



## NEC3 Professional Services Contract (PSC3)

Contract between Eskom Holdings SOC Ltd  
(Reg No. 2002/015527/30)

and \_\_\_\_\_

(Reg No. \_\_\_\_\_ )

for Provision of External Independent Environmental  
Auditors for Kusile 60 year ADF

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Contract No.

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**PART C1:      AGREEMENTS & CONTRACT DATA**

| <b>Document<br/>reference</b> | <b>Title</b>   | <b>No of<br/>pages</b> |
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| <b>C1.1</b>                   | <b>Form of Offer &amp; Acceptance</b>                  | <b>3</b>               |
| <b>C1.2a</b>                  | <b>Contract Data provided by the <i>Employer</i></b>   | <b>10</b>              |
| <b>C1.2b</b>                  | <b>Contract Data provided by the <i>Consultant</i></b> | <b>2</b>               |

## C1.1 Form of Offer & Acceptance

### Offer

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

#### Provision of External Independent Environmental Auditors for Kusile 60 year ADF

The tenderer, identified in the Offer signature block, has

|               |   |
|---------------|---|
| <i>either</i> | examined the documents listed in the Tender Data and addenda thereto as listed in the Returnable Schedules, and by submitting this Offer has accepted the Conditions of Tender. |
| <i>or</i>     | examined the draft contract as listed in the Acceptance section and agreed to provide this Offer.   |

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 *Consultant* 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.

|   |   |
|---|---|
| The offered total of the Prices exclusive of VAT is | R |
| Value Added Tax @ 15% is                            | R |
| The offered total of the Prices inclusive of VAT is | R |
| (in words)  |   |

If Option E or G apply, for each offered total insert in brackets, "(Not Applicable – Cost reimbursable)"

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 *Consultant* 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

## 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 Consultant 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: The Scope   |

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**

**Eskom Holdings SOC Limited**

*(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**

Note:

1. To be completed by the Employer prior to award of contract. 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)***Eskom Holdings SOC Limited**Name &  
signature  
of witness

Date

## C1.2 PSC3 Contract Data

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

- 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.

Completion of the 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>G: Term Contract</b>   |
|          | dispute resolution Option and secondary Options  | <b>W1: Dispute resolution procedure</b>   |
|          |  | <b>X1: Price adjustment for inflation</b>   |
|          |  | <b>X2 Changes in the law</b>  |
|          |  | <b>X9: Transfer of rights</b>   |
|          |  | <b>X10 <i>Employer's Agent</i></b>  |
|          |  | <b>X11: Termination by the <i>Employer</i></b>  |
|          |  | <b>X18: Limitation of liability</b>   |
|          |  | <b>Z: <i>Additional conditions of contract</i></b>  |
|          | of the NEC3 Professional Services Contract (April 2013) <sup>1</sup>                   |   |
| 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>   |
| 11.2(9)  | The <i>services</i> are  | <b>Provision of External Independent Environmental Auditor for Kusile 60 Year ADF</b>   |
| 11.2(10) | The following matters will be included in the Risk Register                            | <b>See attached Risk Register</b>   |

<sup>1</sup> Available from Engineering Contract Strategies Tel 011 803 3008 Fax 011 803 3009 and [www.ecs.co.za](http://www.ecs.co.za)

|          |   |   |                                      |
|----------|---|---|--------------------------------------|
| 11.2(11) | The Scope is in   | Part 3: Scope of Work                       |                                      |
| 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  | 7 working days for contract queries         |                                      |
| 13.6     | The <i>period for retention</i> is  | Not applicable                              |                                      |
| 2        | The Parties' main responsibilities  |   |                                      |
| 25.2     | The <i>Employer</i> provides access to the following persons, places and things | access to                                   | access date                          |
|          |   | 1   | Kusile 60 Year Ash Disposal Facility |
|          |   | 2   | Kusile Power Station Site            |
|          |   |   | At Contract Date                     |
| 3        | Time  |   |                                      |
| 31.2     | The <i>starting date</i> is.  | 01 August 2022                              |                                      |
| 11.2(3)  | The <i>completion date</i> for the whole of the <i>services</i> is.             | 31 December 2026                            |                                      |
| 11.2(6)  | The <i>key dates</i> and the <i>conditions</i> to be met are:                   | Condition to                                | key date                             |
|          |   | be met                                      |                                      |
| 31.1     | The <i>Consultant</i> is to submit a first programme for acceptance within      | 4 weeks after placement of contract.        |                                      |
| 32.2     | The <i>Consultant</i> submits revised programmes at intervals no longer than    | 4 weeks before the start of the next audit. |                                      |
| 4        | Quality   |   |                                      |
| 40.2     | The quality policy statement is provided within                                 | 4 weeks of the Contract Date.               |                                      |
| 42.2     | The <i>defects date</i> is  | 52 weeks after completion of each audit     |                                      |
| 5        | Payment   |   |                                      |
| 50.1     | The <i>assessment interval</i> is   | At completion of each audit                 |                                      |
| 50.3     | The <i>expenses</i> stated by the <i>Employer</i> are                           | Item  | Amount                               |
|          |   | Refer to attached Price List                |                                      |
| 51.1     | The period within which payments are made is                                    | 4 weeks.                                    |                                      |
| 51.2     | The <i>currency of this contract</i> is the                                     | South African Rand                          |                                      |

|           |  |  |
|-----------|--|--|
| 51.5      | The <i>interest rate</i> is  | the publicly quoted prime rate of interest charged by [•] Standard Bank of South Africa Limited at the time an amount payable in SA Rand was due,  |
| <b>6</b>  | <b>Compensation events</b>   | There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.   |
| <b>7</b>  | <b>Rights to material</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>8</b>  | <b>Indemnity, insurance and liability</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.   |
| 82.1      | The <i>Consultant'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 | The total of the Prices  |
| <b>9</b>  | <b>Termination</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>10</b> | <b>Data for main Option clause</b>   |  |
| <b>G</b>  | <b>Term contract</b>   |  |
| 21.4      | The <i>Consultant</i> prepares forecasts of the total Time Charge and <i>expenses</i> at intervals no longer than  | <b>4 weeks.</b>  |
| <b>11</b> | <b>Data for Option W1</b>  |  |
| W1.1      | The <i>Adjudicator</i> is  | 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). |
| W1.2(3)   | The <i>adjudicator nominating body</i> is:   | the Chairman of the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering. (See <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a> ).  |
| W1.4(2)   | The <i>tribunal</i> is:  | arbitration  |
| W1.4(5)   | The <i>arbitration procedure</i> is  | the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.   |



|            |   |  |
|------------|---|--|
|            | <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 <i>arbitration procedure</i> does not state who selects an arbitrator, is</li> </ul> | <p><b>Johannesburg, South Africa</b></p> <p><b>the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.</b></p> |
| <b>12</b>  | <b>Data for secondary Option clauses</b>  |  |
| <b>X1</b>  | <b>Price adjustment for inflation</b>   |  |
| X1.1       | The index is  | <b>SEIFSA</b>  |
|            | The staff rates are   | <b>Fixed at the Contract Date and are not variable with changes in salary paid to individuals</b>  |
| <b>X2</b>  | <b>Changes in the law</b>   |  |
| X2.1       | The law of the project is   | <b>Laws of the Republic of South Africa</b>  |
| <b>X9</b>  | <b>Transfer of rights</b>   | <b>There is no reference to Contract Data in this Option and terms in italics used in this Option are identified elsewhere in this Contract Data.</b>                            |
| <b>X10</b> | <b>The <i>Employer's Agent</i></b>  |  |
| X10.1      | <p>The <i>Employer's Agent</i> is</p> <p>Name:</p> <p>Address</p> <p>The authority of the <i>Employer's Agent</i> is</p>  | <b>TBA</b>   |
| <b>X11</b> | <b>Termination by the <i>Employer</i></b>   | <b>There is no reference to Contract Data in this Option and terms in italics used in this Option are identified elsewhere in this Contract Data.</b>                            |
| <b>X18</b> | <b>Limitation of liability</b>  |  |
| X18.1      | The <i>Consultant's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to:  | <b>R0.00 (Zero Rand)</b>   |
| X18.2      | The <i>Consultant's</i> liability to the <i>Employer</i> for Defects that are not found until after the <i>defects date</i> is limited to:  | <b>The total of the Prices</b>   |
| X18.3      | The <i>end of liability date</i> is   | <b>Five years after completion of the contract.</b>  |

|           |   |  |
|-----------|---|--|
| <b>Z</b>  | <b>The Additional conditions of contract are</b>                        | <b>Z1 to Z14 always apply.</b>   |
| <b>Z1</b> | <b>Cession delegation and assignment</b>                                |  |
|           | Z1.1  | The <i>Consultant</i> does not cede, delegate or assign any of its rights or obligations to any person without the written consent of the <i>Employer</i> .  |
|           | Z1.2  | Notwithstanding the above, the <i>Employer</i> may on written notice to the <i>Consultant</i> cede and delegate its rights and obligations under this contract to any of its subsidiaries or any of its present divisions or operations which may be converted into separate legal entities as a result of the restructuring of the Electricity Supply Industry.   |
| <b>Z2</b> | <b>Joint ventures</b>   |  |
|           | Z2.1  | If the <i>Consultant</i> 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 <i>Employer</i> for the performance of this contract.   |
|           | Z2.2  | Unless already notified to the <i>Employer</i> , the persons or organisations notify the <i>Employer</i> within two weeks of the Contract Date of the key person who has the authority to bind the <i>Consultant</i> on their behalf.  |
|           | Z2.3  | The <i>Consultant</i> does not alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without the consent of the <i>Employer</i> having been given to the <i>Consultant</i> in writing.  |
| <b>Z3</b> | <b>Change of Broad Based Black Economic Empowerment (B-BBEE) status</b> |  |
|           | Z3.1  | Where a change in the <i>Consultant's</i> legal status, ownership or any other change to his business composition or business dealings results in a change to the <i>Consultant's</i> B-BBEE status, the <i>Consultant</i> notifies the <i>Employer</i> within seven days of the change.   |
|           | Z3.2  | The <i>Consultant</i> is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the <i>Employer</i> within thirty days of the notification or as otherwise instructed by the <i>Employer</i> .  |
|           | Z3.3  | Where, as a result, the <i>Consultant's</i> B-BBEE status has decreased since the Contract Date the <i>Employer</i> may either re-negotiate this contract or alternatively, terminate the <i>Consultant's</i> obligation to Provide the Services.  |
|           | Z3.4  | Failure by the <i>Consultant</i> to notify the <i>Employer</i> of a change in its B-BBEE status may constitute a reason for termination. If the <i>Employer</i> terminates in terms of this clause, the procedures on termination are those stated in core clause 91. The payment on termination includes a deduction of the forecast of the additional cost to the <i>Employer</i> of completing the whole of the services in addition to the amounts due in terms of core clause 92.1.   |
| <b>Z4</b> | <b>Confidentiality</b>  |  |
|           | Z4.1  | The <i>Consultant</i> 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 <i>Consultant</i> , enters the public domain or to information which was already in the possession of the <i>Consultant</i> at the time of disclosure (evidenced by written records in existence at that time). Should the <i>Consultant</i> disclose information to Others in terms of clause 23.1, the <i>Consultant</i> ensures that the provisions of this clause are complied with by the recipient. |
|           | Z4.2  | If the <i>Consultant</i> is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the <i>Employer</i> .   |

Z4.3 In the event that the *Consultant* is, at any time, required by law to disclose any such information which is required to be kept confidential, the *Consultant*, 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 *Consultant* 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 *Employer's* project works or any portion thereof, in the course of Providing the Services and after Completion, requires the prior written consent of the *Employer*. All rights in and to all such images vests exclusively in the *Employer*.

**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, 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 Provision of a Tax Invoice. Add to core clause 51**

Z6.1 The *Consultant* (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.

**Z7 Notifying compensation events**

Z7.1 Delete from the last sentence in core clause 61.3, "unless the *Employer* should have notified the event to the *Consultant* but did not".

**Z8 *Employer's* limitation of liability**

Z8.1 The *Employer's* liability to the *Consultant* for the *Consultant's* indirect or consequential loss is limited to R0.00 (zero Rand)

**Z9 Termination: Add to core clause 90.1, at the second main bullet point, fourth sub-bullet point, after the words "against it":**

Z9.1 or had a business rescue order granted against it.

**Z10 Delay damages: Addition to secondary Option X7 Delay damages (if applicable in this contract)**

Z10.1 If the *Consultant's* payment of delay damages reaches the limits stated in this Contract Data for Option X7 or Options X5 and X7 used together, the *Employer* may terminate the *Consultant's* obligation to Provide the Services.

Z10.2 If the *Employer* terminates in terms of this clause, the procedures on termination are those stated in core clause 91. The payment on termination includes a deduction of the forecast of the additional cost to the *Employer* of completing the whole of the *services* in addition to the amounts due in terms of core clause 92.1.

**Z11 Ethics**

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

|                           |  |
|---------------------------|--|
| <b>Affected Party</b>     | means, as the context requires, any party, irrespective of whether it is the <i>Consultant</i> or a third party, such party's employees, agents, or Subconsultants or Subconsultant's employees, or any one or more of all of these parties' relatives or friends, |
| <b>Coercive Action</b>    | 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,   |
| <b>Collusive Action</b>   | 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,   |
| <b>Committing Party</b>   | means, as the context requires, the <i>Consultant</i> , or any member thereof in the case of a joint venture, or its employees, agents, or Subconsultants or the Subconsultant's employees,  |
| <b>Corrupt Action</b>     | 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,   |
| <b>Fraudulent Action</b>  | 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,                                      |
| <b>Obstructive Action</b> | 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  |
| <b>Prohibited Action</b>  | 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 *Consultant's* obligation to Provide the Services if a Committing Party has taken such Prohibited Action and the *Consultant* 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 *Consultant's* obligation to Provide the Services for this reason.

Z11.3 If the *Employer* terminates the *Consultant'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 *Consultant* ensures that the Committing Party co-operates fully with an investigation.

**Z12 Insurance**

Z12.1 Replace core clause 81 with the following:

81.1 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.

81.2 The *Consultant* 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**

| <b>Insurance against</b>   | <b>Minimum amount of cover</b>   | <b>For the period following Completion of the whole of the services or earlier termination</b> |
|--|--|--|
| Liability of the <i>Consultant</i> for claims made against him arising out of his failure to use the skill and care normally used by professionals providing services similar to the <i>services</i>         | Whatever the consultant deems necessary and can cover the claim amount during the incidents/ accidents, without limit to the number of claims  | 30 days after Completion of the <i>services</i> .  |
| Liability for death of or bodily injury to a person (not an employee of the <i>Consultant</i> ) or loss of or damage to property resulting from an action or failure to take action by the <i>Consultant</i> | <p><b><u>Loss of or damage to property:</u></b><br/>The replacement cost where not covered by the <i>Employer's</i> insurance</p> <p>The <i>Employer's</i> policy deductible, as at Contract Date, where covered by the <i>Employer's</i> insurance</p> <p><b><u>Bodily injury to or death of a person:</u></b><br/>The amount required by the applicable law.</p> | 30 days after Completion of the <i>services</i> .  |
| Liability for death of or bodily injury to employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with this contract  | The amount required by the applicable law  | 30 days after Completion of the <i>services</i> .  |

81.3 The *Employer* provides the insurances stated in the Insurance Table B.

**INSURANCE TABLE B**

| <b>Insurance against or name of policy</b>        | <b>Minimum amount of cover or minimum limit of indemnity</b> |
|---|--|
| 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                           | Per the insurance policy document                            |

|           |  |
|-----------|--|
| Terrorism |  |
|-----------|--|

**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 *Consultant* or any other person against any and all liabilities which the *Consultant* or any person may incur arising out of or resulting from nuclear damage, as defined in Act 47 of 1999, save to the extent that any liabilities are incurred due to the unlawful intent of the *Consultant* or any other person or the presence of the *Consultant* or that person or any property of the *Consultant* 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 *Consultant* or any other person, or the presence of the *Consultant* or that person or any property of the *Consultant* 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 47 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:

|                              |  |
|------------------------------|--|
| <b>AAIA</b>                  | means approved asbestos inspection authority.  |
| <b>ACM</b>                   | means asbestos containing materials.   |
| <b>AL</b>                    | 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.   |
| <b>Ambient Air</b>           | 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.   |
| <b>Compliance Monitoring</b> | 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. |
| <b>OEL</b>                   | means occupational exposure limit.   |
| <b>Parallel Measurements</b> | means measurements performed in parallel, yet separately, to existing measurements to verify validity of results.  |
| <b>Safe Levels</b>           | 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 *Employer's* 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 *Consultant* 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 *Consultant*, 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 *Consultant* may perform Parallel Measurements and related control measures at the *Consultant'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 *Consultant'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 *Consultant* 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 *Consultant*

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

1. The tendering consultant is advised to read both the NEC3 Professional Services Contract, April 2013 and the relevant parts of its Guidance Notes (PSC3-GN)<sup>2</sup> in order to understand the implications of this Data which the tenderer is required to complete. An example of the completed Data is provided on pages 158 & 159 of the PSC3 April 2013 Guidance Notes.
2. The number of the clause in the PSC3 which requires the data is shown in the left hand column for each statement however other clauses may also use the same data.
3. Whenever a cell is shaded in the left hand column it denotes this data is optional in PSC3 and would be required in relation to the option selected. The *Employer* should already have made the selection and deleted the rows not required.

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

| Clause           | Statement   | Data  |
|------------------|---|---|
| 10.1             | The <i>Consultant</i> is (Name):<br>Address<br>Tel No.<br>Fax No.   |   |
| 22.1             | The <i>key people</i> are:<br>1 Name:<br>Job:<br>Responsibilities:<br>Qualifications:<br>Experience:<br>2 Name:<br>Job<br>Responsibilities:<br>Qualifications:<br>Experience: |   |
| Only if required |   | CV's (and further <i>key persons</i> data including CVs) are appended to Tender Schedule entitled . |
| 11.2(3)          | The <i>completion date</i> for the whole of the services is   | 31 December 2026  |

<sup>2</sup> Available from Engineering Contract Strategies Tel 011 803 3008 Fax 011 803 3009 or [www.ecs.co.za](http://www.ecs.co.za)



|          |   |   |  |
|----------|---|---|--|
| 11.2(10) | The following matters will be included in the Risk Register                     |   |  |
| 11.2(13) | The <i>staff rates</i> are:   | <b>name/designation</b>   | <b>rate</b>  |
|          | Either complete here or cross refer to a schedule in Part C2.2                  |   |  |
| 25.2     | The <i>Employer</i> provides access to the following persons, places and things | <b>access to</b><br><br><b>1</b> <b>Kusile 60 Year Ash Disposal Facility</b><br><br><b>2</b> <b>Kusile Power Station Site</b> | <b>access date</b><br><br><b>At Contract Date</b><br><br><b>At Contract Date</b> |
| 31.1     | The programme identified in the Contract Data is                                |   |  |
| 50.3     | The <i>expenses</i> stated by the <i>Consultant</i> are                         | <b>item</b>   | <b>amount</b>  |
|          |   |   |  |

**PART 2: PRICING DATA****PSC3 Option G**

| <b>Document reference</b> | <b>Title</b>                   | <b>No of pages</b> |
|---------------------------|--------------------------------|--------------------|
| C2.1                      | Pricing assumptions : Option G | <b>1</b>           |
| C2.2                      | Staff rates and expenses.      | <b>2</b>           |

## C2.1 Pricing assumptions: Option G

### How work is priced and assessed for payment

From Option G:

|                              |            |  |
|------------------------------|------------|--|
| Identified and defined terms | 11<br>11.2 | (16) The Price for Services Provided to Date is the Time Charge for the work which has been completed.<br><br>(19) The Prices are the Time Charge. |
|------------------------------|------------|--|

From the core clauses:

|                              |      |  |
|------------------------------|------|--|
| Identified and defined terms | 11.2 | (13) The Time Charge is the sum of the products of each of the <i>staff rates</i> multiplied by the total staff time appropriate to that rate properly spent on work in this contract. |
|------------------------------|------|--|

and

|                          |      |  |
|--------------------------|------|--|
| Assessing the amount due | 50.3 | The amount due is<br><br>the Price for Services Provided to Date,<br>the amount of the <i>expenses</i> properly spent by the <i>Consultant</i> in Providing the Services and<br>other amounts to be paid to the <i>Consultant</i> less amounts to be paid by or retained from the <i>Consultant</i> .<br><br>Any tax which the law requires the <i>Employer</i> to pay to the <i>Consultant</i> is included in the amount due. |
|--------------------------|------|--|

#### 2. Staff rates and expenses

Tendering consultants are advised to consult the NEC3 Professional Services Contract Guidance Notes before entering *staff rates* into Contract Data, or in C2.2 below.

This is because *staff rates* can be established in one of three ways:

rates for named staff,  
rates for categories of staff or  
rates related to salaries paid to staff.

Rate adjustment for inflation, if necessary, can be based either on actual salary adjustments or by using Option X1: Price adjustment for inflation. See pages 13 and 14 of the PSC3 Guidance Notes.

*Expenses* associated with employing a staff member in Providing the Services are listed separately either by the *Employer* in Contract Data provided by the *Employer* or by the *Consultant* in Contract Data provided by the *Consultant*. As only the *expenses* listed may be claimed by the *Consultant*, all other cost to the *Consultant* associated with Providing the Services must be included within the *staff rates*.

Rate adjustment for inflation of *expenses* is explained on page 15 of the Guidance Notes.

## C2.2 Staff rates and expenses

This section can be used when the *staff rates* and *expenses* are considerable in number and more conveniently located here than in the Contract Data. Entries in the Contract Data should refer to this section of Part 2.

State whether the *staff rates* and *expenses* exclude or include VAT.

### 1. The *staff rates* are:

| No. | Designation (or category) or name of staff member | Rate per {hour, day, month} excluding VAT |
|-----|---|---|
|     |   |   |
|     |   |   |
|     |   |   |
|     |   |   |
|     |   |   |

### 2. The *expenses* are:

| No. | Expense item | Amount / rate excluding VAT |
|-----|--------------|-----------------------------|
|     |              |                             |
|     |              |                             |
|     |              |                             |
|     |              |                             |

### 3. The task schedule

| ITEM | DESCRIPTION                                | FREQUENCY | QTY | RATE | TOTAL |
|------|--|-----------|-----|------|-------|
|      |  |           |     |      |       |
|      | <b>A. SIX MONTHLY AUDITS</b>               |           |     |      |       |
| 1    | Six monthly environment audits - Jan 2023  | Per Audit | 1   |      |       |
| 2    | Six monthly environment audits - July 2023 | Per Audit | 1   |      |       |
| 3    | Six monthly environment audits - Jan 2024  | Per Audit | 1   |      |       |
| 4    | Six monthly environment audits - July 2024 | Per Audit | 1   |      |       |
| 5    | Six monthly environment audits - Jan 2025  | Per Audit | 1   |      |       |
| 6    | Six monthly environment audits - July 2025 | Per Audit | 1   |      |       |
| 7    | Six monthly environment audits - Jan 2026  | Per Audit | 1   |      |       |

|   |                                      |           |   |          |  |
|---|--------------------------------------|-----------|---|----------|--|
|   |                                      |           |   |          |  |
|   | <b>B. ANNUAL AUDITS</b>              |           |   |          |  |
| 1 | Annual Water Use License - Sept 2022 | Per Audit | 1 |          |  |
| 2 | Annual Water Use License - Sept 2023 | Per Audit | 1 |          |  |
| 3 | Annual Water Use License - Sept 2024 | Per Audit | 1 |          |  |
| 4 | Annual Water Use License - Sept 2025 | Per Audit | 1 |          |  |
| 5 | Annual Water Use License - Sept 2026 | Per Audit | 1 |          |  |
|   |                                      |           |   |          |  |
|   | <b>C. ADHOC AUDITS</b>               |           |   |          |  |
| 1 | Six monthly environment audits       | Per Audit | 1 |          |  |
| 2 | Six monthly environment audits       | Per Audit | 1 |          |  |
|   |                                      |           |   |          |  |
|   | <b>D. ADHOC ANNUAL AUDITS</b>        |           |   |          |  |
| 1 | Annual Water Use License -           | Per Audit | 1 |          |  |
| 2 | Annual Water Use License -           | Per Audit | 1 |          |  |
|   |                                      |           |   |          |  |
|   | <b>TOTAL COSTS (EXCLUDING VAT)</b>   |           |   | <b>R</b> |  |

**NB: RATES INCLUDE ALL RELEVANT COST**

## PART 3: SCOPE OF WORK

| Document reference | Title                     | No of pages |
|--------------------|---------------------------|-------------|
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| C3.1               | <i>Employer's Scope</i>   | 17          |
| C3.2               | <i>Consultant's Scope</i> |             |
|                    | Total number of pages     |             |

### C3.1: EMPLOYER'S SCOPE

| <b>Document reference</b> | <b>Title</b>              | <b>No of pages</b> |
|---------------------------|---------------------------|--------------------|
|                           | This cover page           | 1                  |
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| C3.2                      | <i>Consultant's Scope</i> |                    |
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# 1. Description of the services

## 1.1 Introduction

The proposed Kusile Power Station 60 year Ash Disposal Facility (ADF) project entails the construction and operation of an ADF, which will be in addition to the authorised current operational 10 Year Co-disposal Ash and Gypsum facility at the Kusile Power Station. The project is primarily constructing a suitable facility for the disposal of ash generated by Kusile Power Station and the planned project activities fall within the ambit of the National Environmental Waste Act (NEMWA) (59 of 2008), National Environmental Management Act (NEMA) (107 of 1998) and National Water Act (NWA) (36 of 1998). The proposed Kusile ADF construction activities include the following:

- A dry ash disposal facility;
- A conveyor belt system for the transportation of ash from the power station to the ash disposal site/facility;
- A single waste stream comprised of combined bottom ash and fly-ash;
- Services including electricity and water supply in the form of overhead power line and pipelines respectively;
- The construction of new storm water management and infrastructure, and drainage system; and
- Linear infrastructure such as roads to and from the site, culverts and channels.
- Stream Diversion
- Wetland rehabilitation (Wetland Offset Plan/ Strategy)

### 1.1.1. Integrated Environmental Authorization

The Kusile Coal and Clean Technology Integrated Environmental Authorization (IEA) (Ref 12/12/20/2412) was issued by the Department of Environment Affairs on 17 July 2015 followed by three part 1 amendments dated 24 June 2016, 06 October 2016 and 08 June 2020.

The IEA for the Kusile 60 Year Ash Dump Facility approves the undertaking of the following activities:

GNR. 544 Item 9: The construction of facilities or infrastructure exceeding 1000 meters in length for the bulk transportation of water, sewage or storm water –

- i) With an internal diameter of 0.36 meters or more; or
- ii) With a peak throughput of 120 litres per second or more.

GNR. 544 Item 10: The construction of facilities or infrastructure for the transmission and distribution of electricity (i) outside urban areas or industrial complexes with a capacity of more than 33 but less than 275 kilovolts.

GNR. 544 Item 11: The construction of:

- i) Canals;
- ii) Channels;
- iii) Bridges;
- iv) Dams;
- v) Weirs;
- vi) Bulk storm water outlet structures;
- xi) Infrastructure or structures > 50m<sup>2</sup>,

Where such construction occurs within a watercourse or 32 meters of a watercourse, measured from the edge of a watercourse excluding where such construction will occur behind the development setback line

GNR. 544 Item 12: The construction of facilities for the off-stream storage of water, including dams and reservoirs, with a combined capacity of 50 000 cubic meters or more, unless such storage falls within the ambit of Activity 19 of GNR 545 of 2010.

GNR. 544 Item 13: The construction of facilities or infrastructure for the storage, or for the storage and handling, of a dangerous good, where such storage occurs in containers with a combined capacity of 80 but not exceeding 500 cubic meters

GNR. 544 Item 18: The infilling or depositing of any material of more than 5 cubic meters into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock or more than 5 cubic meters from watercourse.

GNR. 544 Item 22: The construction of a road outside urban areas:

- i) With a reserve wider than 13, 5 meters;
- ii) Where no reserve exists where the road is wider than 8 meters,

GNR. 544 Item 24: The transformation of land bigger than 1000 m2 in size, to residential, retail commercial, industrial or institutional use, where at the time of coming into effect of this schedule such land was zoned as open space, conservation or had an equivalent zoning.

GNR. 544 Item 26: Any process or activity identified in terms of section 53(1) of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).

GNR. 544 Item 28: The expansion of or changes to existing facilities for any process or activity where such expansion or changes to will result in the need for a permit or license in terms of national or provincial legislation governing the release of emissions or pollution, excluding where the facility, process or activity is included in the list of waste management activities published in terms of section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case that Act will apply.

GNR. 544 Item 47: The widening of a road by more than 6 metres, or the lengthening of a road by more than 1 kilometres-

- i) Where the existing reserve is wider than 13.5 metres; or
- ii) Where no reserve exists, where the existing road is wider than 8 metres- excluding widening or lengthening occurring inside urban areas

GNR. 545 Item 6: The construction of facilities or infrastructure for the bulk transportation of dangerous goods-

- i) In liquid form, outside an industrial complex, using pipelines, excluding 1000 metres in length, with a throughput capacity more than 50 cubic metres per day

GNR. 545 Item 15: Physical alteration of undeveloped, vacant or derelict land for residential, retail, commercial, recreational, industrial or institutional use where the total area to be transformed is 20 hectares or more.

GNR. 546 Item 4: The construction of a road wider than 4 metres with a reserve less than 13.5 meters (a) in Mpumalanga (ii) outside the urban areas in (ee) Critical Biodiversity Areas as identified systematic biodiversity plans adopted by the competent authority or in bioregional plans.

GNR. 921 Category B Item 7: The disposal; of any quantities of hazardous waste to land

GNR. 921 Category B Item 10: The construction of a facility for waste management activity listed in Category B of this Schedule (not in isolation to associated waste management activities

### **1.1.2. Wetland Offset Plan**

In addition to the 60 Year Ash Dump IEA, the Department of Forestry, Fisheries and Environment (DFFE) also issued the project with Environmental Authorization for the rehabilitation of wetlands identified in the Kusile Wetland Offset Plan/ Strategy (Ref 14/12/16/3/3/1/1871) on 27 July 2018. The Environmental Authorization for the Offset approves undertaking of the following activities:

GNR. 983 item 12: The development of; dams or weirs, where the dam or weir including infrastructure and water surface area exceeds 100 square meters; or Infrastructure or structure with a physical footprint of 100 square

meters or more. Exclusions for this listed activity is not applicable. Where such developments occurs within a water course

GNR.983, item 19: The infilling of any material of more than 10 cubic meters into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic meters from a water course

GNR.983, item 30: Any process or activity identified in terms of Section 53(10) of the National Environmental Management: Biodiversity Act, 2004 (Act No.10 of 20004)

GNR.983, item 12:

The clearance of an area of 300 square meters or more of indigenous vegetation except where such clearance of indigenous vegetation is required for the maintenance purpose undertaken in accordance with a maintenance management plan.

### **Mpumalanga-**

Within any critically endangered or endangered ecosystem listed in terms of Section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as a critically endangered in the National Spatial Biodiversity Assessment 2004;

H) Within official biodiversity areas identified in biological plans.

GNR.983, item 14: The development of Dams or weirs, where the dam or weir, including infrastructure and water surface area exceed 10 square meters Infrastructure or structures with a physical footprint of 10 square meters or more; where such development occurs within a watercourse

### **Mpumalanga**

Outside urban areas

dd) Sensitive areas as identified in an environmental management framework as contemplated in Chapter 5 of the Act and as adopted by the competent authority.

ff) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plan adopted by the competent authority or in bioregional plans

GNR.983, item 23: The expansion of dams and weirs where the dam or weir is expanded by 10 square meters or more; where such expansion occurs within a watercourse

### **Mpumalanga**

f) Outside urban areas

cc) Sensitive areas as identified in an Environmental Management Framework as contemplated in Chapter 5 of the Act and as adopted by the competent Authority; and;

ee) Critical biodiversity areas or ecosystem services areas as identified in Systematic biodiversity plans adopted by the competent authority or in bioregional plans

### **1.1.3. Water Use License**

The project has been authorized for the following Water Uses

- Section 21 (a) : taking water from a water resource
- Section 21 (b) : storing water
- Section 21 (c) : Impeding or diverting the flow of water in a watercourse
- Section 21 (g): Disposing of waste in a manner which may detrimentally impact on a  
water resource
- Section 21 (i) : Altering the bed, banks. course or characteristics of a watercourse

It should be noted that should the project receive additional permits and licenses, etc with auditing requirements, such scope will be integrated in this works.

**1.1.4. Current 60 Year ADF construction status**

Construction of the ash disposal facility and wetland-offset implementation has not commenced yet. Construction is anticipated to commence in September 2022 while implementation of offset strategies is expected not later than July 2023.

**1.2. Interpretation and terminology**

The following abbreviations are used in this Scope:

| Abbreviation | Description                                       |
|--------------|---|
| ADF          | Ash Disposal Facility                             |
| DFFE         | Department of Forestry, Fisheries and Environment |
| DWS          | Department Water and Sanitation                   |
|              |   |
| EMP          | Environmental Management Plan                     |
| EMPr         | Environmental Management Programme                |
| EA           | Environmental Authorization                       |
| EMC          | Environmental Monitoring Committee                |
| IEA          | Integrated Environmental Authorization            |
| GA           | General Authorisation                             |
| NEMA         | National Environmental Management Act             |
| NEMWA        | National Environmental Management Waste Act       |
| OHS          | Occupation Health and Safety                      |
| PM           | Project Manager                                   |
| ROD          | Record Of Decision                                |
| SHE          | Safety Health and Environment                     |
| CV           | Curriculum Vitae                                  |
| WUL          | Water Use License                                 |
| WMCO         | Waste Management Control Officer                  |

**1.3. Scope of the document**

To outline the scope of the external Environmental Audit services for the construction of the 60 Year ADF and Wetland offset plan implementation at Kusile Power Station.

**1.4. Purpose**

To source the services of external Environmental Auditors for the construction of the 60 Year ADF and Wetland offset implementation at Kusile Power Station.

**1.5. Process for Monitoring**

The auditor should submit audit reports as per agreed timelines to the client and government authorities. In addition to the submission of the reports, the auditors shall exercise strict and adequate Quality Control during all phases of the work.

**1.6. Expectations from the service provider**

The Consultant is responsible for;

- Providing total of two (02) suitable qualified Environmental Auditors to fulfil the requirements of the permits, licenses and other legal requirements in the project
- Ensuring availability of auditors during absenteeism of the appointed auditors
- Providing adequate resources including provision of equipment for required works.
- Managing cost and scheduled timeframe of work.
- Ensuring that the scope is carried out in full.
- Providing regular feedback on the status of the works
- Ensuring that prior to any field work, all parties working on site have familiarised themselves with the Employers safety requirements and the Occupational Health and Safety (OHS) Regulations Act (85 of 1993) and
- Providing professional service to the Kusile ADF Project

**1.7. Detailed scope**

The proposed Kusile Power Station 60 year Ash Disposal Facility Project requires services for two (02) external environment Auditors to audit the project Integrated Environmental Authorization, Water Use License and verify compliance on Wetland Offset Basic Authorisation. One of the resources should be a professional, qualified and registered wetland specialist who will monitor the project compliance to the wetland management and conditions in the licence pertaining to all impacts on wetlands and provide specialist advice for corrective actions and compile audit reports. These services should provide assurance and compliance level to the project.

The following Environmental authorisations form part of the audit scope

- 60 Year ADF Integrated Environmental Authorisation (IEA),
  - ✓ This entails three (03) Part 1 Amendments
  - ✓ Environmental Monitoring Programmes (EMPr), and any other relevant document that may be required during the audits
- 60 Year ADF Basic Authorisations (BA),
- Water Use License
  - ✓ Including related documents that may be required by the auditors
- Any other relevant documents including specialist reports that form part of the application, authorisations/permits/licenses

The Heritage Impact Assessment (HIA) also identified heritage sites that should be relocated from the project site, however no graves relocation has been undertaken yet. Once the permit is obtained HIA documents will form part of this scope.

In order for the auditors to undertake the audit services effectively, they are expected to familiarise themselves with all the application and approval documents for the project.

The following is expected from the auditors:

- To undertake compliance audit to the conditions of Integrated Environmental Authorisation and Environmental Management Programmes or Plan (EMP),
- To verify project compliance to the Wetland Offset Plan Basic Authorisation conditions
- To undertake compliance audit with the conditions of the Water Use Licenses (WULs)
- To undertake compliance audit with any other relevant legislation, local and/international
- Give an overall representation of the general performance of the project in terms of the Environmental Authorisations (EAs), Water Use License (WUL), Environmental Management Plans, Basic Authorisation, etc. Performance will also be verified through review of monitoring specialist reports and data.
- To compile the audit reports documenting the findings of the audits in line with EAs / WULS/ etc requirements . Among others, the report must:
  - ✓ Specifically state whether conditions and requirements related to the EAs/WULS are adhered to
  - ✓ Include an interpretation of all available data and test results regarding the operation of the site and all its impacts on the environment
  - ✓ Specify target dates for the implementation of the recommendations by the holder of the EAs/WULS to achieve compliance
  - ✓ Contain recommendations regarding con-compliance or potential non-compliance and must specify target dates for the implementation of the recommendations by the holder of the environmental authorisations and whether corrective action taken for the previous audit non-conformities were adequate.
  - ✓ Show results graphically and conduct trend analysis
- Provide a Water Use license audit report in line with WUL conditions
- Provide a comprehensive list of recommendations to improve compliance, advice on how to address non-compliances and overall on-site environmental management where necessary,
- During follow-up audits, review progress with implementation of previous recommendations.
- During audits identify any potential environmental regulatory requirements and impacts which may not have been listed in the various EAs,
- To complete audit report within 30 days from the first day of the audit.
- To undertake a five yearly audit (once in five year) by a professional, qualified and registered wetland specialist to monitor the compliance to the wetland management and conditions in the licence pertaining to all impacts on wetlands and provide specialist advice for corrective actions and compile audit reports which must be submitted to the Provincial Head every five years (Estimated to be around September 2026)
- Undertake adhoc audits as and when required, the service provider should estimate three adhoc audits for the duration of the contract.

**Table 1: Summary of Audits Tasks /Activities and frequency**

| <b>Audits EAs/WUL and associated documents</b> | <b>Audit dates</b> |
|--|--------------------|
| Annual WUL                                     | Sept 2022          |
| Bi annual EAs                                  | Jan 2023           |
| Bi annual EAs                                  | Jul 2023           |
| Annual WUL                                     | Sept 2023          |
| Bi annual EAs                                  | Jan 2024           |
| Bi annual EAs                                  | Jul 2024           |
| Annual WUL                                     | Sept 2024          |

|   |           |
|---|-----------|
| Bi annual EAs                                     | Jan 2025  |
| Bi annual EAs                                     | Jul 2025  |
| Annual WUL  | Sept 2025 |
| Bi annual EAs                                     | Jan 2026  |
| Bi annual EAs                                     | Jul 2026  |
| Annual WUL (including 5 yearly audit requirement) | Sept 2026 |

## 1.8. Resource and services requirements

### Technical evaluation criteria (Qualifications, expertise and experience)

Copies of qualifications, certificates, CVs, company profiles, etc. must be attached

| Resource Plan   | Criteria Weight |
|---|-----------------|
| <b>Resource Plan</b><br>- Minimum qualification<br>Four (04) years Environmental related qualification (Sciences/management). Certified copies of qualifications must be attached.  | 20%             |
| The auditor must have minimum 3 (three) years Environmental audit experience in construction related projects, especially within water bodies environment.<br>- Detailed CV and list of references showing construction related audits must be attached.          | 25%             |
| A professional, qualified and registered wetland specialist.<br>Certified copies of qualifications, registration Certificates, a detailed CV and list of references showing minimum of three related wetlands/rivers/pan, etc audits undertaken must be attached. | 25%             |
| The auditor must have a lead audit training in line with Environmental Management System 14001.<br>Lead audit certificate must be attached  | 10%             |
| Minimum 5 years Company's experience in Environmental audits within related construction environment including water bodies.<br>- Company profile with list of reference and contact details must be attached   | 20              |

## 1.9. Deliverables

- Integrated Environmental Authorisation Audit draft and final reports
- Water Use Licence Audit reports draft and final
- Basic Authorisation audit reports draft and final
- Site audits photos

## 2. Timeframe

The overall project is expected to take maximum period of 53 month from the date of appointment. The estimated effective date of this contract is 15 July 2022 ending on 31 December 2026.

### 3. Constraints on how the *Consultant* Provides the Services.

#### 3.1. Management meetings

The conditions of contract and other sections of this Scope require that meetings be held. Regular meetings to be convened include follows:

| Title and purpose   | Approximate time & interval                    | Location             | Attendance by:   |
|---|--|----------------------|--|
| Overall contract progress and feedback                      | Quarterly on Monday/<br>Friday at 10H00/ 14H00 | Online / telephone   | Employer's Agent ,<br>Auditors and their<br>managers                                       |
| External stakeholders<br>meetings ; As and when<br>required | Quarterly at 10H00                             | Project Site Offices | External stakeholders<br>including Government<br>Departments, adjacent<br>land owners, etc |
| Eskom Divisional<br>Meetings ; As and when<br>required      | As and when required                           | Online / telephone   | Eskom employees and<br>Auditors  |

This schedule may change depending on the requirements of the project. Auditors will be made aware of any meetings that they should attend.

#### 3.2. Consultant's key persons

Contact details of Senior Manager/ Supervisors not auditing on site should be provided and should be accessible after official hours. Auditors leave plans and replacements should be communicated and agreed with the Employer's Agent before approval.

#### 3.3 Provision of bonds and guarantees

N/A

#### 3.4 Documentation control and retention

##### 3.4.1 Identification and communication

##### Documentation Management

In addition to the requirements listed under Section 1: Description of the Works the following applies.

##### Document Identification

The documentation requirements cover the various engineering stages, from the design stage through fabrication, installation, testing and commissioning and most importantly for the operating, maintenance and training stages of the project.

The *Contractor* is responsible for the compilation and the supply of the documentation during the various project stages and to provide the documentation programme linked to the milestone dates. Completion dates for documentation and drawings are scheduled to meet the milestone dates in accordance with the agreed Vendor Document Submission Schedule (VDSS) supplied by the *Employer*.



## Documents Submission

All documents and records are submitted according to Technical Document and Record Management Work Instruction (240-76992014), Reporting and Data Requirements Specification for Contractors (240-83561037) and all other Engineering standards referenced in this works information. The Employer ensures that the Contractor is provided with latest revisions of all these documents. All documents used within the project follows the same standard of layout, style and formatting as described in the documents mentioned above.

The Employer sets up a workflow system in the Eskom Documentation Management System (EDMS) for documentation transmittal to and from the Contractor. The Contractor is given access rights to the Eskom EDMS for all documentation to be submitted and reviewed. Where a document cannot be attachment due to size, the document is zipped or hand delivered on an electronic mass storage device (preferably USB) to the Project Manager. The Contractor submits final documents as electronic in pdf format on an electronic mass storage device (preferably USB) and hard copies are delivered to the Project Manager with a transmittal note.

Any uncertainty regarding all specified documents is clarified with the Employer and clarification updates are recorded in clarification meeting minutes. The Contractor complies with all minimum document metadata as specified in Technical Documentation Classification and Designation Standard (<https://hyperwave.eskom.co.za/240-54179170>).

The Contractor submits the Master Document List (MDL) to the Employer on a monthly basis for tracking purposes irrespective of whether there are updates or not. The MDL includes list of drawings and documents including their revisions.

All documentation are submitted in accordance with the matrix and communication plan, and with transmittal containing with the following fields as a minimum:

- Name of the Package;
- Name of *Contractor*;
- Transmittal Number;
- *Contractor* Details;
- Date of Submission;
- Description of Document;
- Document Number;
- Document revision;
- Document type;
- Document media type;
- Number of copies;
- Purpose of submission;
- Document plant breakdown structure PBS (e.g. AKZ/KKS); and
- Signed by and date.

## Documentation Review and Turn-around

For review purpose, all documentation is submitted, by the *Contractor*, in native electronic format as prescribed in the Engineering Drawing Standard – Common Requirements (240-86973501). The *Contractor* is given access to Eskom electronic document management system portal collaboration system for submission of all documentation to be reviewed. Final documentation is submitted in both electronic and hard copies to the Project Documentation Centre. The *Contractor* submits two (2) hard copies and one (1) electronic copy (USB). The *Contractor* maintains Master Document List (MDL) of all documents submitted and submits monthly to the *Employer*.

The *Employer* has a minimum 14 calendar days to review, consolidate and send back review comments for documentation submitted by the *Contractor*. The *Contractor* also has a minimum 14 calendar days to respond and/rectify as per the comments by the *Employer*.

The *Employer* provides the *Contractor* with a mailbox address to be used for all contractual documentation/correspondence to and from the *Contractor*. The *Contractor* files and manages his own contract documents.

## Identification and communication

### File management

The *Consultant* shall keep all and organise all project files in data banks in a systematic way with adequate indexing. These files shall include all:

- Daily site events registers
- Monthly reports
- Correspondence files
- Quality records
- Site instructions
- Copies of minutes of meetings
- Inspection reports
- Investigation reports
- All latest relevant technical standards and codes required for the scope of work

### Retention of documents

The *Consultant* shall retain all documented information in electronic format (pdf) as a minimum, for a period of FIVE years. This documented information shall remain up to date to within one calendar week of the execution of work and implementation of activities.

The *Consultant* shall submit documented information for all or any part of the works to the *Employer* within seven (7) working days from the time of request of such documented information by the *Employer* and/or representative of the *Employer*.

## 3.5 Records and forecasting of expenses

The *Consultant* must send all the supporting documents for preparation of the payment certificate by the 20th of each month to be assessed.

The *Consultant* must forward the Forecasted Rate of Invoicing (FRI) at the beginning of the contract and update monthly and as and when required.

Supporting documents of monthly expenses should be provided for every assessment. All the records of expenses should be retained for the period of 8 years from the beginning of the contract

## 3.6 Records and forecasting of the Time Charge

High level FRI should be provided at the beginning of the contract and thereafter detailed every month.

## 3.7 Invoicing and payment

Clause 50.2 states invoices submitted by the *Consultant* include the details stated in the Scope to show how the amount due has been assessed.

The *Consultant* shall address the tax invoice to [InvoicesgrpKCT@eskom.co.za](mailto:InvoicesgrpKCT@eskom.co.za) and include on it the following information:

Name and address of the *Consultant* and the *Employer's Agent*;

The contract number and title;

*Consultant's* VAT registration number;

The *Employer's* VAT registration number 4740101508;

Total amount invoiced excluding VAT, the VAT and the invoiced amount including VAT;  
(add other as required)

### 3.8 Contract change management

The *Consultant* will not implement any additional scope related to this contract without the approval of the *Employer's agent*.

### 3.9 Inclusions in the programme

N/A

### 3.10 Quality management

#### 3.10.1 System requirements

- The supplier shall complete and sign Form A (Enquiry/Contract/Quality Requirements for QM 58 and ISO 9001).
- The supplier shall submit a quality method statement based on ISO 9001 and specific to the scope of work, or a document that have defined the QMS and its scope. The method statement should address all the supplier's business management processes to ensure that all of Eskom's requirements are fully met on a consistent basis.
- The supplier shall submit a signed quality policy.
- The supplier shall submit a copy of quality objectives.
- The supplier shall submit documented information for Control of Externally Provided Processes, Products and Services.
- The supplier shall submit a copy of the documented information for roles, responsibilities and authorities.

### 3.11 The Parties use of material provided by the Consultant

#### 3.11.1 Employer's purpose for the material

The Consultant cannot use the information from this contract on other projects without the approval of the Employer.

#### 3.11.2 Restrictions on the Consultant's use of the material for other work

The Consultant cannot use the information from this contract on other projects without the approval of the Employer.

#### 3.11.3 Transfer of rights if Option X 9 applies

There is no exception on the transfer of rights for reports and any relevant documents to the *Employer*

The Consultant shall not challenge or assist any other party challenging at any time the validity or ownership of any of the intellectual property rights relating to the material created and developed for this contract

### 3.12 Management of work done by Task Order

N/A

### 3.13 Health and safety

The Consultant shall at all times comply with the health and safety requirements prescribed by law as they may apply to the services.

The Consultant shall comply with the health and safety and Environmental requirements contained in the attached SHE Specification of the project.

### **3.14 Procurement**

#### **3.14.1 BBBEE and preferencing scheme**

Refer to the invitation to tender documents

#### **3.14.2 Other constraints**

The consultant must keep audit records as required by this contract. It should be made available as and when required.

#### **3.14.3 Preferred subconsultants**

N/A.

#### **3.14.4 Subcontract documentation, and assessment of subcontract tenders**

N/A

#### **3.14.5 Limitations on subcontracting**

#### **3.14.6 Attendance on Subconsultants**

N/A

### **3.15 Correction of Defects**

N/A

### **3.16 Working on the Employer's property**

The Consultant will utilise Employer facilities and will have to comply with all Site Regulations.

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

The Consultant employees stationed at Kusile site must attend the induction and get an approved Eskom access card.

The working hours are Monday to Friday from 07:00 to 16:30. These working hours can change with the demands of the project, including working weekends and night shift.

It is very important that the *Consultant* keeps records of his people working on the Employer's property. The *Employer's Agent* shall have access to these records at any time. These records may be needed when assessing compensation events.

### **3.17 Cooperating with and obtaining acceptance of Others**

The Consultant will be required to work and cooperate with Others i.e. Employer's agent employees and all Contractors working on the project.

### **3.18 Things provided by the Employer**

The Employer will make available office space and basic services such as ablution facilities and drinking water.

### **Things provided by the Consultant**

The Consultant must supply all other resources required to complete the works such as

- Suitable vehicles
- Laptops
- Camera
- Full Personal Protective Equipment's (PPE). This should include COVID PPE
- Any other resources required to perform the work.

### **3.19 Cataloguing requirements by the Consultant**

N/A

## **4. List of drawings**

**Drawings issued by the *Employer***

N/A