



NEC3 Professional Services Contract (PSC3)

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

and

Registration number:

for The provision of collection (monitoring) of Eskom related media coverage from print, broadcast, and online media and the analysis of this coverage thereof to identify communication opportunities on behalf of Eskom Holdings SOC Limited.

Contents:	No of pages
Part C1 Agreements & Contract Data	20
Part C2 Pricing Data	6
Part C3 Scope of Work: The Scope	12

PR no.:	1075826173
Enquiry no.:	E1845CXMWP
CONTRACT No.:	46000_____

PART C1: AGREEMENTS & CONTRACT DATA

Document reference	Title	No of pages
C1.1	Form of Offer & Acceptance	[3]
C1.2a	Contract Data provided by the <i>Employer</i>	[14]
C1.2b	Contract Data provided by the <i>Consultant</i>	[2]

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:

Media Monitoring and Analysis contract

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	N/A
Value Added Tax @ 15% is	N/A
The offered total of the Prices inclusive of VAT is	N/A
(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
Corporate Services Division
Megawatt Park, Maxwell Drive, Sunninghill
P O Box 1091,
Johannesburg 2000 SA

Name &
signature of
witness

Date

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)*Name &
signature
of witness

Date

C1.2 PSC3 Contract Data

Part one - Data provided by the *Employer*

Claus e	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option	
	dispute resolution Option and secondary Options	<p>G: Term contract</p> <p>W1: Dispute resolution procedure</p> <p>X1: Price adjustment for inflation</p> <p>X2: Changes in the law</p> <p>X4: Parent company guarantee</p> <p>X9: Transfer of rights</p> <p>X10: <i>Employer's Agent</i></p> <p>X11: Termination by the <i>Employer</i></p> <p>X13: Performance bond</p> <p>X18: Limitation of liability</p> <p>Z: Eskom standard Z-clauses 1 – 14 will apply. Additional Z Clauses may be included if required.</p>
	of the NEC3 Professional Services Contract (April 2013) ¹	
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.	011 800 8111

¹ Available from Engineering Contract Strategies Tel 011 803 3008 Fax 011 803 3009 and www.ecs.co.za

Fax No.	[•]
11.2(9) The <i>services</i> are	The provision of collection (monitoring) of Eskom related media coverage from print, broadcast, and online media and the analysis of this coverage thereof to identify communication opportunities on behalf of Eskom Holdings SOC Limited.
11.2(10) The following matters will be included in the Risk Register	To be confirmed at task order stage
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	2 working days
13.6 The <i>period for retention</i> is	5 years following Completion or earlier termination.

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 Aubrey Sambo +27 11 800 2493 samboav@eskom.co.za	On an as and when required basis

3 Time

31.2	The <i>starting date</i> is.	04 January 2026		
11.2(3)	The <i>completion date</i> for the whole of the <i>services</i> is.	03 January 2029		
11.2(6)	The <i>key dates</i> and the <i>conditions</i> to be met are:	Condition to be met		<i>key date</i>
		1	Summary of monitored media	As required in the scope
		2	Submit media analysis reports	Monthly
31.1	The <i>Consultant</i> is to submit a first programme for acceptance within	2 weeks of receiving a brief.		
32.2	The <i>Consultant</i> submits revised programmes at intervals no longer than	12 Months.		

4 Quality

40.2	The quality policy statement and quality plan are provided within	4 weeks of the Contract Date.
------	---	-------------------------------

42.2 The *defects date* is

52 weeks after Completion of the whole of the services.

5	Payment		
50.1	The <i>assessment interval</i> is	between the 25th day of each successive month.	
51.1	The period within which payments are made is	4 weeks after the accepted invoice is submitted to accounts payable	
51.2	The <i>currency of this contract</i> is the	South African Rand	
51.5	The <i>interest rate</i> is	<p>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,</p> <p>and</p> <p>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	Rights to material	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	Indemnity, insurance and liability		
81.1	The amounts of insurance and the periods for which the <i>Consultant</i> maintains insurance are		
	Event	Cover	Period following Completion of the whole of the services or earlier termination

	Liability for failure by the <i>Consultant</i> to use the skill and care normally used by professionals providing services similar to the <i>services</i>	Whatever the <i>Consultant</i> deems necessary in respect of each claim, without limit to the number of claims	See Notes to Consultants in Annexure A
	death of or bodily injury to a person (not an employee of the <i>Consultant</i>) or loss of or damage to property arising from or in connection with the <i>Consultant's</i> Providing the Services.	Whatever the <i>Consultant</i> deems necessary for any occurrence or series of occurrences arising out of one event without limit to the number of claims.	See Notes to Consultants in Annexure A
	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	As prescribed by the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 and the <i>Consultant's</i> common law liability for people falling outside the scope of the Act with a limit of indemnity of not less than R500 000-00 (five hundred thousand) in respect of each claim, without limit to the number of claims	As <i>Consultant</i> deems necessary
81.1	The <i>Employer</i> provides the following insurances	Refer to Annexure A for details of insurance provided by the <i>Employer</i> .	
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	
9	Termination	NEC 3 PSC Clause 90 will apply	
10	Data for main Option clause		
G	Term contract		
21.4	The <i>Consultant</i> prepares forecasts of the total Time Charge and <i>expenses</i> at intervals no longer than	2 weeks after receiving a brief.	

11	Data for Option W1	
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 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).
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 www.ice-sa.org.za).
W1.4(2)	The <i>tribunal</i> is:	arbitration
W1.4(5)	The <i>arbitration procedure</i> is	the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.
	The place where arbitration is to be held is	Johannesburg, South Africa
	The person or organisation who will choose an arbitrator	
	<ul style="list-style-type: none"> if the Parties cannot agree a choice or if the <i>arbitration procedure</i> does not state who selects an arbitrator, is 	the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.
12	Data for secondary Option clauses	
X1	Price adjustment for inflation	
X1.1	The index is	Average of the CPI (Headline) index Table B2 for the previous 12 month period as published by Statistics South Africa. The base month for calculation will be December.
	The staff and production rates are	The staff and production rates are fixed at contract date and are firm for the first twelve months of the contract
X2	Changes in the law	
X2.1	The law of the project is	The Law of the Republic of South Africa
X4	Parent company guarantee	
	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.	

X9	Transfer of rights	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.
X10	The <i>Employer's Agent</i>	
X10.1	The <i>Employer's Agent</i> is	Daphne Mokwena +27 11 800 5247 mokwend@eskom.co.za
	Name:	
	Address	Eskom Megawatt Park, Maxwell Drive, Sunninghill, Sandton (Johannesburg)
	The authority of the <i>Employer's Agent</i> is	To carry out all the actions of the Employer in this contract with the exception of those required by clauses 51.1 and 81.1
X11	Termination by the <i>Employer</i>	The <i>Employer</i> has the right to terminate based on NEC PSC Clause 9 and any other reason not stated on provision that the <i>Consultant</i> is notified.
X13	Performance bond	
X13.1	The amount of the performance bond is	R[•].
X18	Limitation of liability	
X18.1	The <i>Consultant's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to:	The Total of the Prices paid
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:	The total of the Task Order value
X18.3	The <i>end of liability date</i> is	five years after Completion of the whole of the services/task order.
Z	The <i>Additional conditions of contract</i> are	Z1 to Z11 always apply.

Z1 Cession delegation and assignment

- Z1.1 The *Consultant* 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 *Consultant* 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 *Consultant* 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 *Employer* within two weeks of the Contract Date of the key person who has the authority to bind the *Consultant* on their behalf.
- Z2.3 The *Consultant* 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 *Consultant* in writing.

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

- Z3.1 Where a change in the *Consultant's* legal status, ownership or any other change to his business composition or business dealings results in a change to the *Consultant's* B-BBEE status, the *Consultant* notifies the *Employer* within seven days of the change.
- Z3.2 The *Consultant* is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the *Employer* within thirty days of the notification or as otherwise instructed by the *Employer*.
- Z3.3 Where, as a result, the *Consultant's* B-BBEE status has decreased since the Contract Date the *Employer* may either re-negotiate this contract or alternatively, terminate the *Consultant's* obligation to Provide the Services.
- Z3.4 Failure by the *Consultant* 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 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.

Z4 Confidentiality

- Z4.1 The *Consultant* 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 *Consultant*, enters the public domain or to information which was already in the possession of the *Consultant* at the time of disclosure (evidenced by written records in existence at that time). Should the *Consultant* disclose information to Others in terms of clause 23.1, the *Consultant* ensures that the provisions of this clause are complied with by the recipient.
- Z4.2 If the *Consultant* is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the *Employer*.
- 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:

Affected Party	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,
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 <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,
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.

- Z 11.1 A Committing Party may not take any Prohibited Action during the course of the procurement of this contract or in execution thereof.
- Z 11.2 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.
- Z 11.3 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.

Z 11.4 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

Insurance against	Minimum amount of cover	For the period following Completion of the whole of the services or earlier termination
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 <i>Consultant</i> deems necessary in respect of each claim, without limit to the number of claims	Four (4) weeks
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><u>Loss of or damage to property:</u> 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><u>Bodily injury to or death of a person:</u> The amount required by the applicable law.</p>	Four (4) weeks
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	Four (4) weeks

81.3 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 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

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 44 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 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 *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.

Annexure A: Notes to Consultants

This is guidance to Consultants to assist their decision making about what cover to arrange in the insurance to be provided by the Consultant. The guidance is not part of the contract and the Employer carries no liability for it. The Consultant must obtain its own advice.

- For the purpose of works contracts, insurance provided by Eskom (the *Employer*) has been arranged on the basis of "project" or "contract" value, where the value is the total of the Prices at Completion of the whole of the works including VAT.
A "project" is a collection of contracts or work packages to be undertaken as part of a single identified capital expansion or refurbishment of a particular asset or facility.
A "contract" is a single contract not linked to or being part of a "project".
- There are three main "formats" of cover and deductible structure; Format A, Format B and Format Dx.
Format A is for a project or contract value less than or equal to R350M (three hundred and fifty million Rand) inclusive of VAT.
Format B is for a project or contract value greater than R350M (three hundred and fifty million Rand) inclusive of VAT.

In the case of contracts / packages within a project:

- For a contract / package of R50M which is part of a R400M project, Format B will apply
- For a contract / package of R250M which is part of a R6 billion project, Format B will apply;
- For a contract / package of R120M which is part of a R350M project Format A will apply;

For a contract which is not part of a project the same limits apply:

- For a contract of R50M, Format A will apply
- For a contract of R355M, Format B will apply.

Format Dx applies only to Distribution Division projects and contracts. If a Distribution Division project or contract exceeds the Format A limit, the Eskom Insurance Management Services [EIMS] need to be contacted for advice on how to formulate the insurance cover. Cover and deductibles for Distribution Division are per the relevant policy available on the internet web link given below.

Format A generally applies to Transmission Division projects and contracts. If a Transmission Division project or contract exceeds the Format A limit, the Eskom Insurance Management Services [EIMS] need to be contacted for advice on how to formulate the insurance cover.

- Further information and full details of all Eskom provided policies and procedures may be obtained from:**

http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx

- The Insurance which the *Consultant* is to provide against his liability for claims made against him arising out of his failure to use reasonable skill and care (first row in the Insurance Table of clause 81.1 in the PSC3) should also indemnify the *Consultant* for those sums which he could become legally liable to pay as damages arising from any claim first made against him and reported to Insurers some time after Completion of the whole of the *services*. Hence the *Consultant* needs to ensure that his cover is in place at least until all his liabilities under the contract have expired. Such claims could arise out of any negligent act, error or omission committed or alleged to have been committed by the *Consultant* in the conduct of professional services in connection with the contract.

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)² 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): Address Tel No. Fax No.	
22.1	The <i>key people</i> are: 1 Name: Job: Responsibilities: Qualifications: Experience: 2 Name: Job Responsibilities: Qualifications: 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	03 January 2029
11.2(10)	The following matters will be included in the Risk Register	To be agreed at the first risk reduction meeting
11.2(13)	The <i>staff rates</i> are:	Name/DesignationRate

² Available from Engineering Contract Strategies Tel 011 803 3008 Fax 011 803 3009 or www.ecs.co.za

	Either complete here or cross refer to a schedule in Part C2.2	See part C2.2	
25.2	The <i>Employer</i> provides access to the following persons, places and things	access to Eskom Megawatt Park, Sunninghill or other Eskom sites as per need.	<i>access date</i> When required
31.1	The programme identified in the Contract Data is	Will be agreed with each brief to the <i>Consultant</i>	
50.3	The <i>expenses</i> stated by the <i>Consultant</i> are	Item	amount
		Travel and Subsistence expenses when traveling outside of Gauteng	As defined in the Eskom Travel Policy 32-1041
G	Term contract		
11.2(25)	The <i>task schedule</i> is in	Part 2	

PART 2: PRICING DATA

PSC3 Option G

Document reference	Title	No of pages
C2.1	Pricing assumptions : Option G	[2]
C2.2	<i>Staff rates, expenses and the task schedule.</i>	[4]

C2.1 Pricing assumptions: Option G

How work is priced and assessed for payment

From Option G: Term contract

Identified and defined terms	11 11.2	(17) The Price for Services Provided to Date is, for each Task, the total of <ul style="list-style-type: none"> the Time Charge for work which has been completed on time based items on the Task Schedule and a proportion of the lump sum price for each other item on the Task Schedule which is the proportion of work completed on that item.
		(20) The Prices are <ul style="list-style-type: none"> the Time Charge for items described as time based on the Task Schedule and the lump sum price in the Task Schedule for each other item.

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 <ul style="list-style-type: none"> the Price for Services Provided to Date, the amount of the <i>expenses</i> properly spent by the <i>Consultant</i> in Providing the Services and other amounts to be paid to the <i>Consultant</i> less amounts to be paid by or retained from the <i>Consultant</i>.
--------------------------	------	---

Any tax which the law requires the *Employer* to pay to the *Consultant* is included in the amount due.

In effect Option G is a cost reimbursable form of contract with work ordered by the *Employer* on a Task by Task basis using the Task Schedule to compile the cost of carrying out a Task.

Expenses are calculated separately and added to the amount due for the services provided.

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 section C2.2 which follows.

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

Option X1: Price adjustment for inflation. See pages 13 and 14 of the PSC3 Guidance Notes.

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 PSC3 Guidance Notes.

The function of the Task Schedule

The Task Schedule may include items of work to be paid for on a rate (Time Charge) or on a lump sum price for the item. Any work ordered during the term of the contract – i. e. before the Completion Date – for which there is no priced item in the Task Schedule is priced using the compensation event procedure and the resulting Price is added into the Price List.

The *task schedule* is prepared by the *Employer* for the *Consultant* to price, or may be prepared jointly with the *Consultant*. It is typically priced in two parts as items of work to be carried out on a time basis and lump sum prices for other items of work. The task schedule must be as complete as possible and fully representative of all the work and *services* which the *Employer* may require the *Consultant* to carry out. The only unknown is when the work is to be carried out; the Task Order will be used to instruct when work to be done.

C2.2 Staff rates, expenses & the task schedule

All rates and amounts stated in this section exclude VAT.

1. The *staff rates* are:

No.	Designation (or category) or name of staff member	Level of seniority	Hourly rate} excluding VAT

2. The *expenses* are:

No.	Expense item	Amount / rate excluding VAT
1	Air Travel	Economy Class
2	Road Travel with own car	R3.60 / Kilometre
3	Car Hire	Group B or equivalent
4	Accommodation (may include breakfast and/or dinner)	Maximum of R1400 / night
5	Meals not included in accommodation	R130 per meal (drinks included)
6	Tolls and parking	At cost

3. Travel and Subsistence guidelines

NB: All travel related claim estimates will be approved by the Employers Agent before they are incurred. Travel expense cannot be claimed in relation to media monitoring and analysis. Travel expenses can only be claimed in relation to strategy and consultation work provided outside of Gauteng.

Kilometre claims	<ul style="list-style-type: none"> Home-work-home travel cannot be claimed Travel within Gauteng cannot be claimed
Accommodation	<ul style="list-style-type: none"> Maximum of "3 star" bed and breakfast establishment or hotel may be utilised. Breakfast and supper may be included in the quotation. The total cost of accommodation may not exceed R1400 per person/ per night, all-inclusive meals, tips, etc.)
Car rentals	<ul style="list-style-type: none"> Group Reimbursable at cost, the car should at least have 2 airbags, air-conditioning and ABS brakes for safety purposes.

Flights	<ul style="list-style-type: none"> Economy class only, reimbursable at cost
Cost of meals	<ul style="list-style-type: none"> Reimbursable only when traveling on Eskom business outside of Gauteng Meals not included with accommodation must not exceed R130 (VAT and gratuity included) per meal. No alcoholic beverages can be claimed for Dinner and/or breakfast costs will not be reimbursed if included in the accommodation..
Travel bookings	<ul style="list-style-type: none"> To be made and paid for by the <i>consultant</i>. Travel expenses shall be approved on a quotation by the <i>Employer</i> before costs are incurred This must be claimed back after the trip on a VAT invoice and must include supporting third party invoices.

4. The task schedule

NB: Work carried out on a time basis must be approved by the Employers Agent before any costs are incurred.

The *Consultant* will not be reimbursed for time spent in meetings related to performance, clarification of deliverables, kick-off meetings, on boarding sessions or any other meeting not listed in the table below.

No.	Items of work to be carried out on a time basis as and when required
1	Workshops/Brain-storming sessions: The Consultant may be required to attend workshops hosted by the employer to find solutions to specific problems.
2	Strategy Sessions: The consultant may be required to sit in strategy review sessions, where a strategy is shared with strategic partners for guidance and input.

The monthly fees listed in the table below will cover the deliverables and services outlines in the scope of services. These lump sums listed below are not guaranteed, instructions to start work on each portion will be done through a task order basis, and are dependent on budget availability.

No.	Items of work priced on a lump sum basis	Price (Excl. VAT)	Total (including VAT)
	Monthly media monitoring and analysis fee for <u>Print Media, Broadcast and Digital</u>		
	Monthly media monitoring and analysis fee for <u>Social Media</u>		

Special conditions relating to prices

1. Review of Prices

1.1. The agreed Prices shall apply for the first 12 months of the contract.

1.2. Before the anniversary of the contract and annually thereafter, the parties will meet to review estimated budgets, remuneration methods and rates for the next period of the contract.

- 1.3. If the Parties have not concluded an agreement on Prices by the end of the first month of the new period, the *Consultant's* remuneration will remain the same as the previous period until new prices are agreed.

2. Disbursements

- 2.1. The following costs will be charged to the *Employer* at net cost only (no commissions, mark-ups, handling fees or service fees will apply) and should be included in cost estimates approved by the *Employer*:
- 2.1.1. Travel and accommodation expenses will be reimbursed by the *Employer* for travel outside Gauteng only, subject to the *Consultant* adhering to the *Employer's* Travel policy – Policy 32-1041 for Business travel management, please refer to National Treasury Cost Containment;
 - 2.1.2. Competitor materials;
 - 2.1.3. Research, if specifically requested but excludes general research;
 - 2.1.4. Courier and delivery charges;
 - 2.1.5. Third party costs (outsourced production, printing, courier, etc.)

3. Performance and Incentive Bonus

- 3.1. The Parties agree to a performance measurement which will be performed by the *Employer*. The results of the performance evaluation as set out in the performance feedback report shall be final and binding on the Parties.
- 3.2. The Scope, minimum agreed services levels are defined as a minimum performance measurement score of 50%.
- 3.3. **The Parties agreed that no performance and/or incentive bonuses will apply for the duration of the contract period.**

4. Amendments and Changes

- 4.1. The *Employer* may request, in writing by an authorised representative, to change, reject or stop any and all plans, schedules or work in progress and the *Consultant* will take all reasonable steps to comply with such a request. In this regard, the *Consultant* will be required to respond within 1 (one) business day acknowledging receipt of such instruction and informing the *Employer* of the cost implications to be occasioned by such action.
- 4.2. Failing to receive written instruction to the contrary within 1 (one) business day of submitting the abovementioned response to the *Employer*, the *Consultant* will action the instruction to change, reject or stop plans, schedules or work in progress.
- 4.3. In the event of the cancellation of a campaign/project, the circumstances of which are outside the *Consultant's* control, the *Consultant* will be entitled to charge a fee for the time utilised up to date of cancellation, except for losses arising from the gross negligence, wilful fault, fraud or intentional misconduct by the *Consultant*.

- 4.4. The *Employer* will, in circumstances referred to above, reimburse the *Consultant* for all outside costs payable to third parties, including any damages or charges arising from the early termination of the contract with a third party to the extent of the costs incurred, subject to clause 4.1 above. The *Consultant* will provide documentation to substantiate re-imbusement of costs.
- 4.5. In the event of a significant change to a Task Order the *Consultant* will be allowed to charge a fee for the resource time utilised up to the date of the change, provided the change is not required through fault of the *Consultant*. The *Employer* will need to provide a revised brief to the *Consultant* incorporating the changes.

PART 3: SCOPE OF WORK

Document reference	Title	No of pages
	This cover page	1
C3.1	<i>Employer's Scope</i>	12
	Total number of pages	

C3.1: EMPLOYER'S SCOPE

Contents

1 Description of the services

Background

The objective is to have all media coverage related to Eskom collected and analysed. The appointed media analysis agency will be responsible for providing media monitoring and analysis services to the Government and Regulatory Affairs Division (GRAD), enabling the Department to have a high level overview of how media reports are impacting on Eskom's reputation and how this exposure can be contained or limited (in case of negative coverage) and how it can be maintained, leveraged or improved (in case of positive coverage).

1. Media Monitoring

Media monitoring is one of the key aspects of the contract (the other being analysis). The agency will be responsible for the collection of all the media coverage relating to Eskom. The key services required under monitoring are:

1.1 Account Management

- Inter-agency collaboration with other Eskom's Publication Relations, and Marketing and Communication agencies
- Project management of all Eskom deliverables in relation to the contract.
- Preparation of presentation to Eskom decision-makers, where required.
- Attend status meetings and inter-agency integration meetings, on request and where necessary.

1.2 Monitoring of the media

Media types:

- Print, broadcast, digital (online) and **social media**

Range/scope of media monitoring:

- Consumer, business, and trade media.
- All national and regional media in South Africa.
- All community press in South Africa.
- All statements, reports and coverage from Parliament (SA).
- All media referencing Eskom and emerging electricity trends in the SADC region, the African Continent and the world at large
- Selected national media in some international countries (on request and on a project-by-project basis).

1.3 Transcription

- Transcription of broadcast coverage.
- Quality control (could involve a degree of editing) of the transcripts to ensure grammatical accuracy (language proficiency).

1.4 Portal and Archiving

- Provision of an online portal to serve as a repository of all Eskom coverage.
- Archiving of Eskom coverage (print, broadcast, digital and social media).

1.5 Reporting and Strategic Recommendations

- Immediate alerts on Eskom breaking news.
- Daily reports at 05h00, 15h00 and 19h00.

- Weekly statistical report (Fridays).
- Weekend coverage report (Saturdays and Sundays at 09h00 and 17h00)
- Monthly summary report (including Advertising Value Equivalent).

The prospective media monitoring agency is expected to achieve the following deliverables:

- Daily email alerts of Eskom-related coverage and broadcast clips – also uploaded on the portal.
- Weekly statistical reports of Eskom related coverage.
- Monthly statistical report outlining volume of coverage, top issues, top media, top journalists.
- Quarterly benchmark reports.
- Annual strategic media coverage overview.
- Bi-annual emerging global issues and media trends.
- Coverage reports on emerging issues will be required on ad hoc basis.

Reports are required on daily, weekly, monthly, quarterly, and annual basis.

2. Media Analysis

The agency will also be responsible for providing media analysis services of all Eskom related content. The key deliverables of the media analysis aspect of the contract are:

2.1 Account Management

- Inter-agency collaboration with other Eskom's Public Relations, and Marketing and Communication agencies.
- Project management of all Eskom deliverables in relation to the contract.
- Preparation of media analysis presentations and reports
- The agency will attend monthly project status meetings when required
- The agency will attend annual performance discussion meetings.

2.2 Analysis of the media

- Evaluation of all data collected from print, broadcast and digital and social media
- Detailed media analysis, content analysis, trend analysis, reputational analysis, and sector (energy) analysis
- Identification of emerging issues that may impact Eskom's reputation
- Identification of stakeholder perceptions, commentary and sentiment (as it relates to Eskom)

2.3 Reporting

- Daily global energy issues report highlighting top news and themes affecting Eskom
- Weekly narrative assessments with key issues and recommendations for the week ahead
- Monthly media analysis reports which include:
 - Tracking of key issues
 - Top media and journalists reporting on Eskom
 - Top social media influencers
 - Share of voice
 - Sentiment of coverage
 - A snapshot of coverage on marketing programmes
- Strategic recommendations on how best to counter or leverage insights extracted from analysis
- Quarterly analysis report with benchmarks
- Annual strategic media overview
- Bi-annual emerging global issues and media trends report
- *Ad hoc* reports covering emerging issues
- Analysis report on coverage about Eskom's marketing and priority programmes such as the:
 - Air Quality Improvement Campaign
 - Distribution Load Management Program
 - Eskom Expo for Young Scientists
 - Eskom Development Foundation
 - Nuclear Communications
 - Public Safety
 - Energy Losses management

2.4 Strategic recommendations

- In addition to the standard media monitoring and analysis activities listed above, Eskom may occasionally require the Media agency to attend strategy sessions, workshops and brainstorming sessions. In these sessions Eskom invites relevant Marketing and Communication agencies to provide guidance and input into a strategy to ensure all viewpoints and gaps are covered.

Eskom will conduct annual performance assessments as part of this process, the agency is expected to complete a survey and attend performance discussion meetings.

2 Constraints on how the *Consultant* Provides the Services.**2.1 Management meetings**

Regular meetings of a general nature may be convened and chaired by the *Employer's Agent* as follows:

Title and purpose	Approximate time & interval	Location	Attendance by:
status meeting	To be held monthly or when required	To be confirmed when appointment is sent	End User and Consultant
Performance discussions	Annually	To be confirmed when appointment is sent	<i>Employer's Agent</i> , <i>Consultant</i> and End User

The Consultant will issue contact reports detailing matters of substance discussed at meetings or in telephone conversations between the Employer and the Consultant within 48 (forty-eight) hours following the meeting or conversation.

If the subject matter of the contact report is not questioned by the Employer within 72 (seventy-two) hours of its receipt, the contact report will be taken to be an accurate record of the meeting or telephone conversation to which it refers.

2.2 *Consultant's* key persons

2.2.1 The consultants key persons are listed part C1.2 data provided by the *Consultant*.

2.3 Documentation control and retention**2.3.1 Identification and communication**

Document identification will be specified by each Task Order. The standard form of communication is via email, meetings may be held via video conferencing.

2.3.2 Retention of documents

Clause 13.6 states that the Consultant retains copies of drawings, specifications, reports and other documents which record the services provided to the Employer. The records must be kept electronically as far as possible and should be available upon request. Note the time period for which the Consultant is to retain such documents is the period for retention stated in the Contract Data.

2.4 Invoicing and payment

6.4.1. The *consultant* agrees not to carry out any work without being in receipt of a Task Order as described in 2.7 of this section of the contract

- 6.4.2. The *Employer* will provide the *consultant* with a written brief describing the services that are required if they are not included in the Task Schedule.
- 6.4.3. The *Consultant* will respond to this written brief with a Cost Estimate for internal approval.
- 6.4.4. Cost Estimates must include estimates of third party costs and all expenses related to the services.
- 6.4.5. The consultant will only start work after receiving a duly approved Cost Estimate (as described in 2.7 of this section) with associated Purchase order Number.
- 6.4.6. Once the job is complete the Consultant will provide an invoice for payment.
- 6.4.7. The Invoice amount should not be more than the approved Cost Estimate.
- 6.4.8. It is the responsibility of the Consultant to manage costs within the approved cost estimate value.
- 6.4.9. The *Consultant* shall address the tax invoice to Eskom Holdings SOC Ltd and include on it the following information:
- Name and address of the *Consultant*;
 - The contract number and title;
 - Consultant's* VAT registration number;
 - Consultant's* vendor number
 - Consultant's* contact information
 - The *Employer's* VAT registration number 4740101508;
 - The Total amount invoiced excluding VAT, the VAT and the invoiced amount including VAT;

2.5 Quality management

2.5.1 System requirements

Clause 40.1 requires that the Consultant operate a quality management system as stated in the Scope.

Quality Requirements attached on the invitation to tender.

2.5.2 Information in the quality plan

Supplier must comply with the quality plan submitted and accepted by Eskom.

2.6 The Parties use of material provided by the *Consultant*

2.6.1 *Employer's* purpose for the material

Clause 70.1 states that the Employer has the right to use the material provided by the Consultant for the purpose stated in the Scope. Thus the Employer may use the material as desired.

2.6.2 Restrictions on the *Consultant's* use of the material for other work

According to clause 70.4 the material provided to the Consultant by the Employer must at all times remain confidential as certain material can be of a sensitive nature. The Consultant may not share or distribute any material provided by the employer other than that which is necessary in the execution of the stated scope.

2.6.3 Transfer of rights if Option X 9 applies

The Employer owns the Consultants rights over material prepared for this contract by the Consultant except as stated otherwise in the scope. The Consultant obtains other rights for the Employer as stated in the Scope and obtains from a Sub-consultant, equivalent rights for the Employer over the material prepared by the Sub-consultant. The Consultant provides to the Employer the documents which transfer these rights to the employer.

The Employer has right to utilise the document/tool as it see fits without any restrictions

2.7 Management of work done by Task Order

- 2.7.1 Only the *Employers Agent* or his *delegated representative* has the authority to issue a Task Order to the *Consultant*
- 2.7.2 A Cost Estimate is only approved when signed by the *Employers Agent* or his *delegated representative*.
- 2.7.3 A *Task Order* is defined as a duly approved Cost Estimate as described above supported by a Purchase Order Number.
- 2.7.4 The *Employer* is under no obligation to reimburse the *Consultant* for work done in the absence of an approved Task Order.

2.8 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 supplier is expected to comply to the following documents when working at/rendering a service to Eskom but not limited to the following:

a. Occupational Health and Safety Act 85 of 1993 c. Compensation for Occupational Diseases and Illnesses Act 130 of 1993

Clause 25.4 states that the *Consultant* acts in accordance with the health and safety requirements stated in the Scope. It is suggested that this part of the Scope address how the *Consultant* acts when doing his services. These requirements may be no more than just complying with the law. However if the *Consultant* is required to work on Eskom premises, then whatever requirements which personnel working in those premises need to comply with should be included here or referred to in an Annexure.

If when doing his services the *Consultant* is required to carry out a design which needs to take account of certain health and safety criteria, then this should be included in the specification of that design service stated elsewhere in the Scope.

2.9 Procurement

2.9.1 BBEE and preferencing scheme

Section 1: Pre-qualification Criteria for Preferential Procurement

SD&L will apply the following pre-qualification criteria as envisaged in PPPFA 2017 regulation 4

	YES	NO
a) Minimum BBEE status level of contributor?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
If Yes, what is the BBEE status and/or level required	Level 1 or 6	

	YES	NO
b) Is there BBEE category targeted for this enquiry?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If Yes, BBEE category	N/A	

Tender Returnable if the above elements are requirements;

- Valid original or certified copy of sworn affidavit in the case of EME's must be submitted (affidavit must be completed fully), or
- Valid Copy B-BBEE Certificate issued by CIPC for EME's. OR
- Valid original or certified copy of the B-BBEE certificate / sworn affidavit in the case of QSE's must be submitted, or
- Valid original or certified copy of the B-BBEE certificate issued by SANAS Accredited Verification Agency for Generic Entities must be submitted, or
- For JV's only valid original or certified copy B-BBEE Certificate issued by a SANAS Accredited Verification Agency will be accepted and the certificate should be in the name of the JV.

	YES	NO
c) Minimum subcontracting requirement for this?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If Yes, what is the minimum percentage?	N/A	

This target will be set at Task order stage if legislation requires it.

Tender Returnable if the above element is a requirement;

- Proof of a sub-contract agreement/s must be submitted.
- Sub-contractor/s B-BBEE certificate / sworn affidavit must be submitted.
- Sub-contracting agreements can only be concluded with one of the following entities;
- an EME or QSE which is at least 51% owned by black people;
- an EME or QSE which is at least 51% owned by black people who are youth;
- an EME or QSE which is at least 51% owned by black people who are women;
- an EME or QSE which is at least 51% owned by black people with disabilities;

- an EME or QSE which is 51% owned by black people living in rural or underdeveloped area or townships;
- a cooperative which is at least 51% owned by black people;
- a EME or QSE which is at least 51% owned by black people who are military veterans

Section 2: Mandatory Requirements

2.1 Designated Sectors N/A

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

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

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

Please indicate below Designated Components

Commodity	Components	Local Content Threshold

NOTE: SBD 6.2 Declaration Form and Annexure C (Local Content Declaration-Summary Schedule) is therefore mandatory and must be a tender returnable.

2.2 CIDB Skills Development this is not a construction contract N/A

Continuation of Mandatory Requirements

a) Is there CIDB compulsory training?

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

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

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

Criteria	Eskom Target	Tenderer Commitment
----------	--------------	---------------------

CSDG Percentage	N/A	
Description	N/A	

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

Section 3: SDL&I Undertaking

Tenderers who complete and submit the undertaking as required, but who do not meet Eskom's targets, will not be disqualified. SD&L undertakings do not form part of scoring, but commitments will form part of contractual obligations

Skills Development

Tenderers are required to propose against the following training initiatives;

Category	Eskom Target	Tenderer Proposal
Student in Media and Communication	2	2

Other Initiatives

Local Spend in South Africa

Target	Tenderer Proposal
90%	90%

Section 4: SDL&I Penalty and Performance Security

Eskom will apply a penalty of 2.5% of the Contract Value for failure to meet SDL&I obligations.

One of the following options will apply for SDI&L performance security:

- For the duration of the contract, Eskom will retain 2.5% of every invoice (excluding VAT) as security for the fulfilment of all SDL&I Obligations. The retained amounts shall only be released to the Contractor upon fulfilment of all SDL&I obligations at the end of the contract.
- Alternatively the Contractor shall submit a bond equivalent to 2.5% of the Contract Value and shall only be released to the Contractor upon fulfilment of all SDL&I Obligations.
- Panels- Eskom will apply 2.5% retention on every invoice (excluding VAT) after all cumulative task orders awarded to the Contractor/Service Provider that have reached a stipulated threshold as security for the fulfilment of the SDL&I obligations.

Section 5: Reporting and Monitoring

- The suppliers shall on a quarterly basis submit a report to Eskom in accordance with Data Collection Template on their compliance with the SDL&I obligations described above.
- Eskom shall review the SDL&I reports submitted by the suppliers within 60 (sixty) days of receipt of the reports and notify the suppliers in writing if their SDL&I obligations have not been met.
- Upon notification by Eskom that the suppliers have not met their SDL&I obligations, the suppliers shall be required to implement corrective measures to meet those SDL&I obligations before the commencement of the following report, failing which Retention clauses shall be invoked.
- Every contract shall be accompanied by the SDL&I Implementation Schedule which must be completed by the suppliers and returned to SDL&I representative for acceptance 28 days after contract award.

Section 6: Market Research

The following information demonstrates market analysis and assisted in arriving at the targets above.

<u>Current Suppliers Providing the Services</u>	<u>Potential Suppliers</u>

Section 7: General Information on Validity of Sworn Affidavits

The following must be considered when it comes to validity of Affidavits;

Tenders submitting B-BBEE Sworn Affidavits must ensure that the affidavits meet the following key pointers to ensure their validity:

- Name/s of deponent as they appear in the identity document and the identity number.
- Designation of the deponent as the director, owner or member must be indicated in order to know that person is duly authorised to depose of an affidavit. (Mark the applicable option).
- Name of enterprise as per enterprise registration documents issued by the CIPC, where applicable, and enterprise business address.
- Percentage of black ownership, black female ownership and designated group. In the case of specialised enterprises as per Statement 004, the percentage of black beneficiaries must be reflected. (No blank spaces to be left).
- Indicate total revenue for the year under review and whether it is based on audited financial statements or management account. (Mark the applicable option).
- Financial year end as per the enterprise's registration documents, which was used to determine the total revenue. (Financial year end to be stipulated by day/month/year).
- B-BBEE Status level. An enterprise can only have one status level. (Tick applicable level)
- Empowering supplier status must be indicated. For QSEs, the deponent must select the basis for the empowering supplier status.
- Date deponent signed and date of Commissioner of Oath must be the same. (The sworn affidavit must be signed in the presence of the Commissioner of Oath. Furthermore the Commissioner must also sign and stamp)
- Commissioner of Oath cannot be an employee or ex officio of the enterprise because, a person cannot by law, commission a sworn affidavit in which they have an interest.

Skills Development

Tenderers are required to submit proposals of the skill types / occupations to be upskilled for this transaction. The candidates selected for skills development shall be currently unemployed graduates from university schools and technical, vocational, education and training (TVET) campuses of South Africa.

The threshold will be as follows to ensure successful implementation of this initiative:

- ☐ The successful tenderer will be obligated to skill one candidate for every R1 Million spend cumulatively through purchase orders/instructions awarded to the supplier.

☐ The tenderer will be expected to submit a letter of competence/proof of attendance/service contract/certificate of compliance as proof that a candidate has been appointed for work experience. The supplier will be required to implement this requirement a month after the threshold is reached.

2.9.2 Other constraints

Delete if not required or state any other constraints that may be applicable to people employed by the *Consultant* and change the heading to suit the subject matter.

2.9.3 Preferred subconsultants

- Not Applicable.

2.9.4 Subcontract documentation, and assessment of subcontract tenders

- Not Applicable.

2.9.5 Limitations on subcontracting

- Not Applicable.

2.9.6 Attendance on Subconsultants

- Not Applicable.

2.10 Working on the *Employer's* property

- Not Applicable

2.10.1 *Employer's* entry and security control, permits, and site regulations

- Not Applicable

2.10.2 People restrictions, hours of work, conduct and records

- Restrictions and hours of work may apply on some sites. It is very important that the Consultant keeps records of his people working on the Employer's property, including those of his Subconsultants.
- The Employer's Agent shall have access to these records at any time.
- The Consultant must provide detailed time sheets for payment assessment when billing against the hourly resource rates.³

2.11 Cooperating with and obtaining acceptance of Others

- During strategy review sessions the Consultant may be required to collaborate with Eskoms other agency partners, including but not limited to the creative agency, digital agency, PR agency and Media buying agency.

2.12 Things provided by the *Employer*

- The Employer will provide access to Eskom sites and people when required in execution of a Task

2.13 Cataloguing requirements by the *Consultant*

- Not applicable

3 List of drawings**3.1 Drawings issued by the *Employer***

- Not Applicable.