

THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.



## NEC3 Term Service Contract (TSC3)

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

and

for  
THE PROVISION OF SPARE PARTS AND SERVICES FOR  
GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN  
"AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION  
FOR A PERIOD OF 60 MONTHS.

Contents:	No of pages
Part C1 Agreements & Contract Data	26
Part C2 Pricing Data	04
Part C3 Scope of Work	01

Contract No.:  
Document Compiled by:


THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS ELECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

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## PART C1: AGREEMENTS & CONTRACT DATA

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Contents:	No of pages
C1.1 Form of Offer and Acceptance	2
C1.2a Contract Data provided by the <i>Employer</i>	29
C1.2b Contract Data provided by the <i>Contractor</i>	0

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THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

## C1.1 Form of Offer & Acceptance

### Offer

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

**THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.**

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

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

Options A	The offered total of the Prices exclusive of VAT is	
	Value Added Tax @ 15% is	
	The offered total of the amount due inclusive of VAT is <sup>1</sup>	

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 .....

Name .....

Capacity .....

Date .....

Address: .....

### For the tenderer:

#### Witness

Name .....

Signature .....

Date .....

<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*.

THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

## 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 .....

Name **Justice Bore** .....

Capacity **Camden Power Station Manager** .....

Date .....

Address: **ESKOM HOLDINGS SOC LTD., Camden Power Station, Private Bag X1002, NUCAM, 2355** .....

**For the purchaser:**

**Witness**

Name .....

Signature .....

Date .....

THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

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

No.	Subject	Details
1		
2		
3		

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 Purchaser**

Signature

Signature

Name

Name

**Justice Bore**

Capacity

Capacity

**Camden Power Station Manager**

Date

Date

On behalf of:

On behalf of:

**Eskom Holdings SOC Ltd, Camden Power Station**

Witness

Witness

Name

Name

Signature

Signature

Date

Date

THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

## C1.2 TSC3 Contract Data

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

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>	
10	<b>Actions</b>	The <i>Employer</i> , the <i>Contractor</i> and the <i>Service Manager</i> shall act as stated in this contract and in a spirit of mutual trust and co-operation.
	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>X17: Low service damages</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>2</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>017 827 8000</b>
	Email	<b>Molotstm@eskom.co.za</b>
10.1	The <i>Service Manager</i> is (name):	<b>Banele Mthethwa</b>

<sup>2</sup> Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 539 1902 [www.ecs.co.za](http://www.ecs.co.za)

THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

Address	<b>Camden Power Station Nucam Ermelo 2351</b>
Tel	<b>017 827 8594</b>
Email	<b>MthethBG@eskom.co.za</b>

## 11 Identified and defined terms

11.2(2)	The Affected Property is	<b>Camden Power Station</b>
11.2(7)	Tools and Equipment	Equipment is items provided by the <i>Contractor</i> and used by him to Provide the Service and which the Service Information does not require him to include in the Affected Property <ul style="list-style-type: none"> <li>• All items and equipment required to execute site services, and off-site at workshop as per scope of work</li> <li>• All hand tools for on-site H2 dryer maintenance (Electrical &amp; Mechanical toolboxes, Test instruments, measuring &amp; monitoring devices etc.)</li> <li>• Electrical power tools (handheld)</li> <li>• Slings and lifting equipment, chain blocks</li> <li>• Air and water pressure hoses and clamps</li> </ul>
11.2(13)	The <i>service</i> is	The provision of spare parts and services for generators lectrodryer bac-50 hydrogen dryers on an "as and when required basis" at camden power station for a period of 60 months.
11.2(14)	The following matters will be included in the Risk Register	<ul style="list-style-type: none"> <li>• Premature closure of Camden Power Station before contract end date.</li> <li>• Failure to successfully execute the full services.</li> </ul>
11.2(15)	The Service Information is in	Part 3: Scope of Work and all documents and drawings to which it refers.

## 12 Interpretation and the law

12.2	This contract is governed by the <i>law of the contract</i> .	The <i>law of the contract</i> is the law of the Republic of South Africa
12.3		No change to this contract, unless provided for by the <i>conditions of contract</i> , has effect unless it has been agreed, confirmed in writing and signed by the Parties. <ul style="list-style-type: none"> <li>• Addendum required for changes and approved by relevant Authority or presiding committee</li> </ul>
12.4		This contract is the entire agreement between the

THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

Parties.

### 13 Communications

13.1 The *language of this contract* is English.  
Each instruction, certificate, submission, proposal, record, acceptance, notification, reply and other communication which this contract requires is communicated in a form which can be read, copied and recorded. Writing is in the *language of this contract*.

13.3 The *period for reply* is

- Normal H2 dryer repairs: 5 days including weekends
- Emergency repairs: 24hrs reply
- Normal correspondence: 1 week

### 14 The Service Manager

14.3 The *Service Manager* may give an instruction to the *Contractor* which changes the Service Information

- Catastrophic breakdowns
- Multiple breakdowns
- Acts of nature

### 15 Employer provides right of access and things

15.1 The *Employer* provides the right of access for the *Contractor* to Affected Property as necessary for the work in this contract subject to any constraints stated in the Service Information.

- Police clearances
- Induction
- Medicals
- Access permits
- Vehicle approvals

15.2 The *Employer* provides things which he is to provide as stated in the Service Information.

- Water
- Electricity
- Sanitation
- Canteen facility- Contractor's own cost

### 16 Early warning

16.1 The *Contractor* and the *Service Manager* give an early warning by notifying the other as soon as either becomes aware of any matter which could

- increase the total of the Prices,
- interfere with the timing of the service or
- impair the effectiveness of the service.

The *Contractor* may give an early warning by notifying the *Service Manager* of any other matter which could increase his total cost

- Strip and Quote
- Uneconomical repairs
- Obsolete conditions
- Unrest
- Loadshedding delays at Workshop
- Vendor management non-conformances
- Liquidation
- CIDB
- SARS good standing
- Directorship changes, ect.

16.3 Either the *Service Manager* or the At a risk reduction meeting, those who attend co-



THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

*Contractor* may instruct the other to attend a risk reduction meeting

- operate in
- making and considering proposals for how the effect of the registered risks can be avoided or reduced,
  - seeking solutions that will bring advantage to all those who will be affected,
  - deciding on the actions which will be taken and who, in accordance with this contract, will take them
  - deciding which risks have now been avoided.

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**17 Ambiguities and inconsistencies**

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| 17.1 | The <i>Service Manager</i> or the <i>Contractor</i> notifies the other as soon as either becomes aware of an ambiguity or inconsistency in or between the documents which are part of this contract. The <i>Service Manager</i> gives an instruction resolving the ambiguity or inconsistency. | <ul style="list-style-type: none"> <li>• Quotations for similar work</li> <li>• Quoted outside the contract schedule</li> <li>• Designs and specifications</li> <li>• Non-compliance with repair and refurbishment documented instructions and engineering approvals</li> </ul> |
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**18 Illegal and impossible requirements**

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| 18.1 | The <i>Contractor</i> notifies the <i>Service Manager</i> as soon as he considers that the Service Information requires him to do anything which is illegal or impossible | <ul style="list-style-type: none"> <li>• Executing works not defined in the approved works information</li> </ul> |
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**2 The Contractor's main responsibilities**

**Data required by this section of the core clauses is also provided by the Contractor in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data**

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|------|-----------------------|---|
| 20.1 | Providing the Service | The Contractor Provides the Service in accordance with the Service Information. |
|------|-----------------------|---|
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|------|--|--|
| 21.1 | The <i>Contractor</i> submits a first plan for acceptance within | <ul style="list-style-type: none"> <li>• 2 weeks of the Contract Date and/or immediately for:</li> <li>• Planned work, breakdowns, and opportunity works</li> <li>• Includes repair plans at the workshop</li> <li>• Factory acceptance plans (FAT)</li> <li>• Site service plans for breakdowns</li> <li>• For prolonged outages (GO)</li> <li>• Standby schedules for Site teams</li> </ul>  |
| 21.2 | A Plan or programme shall include:                               | <ul style="list-style-type: none"> <li>• the starting date and the end of the service period,</li> <li>• the order and timing of the work of the Employer and Others as last agreed with them by the Contractor or, if not so agreed, as stated in the Service Information,</li> <li>• Provisions for:               <ul style="list-style-type: none"> <li>- time risk allowances,</li> <li>- health and safety requirements and</li> <li>- the procedures set out in this contract,</li> </ul> </li> </ul> |
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THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

		<ul style="list-style-type: none"> <li>- the dates when, to Provide the Service in accordance with his plan, the <i>Contractor</i> will need</li> <li>- access to the Affected Property as stated in the Service Information,</li> <li>- acceptances,</li> <li>- Plant and Materials, equipment and other things to be provided by the <i>Employer</i> and</li> <li>- information from Others,</li> <li>- for each operation, a statement of how the <i>Contractor</i> plans to do the work identifying the principal Equipment and other resources which he plans to use and</li> <li>- other information which the Service Information requires the <i>Contractor</i> to show on a plan submitted for acceptance</li> </ul>
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## 23 Design of Equipment

23.1		<p>The Contractor submits particulars of the design of an item of Equipment to the Service Manager for acceptance</p> <ul style="list-style-type: none"> <li>• all designs or modifications will be approved through the Employers' engineering department</li> </ul>
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## 24 People

24.1	Key people qualifications	<p>The Contractor either employs each key person named to do the job stated in the Contract Data or employs a replacement person who has been accepted by the Service Manager. The Contractor submits the name, relevant qualifications and experience of a proposed replacement person to the Service Manager for acceptance. A reason for not accepting the person is that his relevant qualifications and experience are not as good as those of the person who is to be replaced.</p>
24.2	Removal of an employee	<p>The Service Manager may, having stated his reasons, instruct the Contractor to remove an employee. The Contractor then arranges that, after one day, the employee has no further connection with the work included in this contract.</p> <ul style="list-style-type: none"> <li>• Removal may include:</li> <li>• Not executing the duties as per the Service information diligently</li> <li>• Not reporting unsafe conditions</li> <li>• Be under the influence of a substance such as alcohol or drugs</li> <li>• Provoke violence</li> <li>• AWOL</li> <li>• Theft</li> <li>• Misconduct as per the Conditions of Service of the Supplier and Employer</li> <li>• Non-adherence to Employers Cardinal</li> </ul>

THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

lifesaving rules on Site.

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**25 Working with the *Employer* and Others**

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|------|---|
| 25.1 | <p>The <i>Contractor</i> co-operates with Others in obtaining and providing information which they need in connection with the <i>service</i>. He co-operates with Others and shares the Affected Property with them as stated in the Service Information.</p> <ul style="list-style-type: none"> <li>• Employers' working timeframes for deliveries and collections</li> <li>• Maintenance and testing Plant during emergency repair, opportunity repair, or prolonged outages. (PTW, access)</li> <li>• Cleaning dust from H2 dryer plants repairs</li> </ul> |
| 25.2 | <p>The Employer and the Contractor provide facilities and other things as stated in the Service Information. Any cost incurred by the Employer because of the Contractor not providing the facilities and other things he is to provide is assessed by the Service Manager and paid by the Contractor.</p> <ul style="list-style-type: none"> <li>• Lack of equipment and tools for On-Site services</li> <li>• Transportation of equipment</li> <li>• Failure to conduct testing at workshops</li> </ul>   |
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**26 Subcontracting**

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|------|---|
| 26.1 | <p>If the Contractor subcontracts work, he is responsible for Providing the Service as if he had not subcontracted. This contract applies as if a Subcontractor's employees and equipment were the Contractor's</p>   |
| 26.2 | <p>The Contractor submits the name of each proposed Subcontractor to the Service Manager for acceptance. A reason for not accepting the Subcontractor is that his appointment will not allow the Contractor to Provide the Service.</p> <ul style="list-style-type: none"> <li>• Names of possible subcontractors will be supplied with Tender Returnable as per conditions of Supplier Development and Localisation. (SD&amp;L)</li> <li>• The Contractor will inform which services will be outsourced or subcontracted.</li> </ul> |
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**27 Other Responsibilities**

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|------|---|
| 27.1 | <p>The Contractor obtains approval from Others where necessary.</p> |
|------|---|

THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

		<ul style="list-style-type: none"> <li>• Engineering</li> <li>• Operating</li> <li>• Stores</li> <li>• Service manager</li> <li>• SHEQ and Environment</li> </ul> <p>For all requirements related to On-Site Services</p>
27.2		<p>The Contractor provides access to work being done.</p> <ul style="list-style-type: none"> <li>• FAT</li> <li>• Strip and assessments</li> <li>• Repairs</li> <li>• Assemblies</li> <li>• Test running</li> </ul>
27.3		<p>The Contractor obeys an instruction which is in accordance with this contract and is given to him by the Service Manager.</p> <ul style="list-style-type: none"> <li>• Audits</li> <li>• Meetings</li> <li>• Reworks</li> <li>• HSEQ compliances</li> <li>• As per Scope of Works for Technical requirements.</li> </ul>
27.4		<p>The Contractor acts in accordance with the health and safety requirements stated in the Service Information</p> <ul style="list-style-type: none"> <li>• Compliance to all the Site Regulations stipulated in the Works Information</li> <li>• Compliance to OHSACT 85 of 1993, and Regulations</li> <li>• ISO 9000 Standards</li> </ul>
<b>3</b>	<b>Time</b>	
30.1	The <i>starting date</i> is.	<b>01 October 2025</b>
30.1	The <i>service period</i> is	<b>60 Months</b>
32	Instructions to stop or not to start work	<ul style="list-style-type: none"> <li>• Assessing Quotations</li> <li>• Uneconomical repairs</li> <li>• Unavailability of Plant for Maintenance</li> <li>• Unsafe conditions</li> <li>• Non-compliance to Health and Safety Standards</li> <li>• Executing work without approved instructions and procedures</li> </ul>
<b>4</b>	<b>Testing and defects</b>	
4.3	Tests and inspections	<p>The Contractor and the Service Manager each notifies the other of each of his tests and inspections before it starts and afterwards notifies</p>

THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

the other of its results. The Contractor notifies the Service Manager in time for a test or inspection to be arranged and done before doing work which would obstruct the test or inspection. The Service Manager may watch any test done by the Contractor.

- FAT
- Testing of Plant and Equipment

40.4

If a test or inspection shows that any work has a Defect, the Contractor repeats the work if possible and the test or inspection is repeated.

40.5

The Service Manager does his tests and inspections without causing unnecessary delay to the work.

#### **41 Testing and inspection before delivery**

41.1

The Contractor does not deliver those Plant and Materials which the Service Information states are to be tested or inspected before delivery until the Service Manager has notified the Contractor that they have passed the test or inspection.

- FAT

#### **42 Notifying and correcting Defects**

42.1

Until the end of the service period, the Service Manager notifies the Contractor of each Defect as soon as he finds it and the Contractor notifies the Service Manager of each Defect as soon as he finds it. The Contractor corrects a Defect whether the Service Manager notifies him of it.

- Warranties
- Guarantees
- Defect repairs within above periods is for the cost of the Contractor.

42.2

The Contractor corrects notified Defects within a time which minimises the adverse effect on the Employer or Others

- See Turnaround timeframes for repairs in the Works information

#### **5 Payment**

50.1 The *assessment interval* is

The Service Manager assesses the amount due at each assessment date.

- between the 25<sup>th</sup> day of each successive month.

50.2 Assessing amounts due

The amount due is

- the Price for Services Provided to Date,

50.4

The Service Manager gives the Contractor details of how the amount due has been assessed.

THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

		<ul style="list-style-type: none"> <li>• Service manager issue Assessment Certificate</li> <li>• Acceptance by both parties</li> <li>• Service manager Issue a Service entry number with the assessment certificate</li> <li>• Contractor submits Invoices with assessment certificate for payment, with all details required on the invoices as per the works information.</li> </ul>
51.1	The currency of this contract is the:	South African Rand
51.2	The period within which payments are made is	4 weeks.
51.4	The <i>interest rate</i> is	<p>the publicly quoted prime rate of interest (calculated on a 365-day year) charged by from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands and</p> <p>(ii) the LIBOR rate applicable at the time for amounts due in other currencies. LIBOR is the 6 month London Interbank Offered Rate quoted under the caption "Money Rates" in The Wall Street Journal for the applicable currency or if no rate is quoted for the currency in question then the rate for United States Dollars, and if no such rate appears in The Wall Street Journal then the rate as quoted by the Reuters Monitor Money Rates Service (or such service as may replace the Reuters Monitor Money Rates Service) on the due date for the payment in question, adjusted <i>mutatis mutandis</i> every 6 months thereafter (and as certified, in the event of any dispute, by any manager employed in the foreign exchange department of The Standard Bank of South Africa Limited, whose appointment it shall not be necessary to prove.</p>
<b>52</b>	<b>Defined Cost</b>	
52.1		All the Contractor's costs which are not included in the Defined Cost are treated as included in the Fee. Amounts included in Defined Cost are at open market or competitively tendered prices with deductions for all discounts, rebates and taxes which can be recovered.
<b>6</b>	<b>Compensation events</b>	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data

THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

## 7 Use of Equipment Plant and Materials

70.1	The Contractor has the right to use equipment, Plant and Materials provided by the Employer only to provide the service
70.2	At the end of the service period the Contractor <ul style="list-style-type: none"> <li>• returns to the Employer, equipment and surplus Plant and Materials provided by the Employer,</li> <li>• provides items of Equipment for the Employer's use as stated in the Service Information</li> <li>• and provides information and other things as stated in the Service Information</li> </ul>

## 8 Risks and insurance

80.1	These are additional <i>Employer's</i> risks	The unavoidable result of the <i>service</i> or Providing the Service. <ul style="list-style-type: none"> <li>• Transportation of Plant and Equipment subcontracted by the Contractor</li> <li>• Community unrests</li> <li>• Liquidation of the Contractor</li> <li>• Loss of or wear or damage to any Equipment, Plant and Materials of the <i>Employer</i> due to the Employers' operations</li> <li>• Limitations for maintenance purposes due to the Employers' operations</li> </ul>
81	<b>The Contractor's risks</b>	
81.1		The risks which are not carried by the <i>Employer</i> are carried by the <i>Contractor</i> . <ul style="list-style-type: none"> <li>• Mismanagement of his/her subcontractors</li> <li>• Transportation of goods and equipment under his/her control</li> </ul>
83	<b>Insurance cover</b>	
83.1	Contractor provides these insurances from the insurance Table	Loss of or damage caused by the Contractor to the Employer's Equipment or materials in his/her possession
83.1	The <i>Employer</i> provides these insurances from the Insurance Table	<b>as stated for "Format TSC3" available on <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> (See Annexure A for basic guidance).</b>
83.1	The <i>Employer</i> provides these additional insurances	<b>as stated for "Format TSC3" available on <a href="http://www.eskom.co.za/Tenders/InsurancePolicies">http://www.eskom.co.za/Tenders/InsurancePolicies</a></b>

THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

		<i>Procedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx</i> (See Annexure A for basic guidance)
83.1	The <i>Contractor</i> provides these additional insurances:	<ul style="list-style-type: none"> <li>• Insurances against damage or loss of equipment, and materials under his control</li> <li>• Loss of or damage caused by the <i>Contractor</i> to the <i>Employer's</i> property</li> <li>• The <i>Contractor's</i> liability for loss of or damage to property (except the <i>Employer's</i> property, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Contractor</i>) arising from or in connection with the <i>Contractor's</i> Providing the Service</li> <li>• Liability for death of or bodily injury to employees of the <i>Contractor</i> arising out of and in the course of their employment in connection with this contract</li> </ul>
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	<b>the amount of the deductibles relevant to the event described in the "Format TSC3" insurance policy available on <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></b>
83.1	The insurance against loss of or damage to the <i>works</i> , Plant and Materials is to include cover for Plant and Materials provided by the <i>Employer</i> for an amount of	<b>R5 Million ZAR</b>
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:	<b>whatever the <i>Contractor</i> deems necessary in addition to that provided by the <i>Employer</i>.</b> <ul style="list-style-type: none"> <li>• R 5 million ZAR minimum</li> </ul>
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:	<b>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)..</b>
<b>9</b>	<b>Termination</b>	<b>There is no Contract Data required for this section of the conditions of contract. The Terms and Conditions of NEC3 TSC will apply.</b>
90.2		The <i>Contractor</i> may terminate only for a reason identified in the Termination Table. The <i>Employer</i> may terminate for any reason. The procedures



THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

followed and the amounts due on termination are in accordance with the Termination Table.

10	Data for main Option clause	
A	Priced contract with price list	
11	Identified and defined terms	
11.2		<p>17) The Price for Services Provided to Date is the total of:</p> <ul style="list-style-type: none"><li>• the Price for each lump sum item in the Price List which the Contractor 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 Contractor has completed by the rate.</li></ul> <p>(19) The Prices are the amounts stated in the Price column of the Price List. Where a quantity is stated for an item in the Price List, the Price is calculated by multiplying the quantity by the rate.</p>
20	Providing the Service	
20.5		The Contractor prepares forecasts of the final total of the Prices for the whole of the service in consultation with the Service Manager and submits them to the Service Manager. Forecasts are prepared at the intervals stated in the Contract Data from the starting date until the end of the service period. An explanation of the changes made since the previous forecast is submitted with each forecast.
20.5	The Contractor prepares forecasts of the final total of the Prices for the whole of the service at intervals no longer than	4 weeks.
11	Dispute Resolution	
	Data for Option W1	
W1.1		Any dispute arising under or in connection with this contract is referred to and decided by the <i>Adjudicator</i> .
W1.2		If the <i>Adjudicator</i> is not identified in the Contract Data or if the <i>Adjudicator</i> resigns or is unable to act, the Parties choose a new adjudicator jointly. If the Parties have not chosen an adjudicator, either Party may ask the <i>Adjudicator nominating body</i> to choose one.
W1.3	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

THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

	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	Will be provided when the disputes arises

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	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	<p>The base date for indices is</p> <p>The proportions used to calculate the Price Adjustment Factor are:</p>	<table><tr><td>Proportions</td><td>Base Date</td></tr><tr><td>40%</td><td>SEIFSA Table Labour C3</td></tr><tr><td>45%</td><td>SEIFSA Table U (A1) Final Manufactured Goods</td></tr><tr><td>15%</td><td>Fixed</td></tr><tr><td>100%</td><td></td></tr></table>	Proportions	Base Date	40%	SEIFSA Table Labour C3	45%	SEIFSA Table U (A1) Final Manufactured Goods	15%	Fixed	100%	
Proportions	Base Date											
40%	SEIFSA Table Labour C3											
45%	SEIFSA Table U (A1) Final Manufactured Goods											
15%	Fixed											
100%												
X2	Changes in the law	There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data. If there is a change in the Law: Refer to NEC3 TSC										
X17	Low service damages											
X17.1		If a part of the <i>service</i> does not meet the service level stated in the <i>service level table</i> , the										

THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

		<p><i>Contractor</i> pays the amount of low service damages stated in the <i>service level table</i>.</p> <ul style="list-style-type: none"> <li>The penalty of 10% of the task order will be deducted should the contractor fails to action the task as required by the employer</li> </ul>
X17.1	The <i>service level table</i> is in	<ul style="list-style-type: none"> <li>The Scope of Works, attached to the NEC Contract.</li> <li>The provision of spare parts and services for generators lectrodryer bac-50 hydrogen dryers on an "as and when required basis" at Camden Power Station for a period of 60 months, Doc No: <b>240-167280417 Rev 02</b>.</li> </ul>
<b>X18</b>	<b>Limitation of liability</b>	
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><b>the amount of the deductibles relevant to the event described in the "Format TSC3" insurance policy available on <a href="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</a></b></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</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 <a href="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</a></li> </ul>
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> </ul>

THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

X18.5	The <i>end of liability date</i> is	<ul style="list-style-type: none"> <li>• death of or injury to a person and</li> <li>• infringement of an intellectual property right.</li> </ul> <p>4 weeks after the end of the <i>service period</i>.</p>
<b>X19</b>	<b>Task Order</b>	
19.1	Identified and defined terms	<p>(1) A Task is work within the <i>service</i> which the <i>Service Manager</i> may instruct the <i>Contractor</i> to carry out within a stated period of time.</p> <p>(2) A Task Order is the <i>Service Manager's</i> instruction to carry out a Task.</p> <p>(3) Task Completion is when the <i>Contractor</i> has done all the work in the Task and corrected Defects which would have prevented the <i>Employer</i> or Others from using the Affected Property and Others from doing their work.</p> <p>(4) Task Completion Date is the date for completion stated in the Task Order unless later changed in accordance with this contract.</p>
19.2	Providing the Service	<p>A Task Order includes</p> <ul style="list-style-type: none"> <li>• a detailed description of the work in the Task,</li> <li>• a priced list of items of work in the Task in which items taken from the Price List are identified,</li> <li>• the starting and completion dates for the Task,</li> <li>• the amount of delay damages for the late completion of the Task and</li> <li>• the total of the Prices for the Task when Option A or C is used or the forecast total of the Prices for the Task if Option E is used.</li> </ul> <p>The <i>Service Manager</i> consults the <i>Contractor</i> about the contents of a Task Order before he issues it.</p> <p>When a Task Order is issued the priced list of items for the Task is inserted in the Price List</p>
X19.5	The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within	2 days of receiving the Task Order
<b>Z</b>	<b>Additional conditions of contract</b>	
Z	The additional conditions of contract are	Z1 to Z11 always apply.
<b>Z1</b>	<b>Cession delegation and assignment</b>	
Z1.1	The <i>Contractor</i> does not cede, delegate or assign any of its rights or obligations to any person without the written consent of the <i>Employer</i> .	
Z1.2	Notwithstanding the above, the <i>Employer</i> may on written notice to the <i>Contractor</i> 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.	

THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

## **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 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 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**

THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

- 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*:
- 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.
- 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.

THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

**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**

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- Z9.1 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.

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**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 in core clause 63 and X19.11 if Option X19 Task Order applies to this contract.

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

**Z11 or had a business rescue order granted against it.**

**Z11.1 Additional Z clause**

- The employer have a right to terminate the contract without penalties by giving at least 30 days written notice to the Contractor where the following situations prevail:
- In instances where the approved contract price funds have been depleted.
- In instances where Eskom's business strategy changes and the continuation of the contract is no longer economically viable for Eskom business.

**Annexure A: Insurance provided by the Employer**

THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

*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.
  - 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.
2. 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.
3. 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.
4. 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.
5. 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)

#### SDL&I Requirements:

#### Objective criteria

The inclusion of objective criteria is not mandatory but a condition for contract award. If the tenderer does not meet objective criteria; it may lead to the second-ranked tenderer being recommended for award.

#### Designated Sectors

When applicable the following stipulated minimum threshold for Local Production and Content must be achieved in full by the tenderer

a) Is this Commodity or part of it a Designated Sector?

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

Please indicate below Designated Components



THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

Commodity	Components	Local Content Threshold
Valves	Pneumatic Actuators - double acting (Rotary type 90-degree turn)	70%
Fasteners	Bolts, nuts, rivets and nails	100%
Joining and connecting components	Gussets, cleats, stiffeners, splicers, cranks, kinks, doglegs, spacers, tabs, brackets	100%
Cables	Low voltage	90%

Note: compliance commodities to electrical installation in explosives atmospheres

The tenderer must complete, sign and submit the following **mandatory** returnable for designated products:

- Annexure C (Local Content Declaration - Summary Schedule).
- Annexure D (Imported Content Declaration - Supporting Schedule to Annex C).
- Annexure E (Local Content Declaration - Supporting Schedule to Annex C).
- SBD6.2 (Certificate for declaring local content and production).

**NB: A tender needs to submit minimum stipulated threshold for local production.**

### CIDB Skills development

#### Continuation of Mandatory Requirements

##### a) Is there CIDB compulsory training?

If Yes, what is the % of the Construction Skills Development Goal % (CSDG)

YES	NO
	X

If the answer above is Yes, it will then be mandatory for the supplier to match Eskom's targets

Criteria	Eskom Target	Tenderer Commitment
CSDG Percentage	N/A	
Description	5ME/EP	

**NOTE:** Failure by the Contractor/Service Provider/Supplier to meet the CIDB CSDG mandatory % will render their tender non-responsive.0

### 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

**Note: The objectives shall be sourced from previously disadvantaged Communities around Gert Sibande District Municipality**

#### 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

THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS ELECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

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 submit 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 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.

	<b>Eskom target</b>	<b>Tenderer Proposal</b>
<b>Local Procurement Content</b>	100%	

### 3.3. **Procurement spend on entities with a minimum 51% black ownership**

The tenderer will subcontract some of the SOW to the designated suppliers i.e. EME / QSE with at least 51% BO. The designated suppliers should not be part of their subsidiaries or having shares in that company, preferable they should be selected from local to site and shall be as follows:

Procurement from Designated Group	Eskom Target	Tenderer Proposal
Black Owned	5%	

The following are tender returnable.

- Proof of a sub-contract agreement/s OR
- Letter of intent to subcontract.

Potential scope to be subcontracted and/or outsourced:

THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

- **PPE supplies.**

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

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

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

### SDL&I Penalty and Performance Security

For the duration of the contract, Eskom will retain 1% 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.

### Reporting and Monitoring

- 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

## C1.2 Contract Data

### Part two - Data provided by the *Contractor*

THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

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	N/A____%
	The <i>subcontracted fee percentage</i> is	
11.2(14)	The following matters will be included in the Risk Register	N/A
11.2(15)	The Service Information for the <i>Contractor's</i> plan is in:	To be submitted within in 4 weeks of the signing of the contract
21.1	The plan identified in the Contract Data is contained in:	N/A
24.1	The key people are:	
	1 Name:	
	Job:	
	Responsibilities:	
	Qualifications:	
	Experience:	
	2 Name:	
	Job	
	Responsibilities:	
	Qualifications:	
	Experience:	

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

<b>A</b>	<b>Priced contract with price list</b>
11.2(12)	The <i>price list</i> is in

THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS ELECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

11.2(19)	The tendered total of the Prices is
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## PART 2: PRICING DATA

### TSC3 Option A

THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS ELECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

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

THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS ELECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

## C2.1 Pricing assumptions: Option A

### 5.1 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.

### 5.2 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.

### 5.3 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).

### 5.4 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.

THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS LECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS" AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

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.

### 5.5 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.



THE PROVISION OF SPARE PARTS AND SERVICES FOR GENERATORS ELECTRODRYER BAC-50 HYDROGEN DRYERS ON AN "AS AND WHEN REQUIRED BASIS"  
AT CAMDEN POWER STATION FOR A PERIOD OF 60 MONTHS.

## C2.2 the *price list*

### **SPARES/Works**

**Please see attached BOQ**

### **Manpower/SITE**

**Please see attached BOQ**

**PART 3: SCOPE OF WORK**

<b>Document reference</b>	<b>Title:</b> Provision of spare parts and services for Camden Power Station generators Lectrodryer BAC-50 Hydrogen Dryers on an “as and when required basis” for a period of 60 months.  <b>Doc No:</b> 240-167280417 Rev.02	<b>No of pages</b>  31
C3.1	This cover page	
C3.2	<i>Employer's Service Information</i> <i>Contractor's Service Information</i>	
	Total number of pages	31