



NEC3 Supply Contract (SC3)

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

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

**for manufacture and supply of conveyor belts on an “as
and when” required basis for a period of two 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:

Title of the Contract

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 Ltd, Megawatt Park, Maxwell Drive, Sandton, Johannesburg,
2199**

(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)

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

Name &
signature
of witness

Date

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:

Title of the Contract

The tenderer, identified in the Offer signature block, has

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| <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 ² | 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

² 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 Ltd, Megawatt Park, Maxwell Drive, Sandton, Johannesburg,
2199**

(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)

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

Name &
signature
of witness

Date

C1.2 Contract Data

Part two - Data provided by the *Supplier*

[Instructions to the contract compiler: (delete this note before issue to tenderers with an enquiry)

Whenever a cell is shaded in the left hand column it denotes this data is optional and would be required in relation to the option selected. In the event that the option is not required select and delete the whole row.]

Notes to a tendering supplier:

1. Please read both the NEC3 Supply Contract (SC3)³ and the relevant parts of its Guidance Notes (SC3-GN)⁴ 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 | | | | | | | | | | |
| 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</i> and <i>services</i> is: | <table><thead><tr><th></th><th><i>goods and services</i></th><th><i>delivery date</i></th></tr></thead><tbody><tr><td>1</td><td>Fabric/Ply belts</td><td>8 to 10 weeks from date of order</td></tr><tr><td>2</td><td>Steelcord belts</td><td>8 to 10 weeks from date of order</td></tr></tbody></table> | | <i>goods and services</i> | <i>delivery date</i> | 1 | Fabric/Ply belts | 8 to 10 weeks from date of order | 2 | Steelcord belts | 8 to 10 weeks from date of order |
| | <i>goods and services</i> | <i>delivery date</i> | | | | | | | | | |
| 1 | Fabric/Ply belts | 8 to 10 weeks from date of order | | | | | | | | | |
| 2 | Steelcord belts | 8 to 10 weeks from date of order | | | | | | | | | |

³ Either April 2013 or December 2009 Edition as stated by *Purchaser* in Contract Data part 1.

⁴ Available from Engineering Contract Strategies Tel 011 803 3008, Fax 086 539 1902, or www.ecs.co.za

| | | | | |
|------|---|---|-----|-----|
| | | 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 % | | | |

C1.3 Forms of Securities

Pro formas for Bonds & Guarantees

For use with the NEC3 Supply Contract (SC3)

[Note to contract compiler:

Once it has been decided which securities are required for this contract delete from this file the ones not required, revise the notes below accordingly and delete this note.]

The *conditions of contract* stated in the Contract Data Part 1 may include the following Options:

- Option X4: Parent company guarantee
- Option X13: Performance bond
- Option X14 Advanced payment to the *Supplier*

These Options require a bond or guarantee “in the form set out in the Goods Information”.

Pro forma documents for these bonds and guarantees are provided here for convenience but are to be treated as part of the Goods Information.

The organisation providing the bond / guarantee does so by copying the pro forma document onto it's letterhead without any change to the text or format and completing the required details. The completed document is then given to the *Purchaser* within the time stated in the contract.

Pro forma Parent Company Guarantee (for use with Option X4)

(to be reproduced exactly as shown below on the letterhead of the Supplier's Parent Company)

Eskom Holdings SOC Ltd
Megawatt Park
Maxwell Drive
Sandton
Johannesburg

Date:

Dear Sirs,

Parent Company Guarantee for Contract No

With reference to the above numbered contract made or to be made between

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

(the *Purchaser*) and

[Insert registered name and address of the *Supplier*]

(the *Supplier*), for

[Insert details of the *goods* and *services* from the Contract Data]

(the *goods* and
services).

I/We the undersigned

on behalf of the *Supplier's*
parent company (name)

of physical address

and duly authorised thereto do hereby unconditionally guarantee to the *Purchaser* that the *Supplier* shall Provide the Goods and Services in accordance with the above numbered Contract.

1. If for any reason the *Supplier* fails to Provide the Goods and Services, we hereby agree to cause to Provide the Goods and Services at no additional cost to the *Purchaser*.
2. If we fail to comply with the terms of this Deed of Guarantee, the *Purchaser* may itself procure such performance (whether or not the Agreement be formally determined). The *Purchaser* is to notify us and we shall indemnify the *Purchaser* for any additional cost or expense it incurs.
3. Our liability shall be as primary obligor and not merely as surety and shall not be impaired or discharged by reason of any arrangement or change in relationship made between the *Supplier* and the *Purchaser* and/or between us and *Supplier*; nor any alteration in the obligations undertaken by the *Supplier* or in the terms of the Agreement; nor any indulgence, failure, delay by you as to any matter; nor any dissolution or liquidation or such other analogous event of the *Supplier*.
4. The *Purchaser* shall not be obliged before taking steps to enforce the terms of this Deed of Guarantee to obtain judgement against the *Supplier* in any court or other tribunal, to make or file any claim in liquidation (or analogous proceedings) or to seek any remedy or proceed first against the *Supplier*.
5. This Deed of Guarantee shall be governed by and construed in accordance with the laws of the Republic of South Africa and we hereby submit to the non-exclusive jurisdiction of the High Court of South Africa.

Signed at _____ on this _____ day of _____ 20__

Signature(s)

Name(s) (printed)

Position in parent company

Signature of Witness(s)

Name(s) (printed)

Pro forma Performance Bond – Demand Guarantee (for use with Option X13)

(to be reproduced exactly as shown below on the letterhead of the Bank providing the Bond / Guarantee)

Eskom Holdings SOC Ltd
Megawatt Park
Maxwell Drive
Sandton
Johannesburg

Bank reference No.

Date:

Dear Sirs,

Performance Bond – Demand Guarantee for [insert name of *Supplier*] required in terms of contract [insert *Supplier's* contract reference number or title]

1. In this Guarantee the following words and expressions shall have the following meanings:-

| | | |
|-----|--|--|
| 1.1 | "Bank" means | [Insert name of Bank], [●] Branch, Registration No. [●] |
| 1.2 | "Bank's Address" means | [Insert physical address of Bank] |
| 1.3 | "Contract" means | the written agreement relating to providing the <i>goods</i> and <i>services</i> , entered into between the <i>Purchaser</i> and the <i>Supplier</i> , on or about the [●] day of [●] 200[●] (Contract Reference No. [●]) as amended, varied, restated, novated or substituted from time to time; |
| 1.4 | " <i>Supplier</i> " means | [●] a company registered in accordance with the laws of [●] under Registration No [●]. |
| 1.5 | " <i>Purchaser</i> " means | Eskom Holdings SOC Ltd a company registered in accordance with the laws of the Republic of South Africa under Registration Number [●] |
| 1.6 | "Expiry Date" means | the earlier of <ul style="list-style-type: none">the date that the Bank receives a notice from the <i>Purchaser</i> stating that all amounts due from the <i>Supplier</i> as certified in terms of the contract have been received by the <i>Purchaser</i> and that the <i>Supplier</i> has fulfilled all his obligations under the Contract, orthe date that the Bank issues a replacement Bond for such lesser or higher amount as may be required by the <i>Purchaser</i>. |
| 1.7 | "Guaranteed Sum" means | the sum of R[●], ([●] Rand) |
| 1.8 | " <i>goods</i> and <i>services</i> " means | [insert details from Contract Data part 1] |

2. At the instance of the *Supplier*, we the undersigned _____ and _____, in our respective capacities as _____ and _____ of the Bank, and duly authorized thereto, confirm that we hold the Guaranteed Sum at the disposal of the *Purchaser* as security for the proper performance by the *Supplier* of all of its obligations in terms of and arising from the Contract and hereby undertake to pay to the *Purchaser*, on written demand from the *Purchaser* received prior to the Expiry Date, any sum or sums not exceeding in total the Guaranteed Sum.

3. A demand for payment under this guarantee shall be made in writing at the Bank's address and shall:

- be signed on behalf of the *Purchaser* by a Group Executive, Divisional Executive, Senior General Manager, General Manager or its delegate;
- state the amount claimed ("the Demand Amount");

- state that the Demand Amount is payable to the *Purchaser* in the circumstances contemplated in the Contract.
4. Notwithstanding the reference herein to the Contract the liability of the Bank in terms hereof is as principal and not as surety and the Bank's obligation/s to make payment:
- is and shall be absolute provided demand is made in terms of this bond in all circumstances; and
 - is not, and shall not be construed to be, accessory or collateral on any basis whatsoever.
5. The Bank's obligations in terms of this Guarantee:
- shall be restricted to the payment of money only and shall be limited to the maximum of the Guaranteed Sum; and
 - shall not be discharged and compliance with any demand for payment received by the Bank in terms hereof shall not be delayed, by the fact that a dispute may exist between the *Purchaser* and the *Supplier*.
6. The *Purchaser* shall be entitled to arrange its affairs with the *Supplier* in any manner which it sees fit, without advising us and without affecting our liability under this Guarantee. This includes, without limitation, any extensions, indulgences, release or compromise granted to the *Supplier* or any variation under or to the Contract.
7. Should the *Purchaser* cede its rights against the *Supplier* to a third party where such cession is permitted under the Contract, then the *Purchaser* shall be entitled to cede to such third party the rights of the *Purchaser* under this Guarantee on written notification to the Bank of such cession.
8. This Guarantee:
- shall expire on the Expiry Date until which time it is irrevocable;
 - is, save as provided for in 7 above, personal to the *Purchaser* and is neither negotiable nor transferable;
 - shall be returned to the Bank upon the earlier of payment of the full Guaranteed Sum or expiry hereof;
 - shall be regarded as a liquid document for the purpose of obtaining a court order; and
 - shall be governed by and construed in accordance with the law of the Republic of South Africa and shall be subject to the jurisdiction of the Courts of the Republic of South Africa.
 - will be invalid and unenforceable if any claim which arises or demand for payment is received after the Expiry Date.
9. The Bank chooses domicilium citandi et executandi for all purposes in connection with this Guarantee at the Bank's Address.

Signed at _____ on this _____ day of _____ 20__

For and on behalf of the Bank

Bank Signatories(s)

Name(s) (printed)

Witness(s)

Bank's seal or stamp

Pro forma Advanced Payment Bond (for use with Option X14)

(to be reproduced exactly as shown below on the letterhead of the Bank providing the Bond)

Eskom Holdings SOC Ltd
Megawatt Park
Maxwell Drive
Sandton
Johannesburg

Bank ref no. [●]

Date: [●]

Dear Sirs,

Advanced Payment Bond for Contract No. [●]

With reference to the above numbered contract made or to be made between

Eskom Holdings SOC Ltd

(the *Purchaser*) and

{Insert registered name and address of the *Supplier*}

(the *Supplier*), for

{Insert details of the *goods and services* from the Contract Data}

(the *goods and services*).

I/We the undersigned [●]

on behalf of the Surety [●]

of physical address [●]

and duly authorised thereto do hereby bind ourselves as Surety and co-principal debtors in solidum for the due and proper repayment by the *Supplier* to the *Purchaser* of the advanced payment made by the *Purchaser* to the *Supplier* under the Contract, and for all losses and expenses that may be suffered or incurred by the *Purchaser* as a result of non-payment by the *Supplier*, subject to the following conditions

1. The terms *Purchaser*, *Supplier*, and the *goods and services* have the meaning as assigned to them by the *conditions of contract* listed in the Contract Data for the aforesaid Contract.
2. We renounce all benefits from the legal exceptions "Benefit of Excussion and Division", "No value received" "Revision of Accounts", "Cession of Action" and any other exceptions which might or could be pleaded against the validity of this bond, with the meaning and effect of which exceptions we declare ourselves to be fully acquainted.
3. The *Purchaser* has the absolute right to arrange his affairs with the *Supplier* in any manner which the *Purchaser* deems fit and without being advised thereof the Surety shall not have the right to claim his release on account of any conduct alleged to be prejudicial to the Surety. Without derogating from the foregoing compromise, extension of the supply period, indulgence, release or variation of the *Supplier's* obligation shall not affect the validity of this Advance Payment bond.
4. This bond expires on the date when the Surety receives a notice from the *Supply Manager* stating that the advanced payment has been repaid to the *Purchaser* in terms of the Contract, or liquidated by deductions from other payments due to the *Supplier*.
5. The amount of the bond shall be payable to the *Purchaser* upon the *Purchaser's* demand and no later than 7 days following the submission to the Surety of a certificate signed by the *Supply Manager* stating the amount of the *Purchaser's* losses, damages and expenses incurred as a result of the non-performance aforesaid. The signed certificate shall be deemed to be conclusive proof of the extent of the *Purchaser's* loss, damage and expense.
6. Our total liability hereunder shall not exceed the sum of (R) which is equal to the advance payment.

7. This Advanced Payment Bond is neither negotiable nor transferable and is governed by the laws of the Republic of South Africa.

Signed at _____ on this _____ day of _____ 200_

| | |
|----------------------------|--|
| Signature(s) | |
| Name(s) (printed) | |
| Position in Surety company | |
| Signature of Witness(s) | |
| Name(s) (printed) | |

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 | <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 |
|---------|-------------|------|----------|------|-------|
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The total of the Prices

Document reference

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C3.1: *PURCHASER'S* GOODS INFORMATION

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1 Overview and purpose of the *goods and services*

The conveyor belting has elastomeric covers and is designed for use on flat or troughed idlers and transports bulk materials such as coal, ash, limestone and gypsum in a power station environment within the Republic of South Africa. The environment is harsh, moist and dusty.

2 Specification and description of the *goods*

The following specifications apply:

SANS 1173:2013 Conveyor belting — General purpose textile-reinforced construction

SANS 1366:2013 Conveyor belting — Steel cord reinforced construction.

240-55864434 Storage and Handling of Conveyor Belting in Eskom Guideline - Revision 3.

In addition to provisions of the above standards, the *Supplier* meets the following requirements with regard to conveyor belting repairs:

Definition

A repair is a defect on or in a conveyor belt that requires the removal and/ or replacement of material, irrespective of size.

Manufacturing/factory repairs

- a. If the *Supplier* needs to undertake repairs on a new belt, the repair procedure is submitted to the *Purchaser* for approval prior to any repairs.
- b. Only hot vulcanised repairs will be accepted for new belts.
- c. No conveyor belt shall be accepted if the total number of repairs exceeds 1 per 50 m² of manufactured belting (single belt roll).
- d. The area of the belt roll is calculated using belt width X roll length irrespective of the top and bottom cover.
- e. Repair size does not exceed 100 mm X 100 mm.
- f. Repairs where there is no cable damage may be repaired in the same way as any belt in that the damaged area is thoroughly cleaned and dried. The damaged elements such as cover, plies, insulation, gum etc., must be replaced and the new elements cured. The curing parameters for a repair must be the same as for a normal splice as detailed by the SANS Standard. If the cable has been exposed, it is important to use the manufactures recommended cable cement and cable insulation gum at that point.
- g. No repairs on new belts will be allowed where cables have been damaged.
- h. Every factory repair done is incorporated into a comprehensive Conveyor Belt Management Program.

3 *Purchaser's design*

None.

4 Procedure for submission and acceptance of *Supplier's design*

None.

5 Other requirements of the *Supplier's design*

None.

6 Use of *Supplier's design*

None.

7 Manufacture & fabrication

None.

8 Factory acceptance testing (FAT)

The *Purchaser* inspects the manufactured conveyor belting at the *Supplier's* factory and accepts the quality of the conveyor belting prior to release for delivery. The *Purchaser* reviews the data books and may require tests of conveyor belting to be performed by the *Supplier* during FAT.

9 Other tests and inspections and commissioning in place of use

None.

10 Operating manuals and maintenance schedules

None.

11 Supply Requirements

As per 240-55864434 Storage and Handling of Conveyor Belting in Eskom Guideline - Revision 3. The Supply Requirements for this contract are in an Annexure to the Contract Data provided by the *Purchaser*.

12 Specification of the services to be provided

None.

13 Constraints on how the *Supplier* Provides the Goods

14 Programming constraints

Read clause 31.2 first then state what additional information (if any) is to go in the programme per the last bullet of clause 31.2. Describe any particular constraints on the order and timing of the work which the *Supplier* must take into account in his programme.

15 Work to be done by the Delivery Date

Clause 11.2(5) defines Delivery as when the *Supplier* has done all the work which the Goods Information states he is to do by the Delivery Date. The defined term "Delivery" is used in this contract to identify when a stage, or amount of work has been achieved. This may be more than the common meaning of "delivery" and could include the passing of specified tests, provision of documentation and packing and preparation for air freight or shipping to the *Purchaser's* nominated Delivery Place specified in the Supply Requirements.

Either list here what has to be done in order to constitute "Delivery", or list what may remain undone and be completed after the Delivery Date by stating that everything else must be done before Delivery.

16 Marking the goods

As per SANS 1366: 2013, Conveyor belting — Steel cord reinforced construction.

17 Constraints at the delivery place and place of use

None.

18 Cooperating with Others

None.

19 Services & other things to be provided by the *Purchaser* or *Supplier*

None.

20 Management meetings

The *conditions of contract* (e.g. Clause 16.2) require and other sections of the Goods Information (e.g. safety risk management) may require (mandate) that a meeting shall be held. However the intention of all NEC contracts is that the Parties and their agents use the techniques of partnering to manage the contract by holding meetings designed to pro actively and jointly manage the administration of the contract with the objective of minimising the adverse effects of risks and surprises for both Parties.

Depending on the complexity of the *goods*, it is probably beneficial for the *Supply Manager* to hold a regular risk register meeting (Clause 16.2). This could be used to discuss safety, compensation events, subcontracting, overall co-ordination and other matters of a general nature. Separate meetings for specialist activities such as programming, engineering and design management, may also be warranted.

Describe here the general meetings and their purpose. Provide particulars of approximate times, days, location, and attendance requirements, stipulating that attendees shall have the necessary delegated authority to make decisions in respect of matters raised at such meetings.

The right to hold specialist meetings should be stated generically and in such a way that ambiguity with other parts of the Goods Information is avoided.

The following text could be used as a model for this section:

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

| Title and purpose | Approximate time & interval | Location | Attendance by: |
|--|-----------------------------|----------|---------------------------------------|
| Risk register and compensation events | Weekly on _____ at _____ | | |
| Overall contract progress and feedback | Monthly on _____ at _____ | | <i>Purchaser, Supplier, and _____</i> |
| | | | |
| | | | |

Meetings of a specialist nature 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 manufacture 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.

21 Documentation control

Specify how documentation will be identified with an alpha numeric which indicates source, recipient, communication number etc. Provide details of any particular format or other constraints; for example that all contractual communications will be in the form of properly compiled letters or forms attached to e mails and not as a message in the e mail itself. State any particular routing requirements but note from SC who issues what to whom.

22 Health and safety risk management

In addition to the requirements of the laws governing health and safety, the *Purchaser* may have some additional requirements particular to the *goods* and the location where they are to be delivered for this contract. This is a requirement of clause 25.4.

The *Supplier* shall comply with the health and safety requirements [stated here or contained in Annexure _____ to this Goods Information].

23 Environmental constraints and management

Describe or cross refer to environmental constraints applicable to the *Supplier's* design of the *goods* if not already included in the *Purchaser's* URS.

The *Supplier* shall comply with the environmental criteria and constraints [stated here or contained in Annexure _____]

24 Quality

Specify minimum requirements for the *Supplier's* Quality Plan and Work Procedures if required and not already covered in the specifications for the *goods*. State whether ISO compliance is a condition and if so which ISO standard shall apply.

25 Invoicing and payment

List the information that is to be shown by the *Supplier* on his invoices. State any other requirements relating to payment. For example:

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

The *Supplier* shall address the tax invoice to *Purchaser* and include on each invoice the following information:

- Name and address of the *Supplier* and the *Supply Manager*;
- The contract number and title;
- *Supplier's* VAT registration number;
- The *Purchaser's* VAT registration number.
- Description of *goods* and *services* provided for each item invoiced based on the Price Schedule;
- Total amount invoiced excluding VAT, the VAT and the invoiced amount including VAT;
- (add other as required)

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

26 Insurance provided by the Purchaser

First read SC3 Core Clause 84.1 and then add anything necessary for the management of insurance related issues such as a cross reference to where procedures for making claims can be found. Also provide contact details for persons capable of being able to answer any insurance related queries the *Supplier* may have, as well as to whom the information required by any Marine Insurance may be addressed.

27 Contract change management

This section is intended to deal with any additional requirements to the compensation event clauses in section 6 of the core clauses; such as the use of standard forms. Not the same thing as documentation control.

28 Provision of bonds and guarantees

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

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

29 Records of Defined Cost, payments & assessments of compensation events to be kept by the *Supplier*

Read clause 63.2 and 11.2(4) and then state whether the *Supplier* is required to keep any records of Defined Cost. Include any other constraint which may be required in regard to format and filing of the records, and whether access for the *Supply Manager* shall be provided in hard copy or electronically.

30 Procurement

31 Subcontracting

32 Preferred subcontractors

SC does not make use of nominated subcontracting, but the *Purchaser* may list which subcontractors or sub-suppliers the *Supplier* is required to enter into subcontracts with (if any). This is usually only required where plant and materials need to be obtained from a particular supplier or group of suppliers in order to comply with operational standards for the *goods*.

33 Limitations on subcontracting

The *Purchaser* may require that the *Supplier* must subcontract certain specialised work, or that the *Supplier* shall not subcontract more than a specified proportion of the whole of the contract.

34 Spares and consumables

Some contracts may need to include provision for the supply of a minimum category of spares, fuel, oil or other consumables which the *Purchaser* may need at or just after delivery or commissioning of the *goods* and that it is best the *Supplier* provide these initially as part of his Providing the Goods and Services

35 Other requirements related to procurement

Other requirements such as ASGISA or socio political enhancements the *Supplier* is to provide as part of Providing the Goods and Services (if any) could be included here.

36 Cataloguing requirements by the *Supplier*

State whether cataloguing is applicable, if it is, reference the requirements for cataloguing that need to be satisfied by the *Supplier* (consult Procurement Instruction Number 1 of 2018 – Incorporating Cataloguing into the Procurement Environment, Unique Identifier 240-1289988974).

37 List of drawings

38 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 |
|----------------|----------|-------|
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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.
