



NEC3 Term Service Contract (TSC3)

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

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

for **Multidisciplinary Professional Services Contract for
Engineering Resources at Tutuka Power Station**

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CONTRACT No. [Insert at award stage]

PART C1: AGREEMENTS & CONTRACT DATA

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[to be inserted from Returnable Documents at award stage]	

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:

**Multidisciplinary Professional Services Contract for Engineering Resources
at Tutuka Power Station**

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 ¹	R
	(in words) [●]	

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

Signature(s)

Name(s) _____

Capacity _____

**For the
tenderer:**

(Insert name and address of organisation)

Name &
signature of
witness

Date

Tenderer's CIDB registration number:

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

Acceptance

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

The terms of the contract, are contained in:

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

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

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

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

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

Signature(s)

Name(s)

Capacity

**for the
Employer**

.....
(Insert name and address of organisation)

Name &
signature of
witness

Date

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

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

Note:

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

No.	Subject	Details
1	[•]	[•]
2	[•]	[•]
3	[•]	[•]
4	[•]	[•]
5	[•]	[•]
6	[•]	[•]
7	[•]	[•]

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

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

For the tenderer:

For the Employer

Signature _____

Name _____

Capacity _____

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

(Insert name and address of organisation)

Name & signature of witness _____

Date _____

C1.2 TSC3 Contract Data

Part one - Data provided by the *Employer*

[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.]

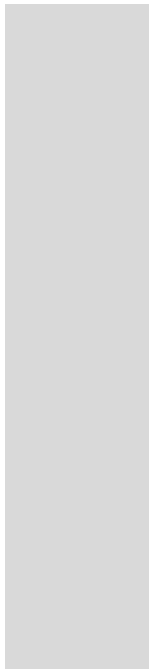
Completion of this data in full, according to the Options chosen, is essential to create a complete contract.

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:	
	dispute resolution Option	A: Priced contract with price list
	and secondary Options	W1: Dispute resolution procedure
		X2 Changes in the law
		X17: Low service damages
		X18: Limitation of liability
		X19: Task Order
		X20: Key performance indicators
		Z: Additional conditions of contract
	of the NEC3 Term Service Contract April 2013 ² (TSC3)	
10.1	The <i>Employer</i> is (name):	Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state owned company incorporated in terms of the company laws of the Republic of South Africa
	Address	Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg
	Tel No.	[●]
	Fax No.	[●]
10.1	The <i>Service Manager</i> is (name):	Nompumelelo Dlamini Wilson Kudiwa

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

		Horatio Schreiner
	Address	Tutuka Power Station, Cnr Bethal & Standerton Road, Standerton, 2430
	Tel	013 296 3056 017 749 9237 017 749 5680
	Fax	[•]
	e-mail	DlaminN4@eskom.co.za KudiwaW@eskom.co.za SchreiHA@eskom.co.za
11.2(2)	The Affected Property is	Tutuka Power Station
11.2(13)	The <i>service</i> is	Multidisciplinary Professional Services Contract for Engineering Resources at Tutuka Power Station
11.2(14)	The following matters will be included in the Risk Register	<ol style="list-style-type: none"> 1. Changes to existing Safety Procedures 2. Natural Disasters 3. As stipulated in the Site information section of this contract 4. As stipulated in the Site information section of this contract 5. Changes in legal requirements
11.2(15)	The Service Information is in	Part 3: Scope of Work and all documents and drawings to which it makes reference.
12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa
13.1	The <i>language of this contract</i> is	English
13.3	The <i>period for reply</i> is	Normal: 3 working days Emergency: 2 hours
2	The <i>Contractor's</i> main responsibilities	Data required by this section of the core clauses is also provided by the <i>Contractor</i> in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data
21.1	The <i>Contractor</i> submits a first plan for acceptance within	As per Task Order, purchase order or formal letter agreed between Service Manager and Contractor
3	Time	
30.1	The <i>starting date</i> is.	TBC
30.1	The <i>service period</i> is	12 months
4	Testing and defects	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
5	Payment	

50.1	The <i>assessment interval</i> is	First week of each month						
51.1	The <i>currency of this contract</i> is the	South African Rand						
51.2	The period within which payments are made is	Within 30 days after receiving- invoice.						
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>						
6	Compensation events	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	Use of Equipment Plant and Materials	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	Risks and insurance							
80.1	As stated below Insurance Cover table 8.2							
8.2	INSURANCE TABLE B (Z12.2)	<table border="1"> <thead> <tr> <th>Insurance against or name of policy</th> <th>Minimum amount of cover or minimum limit of indemnity</th> </tr> </thead> <tbody> <tr> <td>Assets All Risk</td> <td>Per the insurance policy document</td> </tr> <tr> <td>Contract Works insurance</td> <td>Per the insurance policy document</td> </tr> </tbody> </table>	Insurance against or name of policy	Minimum amount of cover or minimum limit of indemnity	Assets All Risk	Per the insurance policy document	Contract Works insurance	Per the insurance policy document
Insurance against or name of policy	Minimum amount of cover or minimum limit of indemnity							
Assets All Risk	Per the insurance policy document							
Contract Works insurance	Per the insurance policy document							



Environmental Liability	Per the insurance policy document
General and Public Liability	Per the insurance policy document
Transportation (Marine)	Per the insurance policy document
Motor Fleet and Mobile Plant	Per the insurance policy document
Terrorism	Per the insurance policy document
Cyber Liability	Per the insurance policy document
Nuclear Material Damage and Business Interruption	Per the insurance policy document
Nuclear Material Damage Terrorism	Per the insurance policy document

9 Termination

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.

10 Data for main Option clause

A Priced contract with price list

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 Data for Option W1

W1.1 The *Adjudicator* **the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see www.ice-sa.org.za). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).**

Address **[•]**

Tel No. **[•]**

Fax No. **[•]**

e-mail **[•]**

W1.2(3) The *Adjudicator nominating body* is: **the Chairman of ICE-SA a joint Division of the South African Institution of Civil Engineering and the Institution of Civil Engineers (London) (see www.ice-sa.org.za) or its successor body.**

W1.4(2) The *tribunal* is: **arbitration**

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"> - if the Parties cannot agree a choice or - if the arbitration procedure does not state who selects an arbitrator, is 	<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>[•] 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

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.
X17	Low service damages	
X17.1	The <i>service level table</i> is in	Appendix A
X18	Limitation of liability	
X18.1	The <i>Contractor's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to	R0.0 (zero Rand)
X18.2	For any one event, the <i>Contractor's</i> liability to the <i>Employer</i> for loss of or damage to the <i>Employer's</i> property is limited to	the amount of the deductibles relevant to the event
X18.3	The <i>Contractor's</i> liability for Defects due to his design of an item of Equipment is limited to	<p>The greater of</p> <ul style="list-style-type: none"> • the total of the Prices at the Contract Date and • 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
X18.4	The <i>Contractor's</i> total liability to the <i>Employer</i> , for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	<p>the total of the Prices other than for the additional excluded matters.</p> <p>The <i>Contractor's</i> total liability for the additional excluded matters is not limited.</p> <p>The additional excluded matters are amounts for which the <i>Contractor</i> is liable under this contract for</p> <ul style="list-style-type: none"> • Defects due to his design, plan and specification, • Defects due to manufacture and fabrication outside the Affected Property, • loss of or damage to property (other than the <i>Employer's</i> property, Plant and Materials),

		<ul style="list-style-type: none"> • death of or injury to a person and • infringement of an intellectual property right.
X18.5	The <i>end of liability date</i> is	52 weeks after the end of the <i>service period</i>.
X19	Task Order	
X19.5	The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within	One day of receiving the Task Order/Order/Formal Letter
X20	Key Performance Indicators (not used when Option X12 applies)	
X20.1	The <i>incentive schedule</i> for Key Performance Indicators is in	Appendix B on the last page of this document. No incentives will be paid out for Key performance indicators
X20.2	A report of performance against each Key Performance Indicator is provided at intervals of	The performance of the <i>Contractor</i> will be assessed monthly to ensure transparency and good performance is sustained
Z	The <i>additional conditions of contract</i> are	Z1 to Z14 always apply.

Z1 Cession delegation and assignment

- Z1.1 The *Contractor* does not cede, delegate or assign any of its rights or obligations to any person without the written consent of the *Employer*.
- Z1.2 Notwithstanding the above, the *Employer* may on written notice to the *Contractor* cede and delegate its rights and obligations under this contract to any of its subsidiaries or any of its present divisions or operations which may be converted into separate legal entities as a result of the restructuring of the Electricity Supply Industry.

Z2 Joint ventures

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

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

- Z3.1 Where a change in the *Contractor's* legal status, ownership or any other change to his business composition or business dealings results in a change to the *Contractor's* B-BBEE status, the *Contractor* notifies the *Employer* within seven days of the change.
- Z3.2 The *Contractor* is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the *Service Manager* within thirty days of the notification or as otherwise instructed by the *Service Manager*.

- Z3.3 Where, as a result, the *Contractor's* B-BBEE status has decreased since the Contract Date the *Employer* may either re-negotiate this contract or alternatively, terminate the *Contractor's* obligation to Provide the Service.
- Z3.4 Failure by the *Contractor* to notify the *Employer* of a change in its B-BBEE status may constitute a reason for termination. If the *Employer* terminates in terms of this clause, the procedures on termination are P1, P2 and P4 as stated in clause 92, and the amount due is A1 and A3 as stated in clause 93.

Z4 Confidentiality

- Z4.1 The *Contractor* does not disclose or make any information arising from or in connection with this contract available to Others. This undertaking does not, however, apply to information which at the time of disclosure or thereafter, without default on the part of the *Contractor*, enters the public domain or to information which was already in the possession of the *Contractor* at the time of disclosure (evidenced by written records in existence at that time). Should the *Contractor* disclose information to Others in terms of clause 25.1, the *Contractor* ensures that the provisions of this clause are complied with by the recipient.
- Z4.2 If the *Contractor* is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the *Service Manager*.
- Z4.3 In the event that the *Contractor* is, at any time, required by law to disclose any such information which is required to be kept confidential, the *Contractor*, to the extent permitted by law prior to disclosure, notifies the *Employer* so that an appropriate protection order and/or any other action can be taken if possible, prior to any disclosure. In the event that such protective order is not, or cannot, be obtained, then the *Contractor* may disclose that portion of the information which it is required to be disclosed by law and uses reasonable efforts to obtain assurances that confidential treatment will be afforded to the information so disclosed.
- Z4.4 The taking of images (whether photographs, video footage or otherwise) of the Affected Property or any portion thereof, in the course of Providing the Service and after the end of the *service period*, requires the prior written consent of the *Service Manager*. All rights in and to all such images vests exclusively in the *Employer*.
- Z4.5 The *Contractor* ensures that all his subcontractors abide by the undertakings in this clause.

Z5 Waiver and estoppel: Add to core clause 12.3:

- Z5.1 Any extension, concession, waiver or relaxation of any action stated in this contract by the Parties, the *Service Manager* or the *Adjudicator* does not constitute a waiver of rights, and does not give rise to an estoppel unless the Parties agree otherwise and confirm such agreement in writing.

Z6 Health, safety and the environment: Add to core clause 27.4

- Z6.1 The *Contractor* undertakes to take all reasonable precautions to maintain the health and safety of persons in and about the execution of the *service*. Without limitation the *Contractor*:
- accepts that the *Employer* may appoint him as the "Principal Contractor" (as defined and provided for under the Construction Regulations 2014 (promulgated under the Occupational Health & Safety Act 85 of 1993) ("the Construction Regulations") for the Affected Property;
 - warrants that the total of the Prices as at the Contract Date includes a sufficient amount for proper compliance with the Construction Regulations, all applicable health & safety laws and regulations and the health and safety rules, guidelines and procedures provided for in this contract and generally for the proper maintenance of health & safety in and about the execution of the *service*; and
 - undertakes, in and about the execution of the *service*, to comply with the Construction

Regulations and with all applicable health & safety laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his Subcontractors, employees and others under the *Contractor's* direction and control, likewise observe and comply with the foregoing.

Z6.2 The *Contractor*, in and about the execution of the *service*, complies with all applicable environmental laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his Subcontractors, employees and others under the *Contractor's* direction and control, likewise observe and comply with the foregoing.

Z7 Provision of a Tax Invoice and interest. Add to core clause 51

Z7.1 Within one week of receiving a payment certificate from the *Service Manager* in terms of core clause 51.1, the *Contractor* provides the *Employer* with a tax invoice in accordance with the *Employer's* procedures stated in the Service Information, showing the amount due for payment equal to that stated in the payment certificate.

Z7.2 If the *Contractor* does not provide a tax invoice in the form and by the time required by this contract, the time by when the *Employer* is to make a payment is extended by a period equal in time to the delayed submission of the correct tax invoice. Interest due by the *Employer* in terms of core clause 51.2 is then calculated from the delayed date by when payment is to be made.

Z7.3 The *Contractor* (if registered in South Africa in terms of the companies Act) is required to comply with the requirements of the Value Added Tax Act, no 89 of 1991 (as amended) and to include the *Employer's* VAT number 4740101508 on each invoice he submits for payment.

Z8 Notifying compensation events

Z8.1 Delete the last paragraph of core clause 61.3 and replace with:

If the *Contractor* does not notify a compensation event within eight weeks of becoming aware of the event, he is not entitled to a change in the Prices.

Z9 Employer's limitation of liability

Z9.1 The *Employer's* liability to the *Contractor* for the *Contractor's* indirect or consequential loss is limited to R0.00 (zero Rand)

Z9.2 The *Contractor's* entitlement under the indemnity in 82.1 is provided for in 60.1(12) and the *Employer's* liability under the indemnity is limited to compensation as provided for in core clause 63 and X19.11 if Option X19 Task Order applies to this contract.

Z10 Termination: Add to core clause 91.1, at the second main bullet point, fourth sub-bullet point, after the words "against it":

Z10.1 or had a business rescue order granted against it.

Z11 Ethics

For the purposes of this Z-clause, the following definitions apply:

Affected Party means, as the context requires, any party, irrespective of whether it is the *Contractor* or a third party, such party's employees, agents, or Subcontractors or Subcontractor's employees, or any one or more of all of these parties' relatives or friends,

- Coercive Action** means to harm or threaten to harm, directly or indirectly, an Affected Party or the property of an Affected Party, or to otherwise influence or attempt to influence an Affected Party to act unlawfully or illegally,
- Collusive Action** means where two or more parties co-operate to achieve an unlawful or illegal purpose, including to influence an Affected Party to act unlawfully or illegally,
- Committing Party** means, as the context requires, the *Contractor*, or any member thereof in the case of a joint venture, or its employees, agents, or Subcontractors or the Subcontractor's employees,
- Corrupt Action** means the offering, giving, taking, or soliciting, directly or indirectly, of a good or service to unlawfully or illegally influence the actions of an Affected Party,
- Fraudulent Action** means any unlawfully or illegally intentional act or omission that misleads, or attempts to mislead, an Affected Party, in order to obtain a financial or other benefit or to avoid an obligation or incurring an obligation,
- Obstructive Action** means a Committing Party unlawfully or illegally destroying, falsifying, altering or concealing information or making false statements to materially impede an investigation into allegations of Prohibited Action, and
- Prohibited Action** means any one or more of a Coercive Action, Collusive Action Corrupt Action, Fraudulent Action or Obstructive Action.

- Z11.1 A Committing Party may not take any Prohibited Action during the course of the procurement of this contract or in execution thereof.
- Z11.2 The *Employer* may terminate the *Contractor's* obligation to Provide the Services if a Committing Party has taken such Prohibited Action and the *Contractor* did not take timely and appropriate action to prevent or remedy the situation, without limiting any other rights or remedies the *Employer* has. It is not required that the Committing Party had to have been found guilty, in court or in any other similar process, of such Prohibited Action before the *Employer* can terminate the *Contractor's* obligation to Provide the Services for this reason.
- Z11.3 If the *Employer* terminates the *Contractor's* obligation to Provide the Services for this reason, the amounts due on termination are those intended in core clauses 92.1 and 92.2.
- Z11.4 A Committing Party co-operates fully with any investigation pursuant to alleged Prohibited Action. Where the *Employer* does not have a contractual bond with the Committing Party, the *Contractor* ensures that the Committing Party co-operates fully with an investigation.

Z12 Insurance

Z 12 .1 Replace core clause 83 with the following:

Insurance cover 83

- 83.1 When requested by a Party, the other Party provides certificates from his insurer or broker stating that the insurances required by this contract are in force.
- 83.2 The *Contractor* provides the insurances stated in the Insurance Table A from the *starting date* until the earlier of Completion and the date of the termination certificate.

INSURANCE TABLE A

Insurance against	Minimum amount of cover or minimum limit of indemnity
-------------------	---

Loss of or damage caused by the <i>Contractor</i> to the <i>Employer's</i> property	The replacement cost where not covered by the <i>Employer's</i> insurance. The <i>Employer's</i> policy deductible as at Contract Date, where covered by the <i>Employer's</i> insurance.
Loss of or damage to Plant and Materials	The replacement cost where not covered by the <i>Employer's</i> insurance. The <i>Employer's</i> policy deductible as at Contract Date, where covered by the <i>Employer's</i> insurance.
Loss of or damage to Equipment	The replacement cost where not covered by the <i>Employer's</i> insurance. The <i>Employer's</i> policy deductible as at Contract Date, where covered by the <i>Employer's</i> insurance.
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	<u>Loss of or damage to property</u> The replacement cost <u>Bodily injury to or death of a person</u> The amount required by the applicable law.
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	The amount required by the applicable law

Z 12.2 Replace core clause 86 with the following:

Insurance by the Employer

86

86.1 The *Employer* provides the insurances stated in the Insurance Table B

INSURANCE TABLE B

Insurance against or name of policy	Minimum amount of cover or minimum lir of indemnity
Assets All Risk	Per the insurance policy document
Contract Works insurance	Per the insurance policy document

Environmental Liability	Per the insurance policy document
General and Public Liability	Per the insurance policy document
Transportation (Marine)	Per the insurance policy document
Motor Fleet and Mobile Plant	Per the insurance policy document
Terrorism	Per the insurance policy document
Cyber Liability	Per the insurance policy document
Nuclear Material Damage and Business Interruption	Per the insurance policy document
Nuclear Material Damage Terrorism	Per the insurance policy document

Z13 Nuclear Liability

- Z13.1 The *Employer* is the operator of the Koeberg Nuclear Power Station (KNPS), a nuclear installation, as designated by the National Nuclear Regulator of the Republic of South Africa, and is the holder of a nuclear licence in respect of the KNPS.
- Z13.2 The *Employer* is solely responsible for and indemnifies the *Contractor* or any other person against any and all liabilities which the *Contractor* or any person may incur arising out of or resulting from nuclear damage, as defined in Act 44 of 1999, save to the extent that any liabilities are incurred due to the unlawful intent of the *Contractor* or any other person or the presence of the *Contractor* or that person or any property of the *Contractor* or such person at or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.
- Z13.3 Subject to clause Z13.4 below, the *Employer* waives all rights of recourse, arising from the aforesaid, save to the extent that any claims arise or liability is incurred due or attributable to the unlawful intent of the *Contractor* or any other person, or the presence of the *Contractor* or that person or any property of the *Contractor* or such person at or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.
- Z13.4 The *Employer* does not waive its rights provided for in section 30 (7) of Act 44 of 1999, or any replacement section dealing with the same subject matter.
- Z13.5 The protection afforded by the provisions hereof shall be in effect until the KNPS is decommissioned.

Z14 Asbestos

For the purposes of this Z-clause, the following definitions apply:

- AAIA** means approved asbestos inspection authority.
- ACM** means asbestos containing materials.
- AL** means action level, i.e. a level of 50% of the OEL, i.e. 0.1 regulated asbestos fibres per ml of air measured over a 4 hour period. The value at which proactive actions is required in order to control asbestos exposure to prevent exceeding the OEL.
- Ambient Air** means breathable air in area of work with specific reference to breathing zone, which is defined to be a virtual area within a radius of approximately 30cm from the nose inlet.
- Compliance Monitoring** means compliance sampling used to assess whether or not the personal exposure of workers to regulated asbestos fibres is in compliance with the Standard's requirements

for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.

OEL	means occupational exposure limit.
Parallel Measurements	means measurements performed in parallel, yet separately, to existing measurements to verify validity of results.
Safe Levels	means airborne asbestos exposure levels conforming to the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.
Standard	means the <i>Employer's</i> Asbestos Standard 32-303: Requirements for Safe Processing, Handling, Storing, Disposal and Phase-out of Asbestos and Asbestos Containing Material, Equipment and Articles.
SANAS	means the South African National Accreditation System.
TWA	means the average exposure, within a given workplace, to airborne asbestos fibres, normalised to the baseline of a 4 hour continuous period, also applicable to short term exposures, i.e. 10-minute TWA.

- Z14.1 The *Employer* ensures that the Ambient Air in the area where the *Contractor* will Provide the Services conforms to the acceptable prescribed South African standard for asbestos, as per the regulations published in GNR 155 of 10 February 2002, under the Occupational Health and Safety Act, 1993 (Act 85 of 1993) ("Asbestos Regulations"). The OEL for asbestos is 0.2 regulated asbestos fibres per millilitre of air as a 4-hour TWA, averaged over any continuous period of four hours, and the short term exposure limit of 0.6 regulated asbestos fibres per millilitre of air as a 10-minute TWA, averaged over any 10 minutes, measured in accordance with HSG248 and monitored according to HSG173 and OESSM.
- Z14.2 Upon written request by the *Contractor*, the *Employer* certifies that these conditions prevail. All measurements and reporting are effected by an independent, competent, and certified occupational hygiene inspection body, i.e. a SANAS accredited and Department of Employment and Labour approved AAIA. The *Contractor* may perform Parallel Measurements and related control measures at the *Contractor's* expense. For the purposes of compliance the results generated from Parallel Measurements are evaluated only against South African statutory limits as detailed in clause Z14.1. Control measures conform to the requirements stipulated in the AAIA-approved asbestos work plan.
- Z14.3 The *Employer* manages asbestos and ACM according to the Standard.
- Z14.4 In the event that any asbestos is identified while Providing the Services, a risk assessment is conducted and if so required, with reference to possible exposure to an airborne concentration of above the AL for asbestos, immediate control measures are implemented and relevant air monitoring conducted in order to declare the area safe.
- Z14.5 The *Contractor's* personnel are entitled to stop working and leave the contaminated area forthwith until such time that the area of concern is declared safe by either Compliance Monitoring or an AAIA approved control measure intervention, for example, per the emergency asbestos work plan, if applicable.
- Z14.6 The *Contractor* continues to Provide the Services, without additional control measures presented, on presentation of Safe Levels. The contractually agreed dates to Provide the Services, including the Completion Date, are adjusted accordingly. The contractually agreed dates are extended by the notification periods required by regulations 3 and 21 of the Asbestos Regulations, 2001.
- Z14.7 Any removal and disposal of asbestos, asbestos containing materials and waste, is done by a registered asbestos contractor, instructed by the *Employer* at the *Employer's* expense, and conducted in line with South African legislation.

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

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

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

³ Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 5391902 or www.ecs.co.za

Responsibilities:

Qualifications:

Experience:

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

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

PART 2: PRICING DATA

TSC3 Option A

Document reference	Title	No of pages
C2.1	Pricing assumptions: Option A	21-22
C2.2	The <i>price list</i>	23-24

C2.1 Pricing assumptions: Option A

1. How work is priced and assessed for payment

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

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

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

2. Function of the Price List

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

3. Link to the *Contractor's* plan

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

4. Preparing the *price list*

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

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

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

4.1. Format of the *price list*

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

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

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

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

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

C2.2 the *price list*

NOTE: Contractor refers to the *Part C3 1 TSC3 Employers Service Information and Employer's Scope of Work for Multidisciplinary Professional Services Contract for Engineering Resources at Tutuka Power Station [15ENG GEN-2067]* to compile all relevant costs/expenses associated with providing the required service.

In addition to the cost estimate table issued by the *Employer*, Contractor submits a detailed cost breakdown relating to the cost estimate table issued by the *Employer*.

Item nr	Description	Unit	Expected Quantity	Rate	Price
1	Preliminaries and General				
1.1	Fixed Obligations				
1.1.1	Contractual Requirements	Sum	1		
1.1.2	Medicals and PPE	Sum	1		
1.2	Time related obligations				
1.2.1	Living Accommodation	Month	12		
1.2.2	Transport	KM	17640		
2	Civil Engineers (x4)				
2.1	Normal work (N/T)	Hrs	8064		
2.3	Overtime i.e. standby/emergency call outs	Hrs	5760		
3	Turbine Engineers (x6)				
3.1	Normal work (N/T)	Hrs	12096		
3.2	Overtime i.e. standby/emergency call outs	Hrs	8640		
4	Process Engineers(x2)				
4.1	Normal work (N/T)	Hrs	4032		

4.2	Overtime standby/emergency call outs	Hrs	2880		
5	Civil Engineering Tools & Instrumentation				
5.1	2x15megapixel Camera	No.	2		
5.2	4xLaser measuring device	No.	4		
5.3	2xMeasuring wheel	No.	2		
5.4	4xTape measures	No.	4		
5.5	4xDigital callipers	No.	4		
5.6	4xAccess equipment such as safety harnesses etc;	No.	4		
6	Process Engineering tools and Instruments				
6.1	2x 15megapixel Camera	No.	2		
6.2	1x Thermal Camera with range to 650 °C	No.	1		
6.3	2x Fluke Thermometer	No.	2		
6.4	1x Flowmeter	No.	1		
7	Other Costs				

The total of the Prices

PART 3: SCOPE OF WORK

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C3.2	<i>Contractor's Service Information</i>	
	Total number of pages	

C3.1: EMPLOYER'S SERVICE INFORMATION

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1 Description of the service

1.1 Executive overview

Tutuka Power Station is a coal fired power station and has 3 600MW installed capacity and was constructed in the mid 1980's.

According to the Engineering Profession Act (No 46 of 2000), "Engineering must therefore be carried out competently, responsibly and ethically; use available resources efficiently; be economic; safeguard health and safety; be environmentally sound and sustainable; and generally manage risks throughout the entire lifecycle of a project, product or system"

This document outlines the contract requirements to place a Multidisciplinary Professional Services Contract for Engineering Resources at Tutuka Power Station.

1.2 Employer's requirements for the service

Contractor refers to the Employer's *Scope of Work* for Multidisciplinary Professional Services Contract for Engineering Resources at Tutuka Power Station [15ENG GEN-2067] for the *Employer's* detailed scope of work for the services required.

The *Contractor* is to render a Multidisciplinary Professional Services Contract for Engineering Resources. The required professional engineering resources:

- a. To render professional services for a 12 months' duration.
- b. To service the Employer's Civil Engineering, Turbine Engineering and Process Engineering.
- c. Include 4x Civil Engineers, 6x Turbine Engineers and 2x Process Engineers.
- d. Must be equipped with a minimum qualification in BSc. /BEng degree in Civil, Mechanical /Chemical, and Chemical Engineering
- e. Must be equipped with minimum 5 years' power plant work experience, and be registered as Candidate Engineers with ECSA.

The above engineering resources take the full professional, technical responsibility and accountability of the Civil, Turbine and Process Engineering plants. Acquiring these resources to ensure that the Employer's Civil, Turbine and Process Engineering Plant complies to be safely operated and maintained.

As part of the tender submission, Contractor to submit a list of engineering resources shortlisted to attend the Employer's compulsory interview process. Contractor must identify the engineering resources suitable to execute the required works for the Employer's Service Managers to approve and conduct compulsory interview sessions with the individual engineering candidates. If the Tenderer/Contractor does not submit the list of successful engineering candidates, that Tender/Contractor will be disqualified from the tendering process. If the engineering candidates fail to pass the Employer's interviews, Contractor to seek and submit respective list of engineering candidates within 3 days for the Client's Service Managers to approve and conduct compulsory interview sessions with the individual engineering candidates. Successful engineering candidates to immediately commence with their duties, after Employer's Service Managers have conducted interviews and issued interview results to the Contractor.

1.3 Interpretation and terminology

1.3.1 Definitions

Terminology	Description
Civil Engineering Resources	Four Candidate Engineers with a BSc. /BEng in Civil Engineering, registered with ECSA and have minimum 5 years' power plant work experience related to the design, construction, and asset management of Civil and Structural Engineering infrastructure i.e. steel, concrete, stormwater, sewage, dams, roads, railway, buildings, etc.
Contractor	An <i>Employer</i> appointed by the Client to source Engineering Resources that meet the technical requirements of providing the Multidisciplinary Professional Services contract for Tutuka Power Stations, as per the Employer's scope of work [15ENG GEN-2067]
Employer	Tutuka Power Station
Turbine Engineering Resources	Six Candidate Engineers with a BSc. /BEng in Mechanical/Chemical Engineering, registered with ECSA and have minimum 5 years' power plant work experience related to the fundamental role of optimisation, and enhancement, where possible, of the Energy Conversion process at a power station. This applies to the water & steam, condensing, feed heating, cooling water, turbo-generator effectiveness and auxiliary power.
Process Engineering Resources	Two Candidate Engineers with a BSc. /BEng in Chemical Engineering, registered with ECSA and have power plant work experience related to the fundamental role of optimisation, and enhancement, where possible, of the Energy Conversion process at a power station. This applies to the coal, milling, air supply, combustion, heat transfer, water & steam, condensing, feed heating, cooling water, turbo-generator effectiveness and auxiliary power.

1.3.2 Abbreviations

Abbreviation	Meaning given to the abbreviation
BEng.	Bachelor of Engineering
BSc.	Bachelor of Science
ECM	Engineering Change Management
ECSA	Engineering Council of South Africa
PPE	Personnel Protective Equipment
QCP	Quality Control Plan

2 Management strategy and start up.

2.1 The Contractor's plan for the service

- To be discussed before any task can be carried out between the *Contractor* and *Employer*.
- Programme to be supplied on request on a signed hard copy as well as a soft copy.
- Before contract award Contractor to submit list of engineering resources shortlisted to attend the Employer's compulsory interview process, for the Employer's Service Managers to approve.
- After contract award, Employer's Service Managers to conduct compulsory interview process with the engineering resources shortlisted by the Contractor. Successful engineering candidates to immediately commence with their duties, after Employer's Service Managers have conducted interviews and issued interview results to the Contractor.
- Contractor to ensure that they comply to the Part C3 1 TSC3 Employers Service Information and Employer's Scope of Work for Multidisciplinary Professional Services Contract for Engineering Resources at Tutuka Power Station [15ENG GEN-2067]

2.2 Management meetings

Regular meetings of a general nature may be convened and chaired by the Service Managers as follows:

Title and purpose	Approximate time & interval	Location	Attendance by:
Risk register and compensation events	As and when required	TBC	Contractor's Engineering Resources, Employer Service Managers, and Others
Overall contract progress and feedback	As and when required	TBC	Contractor's Engineering Resources, Employer Service Managers, and Others
Technical meetings	As and when required	TBC	Contractor's Engineering Resources, Employer Service Managers, and Others
General & Safety	As and when required	TBC	Contractor's Engineering Resources, Employer Service Managers, and Others
Performance Review	Bi annually	TBC	Contractor's Engineering Resources, Employer Service Managers, and Others

Contractor refers to the Employer's Scope of Work for Multidisciplinary Professional Services Contract for Engineering Resources at Tutuka Power Station [15ENG GEN-2067] under section 4.3.7 for the other applicable meetings.

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

All meetings shall be recorded using minutes or a register prepared and circulated by the person who convened the meeting. Such minutes or register shall not be used for the purpose of

confirming actions or instructions under the contract as these shall be done separately by the person identified in the *conditions of contract* to carry out such actions or instructions.

2.3 Contractor's management, supervision and key people

The *Contractor* is to render a Multidisciplinary Professional Services Contract for Engineering Resources. The required professional engineering resources:

- a. To render professional services for a 12 months' duration.
- b. To service the Employer's Civil Engineering, Turbine Engineering and Process Engineering.
- c. Include 4x Civil Engineers, 6xTurbine Engineers and 2xProcess Engineers.
- d. Must be equipped with a minimum qualification in BSc. /BEng degree in Civil, Mechanical /Chemical, and Chemical Engineering
- e. Must be equipped with minimum 5 years' power plant work experience, and be registered as Candidate Engineers with ECSA.

The above engineering resources take the full professional, technical responsibility and accountability of the Civil, Turbine and Process Engineering plants. Acquiring these resources to ensure that the Employer's Civil, Turbine and Process Engineering Plant complies to be safely operated and maintained.

Contractor submits the organogram reflecting the required engineering (i.e. Civil, Turbine and Process Engineers.). Organogram to specify names and qualifications of the engineering resources. ID and CV's of the engineering resources to be submitted as well. Contractor to submit list of engineering resources shortlisted by the Contractor for the Employer's Service Managers to approve and use to conduct individual interviews with the engineering candidates.

2.4 Provision of bonds and guarantees

N/A

2.5 Documentation control

All documents supplied by the *Contractor* shall be subject to Eskom's approval. The language of all documentation shall be in English. All contractual communications shall be in the form of writing. All that relates to this contract must be kept in soft copy and hard copy. Hard copy to be one original file and one duplicate file which will be compiled by the Contractor's resources according to documentation management system

Contractor refers to the *Employer's* Scope of Work for Multidisciplinary Professional Services Contract for Engineering Resources at Tutuka Power Station [15ENG GEN-2067] for further requirement related to documentation control.

2.6 Invoicing and payment

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

The *Contractor* shall address the tax invoice to

_____ and include on each invoice the following information:

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

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

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

2.7 Contract change management

Contract change management includes but not limited to:

- Access
- Provision by the *Employer*
- Stopping work
- Work of the *Employer* or others
- Reply to communication
- Changing a decision
- Withholding acceptance
- Delayed execution of tasks
- Change of Affected property
- *Employer's* risks

Contractor communicates contract change managements to the Service Managers for approval. *Contractor* submits signed daily logbooks in the case that a compensation event arises. The use of standard forms includes but not limited to:

- Event register
- Risk register
- Compensation form
- Task order form

2.8 Records of Defined Cost to be kept by the Contractor

Contractor keeps all records of costs incurred during the *works* and makes it available to the *Employer* and *Service Managers* upon request.

2.9 Insurance provided by the Employer

As per Table 8.3

2.10 Training workshops and technology transfer

- The *Contractor's* personnel to do safety induction before entering the site and commencing with any work on *Employer's* account.
- The *Contractor's* personnel to have job specific training.
- To continuously assist with the training of the *Employer's* engineers by transferring knowledge and skills through mentoring, coaching, and supervising. The *Employer's* engineers to form part of the *Contractor's* team during execution of the required works i.e investigations, inspection and adhoc concept and detail design, etc.

2.11 Design and supply of Equipment

- In the case for a Modification the Modification/ECM process must be followed
- *Contractor* to provide all tools and equipment necessary to perform the required *service*.

- All equipment and tools needs to be marked and a list off all tools with the identification number to be provided to the *Service Manager/s* when entering site.
- All lost equipment and tools to be declared to the *Service Manager/s* and full details of incident.
- All test Equipment must be calibrated regularly and certificates must be handed in to *Service Manager/s*
- *Contractor* refers to the Employer's Scope of Work for Multidisciplinary Professional Services Contract for Engineering Resources at Tutuka Power Station [15ENG GEN-2067]

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

2.12.1 Equipment

At the end of the contract, Contractor's tools and instrumentation utilised for the purpose of this contract to be retained by the Employer.

2.12.2 Information and other things

- All reports, documents and records to be compiled, filed, discussed and handed over in soft copy and hard copy formats to the *Employer's Service Managers* and at the end of the *service*. The handover date to be announced by *Employer*.
- *Contractor* retains for 5 years all reports, documents and records incurred during the *works* and makes it available to the *Employer* and *Service Managers* upon request. Retention to be in soft copy and hard copy formats.
- On completion of contract the *Contractors* safety file will be hand over to the *Service Manager* and Will be saved for 40 Years after completion / termination of the contract
- *Contractor* is Responsible to ensure that his Letter of Good standing is valid at all times as stipulated in the construction regulations point 7 (C) (iv) and SHE specifications 2.5.2 (iv) and 3.10 *Contractor* will not be allowed on site if the *Contractors* letter of good standing is not valid. The *Contractors* Health and safety file is to be submitted for approval to the *Employer's* Safety Officer before contract commencement and must be kept up to date at all times.

2.13 Management of work done by Task Order

The execution of works to be handled by the use of a task order.

3 Health and safety, the environment and quality assurance

3.1 Health and safety risk management

During tendering process, Contractor submits the following documents as part of their tender submission:

- Baseline SHE risk assessment
- Acknowledgement of Eskom's rules and requirements
- SHE plan
- Valid letter of good standing
- SHE policy
- Fitness medicals surveillance programme
- Safety budget

The Contractor shall comply with the health and safety requirements contained in Annexure SHE Specification 14RISK SRM – 084 to this Service Information

- All The *Employers* health and safety procedures and regulations to be adhered to by the *Contractor*
- A SHEQ file to be handed in at the SHEQ department for approval prior to work commencement and kept up to date for the duration of the contract

3.1.1 Eskom SHEQ Policy

The *Employer* has made a commitment to conduct business with respect and care for people, the environment and assets and that no operating condition or urgency of service justifies exposing anyone to negative risks arising from the *Employer's* business.

Compliance with the *Employer's* SHEQ Policy and applicable regulations is the responsibility of every employee and *Contractor*.

3.1.2 Contractor SHEQ Policy

All *Contractors* shall have an OHS policy signed by the CEO of the *Contractor* and prominently displayed where employees normally report for duty.

Signed copy of the OHS policy shall form part of the SHEQ file.

3.1.3 SHE Plan Requirements

- Principal *Contractors* shall develop a suitable and sufficiently documented site specific SHE plans, based on the scope of work and client SHEQ specification.
- The SHE plan must be pre-approved by the client for implementation. The principal *Contractor/Contractor* has a responsibility to send the SHE plan to the client for approval prior to commencement of work.
- The SHE plan must be applied from the commencement of and for the duration the construction work, which must be updated/reviewed as the work progresses/changes.
- When a principal *Contractor* intends appointing *Contractor*, the principal *Contractor* shall ensure that the *Contractor* provides and demonstrate a suitable, sufficiently documented and coherent site specific health and safety plan, based on the client's SHEQ specifications and scope of work

3.1.4 Health and Safety Arrangements

The *Contractor* ensures that all his personnel attend a Health and Safety Induction Course prior to contract starting date, and annual re- induction. The Induction Course is presented by the *Employer and is valid for the duration of one (1) year*. Arrangements are made with Safety Risk Management, by the *Contractor*.

The *Employer's* Safety Risk Manager visits and inspects the *Contractor's* workplace or site yard and the working areas to ensure that tools; machinery and Equipment comply with the minimum safety requirements.

The *Service Manager* may instruct the *Contractor* to stop work, where the *Contractor's* personnel fail to conform to safety standards or contravene health and safety regulations. Such stop-work order is not a compensation event. The *Service Manager* may instruct the *Contractor* to discipline his employees and to submit a disciplinary action report to the *Service Manager*. The *Contractor* implements additional health and safety precautions where necessary.

The *Contractor* complies with the Occupational Health and Safety Act 85 of 1993, as well as per the *Employer's* procedure as stipulated below:

- SHEQ Policy 32-727
- SHE Requirements for the *Employer's* Commercial Process 32-726
- *Contractor* Health and Safety Requirements 32-136
- Integrated SHE Organization; Roles and Responsibilities and Statutory Appointments 32-296
- Live-saving Rules 240-62196227
- Working at Heights 32-418
- The *Employer's* Vehicle Safety Specifications 32-345
- Tutuka *Contractor* SHEQ Specifications 14RISK SRM – 084

3.1.5 Site Regulations and Procedures

Site Regulations

The latest revision Tutuka Power Station Site Regulations form part of this contract. Copies of these procedures are available on request. (Any additional site regulations implemented will be applicable)

Safety risk management

"Standard for health and safety at Tutuka Power Station - requirements to be met by Contractors".

3.1.6 Vehicle and driver safety

All drivers, passengers and pedestrians must obey vehicle safety requirements in terms of the National Road Traffic Act, Act No 93 of 1996, as amended, including other relevant provincial or local requirements.

Speed Limit

All vehicles must be driven with due consideration for personnel and property. All speed limits will be adhered to on the premises at all times.

Transportation of passengers: open LDV's:

With effect from 31 May 2006 no *Employer* employee or *Contractor* would be allowed to transport passengers on the back of open light delivery vehicles (LDV's). It is a legal requirement to provide safe transportation of the *Employer* and *Contractor* employees – therefore the following will be enforced:

The *Employer's* Life Saving Rules:

Five Life Saving Rules have been developed that will apply to all the *Employer's* employees, agents, Consultants and Contractors.

- Rule 1: Open, Isolate, Test, Earth, Bond, And/Or Insulate before touch - that is any plant operating above 1 000 V.
- Rule 2: Hook up at heights - no person may work at height where there is a risk of falling.
- Rule 3: Buckle up – no person may drive any vehicle for the *Employer's* business and/or on the *Employer's* premises: unless the driver and all passengers are wearing seat belts.
 - The *Employer* takes a "ZERO TOLERANCE" attitude to drivers and passengers who do not wear safety belts when driving in a vehicle for the *Employer's* Business and / or on the *Employer's* premises. The violation of this very important safety rule as well as any safety rule while performing work for or on behalf of the *Employer* may result in the *Employer* terminating your obligation to perform work in terms of your contract with the *Employer*.
 - All occupants must wear their safety belts properly, and must never put the shoulder belt under their arm or behind their backs. Drivers and all passengers must buckle-up at all times for the sake of themselves and their families.

- Rule 4: Be sober (no person is allowed to work under the influence of drugs and Alcohol.
- Rule 5: Use a permit to work – where an authorization limitation exists, no person shall work without the required permit to work.

The *Contractor* acknowledges that it is fully aware of the requirements of all the above and undertakes to employ only people who have been duly authorised in terms thereof and who have received sufficient safety training to ensure that they can comply therewith.

The *Contractor* undertakes not to do, or not to allow anything to be done which will contravene any of the provisions of the Act, Regulations or Safety and Operating Procedures.

The *Contractor* shall appoint a person who will liaise with the *Employers* Safety Officer responsible for the premises relevant to this contract.

Do safety audits at the *Contractor's* premises, its work-places and on its employees;

Refuse any employee, sub-Contractor or agent of the *Contractor* access to its premises if such person has been found to commit any unlawful act or any unsafe working practice or is found to be not authorised or qualifies in terms of the OHSACT;

Issue the *Contractor* with a work stop order or a compliance order should *Employer* become aware of any unsafe working procedures or conditions or any non-compliance with the Act, Regulations and Procedures by the *Contractor* or any of its employees, sub-Contractors or agents.

The *Contractors* Health and safety file is to be submitted for approval to the *Employers* Safety Officer before contract commencement.

All work stoppages called by the *Employer* to be adhered to

Contractor is Responsible to ensure that his Letter of Good standing is valid at all times as stipulated in the construction regulations point 7 (C) (iv) and she specifications 2.5.2 (iv) and 3.10 *Contractor* will not be allowed on site if his letter of good standing is not valid

3.2 Environmental constraints and management

During tendering process, Contractor completes and submits the Environmental Tender Evaluation and Scoring Card stated in Appendix C Annexure C5 as part of their tender submission for Employer to evaluate and approve.

During execution of the required works, Contractor shall comply with the environmental criteria and constraints required by Eskom. The Contractor adheres to the Employer's Environmental Management System that must meet the requirements for the Code of Practice for Environmental Management Systems (EMS), ISO 14001:2004.

3.3 Quality assurance requirements

- The Contractor must conform to Quality Management System-ISO 9001:2015 requirements
- The Contractor will fully conform to the requirement of the Supplier Contract Quality Requirement Specification (QM-58), standards, procedures and Eskom policies
- All activities that needs to have Quality control plans in place which will be developed by the Contractor must be approved by Employer's Service Managers prior execution of work.
- Contractor might be subjected to audits or reviews

- All documented information as per category (Quality Returnable) to be submitted prior work execution for purpose of evaluations
- All necessary records or documented information must be remaining with the client
- If the Contractor will be sub-contracting, proof for documented information for the control of service provided processes to be sent to the Employer

4 Procurement

4.1 People

4.1.1 Minimum requirements of people employed

- All staff required to perform the activities within the works information
- All relevant personnel names and titles must be specified to the Service Manager
- All Contractors personnel specified in this contract to be on site as per 2.3
- All new staff to be appointed in writing.
- Contract Staff are not allowed to work on any other contract.
- All new staff to do induction training
- All replacements of staff will be in the same discipline with the same technical requirements noted in the Employer's scope of work [15ENG GEN-2067]
- All new staff to be approved by Service Manager before entering the site or commencing work
- All new staff must hand in all qualifications and relevant documentation to the Service Manager
- When changing personnel, a new access to work form to be completed by the Contractor
- Only required specified approved amount of personnel to be allowed on site, pre-arrange with Service Manager
- Contractor to comply with the minimum leave requirements as per Occupational Health and Safety Act
- Contractor's leave to be planned and discussed with Service Manager before such permission will be allowed by Service Manager

4.1.2 BBBEE and preferencing scheme

As per SDL&I report

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

As per SDL&I report

4.2 Subcontracting

4.2.1 Preferred subcontractors

Sub-Contractors not applicable to this contract (Refer to SDL&I Report)

4.2.2 Subcontract documentation, and assessment of subcontract tenders

N/A

4.2.3 Limitations on subcontracting

N/A

4.2.4 Attendance on subcontractors

N/A

4.3 Plant and Materials

4.3.1 Specifications

N/A

4.3.2 Correction of defects

N/A

4.3.3 Contractor's procurement of Plant and Materials

N/A

4.3.4 Tests and inspections before delivery

N/A

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

N/A

4.3.6 Cataloguing requirements by the Contractor

As per section 2.11

5 Working on the Affected Property

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

- Lifesaving rules to be adhered at all times
- All personnel must attend induction before working on site and must obtain gate permits via the Service Manager.
- No employee will be allowed to access work without an access permit card. Each personnel to have their access permit card at all times
- Unauthorized access to site is prohibited. The personnel are expected to be at their working site area at all times.
- No recruitment on site or at the main access gates or any of the *Employer's Premises'* is allowed.
- All activities to comply with the OSHACT and Regulations
- All activities on plant must be preceded by a plant risk assessment – Risk assessment as per the *Employer's* standard, to be current at all times (Live Document)
- All work to be done according to the contraction regulations at all times

5.2 Access permits

All applicable *Contractor* personnel shall be issued with access and vehicle permits (*Contractor Permit*)

which will contain the following information:

- Name
- ID Number
- Company
- Validity date

All *Contractor* permits must be submitted to Protective Services when the workers leave the Site after Completion of the works.

The *Contractor* applies with Tutuka Power Station Protective Services for the issuing of permits. The *Contractor* submits his application at least 24 hours prior to entering the Security area. This application

form must be delivered to Protective Services, or can be faxed to (017) 749 9168. The form contains the following information:

- Employee Name.
- Employee ID Number.
- The *Employer's* Safety Co-ordinators signature.
- The *Employer's Service Manager's* signature.
- Copy of the first page of the ID book of every employee of the *Contractor*, photocopied to reduce the size to 65%.

The form is appended to the *Contractor's* Safety Manual, referred to in Section 2.3.2 (b).

The *Contractor's* visitors and personnel shall conform to the security arrangements in force at the Site at all times.

The Chief of Protective Services may, with valid cause, remove any of the *Contractor's* personnel from Site, either temporarily or permanently. He may deny access to the Site to any person whom, in the opinion of the said Chief of Protective Services, constitutes a security risk. No unauthorized vehicles will be allowed on Site. Contract vehicle application should be directed to the *Service Manager*.

The *Contractor* will be limited to the working areas associated with the works. The *Contractor* is forbidden to enter any other areas, and must ensure that his employees abide by these regulations.

Parking inside the Power Station is allowed. The parking application must be addressed to the protective services.

5.3 People restrictions, hours of work, conduct and records

- Normal working hours is the *Employer's* working hours
 - Monday to Thursday 07:00-16:15
 - Friday s 07:00-12:00
- *Contractor's* working hours to be agreed upon.
- Other hours will be determined as per critical path activities during outages / breakdowns
- Overtime on as and when required basis, but must be approved by the *Service Manager*
- Daily time sheets must be kept up to date of normal time and overtime worked at all Times. The *Employer's Contractors* time sheets to be used
- Overtime to be worked as communicated by the *Employer's Service Managers*.
- All overtime worked must comply with the *Employer's* rest period requirements

- The Contractor must be available to attend to standby/emergency calls during after hours, weekends and public holidays. The Contractor must be on site after 1 hour after a phone call is made

5.4 Health and safety facilities on the Affected Property

- Proto-team on each shift
- Medical Station and relevant staff on Site.
- Each workshop has a first aid box available.
- Yearly induction for all personnel.
- In an emergency the *Service Managers* must notified immediately

5.5 Environmental controls, fauna & flora

5.5.1 Environmental management

- All *Contractors* shall comply with the *Employer's* environmental management procedures and Environmental legislation.
- Environmental incidents shall be reported to the *Employer's* Environmental Department as per incident management requirements.

The *Contractor* is required to ensure that all goods, services or works supplied in terms of the contract conform to all applicable environmental legislation. Where work is done on the Site, the goods, services or works supplied will also conform to the *Employer's* environmental specifications.

5.5.2 Waste Management

- Waste segregation is important to facilitate recycling of waste. Ensure waste is disposed of in the correct colour bin.
- Eskom periodically collects waste from the bins for disposal in the correct manner.
- No waste should be burned or buried on site.

Types and colours of bins used on site:

- Yellow bin for domestic waste
- Orange bin for hazardous waste
- Maroon bin for scrap
- Green box for cartridges
- Blue box for recyclable paper

5.6 Cooperating with and obtaining acceptance of Others

Contractor to share the site with Employer's engineering resource and other parties conducting operation and maintenance on the plant.

5.7 Records of Contractor's Equipment

- *Contractor's* equipment (Cell phones with Camera's, Computers, Camera's etc.) to be and signed in at security and this form needs to be kept for use when items need to leave site
- All test equipment must be calibrated and tested regularly and certificates must be handed in to the *Service Manager* for record keeping.
- All equipment and tools needs to be marked and a list off all tools with the identification number to be provided to the *Service Manager* when entering site.

- All lost equipment and tools to be declared to the Employer's *Service Manager* and full details of incident.

5.8 Equipment provided by the *Employer*

- Office space in the Engineering Building or other area identified by the Employer's Service Managers
- Laptops/computers and printer access for the Contractor's Civil, Turbine and Process Engineers
- Telecommunications of cisco office phone. Contractor personnel must be equipped with their own cell phones to execute the required works.

5.9 Site services and facilities

5.9.1 Provided by the *Employer*

Provided by the *Employer*

The *Employer* supplies 220 & 380 V AC power supply at existing points for the purpose of the works only. All installations or equipment complies with all relevant safety regulations and requirements. *Contractor* is to supply own 220 or 380 VAC extensions.

Water

The *Employer* supplies potable water for the purpose of the works, at existing points and in reasonable quantities. Uninterrupted supply is not guaranteed and is not grounds for compensation events.

Accommodation of the *Contractor's* employees

The *Contractor* makes his own arrangements for all accommodation and meals.

Facilities availability

Employer will provide facilities (such as toilets) and *office space for the Contractor's Civil, Turbine and Process Engineers*

5.9.2 Provided by the *Contractor*

- *Contractor* to provide and insure safe transportation services for all his *Contractors* and it must comply with 32-93 and 33-345 procedures.
- The *Contractor* to provide accommodation and meals for his / her employees and costs for this to be included in the contract price.
- *Contractor* to supply home-work-home transport for all employees
- *Contractor* to provide PPE for all their personnel/resources
- Provide SABS approved Safety harnesses as per the *Employer's* Safety Requirements.
- *Contractor* to provide own fire extinguishers for their vehicles.

Personal Protective Equipment (PPE)

The *Contractor* supplies, maintains and ensures that his personnel at all times wear personal protective equipment as required per site.

Housekeeping

The *Contractor* to maintain good housekeeping at all time.

5.10 Control of noise, dust, water and waste

- All necessary and relevant PPE must be used at all time when entering or working on plant
- Risk assessments must be completed before commencing with any task to be current at all times (Live Document)
- All relevant procedures to be used at all times

5.11 Hook ups to existing works

- The *Contractor's* personnel to do safety induction before entering the site and commencing with any work on *Employer's* account.
- The *Contractor's* personnel to have job specific training aligning with the required works as per Part C3 1 TSC3 Employer's Service Information and Employer's Scope of Work for Multidisciplinary Professional Services Contract for Engineering Resources at Tutuka Power Station [15ENG GEN-2067].

5.12 Tests and inspections

5.12.1 Description of tests and inspections

Contractor refers to the Employer's Scope of Work for Multidisciplinary Professional Services Contract for Engineering Resources at Tutuka Power Station [15ENG GEN-2067].

5.12.2 Materials facilities and samples for tests and inspections

Contractor refers to the Employer's Scope of Work for Multidisciplinary Professional Services Contract for Engineering Resources at Tutuka Power Station [15ENG GEN-2067].

6 List of drawings

6.1 Drawings issued by the *Employer*

Drawings to be issued by the *Employer* during service period of the contract.

7 Appendix A

X17 LOW SERVICE DAMAGES				
ITEM	DESCRIPTION OF TASK	QUALITY OF PERFORMANCE	REASON FOR DAMAGES	DAMAGES TO BE IMPLEMENTED
TOOLS	NOT HAVING REQUIRED TOOLS	QUALITY OF WORK DONE NOT UP TO STANDARD	WORK CANNOT BE DONE IN REQUIRED TIME	After second incident 2% of task order value
TRANSPORT	ARRIVING LATE NOT ENOUGH TRANSPORT	WILL NOT BE ABLE TO KEEP TO WORK PROGRAM	LOW WORK OUT PUT	After 2 incident 2% of task order value
SAFETY	ALL TASKS	WORKING UNSAFELY	NOT ADHEREING TO SAFETY	Put off site till safety is up to standard and no payment for the days absent. Contractor to be accountable for the time lost due to not adhering to safety

X17 LOW SERVICE DAMAGES				
ITEM	DESCRIPTION OF TASK	QUALITY OF PERFORMANCE	REASON FOR DAMAGES	DAMAGES TO BE IMPLEMENTED
				requirements. Contractor to provide action plan to correct non-adherence.
CERTIFICATES	COMPANY VALIDATION CERTIFICATES	CERTIFICATES NOT RENEWED IN TIME	CANNOT PERFORM DAILY DUTIES	Put off site till all certification is valid and handed in to the employer and no payment for the days absent Contractor to be accountable for the time lost due to not adhering to technical requirements. Contractor to provide action plan to correct non-adherence.
Late arrival to work / reporting late for duty / (Start time is 7am)	When arriving late to work without valid excuse.	Per Individual per Incident	Late arrival to work	2% of monthly fixed cost per relevant Individual rates
Leave site before 16H15	Leaving site before 16H15 without permission from <i>Service Manager</i> in writing	Per Individual per Incident	Leaving site early	1% of monthly fixed cost per relevant Individual rates

8. Appendix B - X20 - Key Performance Indicators (only a sample below)

Contract Number _____							Contract _____															
YEAR:-																						
Monthly Report for: Contractual Period																						
	KPA	Objective	Weight	Base	Target	Ceiling	Mth 1	Mth 2	Mth 3	Mth 4	Mth 5	Mth 6	Mth 7	Mth 8	Mth 9	Mth 10	Mth 11	Mth 12	YTD		YE	
1																						
2																						
3																						
4																						

9. Annexure C 5: Environmental Tender Evaluation and Scoring Card (High, Medium and Low risk work)

1. High Low Categories

<u>Ref.</u>	<u>KPIs</u>	<u>Submission</u>
		Y = Yes N= No N/A = Not applicable
1	<p>Annexure B</p> <p>Is the acknowledgement of Eskom's SHE rules and requirements form (Annexure B) signed and submitted by the tenderer?</p>	
2	<p>Environmental Management Plan for the Scope of work addressing the following as a minimum:</p> <ul style="list-style-type: none"> • Waste management plan with specification for (reduction, re-use, recycling, disposal). • Environmental induction. • Environmental incident management. • Emergency planning for environmental incidents. • Environmental management structure within the Company: Professional Registration of environmental resources(s), responsibility and accountability. • Method statements related to activities that have significant environmental impacts (methodology and approach) illustrating how environmental impacts and risks are managed. • Approach to ensuring compliance with environmental compliance obligations. • Environmental competency, training, appointments. • Environmental Communication and awareness]\ 	

<u>Ref.</u>	<u>KPIs</u>	<u>Submission</u>
		Y = Yes N= No N/A = Not applicable
3	Costing for Environmental Management: Has the tenderer submitted detailed (the cost should be broken down not provided as a lump sum) costing for environmental management related to the overall scope of work/service to be performed.	
4	Identification of Environmental Aspects and Impacts(Aspect impact Register): Identification, assessment and control of activities that have or may have an impact on the environment. The methodology used must be provided together with the identified activities (if applicable) that have been identified, based on the scope of work, that have an impact on the environment and the controls that will be in place in contract execution.	
5	Environmental (or SHE/SHEQ) policy signed by Company Owner/CEO/MD: Commitment to: (1) compliance to environmental compliance obligations; and (2) environmental duty of care.	
6	Environmental Competency (Consider scope of work, risks, Environmental Management Plan and applicability) CV,s and qualifications / certificates e.g. <ul style="list-style-type: none"> - Environmental Officer - Environmental Control Officer 	

<u>Ref.</u>	<u>KPIs</u>	<u>Submission</u>
		Y = Yes N= No N/A = Not applicable
	- Incident investigator(s)	
	TOTAL	

Score:

0 = Document not submitted OR submitted but does not satisfy the minimum requirements

1 = Document submitted and the content satisfy the minimum requirements