



## NEC3 Term Service Contract (TSC3)

Between **ESKOM HOLDINGS SOC Ltd**  
(Reg No. 2002/015527/30)

and \_\_\_\_\_

(Reg No. \_\_\_\_\_)

for **SHEQS LEGAL AUDIT CONTRACT (CAPE COASTAL CLUSTER)**

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CONTRACT No. \_\_\_\_\_

## PART C1: AGREEMENTS & CONTRACT DATA

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## 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:

### **SHEQS LEGAL AUDIT CONTRACT FOR CAPE COASTAL CLUSTER (ON AN AS AND WHEN REQUIRED BASIS)**

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 *Contractor* 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	<b>R rates based contract</b>
Value Added Tax @ 15% is	<b>R rates based contract</b>
The offered total of the amount due inclusive of VAT is <sup>1</sup>	<b>R rates based contract</b>
(in words) [•]	

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 *Contractor* 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

Tenderer's CIDB registration number:

<sup>1</sup> This total is required by the *Employer* for budgeting purposes only. Actual amounts due will be assessed in terms of the *conditions of contract*.

## 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 Contractor 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: Service Information

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 Service Manager (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 to be completed by the *Employer* prior to contract award

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		

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 TSC3 Contract Data

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

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

Clause	Statement	Data
1	<b>General</b>	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:	
		<b>G: Term contract</b>
	dispute resolution Option	<b>W1: Dispute resolution procedure</b>
	and secondary Options	
		<b>X1: Price adjustment for inflation</b>
		<b>X2 Changes in the law</b>
		<b>X7: Delay damages</b>
		<b>X10 Service Manager</b>
		<b>X11: Termination by the <i>Employer</i></b>
		<b>X18: Limitation of liability</b>
		<b>Z: Additional conditions of contract</b>
	of the NEC3 Professional Services Contract (April 2013) <sup>2</sup>	
10.1	The <i>Employer</i> is (name):	<b>Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state-owned company incorporated in terms of the company laws of the Republic of South Africa</b>
	Address	<b>Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg</b>
	Tel No.	<b>011 800 8111</b>
	Fax No.	<b>011 800 8111</b>
10.1	The <i>Service Manager</i> is (name):	<b>Patiswa Rilityane</b>
	Address	<b>Brackenfell Complex, M Block, Escom Road. Brackenfell 7562</b>
	Tel	<b>[021 915 2048]</b>

<sup>2</sup> Available from Engineering Contract Strategies Tel 011 803 3008 Fax 011 803 3009 and [www.ecs.co.za](http://www.ecs.co.za)

Fax

[086 609 7954]

e-mail

[RilityPa@eskom.co.za](mailto:RilityPa@eskom.co.za)

11.2(2)	The Affected Property is	Eskom Distribution Cape Coastal Cluster sites
11.2(13)	The <i>service</i> are	SHEQS Legal Audits.  This will be required on an as and when bases in the Cape Coastal Cluster
11.2(14)	The following matters will be included in the Risk Register	To be looked at elsewhere in contract
11.2(15)	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	within 1 working day
13.6	The <i>period for retention</i> is	3 years following Completion or earlier termination.

## 2 The Contractor's main responsibilities

Data required by this section of the core clauses is also provided by the *Contractor* in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data

21.1	The <i>Contractor</i> submits a first plan for acceptance within	Four [4] weeks of the Contract Date												
25.2	The <i>Employer</i> provides access to the following persons, places and things	<table> <thead> <tr> <th></th><th>access to</th><th>access date</th></tr> </thead> <tbody> <tr> <td>1</td><td>Eskom Manager/Supervisor / Officer</td><td>As per agreed audit plan</td></tr> <tr> <td>2</td><td>Documents and records</td><td>As per agreed audit plan</td></tr> <tr> <td>3</td><td>Eskom sites, under planned supervision</td><td>As per agreed audit plan</td></tr> </tbody> </table>		access to	access date	1	Eskom Manager/Supervisor / Officer	As per agreed audit plan	2	Documents and records	As per agreed audit plan	3	Eskom sites, under planned supervision	As per agreed audit plan
	access to	access date												
1	Eskom Manager/Supervisor / Officer	As per agreed audit plan												
2	Documents and records	As per agreed audit plan												
3	Eskom sites, under planned supervision	As per agreed audit plan												

## 3 Time

31.2	The <i>starting date</i> is.	To be confirmed												
11.2(3)	The <i>service period</i> is	To be confirmed												
11.2(6)	The <i>key dates</i> and the <i>conditions</i> to be met are:	<table> <thead> <tr> <th></th><th>Condition to be met</th><th>key date</th></tr> </thead> <tbody> <tr> <td>1</td><td>As per task order</td><td></td></tr> <tr> <td>2</td><td></td><td></td></tr> <tr> <td>3</td><td></td><td></td></tr> </tbody> </table>		Condition to be met	key date	1	As per task order		2			3		
	Condition to be met	key date												
1	As per task order													
2														
3														

31.1	The <i>Contractor</i> is to submit a first programme for acceptance within	<b>Within 5 days after issue of task order</b>	
32.2	The <i>Contractor</i> submits revised programmes at intervals no longer than	<b>To be revised as instructed by Service Manager</b>	
4	<b>Quality</b>	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data	
40.2	<i>The quality policy statement and quality plan are provided within</i>	<b>1 week of the Contract Date.</b>	
42.2	<i>The defects date is</i>	<b>1 week after Completion of task</b>	
5	<b>Payment</b>		
50.1	The <i>assessment interval</i> is	<b>between the 25<sup>th</sup> and 30/31<sup>st</sup> day of each month.</b>	
50.3	The <i>expenses</i> stated by the <i>Employer</i> are as per pricelist	<b>Item</b>	<b>Amount</b>
		<b>1</b>	<b>As per task order</b>
51.1	The <i>currency of this contract</i> is the	<b>South African Rand</b>	
51.2	The period within which payments are made is	<b>within 30 days of an undisputed invoice in line with Eskom payment conditions and terms</b>	
51.4	The <i>interest rate</i> is	<p>the publicly quoted prime rate of interest (calculated on a 365-day year) charged by from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) at the time an amount payable in SA Rand was due,</p> <p>and</p> <p>(ii) 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</p>	



		Bank of South Africa Limited, whose appointment it shall not be necessary to prove.
		No interest charges can be claimed after the contract completion date.
6	<b>Compensation events</b>	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data
7	<b>Use of Equipment Plant and Materials</b>	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data
8	<b>Risks and insurance</b>	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
80.1	The <i>Contractor's</i> total liability to the <i>Employer</i> for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	The total of the Prices
9	<b>Termination</b>	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
10	<b>Data for main Option clause</b>	
A	<b>Priced contract with price list</b>	
20.5	The <i>Contractor</i> prepares forecasts of the total Time Charge and <i>expenses</i> at intervals no longer than	Managed via Task Order
11	<b>Data for Option W1</b>	
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 <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a> ). 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 confirmed at time of dispute
	Tel No.	
	Fax No.	

e-mail

W1.2(3)	The <i>Adjudicator nominating body</i> is:	the Chairman of ICE-SA a joint Division of the South African Institution of Civil Engineering and the Institution of Civil Engineers (London) (see <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a> ) or its successor body.
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	Cape Town South Africa
	The person or organisation who will choose an arbitrator	
	- if the Parties cannot agree a choice or	the Chairman for the time being or his nominee
	- if the arbitration procedure does not state who selects an arbitrator, is	of the Association of Arbitrators (Southern Africa) or its successor body.
<b>12</b>	<b>Data for secondary Option clauses</b>	
<b>X1</b>	<b>Price adjustment for inflation</b>	
X1.1	The index is The staff rates are {state whether "Fixed at the Contract Date and are not variable with changes in salary paid to individuals" or "Variable with changes in salary paid to individuals"}	CPI will be applicable
<b>X2</b>	<b>Changes in the law</b>	
X2.1	The law of the project is	South African Law.
<b>X7</b>	<b>Delay damages</b>	
X7.1	Delay damages for late completion of the whole of the services are:	R1000 per day
<b>X10</b>	<b>The Service Manager</b>	
X10.1	The <i>Service Manager</i> is	
	Name:	Patiswa Rilityane SHE Manager
	Address	Brackenfell Complex, M Block, Escom Road. Brackenfell 7562 [021 915 2048] [086 609 7954] Patiswa.Rilityane@eskom.co.za
	The authority of the <i>Service Manager</i> is	Employer representative
<b>X11</b>	<b>Termination by the Employer</b>	There is no reference to Contract Data in this Option and terms in italics used in this Option are identified elsewhere in this Contract Data.

<b>X18</b>	<b>Limitation of liability</b>	
X18.1	The <i>Contractor's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to:	<b>R0.00 (Zero Rand)</b>
X18.2	The <i>Contractor's</i> liability to the <i>Employer</i> for Defects that are not found until after the <i>defects date</i> is limited to:	<b>The total of the Prices</b>
X18.3	The <i>end of liability date</i> is	<b>five years after Completion of the whole of the services/task order.</b>
X18.5	The <i>end of liability date</i> is	<b>[3] months after the end of the <i>service period</i>.</b>
<b>X19</b>	<b>Task Order</b>	
X19.5	The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within	<b>[7] days of receiving the Task Order</b>
<b>Z</b>	<b>The Additional conditions of contract are</b>	<b>Z1 to Z14 always apply.</b>

## **Z1 Cession delegation and assignment**

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

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

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

obligation to Provide the Service.

- Z3.4 Failure by the *Contractor* 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 P1, P2 and P4 as stated in clause 92, and the amount due is A1 and A3 as stated in clause 93.

## **Z4 Confidentiality**

- Z4.1 The *Contractor* 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 *Contractor*, enters the public domain or to information which was already in the possession of the *Contractor* at the time of disclosure (evidenced by written records in existence at that time). Should the *Contractor* disclose information to Others in terms of clause 25.1, the *Contractor* ensures that the provisions of this clause are complied with by the recipient.
- Z4.2 If the *Contractor* is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the *Service Manager*.
- Z4.3 In the event that the *Contractor* is, at any time, required by law to disclose any such information which is required to be kept confidential, the *Contractor*, 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 *Contractor* 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 Affected Property or any portion thereof, in the course of Providing the Service and after the end of the *service period*, requires the prior written consent of the *Service Manager*. All rights in and to all such images vests exclusively in the *Employer*.
- Z4.5 The *Contractor* ensures that all his subcontractors abide by the undertakings in this clause.

## **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, the *Service Manager* 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 Health, safety and the environment: Add to core clause 27.4**

- Z6.1 The *Contractor* undertakes to take all reasonable precautions to maintain the health and safety of persons in and about the execution of the *service*. Without limitation the *Contractor*:
- accepts that the *Employer* may appoint him as the "Principal Contractor" (as defined and provided for under the Construction Regulations 2014 (promulgated under the Occupational Health & Safety Act 85 of 1993) ("the Construction Regulations") for the Affected Property;
  - warrants that the total of the Prices as at the Contract Date includes a sufficient amount for proper compliance with the Construction Regulations, all applicable health & safety laws and regulations and the health and safety rules, guidelines and procedures provided for in this contract and generally for the proper maintenance of health & safety in and about the execution of the *service*; and
  - undertakes, in and about the execution of the *service*, to comply with the Construction Regulations and with all applicable health & safety laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his

Subcontractors, employees and others under the *Contractor's* direction and control, likewise observe and comply with the foregoing.

- Z6.2 The *Contractor*, in and about the execution of the *service*, complies with all applicable environmental laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his Subcontractors, employees and others under the *Contractor's* direction and control, likewise observe and comply with the foregoing.

**Z7 Provision of a Tax Invoice and interest. Add to core clause 51**

- Z7.1 Within one week of receiving a payment certificate from the *Service Manager* in terms of core clause 51.1, the *Contractor* provides the *Employer* with a tax invoice in accordance with the *Employer's* procedures stated in the Service Information, showing the amount due for payment equal to that stated in the payment certificate.
- Z7.2 If the *Contractor* does not provide a tax invoice in the form and by the time required by this contract, the time by when the *Employer* is to make a payment is extended by a period equal in time to the delayed submission of the correct tax invoice. Interest due by the *Employer* in terms of core clause 51.2 is then calculated from the delayed date by when payment is to be made.
- Z7.3 The *Contractor* (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.

**Z8 Notifying compensation events**

- Z8.1 Delete the last paragraph of core clause 61.3 and replace with:
- If the *Contractor* does not notify a compensation event within eight weeks of becoming aware of the event, he is not entitled to a change in the Prices.

**Z9 Employer's limitation of liability**

- Z9.1 The *Employer's* liability to the *Contractor* for the *Contractor's* indirect or consequential loss is limited to R0.00 (zero Rand)
- Z9.2 The *Contractor's* entitlement under the indemnity in 82.1 is provided for in 60.1(12) and the *Employer's* liability under the indemnity is limited to compensation as provided for in core clause 63 and X19.11 if Option X19 Task Order applies to this contract.

**Z10 Termination: Add to core clause 91.1, at the second main bullet point, fourth sub-bullet point, after the words "against it":**

- Z10.1 or had a business rescue order granted against it.

**Z11 Ethics**

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

**Affected Party** means, as the context requires, any party, irrespective of whether it is the *Contractor* or a third party, such party's employees, agents, or Subcontractors or Subcontractor'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,

<b>Collusive Action</b>	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,
<b>Committing Party</b>	means, as the context requires, the <i>Contractor</i> , or any member thereof in the case of a joint venture, or its employees, agents, or Subcontractors or the Subcontractor's employees,
<b>Corrupt Action</b>	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,
<b>Fraudulent Action</b>	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,
<b>Obstructive Action</b>	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
<b>Prohibited Action</b>	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 *Contractor's* obligation to Provide the Services if a Committing Party has taken such Prohibited Action and the *Contractor* 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 *Contractor's* obligation to Provide the Services for this reason.
- Z11.3 If the *Employer* terminates the *Contractor'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 *Contractor* ensures that the Committing Party co-operates fully with an investigation.

## Z12 Insurance

Z 12.1 Replace core clause 83 with the following:

- 83.1 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.
- 83.2 The *Contractor* 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 or minimum limit of indemnity
Loss of or damage caused by the <i>Contractor</i> to the <i>Employer's</i> property	The replacement cost where not covered by the <i>Employer's</i> insurance.  The <i>Employer's</i> policy deductible as at Contract Date, where covered by the <i>Employer's</i> insurance.

Loss of or damage to Plant and Materials	The replacement cost where not covered by the <i>Employer's</i> insurance.  The <i>Employer's</i> policy deductible as at Contract Date, where covered by the <i>Employer's</i> insurance.
Loss of or damage to Equipment	The replacement cost where not covered by the <i>Employer's</i> insurance.  The <i>Employer's</i> policy deductible as at Contract Date, where covered by the <i>Employer's</i> insurance.
The <i>Contractor's</i> liability for loss of or damage to property (except the <i>Employer's</i> property, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Contractor</i> ) arising from or in connection with the <i>Contractor's</i> Providing the Service	<b><u>Loss of or damage to property</u></b> The replacement cost  <b><u>Bodily injury to or death of a person</u></b> The amount required by the applicable law.
Liability for death of or bodily injury to employees of the <i>Contractor</i> arising out of and in the course of their employment in connection with this contract	The amount required by the applicable law

**Z 12.2 Replace core clause 86 with the following:**

**Insurance  
by the  
*Employer***

86

86.1 The *Employer* provides the insurances stated in the Insurance Table B  
**INSURANCE TABLE B**

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

### **Z13 Nuclear Liability**

- Z13.1 The *Employer* is the operator of the Koeberg Nuclear Power Station (KNPS), a nuclear installation, as designated by the National Nuclear Regulator of the Republic of South Africa, and is the holder of a nuclear licence in respect of the KNPS.
- Z13.2 The *Employer* is solely responsible for and indemnifies the *Contractor* or any other person against any and all liabilities which the *Contractor* 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 *Contractor* or any other person or the presence of the *Contractor* or that person or any property of the *Contractor* 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 *Contractor* or any other person, or the presence of the *Contractor* or that person or any property of the *Contractor* 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:

<b>AAIA</b>	means approved asbestos inspection authority.
<b>ACM</b>	means asbestos containing materials.
<b>AL</b>	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.
<b>Ambient Air</b>	means breathable air in area of work with specific reference to breathing zone, which is defined to be a virtual area within a radius of approximately 30cm from the nose inlet.
<b>Compliance Monitoring</b>	means compliance sampling used to assess whether or not the personal exposure of workers to regulated asbestos fibres is in compliance with the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.
<b>OEL</b>	means occupational exposure limit.
<b>Parallel Measurements</b>	means measurements performed in parallel, yet separately, to existing measurements to verify validity of results.
<b>Safe Levels</b>	means airborne asbestos exposure levels conforming to the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.
<b>Standard</b>	means the <i>Employer's</i> Asbestos Standard 32-303: Requirements for Safe Processing, Handling, Storing, Disposal and Phase-out of Asbestos and Asbestos Containing Material, Equipment and Articles.
<b>SANAS</b>	means the South African National Accreditation System.



**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 *Contractor* 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 *Contractor*, 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 *Contractor* may perform Parallel Measurements and related control measures at the *Contractor'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 *Contractor'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 *Contractor* 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 *Contractor*

#### Notes to a tendering contractor:

1. Please read both the both the NEC3 Term Service Contract April 2013 and the relevant parts of its Guidance Notes (TSC3-GN)<sup>3</sup> in order to understand the implications of this Data which the tenderer is required to complete.
2. 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.
3. Where a form field like this [ ] appears, data is required to be inserted relevant to the option selected. Click on the form field **once** and type in the data. Otherwise complete by hand and in ink.

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

Clause	Statement	Data
10.1	The <i>Contractor</i> is (Name):	
	Address	
	Tel No.	
	Fax No.	
11.2(8)	The <i>direct fee percentage</i> is	%
	The <i>subcontracted fee percentage</i> is	%
11.2(14)	The following matters will be included in the Risk Register	
11.2(15)	The Service Information for the <i>Contractor's</i> plan is in:	
21.1	The plan identified in the Contract Data is contained in:	
24.1	The key people are:	
	1 Name:	
	Job:	
	Responsibilities:	
	Qualifications:	
	Experience:	
	2 Name:	
	Job	
	Responsibilities:	

<sup>3</sup> Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 5391902 or [www.ecs.co.za](http://www.ecs.co.za)

Qualifications:

Experience:

CV's (and further key person's data including  
CVs) are in .

A	Priced contract with price list	
11.2(12)	The <i>price list</i> is in	page 24
11.2(19)	The tendered total of the Prices is	as per rates

## C1.3 Forms of Securities

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

For use with the NEC3 Term Service Contract (TSC3)

NOT APPLICABLE

**PART 2: PRICING DATA**  
**TSC3 Option A**

Document reference	Title	No of pages
C2.1	Pricing assumptions: Option A	2
C2.2	The <i>price list</i>	[24]

## C2.1 Pricing assumptions: Option A

### How work is priced and assessed for payment

Clause 11 in NEC3 Term Service Contract (TSC3) core clauses and Option A states:

<b>Identified and defined terms</b>	11	
	11.2	(12) The Price List is the <i>price list</i> unless later changed in accordance with this contract.
		(17) The Price for Services Provided to Date is the total of <ul style="list-style-type: none"><li>the Price for each lump sum item in the Price List which the <i>Contractor</i> has completed and</li><li>where a quantity is stated for an item in the Price List, an amount calculated by multiplying the quantity which the <i>Contractor</i> has completed by the rate.</li></ul>
		(19) The Prices are the amounts stated in the Price column of the Price List. Where a quantity is stated for an item in the Price List, the Price is calculated by multiplying the quantity by the rate.

This confirms that Option A is a priced contract where the Prices are derived from a list of items of service which can be priced as lump sums or as expected quantities of service multiplied by a rate or a mix of both.

### Function of the Price List

Clause 54.1 in Option A states: "Information in the Price List is not Service Information". This confirms that instructions to do work or how it is to be done are not included in the Price List but in the Service Information. This is further confirmed by Clause 20.1 which states, "The *Contractor* Provides the Service in accordance with the Service Information". Hence the *Contractor* does **not** Provide the Service in accordance with the Price List. The Price List is only a pricing document.

### Link to the *Contractor's* plan

Clause 21.4 states "The *Contractor* provides information which shows how each item description on the Price List relates to the operations on each plan which he submits for acceptance". Hence when compiling the *price list*, the tendering contractor needs to develop his first clause 21.2 plan in such a way that operations shown on it can be priced in the *price list* and result in a satisfactory cash flow in terms of clause 11.2(17).

### Preparing the *price list*

Before preparing the *price list*, both the *Employer* and tendering contractors should read the TSC3 Guidance Notes pages 14 and 15. In an Option A contract, either Party may have entered items into the *price list* either as a process of offer and acceptance (tendering) or by negotiation depending on the nature of the *service* to be provided. Alternatively the *Employer*, in his Instructions to Tenderers or in a Tender Schedule, may have listed some items that he requires the *Contractor* to include in the *price list* to be prepared and priced by him.

It is assumed that in preparing or finalising the *price list* the *Contractor*:

- Has taken account of the guidance given in the TSC3 Guidance Notes relevant to Option A;
- Understands the function of the Price List and how work is priced and paid for;
- Is aware of the need to link operations shown in his plan to items shown in the Price List;
- Has listed and priced items in the *price list* which are inclusive of everything necessary and incidental to Providing the Service in accordance with the Service Information, as it was at the time of tender, as well as correct any Defects not caused by an *Employer's* risk;
- Has priced work he decides not to show as a separate item within the Prices or rates of other listed items in order to fulfil the obligation to complete the *service* for the tendered total of the Prices.
- Understands there is no adjustment to items priced as lump sums if the amount, or quantity, of work within that item later turns out to be different to that which the *Contractor* estimated at time of tender. The only basis for a change to the (lump sum) Prices is as a result of a compensation event.

### **Format of the *price list***

(From the example given in an Appendix within the TSC3 Guidance Notes)

Entries in the first four columns in the *price list* in section C2.2 are made either by the *Employer* or the tendering contractor.

If the *Contractor* is to be paid an amount for the item which is not adjusted if the quantity of work in the item changes, the tendering contractor enters the amount in the Price column only, the Unit, Expected Quantity and Rate columns being left blank.

If the *Contractor* is to be paid an amount for an item of work which is the rate for the work multiplied by the quantity completed, the tendering contractor enters the rate which is then multiplied by the Expected Quantity to produce the Price, which is also entered.

If the *Contractor* is to be paid a Price for an item proportional to the length of time for which a service is provided, a unit of time is stated in the Unit column and the expected length of time (as a quantity of the stated units of time) is stated in the Expected Quantity column.

## C2.2 the *price list*

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

The *staff rates* and *expenses* excluding VAT.

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

Service provider to list all rates of professionals as per scope:

No.	Designation (or category) or name of staff member	Rate per hour excluding VAT
	<b>SHEQS Environmental Legal Audits.</b>	
1	Environmental Legal – Registered Lead Auditor – one per audit	
2	Environmental Legal – Registered Auditors (number dependent on man-days (sample scope) required for Legal audits)	
3	OHS Legal Lead Auditor – one per audit	
4	OHS Legal Registered Auditors (number dependent on man-days (sample scope) required for Legal audits)	

### 2. The *expenses* are:

No.	Expense item	Unit Measure	Amount / rate excluding VAT
1	Travelling using own vehicle, per km – as per Eskom rate	per km	
2	Accommodation – Limited to 3 Star (3 quotations and Proof of invoice required)	Per person per night	As per task order
3	Flights – Limited to Economy class (Proof of invoice required) to be ratified by Eskom Service Manager	Per person	As per task order
4	Car Hire – Code B – (Proof of invoice required)	Per hired car	As per task order
	All S&T as per Eskom capped rate. (Proof of invoice required).		



### 3. The task schedule

The following format could be used:

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

No.	Items of work priced on a lump sum basis	Price (excluding VAT)
A	<b>Legal Compliance Audits</b>	
1	Compilation of Audit Reports	
1.1	Compilation of Environmental Legal Audit Reports	
1.2	Compilation of OHS Legal Audit Reports	
	Note: Audit schedule to be based on compilation of man-audit days required for legal audit	

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

C3.1: EMPLOYER’S SCOPE

Contents

Document reference	Title	No of pages
	1 Description of the services	27
	2 Specification and description of the services	28
	3 Constraints on how the Contractor Provides the Services.	34
	Total number of pages	

# 1 Description of the services

## 1.1 Executive overview

The Cape Coastal Cluster (comprising Western Cape and Eastern Cape areas) is implementing an ISO14001 environmental management system and an ISO45001 occupational health and safety management system.

In order to be certified to these standards an independent accredited auditor is required to conduct Legal compliance audits to satisfy evaluation of compliance clause as required in terms of ISO14001 and ISO45001.

Objective of the legal compliance audits is to evaluate compliance against environmental legal requirements and OHS legal requirements as pertaining to the cluster activities, products and services and related aspects and impacts and OHS risks. The audits must be conducted or compiled in separate reports for environment and OHS

The legal compliance audits must be conducted with sampled sites taken across the Cluster and undertaken as per agreement with the Client.

The legal compliance audits can take place as agreed upon with the Client on an as and when basis as required in terms of the business ISO14001 and ISO45001

The services include the following:

- Legal Compliance Audits
- 1. Conducting independent environmental legal compliance audits
- 2. Conducting independent OHS legal compliance audits

The OHS and Environmental management staff shall be available and accompany the supplier throughout the project for discussion of audit schedule / sites.

If there is a national contract in place that makes provision for these audits, the cluster contract will be used on an as and when needed basis.

## 1.2 Interpretation and terminology

The following abbreviations are used in this Scope:

Abbreviation	Meaning given to the abbreviation
ECSA	Engineering Council of South Africa
SACPCMP	South African Council for Project and Construction Management Professionals
SAATCA	South African Auditor & Training Certification Authority
CCC	Cape Coastal Cluster (Distribution)
SANAS	South African National Accreditation System
EC	Eastern Cape
WC	Western Cape

## 2 Specification and description of the services

### Activities/processes

#### **Legal Compliance Audits:**

The Cape Coastal Cluster seeks the services for the legal compliance audits to be conducted to check compliance to legal requirements. These legal audits are also required to be conducted to fulfil ISO 14001:2015 certification requirements and ISO45001 certification requirements.

The Cape Coastal Cluster seek an independent and competent contractor/s who will be able to assess legal and other compliance obligations for Environmental management and Occupational Health and Safety management

#### **Objectives**

To ensure compliance with applicable legislation and regulations as well as other requirements

To evaluate the associated legal responsibilities and how these are incorporated into the organisation's Environmental policies, objectives and targets. This will include consideration of operational procedures such as land and biodiversity, waste management, air, water, risk assessment, incident management, legal appointments, etc.

To evaluate the legal compliance processes for service providers (e.g. as stipulated in Eskom policies and procedures) and how the level of compliance is monitored and reported. The Cluster requires the service provider to conduct practical and effective execution of Environmental and OHS legal compliance audits and compile an accurate audit report based on factual observation, interviews and data from site.

Environmental legal compliance audit as required by ISO14001 (must fulfil the evaluation of compliance clause)

Conduct environmental legal compliance audits based on environmental national, provincial and municipal legal requirements applicable (with consideration given to sites aspect and impacts registers and activities / products and services)

This may include compliance to permits where relevant to the sites.

Audit to be done on a sample of Cape Coastal Cluster sites or on an as and when basis as agreed with Client.

**The service provider must develop and compile audit objectives, scope and criteria and mutually agree on them with Eskom.**

#### **Activities:**

- Facilitate a pre-audit meeting to confirm scope of the audits, criteria, sites and auditees, auditors, audit report format, audit schedule, to arrange co-ordinated activities.
- Pre-audit meetings must be scheduled and conducted at least 8 weeks prior to agreed audit dates.
- Audit scheduling and planning.
- Conducting document reviews / interviews.
- Conducting on-site audits activities.
- Conducting audit follow-ups, if applicable.
- Compiling audit reports.
- Prepare documents such as checklists for the audit, based on site specific information and legislation applicable to the agreed scope.
- Audit checklist template to be made available to the auditee at least 8 weeks prior to agreed audit dates.
- Audit report format to be agreed between Eskom and the supplier.
- Draft report must be submitted for comment.
- Compilation of final audit report within 2 weeks of the audit.

**Deliverables:**

Audit schedule and audit programme (including, not limited to auditors, scope, objectives, criteria, methodology, sample of audit sites)  
Draft and final Legal Audit Reports.

**OHS Legal compliance audit as required by ISO45001 (must fulfil the evaluation of compliance clause)**

Conduct OHS legal compliance Audits based on OHS national, provincial and municipal legal requirements. This must be in accordance with OHS risks and hazards related to the sites.  
Audit to be done on a sample of Cape Coastal Cluster sites on an as and when bases as agreed with client

**Activities:**

- Facilitate a pre-audit meeting to confirm scope of the audits, criteria, sites and auditees, auditors, audit report format, audit schedule, to arrange co-ordinated activities
- Pre-audit meetings must be completed at least 6-8 weeks prior to agreed audit dates
- Prepare documents such as checklists for the audit, based on site specific information and legislation applicable to the agreed scope
- Audit checklist template to be made available to the auditee at least 6- 8 weeks prior to agreed audit dates
- Audit report format to be agreed between Eskom and the supplier
- Draft report must be submitted for comment
- Compilation of final audit report

**Deliverables:**

Audit schedule and audit programme (including, not limited to auditors, scope, objectives, criteria, methodology, audit samples)  
Draft and final Legal Audit Reports

**The Legal Compliance Audit Scope for environment and OHS to include the following:**

Criteria for evaluating Environmental and OHS legal compliance and include the following legislations, as a minimum, but not limited to:

- National Environmental Management Act 107 of 1998
- National Environmental Management Biodiversity Act No 10 of 2004
- National Environmental Management: protected Areas Act No 57 of 2003
- National Environmental Management Air Quality Act No 39 of 2004
- National Water Act No 36 of 1998
- National Forests Act No 84 of 1998
- National Veld and Forest Fire Act No 101 of 1998
- Environmental Conservation Act 73 of 1989
- Conservation of Agricultural Resources Act No 43 of 1983
- Occupational Health and Safety Act No 85 of 1983 and other safety legislation, where applicable
- Codes of best practice
- Provincial and local by-laws
- International treaties, protocols, conventions

Reference can be made also to the legal registers where available.

The scope to include:

- An assessment of each business unit's degree of compliance to applicable legislation and other requirements (organisation's policy, procedures, PCM, local provincial by-laws, international protocols, treaties and conventions) at site

- An assessment of relevant permit and license conditions, environmental authorisations, GAs, action plans, corrective action plans, management plans, contracts and agreements and reporting requirements regarding the applicable legislation
- To evaluate the compliance of contractors and employees to Environmental and OHS Legislation and authorisations, Eskom Procedures.
- To evaluate communication of legal obligations and keeping and control of documents containing legal obligations
- To evaluate legal obligation in the organisations emergency preparedness and response mechanisms
- To determine if the rehabilitation requirements have been met and included in the operational phase
- To evaluate commitments made to comply with applicable legislation and prevent pollution, injury and how the organization is addressing legal obligations in management reviews.
- Monitoring and measuring activities in order to meet its legal obligation

#### **Requirements:**

Contractors to comply with all health, safety and environmental legislation and requirements as per Eskom directives, policies and procedures.

Contractor to have the required PPE when accessing sites.

Contractors to provide references of similar work done previously and successfully performed.

Contractor must meet the following minimum criteria

The Environmental legal compliance audits and OHS legal compliance audits can be done separately.

#### **Legal Compliance Audits:**

Service providers Environmental legal compliance experience exceeding 5 years (Records (Reference letters x 2); 5 -6 years =15%; 7-9 years = 20%;10 years = 25%)

Environmental legal qualification of resources to undertake the compliance evaluation (must have a law degree and environmentally related degree); Southern African auditor and training certificate (certification authority SAATCA)

Environmental compliance evaluation experience of the resources to undertake the evaluation (Records (Reference letters x 2)

- 5 -6 years =15%
- 7-9 years = 20%
- 10 years = 25%

Proposal meeting scope requirements - Number of resources, pre-audit planning, conducting the audit, timeframes [schedule 8 weeks ahead, report submission - Scope of works

Proposal

80% of scope requirements addressed = 20% (partial)

100% of scope requirements addressed = 25% (all)

The above will be evaluated with a 25% requirement each and a total of 100% with minimum threshold for the technical evaluation is 75%

Note that all required personnel shall be competent with the required qualifications and have the required knowledge, training and experience specific to the work, service or task

Functional and Geographical areas:

The Cape Coastal Cluster comprises the following functional departments

Asset Creation – Land Development & Environment, Engineering & Design, Project Execution, Network planning & Electrification  
Maintenance and Operations – NOS, Plant, Zones (CNCs as per below), Specialised Maintenance Support  
Business Enablement (SHEQS, BIPM, Information Management, Commercial, SMIS, Property Management),  
Finance,  
Retail Human Resources,

Most of these functional departments comprise individual departments at which the system is established.

The CNCs (depots) are located across the Western Cape and Eastern Cape areas.

Note a representative sample of the depts/ sites will be required to be audited with range of processes on typically on a 3 yearly basis or an as and when basis as agreed upon with the Client.

## **CNC's as specified below:**

### **1. Protea Zone & Atlantic Zone**

#### **1.1 Garden Route Sector 4**

- a) Beaufort West CNC
- b) George CNC
- c) Oudtshoorn CNC
- d) Plettenberg CNC
- e) Riversdale CNC
- f) Laingsburg CNC

#### **1.2 Table View Sector 2**

- a) Airport CNC
- b) HV Urban CNC
- c) Carbon CNC
- d) Kraaifontein CNC

#### **1.3 Khayelitsha Sector 5**

- a) Monwabisi CNC
- b) Spine CNC

#### **1.4 Helderberg CNC**

- a) Grabouw CNC
- b) Polkadraai CNC
- c) Delft CNC
- d) Somerset CNC
- e) Energy Protection

#### **1.5 Overberg Sector**

- a) Bredasdorp CNC
- b) Caledon CNC
- c) Ladismith CNC
- d) Montagu CNC
- e) Swellendam CNC

#### **1.6 West Coast Sector 3**

- a) Malmesbury CNC
- b) Piketburg CNC
- c) Vredenburg CNC
- d) Vredendal CNC



## **1.7 Boland**

- a) Ceres CNC
- b) Worcester CNC
- c) Laingsburg CNC
- d) De Doorns CNC

## **The following Eastern Cape Areas**

### **1. Port Elizabeth Zone**

#### **1.1 Customer Service Centres**

- a) Albany
- b) Humansdorp
- c) Joubertina
- d) Kirkwood
- e) Uitenhage
- f) Graaff Reinett
- g) Grahamstown
- h) Cradock
- i) Alexandria
- j) Adelaide

### **2. East London Zone**

#### **2.1 Customer Network Centres**

- a) Alice
- b) Butterworth
- c) Idutywa
- d) Toleni
- e) Coastal CNC
- f) Energy Protection
- g) King Williams Town CNC
- h) Bulembu CNC

### **3. Mthatha Zone**

#### **3.1 Customer Network Centres**

- a) Mqanduli
- b) Elliotdale
- c) Port St Johns
- d) Queenstown
- e) Lady Frere
- f) Cala
- g) Ngcobo
- h) Cofimvaba
- i) Mathatha South
- j) Mqanduli CNC
- k) Elliotdale CNC
- l) Port St Johns CNC
- m) Mthatha North CNC
- n) Energy Protection

### **4. Aliwal North Zone**

#### **4.1 Customer Network Centres**

- a) Aliwal North
- b) Sterkspruit
- c) Elliot

- d) Tsolo
- e) Matatiele
- f) Mount Ayliff
- g) Mount Frere
- h) Flagstaff
- i) Lusikisiki
- j) Bizana

The list is subject to change and any changes where relevant can be discussed with the contractor at the time.

## **2.1 Stage 1 Preparation**

Covered above.

## **2.2 Stage 2 Concept**

Not Applicable.

## **2.3 Stage 3: Design development**

Not Applicable.

## **2.4 Stage 4: Production information**

Not Applicable.

## **2.5 Stage 5: Manufacture, Installation and Construction Information:**

Not Applicable.

## **2.6 Stage 6: Post Practical Completion**

Not Applicable.

### 3 Constraints on how the *Contractor* Provides the Services.

#### 3.1 Management meetings

Regular meetings of a general nature may be convened and chaired by the Service Manager as follows:

Title and purpose	Approximate time & interval	Location	Attendance by:
Meetings required			
Pre-audit meeting/s	As communicated	Site to be informed	End User, Lead Auditor etc
Audit Opening meeting	@ start of audit	Site to be informed (face to face or MS Teams as agreed with Service Manager and Contractor)	End User, Lead Auditor, Auditor etc
Audit Close-out meeting	@ close of audit	Site to be informed (face to face or MS Teams as agreed with Service Manager and Contractor)	End User, Lead Auditor, Auditor etc
Additional progress meetings such as overall contract progress and feedback	As and when	As and when	Service Manager, Contractor, etc

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 Service Manager by the person convening the meeting within five days of the meeting.

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

#### 3.2 *Contractor's key persons*

Provide an organogram showing the lines of authority and communication.  
Provide a list of contractor's names, designations and contact details.

#### 3.3 Provision of bonds and guarantees

Not applicable.

#### 3.4 Documentation control and retention

##### 3.4.1 Identification and communication

Communication to occur via written email communication with submission of audit programmes, schedules and draft and final audit reports. Additional communication via MS TEAMS or telephonic as deemed appropriate and agreed between client and Service Manager.

The following forms will be used during the contract period and should be kept on record:

1. Early Warning
2. Compensation Event Notifications
3. Notification of Default
4. Instructions by Service Manager or Service provider

### 3.4.2 Retention of documents

The Contractor may retain copies of reports only for the timeperiod of the service contract. All Eskom documents and records and information provided during the course of the contract and services provided must be treated as confidential and not divulged to any third parties, without the written consent of the Service Manager during or after the contract has been terminated.

### 3.5 Records and forecasting of expenses

All audit reports become the records of the client.

### 3.6 Records and forecasting of the Time Charge

All audit reports become the records of the client. Records on contractor's time to be kept for invoicing.

### 3.7 Invoicing and payment

#### Invoice Inclusions:

The Supplier includes the following information on each tax invoice:

- Name and address of the Contractor
- Project name
- The contract number (46...) and title as well as Purchase Order Number (45....);
- The total Price for Work Done to Date which the Contractor has completed;
- Other amounts to be paid to the Supplier;
- Less amounts to be paid by or retained from the Supplier;
- The change in amount due since the previous payment;
- (add other as required)

In addition;

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/contractor**.
3. **Name, address** and **VAT registration number** of the **recipient**.

Please note: Eskom's name has to be reflected as **Eskom Holdings SOC Limited** on all tax invoices and Eskom's VAT number is 4740101508. The word just Eskom is not acceptable.

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. Ensure that the Eskom Purchase Order Number is clearly indicated on your invoice together with the line number on the order you are billing for

8. Where the supply is subject to VAT at the standard rate, the following in Rand:

- The pre-VAT value, VAT amount and consideration OR
- The total consideration with a statement that VAT is included @15% OR
- The total consideration and the Rand amount of VAT charged.

#### Invoice Submission:

- All electronic invoices must be sent in PDF format only
- Each PDF file should contain one invoice; or one debit note; or one credit note only.  
Eskom SAP system does not support more than one PDF being linked into workflow at a time
- Only one PDF file per email. ( i.e. one invoice or one debit note or one credit note only)

- Send all invoices in PDF straight from your system to the Eskom email address i.e. [invoiceseskomlocal@eskom.co.za](mailto:invoiceseskomlocal@eskom.co.za)

**Follow-up with Finance Shared Services (FSS):**

All queries and follow-up on invoice payments should be made by contacting the FSS Contact Centre at +27 11 800 5060 or email [fss@eskom.co.za](mailto:fss@eskom.co.za)

Introducing electronic invoicing does not guarantee payment but will ensure visibility of all invoices as well as ensure that no invoice are lost. If the Goods Receipt (GR) is not done, the invoice will be parked, and the system will automatically send an email to the end user to do the GR. This is also tracked by Eskom through the park invoice report.

Your company can request a park invoice report from the Finance Shared Services (FSS) Contact Center which can then be followed up and corrected. You are welcome to forward the details of invoices corrected to the FSS Contact Center.

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

[List them]

The *Contractor* shall address the tax invoice to \_\_\_\_\_ and include on it the following information:

- Name and address of the *Contractor* and the Service Manager;
- The contract number and title;
- *Contractor'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)

[Add procedures for invoice submission and payment (e. g. electronic payment instructions)]

### **3.8 Contract change management**

If there will be any changes in the contract Eskom will notify of any changes in writing.

### **3.9 Inclusions in the programme**

Audit site selection, audit programme and proposed schedule to be discussed and agreed upon with the Client at least 8 weeks prior the audit.

### **3.10 Quality management**

#### **3.10.1 System requirements**

Company Management Quality System to be provided at tender stage.

#### **3.10.2 Information in the quality plan**

Provide your company quality statement and quality plan.

### **3.11 The Parties use of material provided by the *Contractor***

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

Contractor to make use of own materials and equipment and resources as required for the audits. Site required PPE must be provided by the auditor at the time of conducting the audits, if face to face.

All audit reports submitted to auditor will deemed to be Client property.

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

No Eskom records, documentation, reports or materials must be used for other contract work.

### **3.11.3 Transfer of rights if Option X 9 applies**

Not Applicable.

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

- Adhoc task orders will be issued as when required
- Contractor to review the task order and accept within 3 days
- If in agreement both parties will sign the task order
- Audit Program, Audit Report and Certificates (Certification/Surveillance) to be submitted before the task order completion date
- Payments will be affected after the services has been completed and accepted

## **3.13 Health and safety**

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

[If the *Contractor* may be required to work on Eskom premises, such as a power station, where health and safety requirements additional to those prescribed by law apply, specify these here or state, The *Contractor* shall comply with the health and safety requirements contained in Annexure \_\_\_\_\_ to this Scope.]

## **3.14 Procurement**

### **3.14.1 BBBEE and preferencing scheme**

80:20

### **3.14.2 Other constraints**

Not Applicable

### **3.14.3 Preferred subcontractors**

Not Applicable

### **3.14.4 Subcontract documentation, and assessment of subcontract tenders**

Not Applicable

### **3.14.5 Limitations on subcontracting**

Not Applicable

### **3.14.6 Attendance on Subcontractors**

Not Applicable

## **3.15 Correction of Defects**

Not Applicable

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

Are applicable

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

All health and safety rules and requirements must be adhered to on Eskom sites.

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

Restrictions and hours of work may apply on some sites. It is very important that the Contractor keeps records of his people working on the Employer's property, including those of his Subcontractors. State that the Service Manager shall have access to these records at any time. These records may be needed when assessing compensation events.

### 3.17 Cooperating with and obtaining acceptance of Others

Not Applicable

### 3.18 Things provided by the *Employer*

*Employer* will provide in the way of meeting rooms (if face to face), power, water, waste disposal, ablutions, fire protection and lighting (etc) on the Affected Property.

Right to access to Eskom property.

### 3.19 Cataloguing requirements by the *Contractor*

Not Applicable

## 4 List of drawings

Not applicable

### 4.1 Drawings issued by the *Employer*

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

Drawing number	Revision	Title

# Task Order

**Task Order form for use when work within the *service* is instructed to be carried out within a stated period of time on a Task-by-Task basis**

Task Order No. [•] service [•]  
To: [•] ..... (Contractor)

I propose to instruct you to carry out the following task:

Description [•]

Starting date [•]

Completion Date [•]

Delay damages per week [•]

Please submit your price and programme proposals below.

Signed: Date

(for *Employer*)

Total of Prices for items of work on the Price List  
(details attached) R. \_\_\_\_\_

Total of Prices for items of work not on the Price List  
(details attached). R. \_\_\_\_\_

Total of the Prices for this Task Order R \_\_\_\_\_

The programme for the Task is ..... [ref] (attached)

Signed: Date

(for *Contractor*)

I accept the above price and programme and instruct you to carry out the Task

Signed: Date:

(for *Employer*)



