



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 FRESH FRUITS AND FRESH
VEGETABLES TO MATLA POWER STATION FOR 24 MONTHS
ON AS AND WHEN REQUIRED BASIS**

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 FRESH FRUITS AND FRESH VEGETABLES TO MATLA POWER STATION FOR 24 MONTHS ON AN AS AND WHEN REQUIRED BASIS

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) | Ms Maserati Lesolang | _____ |
| Capacity | General Manager: Matla Power Station | _____ |
| for the Purchaser | Eskom Holdings SOC Limited Matla Power Station Private Bag x 5012 KRIEL 2271 | _____ |

(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

Note:

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

| No. | Subject | Details |
|-----|---------|---------|
| 1 | [•] | [•] |
| 2 | [•] | [•] |
| 3 | [•] | [•] |
| 4 | [•] | [•] |
| 5 | [•] | [•] |
| 6 | [•] | [•] |
| 7 | [•] | [•] |

By the duly authorised representatives signing this Schedule of Deviations below, the 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)*Name &
signature
of witness

Date

General Manager

**Eskom Holdings SOC Ltd, Megawatt
Park, Maxwell Drive, Sandton,
Johannesburg, 2199**

C1.2 SC3 Contract Data

Part one - Data provided by the *Purchaser*

[Instructions to the contract compiler: (delete these two notes in the final draft of a contract)]

Clauses

Data

1 General

The *conditions of contract* are the core clauses and the clauses for Options

X1: Price adjustment for inflation
 X2: Changes in the law
 X17: Low performance (Service/performance and damages)
 X18: Limitation of liability
 X19: Task Order
 Z: Additional conditions of contract

of the NEC3 Supply Contract (April 2013)²

(If the December 2009 edition is to be used delete April 2013 and replace by December 2013)

10.1 The *Purchaser* is (name):

Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state owned company incorporated in terms of the company laws of the Republic of South Africa

Address

Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg

Tel No.

Fax No.

N/A

10.1 The *Supply Manager* is (name):

Address

Matla Power Station

Tel

Fax

N/A

e-mail

11.2(13) The *goods* are)

FRESH VEGETABLES AND FRESH FRUITS

11.2(13) The *services* are)

SUPPLY AND DELIVERY OF FRESH VEGETABLES AND FRUITS AT MATLA POWER STATION FOR 24 MONTHS ON AN AS AND WHEN REQUIRED BASIS

² Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 539 1902, www.ecs.co.za.

11.2(14) The following matters will be included in the Risk Register

Delay Damages
Price increases due to inflation
Quality of deliverables
 (All other risks will be identified prior, addressed, and registered during the risk register meeting that will take place as agreed between the parties)

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 *law of the contract* is the law of

the Republic of South Africa

13.1 The *language of this contract* is

English

13.3 The *period for reply* is

2 weeks

2 **The Supplier's main responsibilities**

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

3 **Time**

30.1 The *starting date* is.

TBC

30.1 The *delivery date* of the goods and services is:

goods and services

delivery date

Supply and delivery of
 Fresh Fruits and
 Vegetables at Matla
 Power Station

As per
 purchase
 order

30.2 The *Supplier* does not bring the goods to the Delivery Place more than one week before the Delivery Date.

All goods are to be delivered as per the quantities indicated on the contract or on purchase order

31.1 The *Supplier* is to submit a first programme for acceptance within

1 weeks of the Contract Date.

32.2 The *Supplier* submits revised programmes at intervals no longer than

2 weeks.

4 **Testing and defects**

4.1

42 The *defects date* is

When the notice has detect.

43.2 The *defect correction period* is

24 hours from receipt of the purchaser's written defects notification

| | | |
|------|-------------------------------------|----------------|
| 42.2 | The <i>defects access period</i> is | 60 days |
|------|-------------------------------------|----------------|

5 Payment

| | | |
|------|-----------------------------------|--|
| 50.1 | The <i>assessment interval</i> is | between the 15 days of each successive month or any other day agreed upon |
|------|-----------------------------------|--|

| | | |
|------|---|---------------------------|
| 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 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 | 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 | N/A |
|------|---|------------|

| | | |
|------|---|---|
| 84.1 | The <i>Purchaser</i> provides these insurances from the Insurance Table | See notes about <i>Purchaser</i> provided insurance in Annexure B to this Contract Data |
| | 1. Insurance against | Loss of or damage to the <i>goods</i> , plant and materials. |
| | Cover / indemnity is | <p>Overseas shipment / transit insurance (only) to cover events at the <i>Supplier's</i> risk (if any) after the <i>goods</i> have left the <i>Supplier's</i> overseas premises. See notes in Annexure B</p> <p>If this contract includes the supervision of installation, testing, commissioning or building work at the <i>Purchaser's</i> premises, the <i>Purchaser</i> also provides cover for physical loss of or damage to the <i>Purchaser's</i> surrounding property including any temporary work required to complete the Delivery.</p> |
| 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 | <p>(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 described in the "Format A" / "Format B" / "Format Dx", insurance policy available on http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx</p> <p>and</p> <p>(2) for all other existing <i>Purchaser's</i> property the highest applicable deductible (first amount payable) namely:</p> <ul style="list-style-type: none"> • R15 million (fifteen million Rand) for Generation Division property; • R7.5 million (seven million five hundred thousand Rand) for Transmission Division property and; • R1 million (one million Rand) for Distribution Division and all other <i>Purchaser's</i> property <p>See notes in Annexure B</p> |
| 88.3 | The <i>Supplier's</i> liability for Defects due to his design which are not notified before the last <i>defects date</i> is limited to: | The 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 | The total of the Prices |
| 88.5 | The <i>end of liability date</i> is | Twelve [12] months 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). |
| | Address | 1st Floor, Maisels Chamber, 4 Protea Place, Sandton |
| | Tel No. | 011 320 0600 |
| | Fax No. | 011 320 0533 |
| | e-mail | [•] |

| | | |
|---------|--|---|
| 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) | The place where arbitration is to be held is | South Africa |
| | The person or organisation who will choose an arbitrator | |
| | - if the Parties cannot agree a choice or | the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body. |
| | - if the arbitration procedure does not state who selects an arbitrator, is | |

10 Data for Option clauses

| | | | | |
|------|---|--|--|---------------------------------------|
| X1 | Price adjustment for inflation | | | |
| X1.1 | The <i>base date</i> for indices is The proportions used to calculate the Price Adjustment Factor are: | The contract start date. | | |
| | | proportion | linked to indexfor | proportion |
| | | 0.55 | Fruits and Vegetables products | 0.55 |
| | | 0.10 | Labour | 0.10 |
| | | 0.20 | Transport | 0.20 |
| | | 0.15 | non-adjustable | 0.15 |
| X2 | Changes in the law | | | |
| X2.1 | A change in the law of | [•] is a compensation event if it occurs after the Contract Date | | |
| X3 | Multiple currencies | | | |
| X3.1 | The <i>Purchaser</i> will pay for these items in the currencies stated | Items | Other currency | Total maximum payment in the currency |
| | | [•] | TBC | |
| | | [•] | | |
| | | [•] | | |
| X3.1 | The <i>exchange rates</i> are those published in | [•] on [•] (date) The items will be paid in the other currency - to a foreign Bank account nominated by the <i>Supplier</i> - to a valid SARB approved CFC account in South Africa - in accordance with an alternative payment method agreed with the <i>Purchaser</i> before the Contract Date. (select one of the three methods as agreed with the successful tenderer prior to contract award and delete the others and this note) | | |
| X4 | Parent company guarantee | There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data. | | |
| X7 | Delay damages | | | |
| X7.1 | Delay damages for Delivery are | Delivery of | amount per day | |
| | | Late delivery of goods | R500.00 per day for delay in delivery of | |

| | | |
|----------|--|---|
| | | the order as per delivery date specified upfront. |
| | Should delay damages be applied, the supplier is to invoice for the full task order amount, and provide a credit note for the amount of delay damages. | |
| Z | The additional conditions of contract 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 <i>Supplier</i> 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 <i>Supplier</i> , 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.

Z13 Insurance

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 <i>Supplier</i> provides the insurances stated in the Insurance Table A for events which are at the <i>Supplier's</i> risk from the <i>starting date</i> until the last <i>defects date</i> 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 <i>goods</i> , 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 <i>goods</i> , 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 |

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 2010³ as follows:

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 | Effecting Delivery | B4 | Receiving 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 |

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

³ 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 | As stated in the contract goods information | |
| 2. The requirements for transport are | As stated in the contract goods information | |
| 3. The delivery place is | Matla Power Station | |
| 4. Actions of the Parties during supply | Action | Party which does it |
| | Giving notice of Delivery | Supplier |
| | Checking packing and marking before dispatch | Supplier |
| | Contracting for transport | Supplier |
| | Pay costs of transport | Supplier |
| | Arrange access to delivery place | Purchaser |
| | Loading the <i>goods</i> | Supplier |
| | Unloading the <i>goods</i> | Supplier |
| For international procurement | Undertake export requirements | N/A |
| | Undertake import requirements | N/A |
| 5. Information to be provided by the Supplier | 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*

Notes to a tendering supplier:

1. Please read both the NEC3 Supply Contract (SC3)⁴ and the relevant parts of its Guidance Notes (SC3-GN)⁵ in order to understand the implications of this Data which the tenderer is required to complete.
2. The number of the clause which requires the data is shown in the left hand column for each statement however other clauses may also use the same data
3. Where a form field like this [] appears, data is required to be inserted relevant to the option selected. Click on the form field **once** and type in the data. Otherwise complete by hand and in ink.

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

| Clause | Statement | Data |
|----------|--|--|
| 10.1 | The <i>Supplier</i> is (Name): Address Tel No. Fax No. | |
| 11.2(8) | The Goods Information for the <i>Supplier's</i> design is in: | |
| 11.2(11) | The tendered total of the Prices is | R , (in words) |
| 11.2(12) | The <i>price schedule</i> is in: | |
| 11.2(14) | The following matters will be included in the Risk Register | TBC |
| 25.2 | The restrictions to access for the <i>Supply Manager</i> and Others to work being done for this contract are | TBC |
| 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 [•] [•] |
| 31.1 | The programme identified in the Contract Data is contained in: | TBC |
| 63.2 | The <i>percentage for overheads and profit</i> added to the Defined Cost is | % |

⁴ Either April 2013 or December 2009 Edition as stated by *Purchaser* in Contract Data part 1.

⁵ Available from Engineering Contract Strategies Tel 011 803 3008, Fax 086 539 1902, or www.ecs.co.za

Signed at _____ on this _____ day of _____ 20__

Signature(s)

Name(s) (printed)

Position in parent company

Signature of Witness(s)

Name(s) (printed)

below on the letterhead of the Bank providing the Bond / Guarantee)

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> | [•] |

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 | The amount due is |
| | | <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*

| SUPPLY AND DELIVERY OF FRESH FRUITS AND VEGETABLES ON AS REQUIRED FOR TWO YEARS | | | | | |
|---|-------|------|----------|--------------|-------|
| Description | Grade | Unit | Quantity | Price per Kg | Total |
| Fresh Fruits | | | | | |
| Apples - Golden Delicious, Box 18-20kg | A | kg | 1000 kg | | |
| Apples - Granny Smith, Box 18-20kg | A | kg | 1000 kg | | |
| Apples - Large Golden, Box 18-20kg | A | kg | 1000 kg | | |
| Apples - Large Green, Box 18-20kg | A | kg | 1000 kg | | |
| Apples - Large Red, Box 18-20kg | A | kg | 1000 kg | | |
| Apples - Red Box 18-20kg | A | kg | 1000 kg | | |
| Avocados Pears Box | A | kg | 500 kg | | |
| Bananas - large Box 18-20kg | A | kg | 3000 kg | | |
| Blueberries | A | kg | 20 kg | | |
| Cherries | A | kg | 20 kg | | |
| Gooseberries | A | kg | 20 kg | | |
| Grapefruit – each Box 18-20kg | A | kg | 500 kg | | |
| Grapes - Black Box 18-20kg | A | kg | 700 kg | | |
| Grapes - White Box 18-20kg | A | kg | 700 kg | | |
| Kiwi Fruit - Box | A | kg | 100 kg | | |
| Lemons | A | kg | 100 kg | | |
| Mangoes Box 18-20kg | A | kg | 100 kg | | |
| Mixed Berries fresh | A | kg | 350 kg | | |
| Nartjies Box 18-20kg | A | kg | 1500 kg | | |
| Nartjies large Box 18-20kg | A | kg | 1500 kg | | |
| Nectarines Box 18-20kg | A | kg | 500 kg | | |
| Nectarines - Large | A | kg | 1000 kg | | |
| Oranges bag of 10kg | A | kg | 1500 kg | | |
| Oranges large – bag of 10kg | A | kg | 1500 kg | | |
| Paw-paws Box 18-20kg | A | kg | 800 kg | | |
| Peaches – Red Box 18-20kg | A | kg | 1500 kg | | |
| Peaches – yellow Box 18-20kg | A | kg | 1500 kg | | |
| Peaches large Box 18-20kg | A | kg | 1000 kg | | |
| Pears Box 18-20kg | A | kg | 2000 kg | | |
| Pears - Large | A | kg | 2000 kg | | |
| Pineapples Box 18-20kg | A | kg | 1000 kg | | |
| Plums - Box 18-20kg | A | kg | 1000 kg | | |

CONTRACT TITLE: SUPPLY AND DELIVERY OF FRUITS AND VEGETABLES ON AS REQUIRED FOR THE PERIOD OF TWO YEARS TO MATLA POWER STATION

| | | | | | |
|----------------------------|---|------|---------|--|--|
| Spanspek Box 18-20kg | A | kg | 500 kg | | |
| Strawberries Box 10kg | A | kg | 500 kg | | |
| Sweet Melon Box 18-20kg | A | kg | 1000 kg | | |
| Watermelon - Sugarbabies | A | kg | 1000 kg | | |
| Watermelon - Large | A | kg | 1500 kg | | |
| Fresh Vegetables | | | | | |
| Asparagus | A | kg | 50 kg | | |
| Alfalfa Sprouts | A | kg | 20 kg | | |
| Baby Brinjals | A | kg | 200 kg | | |
| Baby Butternuts | A | kg | 500 kg | | |
| Baby Carrots | A | kg | 500 kg | | |
| Baby Corn | A | kg | 200 kg | | |
| Corn on Cob | A | kg | 100 kg | | |
| Baby Gem squash | A | kg | 500 kg | | |
| Baby Marrow | A | kg | 500 kg | | |
| Baby Spinach | A | kg | 200 kg | | |
| Bean Sprouts | A | kg | 100 kg | | |
| Beans | A | kg | 100 kg | | |
| Beetroot | A | kg | 3000 kg | | |
| Brinjals | A | kg | 250 kg | | |
| Broccoli | A | kg | 700 kg | | |
| Butter Lettuce | A | kg | 100 kg | | |
| Butternut bag of 10kg | A | kg | 2000 kg | | |
| Cabbage Green bag | A | kg | 1000 kg | | |
| Cabbage Red bag 10kg | A | kg | 1000 kg | | |
| Carrots bag of 10kg | A | kg | 1000 kg | | |
| Cauliflower each | A | kg | 500 kg | | |
| Celery bunch, box | A | kg | 500 kg | | |
| Chillies Green | A | kg | 200 kg | | |
| Chillies Red | A | kg | 200 kg | | |
| Cocktail Tomatoes - kg | A | kg | 1500 kg | | |
| Cos Lettuce | A | kg | 100 kg | | |
| Endives | A | kg | 100 kg | | |
| English Cucumbers box 10kg | A | kg | 1500 kg | | |
| Gem squash box 10kg | A | kg | 1500 kg | | |
| Hubbard Squash 10kg | A | Each | 3000kg | | |
| Jalapeno Peppers | A | kg | 550 kg | | |
| Kale | A | kg | 200 kg | | |
| Leeks | A | kg | 150 kg | | |
| Lettuce box | A | kg | 500 kg | | |
| Lettuce Green Frizzy box | A | kg | 200 kg | | |
| Lettuce Red | A | kg | 200 kg | | |
| Lettuce Rainbow Mixed box | A | kg | 500 kg | | |

CONTRACT TITLE: SUPPLY AND DELIVERY OF FRUITS AND VEGETABLES ON AS REQUIRED FOR THE PERIOD OF TWO YEARS TO MATLA POWER STATION

| | | | | | |
|-----------------------------------|---|----|---------|--|--|
| Lettuce Iceberg Wrapped box | A | kg | 850 kg | | |
| Mixed Lettuce baby leaf -pkt | A | kg | 500 kg | | |
| Mushrooms button | A | kg | 850 kg | | |
| Onions bag 10kg | A | kg | 2000 kg | | |
| Onions – Baby 10kg | A | kg | 200 kg | | |
| Patty Pans Green box | A | kg | 1500 kg | | |
| Patty pans Yellow box | A | kg | 1500 kg | | |
| Peppers – Green box of 10kg | A | kg | 1500 kg | | |
| Peppers – Red box of 10kg | A | kg | 1500 kg | | |
| Peppers – Yellow box 10kg | A | kg | 1500 kg | | |
| Potatoes – Large bag of 10kg | A | kg | 1000 kg | | |
| Potatoes – Medium bag of 10kg | A | kg | 1000 kg | | |
| Potatoes – baby bag of 10kg | A | kg | 1000 kg | | |
| Pumpkin bag 10kg | A | kg | 3000 kg | | |
| Radish | A | kg | 200 kg | | |
| Red Onions bag of 10kg | A | kg | 1200 kg | | |
| Spinach bunch of 10 | A | kg | 2000 kg | | |
| Spring Onion | A | kg | 200 kg | | |
| Sugar snap peas | A | kg | 100 kg | | |
| Sundried Tomatoes | A | kg | 50 kg | | |
| Sweet Potatoes bag of 10kg | A | kg | 3000 kg | | |
| Tomatoes box of 10kg | A | kg | 3000 kg | | |
| Turnips | A | kg | 500 kg | | |
| Prepared Vegetables | | | | | |
| Baby Carrots – Peeled 10kg | A | kg | 1000 kg | | |
| Baby Marrow Sticks 10kg | A | kg | 800 kg | | |
| Baby Mix Veg 10kg | A | kg | 1200 kg | | |
| Beans - Top and Tail 10kg | A | kg | 1000 kg | | |
| Beans Cut 10kg | A | kg | 500 kg | | |
| Brinjals - Cut/Cubed 10kg | A | kg | 500 kg | | |
| Broccoli – Florettes each box | A | kg | 2000 kg | | |
| Broccoli & Cauliflower Mix 10kg | A | kg | 2000 kg | | |
| Butternut – Diced 10kg | A | kg | 1500 kg | | |
| Butternut – Halves 10kg | A | kg | 1000 kg | | |
| Butternut - Halves with skin 10kg | A | kg | 1000 kg | | |
| Butternut – Sliced 10kg | A | kg | 1000 kg | | |
| Cabbage Green – Shredded 10kg | A | kg | 1000 kg | | |
| Cabbage Red – Grated 10kg | A | kg | 500 kg | | |
| Cabbage Red – Shredded 10kg | A | kg | 500 kg | | |
| Carrots – Diced 10kg | A | kg | 500 kg | | |

| | | | | | |
|------------------------------|---|-----|---------|--|--|
| Carrots – Grated10kg | A | kg | 1000 kg | | |
| Carrots – Julienne 10kg | A | kg | 750 kg | | |
| Carrots – Peeled 10kg | A | kg | 500 kg | | |
| Carrots – Roundels 10kg | A | kg | 1000 kg | | |
| Carrots – Sliced 10kg | A | kg | 500 kg | | |
| Carrots – Sticks 10kg | A | kg | 500 kg | | |
| Cauliflower florets each box | A | kg | 1000 kg | | |
| Chargrill / Med Veg10kg | A | kg | 500 kg | | |
| Gem Squash - Halves | A | kg | 1500 kg | | |
| Hubbard Squash - Cut | A | kg | 1200 kg | | |
| Lettuce - Pre-cut and washed | A | kg | 100 kg | | |
| Mixed Veg 10kg | A | kg | 1500 kg | | |
| Mixed veg – chunky 10kg | A | kg | 1500 kg | | |
| Mixed Veg – Country 10kg | A | kg | 1500 kg | | |
| Mushrooms button sliced | A | kg | 200 kg | | |
| Onions - Baby Peeled | A | kg | 200 kg | | |
| Onions - Peeled | A | kg | 2500 kg | | |
| Patty Pans Green - Cut | A | kg | 1000 kg | | |
| Patty pans Yellow - cut | A | kg | 1000 kg | | |
| Potatoes – Peeled 10kg | A | kg | 3000 kg | | |
| Potjiekos mix 10kg | A | kg | 250 kg | | |
| Pumpkin - Cut/Cubed | A | kg | 1500 kg | | |
| Ratatouille 10kg | A | kg | 500 kg | | |
| Roast Veg 10kg | A | kg | 1000 kg | | |
| Spinach – cut 10kg | A | kg | 1500 kg | | |
| Spinach – deveined 10kg | A | kg | 1500 kg | | |
| Stir Fry | A | kg | 1000 kg | | |
| Sweet Potatoes - Cleaned | A | kg | 1500 kg | | |
| Tomato and Onion Mix | A | kg | 100 kg | | |
| Fresh Herbs | | | | | |
| Basil | A | kg | 10 kg | | |
| Chives | A | kg | 10 kg | | |
| Curry Leaves | A | kg | 10 kg | | |
| Dhania / Coriander | A | kg | 20 kg | | |
| Edible flowers | A | pkt | 1 kg | | |
| Garlic crushed | A | kg | 50 kg | | |
| Ginger crushed | A | kg | 20 kg | | |
| Lemongrass | A | kg | 5 kg | | |
| Italian Parsley | A | kg | 25 kg | | |
| Mint | A | kg | 10 kg | | |
| Origanum | A | kg | 10 kg | | |
| Parsley | A | g | 50 kg | | |
| Rocket | A | kg | 20 kg | | |

CONTRACT TITLE: SUPPLY AND DELIVERY OF FRUITS AND VEGETABLES ON AS REQUIRED FOR THE PERIOD OF TWO YEARS TO MATLA POWER STATION

| | | | | | |
|-----------------------------------|---|-----|---------|--|--|
| Rosemary | A | kg | 20 kg | | |
| Sage | A | kg | 5 kg | | |
| Thyme | A | kg | 20 kg | | |
| Watercress | A | kg | 20 kg | | |
| Microgreens | A | pkt | 15 kg | | |
| Flowers | | | | | |
| Flowers Mixed | A | bun | 5 kg | | |
| Flowers Gerbera's | A | bun | 5 kg | | |
| Flowers Chrysanthemums | A | bun | 5 kg | | |
| Flowers Roses | A | bun | 10 kg | | |
| Flowers Sunflowers | A | bun | 5 kg | | |
| Prepared Salads | | | | | |
| Apple and Celery Salad 10kg | A | kg | 100 kg | | |
| Beetroot Sliced/Diced/Grated 10kg | A | kg | 1500 kg | | |
| Carrot and Pineapple Salad 10kg | A | kg | 150 kg | | |
| Coleslaw Salad 10kg | A | kg | 850 kg | | |
| Fruit Balls 10kg | A | kg | 500 kg | | |
| Pasta Salad 10kg | A | kg | 1000 kg | | |
| Potato Salad 10kg | A | kg | 1000 kg | | |
| Vegetable Kebabs 10kg | A | ea | 100 kg | | |
| Waldorf Salad 10kg | A | kg | 100 kg | | |
| Frozen Fruit | | | | | |
| Bananas frozen | A | kg | 10 kg | | |
| Blackberries frozen | A | kg | 10 kg | | |
| Blueberries frozen | A | kg | 5 kg | | |
| Cherries - frozen | A | kg | 5 kg | | |
| Cranberries - frozen | A | kg | 5 kg | | |
| Gooseberries frozen | A | kg | 5 kg | | |
| Mixed Berries Frozen | A | kg | 20 kg | | |
| Kiwi Fruit Frozen | A | kg | 5 kg | | |
| Mango Frozen | A | kg | 5 kg | | |
| Paw paw Frozen | A | kg | 5 kg | | |
| Peaches Frozen | A | kg | 5 kg | | |
| Pineapple Frozen | A | kg | 5 kg | | |
| Raspberries frozen | A | kg | 50 kg | | |
| Red Currant frozen | A | kg | 50 kg | | |
| Strawberries frozen | A | kg | 50 kg | | |
| TOTAL | | | | | |

| | | |
|------------------------|---|-------------------|
| PART C3: SCOPE OF WORK | 6 | C3 SC3 COVER PAGE |
|------------------------|---|-------------------|

C3.1: *PURCHASER'S* GOODS INFORMATION

Contents

Part 3: Scope of Work 6

C3.1: *Purchaser's* Goods Information 7

| | | |
|-------|--|-------------------------------------|
| 1 | Overview and purpose of the <i>goods</i> and <i>services</i> | 8 |
| 2 | Specification and description of the <i>goods</i> | Error! Bookmark not defined. |
| 2.1 | <i>Purchaser's</i> design | Error! Bookmark not defined. |
| 2.2 | Procedure for submission and acceptance of <i>Supplier's</i> design | Error! Bookmark not defined. |
| 2.3 | Other requirements of the <i>Supplier's</i> design | Error! Bookmark not defined. |
| 2.4 | Use of <i>Supplier's</i> design | Error! Bookmark not defined. |
| 2.5 | Manufacture & fabrication | Error! Bookmark not defined. |
| 2.6 | Factory acceptance testing (FAT) | Error! Bookmark not defined. |
| 2.7 | Other tests and inspections and commissioning in place of use | Error! Bookmark not defined. |
| 2.8 | Operating manuals and maintenance schedules | Error! Bookmark not defined. |
| 3 | Supply Requirements | Error! Bookmark not defined. |
| 4 | Specification of the <i>services</i> to be provided | Error! Bookmark not defined. |
| 5 | Constraints on how the <i>Supplier</i> Provides the Goods | Error! Bookmark not defined. |
| 5.1 | Programming constraints | Error! Bookmark not defined. |
| 5.2 | Work to be done by the Delivery Date | Error! Bookmark not defined. |
| 5.3 | Marking the <i>goods</i> | Error! Bookmark not defined. |
| 5.4 | Constraints at the delivery place and place of use | Error! Bookmark not defined. |
| 5.5 | Cooperating with Others | Error! Bookmark not defined. |
| 5.6 | Services & other things to be provided by the <i>Purchaser</i> or <i>Supplier</i> | Error! Bookmark not defined. |
| 5.7 | Management meetings | Error! Bookmark not defined. |
| 5.8 | Documentation control | Error! Bookmark not defined. |
| 5.9 | Health and safety risk management | Error! Bookmark not defined. |
| 5.10 | Environmental constraints and management | Error! Bookmark not defined. |
| 5.11 | Quality | Error! Bookmark not defined. |
| 5.12 | Invoicing and payment | Error! Bookmark not defined. |
| 5.13 | Insurance provided by the <i>Purchaser</i> | Error! Bookmark not defined. |
| 5.14 | Contract change management | Error! Bookmark not defined. |
| 5.15 | Provision of bonds and guarantees | Error! Bookmark not defined. |
| 5.16 | Records of Defined Cost, payments & assessments of compensation events to be kept by the <i>Supplier</i> | Error! Bookmark not defined. |
| 6 | Procurement | Error! Bookmark not defined. |
| 6.1 | Subcontracting | Error! Bookmark not defined. |
| 6.1.1 | Preferred subcontractors | Error! Bookmark not defined. |
| 6.1.2 | Limitations on subcontracting | Error! Bookmark not defined. |
| 6.1.3 | Spares and consumables | Error! Bookmark not defined. |
| 6.1.4 | Other requirements related to procurement | Error! Bookmark not defined. |
| 6.1.5 | Cataloguing requirements | Error! Bookmark not defined. |
| 7 | List of drawings | Error! Bookmark not defined. |
| 7.1 | Drawings issued by the <i>Purchaser</i> | Error! Bookmark not defined. |
| C3.2 | <i>Supplier's</i> Goods Information | xv |

Overview and purpose of the *goods and services*

Matla intend to enter into a contract with the supplier to supply and deliver fresh fruits and vegetables on as when required basis for a period of 24 Months

Specification and description of the *goods*

SCOPE OF WORK

Matla Power Station intends to enter into a contract for the supply and delivery of Fresh fruits and vegetables and on an as and when required basis for a period of 2 years with suitably qualified supplier.

1. Specifications

a) Supply of Fresh Fruits and Vegetables

Fresh fruits and vegetables are a perishable foodstuff, therefore all steps in the production process, including packaging, storage, and delivery, shall be performed with no unnecessary delay and under conditions that preclude the possibility of contamination, deterioration, or development of pathogenic and spoilage micro-organisms.

- Only products that are fit for human consumption will be accepted.
- Where feasible, products that are in season will be ordered.
- Following dimensions on processed vegetables for diced pumpkin and sweet potato must be adhered to: *Minimum 2 cm x 1.5 cm, Maximum 2.5 cm x 1.5 cm.*
- Goods must be transported in such a manner that does not cause any damage to the vegetable products.
- Goods must be transported in a manner that does not compromise the quality of the product.
- Fresh produce not delivered in an appropriate delivery vehicle will not be accepted.
- Orders are normally placed on a weekly basis and should be delivered within 48 hours of an official order being received. The supplier must notify the Matla Power Station Site Kitchen immediately if delivery will not happen within 48 hours.
- Delivery of goods will be inspected by the Matla Power Station staff for freshness and quality. An inspection form will be completed by the Matla Power Station and supplier representative confirming the quality and quantity of the goods delivered.
- The service provider is responsible for the labor arrangements at the time of delivery to offload and pack the goods in the Matla Power Station Site Kitchen designated stores.
- The team offloading the items must always be clean and neat for hygiene purposes.
- The instructions appearing on the official purchase order must be strictly adhered to and under no circumstances should the service provider deviate from such.
- Eskom Matla Power Station will be under NO obligation to accept any quantity more than the ordered quantity.
- **Only class 1 and Grade A products will be accepted.**

Shelf Life

- Upon delivery, fresh and processed products must have at least 5 – 8 days shelf life before the date of expiry.

- Upon delivery, all frozen products must have a minimum of 6 month's shelf life before the date of expiry. Service Providers may make written applications to deliver a product with a shorter shelf life, provided such applications are accompanied by an undertaking that such short-dated stock will be unconditionally replaced before or after expiry.

Return conditions.

- All products qualify to be returned if the quality of the product is not completely satisfactory.
- All products will be returned should it be defective.
- The supplier must have an accredited certificate that is approved by SANHA and the Muslim Council to supply products classified as Halaal.

b) Regulations

Suppliers must comply with: Compliance with National Legislation and Standards

The successful supplier shall comply with all applicable legislation (Acts and their regulations) and South African Standards (SANS), These include but not limited to:

- **Health Act No 61 of 2003** Regulations
- **Local Municipality Regulations** (have certificate of acceptability).
- **Occupational Health and Safety Act, 1993** (Act No.85 of 1993).

SANS 10049:2019ED5

- **ISO: 9001:2015/SANS 9001:2015** "Requirement for Quality Management Systems"
- **ISO 14001:2015 / SANS 14001:2015** "Requirements for Environmental Management Systems"
- **SANS 10330:2007** "Requirements for HACCP System"
- **ISO 22000:2005** in a 3-year transition to **ISO 22000: 2018** "Food Safety Management Systems – Requirements for any organization in the food chain"
- **FSSC 22000**: "Food Safety Management System certification"
- **SANS 10049: 2012** "Code of Practice Food Hygiene Management"
- **SANS 10133**: "The application of pesticides in food handling, food processing and catering establishment"
- **Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No, 54 of 1972)**: To control sale, manufacture and importation of foodstuff, cosmetics and disinfectants and to provide for incidental matters.
- **Government Notice No. R368 of 22 June 2018**: Governing general hygiene requirements for food premises, the transport of food and related matters. No persons must handle food or permit food to be handled on food premises in respect of which a valid certificate of acceptability has not been issued or is not in force by the local authority.
- **Government Notice No. R186 of 22 February 2008**. Regulation relating the grading, packing, and marking of wheat products intended for sale in the republic of South Africa
- **Agricultural Product Standards Acts, 1990 (Act No. 119 of 1990)**: To provide for the control over the sale and export of certain agricultural products, control over the sale of certain imported agricultural products, control over related products and for matters connected with.
- **The South African Food Labelling regulations (Government Notice R146 of 1 March 2010)**

- **SANS 10049:2012 (SABS049): Food safety management** – Requirements for prerequisite programmers (PRPs)

Delivery Requirements

Vehicles used for the transportation shall meet the following requirements:

- Vehicles used for the transportation shall be clean, free from any odours, easy to clean, preferable weatherproof vehicle, and must be a covered vehicle.
- No Fresh Fruits And Vegetables product will be loaded on an open vehicle.
- A purchase order will be issued to the *Contractor* with the required items and quantities.
- Deliveries will be once a week between Monday and Thursday.
- Deliveries will not be later than 14h00
- No deliveries on Friday only pre-arranged deliveries on Friday before 10h00 (can be received
- Rates quoted should be quoted including all charges i.e. Transport, Loading & Unloading charges for Labour and the delivery to Matla Power Station Site Kitchen

2. Penalty for late deliveries.

Timeous delivery is of the utmost importance and it is expected from the successful tenderer to treat any orders received as a priority and to inform Eskom if deliveries cannot be effected on time.

Supplier will be liable to 0.1% penalty per completed days(24hours) of delay.

3. Special Deliveries - Emergency hours

In case of emergencies the supplier will be required to be available on a 24-hour basis and be able to deliver at short notice.

Supplier to provide the name of a contact person and contact details in case of emergencies.

DELIVERY ADDRESS

- SITE INFORMATION: Matla Power Station is situated in Kriel, being just over 17 km from Kriel town on the Delmas Road

4. Certification

CERTIFICATE OF ACCEPTABILITY for the premises. A Supplier has to comply with the Health Act No.61 of 2003 and Regulations and comply with the Local Municipality Regulations for that area SANS 10049:2019ED5

FOOD SAFETY MANAGEMENT (SANS ISO 22000:2005)

- Food Safety Management System
- Food Safety Management System Certification (FSSC) 22000

4.1 Management Meetings

Regular meetings of general nature to be convened and chaired by Supply Manager as follows:

| Title and Purpose | Time & Interval | Location | Attended by |
|--|-----------------------------------|----------|-------------|
| | | | |
| Risk Register and compensation events | As soon as the risk is identified | TBA | TBC |
| Contractor's SHEQ Executive meeting | TBC | TBA | TBC |
| Any other meeting on request by the Employer or Contractor | TBC | TBA | TBC |

Eskom Holding SOC Limited reserves the right to inspect the premises of the supplier without any prior notice, accompanied by or without the local Health inspector. Admission to Supplier premises should be granted at such time.

Eskom Holding SOC Limited reserves the right to have (at any point in time during the agreement period, without any prior notice) Micro swab tests (at Eskom Holdings SOC Limited's discretion) done by an Independent Laboratory. In the event of this happening, admission to the Suppliers premises should be granted to the appointed laboratory. Eskom Holding SOC Limited will provide Supplier with a copy of the test results within 15 Days after the receipt of the report. In the event of results of any of the tests performed not conforming to the minimum requirements as specified by the Independent laboratory, the total charge for the tests will be for the Suppliers account.

Should the Supplier not comply to the requirements as specified by the Independent laboratory, the Supplier should provide Eskom Holding SOC Limited with the results for similar tests (for Supplier's account) indicating the problem has been rectified within 20 days of receipt of report. If not, Eskom Holding SOC Limited reserves the right to terminate the contract within 24 hours.

4.2 Key Performance Indicators – (0 not compliant, 1 compliant)

| KPI's | Scoring criteria: 1- compliant, 0 -non-compliant | | | | |
|----------------------------|--|-------|--|--|--|
| | Dates | Dates | | | |
| Delivery on Time & In Full | | | | | |
| Visible Expiry Date | | | | | |
| Packaging | | | | | |

Delivery Schedule

The supplier is to note that fresh vegetables and fruits products are to be delivered weekly to Matla Power Station as per the Order and schedule provided by the purchaser.

Packaging of

All supplied fresh and vegetables and fruits products shall be dated, labelled, packaged and marked in way that are to be easily identifiable. And also, the fresh fruits and vegetables products shall be packaged in such a manner that they may be easily transported and stored without resulting in damage to the products. This includes preventing damage due to wetness.

Constraints at the delivery place and place of use

Deliveries must be directed to, Matla Power Station Site Kitchen or as directed by the purchaser.

Cooperating with Others

Supplier should cooperate with all Matla Power Station procedures and other suppliers that contracted by Matla power station during delivery. Supplier to confirm delivery time and date with the purchaser 12 hours prior to delivery to allow the purchaser to arrange access and to schedule all deliveries accordingly and to inform Stores of the delivery, in order to arrange for the offloading of the goods.

Management meetings

Contract Management Meetings may be convened as specified elsewhere in this Goods Information or if not so specified by persons and at times and locations to suit the Parties, the nature and the progress of the *goods*. Records of these meetings shall be submitted to the *Supply Manager* by the person convening the meeting within five days of the meeting.

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

Documentation control

All delivery documentation will be kept by Matla Power Station Catering Section and be filed on the central cabinet according to their numerical order numbers.

Health and safety risk management

The *Supplier* shall comply with the health and safety requirements of the *Purchaser*.

Environmental constraints and management

The *Supplier* shall comply with the environmental criteria and constraints required by the *Purchaser*.

Quality

The *Supplier* shall comply with the quality assurance requirements from the *Purchaser*. The supplier will provide a complete Quality Plan in accordance with the requirements Supplier Contract Quality Requirements Specification.

Invoicing and payment

Details on how to submit invoices and additional information:

- Ensure that the Eskom order number is clearly indicated on your invoice together with the line number on the order you are billing for.
- The words 'TAX INVOICE'
- Name, address and VAT registration number of supplier.
- *Name, address and VAT registration number of recipient.
- Eskom's name has to be reflected as **Eskom Holdings SOC Ltd.**
- Eskom's VAT number 4740101508.
- Tax Invoice number and date issued.
- A full proper description of the goods and/or services supplied.
*The quantity or volume of goods or services supplied.
- All Electronic invoices must be sent in PDF format only.
- Each PDF file should contain one invoice; or one debit note; or one credit note only as Eskom's SAP system does not support more than one PDF being linked into workflow at a time.
- Your E-mail may contain more than one PDF file (e.g. 2 invoices on 2 separate PDF files in one e-mail)
- With effect from 16 November 2014, send all invoices in PDF straight from your system to an Eskom email address (see email addresses below) and copy the purchaser.
- If there is Cost Price Adjustment (CPA) on your invoice we require that you issue a separate invoice for CPA so that if there are any issues on the CPA the rest of the invoice can be paid while resolving the CPA issues.
- Introduction of electronic invoicing does not guarantee payment but will ensure visibility of all invoices and ensure that no invoices get lost. If the goods receipt is not done or there is incorrect information on the invoice or delivery note the invoice will be parked and the system will automatically send an e-mail to the end user or supplier to do the goods receipt or to correct the invoice or delivery note. This is also tracked by Eskom through the park invoice report.
- Your company can request a park invoice report from the Finance Shared Services (FSS) contact centre which can then be followed up and corrected. You are welcome to forward the details of invoices corrected to the FSS contact centre.
- Email addresses for invoice submission:

Local Eskom invoices: **invoiceseskomlocal@eskom.co.za**

If your Invoice is not submitted immediately after you have delivered goods or rendered a service as agreed with purchaser, it might happen that you will only get paid within 30 days after receipt of your Invoice without Eskom paying any interest on late payment

Refer to Station Specific information Item 22.13.

- All queries and follow up on invoice payments should be made by contacting the FSS Contact Centre:
 - Tel: 011 800 5060
 - e-mail: fss@eskom.co.za

PLEASE NOTE

- That if your Invoice Amount is different than our Order value, it will delay payment. It is important that the line numbers, as per the Order reflect on your Delivery Note and Invoice. It is strongly recommended that if there are any discrepancies on the Invoice, it must be sorted out with the end user BEFORE it is submitted for payment.

Contract change management

Any major Scope change or amendments will be dealt with as per section 6 of the contract core clauses.

Cataloguing requirements by the *Supplier*

Where applicable Material numbers need to be clearly visible on item and invoice.

Data Capturing Forms are part of the returnable at completion of spares manufacturing.

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 |
|----------------|----------|-------|
| | | |
| | | |
| | | |
| | | |

C3.2 *SUPPLIER'S* GOODS INFORMATION

As per price list
