



## NEC3 Professional Services Contract (PSC3)

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

**and  
(Reg No.)**

**for The provision for the routine biomonitoring, report  
compilation and training for a period of 24 months  
on an as “and when required basis”**

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**CONTRACT No. [ ]**

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

<b>Document reference</b>	<b>Title</b>	<b>No of pages</b>
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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:

**The provision for the routine biomonitoring, report compilation and training for a period of 24 months 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 *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	<b>As per the rates on pricing structure on</b>
Value Added Tax @ 15% is	<b>15% of the rates on the pricing structure</b>

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:**

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**

Name &  
signature of  
witness

Date

## C1.2 PSC3 Contract Data

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

Clause	Statement	Data
1	<b>General</b>	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option	
	dispute resolution Option	<b>A: Priced contract with activity schedule</b>
	and secondary Options	<b>W1: Dispute resolution procedure</b>
		<b>X1 Provision for annual inflation</b>
		<b>X2: Changes in the law</b>
		<b>X7: Delay damages</b>
		<b>X10 Employer’s Agent</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>1</sup>	
10.1	The <i>Employer</i> is (Name):	<b>Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state-owned company incorporated in terms of the company laws of the Republic of South Africa</b>
	Address	<b>Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg</b>
	Tel No.	<b>+27 (11) 800 2725</b>
	Fax No.	<b>+27 (86) 661 1103</b>
11.2(9)	The <i>services</i> are	<b>Provision of Ethics Risk Assessment</b>
11.2(10)	The following matters will be included in the Risk Register	<b>Risks will be noted as and when encountered</b>
11.2(11)	The Scope is in	<b>Part 3: Scope of Work</b>
12.2	The <i>law of the contract</i> is the law of	<b>the Republic of South Africa</b>
13.1	The <i>language of this contract</i> is	<b>English</b>
13.3	The <i>period for reply</i> is	<b>3 Working days</b>
13.6	The <i>period for retention</i> is	<b>5 years following Completion or earlier termination.</b>

<sup>1</sup> Available from Engineering Contract Strategies Tel 011 803 3008 Fax 011 803 3009 and [www.ecs.co.za](http://www.ecs.co.za)

## 2 The Parties’ main responsibilities

25.2	The <i>Employer</i> provides access to the following persons, places and things	<b>access to</b>	<b>access date</b>
		1 All the necessary areas that the consultant needs to gain access to in order to perform the services required	During the contract period

## 3 Time

31.2	The <i>starting date</i> is.	20 January 2022
11.2(3)	The <i>completion date</i> for the whole of the services is.	19 January 2023
31.1	The <i>Consultant</i> is to submit a first programme for acceptance within	2 Weeks
32.2	The <i>Consultant</i> submits revised programmes at intervals no longer than	Not Applicable

## 4 Quality

40.2	The quality policy statement and quality plan are provided within	N/A weeks of the Contract Date.
42.2	The <i>defects date</i> is	24 weeks after Completion of the whole of the services.

## 5 Payment

50.1	The <i>assessment interval</i> is	A month from the day the report has been submitted
51.1	The period within which payments are made is	4 weeks / 30 days of invoice
51.2	The <i>currency of this contract</i> is the	South African Rand

51.5 The *interest rate* is

(i) zero percent above 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 (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands

and

(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 *mutatis mutandis* every 6 months thereafter (and as certified, in the event of any dispute, by any manager employed in the foreign exchange department of The Standard Bank of South Africa Limited, whose appointment it shall not be necessary to prove.

6	Compensation events	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.	
7	Rights to material	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.	
8	Indemnity, insurance, and liability		
81.1	The amounts of insurance and the periods for which the <i>Consultant</i> maintains insurance are		
	<b>Event</b>	<b>Cover</b>	<b>Period following Completion of the whole of the services or earlier termination</b>
	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>	Whatever the <i>Consultant</i> deems necessary in respect of each claim, without limit to the number of claims	And to the extent the <i>Consultant</i> deems further

death of or bodily injury to a person (not an employee of the *Consultant*) or loss of or damage to property arising from or in connection with the *Consultant's* Providing the Services.

**Whatever the *Consultant* deems necessary for any occurrence or series of occurrences arising out of one event without limit to the number of claims.**

**And to the extent the *Consultant* deems further**

death of or bodily injury to employees of the *Consultant* 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 *Consultant's* 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**

**And to the extent the *Consultant* deems further**

81.1	The <i>Employer</i> provides the following insurances	<b>Refer to Annexure A for details of insurance provided by the <i>Employer</i></b>
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	<b>R0.00</b>
	The <i>Consultant</i> provides these additional insurances.  1 Insurance against:	<b>Whatever the <i>Consultant</i> deems necessary including cover provided for payment of deductibles</b>
<b>9</b>	<b>Termination</b>	<b>There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.</b>
<b>10</b>	<b>Data for main Option clause</b>	
<b>A</b>	<b>Priced contract with activity schedule</b>	
21.3	The <i>Consultant</i> prepares forecasts of the total of the <i>expenses</i> at intervals of no longer than	<b>A date will be mutually agreed between the <i>Employer</i> and the <i>Consultant</i>.</b>
50.4	The <i>exchange rates</i> are those published in	<b>N/A</b>
<b>11</b>	<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).
W1.2(3)	The <i>adjudicator nominating body</i> is:	the Chairman of the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering. (See <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a> ).
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	Republic of South Africa
	The person or organisation who will choose an arbitrator	
	<ul style="list-style-type: none"> <li>• if the Parties cannot agree a choice or</li> <li>• if the <i>arbitration procedure</i> does not state who selects an arbitrator, is</li> </ul>	the Chairman for the time being or his nominee 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	N/A
	The staff rates are	Rands
<b>X2</b>	<b>Changes in the law</b>	
X2.1	The law of the project is	Any law within the Republic of South Africa which applies to the contractors providing the service
<b>X7</b>	<b>Delay damages</b>	
X7.1	Delay damages for late Completion of the whole of the <i>services</i> are	Delay damages for the whole of the services is 0.1% per activity per delay.
<b>X10</b>	<b>The <i>Employer's Agent</i></b>	
X10.1	The <i>Employer's Agent</i> is	
	Name:	
	Address	
	The authority of the <i>Employer's Agent</i> is	Managing the contract

	Tel	
	Email	
<b>X18</b>	<b>Limitation of liability</b>	
X18.1	The <i>Consultant's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to:	<b>R0.00 (Zero Rand)</b>
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:	<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.</b>
<b>Z</b>	<b>The <i>Additional conditions of contract</i> are</b>	<b>Z1 to Z14 always apply.</b>
<b>Z1</b>	<b>Cession delegation and assignment</b>	
Z1.1	The <i>Consultant</i> does not cede, delegate or assign any of its rights or obligations to any person without the written consent of the <i>Employer</i> .	
Z1.2	Notwithstanding the above, the <i>Employer</i> may on written notice to the <i>Consultant</i> 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.	
<b>Z2</b>	<b>Joint ventures</b>	
Z2.1	If the <i>Consultant</i> 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 <i>Employer</i> for the performance of this contract.	
Z2.2	Unless already notified to the <i>Employer</i> , the persons or organisations notify the <i>Employer</i> within two weeks of the Contract Date of the key person who has the authority to bind the <i>Consultant</i> on their behalf.	
Z2.3	The <i>Consultant</i> does not alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without the consent of the <i>Employer</i> having been given to the <i>Consultant</i> in writing.	
<b>Z3</b>	<b>Change of Broad Based Black Economic Empowerment (B-BBEE) status</b>	
Z3.1	Where a change in the <i>Consultant's</i> legal status, ownership or any other change to his business composition or business dealings results in a change to the <i>Consultant's</i> B-BBEE status, the <i>Consultant</i> notifies the <i>Employer</i> within seven days of the change.	
Z3.2	The <i>Consultant</i> is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the <i>Employer</i> within thirty days of the notification or as otherwise instructed by the <i>Employer</i> .	
Z3.3	Where, as a result, the <i>Consultant's</i> B-BBEE status has decreased since the Contract Date the <i>Employer</i> may either re-negotiate this contract or alternatively, terminate the <i>Consultant's</i> 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 *Consultant* or a third party, such party's employees, agents, or Subconsultants or Subconsultant's employees, or any one or more of all of these parties' relatives or friends,

**Coercive Action** means to harm or threaten to harm, directly or indirectly, an Affected Party or the property of an Affected Party, or to otherwise influence or attempt to influence an Affected Party to act unlawfully or illegally,

**Collusive Action** means where two or more parties co-operate to achieve an unlawful or illegal purpose, including to influence an Affected Party to act unlawfully or illegally,

**Committing Party** means, as the context requires, the *Consultant*, or any member thereof in the case of a joint venture, or its employees, agents, or Subconsultants or the Subconsultant's employees,

**Corrupt Action** means the offering, giving, taking, or soliciting, directly or indirectly, of a goods 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 like the <i>services</i>	Whatever the <i>Consultant</i> deems necessary in respect of each claim, without limit to the number of claims	And to the extend the <i>Consultant</i> deems further
Liability for death of or bodily injury to a person (not an employee of the <i>Consultant</i> ) or loss of or damage to property resulting from an action or failure to take action by the <i>Consultant</i>	<p><b><u>Loss of or damage to property:</u></b> The replacement cost where not covered by the <i>Employer's</i> insurance</p> <p>The <i>Employer's</i> policy deductible, as at Contract Date, where covered by the <i>Employer's</i> insurance</p> <p><b><u>Bodily injury to or death of a person:</u></b> The amount required by the applicable law.</p>	And to the extend the <i>Consultant</i> deems further
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	And to the extend the <i>Consultant</i> deems further

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 44 of 1999, save to the extent that any liabilities are incurred due to the unlawful intent of the *Consultant* or any other person or the presence of the *Consultant* or that person or any property of the *Consultant* or such person at or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.
- Z13.3 Subject to clause Z13.4 below, the *Employer* waives all rights of recourse, arising from the aforesaid, save to the extent that any claims arise or liability is incurred due or attributable to the unlawful intent of the *Consultant* or any other person, or the presence of the *Consultant* or that person or any property of the *Consultant* or such person at or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.
- Z13.4 The *Employer* does not waive its rights provided for in section 30 (7) of Act 44 of 1999, or any replacement section dealing with the same subject matter.
- Z13.5 The protection afforded by the provisions hereof shall be in effect until the KNPS is decommissioned.

### Z14 Asbestos

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

- AAIA** means approved asbestos inspection authority.
- ACM** means asbestos containing materials.
- AL** means action level, i.e. a level of 50% of the OEL, i.e. 0.1 regulated asbestos fibres per ml of air measured over a 4 hour period. The value at which proactive actions is required in order to control asbestos exposure to prevent exceeding the OEL.

<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.
<b>TWA</b>	means the average exposure, within a given workplace, to airborne asbestos fibres, normalised to the baseline of a 4 hour continuous period, also applicable to short term exposures, i.e. 10-minute TWA.

- Z14.1 The *Employer* ensures that the Ambient Air in the area where the *Consultant* will Provide the Services conforms to the acceptable prescribed South African standard for asbestos, as per the regulations published in GNR 155 of 10 February 2002, under the Occupational Health and Safety Act, 1993 (Act 85 of 1993) (“Asbestos Regulations”). The OEL for asbestos is 0.2 regulated asbestos fibres per millilitre of air as a 4-hour TWA, averaged over any continuous period of four hours, and the short term exposure limit of 0.6 regulated asbestos fibres per millilitre of air as a 10-minute TWA, averaged over any 10 minutes, measured in accordance with HSG248 and monitored according to HSG173 and OESSM.
- Z14.2 Upon written request by the *Consultant*, the *Employer* certifies that these conditions prevail. All measurements and reporting are effected by an independent, competent, and certified occupational hygiene inspection body, i.e. a SANAS accredited and Department of Employment and Labour approved AAIA. The *Consultant* may perform Parallel Measurements and related control measures at the *Consultant's* expense. For the purposes of compliance the results generated from Parallel Measurements are evaluated only against South African statutory limits as detailed in clause Z14.1. Control measures conform to the requirements stipulated in the AAIA-approved asbestos work plan.
- Z14.3 The *Employer* manages asbestos and ACM according to the Standard.
- Z14.4 In the event that any asbestos is identified while Providing the Services, a risk assessment is conducted and if so required, with reference to possible exposure to an airborne concentration of above the AL for asbestos, immediate control measures are implemented and relevant air monitoring conducted in order to declare the area safe.
- Z14.5 The *Consultant's* personnel are entitled to stop working and leave the contaminated area forthwith until such time that the area of concern is declared safe by either Compliance Monitoring or an AAIA approved control measure intervention, for example, per the emergency asbestos work plan, if applicable.
- Z14.6 The *Consultant* continues to Provide the Services, without additional control measures presented, on presentation of Safe Levels. The contractually agreed dates to Provide the Services, including the Completion Date, are adjusted accordingly. The contractually agreed dates are extended by the notification periods required by regulations 3 and 21 of the

Asbestos Regulations, 2001.

- Z14.7 Any removal and disposal of asbestos, asbestos containing materials and waste, is done by a registered asbestos contractor, instructed by the *Employer* at the *Employer's* expense, and conducted in line with South African legislation.
-



## C1.2 Contract Data

### Part two - Data provided by the *Consultant*

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		
11.2(3)	The <i>completion date</i> for the whole of the <i>services</i> is	
11.2(10)	The following matters will be included in the Risk Register	Risks will be recorded as and when they are identified
11.2(13)	The <i>staff rates</i> are:	name/designationRate
	Either complete here or cross refer to a schedule in Part C2.2	As per pricing structure
25.2	The <i>Employer</i> provides access to the following persons, places and things	access toaccess date 1 All necessary areas will be arranged as and when requiredWithin the contract period
31.1	The programme identified in the Contract Data is	As per the scope

50.3	The <i>expenses</i> stated by the <i>Consultant</i> are	<b>Item</b>  <b>As per the pricing structure</b>	<b>Amount</b>  <b>As per the pricing structure</b>
<b>A</b>	<b>Priced contract with activity schedule</b>		
11.2(14)	The <i>activity schedule</i> is in	<b>Rands</b>	
11.2(18)	The tendered total of the Prices is	<b>Rands</b>	

## PART 2: PRICING DATA

### PSC3 Option A

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

## C2.1 Pricing assumptions: Option A

### How work is priced and assessed for payment

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

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

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

### Function of the Activity Schedule

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

### Link to the programme

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

### Preparing the activity schedule

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

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

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

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

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

estimated at time of tender. The only basis for a change to the Prices is as a result of a compensation event.

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

## **Expenses**

*Expenses* are not included in the *activity schedule* items and are assessed separately at each assessment date, unless an additional condition of contract (Z clause) is included which requires that expenses be included within activity Prices and not paid separately.

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

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

## **Staff rates**

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

The Time Charge is the sum of the products of each of the *staff rates* multiplied by the total staff time appropriate to that rate properly spent on work in this contract. (Clause 11.2(13))

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

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

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

Rate adjustment for inflation, if necessary, can be based either on actual salary adjustments or by using Option X1: Price adjustment for inflation. See pages 13 and 14 in the PSC3 Guidance Notes.

## C2.2 the *activity schedule*

The *staff rates* exclude VAT.


Na

Signature \_\_\_\_\_

Date

## PART 3: SCOPE OF WORK

Document reference	Title	No of pages
C3.1	<i>Employer's Scope</i>	7
	Total number of pages	

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## C3.1: EMPLOYER'S SCOPE

### Description of the services Executive overview

#### SCOPE OF WORK

##### 1) Biomonitoring surveys

3x Biomonitoring site surveys at various locations around Eskom Coal fired Power stations (Feb 2022, July 2022, Feb 2023).

<u>Station Survey</u>	<u>No. of sites</u>	<u>Analyses and interpretation per survey (summer and winter)</u>			
		<u>Macroinvertebrate assessment (SASS5 and MIRAI) Summer &amp; Winter</u>	<u>Fish assessment FAI, FRAI) Summer Only</u>	<u>Toxicity</u>	<u>Aquatic chemistry</u>
<u>Matla</u>		X	X	X	X
<u>Kriel</u>		X		X	X
<u>Grootvlei</u>		X	X	X	X
<u>Lethabo</u>				X	X
<u>Duvha</u>		X	X	X	X
<u>Kendal</u>		X		X	X
<u>Kusile</u>		X	X	X	X
<u>Arnot</u>		X	X	X	X
<u>Majuba &amp; UCG</u>		X	X	X	X
<u>Tutuka</u>		X		X	X
<u>Hendrina</u>		X		X	X
<u>Komati</u>		X	X	X	X
<u>Camden</u>		X	X	X	X
<u>Matimba and Medupi</u>		X		X	X

The SASS accredited supplier will be required to accompany and assist Eskom staff with the biomonitoring of surface water. These sites are in Mpumalanga, Limpopo, Gauteng and Free state.

##### 2) Report Compilation

The compilation of Biomonitoring survey reports for:


- Winter Survey (July 2021) and summer (Feb 2022) - 15 Reports
- Winter Survey (July 2022 and summer (Feb 2023) – 15 reports

An Eskom report template will be provided for compilation of the report and RT&D survey technicians can be consulted if additional field information is required. The report must be reviewed and meet Eskom RT&D standards and include trend analysis and interpretation of the following fields:

- South African Scoring System version 5 (SASS5)

**Controlled Disclosure**



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- [Integrated Habitat Assessment System \(IHAS\)](#)
- [Macroinvertebrate Assessment Index \(MIRAI\)](#)
- [Fish Assessment Assemblage Index \(FAII\)](#)
- [Fish Response Assessment Index \(FRAI\)](#)
- [Toxicity \(DEEEP\)](#)
- [Chemistry](#)

### **3) Biomonitoring Training –**

[On site and class type training to cover the following: sampling \(DWS accreditation\) and assessments, data analysis and interpretation for SASS5, IHAS, MIRAI, FAII, FRAI, Toxicity and Chemistry.](#)

- ☐ [Two days on onsite at Kusile Power Station for 2-3 people \(approx. 100km from Johannesburg central\)](#)
- ☐ [Five days class type for 2-3 people In Johannesburg](#)

[Compilation of 15 reports per survey \(3 surveys\) within a two month period of receiving field data from RT&D. Reports to be compiled according to a standard format as provided by RT&D.](#)

[Provision of two \(2\) field days of practical training at Kusile power station \(approx. 100 km from Joburg central\) and five \(5\) days of classroom training in Gauteng for 2-3 trainees on the theory, analysis and interpretation of SASS5, IHAS, MIRAI, FAII, FRAI, Toxicity and Chemistry.](#)


~~[Compilation of 15 reports per survey \(4 surveys\) within a two month period of receiving field data from RT&D. Reports to be compiled according to a standard format as provided by RT&D.](#)~~

~~[Provision of two \(2\) field days of practical training at Kusile power station \(approx. 100 km from Joburg central\) and five \(5\) days of classroom training in Gauteng for 2-3 trainees on the theory, analysis and interpretation of SASS5, IHAS, MIRAI, FAII, FRAI, Toxicity and Chemistry.](#)~~

### **Specification of the product**

[Reports will be internally reviewed by Eskom Environmental Practitioners for quality control. The training must be DWS accredited to ensure practitioners are eligible to partake in the SASS5 accreditation thereafter.](#)  
[The supplier will be required to use their own transport and cover living out expenses during field work and training, and rates need to be stipulated.](#)


**Controlled Disclosure**

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~~Reports will be internally reviewed by Eskom Environmental Practitioners for quality control.~~

~~The training must be DWS accredited to ensure practitioners are eligible to partake in the SASS5 accreditation thereafter.~~

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## Interpretation and terminology

## Specification and description of the services

Specification of goods and services:

Reports will be internally reviewed by Eskom Environmental Practitioners for quality control.

The training must be DWS accredited to ensure practitioners are eligible to partake in the SASS5 accreditation thereafter.

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

### Management meetings

Meetings will be scheduled and convened as and when required.

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

### Records and forecasting of expenses

Not Applicable

## Invoicing and payment

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 showing the amount due for payment equal to that stated in the *Service Manager's* payment certificate.

The *Contractor* shall address the tax invoice to  
The Office of the Company Secretary  
and include on each invoice the following information:

- Name and address of the *Consultant* and the *Employer's Agent*;
- The contract number and title;
- *Consultant's* VAT registration number;
- The *Employer's* VAT registration number 4740101508;
- Total amount invoiced excluding VAT, the VAT and the invoiced amount including VAT;
- (add other as required)


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

## Contract change management *Employer's* property

Any changes to the agreed processes must be communicated to all parties in writing.

## Inclusions in the programme

Not Applicable

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## Quality management

### System requirements

Clause 40.1 requires that the *Consultant* operate a quality management system as stated in the Scope. The required documents were submitted and evaluated, and will be monitored throughout the contract term.

### 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. The required documents were submitted and evaluated, and will be monitored throughout the contract term.

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

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

Clause 70.1 states that the *Employer* has the right to use the material provided by the *Consultant* for the purpose stated in the Scope.

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


Clause 70.4, covered by the NDA.

## Health and safety

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

## Procurement

Name: \_\_\_\_\_

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Signature \_\_\_\_\_

Date \_\_\_\_\_

## Correction of Defects

Clause 41.2

## Working on the *Employer's* property

The contractor may be requested to carry out certain tasks from the *Employer's* property so as to access servers.

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

The Employer will arrange access to the facilities, and the contractor must adhere to the Sites entrance requirements.

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

Restrictions and hours of work may apply on some sites. It is very important that the *Consultant* keeps records of his people working on the *Employer's* property, including those of his Subconsultants/if applicable.

The *Employer's Agent* shall have access to these records at any time. These records may be needed when assessing compensation events.

## Cooperating with and obtaining acceptance of Others

Not Applicable

## Things provided by the *Employer*


Where required, the Research & Innovation Centre within the Office of the Company Secretary will provide the supplementary datasets required to carry out specified tasks.

## Cataloguing requirements by the *Consultant*

Not Applicable

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

- Letter of Good Standing

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- Acknowledgment of Life Saving Rules
- Signed SHE Policy
- 37(2) Eskom Agreement
- Baseline Risk Assessment

### **Eskom's cardinal rules**

The Eskom Cardinal Rules are non-negotiable safety rules that aim to prevent serious at-risk behaviours and promoting a safe working environment at all locations. There may be instances where divisions and or business units have additional cardinal rules addressing their specific risks and these will be supplementary to the five Eskom Cardinal Rules.

The five Eskom Cardinal Rules that the service provider must adhere to, and are as follows:

- Rule 1: "Open, isolate, test, earth, bond and/or insulate before touch"
- Rule 2: "Hook up at height"
- Rule 3: "Buckle Up"
- Rule 4: "Be Sober"
- Rule 5: "Ensure that you have a permit to work"

All safety rules and requirements are important and must be adhered to. The Eskom Cardinal Rules are different from regular safety rules in that they are considered higher order rules. If any of the Eskom Cardinal Rules are not adhered to, it will result in a disciplinary process in accordance with the Eskom Disciplinary Code and Procedure, which will have the power of dismissal