



NEC3 Supply Contract (SC3)

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

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

for **Supply and Delivery of Sicon Idlers at Kendal Power
Station as and when required for a period of 5 years.**

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

CONTRACT No. [Insert at award stage]

PART C1: AGREEMENTS & CONTRACT DATA

Contents:	No of pages
C1.1 Form of Offer and Acceptance	[•]
[to be inserted from Returnable Documents at award stage]	
C1.2a Contract Data provided by the <i>Purchaser</i>	[•]
C1.2b Contract Data provided by the <i>Supplier</i>	[•]
[to be inserted from Returnable Documents at award stage]	
C1.3 Proforma Guarantees	[•]

C1.1 Form of Offer & Acceptance

Offer

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

Supply and Delivery of Sicon Idlers at Kendal Power Station as and when required for a period of 5 years.

The tenderer, identified in the Offer signature block, has

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

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

	The offered total of the Prices exclusive of VAT is	R [•]
	Value Added Tax @ 15% is	R [•]
	The offered total of the amount due inclusive of VAT is ¹	R [•]
	(in words) [•]	

This Offer may be accepted by the Purchaser 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 *Supplier* 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

¹ This total is required by the *Purchaser* 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 Purchaser identified below accepts the tenderer's Offer. In consideration thereof, the Purchaser shall pay the Supplier 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 Purchaser 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: Goods Information including Supply Requirements |

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 Purchaser 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 Purchaser'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
Purchaser

**Eskom Holdings SOC Limited
Kendal Power Station
Private Bag X 7272
Witbank
1035**

(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 *Purchaser* prior to contract award

No.	Subject	Details
	N/A	N/A

By the duly authorised representatives signing this Schedule of Deviations below, the Purchaser 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 Purchaser 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 Purchaser

Signature

Name

Capacity

On behalf
of

(Insert name and address of organisation)

**Eskom Holdings SOC Limited
Kendal Power Station
Private Bag X 7272
Witbank
1035**

Name &
signature
of witness

Date

C1.2 SC3 Contract Data

Part one - Data provided by the *Purchaser*

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

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for Options	
		X1: Price adjustment for inflation
		X2: Changes in the law
		X7: Delay damages
		X17: Low performance damages
		Z: Additional conditions of contract
	of the NEC3 Supply Contract (April 2013)	
10.1	The <i>Purchaser</i> is (name):	Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state-owned company incorporated in terms of the company laws of the Republic of South Africa
	Address	Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg
10.1	The <i>Supply Manager</i> is (name):	Mthuthuzeli Dlamini
	Address	Eskom Holdings SOC Limited Kendal Power Station Private Bag X 7272 Witbank 1035
	Tel	+ 27 13 647 6389
	e-mail	DlaminM3@eskom.co.za
11.2(13)	The <i>goods</i> are	Supply and delivery of Sicon Idlers at Kendal Power Station as and when required
11.2(14)	The following matters will be included in the Risk Register	Safety file upon reward of contract Delays in delivery of materials being imported
11.2(15)	The Goods Information is in	Part 3: Scope of Work and all documents and drawings to which it makes reference.
11.2(15)	The Supply Requirements as part of the Goods Information is in	Annexure A to this Contract Data
12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa

13.1	The <i>language of this contract</i> is	English	
13.3	The <i>period for reply</i> is	1 week (7 days)	
2	The <i>Supplier's</i> main responsibilities	Data required by this section of the core clauses is provided by the <i>Supplier</i> in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data.	
3	Time		
30.1	The <i>starting date</i> is.	TBA	
30.1	The <i>delivery date</i> of the <i>goods</i> and <i>services</i> is:	<i>goods and services</i>	<i>delivery date</i>
		1 The Supply and delivery of Sicon Idlers	As per the purchase orders
30.2	The <i>Supplier</i> does not bring the <i>goods</i> to the Delivery Place more than one week before the Delivery Date.	[no data required]	
31.1	The <i>Supplier</i> is to submit a first programme for acceptance within	2 weeks of the Contract Date.	
32.2	The <i>Supplier</i> submits revised programmes at intervals no longer than	4 weeks	
4	Testing and defects		
42	The <i>defects date</i> is	4 weeks after Delivery.	
43.2	The <i>defect correction period</i> is	2 weeks	
42.2	The <i>defects access period</i> is	7 days	
5	Payment		
50.1	The <i>assessment interval</i> is	30 days after delivery Goods	
51.1	The <i>currency of this contract</i> is the	South African Rand	
51.2	The period within which payments are made is	4 weeks.	
51.4	The <i>interest rate</i> is	the publicly quoted prime rate of interest (calculated on a 365-day year) charged from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands	
6	Compensation events	Clause 60 of NEC SC and Z8	
7	Title	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 Risks, liabilities, indemnities and insurance

80.1	These are additional <i>Purchaser's</i> risks	1. [●] 2. [●] 3. [●]
88.1	The <i>Supplier's</i> liability to the <i>Purchaser</i> for indirect or consequential loss, including loss of profit, revenue and goodwill is limited to	R0.0 (zero Rand)
88.2	For any one event, the <i>Supplier's</i> liability to the <i>Purchaser</i> for loss of or damage to the <i>Purchaser's</i> property is limited to	(1) for the <i>Purchaser's</i> existing and surrounding property in the care, custody and control of the <i>Supplier</i> the amount of the deductible (first amount payable) relevant to the event and (2) for all other existing <i>Purchaser's</i> property, the applicable deductible as at contract date
88.3	The <i>Supplier's</i> liability for Defects due to his design which are not notified before the last defects date is limited to:	Total of the Prices
88.4	The <i>Supplier's</i> total liability to the <i>Purchaser</i> , for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	Total of the Contract Prices
88.5	The end of liability date is	1 year after Delivery of the whole of the goods and services.

9 Termination and dispute resolution

94.1	The <i>Adjudicator</i> is	the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see www.ice-sa.org.za). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).
94.2(3)	The <i>Adjudicator nominating body</i> is:	the Chairman of ICE-SA, a Division of the South African Institution of Civil Engineering, or its successor body (See www.ice-sa.org.za)
94.4(2)	The <i>tribunal</i> is:	arbitration
94.4(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.

94.4(5)	<p>The place where arbitration is to be held is South Africa</p> <p>The person or organisation who will choose an arbitrator</p> <ul style="list-style-type: none"> - if the Parties cannot agree a choice or - if the arbitration procedure does not state who selects an arbitrator, is 	<p>the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.</p>
---------	--	---

10 Data for Option clauses

X1	Price adjustment for inflation		
X1.1	The <i>base date</i> for indices is	Anniversary of contract	
	The proportions used to calculate the Price Adjustment Factor are:	Proportion %	linked to index for
		70	T-1
		20	L-1
		10	non-adjustable
		100	Index prepared by SEIFSA or any applicable index
			SEIFSA
			SEIFSA
X2	Changes in the law		
X2.1	A change in the law of	is a compensation event if it occurs after the Contract Date only if the Supplier can prove that such change affected the delivery of goods	
X7	Delay damages		
X7.1	Delay damages for Delivery are	Delivery of	amount per day
		0.05% to 0.5 % of that task order	Per Task order per day per delay
X17	Low performance damages		
X17.1	If a Defect included in the Defects Certificate shows low performance with respect to a performance level stated in the Contract Data, the Contractor pays the amount of low performance damages stated in the Contract Data.		
Z	The <i>additional conditions of contract</i> are		
	Z1 to Z15 always apply for Eskom		

Z1 Cession delegation and assignment

- Z1.1 The *Supplier* does not cede, delegate or assign any of its rights or obligations to any person without the written consent of the *Purchaser*.
- Z1.2 Notwithstanding the above, the *Purchaser* may on written notice to the *Supplier* 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 *Supplier* 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 *Purchaser* for the performance of this contract.
- Z2.2 Unless already notified to the *Purchaser*, the persons or organisations notify the *Supply Manager* within two weeks of the Contract Date of the key person who has the authority to bind the *Supplier* on their behalf.
- Z2.3 The *Supplier* does not alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without the consent of the *Purchaser* having been given to the *Supplier* in writing.

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

- Z3.1 Where a change in the *Supplier's* legal status, ownership or any other change to his business composition or business dealings results in a change to the *Supplier's* B-BBEE status, the *Supplier* notifies the *Purchaser* within seven days of the change.
- Z3.2 The *Supplier* is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the *Supply Manager* within thirty days of the notification or as otherwise instructed by the *Supply Manager*.
- Z3.3 Where, as a result, the *Supplier's* B-BBEE status has decreased since the Contract Date the *Purchaser* may either re-negotiate this contract or alternatively, terminate the *Supplier's* obligation to Provide the Goods and Services.
- Z3.4 Failure by the *Supplier* to notify the *Purchaser* of a change in its B-BBEE status may constitute a reason for termination. If the *Purchaser* terminates in terms of this clause, the procedures on termination are P1, P2 and P3 as stated in clause 92, and the amount due is A1 and A3 as stated in clause 93.

Z4 Confidentiality

- Z4.1 The *Supplier* 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 *Supplier*, enters the public domain or to information which was already in the possession of the *Supplier* at the time of disclosure (evidenced by written records in existence at that time). Should the *Supplier* disclose information to Others in terms of clause 23.1, the *Supplier* ensures that the provisions of this clause are complied with by the recipient.
- Z4.2 If the *Supplier* is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the *Supply Manager*.
- Z4.3 In the event that the *Supplier* is, at any time, required by law to disclose any such information which is required to be kept confidential, the *Supplier*, to the extent permitted by law prior to disclosure, notifies the *Purchaser* 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 *Supplier* 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 goods or any portion thereof, in the course of Providing the Goods and Services and after Delivery, requires the prior written consent of the *Supply Manager*. All rights in and to all such images vests exclusively in the *Purchaser*.
- Z4.5 The *Supplier* 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 *Supply 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 25.4

- Z6.1 The *Supplier* undertakes to take all reasonable precautions to maintain the health and safety of persons in and about the provision of the *goods* and execution of the *services*.

Without limitation the *Supplier*:

- warrants that the total of the Prices as at the Contract Date includes a sufficient amount for proper compliance with 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 supply and
- undertakes, in and about the execution of the supply, to comply 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 *Supplier's* direction and control, likewise observe and comply with the foregoing.

- Z6.2 The *Supplier*, in and about the execution of the supply, 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 *Supplier'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 *Supply Manager* in terms of core clause 51.1, the *Supplier* provides the *Purchaser* with a tax invoice in accordance with the *Purchaser's* procedures stated in the Goods Information, showing the amount due for payment equal to that stated in the payment certificate.
- Z7.2 If the *Supplier* does not provide a tax invoice in the form and by the time required by this contract, the time by when the *Purchaser* 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 *Purchaser* in terms of core clause 51.2 is then calculated from the delayed date by when payment is to be made.
- Z7.3 The *Supplier* (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 *Purchaser's* VAT number 4740101508 on each invoice he submits for payment.

Z8 Notifying compensation events

- Z8.1 Delete from the last sentence in core clause 61.3 the words, "unless the event arises from the *Supply Manager* giving an instruction, changing an earlier decision or correcting an assumption".

Z9 Purchaser's limitation of liability

- Z9.1 The *Purchaser's* liability to the *Supplier* for the *Supplier's* indirect or consequential loss is

limited to R0.00 (zero Rand)

Z9.2 The *Supplier's* entitlement under the indemnity in 83.1 is provided for in 60.1(12) and the *Purchaser's* liability under the indemnity is limited.

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

Z11.1 If the amount due for the *Supplier's* payment of delay damages reaches the limits stated in this Contract Data for Option X7, the *Purchaser* may terminate the *Supplier's* obligation to Provide the Goods and Services using the same procedures and payment on termination as those applied for reasons R1 to R15 or R18 stated in the Termination Table.

Z12 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 *Supplier* 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,

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 *Supplier*, or any member thereof in the case of a joint venture, or its employees, agents, or Subcontractors or the Subcontractor's employees,

Corrupt Action means the offering, giving, taking, or soliciting, directly or indirectly, of a good or service to unlawfully or illegally influence the actions of an Affected Party,

Fraudulent Action means any unlawfully or illegally intentional act or omission that misleads, or attempts to mislead, an Affected Party, in order to obtain a financial or other benefit or to avoid an obligation or incurring an obligation,

Obstructive Action means a Committing Party unlawfully or illegally destroying, falsifying, altering or concealing information or making false statements to materially impede an investigation into allegations of Prohibited Action, and

Prohibited Action means any one or more of a Coercive Action, Collusive Action Corrupt Action, Fraudulent Action or Obstructive Action.

Z12.1 A Committing Party may not take any Prohibited Action during the course of the procurement of this contract or in execution thereof.

Z12.2 The *Purchaser* may terminate the *Supplier's* obligation to Provide the Services if a Committing Party has taken such Prohibited Action and the *Supplier* did not take timely and appropriate action to prevent or remedy the situation, without limiting any other rights or remedies the *Purchaser* 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 *Purchaser* can terminate the *Supplier's* obligation to Provide the Services for this reason.

Z12.3 If the *Purchaser* terminates the *Supplier'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.

Z12.4 A Committing Party co-operates fully with any investigation pursuant to alleged Prohibited Action. Where the *Purchaser* does not have a contractual bond with the Committing Party, the *Supplier* ensures that the Committing Party co-operates fully with an investigation.

Z13Insurance

Z 13.1 Replace core clause 84 with the following:

Insurance cover 84

- 84.1** 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.
- 84.2** The *Supplier* provides the insurances stated in the Insurance Table A for events which are at the *Supplier's* risk from the *starting date* until the last *defects date* or a termination certificate has been issued.

INSURANCE TABLE A

Insurance against	Minimum amount of cover or minimum limit of indemnity
Loss of or damage to the goods, plant and materials	The replacement cost where not covered by the <i>Purchaser's</i> insurance. The <i>Purchaser's</i> policy deductible as at Contract Date, where covered by the <i>Purchaser's</i> insurance.
Liability for loss of or damage to property (except the goods, plant and materials and equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Supplier</i>) caused by activity in connection with this contract	<u>Loss of or damage to property</u> <u>Purchaser's property</u> The replacement cost where not covered by the <i>Purchaser's</i> insurance. The <i>Purchaser's</i> policy deductible as at Contract Date, where covered by the <i>Purchaser's</i> insurance. <u>Other property</u> The replacement cost <u>Death of or bodily injury</u> The amount required by the applicable law.
Liability for death of or bodily injury to employees of the <i>Supplier</i> arising out of and in the course of their employment in connection with this contract	The amount required by the applicable law

Z 13.2 Replace core clause 87 with the following:

Insurance by the Purchaser

87

87.1 The *Purchaser* provides the insurances stated in the Insurance Table B

INSURANCE TABLE B

Insurance against or name of policy	Minimum amount of cover or minimum 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
--------------------------------------	-----------------------------------

Z14 Nuclear Liability

- Z14.1 The *Purchaser* 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.
- Z14.2 The *Purchaser* is solely responsible for and indemnifies the *Supplier* or any other person against any and all liabilities which the *Supplier* 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 *Supplier* or any other person or the presence of the *Supplier* or that person or any property of the *Supplier* or such person at or in the KNPS or on the KNPS site, without the permission of the *Purchaser* or of a person acting on behalf of the *Purchaser*.
- Z14.3 Subject to clause Z14.4 below, the *Purchaser* 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 *Supplier* or any other person, or the presence of the *Supplier* or that person or any property of the *Supplier* or such person at or in the KNPS or on the KNPS site, without the permission of the *Purchaser* or of a person acting on behalf of the *Purchaser*.
- Z14.4 The *Purchaser* 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.
- Z14.5 The protection afforded by the provisions hereof shall be in effect until the KNPS is decommissioned.

Z15 Asbestos

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

AAIA	means approved asbestos inspection authority.
ACM	means asbestos containing materials.
AL	means action level, i.e. a level of 50% of the OEL, i.e. 0.1 regulated asbestos fibres per ml of air measured over a 4 hour period. The value at which proactive actions is required in order to control asbestos exposure to prevent exceeding the OEL.
Ambient Air	means breathable air in area of work with specific reference to breathing zone, which is defined to be a virtual area within a radius of approximately 30cm from the nose inlet.
Compliance Monitoring	means compliance sampling used to assess whether or not the personal exposure of workers to regulated asbestos fibres is in compliance with the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.
OEL	means occupational exposure limit.
Parallel Measurements	means measurements performed in parallel, yet separately, to existing measurements to verify validity of results.
Safe Levels	means airborne asbestos exposure levels conforming to the Standard's

requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.

Standard means the *Purchaser's* Asbestos Standard 32-303: Requirements for Safe Processing, Handling, Storing, Disposal and Phase-out of Asbestos and Asbestos Containing Material, Equipment and Articles.

SANAS means the South African National Accreditation System.

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

- Z15.1 The *Purchaser* ensures that the Ambient Air in the area where the *Supplier* 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.
- Z15.2 Upon written request by the *Supplier*, the *Purchaser* 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 *Supplier* may perform Parallel Measurements and related control measures at the *Supplier'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 Z15.1. Control measures conform to the requirements stipulated in the AAIA-approved asbestos work plan.
- Z15.3 The *Purchaser* manages asbestos and ACM according to the Standard.
- Z15.4 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.
- Z15.5 The *Supplier'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.
- Z15.6 The *Supplier* 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.
- Z15.7 Any removal and disposal of asbestos, asbestos containing materials and waste, is done by a registered asbestos contractor, instructed by the *Purchaser* at the *Purchaser's* expense, and conducted in line with South African legislation.

Annexure A: Supply Requirements

[Notes: The example given in the NEC3 Supply Contract Guidance Notes pages 15 to 20 inclusive is based on Incoterms 2000. However users will probably wish to use Incoterms 2010 which the details below are based on. Users may need to adjust the information to comply with actual requirements. First decide whether Incoterms will be used or not, then delete the arrangement below which does not apply and delete these notes]

The Supply Requirements for this contract are based on the use of INCOTERMS:

The *Supplier* supplies the *goods* in accordance with INCOTERMS 2010² as follows:

[Select the group and then term within the group which applies and state the applicable delivery place. Delete all the other groups and this note]

Group	Category	Term	Delivery Place
E	departure	EXW	
F	main carriage unpaid	FCA, FAS, FOB	
C	main carriage paid	CFR, CIF, CPT, CIP	
D	arrival	DAT, DAP, DDP	

The Parties obligations described in Incoterms for the category and term selected are now incorporated into this contract as part of the Supply Requirements and hence the Goods Information.

The obligations of seller and buyer for the selected Incoterm determine each Party's costs, risks and insurance requirements incidental to the supply and transport of the *goods* from *Supplier* to *Purchaser*.

For each of the thirteen terms, Incoterms set out obligations of the seller (the *Supplier*) in ten paragraphs identified as A1 to A10 and the corresponding obligations of the buyer (the *Purchaser*) in paragraphs B1 to B10. These obligations cover the following subjects:

A	The <i>Supplier's</i> obligations	B	The <i>Purchaser's</i> obligations
A1	Provision of goods in conformity with contract	B1	Payment of the price
A2	Licences, authorisations and formalities	B2	Licences, authorisations and formalities
A3	Contracts of carriage and insurance	B3	Contracts of carriage and insurance
A4	Delivery	B4	Taking delivery
A5	Transfer of risks	B5	Transfer of risks
A6	Division of costs	B6	Division of costs
A7	Notice to the buyer	B7	Notice to the seller
A8	Proof of delivery, transport document or equivalent electronic message	B8	Proof of delivery, transport document or equivalent electronic message
A9	Checking - packing - marking	B9	Inspection of goods
A10	Other obligations	B10	Other obligations

[Should there be a need to amplify any of the published obligations listed above for the chosen INCOTERM, add them here.]

All other information NOT pertinent to the above is given in the balance of the Goods Information

² International Chamber of Commerce, Incoterms 2010, Paris, January 2011

The Supply Requirements for this contract are as follows:

[Use these when INCOTERMS do not apply].

1. The requirements for the supply are	[State the constraints on how the <i>Supplier</i> manufactures, prototypes, tests and stores the <i>goods</i> including order and timing]	
2. The requirements for transport are	[State the extent to which the <i>Supplier</i> transports the <i>goods</i> and the mode of transport]	
3. The delivery place is	[State the location where the <i>goods</i> are to be placed by the <i>Supplier</i> , such as whether it is a dispatch department at the <i>Supplier's</i> premises, the <i>Purchaser</i> is to collect or other location the <i>Purchaser</i> may require. If the delivery place for the <i>services</i> is different to the <i>goods</i> state it here]	
4. Actions of the Parties during supply	Action	Party which does it
	Giving notice of Delivery	
	Checking packing and marking before dispatch	
	Contracting for transport	
	Pay costs of transport	
	Arrange access to delivery place	
	Loading the <i>goods</i>	
	Unloading the <i>goods</i>	
For international procurement	Undertake export requirements	
	Undertake import requirements	
5. Information to be provided by the <i>Supplier</i>	Title of document	
	Packing lists for cases and their contents	
	Copy of invoice for the <i>goods</i>	
	Delivery Note	
	Test results and maintenance manuals	
For international procurement	Licences, authorisations and other formalities associated with export of the <i>goods</i>	
	Air Waybill or Bill of Lading with associated landing, delivery and forwarding order	
	The Bill of Entry endorsed by the importation authority	
	Customs work sheets, showing tax, duties and surcharges which the law of the country into which the <i>goods</i> are being imported requires the importer to pay	
	Invoice from the importation clearing agent showing airline fees, landing charges, wharfage and dock dues as applicable	
	Specify other import documents required by authorised officials.	

All other information NOT pertinent to the above is given in the balance of the Goods Information

C1.2 Contract Data

Part two - Data provided by the *Supplier*

Clause	Statement	Data												
10.1	The <i>Supplier</i> is (Name): Address Tel No. Fax No.													
11.2(8)	The Goods Information for the <i>Supplier's</i> design is in:	Part 3 Scope of work												
11.2(11)	The tendered total of the Prices is	R (in words)												
11.2(12)	The <i>price schedule</i> is in:	Price list												
11.2(14)	The following matters will be included in the Risk Register	Safety file												
25.2	The restrictions to access for the <i>Supply Manager</i> and Others to work being done for this contract are													
30.1	The <i>delivery date</i> of the <i>goods and services</i> is:	<table> <tr> <th></th><th><i>goods and services</i></th><th><i>delivery date</i></th></tr> <tr> <td>1</td><td>As per individual task order</td><td></td></tr> <tr> <td>2</td><td></td><td></td></tr> <tr> <td>3</td><td></td><td></td></tr> </table>		<i>goods and services</i>	<i>delivery date</i>	1	As per individual task order		2			3		
	<i>goods and services</i>	<i>delivery date</i>												
1	As per individual task order													
2														
3														
31.1	The programme identified in the Contract Data is contained in:													
63.2	The <i>percentage for overheads and profit</i> added to the Defined Cost is	0%												

PART 2: PRICING DATA

NEC3 Supply Contract

Document reference	Title	No of pages
C2.1	Pricing assumptions	2
C2.2	The <i>price schedule</i>	3

C2.1 Pricing assumptions

How goods and services are priced and assessed for payment

Clause 11 in NEC3 Supply Contract, (SC3) core clauses states:

Identified and defined terms	11	
	11.2	(11) The Prices are the amounts stated in the price column of the Price Schedule. Where a quantity is stated for an item in the Price Schedule, the Price is calculated by multiplying the quantity by the rate. (12) The Price Schedule is the <i>price schedule</i> unless later changed in accordance with this contract.
Assessing the amount due	50.2	<p>The amount due is</p> <ul style="list-style-type: none">• the Price for each lump sum item in the Price Schedule which the <i>Supplier</i> has completed,• where a quantity is stated for an item in the Price Schedule, an amount calculated by multiplying the quantity which the <i>Supplier</i> has completed by the rate,• plus other amounts to be paid to the <i>Supplier</i>,• less amounts to be paid by or retained from the <i>Supplier</i>. <p>Any tax which the law requires the <i>Purchaser</i> to pay to the <i>Supplier</i> is included in the amount due.</p>

This confirms that the Supply Contract is a priced contract where the Prices are derived from a list of items of *goods* and *services* which can be priced as lump sums or as expected quantities of *goods* and *services* multiplied by a rate, or a mix of both.

Function of the Price Schedule

Clause 53.1 states: "Information in the Price Schedule is not Goods Information". This confirms that instructions to do work or how it is to be done are not included in the Price Schedule but in the Goods Information. This is further confirmed by Clause 20.1 which states, "The *Supplier* Provides the Goods and Services in accordance with the Goods Information". Hence the *Supplier* does **not** Provide the Goods and Services in accordance with the Price Schedule. The Price Schedule is only a pricing document.

Preparing the *price schedule*

Items in the *price schedule* may have been inserted by the *Purchaser* and the tendering supplier should insert any additional items which he considers necessary. Whichever party provides the items in the *price schedule* the total of the Prices is assumed to be fully inclusive of everything necessary to Provide the Goods and Services as described at the time of entering into this contract.

It will be assumed that the tendering supplier has

- Read Pages 8, 11, 12 and Appendix 5 of the SC3 Guidance Notes before preparing the *price schedule*;
- Included in his Prices and rates for correction of Defects (core clause 43.1) as there is no compensation event for this unless the Defect is due to a *Supplier's* risk;
- Spread the cost of doing work he chooses not to list as separate items in the *price schedule* across other Prices and rates in order to fulfil the obligation to Provide the Goods and Services for the tendered total of the Prices;
- Understood that there is no adjustment to lump sum prices in the *price schedule* if the amount, or quantity, of work within that lump sum item later turns out to be different to that which the *Supplier* estimated at time of tender. The only basis for a change to the Prices is as a result of a compensation event per clause 60.1;

- Understood that the *Supplier* does not have to allow in his Prices and rates for matters that may arise as a result of a compensation event.

Format of the *price schedule*

Entries in the first four columns in the *price schedule* in section C2.2 are made either by the *Purchaser* or the tendering supplier.

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

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

If the *Supplier* is to be paid an amount for an item proportional to the length of time for which the *goods* and *services* are provided, a unit of time is stated in the Unit column and the length of time (as a quantity of the stated units of time) is stated in the Quantity column.

C2.2 the *price schedule*

Item nr	Description	Unit	Quantity	Rate	Price
38932	ROLLER: BELT SUPPORT; DIA 125 MM; NYLON	EA	6400		
38933	ROLLER CONV: IDLER;100 MM;57 MM;25 MM	EA	4700		
38934	ROLLER: BELT GUIDE; DIA 108 MM; TEFLON	EA	3200		
38936	ROLLER: BELT SUPPORT; DIA 159 MM;4-60005	EA	300		

The total of the Prices

PART 3: SCOPE OF WORK

Document reference	Title	No of pages
	This cover page	1
C3.1	<i>Purchaser's</i> Goods Information	9
C3.2	<i>Supplier's</i> Goods Information	
Total number of pages		

C3.1: *PURCHASER'S* GOODS INFORMATION

Contents

	Page
1. Introduction	3
2. Supporting Clauses	3
2.1 Scope	3
2.1.1 Purpose	3
2.1.2 Applicability	3
2.1.3 Effective date	3
2.2 Normative/Informative References	3
2.2.1 Normative	3
2.2.2 Informative.....	4
2.3 Definitions	4
2.4 Abbreviations	4
3. Document Content	5
3.1 Project description	5
3.2 General requirements	5
3.3 Technical requirements	6
3.4 Technical specifications.....	6

1. Introduction

Kendal Power Station intends to partner with a reputable service provider to ensure a reliable and continues supplier of goods “as and when” required by the station. This document details the scope of work and all the mandatory requirements from the suitable contractor for this service.

2. Supporting Clauses

2.1 Scope

The scope of this document is the Scope of work and requirements for the Manufacture and delivery of Sicon idlers to Kendal Power Station.

2.1.1 Purpose

The purpose of this document is to describe the Scope of work and requirements of the products to be supplied to Kendal Power Station.

2.1.2 Applicability

This document shall apply to Kendal Material Management Department, Engineering Department, Maintenance Department, Contractor, and anyone who is involved in the manufacture, assembly, delivery, storage and use of the products listed in this contract.

2.1.3 Effective date

This document is effective from commencement of the contract date until revised or end of contract date.

2.2 Normative/Informative References

Parties using this document shall apply the most recent edition of the documents listed in the following paragraphs.

2.2.1 Normative

- [1] SANS 1313-1,2,3
- [2] ISO 9001 of 2008: Quality Management Systems.
- [3] GPM/0147 User requirement specification guidelines.
- [4] Occupational Health and Safety Act 85 of 1993.
- [5] ISO 14001 of 2004: Environmental management system.

2.2.2 Informative

- [1] Safety Health and Environment Specifications for Contractors - GVLIR 0007
- [2] Construction, Safety, Health and Environment Management in Eskom - 32/136 Rev 0 -
- [3] Eskom Information Security Policy - 32-85 Rev 0
- [4] Eskom Vehicle and Driver Safety Management Procedure - 32-93 Rev 0
- [5] Integrated Business improvement – prevention and improvement Standard - 6-366 Rev 0
- [6] Smoking Policy - 32-36 Rev 0
- [7] Alcohol Policy GGP 1209
- [8] Incident Management 32-95
- [9] Mandatory SHE requirements for the Eskom procurement and Supply chain management process - 32-726 Rev 0

2.3 Definitions

- **Accuracy of measurement** - The closeness of the agreement between the result of a measurement and the (conventional) true value of the measurement.
- **Competence** - The ability to apply knowledge and skills to achieve the intended results.
- **Idler** – A free running rotating roller intended to support or guide the Sicon conveyor belt.
- **Nonconforming work** - Any manufactured item, process or work performed that is found to be outside of the accepted or documented standards or tolerances.
- **Roller** – Another name for an Idler as described in this document.
- **Sicon** - The brand name of the OEM who manufactures a conveyor belt system intended to convey materials without spillages. There are 6 Sicon conveyors installed at Kendal Power Station.

2.4 Abbreviations

Abbreviation	Explanation
ISO	International Organisation for Standardisation
KKS	Kraftwerk-Kennzeichensystem (Function, Equipment and Component Identification System for Power Stations)
U.H.M.W.P.E.	Ultra-High Molecular Weight Poly-Ethelene
OEM	Original Equipment Manufacturer
SAP	Systems, Applications and Products. (Software products that allow businesses to track customer and business interactions.)

3. Document Content

3.1 Project description

Manufacture and delivery of Sicon Idlers at Kendal Power Station on an “as and when required” basis.

3.2 General requirements

- (a) All orders and purchases shall be done on System Application and Products (SAP) for Eskom records.
- (b) The Contractor shall only deliver the product to the premises after a Purchase Order (PO) number has been released by the Eskom Contract Manager.
- (c) The contractor shall manufacture all the components and assemble the idlers on his own premises. All components that are manufactured or bought out from sub-contractors need to be supplied to the contractor as per the required latest specifications approved by the Eskom System Engineer. The contractor remains responsible and accountable to correct and carry all associated costs to replace or repair defective products for any non-conformances found on any components. The contractor cannot refer any quality issues from the Eskom representative to any sub-contractor.
- (d) The Eskom representative shall perform quality control of the products received before accepting the products at stores as per International Standards Organisation (ISO 9001) standards. The contractor shall fetch rejected products from Kendal Power Station at own cost and

as soon as being notified by the Eskom representative. Any rejected products that are missing due to delays by the contractor to fetch from Kendal Power Station are for the contractor account.

(e) If the material or products received was accepted and indicated to be of good quality during quality evaluation but fails prematurely after installation, an investigation must be done by both parties and if an error is found to be from the service provider a replacement unit must be delivered within a reasonable time.

(f) The contractor shall ensure that labelling or marking of product is clear and corresponds with the order number when delivery is made. The product must be delivered in fixed batch quantities for the ease of counting and verifying the items.

(g) The contractor shall request approval from the Eskom Engineering representative before intending to make any changes, modification, or amendments to the products. No such changes may be made until written approval is granted by the Eskom Engineering representative.

(h) All deliveries should be made from 07:15 am to 16:30 pm from Monday to Thursday and from 7:15 am to 12:15 pm on Friday, no deliveries should be made after the specified times or on a weekend unless otherwise arranged prior with the Eskom representative.

(i) Supplier will keep a minimum stock level of all idler wheels enough to service one complete conveyor.

3.3 Technical requirements

The contractor shall manufacture and deliver Apron and Bucket elevator Buckets at Kendal Power Station on an "as and when required" basis to the following requirements:

(a) Supplier to provide detailed design drawing of each part to be evaluated before contract is issued. Note Eskom will supply the outer dimensions as per the Eskom Stock number description as well as the relevant Eskom drawings. Supplier to design and manufacture and supply materials according to the relevant specifications.

(b) Technical Evaluation will be done at the suppliers' premises before the contract is issued.

(c) Material and manufacturing certificates will be issued with each batch of buckets.

(d) Supplier shall provide an Eskom Approved quality check document and procedure.

(e) Quality checks of the manufacturing and welding process may be done by the Engineer and Technician at the supplier premises while the contract is running.

(f) Standard materials approved by the Eskom Engineering representative to be used. No deviation will be allowed unless it is approved.

3.4 Technical specifications

i) Eskom Stock number: 38932

a) Detailed description of parts:

ROLLER: TYPE: BELT SUPPORT

DIMENSIONS:

- FACE DIA 125 MM
- FACE WIDTH: 25MM,
- SHAFT DIAMETER: 25MM; CORROSION PROTECTION
- SHAFT LENGTH: 55MM

SUPPLIED WITH 1 OFF M10 x 25 GRADE 4.8 GALVANIZED BOLT AND 2 OFF WASHERS
BELT WIDTH: 800MM,
IDLER, SICON, MATERIAL: U.H.M.W.P.E,
OEM DRAWING NO: 4-60141

ii) Eskom Stock number: 38933

ROLLER, CONVEYOR: TYPE: IDLER
DIMENSIONS:

- FACE DIA 89MM
- FACE WIDTH: 95 MM
- SHAFT DIAMETER: 25 MM CORROSION PROTECTION
- SHAFT LENGTH: 57 MM

SUPPLIED WITH 2 OFF M20 GALVANIZED NUTS AND 1 OFF WASHER
ROLLER MATERIAL: U.H.M.W.P.E
BELT WIDTH: 800MM,
TYPE: BELT SUPPORT
OEM DRAWING NO: 4-60140

iii) Eskom Stock number: 38934

ROLLER: TYPE: BELT GUIDE
DIMENSIONS:

- FACE DIA 108 MM
- FACE WIDTH: 95 MM,
- SHAFT DIAMETER: 25MM, CORROSION PROTECTION
- SHAFT LENGTH: 57MM,

SUPPLIED WITH 2 OFF M20 GALVANIZED NUTS AND 1 OFF WASHER
MATERIAL: U.H.M.W.P.E
BELT WIDTH: 800MM
OEM DRAWING NO: 4-60004

iv) Eskom Stock number: 38936

ROLLER: TYPE: BELT SUPPORT
DIMENSIONS:

- FACE DIA 159 MM
- FACE WIDTH: 95 MM,
- SHAFT DIAMETER: 25MM, CORROSION PROTECTION
- SHAFT LENGTH: 57MM,

SUPPLIED WITH 2 OFF M20 GALVANIZED NUTS AND 1 OFF WASHER
MATERIAL: U.H.M.W.P.E,
BELT WIDTH: 800MM
OEM DRAWING NO: 4-60005

b) Manufacturing specifications of sub-components:

i) The roller to be manufactured from U.H.M.W.P.E. Other materials such as Nylon, Acrylic, PVC's etc are not acceptable unless approved in writing from the Eskom System Engineer. Material certificates to be available on request with traceability to each batch that is delivered. The roller to be machined on CNC machines to ensure correct tolerance repeatability. Tolerances for Roller bearing bores to be P7 interference fit and Tolerance for seal bore to be N7 interference fit unless otherwise approved in writing from the Eskom System Engineer

ii) The shaft to be manufactured from high grade Tin plated - EN8 shaft material or equivalent. The shaft to be machined on CNC machines to ensure correct tolerance repeatability. Tolerances for Roller bearing landings to be h5 transition fit. Surface finish on seal landing to be polished to N4 or better.

iii) Two deep groove single roller bearings to be used per idler. The bearings shall be C3 tolerance with rubber sealed bearing. The only acceptable bearing manufacturers are FAG, NSK, SKF, NTN or Timken. The bearing brand should be clearly visible on the bearing race. (Beware of imitations.) Any other bearing brands are not acceptable.

iv) One standard double lip oil seal will be incorporated in the design with the running contact on the inner shaft landing. The seal must be lubricated with water resistant silicon grease during assembly. The supplier may propose additional seal designs for consideration by the Eskom System Engineer.

v) Other components such as circlips, washers and nuts to be good quality materials. The idler shall be supplied with two galvanised washers and one Nyloc nut on the shaft.

vi) Idlers shall be tested for minimum rolling resistance as specified in SANS 1313-3 approved by the Eskom Engineering representative.

Please see attached **Appendix A - SOW** for the description of works/works information.

List of drawings

Drawings issued by the *Purchaser*

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

Drawing number	Revision	Title

DRAFT

C3.2 *SUPPLIER'S* GOODS INFORMATION

This section of the Goods Information will always be contract specific depending on the nature of the *goods* and *services*.

It is most likely to be required for supply contracts where the tendering supplier will have proposed specifications and schedules for the *goods* and *services*, which once accepted by the *Purchaser* prior to award of contract now become obligations of the *Supplier* per core clause 20.1.

This section could also be compiled as a separate file.

DRAFT