



NEC3 Professional Services Contract (PSC3)

[Yellow highlighted text will be confirmed prior to contract award]

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

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

for The Provision of e-Learning Content Development
and Editing Software

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:

e-Learning Content Development and Editing Software

The tenderer, identified in the Offer signature block, has 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.

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	(Not Applicable – Cost Reimbursable)
Value Added Tax @ 14% is	(Not Applicable – Cost Reimbursable)
The offered total of the Prices inclusive of VAT is	(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 - If no deviations are identified this section will be deleted

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*

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option dispute resolution Option and secondary Options	<p>G: Term contract</p> <p>W1: Dispute resolution procedure</p> <p>X1: Price adjustment for inflation</p> <p>X2: Changes in the law</p> <p>X3: Multiple currencies</p> <p>X4: Parent company guarantee</p> <p>X7: Delay damages</p> <p>X9: Transfer of rights</p> <p>X10: Employer's Agent</p> <p>X11: Termination by the Employer</p> <p>X18: Limitation of liability</p> <p>Z: Additional conditions of contract</p>
	of the NEC3 Professional Services Contract (April 2013) ¹	
10.1	The <i>Employer</i> is (Name):	Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state owned company incorporated in terms of the company laws of the Republic of South Africa
	Address	Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg
	Tel No.	+27 11 800-8111
11.2(9)	The <i>services</i> are	Provision of e-Learning Content Development and Editing Software
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

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

13.3	The <i>period for reply</i> is	1 week
13.6	The <i>period for retention</i> is	3 years following Completion or earlier termination.

2 The Parties' main responsibilities

25.2	The <i>Employer</i> provides access to the following persons, places and things	access to	access date
		1 Eskom premises	When required
		2 Eskom SME's	When required

3 Time

31.2	The <i>starting date</i> is.	[•]	
11.2(3)	The <i>completion date</i> for the whole of the <i>services</i> is.	[•].	
11.2(6)	The <i>key dates</i> and the <i>conditions</i> to be met are:	Condition to be met	key date
		1	[•]
		2	[•]
		3	[•]

4 Quality

40.2	The quality policy statement and quality plan are provided within	30 days of the Contract start Date.
42.2	The <i>defects date</i> is	8 weeks after Completion of the whole of the services.

5 Payment

50.1	The <i>assessment interval</i> is	TBC
51.1	The period within which payments are made is	60 days after receipt of a tax by Eskom Finance
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 charged by Standard Bank of South Africa Limited at the time an amount payable in SA Rand was due

6 Compensation events

NEC PSC Clause 60 will apply

7 Rights to material

NEC PSC Clause 70 will apply

8 Indemnity, insurance and liability

As outlined below

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

Event	Cover	Period following Completion of the whole of the <i>services</i> or earlier termination
<p>Liability for failure by the <i>Consultant</i> to use the skill and care normally used by professionals providing services similar to the <i>services</i></p>	<p>Whatever the <i>Consultant</i> deems necessary in respect of each claim, without limit to the number of claims The amount of the cover, without derogating from or limiting the <i>Consultant's</i> liability to the Employer shall be determined by the <i>Consultant</i>. Although this amount is at the discretion of the <i>Consultant</i>, the Employer recommends that the Limit of the Cover should at least be the value of the contract</p>	<p>Effective from the starting date to the completion date or the termination date And, following completion or termination of the <i>services</i> for a period the <i>Consultant</i> deems fit and necessary The period of the cover, without derogating from or limiting the <i>Consultant's</i> liability to the Employer shall be determined by the <i>Consultant</i>. Although this period is at the discretion of the <i>Consultant</i>, the Employer recommends that the period following completion of the whole of the <i>services</i> or earlier termination be not less than 3 (Three years) years</p>
<p>death of or bodily injury to a person (not an employee of the <i>Consultant</i>) or loss of or damage to property arising from or in connection with the <i>Consultant's</i> Providing the <i>Services</i>.</p>	<p>Whatever the <i>Consultant</i> deems necessary for any occurrence or series of occurrences arising out of one event without limit to the number of claims. The amount of the cover, without derogating from or limiting the <i>Consultant's</i> liability to the Employer shall be determined by the <i>Consultant</i>. Although this amount is at the discretion of the <i>Consultant</i>, the Employer recommends that the Limit of the Cover should at least be value of the contract</p>	<p>Effective from the starting date to the completion date or the termination date And, following completion or termination of the <i>services</i> for a period the <i>Consultant</i> deems fit and necessary</p>

	death of or bodily injury to employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with this contract	As prescribed by the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 and the <i>Consultant's</i> common law liability for people falling outside the scope of the Act with a limit of indemnity of not less than R500 000-00 (five hundred thousand) in respect of each claim, without limit to the number of claims	As <i>Consultant</i> deems necessary
81.1	The <i>Employer</i> provides the following insurances	Refer to Annexure A for details of insurance provided by the <i>Employer</i> .	
82.1	The <i>Consultant's</i> total liability to the <i>Employer</i> for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	The total of the Task Order values	
	The <i>Consultant</i> provides these additional insurances.		
	1 Insurance against:	Whatever the <i>Consultant</i> deems necessary including cover provided for payment of deductibles	
9 90.3	Termination	The Employer may terminate the Consultant's obligation to provide the Services for convenience on thirty (30) days written notice to the Consultant.	
10	Data for main Option clause		
G	Term contract		
21.4	The <i>Consultant</i> prepares forecasts of the total Time Charge and <i>expenses</i> at intervals no longer than	2 weeks.	
50.4	The <i>exchange rates</i> are those published in	[•] on [•] (date).	
11	Data for Option W1		
W1.1	The <i>Adjudicator</i> is	the person selected from Eskom Panel of Adjudicators listed in Annexure C to this Contract Data by the Party intending to refer a dispute to him.	
W1.2(3)	The <i>adjudicator nominating body</i> is:	the Chairman of the Joint Civil Division of the South African Institution of Civil Engineering or its successor body. (See www.jointcivils.co.za)	
W1.4(2)	The <i>tribunal</i> is:	arbitration	

W1.4(5)	The <i>arbitration procedure</i> is	the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.		
	The place where arbitration is to be held is	Johannesburg, South Africa		
	The person or organisation who will choose an arbitrator	the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.		
	<ul style="list-style-type: none">if the Parties cannot agree a choice orif the <i>arbitration procedure</i> does not state who selects an arbitrator, is			
12	Data for secondary Option clauses			
X1	Price adjustment for inflation			
X1.1	The index is	Average of the CPI headline index (table B2) for the previous 12-month period as published by Statistics South Africa		
	The staff rates are	The tendered prices are fixed at contract date and are firm for the first 12 months of the contract		
X2	Changes in the law			
X2.1	The law of the project is	South African Law		
X3	Multiple currencies			
X3.1	The <i>Employer</i> will pay for these items or activities in the currencies stated	Items & activities	Other currency	Maximum payment in other currency
		[•]	[•]	[•]
		[•]	[•]	[•]
		[•]	[•]	[•]
X3.1	The <i>exchange rates</i> are those published in	[•]on [•] (date) The items & activities will be paid in the other currency - to a foreign Bank account nominated by the <i>Consultant</i> - to a valid SARB approved CFC account in South Africa - in accordance with an alternative payment method agreed with the <i>Employer</i> before the Contract Date. (select one of the three methods as agreed with successful tenderer and delete the others and this note)		
X4	Parent company guarantee		TBC if applicable	
X7	Delay damages			

X7.3	Delay damages for late Completion of the whole of the <i>services</i> are	The Consultant pays delay damages at the rate stated in the Task Order for each day from the Task Completion Date until Task Completion.
X10	The <i>Employer's Agent</i>	
X10.1	The <i>Employer's Agent</i> is	
	Name:	Potego Mmako
	Address	Eskom Academy of Learning, Midrand
	The authority of the <i>Employer's Agent</i> is	To carry out all the actions of the Employer
X11	Termination by the <i>Employer</i>	Clauses stipulated in X11 will apply
X11.1	The <i>Employer</i> may terminate for a reason not stated in this contract by notifying the <i>Consultant</i> . <i>The supplier will be given 30 days' notice to terminate the contract.</i>	
X11.2	If the <i>Employer</i> terminates for a reason, other than the Consultant's breach, the Employer shall pay an additional amount due on termination which is 5% of the difference between: <ul style="list-style-type: none"> the forecast of the final total of the Prices in the absence of termination and the total of fees included in the amount due on termination, excluding non-committed amounts. 	
X13	Performance bond	
X13.1	The amount of the performance bond is	TBC if applicable
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:	R0.00 (Zero Rand)
X18.2	The <i>Consultant's</i> liability to the <i>Employer</i> for Defects that are not found until after the <i>defects date</i> is limited to:	The total of Task Order values
X18.3	The <i>end of liability date</i> is	Two years after Completion of the whole of the <i>services</i>.
Z	The <i>Additional conditions of contract</i> are Z1 to Z15 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 <i>services</i>	Whatever the <i>Consultant</i> deems necessary in respect of each claim, without limit to the number of claims	Four (4) weeks
Liability for death of or bodily injury to a person (not an employee of the <i>Consultant</i>) or loss of or damage to property resulting from an action or failure	<u>Loss of or damage to property:</u> The replacement cost where not covered by the	Four (4) weeks

to take action by the <i>Consultant</i>	<p><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></p> <p>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	Four (4) weeks

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

INSURANCE TABLE B

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

Z13 Nuclear Liability

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

Z13.2 The *Employer* is solely responsible for and indemnifies the *Consultant* or any other person against any and all liabilities which the *Consultant* or any person may incur arising out of or resulting from nuclear damage, as defined in Act 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.

Z15 POPIA

- Z15.1 For the purposes of this clause 1, the terms "Data Subject", "Personal Information" and "Regulator" and "Responsible Party" have the meanings given to them in the Protection of Personal Information Act, 2013 ("POPIA").
- Z15.2 Each Party acknowledges that it is an independent Responsible Party in relation to the Personal Information processed in terms of this Agreement ("Shared Personal Information") and that it determines the purposes for which and the manner in which the Shared Personal Information is, or is to be, processed.
- Z15.3 Each Party shall comply at all times with POPIA when performing its obligations under this Agreement and shall not perform any of their respective obligations under this Agreement in such a way as to cause the other Party to breach any of that other Party's obligations under POPIA.
- Z15.4 Each Party shall ensure that, in respect of all Shared Personal Information provided to the other Party and in respect of the use of that Shared Personal Information under this Agreement:-
- Z15.4.1 all necessary fair processing notices have been provided to and consents obtained from Data Subjects by that Party, where required, in terms of POPIA, including to specify that the other Party is also a Responsible Party in respect of the Data Subject's Personal Information and to provide a link (<https://www.eskom.co.za/about-eskom/website-terms-and-conditions/>) to the other Party's Privacy Statement or to include a statement that the other Party's Privacy

Statement can be found on the other Party's corporate website; and

Z15.4.2 all necessary steps have been taken to ensure that Shared Personal Information has been collected and Processed in accordance with the principles set out in POPIA, including in particular those relating to:

Z15.4.2.1 lawful, fair and transparent Processing;

Z15.4.2.2 specified, legitimate and explicit purposes of Processing; and

Z15.4.2.3 adequate, relevant and not excessive Processing.

Z15.5 If either Party receives any complaint, notice or communication from the Regulator which relates directly to:

Z15.5.1 the other Party's Processing of the Shared Personal Data; or

Z15.5.2 a potential failure by the other Party to comply with POPIA in respect of the activities of the Parties under or in connection with this Agreement,

it shall, to the extent permitted by law, promptly notify the other Party and provide such information as it shall reasonably request in that regard.

Z15.6 If a Data Subject makes a written request to either Party to exercise any of their rights under POPIA, the receiving Party shall respond to that request in accordance with POPIA. To the extent the request concerns processing of Shared Personal Information undertaken by the other Party, the receiving Party shall:

Z15.6.1 promptly and without undue delay forward the request to the other Party; and

Z15.6.2 cooperate and provide reasonable assistance in relation to that request to enable the other Party to respond in accordance with POPIA.

Z15.7 Each Party acknowledges that the other Party may disclose Shared Personal Information to any Regulator or law enforcement authority with jurisdiction to request access to the Shared Personal Information.

Z15.8 Neither Party discloses or otherwise makes available the Personal Information to any third Party (including sub-contractors, but excluding its authorised employees who require access to such Personal Information strictly in order for the parties to carry out their obligations pursuant to this contract), unless a Party has provided, to a requesting Party, its prior written consent to do so, and the requesting Party has submitted to the other Party (consenting Party), to its satisfaction, a copy of a written contract or undertaking that the requesting Party has entered into with a third Party for the protection of Personal Information of the Data Subjects or unless there is an applicable exemption in terms of the law to process or further process the personal information.

Z15.9 The requesting Party indemnifies and holds harmless the consenting Party and its staff, successors, cessionaries, delegates, and assigns, from any and all losses, costs, expenses and damage, as well as penalties and fines arising from the requesting Party's non-compliance with the provision of any relevant legislation applicable to Personal Information/data protection, as well as damage to the consenting Party's reputation and costs of compliance as directed by the Regulator, including but not limited to publication of the data breach.

Z15.10 No Party may transfer Personal Information about a data subject to a third Party who is in a foreign country unless they have obtained the relevant written consent of the other Party and there is full compliance with section 72 of POPIA and any foreign applicable legislation.

Annexure A: Notes to Consultants

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

1. For the purpose of works contracts, insurance provided by Eskom (the *Employer*) has been arranged on the basis of “project” or “contract” value, where the value is the total of the Prices at Completion of the whole of the works including VAT.

A “project” is a collection of contracts or work packages to be undertaken as part of a single identified capital expansion or refurbishment of a particular asset or facility.

A “contract” is a single contract not linked to or being part of a “project”.

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

Format A is for a project or contract value less than or equal to R350M (three hundred and fifty million Rand) inclusive of VAT.

Format B is for a project or contract value greater than R350M .(three hundred and fifty million Rand) inclusive of VAT.

In the case of contracts / packages within a project:

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

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

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

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

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

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

http://www.eskom.co.za/live/content.php?Item_ID=9248

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

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

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

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

Information about the Panel and appointment of the selected *Adjudicator* is available from Eskom Supply Chain Operations management, by contacting Marumo Lekoto: 011 800 5383 or [LekotoMH@eskom.co.za]

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 <i>services</i> is	
11.2(13)	The <i>staff rates</i> are:	See part C2.2

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	The register will be updated when risks are identified
50.3	The <i>expenses</i> stated by the <i>Consultant</i> are	See part C2.2

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	<p>(20) The Prices are</p> <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. <p>(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.</p> <p>(21) A Task is work within the <i>services</i> which the <i>Employer</i> may instruct the <i>Consultant</i> to carry out within a stated period of time.</p> <p>(22) Task Completion is when the <i>Consultant</i> has done all the work which the Task Order requires him to do by the Task Completion Date, and corrected Defects which would have prevented the <i>Employer</i> or Others from using the <i>services</i> and Others from doing their work.</p> <p>(23) Task Completion Date is the date for completion stated in the Task Order unless later changed in accordance with this contract.</p> <p>(24) A Task Order is the <i>Employer's</i> instruction to carry out a Task.</p>
The <i>Consultant's</i> obligations	21 21.4	<p>The <i>Consultant</i> prepares forecasts of the total Time Charge and <i>expenses</i> for the whole of the <i>services</i> in a Task Order and submits them to the <i>Employer</i>. Should a forecast change an explanation of the changes made since the previous forecast is submitted with each new forecast.</p>
Assessing the amount due	50.6	<p>Payments for items whose prices in the Task Schedule are stated in a currency other than the currency of this contract are included in the amount due as payments to be made to the <i>Consultant</i> in the same currency.</p>
Accounts and records	52 52.2	<p>The <i>Consultant</i> keeps accounts and records of his Time Charge and <i>expenses</i> and:</p> <ul style="list-style-type: none"> Submits them monthly to the <i>Contract Manager</i> Allows the <i>Employer</i> to inspect them at any time within working hours.
Assessing Tasks	55 55.1	<p>A Task Order includes:</p> <ul style="list-style-type: none"> a detailed description of the work in the Task, a priced list of items of work in the Task in which items taken from the Task Schedule are identified The starting and completion dates for the Task. the amount of delay damages for late completion of the Task and the total of the Prices for the Task. <p>The <i>Employer</i> consults the <i>Consultant</i> about the contents of a Task Order before he issues it.</p>
	55.3	<p>The <i>Consultant</i> does not start any work included in the Task until he has received a Purchase Order, and does the work so that Task Completion is on or before the Task Completion Date. No Task Order is issued after the Completion Date.</p>

In effect Option G is a cost reimbursable form of contract with work ordered by the *Employer* on a Task by Task basis.

C2.2 Staff rates, expenses & the task schedule

All *staff rates* and *expenses* listed below exclude VAT. *Rates and expenses to be included prior to contract award.*

1. 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

The task schedule

No.	Content Development Software Annual Subscription fee	Annual fee (excluding VAT)
1	Subscription fee includes – access for 10 users, training for the users, after sales support, maintenance and upgrades.	

No.	Training	Once-off fee (excluding VAT)
1	User Training – 10 users	

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

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.

Description of the services

1. Executive Overview

Eskom Academy of Learning Content Development department is responsible for the development, maintenance and deployment of Eskom eLearning training material. Acquisition of e-learning development and video editing software will enable the EAL to modify existing e-learning content as well as develop new e-learning content. EAL requires a content development tool that will:

- Allow for rapid content development
- Provide content library assets (themes, images, characters, etc.) provided speeds up content development.
- Deliver e-learning courses to every device (PC and mobile)
- Allow for the development of interactive courses and assessments
- Rapid development that have libraries of images, templates
- create online assessments that can run on the Learning Management System and report back to the Learning Management System.
- Enable the EAL to modify existing e-learning content as well as develop new e-learning content.

2. Scope Detail

- The software is required for 10 users
- Training is required for the users of the tool.
- After sales support will be required.
- Subscription needs to be maintained annually for 3 years.

Content development tool required should:

- Allow for rapid content development
- Provide content library assets (themes, images, characters, etc.) provided speeds up content development.
- Deliver e-learning courses to every device including mobile devices.
- Allow for the development of interactive courses and assessments.
- Be a leader across industry.

Provision to be made for volume increases and decreases on the anniversary date of the contract.

Estimated number of licenses required table below (Actuals to be confirmed annually):

Description	Annual Licences Required		
	Year 1	Year 2	Year 3
Content Development software	10	10	15

Constraints on how the *Consultant* Provides the Services.

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:
Risk register and compensation events	As and when required	Employer's offices, Consultant offices or by virtually.	Employer's Agent, Consultant representative
Overall contract progress and feedback	As and when required	Employer's offices, Consultant offices or by virtually.	<i>Employer's Agent, Consultant representative</i>
Annual contract price adjustment meeting	Annually before the contract anniversary	Employer's offices, Consultant offices or by virtually.	Employer's Agent, Consultant representative
Performance discussions	As and when required	Employer's offices, Consultant offices or by virtually.	Employer's Agent, Consultant representative

The *Consultant* is not entitled to bill a time charge for management meetings and meetings of a specialist nature as specified elsewhere in the scope unless specified and agreed by both parties prior to the meeting.

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.

Provision of bonds and guarantees – *To be included prior to contract award if applicable*

The form in which a bond or guarantee required by the *conditions of contract* (if any) is to be provided by the *Consultant* is given in Part 1 Agreements and Contract Data, document C1.3, Sureties.

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

Documentation control and retention

Retention of documents

Clause 13.6 states that the *Consultant* retains copies of drawings, specifications, reports and other documents which record the *services* in the form stated in the Scope. Records such as contracts, addendums, task orders, work completion certificates, reports etc. must be retained in PDF format. Working files, such as site registers, designs, correspondence, information etc. must be retained in its original file format or hard copy where applicable. All legal registers must be backed up to ensure data is not lost. Note the time period for which the *Consultant* is to retain such documents is three years after the completion date of the contract.

Invoicing and payment

Procedures for invoice submission and payment:

- When the *Employer* requires a portion of the scope to be executed, a Task Order will be issued to the *Consultant* detailing what is required with expected costs as outlined in C2.2 of the contract data.
- The *Consultant* returns the signed Task Order accepting the task and associated prices.
- Upon receipt of the signed Task Order the *Employer* will create a Purchase Order and provide the Purchase Order to the *Consultant*.
- The *Consultant* does not start any work or incur any cost until he is receipt of a valid Purchase Order corresponding to a particular Task Order.
- Once the work as outlined on the Task Order is complete the *Consultant* will submit a Work Completion Certificate (template to be provided) to the *Employer* detailing what work has been done and the amount due to the *Consultant* for the work done. The Work Completion Certificate must be accompanied by relevant evidence that the work was completed.
- The *Employer* will review the Work Completion Certificate for completeness and accuracy and return a signed copy to the *Consultant* with a Goods Receipt number.
- The *Consultant* may only submit an invoice for payment after receiving a signed work Completion Certificate from the *Employer*.

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

- Name and address of the *Consultant* 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;
- The Purchase Order and Goods Receipt number
- Invoices shall be mailed to invoiceseskomlocal@eskom.co.za
- Each invoice must be sent on a separate email so each invoice receives a specific reference number for payment tracking.

Ordering and payment

- Eskom pays its registered vendors via EFT. No goods or services should be supplied without receiving an Eskom purchase order, except in a case of emergency as defined in the procurement procedure. An emergency purchase order number should be received by the supplier before invoicing. All purchase order numbers must be included on the invoice as Eskom will not be liable for payment if a purchase order number is not quoted on the invoice.
- To ensure faster processing of your invoices, please ensure that your billing invoice:
 - matches our purchase order (line by line);
 - contains the proper units of measure; and
 - agrees with the purchase order price; and
 - that the agreed payment terms on the invoice agrees with the payment terms on the order.

Where to send invoices

Invoices can be submitted using the email address below:

- Email address for invoice submission:
 - Local Eskom invoices: invoiceseskomlocal@eskom.co.za

Other requirements

- Ensure that you comply with the tax requirements for submitting invoices electronically.
- Each PDF file should contain one invoice, one debit note or one credit note only. You may submit more than one invoice per email.
- If there is Cost Price Adjustment (CPA) on your invoice we request that you issue a separate invoice for CPA so that if there are any issues on the CPA the rest of the invoice can be paid while the CPA issues are resolved.
- If the goods receipt is not done, the invoice will be parked and the system will automatically send an email to the end user to complete the goods receipt. This is also monitored by Eskom using the parked invoice report.
- The following documents are returnable every year and should be submitted to Eskom Holdings SOC Limited on or before the expiry date:
 - BBBEE certificates
 - Letter of good standing with the Department of Labour
- You also need to ensure that you are registered with the National Treasury Central Supplier Database (CSD). Please visit www.csd.gv.za for the details.
- Failure to comply with the two requirements above may lead to your vendor number with Eskom Holdings SOC Limited being blocked.
- You do not require a goods receipt (GR) number to submit your invoices. It is important to receive this GR before you can query payment. When the GR number is received you can then send the GR number to the FSS contact centre at FSS@eskom.co.za or 011 800 5060.

Who to contact for payment queries:

FSS contact centre: FSS@eskom.co.za

Tel: 011 800 5060

Quality management - **to be completed prior to award**

System requirements

Clause 40.1 requires that the *Consultant* operate a quality management system as stated in the Scope. *Specific Requirements to be included prior to contract award.*

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. *Specific Requirements to be included prior to contract award.*

Health and safety – **To be completed prior to contract award**

Clause 25.4 states that the *Consultant* acts in accordance with the health and safety requirements stated in the Scope. It is suggested that this part of the Scope address how the *Consultant* acts when doing his *services*. These requirements may be no more than just complying with the law. However if the *Consultant* is required to work on Eskom premises, then whatever requirements which personnel working in those premises need to comply with should be included here or referred to in an Annexure. If when doing his *services* the *Consultant* is required to carry out a design which needs to take account of certain health and safety criteria, then this should be included in the specification of that design service stated elsewhere in the Scope. A draft for this section could start as follows:

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

Procurement - *Requirements to be included prior to contract award.*

BBBEE and preferencing scheme

Specify constraints which *Consultant* must comply with after contract award in regard to any Broad Based Black Economic Empowerment (B-BBEE) or preferencing scheme measures.