



NEC3 Professional Services Contract (PSC3)

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

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

**for Cathodic Protection survey and condition assessment of the
Komati Water Scheme and other pipeline systems**

Contents:	No of pages
Part C1 Agreements & Contract Data	[•]
Part C2 Pricing Data	[•]
Part C3 Scope of Work: The Scope	[•]

CONTRACT No. [Insert at award stage]

PART C1: AGREEMENTS & CONTRACT DATA

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

C1.1 Form of Offer & Acceptance

Offer

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

Title of the Contract

The tenderer, identified in the Offer signature block, has

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

By the representative of the tenderer, deemed to be duly authorised, signing this part of this Form of Offer and Acceptance the tenderer offers to perform all of the obligations and liabilities of the *Consultant* under the contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the *conditions of contract* identified in the Contract Data.

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

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

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

Signature(s)

Name(s)

Capacity

For the tenderer:

(Insert name and address of organisation)

Name & signature of witness

Date

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Acceptance

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

The terms of the contract, are contained in:

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

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

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

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

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

Signature(s)

Name(s)

Capacity

**for the
Employer**

(Insert name and address of organisation)

Name &
signature of
witness

Date

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

Schedule of Deviations

Note:

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

No.	Subject	Details
1		
2		
3		
4		
5		
6		
7		

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

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

For the tenderer:

Signature _____

Name _____

Capacity _____

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

Name & signature of witness _____

Date _____

For the Employer

Signature _____

Name _____

Capacity _____

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

Name & signature of witness _____

Date _____

C1.2 PSC3 Contract Data

Part one - Data provided by the *Employer*

[Instructions to the contract compiler: (delete these two notes in the final draft of a contract)

1. Please read the relevant clauses in the conditions of contract before you enter data. The number of the clause which requires the data is shown in the left hand column for each statement however other clauses may also use the same data.
2. The PSC3 options are identified by shading in the left hand column. In the event that the option is not required select and delete the whole row.
3. Where the symbol “[●]” is used data is required to be inserted relevant to the clause and statement which requires it.]

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

Claus e	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option	
	dispute resolution Option	A: Priced contract with activity schedule
	and secondary Options	W1: Dispute resolution procedure
		X2 Changes in the law
		X10 Employer's Agent
		Z: Additional conditions of contract
	of the NEC3 Professional Services Contract (April 2013) ¹	
10.1	The <i>Employer</i> is (Name):	Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state owned company incorporated in terms of the company laws of the Republic of South Africa
	Address	Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg
	Tel No.	011 800 4524
	Fax No.	N/A

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

11.2(9)	The services are	Cathodic Protection survey and condition assessment of the Komati Water Scheme and other pipeline systems		
11.2(10)	The following matters will be included in the Risk Register			
11.2(11)	The Scope is in	Part 3: Scope of Work		
12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa		
13.1	The <i>language of this contract</i> is	English		
13.3	The <i>period for reply</i> is	1 week		
13.6	The <i>period for retention</i> is	24 months after completion		
2	The Parties' main responsibilities			
25.2	The <i>Employer</i> provides access to the following persons, places and things	access to		access date
		1	All pipeline sites as described in The Scope	starting date
3	Time			
31.2	The <i>starting date</i> is.	TBA		
11.2(3)	The <i>completion date</i> for the whole of the services is.	6 months after starting date		
11.2(6)	The <i>key dates</i> and the <i>conditions</i> to be met are:	Condition to be met		key date
		1	N/A	N/A
31.1	The <i>Consultant</i> is to submit a first programme for acceptance within	1 week of the Contract Date.		
32.2	The <i>Consultant</i> submits revised programmes at intervals no longer than	4 weeks.		
4	Quality			
40.2	The quality policy statement and quality plan are provided within	2 weeks of the Contract Date.		
42.2	The <i>defects date</i> is	N/A		
5	Payment			
50.1	The <i>assessment interval</i> is	between the 24th and 31st day of each successive month.		
51.1	The period within which payments are made is	4 weeks.		
51.2	The <i>currency of this contract</i> is the	South African Rand		

51.5	The <i>interest rate</i> is	The publicly quoted prime rate of interest (calculated on a 365 day year) charged by from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands.
6	Compensation events	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
7	Rights to material	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
8	Indemnity, insurance and liability	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
82.1	The <i>Consultant's</i> total liability to the <i>Employer</i> for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	The total of the Prices
9	Termination	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
10	Data for main Option clause	
A	Priced contract with activity schedule	
21.3	The <i>Consultant</i> prepares forecasts of the total expenses at intervals of no longer than	N/A
11	Data for Option W1	
W1.1	The <i>Adjudicator</i> is	the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see www.ice-sa.org.za). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).
W1.2(3)	The <i>adjudicator nominating body</i> is:	the Chairman of the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering. (See www.ice-sa.org.za).
W1.4(2)	The <i>tribunal</i> is:	arbitration

W1.4(5)	<p>The <i>arbitration procedure</i> is</p> <p>The place where arbitration is to be held is</p> <p>The person or organisation who will choose an arbitrator</p> <ul style="list-style-type: none"> • if the Parties cannot agree a choice or • if the <i>arbitration procedure</i> does not state who selects an arbitrator, is 	<p>the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.</p> <p>South Africa</p> <p>the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.</p>
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12 Data for secondary Option clauses

X2 Changes in the law

X2.1	The law of the project is	The Republic of South Africa
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X10 The *Employer's Agent*

X10.1	<p>The <i>Employer's Agent</i> is</p> <p>Name:</p> <p>Address</p> <p>The authority of the <i>Employer's Agent</i> is</p>	To be provided on contract award
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Z The *Additional conditions of contract* are

Z1 to Z14 always apply.

Z1 Cession delegation and assignment

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

Z2 Joint ventures

- Z2.1 If the *Consultant* constitutes a joint venture, consortium or other unincorporated grouping of two or more persons or organisations then these persons or organisations are deemed to be jointly and severally liable to the *Employer* for the performance of this contract.
- Z2.2 Unless already notified to the *Employer*, the persons or organisations notify the *Employer* within two weeks of the Contract Date of the key person who has the authority to bind the *Consultant* on their behalf.

Z2.3 The *Consultant* does not alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without the consent of the *Employer* having been given to the *Consultant* in writing.

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

Z3.1 Where a change in the *Consultant*'s legal status, ownership or any other change to his business composition or business dealings results in a change to the *Consultant*'s B-BBEE status, the *Consultant* notifies the *Employer* within seven days of the change.

Z3.2 The *Consultant* is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the *Employer* within thirty days of the notification or as otherwise instructed by the *Employer*.

Z3.3 Where, as a result, the *Consultant*'s B-BBEE status has decreased since the Contract Date the *Employer* may either re-negotiate this contract or alternatively, terminate the *Consultant*'s obligation to Provide the Services.

Z3.4 Failure by the *Consultant* to notify the *Employer* of a change in its B-BBEE status may constitute a reason for termination. If the *Employer* terminates in terms of this clause, the procedures on termination are those stated in core clause 91. The payment on termination includes a deduction of the forecast of the additional cost to the *Employer* of completing the whole of the services in addition to the amounts due in terms of core clause 92.1.

Z4 Confidentiality

Z4.1 The *Consultant* does not disclose or make any information arising from or in connection with this contract available to Others. This undertaking does not, however, apply to information which at the time of disclosure or thereafter, without default on the part of the *Consultant*, enters the public domain or to information which was already in the possession of the *Consultant* at the time of disclosure (evidenced by written records in existence at that time). Should the *Consultant* disclose information to Others in terms of clause 23.1, the *Consultant* ensures that the provisions of this clause are complied with by the recipient.

Z4.2 If the *Consultant* is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the *Employer*.

Z4.3 In the event that the *Consultant* is, at any time, required by law to disclose any such information which is required to be kept confidential, the *Consultant*, to the extent permitted by law prior to disclosure, notifies the *Employer* so that an appropriate protection order and/or any other action can be taken if possible, prior to any disclosure. In the event that such protective order is not, or cannot, be obtained, then the *Consultant* may disclose that portion of the information which it is required to be disclosed by law and uses reasonable efforts to obtain assurances that confidential treatment will be afforded to the information so disclosed.

Z4.4 The taking of images (whether photographs, video footage or otherwise) of the *Employer*'s project works or any portion thereof, in the course of Providing the Services and after Completion, requires the prior written consent of the *Employer*. All rights in and to all such images vests exclusively in the *Employer*.

Z5 Waiver and estoppel: Add to core clause 12.3:

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

Z6 Provision of a Tax Invoice. Add to core clause 51

Z6.1 The *Consultant* (if registered in South Africa in terms of the companies Act) is required to comply with the requirements of the Value Added Tax Act, no 89 of 1991 (as amended) and to include the *Employer*'s VAT number 4740101508 on each invoice he submits for payment.

Z7 Notifying compensation events

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

Z8 Employer's limitation of liability

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

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

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

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

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

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

Z11 Ethics

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

Affected Party	means, as the context requires, any party, irrespective of whether it is the <i>Consultant</i> or a third party, such party's employees, agents, or Subconsultants or Subconsultant's employees, or any one or more of all of these parties' relatives or friends,
Coercive Action	means to harm or threaten to harm, directly or indirectly, an Affected Party or the property of an Affected Party, or to otherwise influence or attempt to influence an Affected Party to act unlawfully or illegally,
Collusive Action	means where two or more parties co-operate to achieve an unlawful or illegal purpose, including to influence an Affected Party to act unlawfully or illegally,
Committing Party	means, as the context requires, the <i>Consultant</i> , or any member thereof in the case of a joint venture, or its employees, agents, or Subconsultants or the Subconsultant's employees,

Corrupt Action	means the offering, giving, taking, or soliciting, directly or indirectly, of a good or service to unlawfully or illegally influence the actions of an Affected Party,
Fraudulent Action	means any unlawfully or illegally intentional act or omission that misleads, or attempts to mislead, an Affected Party, in order to obtain a financial or other benefit or to avoid an obligation or incurring an obligation,
Obstructive Action	means a Committing Party unlawfully or illegally destroying, falsifying, altering or concealing information or making false statements to materially impede an investigation into allegations of Prohibited Action, and
Prohibited Action	means any one or more of a Coercive Action, Collusive Action, Corrupt Action, Fraudulent Action or Obstructive Action.

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

Insurance against	Minimum amount of cover	For the period following Completion of the whole of the services or earlier termination
Liability of the <i>Consultant</i> for claims made against him arising out of his failure to use the skill and care normally used by professionals providing services similar to the services	100% of contract value	The amount required by the applicable law
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>	<u>Loss of or damage to property:</u>	The amount required by the applicable law

	<p>The replacement cost where not covered by the <i>Employer's</i> insurance</p> <p>The <i>Employer's</i> policy deductible, as at Contract Date, where covered by the <i>Employer's</i> insurance</p> <p><u>Bodily injury to or death of a person:</u> The amount required by the applicable law.</p>	
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	The amount required by the applicable law

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

INSURANCE TABLE B

Insurance against or name of policy	Minimum amount of cover or minimum limit of indemnity
Assets All Risk	Per the insurance policy document
Contract Works insurance	Per the insurance policy document
Environmental Liability	Per the insurance policy document
General and Public Liability	Per the insurance policy document
Transportation (Marine)	Per the insurance policy document
Motor Fleet and Mobile Plant	Per the insurance policy document
Terrorism	Per the insurance policy document
Cyber Liability	Per the insurance policy document
Nuclear Material Damage and Business Interruption	Per the insurance policy document
Nuclear Material Damage Terrorism	Per the insurance policy document

Z13 Nuclear Liability

Z13.1 The *Employer* is the operator of the Koeberg Nuclear Power Station (KNPS), a nuclear installation, as designated by the National Nuclear Regulator of the Republic of South Africa, and is the holder of a nuclear licence in respect of the KNPS.

Z13.2 The *Employer* is solely responsible for and indemnifies the *Consultant* or any other person against any and all liabilities which the *Consultant* or any person may incur arising out of or resulting from nuclear damage, as defined in Act 47 of 1999, save to the extent that any liabilities are incurred due to the unlawful intent of the *Consultant* or any other person or the presence of the *Consultant* or that person or any property of the *Consultant* or such person at

or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.

- Z13.3 Subject to clause Z13.4 below, the *Employer* waives all rights of recourse, arising from the aforesaid, save to the extent that any claims arise or liability is incurred due or attributable to the unlawful intent of the *Consultant* or any other person, or the presence of the *Consultant* or that person or any property of the *Consultant* or such person at or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.
- Z13.4 The *Employer* does not waive its rights provided for in section 30 (7) of Act 47 of 1999, or any replacement section dealing with the same subject matter.
- Z13.5 The protection afforded by the provisions hereof shall be in effect until the KNPS is decommissioned.

Z14 Asbestos

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

AAIA	means approved asbestos inspection authority.
ACM	means asbestos containing materials.
AL	means action level, i.e. a level of 50% of the OEL, i.e. 0.1 regulated asbestos fibres per ml of air measured over a 4 hour period. The value at which proactive actions is required in order to control asbestos exposure to prevent exceeding the OEL.
Ambient Air	means breathable air in area of work with specific reference to breathing zone, which is defined to be a virtual area within a radius of approximately 30cm from the nose inlet.
Compliance Monitoring	means compliance sampling used to assess whether or not the personal exposure of workers to regulated asbestos fibres is in compliance with the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.
OEL	means occupational exposure limit.
Parallel Measurements	means measurements performed in parallel, yet separately, to existing measurements to verify validity of results.
Safe Levels	means airborne asbestos exposure levels conforming to the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.
Standard	means the <i>Employer</i> 's Asbestos Standard 32-303: Requirements for Safe Processing, Handling, Storing, Disposal and Phase-out of Asbestos and Asbestos Containing Material, Equipment and Articles.
SANAS	means the South African National Accreditation System.
TWA	means the average exposure, within a given workplace, to airborne asbestos fibres, normalised to the baseline of a 4 hour continuous period, also applicable to short term exposures, i.e. 10-minute TWA.

Z14.1 The *Employer* ensures that the Ambient Air in the area where the *Consultant* will Provide the Services conforms to the acceptable prescribed South African standard for asbestos, as per the regulations published in GNR 155 of 10 February 2002, under the Occupational Health and Safety Act, 1993 (Act 85 of 1993) ("Asbestos Regulations"). The OEL for asbestos is 0.2 regulated asbestos fibres per millilitre of air as a 4-hour TWA, averaged over any continuous period of four hours, and the short term exposure limit of 0.6 regulated asbestos fibres per millilitre of air as a 10-minute TWA, averaged over any 10 minutes, measured in accordance with HSG248 and monitored according to HSG173 and OEASM.

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)² in order to understand the implications of this Data which the tenderer is required to complete. An example of the completed Data is provided on pages 158 & 159 of the PSC3 April 2013 Guidance Notes.
2. The number of the clause in the PSC3 which requires the data is shown in the left hand column for each statement however other clauses may also use the same data.
3. Whenever a cell is shaded in the left hand column it denotes this data is optional in PSC3 and would be required in relation to the option selected. The *Employer* should already have made the selection and deleted the rows not required.

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

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

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

11.2(10)	The following matters will be included in the Risk Register		
11.2(13)	The <i>staff rates</i> are: Either complete here or cross refer to a schedule in Part C2.2	name/designation	rate
25.2	The <i>Employer</i> provides access to the following persons, places and things	access to 1 2 3	access date
31.1	The programme identified in the Contract Data is		
50.3	The expenses stated by the <i>Consultant</i> are	item	amount
A	Priced contract with activity schedule		
11.2(14)	The <i>activity schedule</i> is in		
11.2(18)	The tendered total of the Prices is	R (in figures)	(in words), excluding VAT

PART 2: PRICING DATA

PSC3 Option A

Document reference	Title	No of pages
C2.1	Pricing assumptions: Option A	[•]
C2.2	The <i>activity schedule</i>	[•]

C2.1 Pricing assumptions: Option A

How work is priced and assessed for payment

Option A is a lump sum form of contract where the work to be done is broken down into well defined activities each listed in the *activity schedule* and priced by the tendering consultant as a lump sum. (See clause 11.2(18)).

Only completed activities which are without Defects are assessed for payment at each assessment date; no part payment is made if the activity is not completed by the assessment date. (See clause 11.2(15)).

The *activity schedule* may change after the Contract Date as a result of compensation events. (See clause 11.2(14)).

Function of the Activity Schedule

The Activity Schedule is only a pricing document. Clause 53.1 in Option A states: "Information in the Activity Schedule is not Scope". Specifications and descriptions of the service or any constraints on how it is to be done are included in the Scope and per Clause 21.1, "The Consultant Provides the Services in accordance with the Scope" and therefore not in accordance with the Activity Schedule.

Link to the programme

Clause 31.4 states that "The Consultant provides information which shows how each activity on the Activity Schedule relates to the operations on each programme which he submits for acceptance". Ideally the tendering consultant will develop a high level programme first then resource each activity on the programme and thus arrive at the lump sum price for that activity both of which can be entered into the *activity schedule*.

Preparing the activity schedule

Generally it is the tendering consultant who prepares the *activity schedule* by breaking down the work described within the Scope into suitable activities which can be well defined, shown on a programme and priced as a lump sum.

The description of each activity must be sufficient to determine exactly what work is included within it and to know when it has been completed.

The *Employer*, in his Instructions to Tenderers or in a Tender Schedule, may have listed some items that he requires the *Consultant* to include in his *activity schedule* and be priced accordingly.

It is assumed that in preparing his *activity schedule* the *Consultant*:

- Has taken account of the guidance given in the PSC3 Guidance Notes;
- Understands the function of the Activity Schedule and how work is priced and paid for;
- Is aware of the need to link the Activity Schedule to activities shown on each programme which he submits for acceptance by the *Employer*;
- Has listed and priced activities in the *activity schedule* which are inclusive of everything necessary and incidental to Providing the Service in accordance with the Scope, as it was at the Contract Date, as well as correct Defects except correcting a Defect for which the *Consultant* is not liable;
- Has priced work he decides not to show as a separate activity within the Prices of other listed activities in order to fulfil the obligation to complete the service for the tendered total of the Prices.
- Understands there is no adjustment to the lump sum Activity Schedule price if the amount, or quantity, of work within that activity later turns out to be different to that which the *Consultant* estimated at time of tender. The only basis for a change to the Prices is as a result of a compensation event.

However, the *Consultant* does not have to allow in his Prices for matters that may arise as a result of a compensation event.

Expenses

Expenses are not included in the *activity schedule* items and are assessed separately at each assessment

date, unless an additional condition of contract (Z clause) is included which requires that expenses be included within activity Prices and not paid separately.

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

Rate adjustment for inflation of expenses is explained in the PSC3 Guidance Notes.

Staff rates

When a compensation event occurs changes to the affected Activity Schedule item or new priced items in the Activity Schedule are assessed as the actual Time Charge for work already done and the forecast Time Charge for work not yet done. (See clause 63.1 and 63.14 in Option A)

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. (Clause 11.2(13))

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

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

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

C2.2 the *activity schedule*

Use this page as a cover page to the *Consultant's activity schedule* or include here in this format:

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

Remember to state whether the *staff rates* and *expenses* exclude or include VAT.

The *staff rates* are:

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

The *expenses* are:

No.	Expense item	Amount / rate excluding VAT

PART 3: SCOPE OF WORK

Document reference	Title	No of pages
	This cover page	1
C3.1	<i>Employer's Scope</i>	11
C3.2	<i>Consultant's Scope</i>	
Total number of pages		

C3.1: ***EMPLOYER'S SCOPE***

Contents

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1 Description of the services

1.1 Executive overview

The scope is for a cathodic protection condition survey of the Komati Water Scheme, Matla to Kriel pipeline and Kendal Kusile pipeline systems. The status of the existing systems shall be evaluated, and any additional or remedial measures shall be identified to adequately protect the pipeline systems. Current constraints and problems shall be identified and taken into consideration including the basic design of certain parts of the system in order to mitigate vandalism of equipment.

Komati Water Scheme

The Komati Water Scheme (KWS) consists of Nooitgedacht and Vygeboom Dams on the Komati River. The KWS supplies water to Komati, Hendrina, Arnot and Duvha Power Stations. Water is pumped from Vygeboom Dam to Bosloop / Gemsbokhoek weir from where it is pumped further to Nooitgedacht Dam. Two pump stations: Wintershoek and Nooitgedacht, pump the water via five pipelines to the four power stations. The KWS pipelines are protected by means of 12 Transformer Rectifier Units (TRUs) and associated groundbeds, 1 Forced Drainage Units (FDU) and two Natural Drainage Units (NDU's)

Matla to Kriel

The Matla to Kriel pipeline network consists of several interconnected pipelines between Matla and Kriel power stations. The pipelines are protected by 3 TRUs located at Matla reservoirs and along the pipeline route to Kriel.

Kendal to Kusile

The Kendal to Kusile pipeline consists of a single 700 mm steel pipeline approximately 28 km long between Kendal and Kusile power stations. The pipeline is protected by means of 2 TRU's, one close to Kendal and the other close to Kusile Power Station and one forced drainage unit.

1.2 Interpretation and terminology

The following abbreviations are used in this Scope:

Abbreviation	Meaning given to the abbreviation
CP	Cathodic Protection
KWS	Komati Water Scheme
SHEQ	Eskom Safety, Health, Environment and Quality
TRU	Transformer Rectifier Unit
NDU	Natural Draining Unit
FDU	Forced Drainage Unit

2 Specification and description of the services

2.1 Description of the Works

The work will be completed in 2 phases:

Task 1 will include a survey of the existing CP systems of the KWS, Matla Kriel and Kendal Kusile systems. Task 2 is an assessment of the vandalism problems on the systems and the basic design of possible changes to the systems to mitigate the vandalism problem.

2.2 Task 1 – Survey of existing CP systems

- Inspection and testing of all TRUs, FDUs and NDUs
- Physical inspection of anode groundbeds for signs of external damage or interference

- Measurement of groundbed resistance for comparison against previous values to determine deterioration and current state.
- Measurement of spot potentials at all test points
- Stray current recordings at 5km intervals
- Inspection and insulation testing of insulating flanges
- Inspection and testing of cross and continuity bonds
- Recording of current flow at foreign service crossings
- Assessment of vandalism on the CP system equipment
- Preparation of an assessment report that will provide detailed information on the current state of the CP systems. The report will be used and enable the employer to make informed decisions on the future of the CP systems. The consultant will also use this information for providing Task 2.

2.3 Task 2 – Assessment of Vandalism

- A detailed investigation and report into possible design changes of the CP systems to mitigate the current vandalism problem. This shall include discussions with the employer's personnel on site and head office.
- Basic design of the proposed changes and repairs on the CP systems. This should include basic drawings and diagrams, technical information, cost estimates all included in a report.
- Specification document that could be used by the employer to go to the market in order procure and implement the required changes.

2.4 Komati Water scheme information

List of Pipelines

Pipeline	Number of Pipelines	Length (m)	Diameter (mm)	Type
Vygeboom Bosloop	2	25298	1092	A- Steel, cement lined, bitumen coated B- Prestressed Concrete
Bosloop Wintershoek	2	41148	1092	A- Steel, cement lined, bitumen coated B- Steel, cement lined, bitumen coated
Wintershoek Piccadilly	3	28346	813	A- Steel, cement lined, bitumen coated B- Steel, cement lined, bitumen coated C- Steel, cement lined, bitumen coated
Piccadilly Trafalgar	2	4572	1219	A- Steel, cement lined, bitumen coated B- Steel, cement lined, bitumen coated
Piccadilly Hendrina	2	23470	A 1092 B 914	A- Steel, cement lined, bitumen coated B- Steel, cement lined, bitumen coated
Nooitgedacht Klipfontein	2	15000 18840	700	A- Steel, cement lined, bitumen coated B- Steel, cement lined, bitumen coated
Klipfontein Komati	2	49766	700	A- Steel, cement lined, bitumen coated B- Steel, cement lined, bitumen coated

Coordinate List of Sites

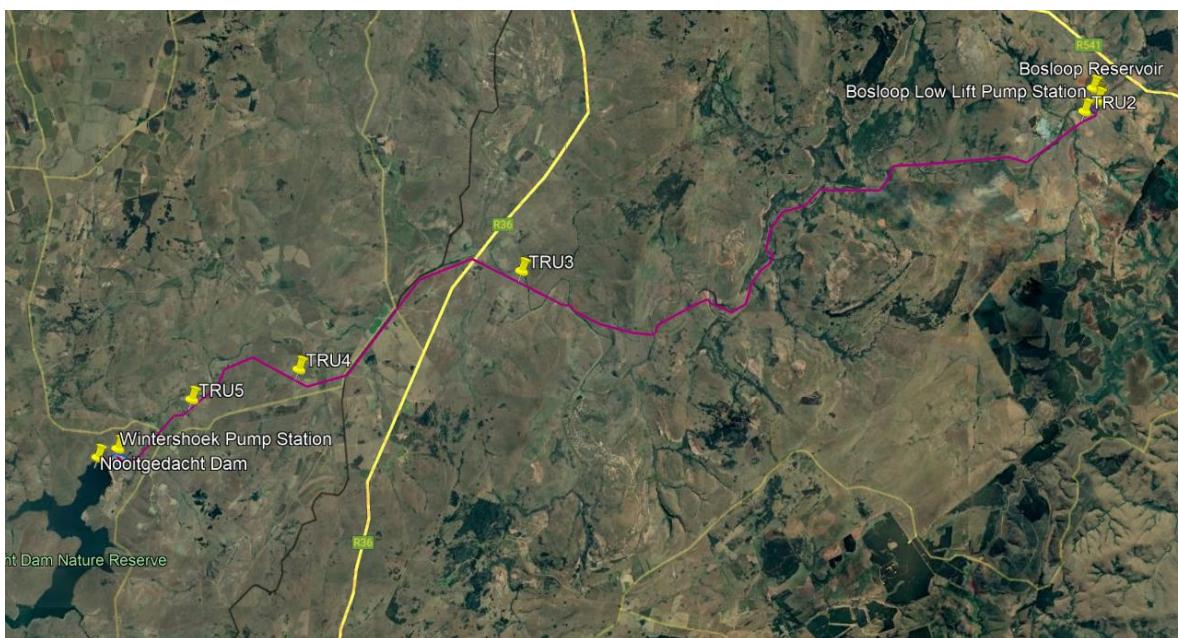
Arnot Reservoir	S25.93878 E29.81371
Bosloop High Lift Pump Station	S25.83686 E30.41287
Hendrina Reservoir	S26.03823 E29.60102
Klipfontein Reservoirs	S25.96158 E29.90870
Komati Reservoirs	S26.10162 E29.48361
Komati X-over	S26.04129 E29.60268
Piccadilly Circus	S25.98004 E29.82859
Rotek Rietkuil Office	S25.95097 E29.80761
Trafalgar Square	S25.94273 E29.81546

Vygeboom Pump Station	S25.88254 E30.62878
Wintershoek Pump Station	S25.94678 E30.08730
TRU01	S25.83600 E30.55401
TRU02	S25.84170 E30.40843
TRU03	S25.89204 E30.21892
TRU04	S25.92200 E30.14474
TRU05	S25.93129 E30.10880
TRU06	S25.98742 E29.98784
TRU07	S25.94684 E29.96934
TRU08	S25.96907 E29.87506
TRU09	S25.98890 E29.76695
TRU10	S26.01829 E29.67753
TRU11	S26.04445 E29.64505
TRU12	S26.10162 E29.48361

Vygeboom Bosloop Layout



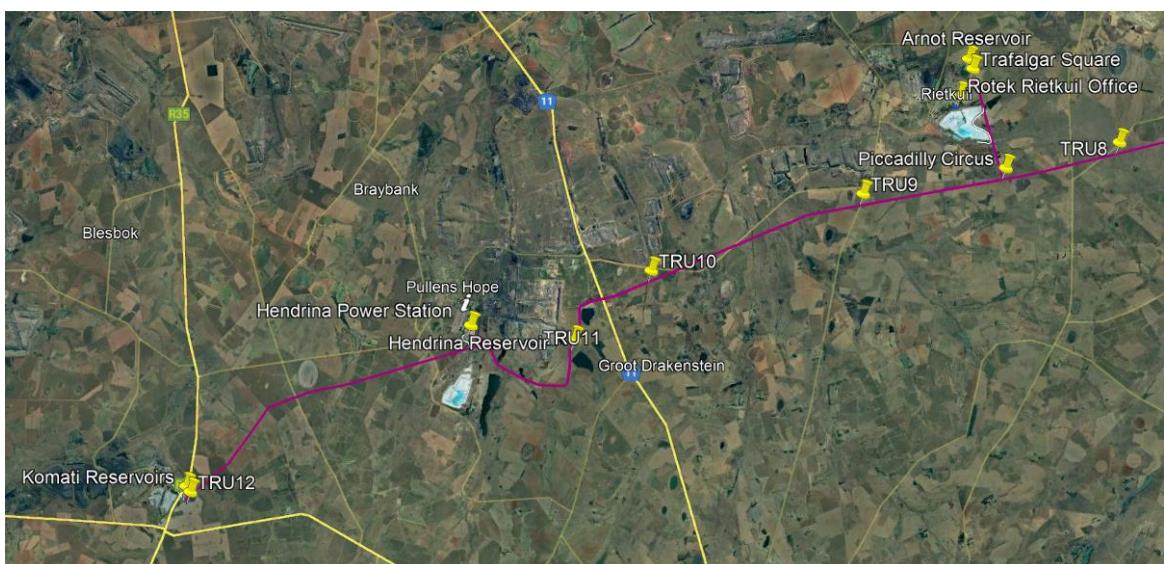
Bosloop Wintershoek Layout



Wintershoek to Piccadilly Layout



Piccadilly Hendrina/Komati Layout



2.5 Matla Kriel information

List of Pipelines

Pipeline	Number of Pipelines	Length (m)	Diameter (mm)	Type
Matla reservoir to Matla Power Station	2	2050	A 1600 B 1200	A- Steel, bitumen lined and coated B- Steel, cement lined, bitumen coated
Matla Kriel	1	6000	1200	Steel, bitumen lined and coated

Coordinate List of Sites

Matla Reservoir	S26.29154 E29.12753
Matla Power Station	S26.28694 E29.14593
Kriel Reservoir	S26.24904 E29.17994
Kuthala Pump Station	S26.28853 E29.15183

Matla Kriel Layout



2.6 Kendal to Kusile information

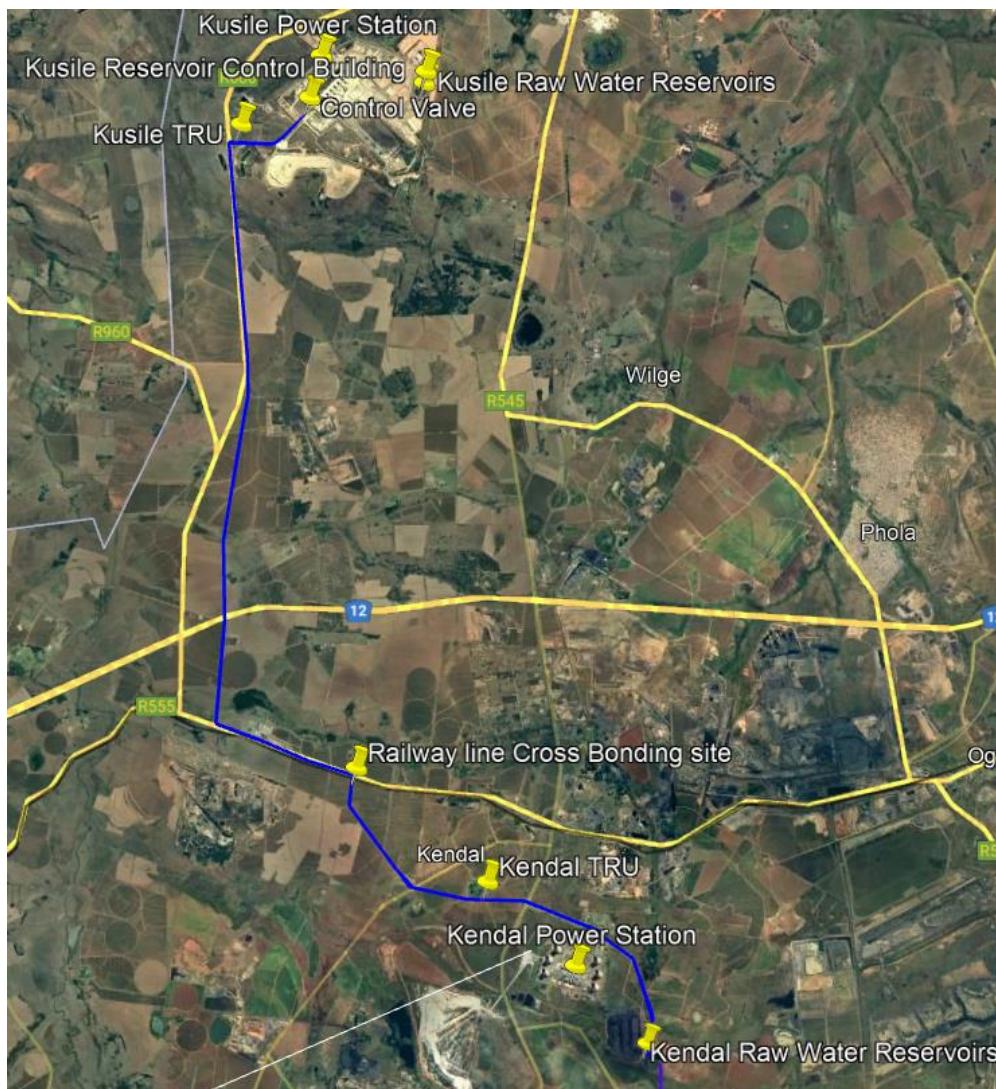
List of Pipelines

Pipeline	Number of Pipelines	Length (m)	Diameter (mm)	Type
Kendal to Kusile	1	28000	700	Steel, epoxy lined 3 layer epoxy and poly ethylene coated

Coordinate List of Sites

Kendal Reservoir	S26.10655 E28.98567
Kendal TRU	S26.07531 E28.94951
Railway cross-bonding site	S26.05322 E28.92102
Kusile TRU	S25.92774 E28.89584
Kusile control valve	S25.92267 E28.91077
Kusile Reservoir	S25.91995 E28.93568

Kendal Kusile Layout



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:

Title and purpose	Approximate time & interval	Location	Attendance by:
Overall contract progress and feedback	Monthly as scheduled by <i>Employer's Agent</i>	Online on Teams	<i>Employer's Agent, Consultant</i> and persons requested by any of the parties
Technical – site access, risk, general matters	Weekly as scheduled by <i>Employer's Agent</i> or requested by <i>Consultant</i> .	Teams and / or site Allow for at least 6 site meetings.	<i>Employer's Agent, Consultant</i> and persons requested by any of the parties

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

The *Consultant* provides a list of key persons and organogram to the *Employer's Agent* on request and on any change of information.

3.3 Documentation control and retention

3.3.1 Identification and communication

- All verbal communication are followed up with written confirmation
- All written communication should be on formal letters with Corporate letter heads
- An email system is used for general communication
- Minutes of Meetings are held for all meetings relating to the project
- Communication is extremely important and is managed to ensure maximum benefits to the project.
- A document management system will be implemented.
- All communication to be directed to the *Project Manager*

3.3.2 Retention of documents

The *Consultant* is to retain copies of all deliverables in electronic format for the *period for retention* stated in the Contract Data.

3.4 Invoicing and payment

Clause 50.2 states invoices submitted by the *Consultant* include the details stated in the Scope to show how the amount due has been assessed. Also state what must be shown on the Invoice. The following text is suggested.

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

[List them]

The *Consultant* shall address the tax invoice to Primary Energy Finance and include on it the following information:

- Name and address of the *Consultant* and the *Employer's Agent*;
- The contract number and title;
- *Consultant's* VAT registration number;
- The *Employer's* name has to be reflected as Eskom Holdings SOC Limited
- Description of service provided for each item invoiced based on the Price List
- The *Employer's* VAT registration number 4740101508;
- Total amount invoiced excluding VAT, the VAT and the invoiced amount including VAT;

3.5 Contract change management

This section is intended to deal with any additional requirements to the compensation event clauses in section 6 of the core clauses; such as the use of standard forms. Not the same thing as documentation control.

3.6 Quality management

3.6.1 System requirements

- Clause 40.1 requires that the *Consultant* operate a quality management system as stated in the Scope.
- Quality Management System Requirements ISO 9001
 - Quality Method Statement based on scope.
 - Quality Policy Approved by top management.
 - Quality Objectives Approved by top management.
- Evidence of QMS in operation Ref QM-58
 - Documented information for defined roles, responsibilities and authorities. e.g Organogram
 - Documented information for control of externally provided processes, products and services.

3.6.2 Information in the quality plan

- Clause 40.2 requires that the *Consultant* provide a quality policy statement and quality plan which complies with requirements stated in the Scope. Contract Quality Plan Requirements
 - Draft Contract Quality Plan specific to the scope of work as described in the tender documents (Ref ISO 10005)

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

3.7.1 Employer's purpose for the material

Clause 70.1 states that the *Employer* has the right to use the material provided by the *Consultant* for the purpose stated in the Scope. State here what your intended purpose is.

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

Read clause 70.4 first and if you want to restrict the *Consultant's* use of material provided by him for this contract on other work state these here.

3.8 Health and safety

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

The *Consultant* shall submit the following health and safety documents:

- Acknowledgement of Eskom's OHS legal and other requirements form signed and submitted by the tenderer? form will be sent by Eskom
- Health and Safety Plan - Must address the project /scope of work OHS risk
- Baseline Risk Assessment (BRA): Identification, assessment, and control or management of SHE risks related to the scope of work. The methodology (Risk rating matrix) used for the risk assessment must be provided together with the BRA
- Valid letter of Good Standing (COIDA or equivalent)
- SHE policy signed by CEO/MD: Comply to OHS Act Section 7

3.9 Working on the *Employer's* property

This part of the Scope addresses constraints, facilities, services and rules applicable to the *Consultant* whilst he is doing work on the *Employer's* property. Delete this section if not applicable.

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

The services will require visits to and on to the *Employer's* sites and servitudes. The sites are described in the Scope of Work and are located in the Mpumalanga province of South Africa.

The Pump Stations and Power Stations are access controlled. The *Employer's Agent* arranges site access on request from the *Consultant* prior to site visits. The sites are accessible from public roads and dirt roads.

The *Consultant* confines his activities to designated sites unless he has made prior formal arrangements with the owners. The *Consultant* is liable for all claims resulting from damages caused by him.

The *Employer* expects the *Consultant*, his staff or agents to maintain good public relations with land owners and members of the public at all times.

All workers will be subjected to do the induction before they can be given access.

All safety rules will be strictly adhered to. Access control rules and Eskom procedure will be followed accordingly.

3.10 Things provided by the *Employer*

To be discussed

4 List of drawings

4.1 Drawings issued by the *Employer*

This is the list of drawings issued by the *Employer* at or before the Contract Date and which apply to this contract.