

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS



## NEC3 Supply Contract (SC3)

Between **NTCSA SOC Ltd**  
(Reg No. 2021/539129/30)

and **[Insert at award stage]**  
(Reg No. \_\_\_\_\_ )

for **SUPPLY AND DELIVERY OF BOTTLED WATER TO  
WELKOM CLN WITHIN THE SOUTHERN GRID, ON  
AN 'AS AND WHEN' REQUIRED BASIS**

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| <b>Contents:</b>                              | <b>No of<br/>pages</b> |
|-----------------------------------------------|------------------------|
| <b>Part C1 Agreements &amp; Contract Data</b> | <b>01</b>              |
| <b>Part C2 Pricing Data</b>                   | <b>18</b>              |
| <b>Part C3 Scope of Work</b>                  | <b>10</b>              |

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**CONTRACT No. [Insert at award stage]**

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SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

## PART C1: AGREEMENTS & CONTRACT DATA

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| <b>Contents:</b>                                            | <b>No of pages</b> |
|-------------------------------------------------------------|--------------------|
| <b>C1.1 Form of Offer and Acceptance</b>                    | <b>03</b>          |
| [to be inserted from Returnable Documents at award stage]   |                    |
| <b>C1.2a Contract Data provided by the <i>Purchaser</i></b> | <b>14</b>          |
| <b>C1.2b Contract Data provided by the <i>Supplier</i></b>  | <b>02</b>          |
| [to be inserted from Returnable Documents at award stage]   |                    |
| <b>C1.3 Proforma Guarantees</b>                             | <b>N/A</b>         |

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SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

## 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 BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, 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                  | <b>Rate based</b> |
|  | Value Added Tax @ 15% is                                             | <b>R</b>          |
|  | The offered total of the amount due inclusive of VAT is <sup>1</sup> | <b>Rate based</b> |
|  | (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

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

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

## 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**

**NTCSA 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.

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

### 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)*

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

Name &  
signature  
of witness

Date

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

## C1.2 SC3 Contract Data

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

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

| Clause   | Statement                                                                          | Data                                                                                                                                           |
|----------|------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| 1        | <b>General</b>                                                                     |                                                                                                                                                |
|          | The <i>conditions of contract</i> are the core clauses and the clauses for Options |                                                                                                                                                |
|          |                                                                                    | <b>X1: Price adjustment for inflation</b>                                                                                                      |
|          |                                                                                    | <b>X2 Changes in the law</b>                                                                                                                   |
|          |                                                                                    | <b>X7: Delay damages</b>                                                                                                                       |
|          |                                                                                    | <b>Z: Additional conditions of contract</b>                                                                                                    |
|          | of the NEC3 Supply Contract (April 2013) <sup>2</sup>                              | (If the December 2009 edition is to be used delete April 2013 and replace by December 2013)                                                    |
| 10.1     | The <i>Purchaser</i> is (name):                                                    | <b>NTCSA SOC Ltd (reg no: 2021/539129/30), a state owned company incorporated in terms of the company laws of the Republic of South Africa</b> |
|          | Address                                                                            | <b>Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg</b>                                                                |
|          | Tel No.                                                                            | <b>TBA</b>                                                                                                                                     |
|          | Fax No.                                                                            | <b>N/A</b>                                                                                                                                     |
| 10.1     | The <i>Supply Manager</i> is (name):                                               | <b>TBA</b>                                                                                                                                     |
|          | Address                                                                            | <b>TBA</b>                                                                                                                                     |
|          | Tel                                                                                | <b>TBA</b>                                                                                                                                     |
|          | Fax                                                                                | <b>TBA</b>                                                                                                                                     |
|          | e-mail                                                                             | <b>TBA</b>                                                                                                                                     |
| 11.2(13) | The <i>goods</i> are                                                               | <b>1.5L Bottled Water</b>                                                                                                                      |
| 11.2(13) | The <i>services</i> are                                                            | <b>Supply and delivery of Bottled water to Welkom CLN within the Southern Grid, on an as and when required basis</b>                           |
| 11.2(14) | The following matters will be included in the Risk Register                        | <b>Late Deliveries</b>                                                                                                                         |
| 11.2(15) | The Goods Information is in                                                        | <b>Part 3: Scope of Work and all documents and</b>                                                                                             |

<sup>2</sup> Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 539 1902, [www.ecs.co.za](http://www.ecs.co.za).

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

|          |                                                                                                                        |                                                                                                                                                                                          |                      |
|----------|------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
|          |                                                                                                                        | drawings to which it makes reference.                                                                                                                                                    |                      |
| 11.2(15) | The Supply Requirements as part of the Goods Information is in                                                         | Annexure A to this Contract Data                                                                                                                                                         |                      |
| 12.2     | The <i>law of the contract</i> is the law of                                                                           | the Republic of South Africa                                                                                                                                                             |                      |
| 13.1     | The <i>language of this contract</i> is                                                                                | English                                                                                                                                                                                  |                      |
| 13.3     | The <i>period for reply</i> is                                                                                         | Five (05) working days                                                                                                                                                                   |                      |
| 2        | The <b>Supplier's main responsibilities</b>                                                                            | Data required by this section of the core clauses is provided by the <i>Supplier</i> in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data. |                      |
| 3        | Time                                                                                                                   |                                                                                                                                                                                          |                      |
| 30.1     | The <i>starting date</i> is.                                                                                           | TBC                                                                                                                                                                                      |                      |
| 30.1     | The service period                                                                                                     | 36 Months                                                                                                                                                                                |                      |
| 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 Supply and delivery of 1.5L Bottled water                                                                                                                                              | 7 days from PO date. |
| 30.2     | The <i>Supplier</i> does not bring the <i>goods</i> to the Delivery Place more than one week before the Delivery Date. | Not Applicable                                                                                                                                                                           |                      |
| 31.1     | The <i>Supplier</i> is to submit a first programme for acceptance within                                               | Not Applicable                                                                                                                                                                           |                      |
| 32.2     | The <i>Supplier</i> submits revised programmes at intervals no longer than                                             | Not Applicable                                                                                                                                                                           |                      |
| 4        | Testing and defects                                                                                                    |                                                                                                                                                                                          |                      |
| 42       | The <i>defects date</i> is                                                                                             | As agreed by both parties                                                                                                                                                                |                      |
| 43.2     | The <i>defect correction period</i> is                                                                                 | As soon as one becomes aware                                                                                                                                                             |                      |
| 42.2     | The <i>defects access period</i> is                                                                                    | As soon as one becomes aware                                                                                                                                                             |                      |
|          |                                                                                                                        |                                                                                                                                                                                          |                      |
| 5        | Payment                                                                                                                |                                                                                                                                                                                          |                      |
| 50.1     | The <i>assessment interval</i> is                                                                                      | Three working days after receipt of Goods                                                                                                                                                |                      |
| 51.1     | The <i>currency of this contract</i> is the                                                                            | South African Rand                                                                                                                                                                       |                      |
| 51.2     | The period within which payments are made is                                                                           | Dependent on the B-BBEE status of the supplier                                                                                                                                           |                      |
| 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                                                        |                      |

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

**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**

|          |                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                             |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>6</b> | <b>Compensation events</b>                                                                                                                                                        | There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.                                                                                                                                                        |
| <b>7</b> | <b>Title</b>                                                                                                                                                                      | There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.                                                                                                                                                        |
| <b>8</b> | <b>Risks, liabilities, indemnities and insurance</b>                                                                                                                              |                                                                                                                                                                                                                                                                                                                             |
| 80.1     | These are additional <i>Purchaser's</i> risks                                                                                                                                     | <b>None</b>                                                                                                                                                                                                                                                                                                                 |
| 88.1     | The <i>Supplier's</i> liability to the <i>Purchaser</i> for indirect or consequential loss, including loss of profit, revenue and goodwill is limited to                          | <b>R0.0 (zero Rand)</b>                                                                                                                                                                                                                                                                                                     |
| 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                                 | <b>(1) for the <i>Purchaser's</i> existing and surrounding property in the care, custody and control of the <i>Supplier</i> the amount of the deductible (first amount payable) relevant to the event and<br/><br/>(2) for all other existing <i>Purchaser's</i> property the applicable deductible as at contract date</b> |
| 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:                                           | <b>Contract Value</b>                                                                                                                                                                                                                                                                                                       |
| 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 | <b>Contract Value</b>                                                                                                                                                                                                                                                                                                       |
| 88.5     | The <i>end of liability date</i> is                                                                                                                                               | <b>One (01) year after Delivery of the whole of the goods and services.</b>                                                                                                                                                                                                                                                 |
| <b>9</b> | <b>Termination and dispute resolution</b>                                                                                                                                         |                                                                                                                                                                                                                                                                                                                             |
| 94.1     | The <i>Adjudicator</i> is                                                                                                                                                         | <b>the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a>). If the</b>                                            |

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

|         |                                                                             |                                                                                                                                                                                       |
|---------|-----------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|         |                                                                             | <b>Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).</b>                                              |
|         | Address                                                                     | <b>TBA</b>                                                                                                                                                                            |
|         | Tel No.                                                                     | <b>TBA</b>                                                                                                                                                                            |
|         | Fax No.                                                                     | <b>TBA</b>                                                                                                                                                                            |
|         | e-mail                                                                      | <b>TBA</b>                                                                                                                                                                            |
| 94.2(3) | The <i>Adjudicator nominating body</i> is:                                  | <b>the Chairman of ICE-SA, a Division of the South African Institution of Civil Engineering, or its successor body (See <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a>)</b> |
| 94.4(2) | The <i>tribunal</i> is:                                                     | <b>arbitration</b>                                                                                                                                                                    |
| 94.4(5) | The <i>arbitration procedure</i> is                                         | <b>the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.</b>                               |
| 94.4(5) | The place where arbitration is to be held is                                | <b>[•] South Africa</b>                                                                                                                                                               |
|         | The person or organisation who will choose an arbitrator                    |                                                                                                                                                                                       |
|         | - if the Parties cannot agree a choice or                                   |                                                                                                                                                                                       |
|         | - if the arbitration procedure does not state who selects an arbitrator, is | <b>the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.</b>                                                      |

## 10 Data for Option clauses

| X1              | Price adjustment for inflation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                              |                                        |                           |            |                          |  |  |  |                 |                                           |                      |                                  |                           |            |                          |    |     |               |                                        |               |  |  |    |     |        |                                 |               |  |  |    |  |  |  |  |  |  |  |     |                                  |  |  |  |  |       |      |  |  |  |  |  |
|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|----------------------------------------|---------------------------|------------|--------------------------|--|--|--|-----------------|-------------------------------------------|----------------------|----------------------------------|---------------------------|------------|--------------------------|----|-----|---------------|----------------------------------------|---------------|--|--|----|-----|--------|---------------------------------|---------------|--|--|----|--|--|--|--|--|--|--|-----|----------------------------------|--|--|--|--|-------|------|--|--|--|--|--|
| X1.1            | The <i>base date</i> for indices is                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | One month prior to closing of tender                         |                                        |                           |            |                          |  |  |  |                 |                                           |                      |                                  |                           |            |                          |    |     |               |                                        |               |  |  |    |     |        |                                 |               |  |  |    |  |  |  |  |  |  |  |     |                                  |  |  |  |  |       |      |  |  |  |  |  |
|                 | <ul style="list-style-type: none"><li>• The rates exclude VAT.</li><li>• CPA will kick in after sixteen (16) months from the base date.</li><li>• The Base date is one (1) month prior to tender closing, and the cutoff date is One (1) month prior to delivery.</li><li>• Note that only 85% subjected to escalation and 15% is fixed.</li><li>• Proportion linked to the index for Price</li></ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                              |                                        |                           |            |                          |  |  |  |                 |                                           |                      |                                  |                           |            |                          |    |     |               |                                        |               |  |  |    |     |        |                                 |               |  |  |    |  |  |  |  |  |  |  |     |                                  |  |  |  |  |       |      |  |  |  |  |  |
|                 | <table><tr><th>Formula A</th><th></th><th></th><th></th><th></th><th></th><th></th></tr><tr><th>Index Reference</th><th>Proposed portions/Weighting of each Index</th><th>Description of Index</th><th>Full Title of Index as published</th><th>Source Published of Index</th><th>Base Month</th><th>Base Price/ Index Figure</th></tr><tr><td>A1</td><td>85%</td><td>Statistics SA</td><td>Consumer Price Index (CPI) Table D - 3</td><td>Statistics SA</td><td></td><td></td></tr><tr><td>A2</td><td>85%</td><td>SEIFSA</td><td>Table L-2(B) Road Freight Costs</td><td>Statistics SA</td><td></td><td></td></tr><tr><td>A3</td><td></td><td></td><td></td><td></td><td></td><td></td></tr><tr><td></td><td>15%</td><td colspan="4">Fixed portion not subject to CPA</td><td></td></tr><tr><td>Total</td><td>100%</td><td></td><td></td><td></td><td></td><td></td></tr></table> |                                                              | Formula A                              |                           |            |                          |  |  |  | Index Reference | Proposed portions/Weighting of each Index | Description of Index | Full Title of Index as published | Source Published of Index | Base Month | Base Price/ Index Figure | A1 | 85% | Statistics SA | Consumer Price Index (CPI) Table D - 3 | Statistics SA |  |  | A2 | 85% | SEIFSA | Table L-2(B) Road Freight Costs | Statistics SA |  |  | A3 |  |  |  |  |  |  |  | 15% | Fixed portion not subject to CPA |  |  |  |  | Total | 100% |  |  |  |  |  |
| Formula A       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                              |                                        |                           |            |                          |  |  |  |                 |                                           |                      |                                  |                           |            |                          |    |     |               |                                        |               |  |  |    |     |        |                                 |               |  |  |    |  |  |  |  |  |  |  |     |                                  |  |  |  |  |       |      |  |  |  |  |  |
| Index Reference | Proposed portions/Weighting of each Index                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Description of Index                                         | Full Title of Index as published       | Source Published of Index | Base Month | Base Price/ Index Figure |  |  |  |                 |                                           |                      |                                  |                           |            |                          |    |     |               |                                        |               |  |  |    |     |        |                                 |               |  |  |    |  |  |  |  |  |  |  |     |                                  |  |  |  |  |       |      |  |  |  |  |  |
| A1              | 85%                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Statistics SA                                                | Consumer Price Index (CPI) Table D - 3 | Statistics SA             |            |                          |  |  |  |                 |                                           |                      |                                  |                           |            |                          |    |     |               |                                        |               |  |  |    |     |        |                                 |               |  |  |    |  |  |  |  |  |  |  |     |                                  |  |  |  |  |       |      |  |  |  |  |  |
| A2              | 85%                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | SEIFSA                                                       | Table L-2(B) Road Freight Costs        | Statistics SA             |            |                          |  |  |  |                 |                                           |                      |                                  |                           |            |                          |    |     |               |                                        |               |  |  |    |     |        |                                 |               |  |  |    |  |  |  |  |  |  |  |     |                                  |  |  |  |  |       |      |  |  |  |  |  |
| A3              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                              |                                        |                           |            |                          |  |  |  |                 |                                           |                      |                                  |                           |            |                          |    |     |               |                                        |               |  |  |    |     |        |                                 |               |  |  |    |  |  |  |  |  |  |  |     |                                  |  |  |  |  |       |      |  |  |  |  |  |
|                 | 15%                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Fixed portion not subject to CPA                             |                                        |                           |            |                          |  |  |  |                 |                                           |                      |                                  |                           |            |                          |    |     |               |                                        |               |  |  |    |     |        |                                 |               |  |  |    |  |  |  |  |  |  |  |     |                                  |  |  |  |  |       |      |  |  |  |  |  |
| Total           | 100%                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                              |                                        |                           |            |                          |  |  |  |                 |                                           |                      |                                  |                           |            |                          |    |     |               |                                        |               |  |  |    |     |        |                                 |               |  |  |    |  |  |  |  |  |  |  |     |                                  |  |  |  |  |       |      |  |  |  |  |  |
| X2              | Changes in the law                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                              |                                        |                           |            |                          |  |  |  |                 |                                           |                      |                                  |                           |            |                          |    |     |               |                                        |               |  |  |    |     |        |                                 |               |  |  |    |  |  |  |  |  |  |  |     |                                  |  |  |  |  |       |      |  |  |  |  |  |
| X2.1            | A change in the law of                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | is a compensation event if it occurs after the Contract Date |                                        |                           |            |                          |  |  |  |                 |                                           |                      |                                  |                           |            |                          |    |     |               |                                        |               |  |  |    |     |        |                                 |               |  |  |    |  |  |  |  |  |  |  |     |                                  |  |  |  |  |       |      |  |  |  |  |  |

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

|            |                                                         |                                         |
|------------|---------------------------------------------------------|-----------------------------------------|
| <b>X7</b>  | <b>Delay damages</b>                                    | <b>R300 per day.</b>                    |
| <b>X17</b> | <b>Low performance damages</b>                          | <b>None</b>                             |
| <b>Z</b>   | <b>The <i>additional conditions of contract</i> are</b> | <b>Z1 to Z15 always apply for NTCSA</b> |

#### **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

## SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

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

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

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 4710303126 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:

|                         |                                                                                                                                                                                                                                                                  |
|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Affected Party</b>   | 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, |
| <b>Coercive Action</b>  | means to harm or threaten to harm, directly or indirectly, an Affected Party or the property of an Affected Party, or to otherwise influence or attempt to influence an Affected Party to act unlawfully or illegally,                                           |
| <b>Collusive Action</b> | means where two or more parties co-operate to achieve an unlawful or illegal purpose, including to influence an Affected Party to act unlawfully or illegally,                                                                                                   |
| <b>Committing</b>       | means, as the context requires, the <i>Supplier</i> , or any member thereof in the case of a                                                                                                                                                                     |

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

|                           |                                                                                                                                                                                                                               |
|---------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Party</b>              | joint venture, or its employees, agents, or Subcontractors or the Subcontractor's employees,                                                                                                                                  |
| <b>Corrupt Action</b>     | means the offering, giving, taking, or soliciting, directly or indirectly, of a good or service to unlawfully or illegally influence the actions of an Affected Party,                                                        |
| <b>Fraudulent Action</b>  | means any unlawfully or illegally intentional act or omission that misleads, or attempts to mislead, an Affected Party, in order to obtain a financial or other benefit or to avoid an obligation or incurring an obligation, |
| <b>Obstructive Action</b> | means a Committing Party unlawfully or illegally destroying, falsifying, altering or concealing information or making false statements to materially impede an investigation into allegations of Prohibited Action, and       |
| <b>Prohibited Action</b>  | means any one or more of a Coercive Action, Collusive Action Corrupt Action, Fraudulent Action or Obstructive Action.                                                                                                         |

- Z12.1 A Committing Party may not take any Prohibited Action during the course of the procurement of this contract or in execution thereof.
- Z12.2 The *Purchaser* may terminate the *Supplier's* obligation to Provide the Services if a Committing Party has taken such Prohibited Action and the *Supplier* did not take timely and appropriate action to prevent or remedy the situation, without limiting any other rights or remedies the *Purchaser* has. It is not required that the Committing Party had to have been found guilty, in court or in any other similar process, of such Prohibited Action before the *Purchaser* can terminate the *Supplier's* obligation to Provide the Services for this reason.
- Z12.3 If the *Purchaser* terminates the *Supplier's* obligation to Provide the Services for this reason, the amounts due on termination are those intended in core clauses 92.1 and 92.2.
- Z12.4 A Committing Party co-operates fully with any investigation pursuant to alleged Prohibited Action. Where the *Purchaser* does not have a contractual bond with the Committing Party, the *Supplier* ensures that the Committing Party co-operates fully with an investigation.

### Z13Insurance

#### Z 13.1 Replace core clause 84 with the following:

|                        |             |                                                                                                                                                                                                                                               |
|------------------------|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Insurance cover</b> | <b>84</b>   |                                                                                                                                                                                                                                               |
|                        | <b>84.1</b> | 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.                                                                               |
|                        | <b>84.2</b> | 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. |

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

**INSURANCE TABLE A**

| <b>Insurance against</b>                                                                                                                                                                                                                                        | <b>Minimum amount of cover or minimum limit of indemnity</b>                                                                                                                                                                                                                                                                                                                                                                                      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 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.<br><br>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 | <b><u>Loss of or damage to property</u></b><br><b><u>Purchaser's property</u></b><br>The replacement cost where not covered by the <i>Purchaser's</i> insurance.<br><br>The <i>Purchaser's</i> policy deductible as at Contract Date, where covered by the <i>Purchaser's</i> insurance.<br><br><b><u>Other property</u></b><br>The replacement cost<br><br><b><u>Death of or bodily injury</u></b><br>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**

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

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

|                                      |                                   |
|--------------------------------------|-----------------------------------|
| Business Interruption                |                                   |
| Nuclear Material Damage<br>Terrorism | Per the insurance policy document |

## **Z14 Nuclear Liability**

- Z14.1 The *Purchaser* is the operator of the Koeberg Nuclear Power Station (KNPS), a nuclear installation, as designated by the National Nuclear Regulator of the Republic of South Africa, and is the holder of a nuclear licence in respect of the KNPS.
- Z14.2 The *Purchaser* is solely responsible for and indemnifies the *Supplier* or any other person against any and all liabilities which the *Supplier* or any person may incur arising out of or resulting from nuclear damage, as defined in Act 47 of 1999, save to the extent that any liabilities are incurred due to the unlawful intent of the *Supplier* or any other person or the presence of the *Supplier* or that person or any property of the *Supplier* or such person at or in the KNPS or on the KNPS site, without the permission of the *Purchaser* or of a person acting on behalf of the *Purchaser*.
- Z14.3 Subject to clause Z14.4 below, the *Purchaser* waives all rights of recourse, arising from the aforesaid, save to the extent that any claims arise or liability is incurred due or attributable to the unlawful intent of the *Supplier* or any other person, or the presence of the *Supplier* or that person or any property of the *Supplier* or such person at or in the KNPS or on the KNPS site, without the permission of the *Purchaser* or of a person acting on behalf of the *Purchaser*.
- Z14.4 The *Purchaser* does not waive its rights provided for in section 30 (7) of Act 47 of 1999, or any replacement section dealing with the same subject matter.
- Z14.5 The protection afforded by the provisions hereof shall be in effect until the KNPS is decommissioned.

## **Z15 Asbestos**

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

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

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

|                              |                                                                                                                                                                                                                        |
|------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Parallel Measurements</b> | means measurements performed in parallel, yet separately, to existing measurements to verify validity of results.                                                                                                      |
| <b>Safe Levels</b>           | means airborne asbestos exposure levels conforming to the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles. |
| <b>Standard</b>              | means the <i>Purchaser's</i> Asbestos Standard 32-303: Requirements for Safe Processing, Handling, Storing, Disposal and Phase-out of Asbestos and Asbestos Containing Material, Equipment and Articles.               |
| <b>SANAS</b>                 | means the South African National Accreditation System.                                                                                                                                                                 |
| <b>TWA</b>                   | means the average exposure, within a given workplace, to airborne asbestos fibres, normalised to the baseline of a 4 hour continuous period, also applicable to short term exposures, i.e. 10-minute TWA.              |

- Z15.1 The *Purchaser* ensures that the Ambient Air in the area where the *Supplier* will Provide the Services conforms to the acceptable prescribed South African standard for asbestos, as per the regulations published in GNR 155 of 10 February 2002, under the Occupational Health and Safety Act, 1993 (Act 85 of 1993) ("Asbestos Regulations"). The OEL for asbestos is 0.2 regulated asbestos fibres per millilitre of air as a 4-hour TWA, averaged over any continuous period of four hours, and the short term exposure limit of 0.6 regulated asbestos fibres per millilitre of air as a 10-minute TWA, averaged over any 10 minutes, measured in accordance with HSG248 and monitored according to HSG173 and OESSM.
- Z15.2 Upon written request by the *Supplier*, the *Purchaser* certifies that these conditions prevail. All measurements and reporting are effected by an independent, competent, and certified occupational hygiene inspection body, i.e. a SANAS accredited and Department of Employment and Labour approved AAIA. The *Supplier* may perform Parallel Measurements and related control measures at the *Supplier's* expense. For the purposes of compliance the results generated from Parallel Measurements are evaluated only against South African statutory limits as detailed in clause Z15.1. Control measures conform to the requirements stipulated in the AAIA-approved asbestos work plan.
- Z15.3 The *Purchaser* manages asbestos and ACM according to the Standard.
- Z15.4 In the event that any asbestos is identified while Providing the Services, a risk assessment is conducted and if so required, with reference to possible exposure to an airborne concentration of above the AL for asbestos, immediate control measures are implemented and relevant air monitoring conducted in order to declare the area safe.
- Z15.5 The *Supplier's* personnel are entitled to stop working and leave the contaminated area forthwith until such time that the area of concern is declared safe by either Compliance Monitoring or an AAIA approved control measure intervention, for example, per the emergency asbestos work plan, if applicable.
- Z15.6 The *Supplier* continues to Provide the Services, without additional control measures presented, on presentation of Safe Levels. The contractually agreed dates to Provide the Services, including the Completion Date, are adjusted accordingly. The contractually agreed dates are extended by the notification periods required by regulations 3 and 21 of the Asbestos Regulations.
- Z15.7 Any removal and disposal of asbestos, asbestos containing materials and waste, is done by a registered asbestos contractor, instructed by the *Purchaser* at the *Purchaser's* expense, and conducted in line with South African legislation.

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

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

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

| Clause                    | Statement                                                                                                    | Data                                                                                                                                                                                                           |                           |  |             |   |     |     |   |     |     |
|---------------------------|--------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|--|-------------|---|-----|-----|---|-----|-----|
| 10.1                      | The <i>Supplier</i> is (Name):<br><br>Address<br><br>Tel No.<br><br>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 ,<br>(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 colspan="2"><i>goods and services</i></th><th><i>date</i></th></tr></thead><tbody><tr><td>1</td><td>[•]</td><td>[•]</td></tr><tr><td>2</td><td>[•]</td><td>[•]</td></tr></tbody></table> | <i>goods and services</i> |  | <i>date</i> | 1 | [•] | [•] | 2 | [•] | [•] |
| <i>goods and services</i> |                                                                                                              | <i>date</i>                                                                                                                                                                                                    |                           |  |             |   |     |     |   |     |     |
| 1                         | [•]                                                                                                          | [•]                                                                                                                                                                                                            |                           |  |             |   |     |     |   |     |     |
| 2                         | [•]                                                                                                          | [•]                                                                                                                                                                                                            |                           |  |             |   |     |     |   |     |     |

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

<sup>4</sup> Available from Engineering Contract Strategies Tel 011 803 3008, Fax 086 539 1902, or [www.ecs.co.za](http://www.ecs.co.za)

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

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

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

PART 2: PRICING DATA

NEC3 Supply Contract

| Document reference | Title                     | No of pages |
|--------------------|---------------------------|-------------|
| C2.1               | Pricing assumptions       | 02          |
| C2.2               | The <i>price schedule</i> | 18          |

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

## C2.1 Pricing assumptions

### How goods and services are priced and assessed for payment

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

|                                     |      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-------------------------------------|------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Identified and defined terms</b> | 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Assessing the amount due</b>     | 50.2 | The amount due is                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|                                     |      | <ul style="list-style-type: none"> <li>the Price for each lump sum item in the Price Schedule which the <i>Supplier</i> has completed,</li> <li>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,</li> <li>plus other amounts to be paid to the <i>Supplier</i>,</li> <li>less amounts to be paid by or retained from the <i>Supplier</i>.</li> </ul> <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*

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

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.

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

C2.2 the *price schedule*

| Item no. | Description                      | Unit | Quantity | Rate | Price |
|----------|----------------------------------|------|----------|------|-------|
| 1        | BOTTLED WATER<br>1.5 Litre water | ea   | 1        |      |       |
| 2        | Delivery                         | km   | 1        |      |       |
|          |                                  |      |          |      |       |
|          |                                  |      |          |      |       |

Total of the Prices

Notes to the Price List

1. The rates exclude VAT.  
The rates will be fixed and firm for the first 16 months of the contract and thereafter subject to CPA. CPA to be reviewed quarterly using the latest available indices as per the contract (CPI)

### Part 3: Scope of Work

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

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

## C3.1: *PURCHASER'S* GOODS INFORMATION

### Contents

When the document is complete, insert a 'Table of Contents'. To do this go to: Reference, → Table of Contents. Three levels and the title (but not the subtitle) may be shown if the formats used in this template are retained. Alternatively just update the table below when the drafting of the Goods Information is complete by clicking on 'References' then 'Update Table' then 'Update entire table'

Part 3: Scope of Work xxiii

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

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

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

## 1 Overview and purpose of the *goods and services*

Supply and Delivery of 1.5L Bottled Drinking Water for a period of three (3) years to NTCSA – Southern Grid.

The Employer will plan a Task Order in a such a way that travelling is minimized. It is recommended that suppliers procure from local suppliers.

The specification, SHEQ and SDL%I requirements are attached to this contract and the PPPFA criteria will be used for evaluation purposes.

## 2 Specification and description of the *goods*

Supply and Delivery of 1.5L Bottled Drinking Water for a period of three (3) years to NTCSA – Southern Grid.

## 3 Supply Requirements

Supply and Delivery of 1.5L Bottled Drinking Water for a period of three (3) years to NTCSA – Southern Grid.

## 4 Specification of the *services* to be provided

Delivery of the items ordered shall be arranged with the Supply Manager so that access and availability of recipient shall be agreed upon.

The Supplier shall ensure that all goods are securely packaged using appropriate protective materials suitable for transportation and handling. Each package must be clearly labelled and include, at a minimum, the following information:

- Supplier Name
- Purchase Order Number
- Delivery Date

Failure to comply with these packaging and labelling requirements may result in delays, rejection of the goods, or additional costs being incurred by the Supplier.

Deliveries will be done the following sites:

- Welkom

Eskom - NTCSA

Leander Substation

1 Blenheim Ave

Riebeeckstad

9469

## 5 Constraints on how the *Supplier* Provides the Goods

Not applicable

## 6 Programming constraints

The contract is on an as and when required bases. The Supplier is required to strictly comply with all terms, conditions, and requirements stated in the Contract Data Part One and the relevant Purchase Order.

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

## 7 Work to be done by the Delivery Date

Delivery of the goods shall be in accordance with the dates stated in the Purchase Order and the delivery timelines specified in the Contract Data Part One.

Each delivery shall be accompanied by a Delivery Note clearly detailing all items delivered. The Delivery Note shall be signed by authorised representatives of both the Contractor and the Purchaser at the time of delivery.

The Contractor's representative and the Purchaser's authorised representative shall jointly and physically verify the delivered goods upon delivery. The Contractor is responsible for ensuring that the Delivery Note is duly signed and accepted by the Purchaser's representative.

**No deliveries shall be arranged with courier companies.**

Upon delivery, the Contractor shall provide the following documentation:

- A Packing List detailing the contents of the delivery.
- A Delivery Note

Failure to comply with the delivery, documentation, or verification requirements may be treated as a failure to provide the service in accordance with the Contract.

## 8 Marking the goods

Not applicable

## 9 Constraints at the delivery place and place of use

The Supplier must notify and verify with the Supply Manager as on the planned delivery date and time.

Delivery shall be subject to the operating constraints applicable at the delivery location, including but not limited to:

- Designated delivery times and access control requirements – goods to be delivered between 07:45 and 15:30 weekdays.
- Compliance with site security procedures, sign-in protocols, and identification requirements;
- Adherence to Safety, Health, Environment, Quality and Security (SHEQS) rules applicable at the delivery site;
- Restrictions relating to loading/off-loading areas, vehicle size, and parking;
- Any additional site-specific instructions issued by the Supply Manager or Purchaser's authorised representative.
- No deliveries will be accepted during weekends and during holidays.

## 10 Cooperating with Others

Not applicable

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

Supply and Delivery of 1.5L Bottled Drinking Water for a period of three (3) years to NTCSA – Southern Grid.

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

## 12 Management meetings

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:                                                |
|----------------------------------------|--------------------------------------|----------------------------------|---------------------------------------------------------------|
| Kick of meeting                        | Within 1 week of contract inception. | MS Teams                         |                                                               |
| Risk reduction meeting                 | As and when required                 | MS Teams or Purchaser's location | Purchaser's representative, Supplier's representatives.       |
| Overall contract progress and feedback | As and when required.                | MS Teams or Purchaser's location | <i>Purchaser's representative, Supplier's representative.</i> |
| SHEQ                                   | As and when required.                | MS Teams or Purchaser's location | Purchaser's representative, Supplier's representative.        |

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.

## 13 Documentation control

All contractual Documentation must have relevant contract number and Purchase Order Number as reference as per Eskom NTCSA Standards (List). Contractual communications will be in the form of properly compiled letters; letters attached to emails and NEC template.

Any verbal communication must be backed up with a written instruction.

The use of sms's, emails does not override the use of applicable and relevant NEC3 SC standard templates, forms and Eskom NTCSA procedures.

## 14 Health and safety risk management

The *Supplier* shall comply with the health and safety

The supplier shall comply with Eskom's NTCSA cardinal rules.

The Contractor should adhere to the Life Saving Rules at all times.

Due to the importance to safe life's and apparatus of Eskom it is recommended that if a contractor abuse any Life Saving Rules, all work allocated to the Supplier will immediately be put on hold until final outcome with investigation.

### Purchaser's Site Entry, Security Control, Permits, and Site Regulations

Eskom's Cardinal Rules shall apply to all Eskom employees, agents, consultants and contractors.

- Rule 1: Open, Isolate, Test, Earth, Bond, and/or Insulate before touch - that is any plant operating
- above 1 000 V.

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

- Rule 2: Hook up at heights - no person may work at a height where there is a risk of falling.
- Rule 3: Buckle up - no person may drive any vehicle on Eskom business and/or on Eskom premises unless the driver and all passengers are wearing seat belts.
- Rule 4: Be sober (no person is allowed to work under the influence of drugs and alcohol.
- Rule 5: Use a permit to work - where an authorization limitation exists, no person shall work without the required permit to work.
- Rule 6: Wear correct PPE
- Rule 7: Report all accidents

The supplier will be subjected to a site induction prior to entering site.

## **15 Environmental constraints and management**

The Supplier shall strictly comply with all applicable environmental criteria, standards, and constraints as specified in Eskom 32-245-Eskom Waste Management Standard and in Annexure A of the Invitation to Tender document

## **16 Quality**

- All Quality management activities to be done in line with the latest copy of the Eskom Supplier Quality Management Specification, 240-105658000 and ISO 9001 Standard
- All materials shall be of the best quality and shall conform to the requirements of the Eskom standard. With regards to the material supply chain, the approved materials manufacturer shall be approved before.
- Storage and preservation of raw materials and consumables to be in line with product specification requirements.
- Effectiveness of Corrective Actions to be verified when closing non-conformances.
- Sub-contracted activities and material to be monitored to ensure compliance to specification requirements.
- Periodic audits and internal assessments to be done in line with the procedure and be used to ensure management system effectiveness.

## **17 Procurement**

### **18**

#### **Minimum requirements of people employed.**

- The Contractor shall conduct criminal, and site clearance checks of its employees (before offer of employment).
- The Contractor shall conduct training, testing and verifying key personnel qualifications and competence including certification for operation of machinery and equipment in relation to OSHACT.

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

All tenderers must at a minimum maintain their B-BBEE status throughout the contract period.

The Contractor is expected to submit a valid B-BBEE Verification Certificate from a SANAS accredited Verification Agency each year. Failure to submit such a Certificate may be regarded as the breach of the Contract by the Employer.

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

## **Supplier Development Localisation and Industrialisation (SDL&I)**

### **SDL&I contractual obligations**

#### **Job Opportunities**

Tenderers are required to submit proposals for the type and number of jobs that will be created and retained in South Africa as a direct result of being awarded a contract.

|                                                                   |  |
|-------------------------------------------------------------------|--|
| Number of jobs to be <b>created</b> as a result of this contract  |  |
| Number of jobs to be <b>retained</b> as a result of this contract |  |

The employment job created) shall comply with the Employment Equity Act and represent the demographics of the Local to site communities.

#### **Local Procurement Content**

“Local Procurement Content” refers to value added in South Africa by South African resources. Where a single contract involves a combination of local and imported goods and/or services, the tender response must be separated into its components as per the Price Schedule included with the tender documents. Local procurement content is total spending minus the imported component. Tenderers are required to submit their proposals in the table below.

| Local Procurement Content | NTCSA target | Tenderer Proposal |
|---------------------------|--------------|-------------------|
|                           | 100%         |                   |

#### **SDL&I Penalty and Performance Security**

- NTCSA will apply a penalty of 2.5% of the invoice amount for failure to meet SDL&I obligations. As security for the fulfilment of all SDL&I obligations, NTCSA will apply a penalty of 2.5% of every invoice amount (excluding VAT) for failure to submit SDL&I performance reports every quarter; or failure to meet the SDL&I obligations in a contract.

#### **Reporting and Monitoring**

The *Contractor* shall keep accurate records and provide the *Supply Manager* with reports on the *Contractor's* actual delivery against the above stated SDL&I criteria.

The *Contractor's* failure to comply with his SDL&I obligations constitutes substantial failure on the part of the *Contractor* to comply with his obligations under this contract.

## **19 Invoicing and payment**

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 **4710303126**
- 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;

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

- Electronic submission of invoice via email
- Signed delivery note(s) must accompany the required invoice(s) for payment.

#### **Invoices and Additional Information**

- NTCSA order number must be clearly indicated on the invoice with the line number on the order for billing.
- Only PDF invoices must be submitted.
- Each PDF file should contain one invoice, one debit, and credit note only as NTCSA's SAP system does not support more than one PDF being linked into workflow at a time.
- Only one PDF file per email (one invoice or debit note or credit note).
- Send all invoices in PDF straight from your system to an NTCSA email address (see the email address below).
- When it comes to foreign invoices, suppliers will be required to physical deliver the hard copies of original documents to the respective documentation management centers – though invoices emailed. NTCSA is still seeking clarity from the South African Reserve Bank for foreign invoices and currency. Current requirements are that these manual invoices should be submitted. Invoice copy can be sent to the email address indicated below.
- All submitted invoices electronically must comply with the Tax Requirements.
- If there is a Cost Price Adjustment on the invoice, NTCSA recommends separate invoice for CPA to avoid delays on payment, if there are issues for the CPA.
- 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, the invoice will be parked, and the system will automatically send an email to the end user to do good receipt. This is also tracked by NTCSA through the park invoice report.
- The Contractor can request a park invoice report from the Finance Shared Services (FSS) contact centre which can then be followed up and corrected.
- The Contractor is welcome to forward the details of invoices corrected to the FSS contact centre.
- All invoices for payment must be submitted [Invoicesntcsalocal@ntcsa.co.za](mailto:Invoicesntcsalocal@ntcsa.co.za)

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

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

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

## **20 Insurance provided by the Purchaser**

Refer to Z12 in Data by Employer document.

## **21 Contract change management**

Changes to the contract will be notified and addressed as per the NEC3 – SC3 and as per NTCSA's internal Governance Processes for approval. Modifications to work/service can only resume once NTCSA approval is obtained and as instructed by the NTCSA Representative (Supply Manager).

Any verbal communication must be backed up with a written instruction.

## **22 Provision of bonds and guarantees**

Not applicable.

SUPPLY AND DELIVERY OF BOTTLED WATER TO WELKOM CLN WITHIN THE SOUTHERN GRID, ON AN 'AS AND WHEN' REQUIRED BASIS

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

As a control measure, it is required for the Supplier to maintain record keeping of all defined cost items for the purpose of compensation event management.

### **24 Procurement**

### **25 Subcontracting**

#### **26 Preferred subcontractors**

Not applicable

#### **27 Limitations on subcontracting**

Not applicable

### **28 Plant and Materials**

The Supplier shall provide evidence of the Logistics Management / Quality Management System of the Transporter, providing assurance of on-time delivery of the product of the required quality.

The Supplier shall notify the Contract Manager in writing of any request to change the Transporter of the product. This shall be assessed after a technical evaluation.

### **Tests and Inspections before delivery**

The Supplier shall perform an inspection of an off-loading event in the presence of purchaser's staff prior offloading of the goods.

### **29 Cataloguing requirements by the *Supplier***

Not applicable

### **30 List of drawings**

Not applicable

### **31 Drawings issued by the *Purchaser***

Not applicable.