
3. Guard against complacency
4. Ensure proper work planning and communication between Eskom and Contractor before performing any activity

Always remember:

- **No operating condition or urgency of service can justify endangering a person's life or causing injury or damage to the environment.**

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

Employees/Contractors to follow correct processes when exercising their right of refusal to perform work in an unsafe situation.

Local Safety Procedures

- The *Contractor* adheres to all local procedures. A list of local procedures is available on request from the *Employer*.

Incidents / Accidents

- Incidents and accidents must be reported and investigated as detailed in LBA 00030. All incidents must also be reported to the *Employer* within 24 hours.
- First aid must be made available either by the *Contractor* or use can be made of the Lethabo medical centre at a fee. The availability of the *Contractor's* own first aid does not relieve the *Contractor* of his obligation to report and investigate the incident in accordance with Lethabo Procedure.

Fire Prevention

- Fire prevention and protection requirements to which *Contractors* must comply are detailed in LBA 00030.

Protective Equipment and Clothing

- The *Contractor* supplies his own personal protective equipment necessary to carry out the *works* and the *Contractor* shall ensure that all overalls for his staff have clearly identifying **company LOGO's**
- The *Contractor* is also responsible to inspect and maintain such equipment as required in terms of the OHS Act and local procedures.

Inspection of Equipment

- The *Contractor's* equipment is inspected by an authorised Eskom employee on arrival at the site.
- The following documentation is required to accompany the equipment where applicable: copies of all test certificates and maintenance records.
- Lifting equipment and electrical equipment must be marked with a unique number, code or colour code for identification. If the equipment is found to be in an unsatisfactory condition or if insufficient maintenance has been carried out on the equipment then it will not be approved for use on Site. A list of all lifting equipment and electrical equipment must be submitted to the *Employer* at least 2 days prior to the occupation date. This list must indicate the unique number and description of the equipment.
- Training of operators must comply with the Works Information and statutory requirements.

Documentation

The *Contractor* is responsible to have the following documentation available on site in accordance with LBA 00030:

- A copy of the OHS Act.

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

- Copies of all site accident report forms as required by the OHS Act.
- Copies of minutes of health and safety meetings held on site.
- Copies of inspection reports produced by the accident prevention officer.

Environmental Policy and Waste Handling

Lethabo Environmental Policy LBPS010 must be adhered to.

Disposal of Waste

Waste shall be removed promptly to the designated disposal area. No stockpiling will be permitted.

- Domestic waste to the white waste bins
- Production waste in the marked bins i.e. coal and ash only
- Paper and cans to their respective recycling bins
- Contact Civil Engineering for the disposal of building rubble
- Scrap metal, Wood & Rubber, Redundant Valves, Pipes, Equipment etc. to be placed in the marked bins in the new Salvage Yard. Solvents and cloths used to the Cleaning Bay.

Section 1: Specific Goals

A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender. The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places. Subject to section 2(1)(f) of the Preferential Procurement Policy Framework Act, the contract must be awarded to the tenderer scoring the highest points.

B-BBEE Status Level of Contributor	Number of points (80/20 system)
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

NB: The following documents are required to claim preference points,

- Valid B-BBEE certificate issued by a SANAS accredited verification agency / sworn affidavit / CIPS affidavit

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

- Proof of ownership / shareholding (preferably CIPC documentation) inclusive of shareholding breakdown
- Certified ID copies of shareholder(s)
- Proof of Disability (where applicable)
- In a case of a trust, consortium or joint venture (including incorporated consortia and joint ventures) a consolidated B-BBEE status level verification certificate.

Tenderer failing to provide documentation for the allocation of preference points will not be disqualified, but'

- May only score point out of 80 for price
- Scores 0 points out of 20 for specific goals

Section 2: Objective criteria

Not applicable.

Section 3: SDL&I Objectives in line with Reconstruction and Development Programme (RDP) Goals

Tenderers who complete and submit the objectives as required, but who do not meet Eskom's targets, will not be disqualified. SDL&I objectives do not form part of scoring but commitments will form part of contractual obligations

3.1. Transformation – BBBEE Improvement or Retention Plan

Transformation remains an area of focus, where Eskom continuously strives to align itself with national transformation imperatives to unlock growth, drive industrialization, create employment and contribute to skills development. Eskom encourages its suppliers to constantly strive to improve their B-BBEE rating. Whereas Tenderer/s will be allocated points in terms of a preference point system based on specific goals, Eskom also requests that tenderer/s submits their B-BBEE improvement or retention plan within 30 days of signing the contract. Tenderer/s are therefore requested to indicate the extent to which they will maintain (only if the respondent is a Level 1) or may improve/maintain their B-BBEE status over the contract period if their B-BBEE status is level 2 or 3. Tenderer/s with a B-BBEE status level 4 at the time of contract award, shall migrate and achieve as a non-negotiable a milestone of B-BBEE Level 3 by the end of the first year of the contract and thereafter improve their B-BBEE status level or migrate by one level higher.

Tenderer/s with a B-BBEE recognition status of Level 5 to Level 8 or non-compliant at the time of contract award, shall migrate and achieve as a non-negotiable a milestone of Level 4 by the end of the first year

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

of the contract and thereafter improve at least one B-BBEE Level higher of each year from the second year of the contract. Tenderer/s are requested to submit their B-BBEE Improvement Plan as an essential document within 30 days of signing the contract.

NB: A valid B-BBEE certificate or Sworn Affidavit is a condition for contract award, if your company's annual Total Revenue is R10 Million or less you qualify as an Exempted Micro Enterprise therefore you can submit Sworn Affidavit. If your annual Total Revenue is R50 Million or less, you qualify as Qualifying Small Enterprise and must comply with all of the elements of QSE score card relevant to your sector unless an entity is at least 51% Black owned you are required to obtain a Sworn affidavit. If your Annual Total Revenue is above R50m you need to submit a Valid B-BBEE certificate.

3.2 Local Procurement Content

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

Tenderers are required to submit their proposals in the table below.

Local Procurement Content	Eskom target	Tenderer Proposal
	100%	

Section 4: SDL&I Penalty and Performance Security

Eskom will apply a penalty of 2.5% of the invoice amount for failure to meet SDL&I obligations.

Eskom will apply a penalty of 2.5% of the Contract Value for failure to meet SDL&I obligations.

For the duration of the contract, Eskom will retain 2.5% of every invoice (excluding VAT) as security for the fulfilment of all SDL&I Obligations. The retained amounts shall only be released to the Contractor upon:

- Eskom receives the SDL&I progress report/s from the contractor.
- Fulfilment of all SDL&I obligations by the contractor.
- Submission of an approved compliance report by SDL&I Department.

Section 5: Reporting and Monitoring

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

- The suppliers shall on a quarterly basis submit a report to Eskom in accordance with Data Collection Template on their compliance with the SDL&I obligations described above.
- Eskom shall review the SDL&I reports submitted by the suppliers within 30 (thirty) days of receipt of the reports and notify the suppliers in writing if their SDL&I obligations have not been met.
- Upon notification by Eskom that the suppliers have not met their SDL&I obligations, the suppliers shall be required to implement corrective measures to meet those SDL&I obligations before the commencement of the following report, failing which Retention clauses shall be invoked.
- Every contract shall be accompanied by the SDL&I Implementation Schedule, which must be completed by the suppliers and returned to SDL&I representative for acceptance 28 days after contract award. This will be used as a reference document for monitoring, measuring and reporting on the supplier's progress in delivering on their stated SDL&I commitments

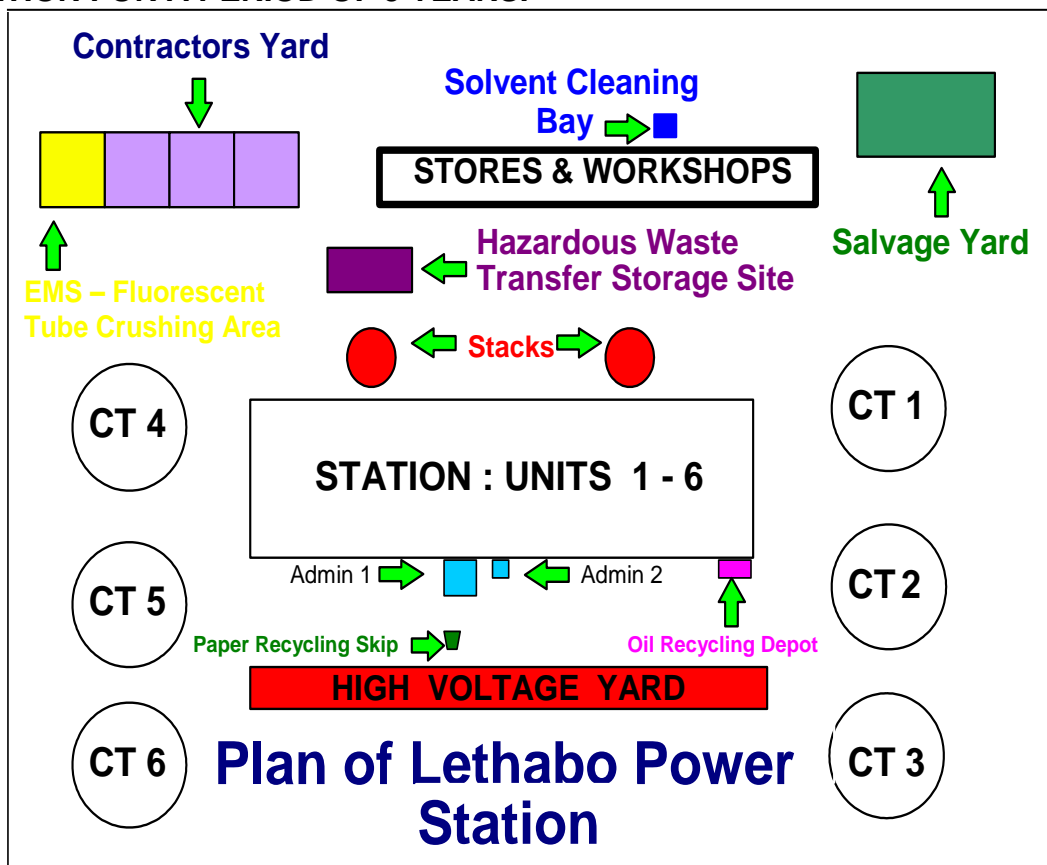
Section 6: General Information on Validity of Sworn Affidavits

The following must be considered when it comes to validity of Affidavits;

Tenderers submitting B-BBEE Sworn Affidavits must ensure that the affidavits meet the following key pointers to ensure their validity:

- Name/s of deponent as they appear in the identity document and the identity number.
- Designation of the deponent as the **director**, **owner** or **member** must be indicated in order to know that person is duly authorised to depose of an affidavit. **(Mark the applicable option)**.
- Name of enterprise as per enterprise registration documents issued by the CIPC, where applicable, and enterprise business address.
- Percentage of black ownership, black female ownership and designated group. In the case of specialised enterprises as per Statement 004, the percentage of black beneficiaries must be reflected. **(No blank spaces to be left)**.
- Indicate total revenue for the year under review and whether it is based on **audited financial statements** or **management account**. **(Mark the applicable option)**.
- Financial year end as per the **enterprise's registration documents**, which was used to determine the total revenue. **(Financial year end to be stipulated by day/month/year)**.
- B-BBEE Status level. An enterprise can only have one status level. **(Tick applicable level)**
- Empowering supplier status must be indicated. For QSEs, the deponent must select the basis for the empowering supplier status.
- Date deponent signed and date of Commissioner of Oath must be the same. **(The sworn affidavit must be signed in the presence of the Commissioner of Oath. Furthermore the Commissioner must also sign and stamp)**
- Commissioner of Oath cannot be an employee or ex officio of the enterprise because, a person cannot by law, commission a sworn affidavit in which they have an interest.

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.



10.0 Hazardous Waste Disposal and Handling

- Hazardous / toxic waste includes all waste which contains elements or compounds listed as hazardous substances in terms of the Hazardous Substances Act No. 15 of 1973.
- Any *Contractor* who produces hazardous waste on site will be responsible for the safe removal of such waste to a registered Class I site by a waste removal and disposal body.
- The *Contractor* is required to produce a certificate of safe disposal in accordance with LBA 00054.
- The *Contractor* must ensure that persons handling hazardous waste have undergone suitable training and are acquainted with cleaning methods in case of a spillage.
- The *Contractor* is also responsible for the safe removal of their hazardous waste to Lethabo's Hazardous Waste Store. Other requirements for hazardous waste are detailed in LBA 00030.
- In order to ensure effective hazardous waste management, a copy of the *Contractors'* hazardous waste inventory must be supplied to the *Employer* at least 2 days prior to the occupation date.

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.

Abbreviated list of Hazardous Materials

Acids and alkalis	Hydrocarbons	Pesticides & insecticides
Antimony and its compounds	Inorganic cyanides	Pharmaceuticals
Arsenic compounds	Inorganic compounds containing halogens	Phosphorus and its compounds
Asbestos	Inorganic compounds containing sulphur	Selenium and its compounds
Barium compounds	Laboratory chemicals	Silver compounds
Beryllium compounds	Lead compounds	Tarry & petroleum products
Biocides & phytopharmaceutics	Medical wastes	Tellurium and its compounds
Boron compounds	Mercury compounds	Thallium and its compounds
Cadmium and its compounds	Nickel and its compounds	Vanadium compounds
Chromium compounds	Organic halogen compounds	Zinc compounds
Copper compounds	Paints and paint sludges	Waste with flash point < 60°C
Heterocyclic organic compounds	Peroxides, chlorates	

Plant & Materials

- The *Employer* may at his own discretion, supply any Plant and Materials as may be required by the *Contractor* to Provide the Works.
- The *Contractor* is to notify the *Employer* in writing, 48 hrs in advance, of such Plant and Materials required.

Access to and Departure from the Site

- The Site is at Lethabo Power Station situated \pm 18 km South of Vereeniging on the Viljoensdrift - Deneysville Road, Free State. Access to the site will be via the main security gate only. The *Employer* informs the *Contractor* of the access procedures, and it should be expected that such procedures may change depending on the prevailing security situation.
- The *Contractor* allows in his price and program for delays at the security gate.
- The *Employer* reserves the right for its Security personnel to search persons or vehicles entering or leaving the premises. This includes, but is not limited to briefcases and toolboxes.

Temporary Gate Permits

- The *Contractor* provides the *Employer* with the personal details of their staff at least two days prior to the occupation date. All names and details to be submitted to the *Employer* who arranges for all gate permits.

MONTHLY PROFICIENCY TESTING FOR COAL SAMPLES FOR LETHABO POWER STATION FOR A PERIOD OF 5 YEARS.**Equipment or Material Access and Removal****Access**

- The *Contractor* ensures that all equipment and materials brought through the security gate is signed in at the main security gate on an OV18 form.

Removal

- The *Contractor* is not allowed to remove any equipment or materials from site without producing the relevant OV18 forms or the equipment lists.
 - If the equipment or material is to be removed the same day, on which they were brought on to site, then the OV18 form will need to be produced at the gate when leaving the site.
 - If the equipment or material is removed after this time then a Non Returnable Gate Release will be provided by the *Employer's Representative*, on receipt of the original OV18, with which the *Contractor* brought the equipment on site.

Site or Area Establishment and Evacuation**Application for Site Establishment:**

- The *Contractor* is entitled to apply for a site on the relevant form as detailed in LBA 00030. This application must be submitted with the tender documents.
- Sites are allocated according to availability, the period for which the *Contractor* is going to be on site, or if special circumstances warrant the allocation of a site. Documentation to support this application can be submitted
- The location of the site or area is indicated during the site or area take-over inspection.

Site Establishment:

- The *Contractor* does not occupy any site or area other than that allocated to him.
- The *Contractor* does not occupy the site or area prior to the take-over inspection.
- The *Contractor* maintains the site or area provided to him to the satisfaction of the *Employer*.
- The *Employer* subjects the *Contractor's* site or area to periodic inspection.

Site Evacuation:

- The *Contractor* advises the *Employer* in writing, five (5) days in advance of evacuation in accordance with LBA 00030. Immediately prior to evacuation the necessary take-over inspection must take place.