	Non-Disclosure Agreement (NDA) (Generic)	Template Identifier	240-63152169	Rev	5
		Document Identifier	N/A	Rev	N/A
		Effective Date	01 January 2017		
		Review Date	February 2023		
Project Title					

## NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT

between

**ESKOM HOLDINGS SOC LTD**

**Reg No 2002/015527/30**

(*"Eskom"*)

and

(full name and surname)

\_\_\_\_\_  
(Identity number **AND** unique number)

\_\_\_\_\_  
AND

(*"the employee"*)

Employee Business Area

\_\_\_\_\_  
The Project

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## 1. Definitions

1.1. In this agreement, unless inconsistent with context:

1.1.1. **“project participation”** means the evaluation, negotiation and any other activity relating to the tenders received in response to the “the Project” as defined on page 1 of this Agreement.

1.1.2. **“confidential information”** includes any information or knowledge relating to Eskom or any of its subsidiaries (“the companies”), acquired by the employee, whether independently or in association with others, by virtue of the employee’s project participation or during the course of or incidental to the employee’s employment with Eskom, including, but not limited to:

1.1.2.1. all information in whatever form (tangible or intangible), documentation, specifications, know-how, trade secrets, accounts and computer readable data relating or pertaining to the project/s;

1.1.2.2. methods of operation and mode by which Eskom or the companies conducts their business with regard to the project/s.

## 2 Acknowledgement

2.1 The employee acknowledges that during the course of his or her project participation and/or during the course and scope of his or her employment with Eskom, he or she will be exposed and will have access to, and will learn of certain confidential information relating to the project/s.

2.2 Notwithstanding any provisions in this Agreement, confidential information excludes any information which:

2.2.1 was in the public domain prior to it being disclosed to the employee or the employee acquiring knowledge of such information;

2.2.2 came into the public domain through no fault on the part of the employee; or

2.2.3 is or has been disclosed to the employee by a third party and the employee is able to demonstrate that the third party is legally entitled to such information.

2.2.4 is required to be disclosed under applicable law or by a governmental order, decree and regulation (provided that the

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employee shall give written notice to Eskom prior to such disclosure).

- 2.3 The employee acknowledges that the restraints imposed in this Agreement are reasonable in all respects and necessary in order for Eskom to protect its rights and proprietary interests.

### 3 Confidentiality and non-disclosure

- 3.1 The employee agrees and undertakes that:

- 3.1.1 during the period of his or her involvement in Group Commercial project/s, or
- 3.1.2 if he or she is no longer involved in Group Commercial project/s but is still in the employ of Eskom, or
- 3.1.3 if he or she has left the employ of Eskom,

he or she shall not disclose to any other person, including third parties, or make use for his or her benefit, or that of any other person, whether directly or indirectly, any confidential information of Eskom or the companies regarding the project/s without the prior written consent of Eskom. Eskom shall provide the employee with a list of employees who have signed confidentiality Agreements regarding the project/s and the employee shall only grant access to the confidential information to these employees.

- 3.2 The employee agrees and undertakes to protect Eskom's confidential information and to handle and store the confidential information in such a way as to prevent any unauthorised disclosure.
- 3.3 The obligation to maintain the confidentiality of the information will not apply to the information excluded by clause 2.2 above.


### 4 Return of the information

The employee is required to deliver to Eskom whenever required to do so, and in any event, when leaving Eskom's employment, documents, correspondence, notes, computer discs or any documents in any form whatsoever, concerning or pertaining to Eskom, the project/s or any of the companies.

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## 5 Duration

- 5.1 Notwithstanding the date of signature hereof, this Agreement shall be binding on the employee with effect from the date on which the confidential information was first disclosed to the employee.
- 5.2 This Agreement shall commence upon the date referred to in clause 5.1 and shall endure for a period of three (3) years from date hereof.

## 6 General


- 6.1 This Agreement contains all the express provisions agreed upon by the parties with regard to the subject matter of the Agreement and parties waive their right to rely on any alleged provision not contained in this Agreement.
- 6.2 This Agreement is subject to and shall be governed by the laws of the Republic of South Africa.
- 6.3 No contract varying, adding to, deleting from or cancelling this Agreement, and no waiver of any right under this Agreement, will be effective unless reduced to writing and signed by or on behalf of the parties.
- 6.4 The granting of any indulgence by a party under this Agreement will not constitute a waiver of any rights by the grantor or prevent or adversely affect the exercise by the grantor of any existing or future right of the grantor.
- 6.5 In the event that the employee should breach the provisions of this Agreement and fail to remedy such breach within seven (7) calendar days from date of a written notice to do so, then Eskom shall be entitled to invoke all remedies available to it in law.
- 6.6 This Agreement replaces any non-disclosure and confidentiality Agreement previously signed by the employee in respect of the project/s.
- 6.7 In the event of any one or more of the provisions of this Agreement being held for any reason to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provisions were not a part of this Agreement, and this Agreement shall be carried out as nearly as possible in accordance with its original terms and intent.

The employee will not make or issue any formal or informal announcement or statement to the press or any third party in connection with this Agreement or the project/s.

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SIGNED AT \_\_\_\_\_ ON \_\_\_\_\_ IN THE  
PRESENCE OF THE UNDERSIGNED WITNESSES

\_\_\_\_\_  
EMPLOYEE NAME

\_\_\_\_\_  
EMPLOYEE SIGNATURE

**WITNESSES:**

1. \_\_\_\_\_

2. \_\_\_\_\_

SIGNED AT \_\_\_\_\_ ON \_\_\_\_\_ IN THE PRESENCE OF  
THE UNDERSIGNED WITNESSES

\_\_\_\_\_  
NAME

\_\_\_\_\_  
SIGNATURE

**For and on behalf of Eskom duly authorised**

***[No lower than an E-Band Manager to sign]***

**WITNESSES:**

1. \_\_\_\_\_

2. \_\_\_\_\_

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