



NEC3 Professional Services Contract (PSC3)

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

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

**for The provision of Cadastral Survey Services for
LimLanga Cluster on an "as and when" required
basis over a period of Five (5) years**

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:

The provision of Cadastral Survey Services for LimLanga Cluster on an "as and when" required basis over a period of Five (5) years

The tenderer, identified in the Offer signature block, has

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

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

The offered total of the Prices exclusive of VAT is	R
Value Added Tax @ 14% is	R
The offered total of the Prices inclusive of VAT is	R
(in words)	

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

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

Signature(s)

Name(s)

Capacity

**For the
tenderer:**

(Insert name and address of organisation)

Name &
signature of
witness

Date

Acceptance

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

The terms of the contract, are contained in:

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

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

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

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

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

Signature(s)

Name(s)

Capacity

**for the
Employer**

(Insert name and address of organisation)

Name &
signature of
witness

Date

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

Schedule of Deviations

Note:

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

No.	Subject	Details
1		
2		
3		
4		
5		
6		
7		

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

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

For the tenderer:

For the Employer

Signature

Name

Capacity

On behalf
of

(Insert name and address of organisation)

(Insert name and address of organisation)

Name &
signature
of witness

Date


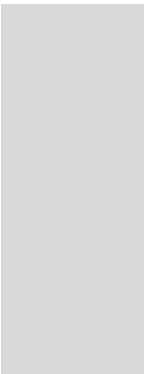
C1.2 PSC3 Contract Data

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.

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option	
	 dispute resolution Option	G: Term contract
	and secondary Options	W1: Dispute resolution procedure
		X1: Price adjustment for inflation
		X2: Changes in the law
		X7: Delay damages
		X10: <i>Employer's Agent</i>
		X11: Termination by the <i>Employer</i>
		X18: Limitation of liability
		Z: <i>Additional conditions of contract</i>
	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.	[•]

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

	Fax No.	[•]		
11.2(9)	The <i>services</i> are	The provision of Cadastral Survey Services for LimLanga Cluster on an “as and when” required basis over a period of Five (5) years		
11.2(10)	The following matters will be included in the Risk Register	Refer to the Risk Assessment		
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	5 years after the approval date		
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	As per Task Order	As per Task Order
		2	As per Task Order	As per Task Order
		3	As per Task Order	As per Task Order
3	Time			
31.2	The <i>starting date</i> is.	TBA		
11.2(3)	The <i>completion date</i> for the whole of the <i>services</i> is.	TBA		
11.2(6)	The <i>key dates</i> and the <i>conditions</i> to be met are:	Condition to be met		key date
		1	As per Task Order	As per Task Order
		2	As per Task Order	As per Task Order
		3	As per Task Order	As per Task Order
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	1 week.		
4	Quality			
40.2	The quality policy statement and quality plan are provided within	4 weeks after Contract award.		

42.2	The <i>defects date</i> is	52 weeks after Completion of the whole of the services.
5	Payment	
50.1	The <i>assessment interval</i> is	On completion of Task Order OR once every successive month.
51.1	The period within which payments are made is	4 weeks after receipt of an Eskom approved invoice.
51.2	The <i>currency of this contract</i> is the	South African Rand
51.5	The <i>interest rate</i> is	<p>the publicly quoted prime rate of interest charged by [•] Standard Bank of South Africa Limited at the time an amount payable in SA Rand was due,</p> <p>and</p> <p>the LIBOR rate applicable at the time for amounts due in other currencies. LIBOR is the 6 month London Interbank Offered Rate quoted under the caption "Money Rates" in The Wall Street Journal for the applicable currency or if no rate is quoted for the currency in question then the rate for United States Dollars, and if no such rate appears in The Wall Street Journal then the rate as quoted by the Reuters Monitor Money Rates Service (or such service as may replace the Reuters Monitor Money Rates Service) on the due date for the payment in question, adjusted <i>mutatis mutandis</i> every 6 months thereafter and as certified, in the event of any dispute, by any manager employed in the foreign exchange department of The Standard Bank of South Africa Limited, whose appointment it shall not be necessary to prove</p>
6	Compensation events	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
7	Rights to material	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
8	Indemnity, insurance and liability	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 as per Task Order

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	
G	Term contract	
21.4	The <i>Consultant</i> prepares forecasts of the total Time Charge and <i>expenses</i> at intervals no longer than	1 week.
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).
	Address	To be selected upon dispute
	Tel No.	To be selected upon dispute
	Fax No.	To be selected upon dispute
	e-mail	To be selected upon dispute
W1.2(3)	The <i>adjudicator nominating body</i> is:	the Chairman of the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering. (See www.ice-sa.org.za).
W1.4(2)	The <i>tribunal</i> is:	Arbitration
W1.4(5)	The <i>arbitration procedure</i> is	the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.
	The place where arbitration is to be held is	[•] South Africa
	The person or organisation who will choose an arbitrator	
	<ul style="list-style-type: none"> if the Parties cannot agree a choice or if the <i>arbitration procedure</i> does not state who selects an arbitrator, is 	the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.
12	Data for secondary Option clauses	
X1	Price adjustment for inflation	The rates shall be fixed and firm for the first 16 months of the contract. thereafter, on each anniversary of the contract, the prices will be adjusted in accordance with the agreed Indices.

X1.1(a)	The <i>base date</i> for indices is	4 weeks prior to tender closing date		
X1.1(b)	The proportions used to calculate the Price Adjustment for Labour Factor are:	Proportion	linked to index for	Index prepared by
	Actual Labour Cost (Field Force) where subsistence allowance is paid	85%	Table C-3(a)	SEIFSA
		15%	Non-adjustable	
		1.00		
X1.1(c)	The proportions used to calculate the Price Adjustment for Transport Factor are:	Proportion	linked to index for	Index prepared by
	Road Freight Costs	85%	Table L-2(B)	SEIFSA
		15%	Non-adjustable	
		1.00		
X2	Changes in the law			
X2.1	The law of the project is	The Law of South Africa.		
X7	Delay damages			
X7.1	Delay damages for late Completion of the whole of the <i>services</i> are	0.5% of the Task Order value per calendar day to a maximum of 10%		
X10	The <i>Employer's Agent</i>			
X10.1	The <i>Employer's Agent</i> is			
	Name:	TBA		
	Address	TBA		
	The authority of the <i>Employer's Agent</i> is	TBA		
X11	Termination by the <i>Employer</i>	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.		
X18	Limitation of liability			
X18.1	The <i>Consultant's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to:	Proportion of the Employer's losses		
X18.2	The <i>Consultant's</i> liability to the <i>Employer</i> for Defects that are not found until after the <i>defects date</i> is limited to:	The replacement value		
X18.3	The <i>end of liability date</i> is	Five years after Completion of the whole of the <i>services/task order</i> .		

Z	The Additional conditions of contract are	Z1 to Z14 always apply.
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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 Sub <i>Consultants</i> or Sub <i>Consultant's</i> 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 Sub <i>Consultants</i> or the Sub <i>Consultant's</i> 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 <i>services</i>	Commercial and business to determine. [Delete this note after inserting]	Commercial and business to determine [Delete this note after inserting]
Liability for death of or bodily injury to a person (not an employee of the <i>Consultant</i>) or loss of or damage to property resulting from an action or failure to take action by the <i>Consultant</i>	<p><u>Loss of or damage to property:</u> The replacement cost where not covered by the <i>Employer's</i> insurance</p> <p>The <i>Employer's</i> policy deductible, as at Contract Date, where covered by the <i>Employer's</i> insurance</p> <p><u>Bodily injury to or death of a person:</u> The amount required by the applicable law.</p>	Commercial and business to determine [Delete this note after inserting]

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	Commercial and business to determine [Delete this note after inserting]
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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's</i> Asbestos Standard 32-303: Requirements for Safe Processing, Handling, Storing, Disposal and Phase-out of Asbestos and Asbestos Containing Material, Equipment and Articles.
SANAS	means the South African National Accreditation System.
TWA	means the average exposure, within a given workplace, to airborne asbestos fibres, normalised to the baseline of a 4 hour continuous period, also applicable to short term exposures, i.e. 10-minute TWA.

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

Z14.2 Upon written request by the *Consultant*, the *Employer* certifies that these conditions prevail. All measurements and reporting are effected by an independent, competent, and certified occupational hygiene inspection body, i.e. a SANAS accredited and Department of Employment and Labour approved AAIA. The *Consultant* may perform Parallel Measurements and related control measures at the *Consultant's* expense. For the purposes of compliance the results generated from Parallel Measurements are evaluated only against South African statutory limits as detailed in clause Z14.1. Control measures conform to the requirements

stipulated in the AAIA-approved asbestos work plan.

- Z14.3 The *Employer* manages asbestos and ACM according to the Standard.
- Z14.4 In the event that any asbestos is identified while Providing the Services, a risk assessment is conducted and if so required, with reference to possible exposure to an airborne concentration of above the AL for asbestos, immediate control measures are implemented and relevant air monitoring conducted in order to declare the area safe.
- Z14.5 The *Consultant's* personnel are entitled to stop working and leave the contaminated area forthwith until such time that the area of concern is declared safe by either Compliance Monitoring or an AAIA approved control measure intervention, for example, per the emergency asbestos work plan, if applicable.
- Z14.6 The *Consultant* continues to Provide the Services, without additional control measures presented, on presentation of Safe Levels. The contractually agreed dates to Provide the Services, including the Completion Date, are adjusted accordingly. The contractually agreed dates are extended by the notification periods required by regulations 3 and 21 of the Asbestos Regulations, 2001.
- Z14.7 Any removal and disposal of asbestos, asbestos containing materials and waste, is done by a registered asbestos contractor, instructed by the *Employer* at the *Employer's* expense, and conducted in line with South African legislation.

C1.2 Contract Data

Part two - Data provided by the *Consultant*

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

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

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

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

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:	name/designation	Rate
	Either complete here or cross refer to a schedule in Part C2.2		
25.2	The <i>Employer</i> provides access to the following persons, places and things	access to 1 2 3	access date
31.1	The programme identified in the Contract Data is		
50.3	The <i>expenses</i> 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
C	Target contract		
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
G	Term contract		
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

[Note to contract compiler:

Once it has been decided which securities are required for this contract delete from this file the ones not required, revise the notes below accordingly and delete this note.]

The *conditions of contract* stated in the Contract Data Part 1 include the following Secondary Options:

Option X4: Parent company guarantee

Option X13: Performance Bond

These secondary Options require a bond or guarantee "in the form set out in the Scope". Pro forma documents for these bonds and guarantees are provided here for convenience but are to be treated as part of the Scope.

The *Consultant* shall guarantee his ASGI-SA Obligations by providing the *Employer* with an ASGI-SA Guarantee in the form provided here.

[Note to contract compiler: If there are no ASGI-SA Obligations in this contract, delete the above statement]

The organisation providing the bond / guarantee does so by copying the pro forma document onto his letterhead without any change to the text or format and completing the required details. The completed document is then given to the *Employer* within the time stated in the contract.

Pro forma Parent Company Guarantee (for use with Option X4)

(to be reproduced exactly as shown below on the letterhead of the Consultant's Parent Company)

**Eskom Holdings SOC Ltd
Megawatt Park
Maxwell Drive
Sandton
Johannesburg**

Date:

Dear Sirs,

Parent Company Guarantee for Contract No

With reference to the above numbered contract made or to be made between

Eskom Holdings SOC Ltd

(the *Employer*) and

{Insert registered name and address of the *Consultant*}

(the *Consultant*), for

{Insert details of the services from the Contract Data}

(the *services*).

I/We the undersigned

on behalf of the *Consultant's*
parent company

of physical address

and duly authorised thereto do hereby unconditionally guarantee to the *Employer* that the *Consultant* shall Provide the Services in accordance with the above numbered Contract.

1. If for any reason the *Consultant* fails to Provide the Services, we hereby agree to cause to Provide the Services at no additional cost to the *Employer*.
2. If we fail to comply with the terms of this Deed of Guarantee, the *Employer* may itself procure such performance (whether or not the Agreement be formally determined). The *Employer* is to notify us and we shall indemnify the *Employer* for any additional cost or expense it incurs.
3. Our liability shall be as primary obligor and not merely as surety and shall not be impaired or discharged by reason of any arrangement or change in relationship made between the *Consultant* and the *Employer* and/or between us and *Consultant*; nor any alteration in the obligations undertaken by the *Consultant* or in the terms of the Agreement; nor any indulgence, failure, delay by you as to any matter; nor any dissolution or liquidation or such other analogous event of the *Consultant*.
4. The *Employer* shall not be obliged before taking steps to enforce the terms of this Deed of Guarantee to obtain judgement against the *Consultant* in any court or other tribunal, to make or file any claim in liquidation (or analogous proceedings) or to seek any remedy or proceed first against the *Consultant*.
5. This Deed of Guarantee shall be governed by and construed in accordance with the laws of the Republic of South Africa and we hereby submit to the non-exclusive jurisdiction of the Supreme Court of South Africa.

Signed at _____ on this _____ day of _____ 200_

Signature(s)	
Name(s) (printed)	
Position in parent company	
Signature of Witness(s)	
Name(s) (printed)	

Pro forma Performance Bond – Demand Guarantee (for use with Option X13)

(to be reproduced exactly as shown below on the letterhead of the Consultant's Parent Company)

Eskom Holdings SOC Ltd
Megawatt Park
Maxwell Drive
Sandton
Johannesburg

Date:

Dear Sirs

Reference No. [●] *[Drafting Note: Bank reference number to be inserted]*

Performance **Bond – Demand Guarantee**: *[Drafting Note: Name of Consultant to be inserted]*

Project [] Contract Reference: *[Drafting Note: Consultant contract reference number to be inserted]*

In this Guarantee the following words and expressions shall have the following meanings:-

"Bank" - means [●], [●] Branch, (Registration No. [●]); *[Drafting Note: Name of Bank to be inserted]*

"Bank's Address" - means [●]; *[Drafting Note: Bank's physical address to be inserted]*

"Contract" – means the written agreement relating to the Services, entered into between Eskom and the *Consultant*, on or about the [●] day of [●] 200[●] (Contract Reference No. [.] as amended, varied, restated, novated or substituted from time to time; *[Drafting Note: Signature Date and Contract reference number to be inserted]*)

"*Consultant*" – means [●] a company registered in accordance with the laws of [●] under Registration Number [●]. *[Drafting Note: Name and details of Consultant to be inserted]*

"Eskom" - means Eskom Holdings SOC Ltd, a company registered in accordance with the laws of the Republic of South Africa under Registration Number 2002/015527/30].

"Expiry Date" - means the earlier of

- the date that the Bank receives a notice from Eskom stating that all amounts due from the *Consultant* as certified in terms of the contract have been received by Eskom and that the *Consultant* has fulfilled all his obligations under the Contract, or
- the date that the Bank issues a replacement Bond for such lesser or higher amount as may be required by Eskom

"Guaranteed Sum" - means the sum of R [●] ([●] Rand);

"Services" - means [insert if applicable.].

At the instance of the *Consultant*, we the undersigned _____ and _____, in our respective capacities as _____ and _____ of the Bank, and duly authorized thereto, confirm that we hold the Guaranteed Sum at the disposal of Eskom, as security for the proper performance by the *Consultant* of all of its obligations in terms of and arising from the Contract and hereby undertake to pay to Eskom, on written demand from Eskom received prior to the Expiry Date, any sum or sums not exceeding in total the Guaranteed Sum.

A demand for payment under this guarantee shall be made in writing at the Bank's address and shall:

be signed on behalf of Eskom by a Group Executive, Divisional Executive, Senior General Manager, General Manager or its delegate;

state the amount claimed ("the Demand Amount");

state that the Demand Amount is payable to Eskom in the circumstances contemplated in the Contract.

Notwithstanding the reference herein to the Contract the liability of the Bank in terms hereof is as principal and not as surety and the Bank's obligation/s to make payment:

is and shall be absolute provided demand is made in terms of this bond in all circumstances; and

is not, and shall not be construed to be, accessory or collateral on any basis whatsoever.

The Bank's obligations in terms of this Guarantee:

shall be restricted to the payment of money only and shall be limited to the maximum of the Guaranteed Sum; and

shall not be discharged and compliance with any demand for payment received by the Bank in terms hereof shall not be delayed, by the fact that a dispute may exist between Eskom and the *Consultant*.

Eskom shall be entitled to arrange its affairs with the *Consultant* in any manner which it sees fit, without advising us and without affecting our liability under this Guarantee. This includes, without limitation, any extensions, indulgences, release or compromise granted to the *Consultant* or any variation under or to the Contract.

Should Eskom cede its rights against the *Consultant* to a third party where such cession is permitted under the Contract, then Eskom shall be entitled to cede to such third party the rights of Eskom under this Guarantee on written notification to the Bank of such cession.

This Guarantee:

shall expire on the Expiry Date until which time it is irrevocable;

is, save as provided for in 0 above, personal to Eskom and is neither negotiable nor transferable;

shall be returned to the Bank upon the earlier of payment of the full Guaranteed Sum or expiry hereof;

shall be regarded as a liquid document for the purpose of obtaining a court order; and

shall be governed by and construed in accordance with the law of the Republic of South Africa and shall be subject to the jurisdiction of the Courts of the Republic of South Africa.

Any claim which arises or demand for payment received after expiry date will be invalid and unenforceable.

The Bank chooses domicilium citandi et executandi for all purposes in connection with this Guarantee at the Bank's Address.

Signed at _____

Date _____

For and behalf of the Bank

Bank Signatory: _____

Bank Signatory: _____

Witness: _____
Bank’s seal or stamp

Witness: _____

Pro forma ASGI-SA Guarantee

(to be reproduced exactly as shown below on the letterhead of the Bank providing the Guarantee)

Eskom Holdings SOC Ltd
Megawatt Park
Maxwell Drive
Sandton
Johannesburg

Date:

Dear Sirs

Reference No. [●] [Drafting Note: Bank reference number to be inserted]

Pro-Forma ASGI-SA Guarantee: [Drafting Note: Name of Consultant to be inserted]

Project [] Contract Reference: [●] [Drafting Note: Consultant contract reference number to be inserted]

1. In this Guarantee the following words and expressions shall have the following meanings:-
 - 1.1 "Bank" - means [●], [●] Branch, (Registration No. [●]); [Drafting Note: Name of Bank to be inserted]
 - 1.2 "Bank's Address" - means [●]; [Drafting Note: Bank's physical address to be inserted]
 - 1.3 "Contract" – means the written agreement relating to the Project, entered into between the *Employer* and the *Consultant*, on or about the [●] day of [●] 200[●] (Contract Reference No. [●] as amended, varied, restated, novated or substituted from time to time; [Drafting Note: Signature Date and Contract reference number to be inserted])
 - 1.4 "*Consultant*" – means [●] a company registered in accordance with the laws of [●] under Registration Number [●]. [Drafting Note: Name and details of *Consultant* to be inserted]
 - 1.5 "*Consultant's* ASGI-SA Obligations" – means the *Consultant's* ASGI-SA Obligations under and as defined in the Contract.
 - 1.6 "*Employer*" - means Eskom Holdings SOC Ltd, a company registered in accordance with the laws of the Republic of South Africa under Registration Number 2002/015527/06.
 - 1.7 "Expiry Date" - means the [●] day of [●] 200[●]; [Drafting Note: anticipated date of issue of ASGI-SA Performance Certificate to be inserted.]
 - 1.8 "Guaranteed Sum" - means the sum of R [●] ([●] Rand);
 - 1.9 "Project" – means the
2. At the instance of the *Consultant*, we the undersigned _____ and _____, in our respective capacities as _____ and _____ of the Bank, and duly authorized thereto, confirm that we hold the Guaranteed Sum at the disposal of the *Employer*, as security for the proper performance by the *Consultant* of the *Consultant's* ASGI-SA Obligations and hereby undertake to pay to the *Employer*, on written demand from the *Employer* received prior to the Expiry Date, any sum or sums not exceeding in total the Guaranteed Sum.
3. A demand for payment under this guarantee shall be made in writing at the Bank's address and shall:
 - 3.1 state the amount claimed ("the Demand Amount");

- 3.2 state that the Demand Amount is payable to the *Employer* in the circumstances contemplated in the Contract.
4. Notwithstanding the reference herein to the Contract the liability of the Bank in terms hereof is as principal and not as surety and the Bank's obligation/s to make payment:
- 4.1 is and shall be absolute provided demand is made in terms of this bond in all circumstances; and
- 4.2 is not, and shall not be construed to be, accessory or collateral on any basis whatsoever.
5. The Bank's obligations in terms of this Guarantee:
- 5.1 shall be restricted to the payment of money only and shall be limited to the maximum of the Guaranteed Sum; and
- 5.2 shall not be discharged and compliance with any demand for payment received by the Bank in terms hereof shall not be delayed, by the fact that a dispute may exist between the *Employer* and the *Consultant*.
6. The *Employer* shall be entitled to arrange its affairs with the *Consultant* in any manner which it sees fit, without advising us and without affecting our liability under this Guarantee. This includes, without limitation, any extensions, indulgences, release or compromise granted to the *Consultant* or any variation under or to the Contract.
7. Should the *Employer* cede its rights against the *Consultant* to a third party where such cession is permitted under the Contract, then the *Employer* shall be entitled to cede to such third party the rights of the *Employer* under this Guarantee on written notification to the Bank of such cession.
8. This Guarantee:
- 8.1 shall expire on the Expiry Date until which time it is irrevocable;
- 8.2 is, save as provided for in 0 above, personal to the *Employer* and is neither negotiable nor transferable;
- 8.3 shall be returned to the Bank upon the earlier of payment of the full Guaranteed Sum or expiry hereof;
- 8.4 shall be regarded as a liquid document for the purpose of obtaining a court order; and
- 8.5 shall be governed by and construed in accordance with the law of the Republic of South Africa and shall be subject to the jurisdiction of the courts of the Republic of South Africa.
- 8.6 Any claim which arises or demand for payment received after expiry date will be invalid and unenforceable.
9. The Bank chooses domicilium citandi et executandi for all purposes in connection with this Guarantee at the Bank's Address.

Signed at _____ Date _____

For and behalf of the Bank

Bank Signatory: _____ Bank Signatory: _____

Witness: _____ Witness: _____

Bank’s seal or stamp

PART 2: PRICING DATA

PSC3 Option G

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

C2.1 Pricing assumptions: Option G

How work is priced and assessed for payment

From Option G: Term contract

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

From the Core Clauses:

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

and

Assessing the amount due	50.3	The amount due is <ul style="list-style-type: none"> the Price for Services Provided to Date, the amount of the <i>expenses</i> properly spent by the <i>Consultant</i> in Providing the Services and other amounts to be paid to the <i>Consultant</i> less amounts to be paid by or retained from the <i>Consultant</i>. <p>Any tax which the law requires the <i>Employer</i> to pay to the <i>Consultant</i> is included in the amount due.</p>
--------------------------	------	--

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

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

Staff rates and expenses

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

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

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

Rate adjustment for inflation, 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.

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

As per *Consultant* schedule

C3.1: EMPLOYER'S SCOPE

Contents

When the document is complete, insert a 'Table of Contents'. To do this go to: Insert, → Reference, → Index and tables → Table of Contents. Three levels and the title (but not the subtitle) may be shown if the formats used in this template are retained.

Otherwise insert list of contents manually.

1 Description of the services

1.1 Executive overview

The scope of work is provision of cadastral survey services in LimLanga Cluster on as when required basis. The scope covers and includes the following:

1.2 Interpretation and terminology

Abbreviation	Meaning given to the abbreviation
ECSA	Engineering Council of South Africa
SACPCMP	South African Council for Project and Construction Management Professionals
CNC	Customer Network Centre
SPLUMA	Spatial planning and Land Use Management Act

2 Specification and description of the services

To perform Cadastral Surveys, on behalf of Eskom, in terms of the Geomatics Profession Act 19 of 2013 (previously Land Survey Act 8 of 1997), which will include:

- Registration Surveys of Linear Infrastructure servitudes (e.g. Power lines, Cable routes and access roads).
- Registration surveys of site servitudes (e.g. Substation, CNC, and Radio Repeater sites)
- Consolidation, Sub-divisions and Amendments survey and registration.
- Relocation and verification of Cadastral Boundaries and Beacons.
- Demarcation of Servitude boundaries.
- Cadastral Compilations.
- Surveyor General Diagram Auditing.
- Professional Consultation.
- SPLUMA Applications

2.1 Stage 1 Preparation

N/A

2.2 Stage 2 Concept

N/A

2.3 Stage 3: Design development

N/A

2.4 Stage 4: Production information

N/A

2.5 Stage 5: Manufacture, Installation and Construction Information:

N/A

2.6 Stage 6: Post Practical Completion

N/A

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

3.1 Management meetings

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.

3.3 *Consultant's key persons*

The *Consultant* shall submit additional personnel for acceptance under Clause 22.1

3.3 Provision of bonds and guarantees

NA

3.4 Documentation control and retention

3.4.1 Identification and communication

All contract documentation shall be assigned a unique alphanumeric identification code that reflects the document's source, recipient, communication type, and sequential communication number.

The standard format is [Source]-[Recipient] - [Document Type]- [Sequential Number]

Formal Format:

- Contractual communications shall be issued as compiled letters or approved forms.
- Messages must be on official letterhead or within a controlled template.
- Emails may be used only as a transmission mechanism, not as the communication itself.
- The formal letter or form shall be attached as a PDF (locked format to prevent alteration).
- The email body may provide a brief summary only.

Prohibited Methods:

- No contractual instruction, request, variation, or clarification shall be issued as plain text in an email body, instant messaging, or verbal communication.
- Handwritten notes, texts, or informal apps (e.g., WhatsApp) are not accepted documentation channels.

This alphanumeric identification shall appear on:

- The document header/footer
- The transmittal sheet
- The document register
- Email subject line when issued electronically

The Contractor will submit the following documents to the Employer for review; the Employer will review the documents for acceptance and inform the Contractor if the documents have been accepted or if it is not accepted and stating the reasons of not the accepting the documentation. The Employer will give the Contractor reasonable time which will be agreed to between the Contractor and the Employer to respond or re-submit the documents.

Used Standard forms

- NEC 3 PSC Deduction of Delay Damages_559-655371939
- NEC 3 PSC Early Warning by Employer_559-252111037
- NEC 3 PSC Notification of Default _559-667594860
- NEC 3 PSC Notification of Defect by the Employer_559-654989059
- EC 3 PSC Rate of progress_559-656094869
- NEC 3 PSC Termination notified by Employer_559-668394772
- NEC3 PSC Completion Certificate issued by Employer's Agent_ 240-97053624
- NEC3 PSC Employer's Instruction_240-97535939
- NEC3 PSC Employer's Request for Quotation_ 240-97536207
- NEC3 PSC Implementation of Compensation Event_559-668107499
- NEC3 PSC Notification of Compensation Event by Employer_240-97536477
- NEC3 PSC Notification of Termination by Employer_240-97536723
- NEC3 PSC Task Order Option G by Employer_240-97536789

3.4.2 Retention of documents

The documents and records shall be kept for Five years after Completion of the whole of the services

3.5 Records and forecasting of expenses

First read clause 21.3 (Option A) and 21.4 (Option C E and G) and then state here any additional requirements you may need for the record keeping and forecasting of expenses. Otherwise delete.

3.6 Records and forecasting of the Time Charge

If Option C E or G applies first read clause 21.4 then state here any additional requirements you may need for the record keeping and forecasting of the Time Charge. Otherwise delete and delete in any case if Option A applies.

3.7 Invoicing and payment

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

On approval of the amount of work done at each assessment interval, a signed original Tax invoice and Completion certificate must be submitted to the *Employers Agent* for processing. All enquiries regarding payment must be followed up with the *Employers Agent*. If the scope of work is such that the work is longer than one month a progress payment may be submitted on the 25th day of each month. The *Consultant* should only include the work for one task order on an invoice.

The *Consultant* must ensure that his invoice is according to the exact work completed on site. No work may be claimed that has not been completed. If work is claimed which is not complete this will be seen as a fraudulent claim which may lead to termination of the contract.

Tax Invoices

The *Consultant* ensures that the requirement in terms of Section 20(4) (C) of the Value Added Tax Act, no.89 of 1991 (as amended by the Revenue Laws Amendment Act 45 of 2003), that the VAT registration

number of the recipient of the tax invoice, appears on the said tax invoice in order for the invoice to fully comply with the requirements of a valid invoice for VAT purposes as contained in the said Section 10(4) (C), is adhered to. The *Employer* requires adherence by the *Consultant* to this requirement as from 1 June 2004. No payment will be made on tax invoices not fully meeting the requirement

Tax invoices must meet the following requirements where the consideration (VAT inclusive amount) exceeds R3 000:

1. The words "TAX INVOICE" in a prominent place (preferably at the top of the page).
2. Name, address and VAT registration number of the supplier.
3. Name, address and VAT registration number of the recipient.
Please note: Eskom's name has to be reflected as ESKOM HOLDINGS SOC LTD on all tax invoices and Eskom's VAT number is 4740101508.
4. An individual serial number (tax invoice number) and date issued.
5. A full and proper description of goods and/or services supplied.
Please note: Merely referring to a contract is not sufficient.
6. The quantity or volume of goods or services supplied.
7. Where the supply is subject to VAT at the standard rate, the following in Rand:
 - The value, VAT amount and consideration OR
 - The total consideration with a statement that VAT is included @15% OR
 - The total consideration and the amount of VAT charged.

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 _____ and include on it the following information:

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

The contract number and title;

Consultant's VAT registration number;

The *Employer's* VAT registration number 4740101508;

Total amount invoiced excluding VAT, the VAT and the invoiced amount including VAT;

(add other as required)

Procedures for Invoice Submission and Payment (e. g. Electronic Payment Instructions)

General Information	X
- No Pro-forma Invoice	
- Check Vendor number against the Address and name on Tax invoice	
- Insert the Vendor number on Tax invoice (Top right hand corner)	
- Bank details must be on the invoice or on a attach sheet, but it does not require a bank stamp just a letter)	
- Check banking details on invoice against SAP system. If more than one banking account check bank account against banking details on invoice. If banking details not on invoice, write the bank code next to the vendor account (bank code 0002)	
- Check Vendor VAT number against the vendor master. (FK03) If VAT number not on master records, prepare a list and forward to Vendor Management to check and update the vendor master records	
- No fax copies of Tax invoices allowed	
- No copies of Tax invoices allowed unless originally printed by the Vendor if a photocopy tax invoice, it must be an original "certified copy" (i.e. not a copy of a "certified copy" invoice) from the vendor and check in system if not previously be paid. Put stamp "not	

previously paid" on invoice and sign.	
- Ensure that date received stamp is clear on invoice	
- Stamp all Invoices with the Vat stamp, complete and sign (only when VAT is applicable)	
- The stamp should not be stamped over any written information	
- When scanning invoice, check the quality before linking in SAP (inboxes)	
With Reference Invoices	X
- Goods receipt must be done (payment with reference)	
- Ensure that the SAP purchase order number is clear and correct on the invoice	
- GR number to be written on the Invoices	
- If multiple lines on invoice write the line number of the order against the line to ensure that the processors match the correct lines (to ensure that 191100 is matched correctly)	

3.8 Contract change management

N/A

3.9 Inclusions in the programme

N/A

3.10 Quality Management

3.10.1 System requirements

Contractual Quality Management requirements for this Professional Contract based on the Supplier QM specification, 240-105658000, Category 4 requirements (A1, A2, A3, B1, B2, E1 & Works Information above C3.1 Scope of work specific Quality Control Plan) shall apply for the duration of this contract.

3.10.2 Information in the quality plan

For each task order issued as per NEC3 PSC Task Order Option G by Employer_240-97536789, the Consultant shall compile a corresponding QCP for the task order activities given and return to the Employer's Representative prior to execution based on the provided template.

The Consultant shall comply with the following quality requirements:

1. Eskom QM-58 Specification (Supplier Contract Quality Requirements Specification)- 240-105658000, Category 4 criteria and Quality Control Plan for all scope of works for Environmental contract.
2. Latest ISO 9001 - Quality Management System Requirements.
3. Conformance to Specifications.
 - a) The Consultant will manufacture/provide Products/services to be 100% in conformance with the Specifications and Eskom's quality acceptance requirements as identified in the specifications.
 - b) The Consultant will only use components and materials that are qualified and approved as per specifications.
 - c) The Consultant will ensure that the Products meet quality acceptance requirements and functional tests as required in the applicable specifications.

- d) The Consultant must maintain an inspection procedure and quality assurance program for the Products to ensure compliance with the specified requirements.
- e) Consultant's failure to comply with quality requirements will be a material breach of this contract.
- f) The Consultant will permit Eskom representatives to enter its premises, at reasonable times, for the purpose of inspecting and testing units of the Product and to check the materials and method of manufacture, assembly, labelling, testing and packaging in order to ensure that the same conform to the Specifications and the shipping requirements of this contract.
- g) The Consultant will without additional charge provide reasonable assistance to Eskom to facilitate these inspections.
- h) The Consultant is solely responsible for any defect or other failure in the Product/service to meet the Specifications and requirements of this contract.
- i) Eskom may inspect Products delivered to it at any time. Eskom will use its best efforts to cooperate with the Consultant's in mitigating any quality issues that result from any defects caused by Eskom.

4. Incoming Inspection.

- a) Eskom may inspect and test all Products prior to acceptance or rejection and may refuse to accept Products which do not conform to the Specifications.
- b) Eskom may reject Product/service during the first 30 days after receipt. The Consultant will replace all non-conforming Products within 30 days from the date received from Eskom and will pay return shipping costs.
- c) Eskom's payment for delivered Products does not constitute acceptance of those Products by Eskom.

5. Process Review.

- a) Eskom has the right to review Consultant's manufacturing and quality assurance processes and to requalify the Product periodically upon notice to the Consultant.
- b) The Consultant will implement all necessary changes required by Eskom based upon its review of Consultant's procedures.

6. Compliance with Regulations.

- a) The Consultant must comply with all laws, rules and regulations applicable to its performance of this contract, including those relating to hazardous materials, toxic substances.
- b) The Products must comply with all directives from regulatory organizations.

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

3.11.1 *Employer's* purpose for the material

Approved Servitude Diagrams by the Surveyor General provided by the consultant to be used to register servitudes in Specific terms at Deeds Office.

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

Survey General diagrams are accessible to the public, there are no restrictions.

3.11.3 Transfer of rights if Option X 9 applies

N/A

3.12 Management of work done by Task Order

The parties will follow the Task Order process as stated in the clause 55.1

3.13 Occupational 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*.

Without limitation the *Consultant* further accepts that all applicable health & safety laws and regulations and the health and safety rules, guidelines and procedures provided for in this contract shall be complied with.

The Consultant's employees, shall at all times adhere to and strictly comply with all applicable:

Occupational Health and Safety Legislations/Regulations/code of conducts or practices and rules that are relevant to this scope of professional services. Including but not limited to OHSA 85 OF 1983, all stipulated COIDA Act, No 130 of 1993 requirements and all OHS Act's applicable regulations, The National Road Safety Act 9 of 1972, etc

The *Consultant* undertakes to take all reasonable precautions to maintain the health and safety of persons in and about the execution of the *works*.

The *Consultant* shall comply with the health and safety requirements contained in this document and below table for this Scope of services.

Table 1: - Eskom Health and Safety Standards and Procedures

<u>No</u>	<u>UNIQUE IDENTIFIER</u>	<u>REVISION</u>	<u>DOCUMENT TITLE</u>
1	32 - 727	LATEST	SAFETY, HEALTH, ENVIRONMENT AND QUALITY (SHEQ) POLICY 32-727
2	LIFE SAVING RULES	LATEST	ESKOM LIFE SAVING RULES 240-62196227
3	OHS ACT	LATEST	WRITTEN AGREEMENT ON OHS ACT SECTION 37(2) & STANDARD CLAUSE
4	Personal Protective Standard	LATEST	PPE Specifications
5	Vehicle Safety	LATEST	Vehicle and Driver safety management Procedure
6	32-95 Occupational Health and Safety Incident Management Procedure	LATEST	Work Related Incident Management, COIDA Compliance
7	Substance Abuse	LATEST	Eskom's Substance Abuse Management Procedure

Acknowledgement by *Consultant*

I/WE, DO HEREBY ACKNOWLEDGE HAVING READ AND UNDERSTOOD THE ABOVE TABLED DOCUMENTS FROM 1 TO 7.

I/WE UNDERTAKE TO STUDY AND ABIDE BY THESE REQUIREMENTS AT ALL TIME.

SIGNED AT: ON THE DAY OF20.....

Health and Safety Risk Management

The Contractor shall control his activities and processes in accordance with the Occupational Health & Safety Act, No. 85 of 1993 and Eskom's Safety, Health, Environment and Quality Policy, EPC32-727

Principal Consultant's roles, responsibility and accountability in respect to Occupational Injuries and Diseases whilst on this project: -

The consultant ought to comply and conform with all relevant Occupational health and safety statutory requirements and Eskom OHS requirements.

The consultant is accountable and remain responsibly for any occupational injuries or diseases that could occur during the execution of this contract for the professional scope of services, to extent that all financial implications as a results of Occupational injuries or diseases are and will be attributed to the Employer (Consultants) without Eskom be accountable in line with section 89(1)(a) of the COID Act, No 130 of 1993 during the contract work execution in this instance.

The Consultants ensures where it intends to appoint sub-contractors to perform any of the scope of work as set out in this contract, that such subcontractor/s have the necessary skills, competencies and resources to perform the work safely.

The Consultants ensures that its contractor complies with applicable safety health and environmental laws, regulations, policies, guidelines and rules provided for in this contract to ensure proper maintenance of safety, health and environment during contract execution.

The Consultant further agrees to ensure that the below action list of Eskom requirements are complied with and found to be legally valid before they can mobilize to any Eskom Sites/ Offices for the execution of this contract: -

Table 2: - Pre site mobilization Eskom Requirements

<u>Ref</u>	Requirements to be met by Consultant before Eskom/Site Mobilization.	<u>Comments</u>
1.	Eskom Induction and site access.	Ensure Eskom Induction prior to any Eskom site mobilization and request shall be directed to SHEQs.
2.	Is the acknowledgement of Eskom's SHE rules and requirements form (Annexure B) signed and submitted by the tenderer?	Shall be signed at contract award
3.	WRITTEN AGREEMENT ON OHS ACT SECTION 37(2) & STANDARD CLAUSE	Shall be signed at contract award

Life Saving Rules (full compliance as per the lifesaving rules standard, document number 240-62196227)

Due to the importance to save lives and apparatus of Eskom it is recommended that if a contractor abuse any lifesaving rules, all work allocated to the contractor will immediately be put on hold until final outcome with investigation. Safety is the combined responsibility of the team and therefore team leader or team will be held responsibly together. There are six lifesaving rules that may not be broken by the Principal Contractor, its sub-contractors, their Team Leaders including all his/her employees while furthering Eskom Business.

The Six Eskom Life Saving Rules are as follows:

- Rule 1:*Open, isolated, tests, earth, and bond and/or insulate before touch*
- Rule 2:*Hook up at height*
- Rule 3:*Buckle Up*
- Rule 4*Be Sober*
- Rule 5:*Ensure that you have a permit to work*
- Rule 6.*Ensure safe live working

Consequences of Violating a Life-Saving Rule

In terms of general health and safety in Eskom, if any of the Life-Saving Rules are violated, it will be treated as serious misconduct, and result in a disciplinary process in accordance with the Eskom Disciplinary Code and Procedure.

It must be highlighted that Eskom takes a ZERO TOLERANCE stance to violation of these rules.

Depending on the circumstances, Eskom reserves the right, where a contractor manager/supervisor allows the violation of a Life-Saving Rule, to suspend the contractor's activities while determining an appropriate sanction.

Where a contractor employee allegedly violates a Life-Saving Rule, the contractor shall immediately remove the employee from the site and initiate the disciplinary process. The contractor shall investigate any violation of a Life-Saving Rule and initiate the disciplinary process within five (5) working days of the violation. The contractor shall furnish Eskom with a copy of the sanction after the disciplinary process.

ACCEPTANCE NOTE

Eskom takes ZERO TOLERANCE in breaking any of the above Life Saving Rules. Principal Contractor shall sign an acknowledgement for Eskom Life Savings rules, including acknowledgement of conditions with regards to transgression to any of the rules.

SIGNED BY: _____ DESIGNATION _____ DATE: ____/____/____

Occupational Health & Safety Indemnity

The Consultant shall be responsible for and protect, hold harmless, defend and indemnify the Employer (Eskom) from and against all claims, demands and causes of action of every kind and character arising in connection herewith against Eskom in favor of the respective employees, affiliated companies, subcontractors, agents, invitees or employees of the Indemnifying Party, on account of bodily injury, death or damage to the property of such persons.

3.14 Procurement

3.14.1 BBEE and preferencing scheme:

Transformation – BBEE Improvement or Retention Plan

Transformation remains an area of focus, where Eskom continuously strives to align itself with national transformation imperatives to unlock growth, drive industrialization, create employment and contribute to skills development.

Eskom encourages its suppliers to constantly strive to improve their B-BBEE rating. Whereas Tenderer/s will be allocated points in terms of a preference point system based on specific goals, Eskom also requests that tenderer/s submits their B-BBEE improvement or retention plan within 30 days of signing the contract.

Tenderer/s are therefore requested to indicate the extent to which they will maintain (only if the respondent is a Level 1) or may improve/maintain their B-BBEE status over the contract period if their B-BBEE status is level 2 or 3. Tenderer/s with a B-BBEE status level 4 at the time of contract award, shall migrate and achieve as a non-negotiable a milestone of B-BBEE Level 3 by the end of the first year of the contract and thereafter improve their B-BBEE status level or migrate by one level higher.

Tenderer/s with a B-BBEE recognition status of Level 5 to Level 8 or non-compliant at the time of contract award, shall migrate and achieve as a non-negotiable a milestone of Level 4 by the end of the first year of the contract and thereafter improve at least one B-BBEE Level higher of each year from the second year of the contract.

Tenderer/s are requested to submit their B-BBEE Improvement Plan as an essential document within 30 days of signing the contract.

NB: A valid B-BBEE certificate or Sworn Affidavit is a condition for contract award, if your company's annual Total Revenue is R10 Million or less you qualify as an Exempted Micro Enterprise therefore you can submit Sworn Affidavit. If your annual Total Revenue is R50 Million or less, you qualify as Qualifying Small Enterprise and must comply with all of the elements of QSE score card relevant to your sector unless an entity is at least 51% Black owned you are required to obtain a Sworn affidavit. If your Annual Total Revenue is above R50m you need to submit a Valid B-BBEE certificate

Local Procurement Content

"Local Procurement Content" refers to value added in South Africa by South African resources. This contract only involves local goods and/or services; thus, local procurement content is **100%**.

Procurement spends on entities with a minimum 51% black ownership

The winning tenderer is encouraged to procure/spend on designated groups on the following paid invoices for both:

- the indirect expenses (e.g. overheads) on goods and services supplied to the contractor/supplier by designated groups; and
- direct spend on goods and services supplied by the subcontractors for the execution of the scope of work. Activities, as a proportion of the local procurement content, which may be subcontracted to designated black owned enterprises must be submitted in a table below.

Procurement from Designated Group	Eskom Target	Tenderer Proposal
Black Owned	4.0%	
Black Women Owned	3.0%	
Black Youth Owned	2.0%	
Black Persons with Disability	1.0%	

Jobs.

Tenderers will be required to report on the number of jobs that will be created and retained in South Africa as a direct result of being awarded this contract.

Skills development

Tenderers are required to submit proposals in a table below for developing the skills of unemployed candidates in the country. Skills development is intended to address Eskom's core, scarce and critical skills and the scarce and critical skills. These skills are also included in a 2020 list of occupations in high demand as stipulated in the Government Gazette 43937. Candidates shall be from all provinces in the country, and their composition shall be representative of the population demographics of South Africa.

Skill type / Occupation	Eskom target	Proposed Number of Candidates
Cadastral Surveyor in Training	5 (1 per annum)	

The process of developing these skills shall involve the participation by tenderers directly and through their supply network. In certain cases, the SETA's accredited training providers can be approached to participate in developing critical and scarce skills.

Note: That these targets for skills development candidates categorically exclude Eskom employees and registered learners. The tenderers are required to take full responsibility for the total cost of developing the requisite skills, and Eskom shall not make any financial contribution towards the fulfilment of this obligation. Tenderers also are advised to approach their relevant SETAs to access grants, subsidies, and incentives as well as South African Revenue Services for tax rebates that are earmarked for skills development initiatives.

SDL&I Penalty and Performance Security

Eskom will apply a penalty of 2.5% of the Contract Value for failure to meet SDL&I obligations. For the duration of the contract, Eskom will retain 2.5% of every invoice (excluding VAT) as security for the fulfilment of all SDL&I Obligations. The retained amounts shall only be released to the Contractor upon:

- Eskom receives the SDL&I progress report/s from the contractor.
- Fulfilment of all SDL&I obligations by the contractor.
- Submission of an approved compliance report by SDL&I Department.

Reporting and Monitoring

- The *Consultant* shall on a quarterly basis submit a report to Eskom in accordance with Data Collection Template on their compliance with the SDL&I obligations described above.
- Eskom shall review the SDL&I reports submitted by the *Consultant* within 30 (thirty) days of receipt of the reports and notify the suppliers in writing if their SDL&I obligations have not been met.
- Upon notification by Eskom that the suppliers have not met their SDL&I obligations, the suppliers shall be required to implement corrective measures to meet those SDL&I obligations before the commencement of the following report, failing which Retention clauses shall be invoked.
- Every contract shall be accompanied by the SDL&I Implementation Schedule, which must be completed by the suppliers and returned to SDL&I repress bientative for acceptance 28 days after contract award. This will be used as a reference document for monitoring, measuring and reporting on the supplier's progress in delivering on their stated SDL&I commitments.

3.14.2 Other constraints

N/A

3.14.3 Preferred Sub*Consultants*

N/A

3.14.4 Subcontract documentation, and assessment of subcontract tenders

N/A

3.14.5 Limitations on subcontracting

N/A

3.14.6 Attendance on Sub *Consultants*

N/A

3.15 Correction of Defects

Refer to clause 41.2 no additional constraints

3.16 Working on the *Employer's* property

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

The *Employer* shall issue an Access Certificate to the *Consultant* to formally grant access to the Site for the execution of the Services.

The consultant shall ensure that the landowner or local authority duly notified prior to the commencement of the work.

The Consultant shall be deemed to have familiarised itself with the conditions of access roads, the site (including the line servitude), and subsurface conditions before commencing the services under the Task Order.

3.16.2 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, *Employer's Agent* shall have access to these records at any time.

3.17 Cooperating with and obtaining acceptance of Others

The *Consultant* shall be responsible for negotiating with customers in respect of the use of access routes, including those located on farms or private property.

The *Consultant* shall be responsible for negotiating with landowners, business owners and/or the relevant local authority in connection with the Services.

The *Consultant* shall be responsible for managing and resolving any external disputes arising in connection with the Services.

3.18 Things provided by the *Employer*

The required information shall be provided in the Task Order.

3.19 Cataloguing requirements by the *Consultant*

The cataloguing will be in accordance with the Consultant's submission.

4 List of drawings

4.1 Drawings issued by the *Employer*

The drawings shall be made available upon the issuing of the task order.

Drawing number	Revision	Title