



## NEC3 Professional Services Contract (PSC3)

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

**and Supplier...  
(Reg No.....)**

**for PROVISION OF SHEQ AND RELATED SERVICES  
FOR THE PERIOD OF 30 MONTHS**

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

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## **PART C1: AGREEMENTS & CONTRACT DATA**

<b>Document reference</b>	<b>Title</b>	<b>No of pages</b>
<b>C1.1</b>	<b>Form of Offer &amp; Acceptance</b> [to be inserted from Returnable Documents at award stage]	<b>[3-5]</b>
<b>C1.2a</b>	<b>Contract Data provided by the <i>Employer</i></b>	<b>[4-14]</b>
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<b>C1.3</b>	<b>Securities proforma</b>	<b>[21-23]</b>



## 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)

Zandi Shange

Capacity

General Manager

**for the  
Employer**

Eskom Holdings SOC (Reg no. 2002/015527/30)  
Medupi Power Station, Lephalale

*(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	Scope	Quality Offshore category excluded
2	Guarantees	Parent Company Guarantees Not Applicable
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 _____ Name & signature of witness _____ Date _____	_____ _____ _____ _____ _____ _____ _____
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*(Insert name and address of organisation)*

## C1.2 PSC3 Contract Data

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

Clause	Statement	Data
1	<b>General</b>	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option	
	dispute resolution Option and secondary Options	<p><b>G: Term contract</b></p> <p><b>W1: Dispute resolution procedure</b></p> <p><b>X1: Contract Price Adjustment</b></p> <p><b>X2: Changes in the law</b></p> <p><b>X7: Delay damages</b></p> <p><b>X9: Transfer of rights</b></p> <p><b>X10 <i>Employer's Agent</i></b></p> <p><b>X11: Termination by the Employer</b></p> <p><b>X20: Key Performance Indicators</b></p> <p><b>Z: <i>Additional conditions of contract</i></b></p>
	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>
	Tel No.	
	Fax No.	
11.2(9)	The <i>services</i> are	<b>Provision of SHEQ and Related Services to Medupi Power Station</b>
11.2(10)	The following matters will be included in the Risk Register	<b>May cause delays to the accepted programme or task completion; may affect the integrity of the plant; may affect the return of operational service of plant and to be finalized during the cause of the Contract</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	<b>Part 3: Scope of Work</b>
12.2	The <i>law of the contract</i> is the law of	<b>the Republic of South Africa</b>
13.1	The <i>language of this contract</i> is	<b>English</b>
13.3	The <i>period for reply</i> is	<b>3 days unless agreed otherwise</b>
13.6	The <i>period for retention</i> is	<b>12 months following Completion or earlier termination.</b>

## 2 The Parties' main responsibilities

25.2	The <i>Employer</i> provides access to the following persons, places and things	<b>access to</b>	<b>access date</b>
		1	Information, systems and people relevant to the provision of services
		2	Ablution, working facilities, water and lights
		3	Coffee and Tea
			Starting date of the respective Task Order]

## 3 Time

31.2	The <i>starting date</i> is.	<b>01 December 2023</b>
11.2(3)	The <i>completion date</i> for the whole of the services is.	<b>31 May 2026</b>
		<b>Notwithstanding the above, each Task Order will have a specific Starting and Completion Date</b>
31.1	The <i>Consultant</i> is to submit a first programme for acceptance within	<b>1 weeks of the Contract Date.</b>
32.2	The <i>Consultant</i> submits revised programmes at intervals no longer than	<b>2 weeks.</b>

## 4 Quality

40.2	The quality policy statement and quality plan are provided within	<b>2 weeks of the Contract Date.</b>
42.2	The <i>defects date</i> is	<b>52 weeks after Completion of the whole of the services.</b>

## 5 Payment

50.1	The <i>assessment interval</i> is	<b>between the 25 day of each successive month.</b>
50.3	The <i>expenses</i> stated by the <i>Employer</i> are	<b>Refer to Expenses quoted</b>
51.1	The period within which payments are made is	<b>30/60 days</b>

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51.2	The <i>currency of this contract</i> is the	<b>South African Rand</b>
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51.5	The <i>interest rate</i> is	<b>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>  <b>and</b>  <b>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</b>
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<b>6</b>	<b>Compensation events</b>	<b>As and when required upon approval by the relevant Procurement Tender Committee.</b>
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<b>7</b>	<b>Rights to material</b>	<b>There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.</b>
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## 8 Indemnity, insurance and liability

81.1 The amounts of insurance and periods for which the *Consultant* maintains insurance are

Event	Cover	Period following Completion of the whole services or earlier termination
Liability for failure by the <i>Consultant</i> to use skill and care normally used by professionals providing services similar to the services	<b>Whatever the <i>Consultant</i> deems necessary in respect of each claim, without any limit to the number of claims. As per <i>Consultant</i> insurance limit.</b>	<b>See notes to <i>Consultants</i> in Annexure A</b>
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 a <i>Consultant</i> 's providing services	<b>Whatever the <i>Consultant</i> deems necessary in respect of each claim, without any limit to the number of claims. As per <i>Consultant</i> insurance limit.</b>	<b>See notes to <i>Consultants</i> in Annexure A</b>
Death of or bodily injuries to the employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with this contract	<b>As prescribed by the Compensation for Occupational Injuries and Diseases Act No 130 of 1993 and the <i>Consultants</i> common law liability for people falling outside the scope of the Act with a limit of indemnity of not less than R500 000 (five hundred thousand) in respect of each claim, without limit to the number to claims</b>	<b>As the <i>Consultant</i> deems necessary</b>

81.1 **The *Employer* provides the following insurances**

**Refer to Annexure A for details of insurance provided by the *Employer***

82.1 **The *Consultant*'s total liability to the *Employer* for all matters arising under or in connection with this contract, other than the excluded matters, is limited to**

**The total of the Prices**

The *Consultant* provides the additional insurance.

1. Insurance against

**Whatever the *Consultant* deems necessary including cover provided for payment of deductibles. As per *Consultant* insurance limit.**

## 9 Termination

**The *Employer* has a right a right to terminate as a result for various reasons without notice.**

**Data for main Option clause**

**10**

<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>
50.4	The <i>exchange rates</i> are those published in <b>Standard Bank of South Africa Ltd</b>

**11 Data for Option W1**

W1.1	The <i>Adjudicator</i> is	<b>the person selected from the Panel of Adjudicators listed in Annexure B to this Contract Data by the Third Party intending to refer a dispute</b>
	Address	<b>Please refer to Page 20 of this contract for a table with full list of Names, addresses and other contact details</b>
	Tel No.	<b>[•]</b>
	Fax No.	<b>[•]</b>
	e-mail	<b>[•]</b>
W1.2(3)	The <i>adjudicator nominating body</i> is:	<b>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>).</b>
W1.4(2)	The <i>tribunal</i> is:	<b>arbitration</b>
W1.4(5)	The <i>arbitration procedure</i> is	<b>the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.</b>
	The place where arbitration is to be held is	<b>Gauteng Province South Africa</b>
	The person or organisation who will choose an arbitrator	
	<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>	<b>the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.</b>

**12 Data for secondary Option clauses**

<b>X1</b>	<b>Contract Price Adjustment</b>
<b>X2</b>	<b>Changes in the law</b>
X2.1	The law of the project is <b>Law of the Republic of South Africa.</b>
<b>X7</b>	<b>Delay damages</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	The <i>Employer's Agent</i> is	
	Name:	<b>Lungisani Xaba</b>
	Address	<b>Medupi Power Station Lephalale</b>
	The authority of the <i>Employer's Agent</i> is	<b>All actions by the <i>Employer</i> stated in this contract</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>
<b>X20</b>	<b>Key Performance Indicators</b>	
<b>Z</b>	<b>The <i>Additional conditions of contract</i> are</b>	

**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".

**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.

**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 *Consultant* 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 *Consultant*, 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.

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>		
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>                      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>                      The amount required by the applicable law.</p>	
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	

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 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.

<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.
<b>Standard</b>	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.
<b>SANAS</b>	means the South African National Accreditation System.
<b>TWA</b>	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): 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		<b>CV's (and further <i>key persons</i> data including CVs) are appended to Tender Schedule entitled.</b>
11.2(3)	The <i>completion date</i> for the whole of the <i>services</i> is	<b>31 May 2026</b>

<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	<b>Risk register to be developed during the cause of the contract</b>	
11.2(13)	The <i>staff rates</i> are:	<b>name/designation</b>	<b>As per price list</b>
	<b>Either complete here or cross refer to a schedule in Part C2.2</b>		
25.2	The <i>Employer</i> provides access to the following persons, places and things	<b>access to</b>	<b>access date</b>
		1 Office space and working facilities	01 December 2023
		2 Ablution facilities, water and lights	
		3 Coffee and Tea	
31.1	The programme identified in the Contract Data is	<b>All SHEQ Services specified in the scope</b>	
50.3	The <i>expenses</i> stated by the <i>Consultant</i> are	<b>item</b>	<b>As per price list</b>
<b>G</b>	<b>Term contract</b>		
11.2(25)	The <i>task schedule</i> is in		

## C1.3 Forms of Securities

### **Pro formas for Bonds & Guarantees**

For use with the NEC3 Professional Services Contract

N/A

## 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	3
C2.2	<i>Staff rates, expenses and the task schedule.</i>	

## C2.1 Pricing assumptions: Option G

### 1. 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

- 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

- 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 *staff rates* 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

- the Price for Services Provided to Date,
- the amount of the *expenses* properly spent by the *Consultant* in Providing the Services and
- other amounts to be paid to the *Consultant* less amounts to be paid by or retained from the *Consultant*.

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.

### 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 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, 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 can be 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 PSC3 Guidance Notes.

### 3. 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

The following definitions shall apply in respect of staff categories:

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

No.	Designation (or category) or name of staff member	Rate per month} excluding VAT
1	X10 (4 in total)	
2	X11 (9 in total)	
3	X12 (7 in total)	
4	X15 (5 in total)	
5	X16 (1 in total)	

<b>RESOURCES : NORMAL TIME</b>			
Senior Advisor Quality Assurance ( Lead Auditor) - X15	per hr	1	R
Senior Advisor Quality Assurance (QMS Engineer) - X15	per hr	1	R
Assistant officer projects (QA Reporting) - X10	per hr	1	R
Hygienist - X15	per hr	1	R
Quality Assurance Officer (Defects and Databooks) - X11	per hr	1	R
Manager Quality Control - X16	per hr	1	R
Safety Officer - X 11	per hr	1	R
Inspection and Databooks Co-ordinator - X11	per hr	1	R
Welding Engineer - X15	per hr	1	R
Officer Quality Control officer (Boiler) -X12	per hr	1	R
Officer Quality Assurance (Welding Inspection & NDT) -X12	per hr	1	R
Senior Advisor Environmental - X15	per hr	1	R
Officer Quality Assurance (EC&I) - X11	per hr	1	R
Officer Quality Assurance (Turbine & BOP) - X12	per hr	1	R
QMS RECORDS OFFICERS - X10	per hr	1	R
Officer Quality Assurance IT WISPA - X11	per hr	1	R
Officer Quality Assurance (Civil) -X12	per hr	1	R

<b>RESOURCES : OVERTIME</b>			
Officer Quality Control officer (Boiler)	per hr	1	R
Welding Engineer	per hr	1	R
Manager Quality Control	per hr	1	R

**NOTE: Monthly rates is calculated based on 204 hours**

**2. The expenses are**

<b>DISBURSEMENTS</b>			
Business Travel	per km	1	R
Mobilisation and Demobilisation costs	per km	1	R
Accommodation	per person /month	1	R
PPE	per person	1	R
Medicals	per person	1	R
Laptops plus 3G	once off/person	1	R

## 2.1 Travel and Subsistence Expense Guideline

Included in the price list above

### 3. The task schedule

The following format could be used:

#### 3.1 Time-based services

No.	Items of work to be carried out on a time basis
	SHEQ Based Services

#### 3.2 Activity-based services

Not applicable

No.	Items of work priced on a lump sum basis	Price (excluding VAT)

#### 3.3 Task Order Cost Summary

Task orders shall show associated costs for each category and a summary in the following format;

##### Task Order Summary

Task orders will be issued on regular basis in this format:

Item	Description	Amount Excl. VAT
1	Activity Based Services	R
2	Time Based Services	R
3	Expenses	R
	Grand Total	R

## PART 3: SCOPE OF WORK

<b>Document reference</b>	<b>Title</b>	<b>No of pages</b>
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C3.2	<i>Consultant's Scope</i>	16
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# 1 Description of the services

## 1.1 Executive overview

Medupi Power Station is a coal-fired power plant under construction and is located in the Limpopo province of the Republic of South Africa. The plant is designed to consist of six 800-megawatt coal-fired generating units for a total generating capacity of 4,800 megawatts. All six units have reached commercial operation, but extensive modification is required for the plant to attain its full operating capacity.

With SHEQ Panel contracts expiring June 2023 and most FTC Contracts expiring in March 2024, we need to continue resourcing departments delivering services to the project for Safety, Health, Environment, Quality, ICT and Occupational Hygiene through to end May 2026.

The Medupi Project is obligated to provide Quality services to ensure continuity of construction activities as per the contract. On average, the Contractors working on the Project request 450-500 inspections per day to be completed the following day.

Project Quality is an integral part of Construction, Engineering and Commissioning services which assures that works are constructed as per the requirements of the project, standards, and codes. Its support is necessary for the Project to function effectively. Health, Safety and Environmental services are mandatory on such a Project.

## 1.2 Interpretation and terminology

### 1.2.1 Definitions:

- **Contract Management** – section in the Employer’s organisation executing contract administration in support of the Employer’s Agent who is accountable as per NEC3
- **Panel/Multiple Supplies** - grouping of service providers contracted to provide a defined range of services
- **Requesting Manager** – any manager from the Employer’s organisation requesting for services from the SHEQ Panel of Consultants
- 

### 1.2.2 Abbreviations:

Abbreviation	Meaning given to the abbreviation
ECC	Engineering and Construction Contract
FIDIC	International Federation of Consulting Engineers
PSC	Professional Services Contract
IP	Intellectual Property
ISO	International Standards Organisation
HIRA	Hazard Identification and Risk Assessment
OHS	Occupational Health and Safety/Environmental
OHSAS	Occupational Health and Safety Assessment Series
OHS/E	Occupational Health and Safety/Environment
PPE	Personal Protective Equipment

QMS	Quality Management System
RM	Requesting Manager
SHEQ	Safety, Health, Environmental and Quality
SOC	State Owned Company
TBA	To be advised
TO	Task Order
T&S	Travelling and Subsistence

### 1.3 Policies, Standards and Procedures

The policies, standards and procedures listed in the following table shall be applicable in addition to requirements from statutes, regulations and industry best practices.

The Eskom Code of Ethics (Standard 32-527)	32-527
SHEQ Policy	32-727
Eskom Procurement and Supply Management Procedure	32-1034
Eskom Risk management Procedure	32-520
Quality Management System – Requirements	ISO 9000:2015
Occupational Health and Safety Act, Act 85 of 1993	118
Medupi Power Station Health and Safety Management Manual	348-1004392
Medical Surveillance	32-282
Medupi Project Execution Plan	200-5919 / 348-961711
Medupi Project Quality Plan	200-1679 / 348-883902
Document Management Work Instruction	348-883808
Quality Management System Audits	200-1682 / 348-80423
Corrective Action Request	200-1684 / 348-883554
Control of Non-conforming Products	200-15327 / 348-890104
Storage & Preservation	200-129834 /348-860843
Medupi Quality Specification	200-1689 / 348-389557
Eskom Supplier Quality Management Specification	240-105658000 (QM58)

## 2 Specification and description of the services

### 2.1 SHEQ Services Scope

This scope of work is for the resourcing of Safety, Health, Environment, Quality, ICT and Occupational Hygiene services to the Medupi Power Station construction project.

The *Consultant* may offer proposals in any of the areas of scope defined below that they were pre-qualified in during the enquiry process;

- 1) Quality Management System Services
- 2) Quality Assurance

- 3) Quality Control including onsite inspections, surveillance inspections, behavioural based safety inspections, ad-hoc inspections (outage, repair etc.) data book management, documentation reviews, management of non-conformances and defects etc.
- 4) Administration and Coordination
- 5) Data capturing and records management
- 6) Reporting
- 7) All other assigned quality related tasks (General)
- 8) The quality inspection services are in the technical disciplines of mechanical, boiler, balance of plant, electrical, civil, control & instrumentation
- 9) Information technology support
- 10) Occupational Health & Safety
- 11) Occupational Hygiene (as per 200-93129 / 348-665468)

## **2.2 Quality Services**

### **2.2.1 Quality Management System Services**

#### **2.2.1.1 Requirements of the *Employer's* Own Management System**

- 1) The *Consultant* shall comply with the *Employer's* standard 200-1689/ 348-389557 and this document shall be read in conjunction with 240-105658000 "Consultant Quality Management: Specification (QM 58)". It must be noted that 200-1689 takes precedence in areas not covered clearly by QM58.

#### **2.2.1.2 *Consultant's* Support of the *Employer's* Management System**

- 1) The *Consultant* shall support the maintenance of the Quality Management System which complies with ISO 9001: 2015.
- 2) The *Consultant* shall ensure review and implementation of quality control programmes as well as management of special processes (welding, statutory, regulatory processes, etc.)
- 3) The *Consultant* shall comply with the Quality Management System used by the Employer
- 4) The *Consultant* shall ensure that outputs which do not conform to the requirements of the project are identified and controlled to prevent their unintended use or delivery. The service ensures that conformity to the requirements is verified when non-conforming outputs are corrected.

### **2.2.2 Quality Assurance requirements**

- 1) The *Consultant's* shall ensure that Quality Assurance is performed at all levels and phases of work carried out for the Employer. The *Consultant* shall use processes to ensure that quality is built in to their services i.e. its business processes are organized such that quality is built into the process of rendering quality based services. The Contractor shall ensure that it can be relied on to deliver quality services without the need for the Employer to have to inspect all the time.
- 2) The *Consultant* shall comply with the *Employer's* governance (processes, procedures, standards etc.)
- 3) The *Consultant* shall ensure that the all entities working on the project comply with the *Employer's* governance (processes, procedures, standards etc.)

#### **2.2.2.1 Quality Assurance**

- 1) Implementing an ISO 9001 based QMS and the PQP/Advising MEDUPI on QMS requirements
- 2) Providing Procurement Quality processes to the Procurement department

- 3) Coordinating quality training/managing all external & internal quality audit activities
- 4) Analysing and reporting on quality activities
- 5) Management of Knowledge Management issues/Lesson Learnt
- 6) Participation in Quality Clearing House meetings
- 7) Maintain QMS KPA/KPI metrics (NODs, Data Books, Punch Items, etc.)
- 8) Management and reporting on the I&TNs process
- 9) Supports the PQM on all product realisation processes and Quality Assurance/Control issues in the Project
- 10) Management of Project Assurance and Compliance issues
- 11) Off-Site Timesheets management
- 12) Project Quality Manager's Personal Work management
- 13) Provide a resource for First Aid management
- 14) Manage Quality Meetings (booking and minutes)
- 15) Management and reporting on the I&TNs process
- 16) Management of Safety Training Register and Scheduling
- 17) Management of Invoices
- 18) Ordering Stationery, Groceries & PPE
- 19) Management of Timesheets Onsite and all HR related issues
- 20) Issuing of Purchase Orders

### **2.2.3 Quality Control requirements**

The quality control requirements shall include onsite and offsite inspections, surveillance inspections, behavioural based safety inspections, ad-hoc inspections (outage, repair etc.) data book management, documentation reviews, management of non-conformances and defects etc.

The quality inspection services are in the technical disciplines of mechanical, boiler, balance of plant, electrical, civil, control & instrumentation.

#### **2.2.3.1 Civil**

- 1) Closing defects
- 2) Review of data books and archiving
- 3) Completion of the outstanding scope that still requires contract modification
- 4) Commissioning of HVAC and archiving the book in relation to those works
- 5) Commissioning of Primary/Secondary clarifier, HVAC and archiving H3 data book
- 6) Construction of D6,7 and Phase 3D at Excess Coal stock yard
- 7) Construction of the Ash Dump Facility

#### **2.2.3.2 Boiler**

- 1) Closing of Defects
- 2) Completion of outstanding construction activities, Review and Archiving of Data Books
- 3) Participate in Guarantee Outages, Correction of design defects with implementing technical solution via CT2.
- 4) Participate in Guarantee Inspection and Interim Repair outages.

#### **2.2.3.3 EC&I**

- 1) Lighting and Small Power (Construction works and Data Book Reviews)
- 2) Outage Support and Defect Close-outs
- 3) DCS Modifications
- 4) Unit 1 Optimisation and DHP Support

- 5) Construction works and reworks around Fire Detection, Access Control, Power and CCTV
- 6) Civil and Mechanical Packages - CT2 Contract, DHP and HVAC EC&I Construction works.
- 7) QC/QA Data Book Reviews

#### **2.2.3.4 Mechanical/Balance of Plant**

- 1) Manage remaining scope of work including:
  - filling station, fire ring main, weighbridge, water treatment plant, reverse osmosis pre-filters, databook storage, maintenance workshop, helipad, mill maintenance workshop, sand blasting workshop, EPPA system, change of sub-station for secondary clarifier, coal stockyard road, drainage on coal overland, CO2 WTP, HVAC, Nitrogen and Hydrogen Plant, Installation of quenching pipeline and all outstanding scope of work to be determined by the Employer.
- 2) All Data books for all outstanding works & Defect Closures

#### **2.2.4 All other assigned quality related tasks (General)**

- 1) Databook integration
- 2) Data capturing for Quality Department

### **2.3 Safety and Hygiene**

#### **Occupational Hygiene Technologist**

- 1) Quarterly Reporting to AIA (HYGIENE)
- 2) Ensure Occupational Hygiene compliance on Construction site and on Team Medupi
- 3) Bio-monthly contractors occupational hygiene monitoring
- 4) Conduct Occupational Hygiene surveys
- 5) Conduct awareness sessions
- 6) Monitor the Medupi Instruments
- 7) Ergonomics management
- 8) Develop and manage Occupational Hygiene Programmes
- 9) OH HIRA management.

#### **Safety Officer Occupational Health & Safety**

- 1) Occupational Health and Safety Risk Strategy formulation and implementation
- 2) Manage OHS Risk Control Systems
- 3) OHS Advisory Service
- 4) OHS Communication
- 5) OHS Administration
- 6) Participating and commenting on standards and procedures to mature and enhance proactive OHS management
- 7) Legal Compliance Audits
- 8) Construction and Contractor Safety and Health Management Advisory Services

#### **Assistant officer projects (QA Reporting)**

- 1) Provide an administrative and secretarial support service.
- 2) Provide a general office administration function
- 3) Provide a one-stop client service
- 4) Process data for information systems
- 5) Prepare presentations for the department

- 6) Manage training for the department

**QMS Records Officer**

- 1. Provide a general office administration
- 2. Provide a one-stop client service
- 3. Process data for information systems
- 4. Prepare presentations for the department
- 5. Manage training for the department

**2.4 ICT**

- 1) Assisting with Cameras onsite
- 2) Troubleshooting, installation and maintenance
- 3) Coordinating the Vodacom and MTN coverage, site visits and maintenance of the signal
- 4) Working on the WISPA Server services, create new user accounts and assign roles and modules, update workflows, roles, processes and current open items as per package list or new assignment letters.
- 5) Continuous working with Cloud support team from WISPA project to monitor and keep the system active and minimize downtime.

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

**3.1 Management meetings**

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

<b>Title and purpose</b>	<b>Approximate time &amp; interval</b>	<b>Location</b>	<b>Attendance by:</b>
Assessment meetings	Monthly on _____ at TBA	<b>Medupi Power Station</b>	<i>Employer's</i> Requesting Managers, Contract Management and <i>Consultant</i>
Overall contract progress and feedback	Monthly on _____ at TBA_____	<b>Medupi Power Station or other venue as advised</b>	<i>Employer's Agent,</i> <i>Employer's</i> Requesting Managers, Contract Management and interested parties and <i>Consultant</i>

Attendees shall have the necessary delegated authority to make decisions in respect of matters discussed at such meetings.

The Meetings of a specialist nature may be convened as specified elsewhere in this Scope or if not so specified by persons and at times and locations to suit the Parties, the nature and the progress of the services. Records of these meetings shall be submitted to the *Employer's Agent* by the person convening the meeting within five days of the meeting.

All meetings shall be recorded using minutes or a register prepared and circulated by the person who convened the meeting. Such minutes or register shall not be used for the purpose of confirming actions or instructions under the contract as these shall be done separately by the person identified in the conditions of contract to carry out such actions or instructions.

### **3.2 Consultant's key persons**

An organogram from the *Consultant* showing *Key Persons* and their lines of authority/ communication shall be submitted to the *Employer* within 4 (four) weeks of the Contract Date. The *Consultant* shall be required to notify the *Employer* of the contact details, leave and alternative where applicable in respect of each *key person*. Any changes in this regard shall be notified in writing in advance or within 1 (one) week of occurring and measures taken to avoid negative impacts on the *Consultant's* ability to deliver the *services*.

### **3.3 Provision of bonds and guarantees**

The form in which the Parent Company Guarantee required by the conditions of contract is to be provided by the *Consultant* is given in Part 1 Agreements and Contract Data, document C1.3, Sureties.

The *Employer* may withhold payment of amounts due to the *Consultant* until the guarantee required in terms of this contract has been received and accepted by the person notified to the *Consultant* by the *Employer's Agent* to receive and accept such guarantee. Such withholding of payment due to the *Consultant* does not affect the *Employer's* right to termination stated in this contract.

### **3.4 Documentation control and retention**

#### **3.4.1 Identification and communication**

The *Employer's* documentation requirements shall be specified in the Task Order.

All formal contractual communications shall be on a letterhead and bear as a minimum the date, subject, reference number, identities of sender and receiver and signature of sender and shall be delivered as attachments in the case of emails and not as a message in the email itself. All formal communications to the *Employer* shall be addressed to the *Employer's Agent*.

Correspondence on a day to day basis may be directed to other parties within the *Employer's* organisation but care must be taken not to violate *contract conditions* and other provisions in terms of the contract. Contractual communications such as notification of Compensation Events or instructions to deliver *services* which are not directed at/received from the *Employer's Agent* shall not be acknowledged by the *Employer* and decisions or actions taken or omitted as a result thereof shall be at the *Consultant's* own risk.

#### **3.4.2 Retention of documents**

The *Consultant* retains copies of drawings, specifications, reports and other documents which record the services in the form stated in the Task Order. The time period for which the *Consultant* is to retain such documents is the *period for retention* stated in the Contract Data.

### **3.5 Records and forecasting of expenses**

Estimated forecasts of itemised expenses, shall be submitted by the *Consultant* at each assessment period for the acceptance of the *Employer* (Requesting Manager) before expenses are incurred. Clear records of expenses shall be maintained by the *Consultant* and submitted on request to the *Employer* for verification. Only invoices from service providers (e.g. hotel or car hire company) showing actual expenses incurred in the case of T&S expenses shall be accepted for processing by the *Employer*.

### **3.6 Records and forecasting of the Time Charge**

The *Consultant* shall submit forecasts of time charges for each assessment period and maintain records thereof.

Clear records of hours worked or time sheets in respect of all time charges shall be kept by the *Consultant* and shall indicate the resource utilised, location, duration and times, associated expenses incurred and a summary of the services rendered which shall be cross-referenced to deliverables rendered. The records of hours shall indicate the Requesting Manager to whom services were delivered. The Requesting Manager

shall review all time sheets during Assessment and the *Consultant* shall obtain signed timesheets and assessment documentation from the Requesting Manager and submit the assessment package to the *Employer's* Contract Management function for processing.

The *Consultant* shall maintain records of all documentation and make available to the *Employer* any or all such documentation on request.

### 3.7 Invoicing and payment

The following details shall be shown on or attached to each Invoice to show how the amount due has been assessed:

The *Consultant* shall address the tax invoice to **Eskom Holdings SOC Limited** and include on it the following information:

- Name and address of the Consultant and the Employer;
- 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;
- Date of the invoice
- Task Order number
- Description of the services and quantities
- Purchase Order number

All tax invoices must be submitted to Eskom Documentation Centre except for invoices for services rendered to the Group Capital Division which must be submitted directly to Group Capital Finance department in Sunninghill.

### 3.8 Quality management

#### 3.8.1 System requirements

1. The *Consultant* shall demonstrate, provide and maintain a Quality Management System (QMS) that is ISO 9001:2015 certified or compliant thereto. Compliance with the provisions of this clause in no way relieves the *Consultant* of the final responsibility to furnish acceptable services.
2. The *Consultant* agrees to control and professionally preserve and store appropriate documents, records and recordings for a period of 5 years after termination of the agreement to guarantee the traceability of the services rendered and inspection thereof.
3. The *Consultant* agrees to regularly update and implement all the latest technology available as well as the necessary improvements for the installation, production and organization deemed necessary to meet the requirements of the agreement and in order to enhance capabilities and effectiveness to deliver high quality, cost-effective security services.
4. The delivered or services shall be uniform in Quality and condition, consistent with good industry practices and adhere to requested Eskom requirements, without deviation.
5. The *Employer* shall have the right to regularly conduct inspections, assessments, audits and surveys and perform surveillance of the *Consultant's* and/or *Sub-Consultant's* facilities, sites, premises, records and documentation (including but not limited to data books) to evaluate their capability to comply with the requirements necessary to conform to contractual and QMS requirements.
6. The *Employer* reserves the right to inspect, at reasonable times, any or all of the services performed at the *Consultant's* or *Sub-Consultant's* premises or elsewhere. Verification by Eskom shall not absolve the *Consultant* of the responsibility to provide acceptable product and/or services, nor shall it preclude subsequent rejection by Eskom.

7. The services must comply with the agreed specifications and requirements and the applicable directives and standards set out in the Contract. Defects notified by the *Employer* shall be remedied by the *Consultant* upon demand by the *Employer* without undue delay and at no extra cost. The *Consultant* shall continuously monitor and identify non-conformances, both internal and external, as signals of opportunities for improvement making process and other relevant changes to prevent recurrence.
8. The *Consultant* shall further identify potential problems before they occur by identifying deviations in patterns or trends in product, service or process performance.
9. Nothing contained in the Contract and/or purchase order and/or scope of work and /or works information shall relieve in any way the *Consultant* from the obligation of Quality control thereof.
10. The *Consultant* guarantees that the Quality of the delivered services will comply with the requirements of the contract and/or relevant specifications.
11. The *Consultant* shall, on request, prove its ability to relate to the proposed scope of work which establishes the manner in which the *Consultant* intends to perform the Contract.
12. The *Consultant* shall, on request, prove its organizational, logistics and support resources to ensure the requirements of the contract can and will be achieved.
13. The *Employer* reserves the right to assess and measure, during the existence of the agreement the qualifications, capability and competence of the key staff (assigned personnel) in relation to the scope of work and to interview any I all of them to confirm the Quality evaluation.
14. The identified professional personnel who will be managing the service will be available and accessible on a continuous basis until the conclusion of the project.
15. The *Consultant* shall demonstrate experience in comparable projects or specific aspects of the project and I or performance in similar projects, on request.
16. The Quality of the services and the contents thereof will always be in accordance with professional standards.
17. For the duration of the Contract, the professional staff managing the service, must be and remain a member of his/her Professional Society.
18. The *Consultant* must, at all relevant times, scrutinize and be aware of Eskom's requirements with specific focus on, inter alia, its philosophy, principles, strategies, practices, mission, vision, models, policies and practices.
19. The *Consultant* shall exercise reasonable professional skill, care and diligence in the performance of his obligations in terms of this agreement.
20. On awarding of the Contract to the successful *Consultant*, such *Consultant* shall present to the *Employer* an acceptable Quality Control Plan (QCP). The QCP shall comply with the requirements of ISO 10005 and shall include, but not be limited to, the following clauses:
  - 20.1. A description of the type, level and frequency of inspections performed by the *Consultant's* Quality Control monitors. These inspection reports shall be made available to Eskom, on request.
  - 20.2. Quality Control check lists used to conduct inspections which include, as a minimum, checks of equipment, uniform, attendance and/or compliance with sign in/out procedures, knowledge of and adherence to Duty Book requirements, knowledge of and adherence to screening equipment operating procedures, possession of certification and company identification cards, possession of required licenses and permits, current fire arms qualifications and overall performance.
  - 20.3. Resumes for all personnel appointed to serve as Quality Control monitors.
  - 20.4. Scope of a Quality Plan, Quality objectives, Management responsibility, control of documents and data, Control of records, resources, Customer communication and Audits.
21. On awarding the contract, the parties will each nominate to the other their Quality representative(s), in writing.
22. The *Consultant* shall use all methods deemed necessary to ensure that the *Consultant's* employees are in a constant state of awareness and readiness. These methods may include

uniformed or undercover surveillance by Eskom Security staff; intrusion tests by undercover Eskom Security staff to evaluate the security guards' actions and surveys of Eskom employees regarding the security guards; professionalism, courtesy and knowledge of their assigned duties.

### **3.8.2 Information in the quality plan**

The *Consultant* shall provide a quality policy statement and quality plan which complies with requirements stated in the Scope.

### **3.9 The Parties use of material provided by the *Consultant***

#### **3.9.1 *Employer's* purpose for the material**

As per Task Order

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

As per Task Order

#### **3.9.3 Transfer of rights**

There are no exceptions to the transfer of rights except those mutually agreed upon and documented before contract award. 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.

### **3.10 Management of work done by Task Order**

Refer to Annexure D for the format of a Task Order which shall be used by the *Employer* as the means of instructing the *Consultant* to deliver *services*. No work shall be carried out without a signed Task Order issued by the *Employer's Agent*.

The Task Order shall specify the scope of *services*, *deliverables*, *starting and completion dates* and the cost allocation. The *Consultant* shall deliver *services* within the constraints stipulated on the TO and engage the *Employer* as soon as the *Consultant* becomes aware of any risk in this regard. Any work executed outside the parameters stipulated on the TO, including cost, shall be for the *Consultant's* account notwithstanding delivery and acceptance of *services* that may be made by the *Employer* or people in the *Employer's* organisation.

All Expenses shall be paid for by *Consultant's* and reimbursed at cost after assessment. The *Consultant* shall include itemised estimated expenses in all proposals in response to Requests for Proposals issued by the *Employer*. Forecasts of estimated *Expenses* shall be submitted to the *Employer's* Requesting Manager for acceptance at the Assessment meeting. Expenses that are incurred without the *Employer's* prior acceptance in writing shall not be reimbursed by the *Employer*.

### **3.11 Occupational Health and safety**

The *Consultant* shall at all times comply with the health and safety requirements prescribed by law and the *Employer* as they apply to the *services*. Failure to comply shall result in the *Employer* suspending execution of *services* and removing the *Consultant* from site until compliance is achieved. The *Employer* may cancel a Task Order and/or terminate the contract depending on the situation and risks to people, plant and equipment, reputation and the *Employer's* business of electricity supply.

The *Consultant* shall comply with the health and safety requirements contained on the Task Order (Annexure D to this Scope). The relevant site manager shall require the *Consultant* to attend SHE INDUCTION training

provided by the *Employer*. It is essential that the *Consultant* is conversant with Eskom safety procedures training prior commencing any work on site.

### 3.11.1 Life Saving Rules

In the interest of promoting a safe and healthy working environment, the Eskom Executive Committee has approved the implementation of life saving rules, to improve safety in the organisation. These rules will also be applicable to all contracting staff.

The business is concerned about the emotional, social as well as economic effect of all these unnecessary incidents, and would like to correct behaviour pro-actively.

These rules are determined beforehand to enable the organisation to clearly communicate the established Life Saving Rules and how to deal with non-compliance to the workforce prior to the implementation of such rules.

Failure by any person or Contractor engaged in doing business with Eskom to adhere to these rules, will lead to serious action being taken with serious consequences (including being refused access to site). These actions include termination of service of an individual and even blacklisting of Contractors not taking the rules seriously. It is therefore strongly advised that these rules be taken seriously, communicated to all your staff, ensure that they all understand the rules, understand the consequences of violating a rule and sign a document stating that they understand and acknowledge the implications of these rules.

#### **Eskom Life Saving Rules are:**

Rule 1: Open, Isolate, Test, Earth, Bond and/or Insulate before touch (above 1 000 V)

Rule 2: Hook up at heights

Rule 3: Buckle up

Rule 4: Be sober

Rule 5: Ensure that you have a permit to work

### 3.11.2 SHE/Q Policy

The Service Provider shall have a SHE/Q Policy authorised by their Chief Executive (OHS Act Section 16(1) appointee) that clearly states overall SHE/Q objectives and commitment to improving Safety, Health, Environment and Quality.

Eskom has a SHEQ Policy (32-727) that clearly states the policy principles by which Eskom operates and the commitment to SHEQ excellence and is authorised by the Chief Executive.

Service Providers shall support Eskom SHEQ policy.

### 3.11.3 Section 37(2) Mandatory agreement

A section 37(2) agreement must be signed between the Client and the Service Provider at the time of awarding the contract. A signed copy of this agreement is submitted to the Client prior to commencement of any activity on site. The Service Provider must ensure that a section 37(2) agreement is signed between them and all their appointed service providers/suppliers for the contract.

Copies of all agreements must form part of the Service provider's OHS file.

### 3.11.4 OHS Requirements

The Client expects the Service Provider to engage in safety culture initiatives in line with the Eskom SHEQ Policy and value, Zero Harm.

It is required that the Service Provider comply with the relevant applicable legislation, specifications and standards in accordance with the scope of the project. (i.e. Occupational Health and Safety Act 1993 (Act 85 of 1993) and its regulations; Compensation for Occupational Injuries and Diseases Act; and other applicable South African legislation).

This project will abide by applicable legislative requirements and be aligned to Eskom SHEQ Policies, standards and procedures.

The Service Provider, at all times, considers itself to be the “employer” for the purposes of the OHS Act, and shall not consider itself under the supervision or management of the Client regarding compliance with the OHS requirements.

The Service Provider shall furthermore not consider itself to be a subordinate or under supervision of the Client in respect of these matter. The Service Provider is at all times responsible for the supervision of its employees and assumes full responsibility and accountability for ensuring they are competent, aware of the OHS requirements and execute the works in accordance with the OHS requirements and legislative requirements.

The Service Provider must implement their OHS management system and requirements and incorporate the applicable Eskom requirements into their system.

The Service Provider shall ensure that all statutory appointments and appointments required by the management system are in place, and that all appointees fully understand their responsibilities and are trained and competent to execute their duties. The Service Provide supervises the execution of their duties by all such appointees.

### 3.11.5 Legal and Other requirements

It is required that all Service Providers on the project comply with the relevant applicable legislation, specifications and standards in accordance with the scope of the project:

As a minimum but not limited to the following:

- The Constitution of the Republic of South Africa (particularly Section 24 of the Bill of Rights)
- Occupational Health and Safety Act 1993 (Act 85 of 1993) and its Regulations
- Compensation for Occupational Injuries and Diseases Act 130 of 1993
- Any other applicable South African legislation (local, provincial and National)
- Applicable South African National Standards (SANS)
- Applicable international standards
- Relevant Eskom Procedures and standards
- OHSAS 18001/ISO 45001 - Service Provider shall use as guidelines.
- Disaster Management Act 57 of 2002: Regulations issued in Terms of Section 27(2) of the Act (GG 43258 - GN 480 – 29 April 2020)
- Directive: COVID-19 Direction on Health and Safety in the Workplace Published 29 April 2020 Government Gazette 43257, GNR 479
- Directive: Consolidated COVID-19 Direction on Health and Safety in the Workplace Published 4 June 2020, Government Gazette 43400, GNR 639
- Directive: Consolidated Directions on Occupational Health and Safety Measures in Certain Workplaces – Published 1 October 2020, Government Gazette 43751, GNR 1031
- Local Authority By Laws

It is the duty of the Service Provider and consultant to ensure that they are familiar with the necessary OHS legislation required.

**When there is an amendment to the Acts and/or to the Regulations, the OHS plan must be reviewed, updated accordingly and send through to the client. Changes must be communicated to all relevant employees.**

### 3.11.6 Service Provider: Details, Accountabilities and Responsibilities

The Service Provider carries primary accountability and responsibility for the health and safety of his/her employees within his/her working area, as contemplated by Section 37(2) of the OHS Act No. 85 of 1993 and Regulations. None of the additional safety requirements specified by the Client reduces the Service Provider's accountability and responsibility for the health and safety of his employees within his working area.

The Service Provider shall have a disciplinary process and an organisational structured procedure to deal with employees who have transgressed organisational and legal requirements.

The Service Provider shall provide a list of names and contact telephone numbers of all his employees on site. This list shall be updated as and when new employees commence on site.

The Service Provider shall keep a record of all employees, including date of induction, relevant skills and licenses, and be able to produce this list at the request of the relevant officials. These records shall be filed in the OHS File.

Every employee must undergo site induction provided by the Client before commencement of the contracted work. Only once this induction has been received, will each employee receive a site access permit.

Employees are responsible for their own health and safety and that of their co-workers in their respective areas of work on the project.

**Employees must be made aware of their responsibilities during induction and awareness sessions some of which are:**

- Familiarising themselves with their workplaces and health and safety procedures.
  - Working in a manner that does not endanger them or cause harm to others.
  - Keeping their work area tidy.
  - Reporting all incidents/accidents and near misses
  - Protecting fellow workers from injury.
  - Reporting unsafe acts and unsafe conditions.
  - Reporting any situation that may become dangerous.
  - Carrying out lawful orders and obeying health and safety rules.
  - Declaring to the employer if taking medication which may have intoxicating effects.
  - If an employee has a reasonable belief that the work to be undertaken is likely to endanger him/her or any other person/s due to sub-standard acts or conditions, inadequate precautions or a lack of protective equipment or clothing, he/She has the right to refuse to work and shall report such situation to the employer.
  - An employee does have the right not to work in any area or perform any task where that employee has reasonable justification to believe that the work situation presents a serious danger to his/her health and safety, organizational assets or the environment.
- It must be highlighted to all employees, that anyone who becomes aware of any person disregarding a health & safety notice, instruction or regulation shall immediately report this to the person concerned. If the person persists, stop the person from working and report the matter to the Eskom Site/Project Manager immediately.

The Service Provider appointed personnel shall be registered in their respective levels as professionals in terms of the legislative requirements (SACPCMP).

### 3.11.7 Annexure B: Eskom SHE rules and requirements

Annexure B is the acknowledgement of Eskom's SHE rules and requirements form signed and submitted by the tenderer.

### 3.11.8 Cost allocation for OHS Compliance

The Service Provider shall ensure that the submitted tender adequately made provision for the cost of Occupational Health and Safety measures.

**Note:** the costing for OHS must be detailed that is itemised based on the overall scope of the project (i.e.) Medical surveillance (Medicals), Training, provision of PPE, COVID-19 compliance, safety equipment purchases, resources and etc.

### 3.11.9 Personal Protective Equipment (PPE)

In terms of Section 8 of the OHS Act, the duty of the employer is to take steps to eliminate or mitigate (hierarchy of control measures) any hazard or potential hazard to the safety or health of employees before resorting to PPE.

Service Provider's employees on site, including visitors, shall use SANS approved risk based PPE at all times, as a minimum:

- Head protection hard hat (with chin straps)
- Steel toe capped safety boots.
- Eye protection. Wearing of impact Safety Spectacles with side shields. Prescription glasses must comply with the same standard or cover impact safety spectacles must be worn over them.
- Long sleeved and long pants protective clothing.
- High visibility vests.
- Refer to General Safety Regulation 2 of the OHS Act.

The Service Provider shall ensure that his employees understand why the personal protective equipment is necessary and that they use them correctly.

Strict non-compliance measures must be administered to any employee not complying with the use of PPE and that employee shall be removed from the Site.

*Note: Certain areas will be subjected to specific/extra PPE requirement.*

### 3.11.10 Compensation of Occupational Injuries and Diseases Act (COIDA)

The Service Provider shall submit proof of registration and letter of good standing with the compensation fund or with a licensed compensation insurer for his company based on South African legislative requirements. This must remain valid for the duration of the contract. The Letter of Good Standing shall reflect the name of the Service Provider.

### 3.11.11 Emergency Care

A list of emergency numbers must be displayed at notice boards and public areas for ease of access to all employees and visitors. The Service Provider shall ensure that his employees are familiar with the emergency numbers

Emergency numbers will also be part of the OHS induction.

Eskom Medupi Power Station has established a contract with a Service Provider for all employees and its Service Provider's employees for emergency medical assistance incurred whilst on duty. The telephone number is 014 762 2555 or 078 100 5614.

Service Provider shall have one first aid box for the first 5 persons and thereafter one for every 50 or team of workers on site or part thereof. There should be a trained and appointed person to render first aid service when required.

### **3.11.12 COVID-19: Health and Pandemic**

The Service Provider shall ensure compliance to all Covid-19 regulations and requirements. A Covid-19 risk assessment should be conducted and appropriate measures taken to minimise exposure to COVID-19. Any new developments regarding Covid-19 and latest updates should be communicated to the employees and visitors to stay well informed.

### **3.11.13 OHS Plan**

All Service Providers must use the applicable OHS information to develop a suitable and sufficient OHS plan, submitted with tender documents, which will indicate to the Client the level of compliance to the OHS requirements. The occupational health and safety plan shall identify each activity to be undertaken by the Service Provider, the foreseeable internal and external hazards, the specific precautions and controls that shall be necessary to ensure that the works proceeds safely and without risks to health or adjacent operations.

Upon discussions with the Service Provider, a final accepted OHS plan would be signed and approved.

The plan shall demonstrate management's commitment to OHS.

The safety plan shall be reviewed to ensure that it fully addresses all the issues and complies with the requirements of the OHS Specifications and contract. If necessary the Service Provider shall amend the OHS Plan as required by the Client.

### **3.11.14 Hazard Identification and Risk Assessment**

It is a legal requirement in terms of Section 8 (2)(d) of the OHS Act for an employer to carry out risk assessments, to establish which risks and hazards are attached to the health and safety of persons due to any work which is performed, any article or substance which is, handled, stored, transported.

The Service Provider shall prepare and provide a Baseline Risk Assessment for an intended work project to the client. The Service Provider is expected to have different types of risk assessments for their scope of work.

### **3.11.15 Medical Surveillance Programme**

The Service Provider shall ensure that the employees are registered on a medical surveillance programme and are in possession of a valid medical fitness certificate, completed in South Africa. The certificate of fitness should be relevant to the type of work (risk based) that the employee will be exposed to. This will require each employee to have a risk based person job specification that will be used as a basis for medical examination.

The Service Provider must ensure that his employees have undergone pre-entry medical examination before starting work on site, no employee will access site without a valid medical fitness certificate. Upon completion, an exit medical examination must be done for all employees working in the project.

### **3.11.16 OHS Audits**

Eskom reserves the right to monitor and conduct unannounced audits to ensure compliance and provide assurance to the Client representatives and their key stakeholders.

### **3.11.17 Incident management**

The Service Provider shall report and investigate all incidents/accidents as required in terms of the legislation.

All incidents reporting, recording, classification and investigation will be done according to the requirements set out in the Eskom document 32-95 (latest revision).

### **3.11.18 OHS Performance Status Reports**

The Service Provider shall provide OHS statistical and Non-statistical reports, dashboards, presentations as per the Client requirements which will be defined and provided at a later stage.

### **3.11.19 Hours of Work**

All work conducted on site shall fall within the legal requirements in accordance with the Basic Conditions of Employment Act.

The Service Provider will notify their Eskom responsible manager/supervisor of any work that needs to be performed after hours according to the agreed arrangements. (The application needs to be submitted timeously). Where applicable, the notification should include proof of application, for overtime, to the Department of Employment and Labour and/or the letter of approval from the Department of Employment and Labour.

### **3.11.20 Project Close-out**

On completion of the project or service rendered, the appointed Service Providers shall close out their project documentation and OHS files and handover to the Eskom Project Manager. All required documentation shall be submitted and handed over using relevant medium as per the procedure (Project Closeout and H&S documentation, 348-9942695). A checklist shall accompany the submission to verify that all documents are submitted/or handed in to the client.

## **3.12 Environmental requirements**

The contractor shall comply with the following environmental legal requirements but not limited to;

- Compliance to all related legal and other requirements.eg (Fence Regulations 2014)
- Compliance with the project environmental management system documentations.
- Implementation of the Medupi Approved Environmental Management Plan
- Ensure that all conditions in the project environmental authorisations, permits and licences.
- All potential environmental risks related to the scope must be identified and planned for.

The environmental management file specific to the scope of work must be submitted for approval.

- Aspect and impact register
- SHE/Q Policy
- Method statement including activities in sequence with environmental risks considered
- Environmental Management Plan addressing the significance risks.
- Environmental Incidents, Audit and Non-conformance process

## **3.13 Procurement**

### **3.13.1 BBBEE and preferencing scheme**

Refer to Annexure C – Supplier Development, Localisation & Industrialization

### **3.13.2 Preferred subconsultants**

The *Employer* shall indicate categories of sub-*Consultants* or suppliers the *Consultant* is required to preferentially enter into subcontracts with (Refer to Annexure C – Supplier Development Localisation & Industrialization). The degree of engagement of such suppliers by a *Consultant* shall be factored in the process of allocating work on the panel.

### 3.13.3 Subcontract documentation, and assessment of subcontract tenders

The *Consultant* shall be required to prepare subcontract documentation using the NEC3 system. Subcontract tenders are to be issued, received, assessed and awarded with the *Employer's* commercial representatives notified in the entire process. The *Employer* reserves the right to accept or reject the appointment of a *Subconsultant* in terms of this contract.

### 3.13.4 Limitations on subcontracting

The *Consultant* shall not subcontract a portion of the contract in excess of that agreed with the *Employer* and documented before contract award.

### 3.13.5 Attendance on Subconsultants

A *Subconsultant* remains the responsibility of a *Consultant* for a contract period. The *Employer's Agent* may instruct a *Consultant* to bring its *Subconsultants* to a meeting at any reasonable time.

### 3.13.6 Supplier Development, Localisation and Industrialization (SDL&I) Obligations

The following Supplier Development and Localisation (SD&L) obligations shall apply over the duration of this contract, refer to Annexure C;

<b>SUPPLIER DEVELOPMENT LOCALISATION AND INDUSTRIALIZATION (SDL&amp;I) OBLIGATIONS</b>	
<b>1. Localization</b>	The Local Content to South Africa will be 100% because Eskom do not expect any skills to be imported for these services and the industry is matured enough to possess all the skills required
<b>2. Sub-contracting</b>	The successful supplier will be required to sub-contract 10% of their contract value for supplier development purposes as well as increasing the players in this industry
<b>3. Skills Development</b>	Successful supplier will be obligated to train 3 candidates this obligation will be for the duration of the contract.

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

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

The *Employer's* sites are classified as National Key Points and access is controlled and regulated by law. Medupi Power Station may have very strict entrance requirements and allowances for security clearance checks and processes of about two hours need to be made by *Consultants* requiring access at the sites. The taking of photographs is prohibited at all sites and special permission shall be required if necessary for the provision of Services. Persons under the influence of intoxicating substances and alcohol are strictly not permitted to enter the *Employer's* premises. All persons entering or leaving the *Employer's* premises may be subjected to physical security checks including alcohol tests. In addition to the above there may be other restrictions applicable on sites and *Consultants* shall be required to comply at all times. Temporary Access Permits may be arranged for a limited number of the *Consultant's* Key Persons who require frequent access to the *Employer's* premises for purposes of delivering the Services which may include the attendance of regular meetings.

### 3.14.2 People restrictions, hours of work, conduct and records

It is very important that the *Consultant* keeps records of his people working on the *Employer's* property, including those of his *Sub-Consultants*. The *Employer's Agent* shall have access to these records at any time. These records may be needed when assessing compensation events. The restrictions on hours worked shall be specified on the Task Order.

### 3.15 Cooperating with and obtaining acceptance of Others

In areas where Affected Property is to be shared for work by different *Contractors*, affected *Consultants* have to cooperate and manage their agreements. They all have to notify the *Employer's Agent* where intervention is required.

### 3.16 Things provided by the Employer

The *Employer* shall provide special software and access to systems, training and guidance on requirements specific to the *Employer* that are not common in the industry to enable the *Consultant* to deliver the services as required by the *Employer*.

### 3.17 Exclusions

The *Consultant* shall provide and use own tools, special equipment, IT hardware and software, PPE, stationery and acquire all necessary licences, permits and authorisations required to perform the services when such requirements are not provided by the employer.

### 3.18 Cataloguing requirements by the Consultant

Procurement Practitioner to advise as applicable.

## 4 List of drawings

### 4.1 Drawings issued by the Employer

As per Task Order

Drawing number	Revision	Title

## 5 Annexures

### Annexure A: Insurance 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.*

1. 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”.

2. There are two main “formats” of cover and deductible structure; Format A and Format B.

**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.

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

**[http://www.eskom.co.za/live/content.php?Item\\_ID=9248](http://www.eskom.co.za/live/content.php?Item_ID=9248)**

4. 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.

**Annexure B: The *Employer's* Panel of Adjudicators**

The following persons listed in alphabetical order of their surname have indicated their willingness to be included in the Eskom Panel of Adjudicators. Their CV's may be obtained by using the contact details provided.

Name	Location	Contact details (phone & e-mail)
Nigel ANDREWS	Gauteng	+27 11 836-6760 nigela@quoin.net
Andrew BAIRD	Gauteng	+27 11 803 3008 andrewbaird@ecsconsult.co.za
Christopher BINNINGTON	Gauteng	+27 11 888-6141 cdb@bca.co.za
Peter HIGGINS	UK	+44 1293 873 868 peterhiggins@pdconsult.co.uk
Bruce LEECH	Gauteng	+27 11 290 4000 leech@counsel.co.za
Nigel NILEN	Gauteng	+27 11 465 3601; nilences@global.co.za
Peter THURLOW	Gauteng	+27 11 787 6226 info@thurlowassoc.com

**Information about the Panel and appointment of the selected *Adjudicator* is available from Eskom Supply Chain Operations management, by contacting Leighton Itholeng 011 800 4031 or [Leighton.Itholeng@eskom.co.za]**

**Annexure C: Supplier Development Localisation and Industrialization (SDL&I)**

Suppliers are obligated to contribute towards five elements of SDL&I, namely: B-BBEE, Localisation, Skills Development, Job Creation and Supplier Development and Industrialization for the duration of the contract.

**B-BBEE and preferencing scheme**

The company shall maintain or improve upon their current B-BBEE Contribution level for the duration of the contract. The supplier will be required to submit a new B-BBEE certificate within 3 months, should ownership of the company change during the life of the contract.

**Accelerated Shared Growth Initiative – South Africa (ASGI-SA)/SDL&I**

The Contractor complies with and fulfils the Contractor’s obligations in respect of the Accelerated and Shared Growth Initiative - South Africa in accordance with and as provided for in the Contractor’s SDL&I Compliance Schedule.

**Local Content and Production**

This works/service is a non-designated sector and therefore no local production threshold is applicable to qualify for further evaluation. Tenderers will also be encouraged to utilise local and local to site resources.

**Skills Development (not weighted criteria)**

Eskom intends to improve Skills Development by ensuring that technical support is directed towards enhancing supply capacity and capability within the industry or sector of operation. By doing this the capacity and competitiveness of the local supply base will be increased and the goals of shared growth, employment creation, poverty reduction and skills development will be achieved.

Category	Quantity	Entry Level	Output	Tenderers proposal
Quality Management	3	N3/Grade 12 or Equivalent	Quality Management Diploma/Degree	

The Contractor shall keep accurate records and provide the Service Manager with reports on the Contractor’s actual delivery against the above stated SDL&I criteria. Elaborate on access to and format of records and frequency of submission etc.

The Contractor’s failure to comply with his SDL&I obligations constitutes substantial failure on the part of the Contractor to comply with his obligations under this contract

**Retention**

- a. Eskom shall be permitted to retain 2.5% (two and half percent) of the invoices (excluding VAT) as security for the fulfilment by the tenderers of their SDL&I obligations.
- b. Once Eskom has verified that tenderers have fulfilled their SD & L obligations, the 2.5% retained shall be approved for reimbursement by Eskom to suppliers within 90 (ninety) days of verification by Eskom.

**Reporting**

- a. The tenderers shall on a monthly /quarterly basis submit a report to Eskom in accordance with Data Collection Template on their compliance with the SD& L obligations described above.

- b. Eskom shall review the quarterly reports submitted by the tenderers within 60 (sixty) days of receipt of the reports and notify the tenderers in writing if their SD&L obligations have not been met.
- c. Upon notification by Eskom that the tenderers have not met their SD&L obligations, the tenderers shall be required to implement corrective measures to meet those SD&L obligations before the commencement of the following quarter, failing which retention clauses shall be invoked.
- d. Every contract shall be accompanied by the SD&L implementation schedule which must be completed by the tenderers and returned to SD&L representative for acceptance before contract award. This will be used as a reference document for monitoring, measuring, and reporting on the tenderer's progress in delivering on their stated SD&L commitments.

## **Subcontracting**

### **a) Preferred subcontractors**

10% subcontracting of the Contract amount to one or more suppliers from the townships and/or rural areas, on the following categories of suppliers:

- an EME or QSE which is at least 51% owned by black people living in rural or underdeveloped areas or townships.

### **b) Subcontract documentation, and assessment of subcontract tenders**

1. Subcontracting agreement (signed by both parties) with subcontractor company registration documents (CK, CSD, B-BBEE certificate or sworn affidavit).
2. Copies of sub-contracting contracts (agreements) or copies of letters from the tenderer to the sub-contractors, stating the intent to sub-contract. Both documents should be signed by the Tenderer and the Sub-contractor(s) earmarked.

### **c) Limitations on subcontracting**

10% of the scope of work will be subcontracted to the above subcontractor.

### **d) Attendance on subcontractors**

Not applicable