



**NEC3 Term Service Contract (TSC3)**

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

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

**for Hire and Maintain Portable toilets at Duvha Power Station,  
during planned and unplanned Outages**

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

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# Hire and Maintain Portable toilets at Duvha Power Station, during planned and unplanned Outages

## PART C1: AGREEMENTS & CONTRACT DATA

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# Hire and Maintain Portable toilets at Duvha Power Station, during planned and unplanned Outages

## 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:

#### Title of the Contract:

### Hire and Maintain Portable toilets at Duvha Power Station during planned and unplanned Outages

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

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

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

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

Signature(s)

Name(s)

Capacity

**For the tenderer:**

(Insert name and address of  
Name & organisation)

signature of  
witness

Date

Tenderer's CIDB registration number:

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

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## Acceptance

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

The terms of the contract, are contained in:

Part C1                      Agreements and Contract Data, (which includes this Form of Offer and Acceptance)

Part C2                      Pricing Data

Part C3                      Scope of Work: Service Information

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

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

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

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

Signature(s)

Name(s)

Capacity

**for the Employer**

Name & *(Insert name and address of organisation)*

signature of witness

Date

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

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### 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		

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

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

#### For the tenderer:

#### For the Employer

Signature

Name

Capacity

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

*(Insert name and address of organisation)*

Name & signature of witness

Date

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## C1.2 TSC3 Contract Data

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

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

1. Please read the relevant clauses in the conditions of contract before you enter data. The number of the clause which requires the data is shown in the left hand column for each statement however other clauses may also use the same data.
2. Some TSC3 options are always selected by Eskom Holdings SOC Ltd. The remaining TSC3 options are identified by shading in the left hand column. In the event that the option is not required select and delete the whole row. Where the following symbol is used “[●]” - data is required to be inserted relevant to the specific option selected.]

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

Clause	Statement	Data
1	<b>General</b>	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:	<b>A: Priced contract with price list</b>
		<b>W1: Dispute resolution procedure</b>
	dispute resolution Option	<b>X1: Price adjustment for inflation</b>
	and secondary Options	<b>X2: Changes in the law</b>
		<b>X17: Low service damages(2% of Task Order Value)</b>
		<b>X18: Limitation of liability</b>
	of the NEC3 Term Service Contract April 2013 <sup>2</sup> (TSC3)	<b>Z: Additional conditions of contract</b>
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.	013 690 0243
	Fax No.	

<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)

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10.1	The <i>Service Manager</i> is (name):	<b>George Klopper</b>
	Address	<b>Duvha Power Station Private Bag x2199 1035</b>
	Tel	<b>+27 013 690 0243</b>
	Fax	<b>+27 013 690 0313</b>
	e-mail	<b>george.klopper@eskom.co.za</b>
11.2(2)	The Affected Property is	<b>Duvha Power Station. Boiler Pressure Parts</b>
11.2(13)	The <i>service</i> is	<b>Hire and Maintain Portable toilets at Duvha Power Station, during planned and unplanned Outages</b>
11.2(14)	The following matters will be included in the Risk Register	<b>None.</b>
11.2(15)	The Service Information is in	<b>Part 3: Scope of Work.</b>
12.2	The <i>law of the contract</i> is the law of	<b>the Republic of South Africa</b>
13.1	The <i>language of this contract</i> is	<b>English</b>
13.3	The <i>period for reply</i> is	<b>One week</b>
2	<b>The Contractor's main responsibilities</b>	<b>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</b>
3	<b>Time</b>	
30.1	The <i>starting date</i> is.	<b>01 June 2021 or as soon as possible</b>
30.1	The <i>service period</i> is	<b>4 (Four) years.</b> <b>Completion : 31 May 2025</b>
4	<b>Testing and defects</b>	<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</b>
5	<b>Payment</b>	
50.1	The <i>assessment interval</i> is	<b>Monthly or directly after each completed outage, depending on Outage Duration.</b>
51.1	The <i>currency of this contract</i> is the	<b>South African Rand</b>
51.2	The period within which payments are made is	<b>2 weeks for BWO/SBE and 4 weeks for LBS</b>
51.4	The <i>interest rate</i> is	<b>the publicly quoted prime rate of interest</b>

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(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

(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 *mutatis mutandis* every 6 months thereafter (and as certified, in the event of any dispute, by any manager employed in the foreign exchange department of The Standard Bank of South Africa Limited, whose appointment it shall not be necessary to prove.

6	<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
7	<b>Use of Equipment Plant and Materials</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
8	<b>Risks and insurance</b>	
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/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> (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/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> (See Annexure A for basic guidance)</b>
83.1	The minimum amount of cover for insurance against loss and damage caused by the <i>Contractor</i> to the	<b>the amount of the deductibles relevant to the event described in the “Format TSC3” insurance policy available on</b>



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	<i>Employer's property is</i>	<i><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></i>
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>
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 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.</b>
<b>10</b>	<b>Data for main Option clause</b>	<b>N/a</b>
<b>A</b>	<b>Priced contract with price list</b>	<b>N/a</b>
20.5	The <i>Contractor</i> prepares forecasts of the final total of the Prices for the whole of the <i>service</i> at intervals no longer than	<b>N/a</b>
<b>11</b>	<b>Data for Option W1</b>	<b>N/a</b>
W1.1	The <i>Adjudicator</i>	<b>the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a>). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).</b>
W1.2(3)	The <i>Adjudicator nominating body</i> is:	<b>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.</b>
W1.4(2)	The <i>tribunal</i> is:	<b>arbitration</b>

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W1.4(5)	<p>The <i>arbitration procedure</i> is</p> <p>The place where arbitration is to be held is</p> <p>The person or organisation who will choose an arbitrator</p> <ul style="list-style-type: none"> <li>- if the Parties cannot agree a choice or</li> <li>- if the arbitration procedure does not state who selects an arbitrator, is</li> </ul>	<p>the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.</p> <p>Johannesburg South Africa</p> <p>the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.</p>
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### 12 Data for secondary Option clauses

#### X1 Price adjustment for inflation

X1.1	<p>The <i>base date</i> for indices is</p> <p>The proportions used to calculate the Price Adjustment Factor are:</p>	<table border="1"> <tr> <td style="text-align: center;">proportion</td> <td style="text-align: center;">linked index for</td> <td style="text-align: center;">to</td> <td style="text-align: center;">Index prepared by</td> </tr> <tr> <td></td> <td style="text-align: center;">[labour]</td> <td></td> <td style="text-align: center;">[C3 SEIFSA table]</td> </tr> <tr> <td></td> <td style="text-align: center;">[Transport]</td> <td></td> <td style="text-align: center;">[L2A SEIFSA table]</td> </tr> <tr> <td></td> <td style="text-align: center;">[Consumables]</td> <td></td> <td style="text-align: center;">Table O-1 PPI (Coke, petroleum, chemical, rubber and plastic products) SEIFSA table]</td> </tr> <tr> <td style="text-align: center;">[10%]</td> <td colspan="3" style="text-align: center;">non-adjustable</td> </tr> <tr> <td style="text-align: center;">1.00</td> <td colspan="3"></td> </tr> </table>	proportion	linked index for	to	Index prepared by		[labour]		[C3 SEIFSA table]		[Transport]		[L2A SEIFSA table]		[Consumables]		Table O-1 PPI (Coke, petroleum, chemical, rubber and plastic products) SEIFSA table]	[10%]	non-adjustable			1.00			
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	[Transport]		[L2A SEIFSA table]																							
	[Consumables]		Table O-1 PPI (Coke, petroleum, chemical, rubber and plastic products) SEIFSA table]																							
[10%]	non-adjustable																									
1.00																										

X2	<b>Changes in the law</b>	There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.
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#### X18 Limitation of liability

X18.1	The <i>Contractor's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to	<b>R0.0 (zero Rand)</b>
X18.2	For any one event, the <i>Contractor's</i> liability to the <i>Employer</i> for loss of or damage to the <i>Employer's</i> property is limited to	the amount of the deductibles relevant to the event described in the "Format TSC3" insurance policy available on <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>

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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> </ul> <p>and</p> <ul style="list-style-type: none"> <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> <li>• death of or injury to a person and</li> <li>• infringement of an intellectual property right.</li> </ul>
X18.5	The <i>end of liability date</i> is	12 months after the end of the <i>service period</i> .
X17	<b>Low Performace Damages : 2% Of task order value.</b>	
Z	<b>The <i>additional conditions</i> of Z1 to Z11 always apply. <i>contract</i> are</b>	

### Z1 Cession delegation and assignment

Z1.1 The *Contractor* does not cede, delegate or assign any of its rights or obligations to any person without the written consent of the *Employer*.

Z1.2 Notwithstanding the above, the *Employer* may on written notice to the *Contractor* cede

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and delegate its rights and obligations under this contract to any of its subsidiaries or any of its present divisions or operations which may be converted into separate legal entities as a result of the restructuring of the Electricity Supply Industry.

### **Z2 Joint ventures**

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

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

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

### **Z4 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.

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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**

## **Hire and Maintain Portable toilets at Duvha Power Station, during planned and unplanned Outages**

- 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.

### **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.
- 

### **Z10 Employer’s limitation of liability**

- Z10.1 The *Employer’s* liability to the *Contractor* for the *Contractor’s* indirect or consequential

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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.

**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 business rescue order granted against it.

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### Annexure A: Insurance provided by the Employer

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

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

[http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS\\_Policies\\_From\\_1\\_April\\_2014\\_To\\_31\\_March\\_2015.aspx](http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx)



# Hire and Maintain Portable toilets at Duvha Power Station, during planned and unplanned Outages

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

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

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

<sup>3</sup> Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 5391902 or [www.ecs.co.za](http://www.ecs.co.za)

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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
11.2(19)	The tendered total of the Prices is <b>R</b>

**Hire and Maintain Portable toilets at Duvha Power Station, during planned and unplanned Outages**

**Price list**

**OUTAGE DATES FROM APRIL 2021 to APRIL 2025.**

**Please note that these dates are not fixed and can move earlier or later, all depending on National Control Requirements)**

**FORMAT 1**

<b>OutageID</b>	<b>Unit</b>	<b>Planned Start Time</b>	<b>Planned End Time</b>	<b>Planned Duration Days</b>	<b>TOTAL PRICE (for 26 off per toilets) outage</b>
21161	4	2021/05/07	2021/10/04	151	R
17610	2	2021/10/15	2021/12/08	55	R
19137	5	2022/01/10	2022/01/30	21	R
17613	6	2022/05/02	2022/06/05	35	R
16157	4	2022/08/08	2022/08/28	21	R
16134	1	2022/09/26	2022/11/19	55	R
16142	2	2022/10/03	2022/10/27	25	R
16165	5	2023/04/24	2023/06/27	65	R
16160	4	2023/08/07	2023/10/10	65	R
17618	6	2023/09/11	2023/10/01	21	R
29639	2	2024/01/08	2024/02/11	35	R
24308	1	2024/04/22	2024/05/12	21	R
29600	1	2024/06/03	2024/09/07	97	R
16166	5	2024/11/11	2024/11/01	21	R
24317	4	2025/01/27	2025/02/16	21	R
19140	6	2025/03/30	2025/05/03	55	R
<b>TOTAL CONTRACT VALUE</b>					<b>R</b>

**PLEASE NOTE :**

- This total price will be for Contract total value.
- Each Outage will have its own Task Order with quantities and durations stipulated for price per outage.

*Contractor:*

.....  
PRINT NAME

.....  
SIGNATURE

.....  
DATE

**Hire and Maintain Portable toilets at Duvha Power Station, during planned and unplanned Outages**

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**Format 2 (For Compensation Events)**

	<b>SELLING RATE</b>
Hire one Toilet: Delivery/Collecting/Maintain for one day. <i>(For Compensation events)</i>	R

**Note :**

- Tenderers shall allow in their fix price activities for the cost of all Consumables, labour, transport, profit, safety, PPE, COVID19 Regulatons/requirments, and all other costs which may be incurred in the proper execution of the works. This could also include, but not be limited to levies payable to any industrial councils, associations, certifications, etc that may be due by the tenderer, the cost of compliance to legislation, for instance regarding Health and Safety, compliance with Labour Legislation, disposals costs of waste, environmental certificates, all prices/selling rates must be totally inclusive, e.g. Transport, Labour, Material, Yearly Sifsa increases, Consumables, Overheads, Equipment, Safety Equipment for the works, Food and Beverages for his permanent/non-permanent staff, free issue PPE for his permanent/non-permanent staff, ETC but excluding VAT.

**Format 3**

<b>CONTRACT PRICE FOR FOUR YEARS.</b>	<b>R</b>
<b>TOTAL OF FORMAT 1</b>	

*Contractor.*

.....  
PRINT NAME

.....  
SIGNATURE

.....  
DATE

# Hire and Maintain Portable toilets at Duvha Power Station, during planned and unplanned Outages

## C2 Works Information

### DESCRIPTION OF THE SERVICES

### WORKS INFORMATION

#### DESCRIPTION OF THE WORKS

##### Format 1

- During planned outages, supply and maintain on a daily basis, **including weekends and public holidays**, portable toilets per outage as per task order : **minimum 8 off to a maximum 26 off**, depending on type of outage. **(duration may vary from 14 days up to 160 days per outage)**
- Must have handwash basin with running water facilities, in them, or adjacent to toilets.
- Maintain, clean, supply 4 off toilet rolls per toilet, twice daily(mornings for dayshift, and night time for night shifts) and keep water supply to wash basins full, on a daily basis, (clean and maintain twice daily : early in the mornings before 06h00 and early evenings before 19h00) **(including all weekends & public holidays)**.
- Each toilet must have 8 rolls off toilet paper per day.**(4 of in morning and 4 off in evening)**
- Water Tanks to be kept full on daily basis for hand wash basins.
- Toilets to be on site, as per days indicated per task order. final outages dates to be confirmed two weeks prior to an outage start. dates toilets to be on site, to be confirmed 2 weeks prior to outage start.
- Toilets to be serviced twice daily, each day, **including weekends and public holidays.**
- **PLEASE NOTE : PRIOR TO TENDER, ENSURE THAT SITE VISIT IS DONE TO SEE IF TOILETS CAN FIT INTO THE DUVHA BOILER MAIN LIFTS. THESE TOILETS GOING TO BE MAN-HANDLED INTO LIFT, AND PLACED ON VARIOUS LEVELS INSIDE THE BOILER, STARTING FROM ZERO LEVEL UP TO 76ML.**

**SOME TOILETS WILL BE PLACED AT VARIOUS AREAS AROUND THE OUTAGE UNIT, AT SECURITY ENTRANCE, AT CONTRACTOR EATING FACILITIES/WORKSHOPS, AS STIPULATED ON EACH TASK ORDER.**

## 2 PROCUREMENT STRATEGY.

### 2.1 TASK ORDER PROCESS (OPTION A2 ONLY)

**TASK ORDERS WILL BE ISSUED TWO WEEKS PRIOR TO AN OUTAGE START.**

**SUPPLIER MUST WEAR FULL PPE WHEN DELIVERING, MAINTAINING AND COLLECTING TOILETS.**

**SAFETY FILE MUST BE DONE 2 WEEKS PRIOR TO ANY OUTAGE START WITH SAFETY RISK DEPARTMENT.**

## Hire and Maintain Portable toilets at Duvha Power Station, during planned and unplanned Outages

### Safety:

- Occupational and safety Act 1993.
- Construction Regulation 2003.
- Adherence to Eskom Cardinal Rules: It must be noted that the Eskom Cardinal Rules are **non-negotiable** health and safety rules, which must not be broken under any circumstances. It must be highlighted, that Eskom takes a **ZERO TOLLRANCE** stance to violation of these rules:
- Open, isolate, test, earth, and insulate before touch.
- Hook-up at heights.
- Buckle up.
- Be sober.
- Ensure you have a Permit to work.
- Full Risk assessment and Pre-job brief to be conducted prior to any *Work* to be done on site. Signed register off all employees to be kept of all the above.

### PLEASE NOTE :

- Up to date and Valid Waste disposal certificate to be handed in prior to an Outage start to Duvha Environmental Department.
- COVID 19 Procedure/rules/regulations to be adhered to at all times while at Duvha Power Station.