



NEC3 Supply Contract (SC3)

Between

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

and

(Reg No. _____)

for

**SUPPLY AND DELIVERY OF INDUSTRIAL
DETERGENT TO LETHABO POWER STATION ON AS
AND WHEN REQUIRED FOR A PERIOD OF 5 YEARS.**

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CONTRACT No.

PART C1: AGREEMENTS & CONTRACT DATA

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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 Canteen Detergent for a period of 5 years.

The tenderer, identified in the Offer signature block, has

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

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

	The offered total of the Prices exclusive of VAT is	
	Value Added Tax @ 15% is	
	The offered total of the amount due inclusive of VAT is ¹	

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:

Name & signature of witness
(Insert name and address of organisation)

Date

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

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.

Part C3 Scope of Work: Goods Information including Supply Requirements

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.

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).

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

Name & signature of witness of *(organisation)* Date

Note: If a tenderer wishes to submit alternative tenders, use another copy of this Form of Offer and Acceptance.

Schedule of Deviations to be completed by the *Purchaser* prior to contract award

Note:

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

No.	Subject	Details
1	[•]	[•]
2	[•]	[•]

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	_____	Karabo Rakgolela General Manager – Lethabo Power Station
On behalf of	_____	Eskom Holdings SOC Ltd, Megawatt Park, Maxwell Drive, Sandton, Johannesburg, 2199
Name & signature of witness	_____	_____
Date	_____	_____

C1.2 SC3 Contract Data

Part one - Data provided by the Purchaser

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for Options	
		X1: Price adjustment for inflation
		X2 Changes in the law
		X7: Delay damages
		X13: Performance Bonds
		Z: Additional conditions of contract
	of the NEC3 Supply Contract (April 2013) ²	(If the December 2009 edition is to be used delete April 2013 and replace by December 2013)
10.1	The <i>Purchaser</i> is (name):	Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state-owned company incorporated in terms of the company laws of the Republic of South Africa
	Address	Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg
	Tel No.	
	Fax No.	N/A
10.1	The <i>Supply Manager</i> is (name):	Bruce Somerset
	Address	Lethabo Power Station Private Bag X 415 Vereeniging 1930
	Tel	+27 16 457 5032
	Fax	N/A
	e-mail	SomersCB@eskom.co.za
11.2(13)	The <i>goods</i> are	Supply and delivery of Canteen Detergent for a period of 5 years Lethabo power station for a five (5) year period on an "as and when required" basis.
11.2(14)	The following matters will be included in the Risk Register	• Late delivery • Quality assurance • Substandard goods • Failure to meet specifications. • Risks of hazardous materials being used in containers or utensils.

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

11.2(15)	The Goods Information is in	Part 3: Scope of Work and all documents and drawings to which it makes reference.
11.2(15)	The Supply Requirements as part of the Goods Information is in	Annexure A to this Contract Data
12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa
13.1	The <i>language of this contract</i> is	English
13.3	The <i>period for reply</i> is	Two (2) working days
2	The <i>Supplier's</i> main responsibilities	Data required by this section of the core clauses is provided by the <i>Supplier</i> in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data.
3	Time	
30.1	The <i>starting date</i> is.	TBC
30.1	The <i>delivery date</i> of the <i>goods</i> is:	Supply and delivery of Canteen <i>delivery date</i> Detergent for a period of 5 years Lethabo power station for a five (5) year period on an "as and when required" basis.
		As per purchase order As stipulated on purchase order
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.	
31.1	The <i>Supplier</i> is to submit a first programme for acceptance within	One (1) week of the Contract Date.
32.2	The <i>Supplier</i> submits revised programmes at intervals no longer than	Two (2) weeks.
4	Testing and defects	
42	The <i>defects date</i> is	Two (2) after Delivery.
43.2	The <i>defect correction period</i> is	The Supplier corrects notified Defects within 1 week of the defect being notified to the Supplier by the Supply Manager or his/her delegate or such longer period as is reasonable under the circumstances and agreed by the Parties to collect the defected goods for correction or replacement. Supplier shall be liable for Supplier's own costs incurred as a result of such action only.
	and the <i>defect access period</i> for	Within 3 working days
5	Payment	
50.1	The <i>assessment interval</i> is	Assessment will be done after every delivery
51.1	The <i>currency of this contract</i> is the	South African Rand
51.2	The period within which payments are made is	14 Days after receive valid invoice

51.4	The <i>interest rate</i> is	the publicly quoted prime rate of interest (calculated on a 365 day year) charged from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands
6	Compensation events	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
7	Title	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
8	Risks, liabilities, indemnities and insurance	
80.1	These are additional <i>Purchaser's</i> risks	1. No additional risks
88.1	The <i>Supplier's</i> liability to the <i>Purchaser</i> for indirect or consequential loss, including loss of profit, revenue and goodwill is limited to	R0.0 (zero Rand)
88.2	For any one event, the <i>Supplier's</i> liability to the <i>Purchaser</i> for loss of or damage to the <i>Purchaser's</i> property is limited to	(1) for the <i>Purchaser's</i> existing and surrounding property in the care, custody and control of the <i>Supplier</i> the amount of the deductible (first amount payable) relevant to the event and (2) for all other existing <i>Purchaser's</i> property the applicable deductible as at contract date
88.3	The <i>Supplier's</i> liability for Defects due to his design which are not notified before the last <i>defects date</i> is limited to:	N/A
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	N/A
88.5	The <i>end of liability date</i> is	One year after Delivery of the whole of the goods and services.
9	Termination and dispute resolution	
90.1		NEC3 core clause 9 shall be applied for termination. 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.
94.1	The <i>Adjudicator</i> is	the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see www.ice-sa.org.za). If the

		Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).		
Address				
Tel No.				
Fax No.				
e-mail				
94.2(3)	The <i>Adjudicator nominating body</i> is:	the Chairman of ICE-SA, a Division of the South African Institution of Civil Engineering, or its successor body (See www.ice-sa.org.za)		
94.4(2)	The <i>tribunal</i> is:	arbitration		
94.4(5)	The <i>arbitration procedure</i> is	the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.		
94.4(5)	The place where arbitration is to be held is	South Africa		
	The person or organisation who will choose an arbitrator			
	- if the Parties cannot agree a choice or			
	- if the arbitration procedure does not state who selects an arbitrator, is	the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.		
10	Data for Option clauses			
X1	Price adjustment for inflation	Prices are fixed and firm for the first year and CPA will kick in for subsequent years as follows		
X1.1	The <i>base date</i> for indices is	TBC		
	The proportions used to calculate the Price Adjustment Factor are:	proportion	linked to index for	Index prepared by
		70%	Consumer price index	SEIFSA Table O-2
		10%	Transport	SEIFSA Table L-1(A)
		15%	Fixed	
		100%		
X2	Changes in the law	is a compensation event if it occurs after the Contract Date.		
X2.1	A change in the law of	The republic of South Africa is a compensation event if it occurs afterthe Contract Date		
X7	Delay damages			

X7.1	Delay damages for Delivery are	The supplier should deliver according to the accepted schedule. 5% of each late delivery per day to a maximum of 20% of the total task order. 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.
Z	The additional conditions of contract are	Z1 to Z15 always apply for Eskom

Z1 Cession delegation and assignment

- Z1.1 The *Supplier* does not cede, delegate or assign any of its rights or obligations to any person without the written consent of the *Purchaser*.
- Z1.2 Notwithstanding the above, the *Purchaser* may on written notice to the *Supplier* cede and delegate its rights and obligations under this contract to any of its subsidiaries or any of its present divisions or operations which may be converted into separate legal entities as a result of the restructuring of the Electricity Supply Industry.

Z2 Joint ventures

- Z2.1 If the *Supplier* constitutes a joint venture, consortium or other unincorporated grouping of two or more persons or organisations then these persons or organisations are deemed to be jointly and severally liable to the *Purchaser* for the performance of this contract.
- Z2.2 Unless already notified to the *Purchaser*, the persons or organisations notify the *Supply Manager* within two weeks of the Contract Date of the key person who has the authority to bind the *Supplier* on their behalf.
- Z2.3 The *Supplier* does not alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without the consent of the *Purchaser* having been given to the *Supplier* in writing.

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

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

Z4 Confidentiality

- Z4.1 The *Supplier* does not disclose or make any information arising from or in connection with this contract available to Others. This undertaking does not, however, apply to information which at the time of disclosure or thereafter, without default on the part of the *Supplier*, enters the public domain or to information which was already in the possession of the *Supplier* at the time of disclosure (evidenced by written records in existence at that time). Should the *Supplier* disclose information to Others in terms of clause 23.1, the *Supplier* ensures that the provisions of this clause are complied with by the recipient.
- Z4.2 If the *Supplier* is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the *Supply Manager*.
- Z4.3 In the event that the *Supplier* is, at any time, required by law to disclose any such information which is required to be kept confidential, the *Supplier*, to the extent permitted by law prior to disclosure, notifies the *Purchaser* so that an appropriate protection order and/or any other action can be taken if possible, prior to any disclosure. In the event that such protective order is not, or cannot, be obtained, then the *Supplier* may disclose that portion of the information which it is required to be disclosed by law and uses reasonable efforts to obtain assurances that confidential treatment will be afforded to the information so disclosed.
- Z4.4 The taking of images (whether photographs, video footage or otherwise) of the *goods* or any portion thereof, in the course of Providing the Goods and Services and after Delivery, requires the prior written consent of the *Supply Manager*. All rights in and to all such images vests exclusively in the *Purchaser*.
- Z4.5 The *Supplier* ensures that all his subcontractors abide by the undertakings in this clause.

Z5 Waiver and estoppel: Add to core clause 12.3:

- Z5.1 Any extension, concession, waiver or relaxation of any action stated in this contract by the Parties, the *Supply Manager* or the *Adjudicator* does not constitute a waiver of rights, and does not give rise to an estoppel unless the Parties agree otherwise and confirm such agreement in writing.

Z6 Health, safety and the environment: Add to core clause 25.4

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

Without limitation the *Supplier*:

- warrants that the total of the Prices as at the Contract Date includes a sufficient amount for proper compliance with all applicable health & safety laws and regulations and the health and safety rules, guidelines and procedures provided for in this contract and generally for the proper maintenance of health & safety in and about the execution of supply and
- undertakes, in and about the execution of the supply, to comply with all applicable health & safety laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his Subcontractors, employees and others under the *Supplier's* direction and control, likewise observe and comply with the foregoing.

- Z6.2 The *Supplier*, in and about the execution of the supply, complies with all applicable environmental laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his Subcontractors, employees and others under the *Supplier's* direction and control, likewise observe and comply with the foregoing.

Z7 Provision of a Tax Invoice and interest. Add to core clause 51

- Z7.1 Within one week of receiving a payment certificate from the *Supply Manager* in terms of core clause 51.1, the *Supplier* provides the *Purchaser* with a tax invoice in accordance with the *Purchaser's* procedures stated in the Goods Information, showing the amount due for payment equal to that stated in the payment

certificate.

Z7.2 If the *Supplier* does not provide a tax invoice in the form and by the time required by this contract, the time by when the *Purchaser* is to make a payment is extended by a period equal in time to the delayed submission of the correct tax invoice. Interest due by the *Purchaser* in terms of core clause 51.2 is then calculated from the delayed date by when payment is to be made.

Z7.3 The *Supplier* (if registered in South Africa in terms of the companies Act) is required to comply with the requirements of the Value Added Tax Act, no 89 of 1991 (as amended) and to include the *Purchaser's* VAT number 4740101508 on each invoice he submits for payment.

Z8 Notifying compensation events

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

Z9 Purchaser's limitation of liability

Z9.1 The *Purchaser's* liability to the *Supplier* for the *Supplier's* indirect or consequential loss is limited to R0.00 (zero Rand)

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

Z10 Termination: Add to core clause 91.1, at the second main bullet point, fourth sub-bullet point, after the words "against it":

Z10.1 or had a business rescue order granted against it.

Z11 Addition to secondary Option X7 Delay damages (if applicable in this contract)

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

Z12 Ethics

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

Affected Party means, as the context requires, any party, irrespective of whether it is the *Supplier* or a third party, such party's employees, agents, or Subcontractors or Subcontractor's employees, or any one or more of all of these parties' relatives or friends,

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

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

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

Corrupt Action means the offering, giving, taking, or soliciting, directly or indirectly, of a good or

service to unlawfully or illegally influence the actions of an Affected Party,

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

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

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

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

Z12.2 The *Purchaser* may terminate the *Supplier's* obligation to Provide the Services if a Committing Party has taken such Prohibited Action and the *Supplier* did not take timely and appropriate action to prevent or remedy the situation, without limiting any other rights or remedies the *Purchaser* has. It is not required that the Committing Party had to have been found guilty, in court or in any other similar process, of such Prohibited Action before the *Purchaser* can terminate the *Supplier's* obligation to Provide the Services for this reason.

Z12.3 If the *Purchaser* terminates the *Supplier's* obligation to Provide the Services for this reason, the amounts due on termination are those intended in core clauses 92.1 and 92.2.

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

Z13Insurance

Z 13.1 Replace core clause 84 with the following:

Insurance cover 84

84.1 When requested by a Party, the other Party provides certificates from his insurer or broker stating that the insurances required by this contract are in force.

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

INSURANCE TABLE A

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

Z 13.2 Replace core clause 87 with the following:

Insurance by the *Purchaser* 87

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

INSURANCE TABLE B

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

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 44 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 44 of 1999, or any replacement section dealing with the same subject matter.
- Z14.5 The protection afforded by the provisions hereof shall be in effect until the KNPS is decommissioned.

Z15 Asbestos

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

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

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

Annexure A: Supply Requirements

The Supply Requirements for this contract are as follows:

1. The requirements for the supply are	Supply and delivery of Canteen Detergent for a period of 5 years Lethabo power station for a five (5) year period on an “as and when required” basis.	
2. The requirements for transport are	Supplier to include delivery costs on the overall quote to Eskom.	
3. The delivery place is	Canteen Lethabo Power Station. Deneysville Vaaldam Road. Vereeniging. 1930	
4. Actions of the Parties during supply	Action	Party which does it
	Giving notice of Delivery	Supplier
	Checking packing and marking before dispatch	Supplier
	Contracting for transport	Supplier
	Pay costs of transport	Supplier
	Arrange access to delivery place	Purchaser
	Loading the <i>goods</i>	Supplier
	Unloading the <i>goods</i>	Supplier
For international procurement	Undertake export requirements	Supplier
	Undertake import requirements	Supplier
5. Information to be provided by the Supplier	Title of document	
	Packing lists for cases and their contents	
	Copy of invoice for the <i>goods</i>	
	Delivery Note	
	Test results and maintenance manuals	
For international procurement	Licences, authorisations and other formalities associated with export of the <i>goods</i>	
	Air Waybill or Bill of Lading with associated landing, delivery and forwarding order	
	The Bill of Entry endorsed by the importation authority	
	Customs work sheets, showing tax, duties and surcharges which the law of the country into which the <i>goods</i> are being imported requires the importer to pay	
	Invoice from the importation clearing agent showing airline fees, landing charges, wharfage and dock dues as applicable	
	Specify other import documents required by authorised officials.	

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

Annexure B: Insurance provided by the Purchaser

These notes are provided as guidance to tendering suppliers and the Supplier about the insurance provided by the Purchaser. These notes are not part of this contract. The Supplier must obtain its own advice.

Transit insurance of goods originating from outside the borders of the Republic of South Africa

For the purpose of supply contracts, the only insurance provided by Eskom (the *Purchaser*) is transit shipment cover, commonly known as Marine Insurance for air, sea, rail and road freight (including local land arrangements) for conveyance of *goods* originating outside RSA. Please consult the website stated below to ascertain whether Format A, Format B or Format Dx is applicable to this contract and then the

- Marine Insurance Policy wording;
- Eskom Shipment Policies and Procedures – note a pre-shipment survey form has to be completed under certain circumstances;
- Marine Claims Handling Procedures – for important shipment actions and claims forms in event of damages to cargo freight via sea, barge, air, road or rail.

For EXW (Ex Works collections) this is of no concern to the *Supplier* but for any other Supply Requirement (such as CIF, DDU, or DDP) the *Supplier* need not provide such insurance even if the INCOTERM requires it and tendering suppliers should 'discount' their prices when tendering to allow for this provision by the *Purchaser* (Eskom).

Supplier's liability for damage to the Purchaser's property

Whilst this is a liability the *Supplier* carries and should cover (if he is required to deliver the *goods* to the *Purchaser's* premises) his liability is limited to the amount of cover provided to the *Purchaser* within his assets policy. This amount varies depending on the Division within Eskom to which the *Supplier* is making the delivery. For any one occurrence or series of occurrences arising out of one event but unlimited during the period of insurance the *Supplier's* liability would be:

- R15million for Generation Division projects,

All other insurance

As required by clause 84, the *Supplier* provides all other insurance for his risks. The *Supplier* should give further consideration to providing for these additional insurance concepts [for amounts and periods of insurance the *Supplier* deems fit and necessary].

Professional Indemnity: The insurance provided shall indemnify the *Supplier* (and/or his professional consultant) for those sums which the *Supplier* or his consultant shall become legally liable to pay as damages arising from any claim first made against the *Supplier* / consultant and reported to their insurers during the Period of Insurance, directly arising out of any negligent act, error or omission committed or alleged to have been committed by the *Supplier* / consultant in the conduct of **professional services** (for example, design) in connection with this contract.

Products Liability: A special General Liability extension for liability arising out of the *Supplier's* **defective**:

- production and manufacturing process (workmanship or material), or
- product design, or
- warnings, instructions, usage and maintenance manuals and specifications.

For any further explanation of insurance requirements tendering suppliers are advised to consult their brokers or insurers who may in turn contact Eskom Insurance Management Services per contact details provided on the following website:

http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx

C1.2 Contract Data

Part two - Data provided by the Supplier

Clause	Statement	Data						
10.1	The <i>Supplier</i> is (Name): Address Tel No. Fax No.							
11.2(8)	The Goods Information for the <i>Supplier's</i> design is in:							
11.2(11)	The tendered total of the Prices is	R (in words)						
11.2(12)	The <i>price schedule</i> is in:							
11.2(14)	The following matters will be included in the Risk Register							
25.2	The restrictions to access for the <i>Supply Manager</i> and Others to work being done for this contract are							
30.1	The <i>delivery date</i> of the <i>goods</i> is:	<table><thead><tr><th><i>goods</i></th><th><i>delivery date</i></th></tr></thead><tbody><tr><td>1</td><td>[•]</td></tr><tr><td>2</td><td>[•]</td></tr></tbody></table>	<i>goods</i>	<i>delivery date</i>	1	[•]	2	[•]
<i>goods</i>	<i>delivery date</i>							
1	[•]							
2	[•]							
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	%						

PART 2: PRICING DATA
NEC3 SUPPLY CONTRACT

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

C2.1 Pricing assumptions

How goods and services are priced and assessed for payment

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

Identified and defined terms 11
11.2

(11) The Prices are the amounts stated in the price column of the Price Schedule. Where a quantity is stated for an item in the Price Schedule, the Price is calculated by multiplying the quantity by the rate.

(12) The Price Schedule is the *price schedule* unless later changed in accordance with this contract.

Assessing the amount due 50.2

The amount due is

- the Price for each lump sum item in the Price Schedule which the *Supplier* has completed,
- where a quantity is stated for an item in the Price Schedule, an amount calculated by multiplying the quantity which the *Supplier* has completed by the rate,
- plus other amounts to be paid to the *Supplier*,
- less amounts to be paid by or retained from the *Supplier*.

Any tax which the law requires the *Purchaser* to pay to the *Supplier* is included in the amount due.

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

Function of the Price Schedule

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

Preparing the price schedule

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

It will be assumed that the tendering supplier has

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

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

Format of the *price schedule*

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

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

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

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

C2.2 the price schedule

Item nr	Description	Unit	Quantity	Rate	Price
1	Ecosan 25L	EA	100		
2	Sparkle 25L	EA	100		
3	Oven cleaner SABS 1828 25L	EA	125		
4	Sanidet SABS 1828 & 1853 25L	EA	100		
5	Power drain x 25L	EA	150		
6	Oven gloves	EA	350		
7	Medi-Sure multi-Purpose 30g	EA	7000		
8	Germ Away 25 L	EA	150		
9	Stainless Steel Brightener 5L	EA	200		
10	Concentrated Rinse Aid 5L	EA	200		
11	Crockery Destainer 5L	EA	200		
12	All in one cleaner linen 5L	EA	150		
13	Industrial Dishwasher Tablets 5L	EA	150		

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

C3.1: *PURCHASER'S* GOODS INFORMATION

Contents

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

6.1.3	<u>Spares and consumables</u>	Error! Bookmark not defined.
6.1.4	<u>Other requirements related to procurement</u>	Error! Bookmark not defined.
6.1.5	<u>Cataloguing requirements</u>	Error! Bookmark not defined.
7	<u>List of drawings</u>	Error! Bookmark not defined.
7.1	<u>Drawings issued by the <i>Purchaser</i></u>	Error! Bookmark not defined.
C3.2	<u>Supplier's Goods Information</u>	Error! Bookmark not defined.

Overview and purpose of the goods and services

Supply and delivery of Canteen Detergent for a period of 5 years Lethabo power station for a five (5) year period on an “as and when required” basis.

Specification and description of the goods

Item nr	Description	Unit	Quantity
1	Ecosan 25L	EA	100
2	Sparkle 25L	EA	100
3	Oven cleaner SABS 1828 25L	EA	125
4	Sanidet SABS 1828 & 1853 25L	EA	100
5	Power drain x 25L	EA	150
6	Oven gloves	EA	350
7	Medi-Sure multi-Purpose 30g	EA	7000
8	Germ Away 25 L	EA	150
9	Stainless Steel Brightener 5L	EA	200
10	Concentrated Rinse Aid 5L	EA	200
11	Crockery Destainer 5L	EA	200
12	All in one cleaner linen 5L	EA	150
13	Industrial Dishwasher Tablets 5L	EA	150

1 Supply Requirements

The Supply Requirements for this contract are in an Annexure to the Contract Data provided by the *Purchaser*.

2 Constraints on how the *Supplier* Provides the Goods

2.1 Marking the goods

N/A

2.2 Constraints at the delivery place and place of use

State any constraints on how the *Supplier* is to provide the *goods* and *services* both at the delivery place and where the *goods* and *services* are to be put into use, e. g. restriction on access, hours of working and sequence of work. Sites such as Sasol Secunda and Koeberg Nuclear Power Station have very strict entrance requirements which tenderers need to allow for in their prices, and the *Supplier* has to comply with. State these or similar requirements here. –

- Delivery time 08:00-14:00
- There may be delays during offloading caused by other deliveries in the same offloading area, therefore suppliers are required to make pre-arrangements with canteen staff/contract manager personnel prior to delivery.

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

N/A

2.4 Management meetings

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

How regularly do you want to meet with the supplier? Monthly site meetings (can be done with jar test)

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

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

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

2.5 Documentation control

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

Reports

2.6 Health and safety risk management

RISK	MITIGATING FACTORS	LEVEL (HIGH/MEDIUM/LOW)
Cost: The contractor to be financially fit to execute the work	To obtain financial report from Finance	Low
Scope: Work according to provided scope of work	The contract supervisor to monitor the work done before any payment is processed.	Low
People: Poor Workmanship due to incompetence of personnel.	The Contracts Manager oversees the deployment of the team approved or personnel with equivalent experts.	Low
Time: Delay in execution of the task order	2% per day up to a maximum of 15% of the task order value per each complete day of delay	Low
Quality Inconsistent product quality over contract period leading to cleaning inefficiency and/or complaints	The Supplier shall procure detergents only from approved and reputable retail or manufacturing sources and shall ensure that the same approved brand and specification are supplied consistently throughout the contract period	Medium
Supply disruptions or stock-outs leading to canteen operational downtime	The supplier is required to adhere to the agreed delivery timelines and provide flexibility to respond to emerging requirements.	Medium
Product contamination or incorrect labelling leading to Health and Safety incidents	The supplier to ensure batch traceability, QA inspections, controlled packaging	Medium
Failure to manage Non-Conforming Outputs	Eskom shall be informed of non-conforming products and/or services as soon as such non-conformances are recognized by the supplier. The supplier shall implement the respective processes which must adequately reflect Eskom involvement.	Medium
Degradation during storage/transport leading to reduced effectiveness	The supplier to enforce approved transportation, handling and storage specification/procedure	Medium
Failure to include necessary returnable or adhere to the tender requirements may result in delays from the awarding process.	The supplier shall be required to submit all documentation prescribed for Category 4 at the pre-award stage of the contract	Medium
Safety: Non-compliance to statutory SHE and legal requirements which could result to injuries, near misses and penalties.	1. Driver training & competence Strict adherence to the rules and Eskom vehicle specifications and other procedures Strict adherence to Eskom offloading processes Adherence to vehicle maintenance plans and daily/pre-trip inspections Strict adherence to travelling task risk assessment	Low
Environment	Contractor to be familiarized with Lethabo waste management procedure. Contractor to be familiarised with Environmental Statement of Commitment.	Low

	Contractor shall report all incidents or risks whilst on the job to the Eskom Project leader who will inform the environmental department.	
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2.7 Environmental constraints and management

Not Applicable

2.8 Quality

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

ISO 9001 Quality Management System

- ISO10005 : Quality Management System Guidelines for Quality Plans
- ISO10006 : Quality Management Systems Guidelines for Quality Management in Projects
- ISO10007 : Quality Management Systems Guidelines for Configuration Management
- ISO10012 : Measurement Management Systems, Requirements for Measurement Processes and Measuring Equipment
- ISO31000 : Risk Management Principles & Guidelines

The following SANS standards to be applied where applicable:

- SANS 10229-1: Transport of dangerous goods – Packaging and large packaging for road and rail transport Part 1: Packaging.
- SANS 10231: Transport of dangerous goods – Operational requirements for road vehicles.
- SANS 10232 Series: Transport of dangerous goods – Emergency information.
- SANS 10233: Transport of dangerous goods – Intermediate bulk containers.
- SANS 10228: The identification and classification of dangerous goods for transport.

Safety standards:

- Occupational Health and Safety Act, Act 85 of 1993

2.9 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;
- The *Purchaser's* VAT registration number which is 4740101508.
- 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;

Procedure for invoice submission and payment

- All Electronic invoices must be sent in PDF format only.
- An Invoice that was printed and then scanned to PDF by the Vendor is not acceptable as this is not an original tax invoice by SARS definition but a copy.
- The following wording needs to appear on the invoice: "Your invoice is encrypted in order to comply with SARS requirements that invoices, and statements sent electronically are tamperproof."
- All queries and follow up on invoice payments should be made by contacting the FSS Contact Centre: Tel: 011 800 5060 or email:fss@eskom.co.za

2.10 Contract change management

The *Purchaser* will provide a standard form for contract communications. Forms for compensation event, instructions, risk register, early warning, notifications

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

Read clause 63.2 and 11.2(4) and then state whether the *Supplier* is required to keep any records of Defined Cost. Include any other constraint which may be required in regard to format and filing of the records, and whether access for the *Supply Manager* shall be provided in hard copy or electronically. Supplier to deliver goods with delivery note, and after receipt of goods supplier will be paid according to the applicable payment terms.

2.12 Drawings issued by the *Purchaser*

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

Drawing number	Revision	Title

Other requirements related to procurement

Section 1: Specific Goal

A maximum of 10/20 points may be awarded to a tenderer for the specific goal specified for the tender. The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places. Subject to section 2(1)(f) of the Preferential Procurement Policy Framework Act, the contract must be awarded to the tenderer scoring the highest points.

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

NB: The following documents are required to claim preference points,

- Valid B-BBEE certificate issued by a SANAS accredited verification agency / sworn affidavit / CIPS affidavit
- Proof of ownership / shareholding (preferably CIPC documentation) inclusive of shareholding breakdown
- Certified ID copies of shareholder(s)
- Proof of Disability (where applicable)
- In a case of a trust, consortium or joint venture (including incorporated consortia and joint ventures) a consolidated B-BBEE status level verification certificate.

Note: Eskom will not accept a Sworn Affidavit with an electronic signature

Tenderer failing to provide documentation for the allocation of preference points will not be disqualified, but'

- May only score point out of 80 for price.
- Scores 0 points out of 20 for specific goals

Section 2: Objective criteria

Not applicable

Section 3: SDL&I Objectives in line with Reconstruction and Development Programme (RDP) Goals

Tenderers who complete and submit the objectives as required, but who do not meet Eskom's targets, will not be disqualified. SDL&I objectives do not form part of scoring, but commitments will form part of contractual obligations

3.1. Transformation – BBBEE Improvement or Retention Plan

Transformation remains an area of focus, where Eskom continuously strives to align itself with national transformation imperatives to unlock growth, drive industrialization, create employment and contribute to skills development. Eskom encourages its suppliers to constantly strive to improve their B-BBEE rating. Whereas Tenderer/s will be allocated points in terms of a preference point system based on specific goals, Eskom also requests that tenderer/s submits their B-BBEE improvement or retention plan within 30 days of signing the contract. Tenderer/s are therefore requested to indicate the extent to which they will maintain (only if the respondent is a Level 1) or may improve/maintain their B-BBEE status over the contract period if their B-BBEE status is level 2 or 3. Tenderer/s with a B-BBEE status level 4 at the time of contract award, shall migrate and achieve as a non-negotiable a milestone of B-BBEE Level 3 by the end of the first year of the contract and thereafter improve their B-BBEE status level or migrate by one level higher.

Tenderer/s with a B-BBEE recognition status of Level 5 to Level 8 or non-compliant at the time of contract award, shall migrate and achieve as a non-negotiable a milestone of Level 4 by the end of the first year of the contract and thereafter improve at least one B-BBEE Level higher of each year from the second year of the contract. Tenderer/s are requested to submit their B-BBEE Improvement Plan as an essential document within 30 days of signing the contract.

NB: A valid B-BBEE certificate or Sworn Affidavit is a condition for contract award, if your company's annual Total Revenue is R10 Million or less you qualify as an Exempted Micro Enterprise therefore you can submit Sworn Affidavit. If your annual Total Revenue is R50 Million or less, you qualify as Qualifying Small Enterprise and must comply with all of the elements of QSE score card relevant to your sector unless an entity is at least 51% Black owned you are required to obtain a Sworn affidavit. If your Annual Total Revenue is above R50m you need to submit a Valid B-BBEE certificate

3.2. 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	Eskom target	Tenderer Proposal
	100%	

3.3. Procurement spends on entities with a minimum 51% black ownership

The tenderer will subcontract some of the SOW to the designated suppliers i.e. EME / QSE with at least 51% BO. The designated suppliers should not be part of their subsidiaries or having shares in that company, preferable they should be selected from local to site and shall be as follows:

Procurement Designated Group	from	Eskom Target	Tenderer Proposal
Black Owned		5%	

The following are tender returnable.

- Proof of a sub-contract agreement/s OR
- Letter of intent to subcontract.

Potential scope to be subcontracted and/or outsourced:

- **Transportation of detergents to site**

3.4 Jobs. 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.

Type of Jobs to be created	Number of Jobs to be created

Type of Jobs to be retained	Number of Jobs to be retained

Section 4: SDL&I Penalty and Performance Security

Eskom will apply a penalty of 1% of the Contract Value for failure to meet SDL&I obligations.

For the duration of the contract, Eskom will retain 1% of every invoice (excluding VAT) as security for the fulfilment of all SDL&I Obligations. The retained amounts shall only be released to the Contractor upon fulfilment of all SDL&I obligations by the contractor.

Section 5: Market Research

The following information demonstrates market analysis and assisted in arriving at the targets above.	
Current Suppliers Providing the Services	Potential Suppliers:
None	Open market

Section 6: Reporting and Monitoring

- The suppliers shall on a quarterly basis submit a report to Eskom in accordance with Data Collection Template on their compliance with the SDL&I obligations described above.
- Eskom shall review the SDL&I reports submitted by the suppliers within 30 (thirty) days of receipt of the reports and notify the suppliers in writing if their SDL&I obligations have not been met.
- Upon notification by Eskom that the suppliers have not met their SDL&I obligations, the suppliers shall be required to implement corrective measures to meet those SDL&I obligations before the commencement of the following report, failing which Retention clauses shall be invoked.
- Every contract shall be accompanied by the SDL&I Implementation Schedule, which must be completed by the suppliers and returned to SDL&I representative for acceptance 28 days after contract award. This will be used as a reference document for monitoring, measuring, and reporting on the supplier's progress in delivering on their stated SDL&I commitments

Section 7: General Information on Validity of Sworn Affidavits

The following must be considered when it comes to validity of Affidavits;

Tenderers submitting B-BBEE Sworn Affidavits must ensure that the affidavits meet the following key points of validity:

- Name/s of deponent as they appear in the identity document and the identity number.
- Designation of the deponent as the **director**, **owner** or **member** must be indicated in order to know that person is deposing of an affidavit. **(Mark the applicable option).**
- Name of enterprise as per enterprise registration documents issued by the CIPC, where applicable, and enterprise registration number.
- Percentage of black ownership, black female ownership and designated group. In the case of specialised enterprises, the percentage of black beneficiaries must be reflected. **(No blank spaces to be left).**
- Indicate total revenue for the year under review and whether it is based on **audited financial statements** or **management accounts**. **(Mark the applicable option).**

- Financial year end as per the **enterprise's registration documents**, which was used to determine the total revenue **to be stipulated by day/month/year).**
- B-BBEE Status level. An enterprise can only have one status level. **(Tick applicable level)**
- Empowering supplier status must be indicated. For QSEs, the deponent must select the basis for the empowering supplier status.
- Date deponent signed and date of Commissioner of Oath must be the same. **(The sworn affidavit must be signed by the Commissioner of Oath. Furthermore, the Commissioner must also sign and stamp)**
- Commissioner of Oath cannot be an employee or ex officio of the enterprise because, a person cannot by law, swear an affidavit in which they have an interest.

C3.2 SUPPLIER'S GOODS INFORMATION

1. Site Procedures and Regulations

1.1 Site location and Security

- The Site is at Lethabo Power Station situated $\pm$ 18 km South of Vereeniging on the Viljoensdrift - Deneyville Road, Free State. Access to the site will be via the main security gate only.
- The *Employer* will inform the *Contractor* of the access procedures, and it should be expected that such procedures may change depending on the prevailing security situation.
- The *Contractor* to allow in his price and program for delays at the security gate. The *Employer* reserves the right for its Security personnel to search persons or vehicles entering or leaving the premises. This includes, but is not limited to briefcases and toolboxes.

1.2 Temporary Gate Permits

- The *Contractor* provides the *Employer* with the personal details of their staff at least two days prior to the occupation date. All names and details to be submitted to the *Employer* who arranges for all gate permits.

1.3 Occupational Health and Safety Induction Course

- All the employees of the *Contractor* must attend a health and safety induction course provided by the *Employer* at the security offices before they will be allowed to work on the Site. It is the responsibility of the *Contractor* to ensure that all employees have attended the health and safety induction.
- The Induction course includes an awareness on the Error prevention and Improvement tools and techniques to ensure familiarisation and use of these error-prevention tools/techniques inclusive of, Pre and Post-job briefs, Risk Assessments, Self-checks (STAR principle), Peer Checks, Job observations, Accountability, Effective communications e.g. 3- way, Questioning attitude, Procedural adherence, Hand overs and other.
- A list of employees requiring safety induction must be submitted at least 2 days in advance arrival so that the details of the safety and health induction course can be communicated.

1.4 Health and Safety Requirements

The *Contractor* and his sub-*Contractors* ensure at all times compliance with safety regulations imposed by any Act of Parliament, ordinance or any regulation or by-law of any local or statutory authority. The *Contractor* acts in accordance with the health and safety requirements stated in the Works Information.

- In carrying out its obligations to the *Employer* in terms of this contract; in providing the Works; in using Plant, Materials and Equipment; and while at the Site for any reason, the *Contractor* complies

and procures and ensures the compliance by its employees, agents, Sub-Contractors and mandataries with:

- the provisions of the Occupational Health and Safety Act 85 of 1993 (as amended) and all regulations in force from time to time in terms of that Act ("the OHSA"); and the Eskom "Health, Safety and Environmental specifications for *Contractors*" document attached to the Work Information (as amended from time to time) and such other Eskom Safety Regulations as are applicable to the Works and are provided in writing to the *Contractor* (collectively "the Eskom Regulations"). The Eskom Regulations may be amended from time to time by the *Employer* and all amendments will be provided in writing to the *Contractor*. The *Contractor* complies with the provisions of the latest written version of the Eskom Regulations with which it has been provided; and the health and safety plan prepared by the *Contractor* in accordance with the SHEQ Requirements

(The OHSA and the Eskom Regulations are collectively referred to as the "SHEQ Requirements".)

- The *Contractor*, at all times, considers itself to be the "*Employer*" for the purposes of the OHSA and shall not consider itself under the supervision or management of the *Employer* with regard to compliance with the SHEQ Requirements, the *Contractor* shall furthermore not consider itself to be a subordinate or under the supervision of the *Employer* in respect of these matters. The *Contractor* is at all times responsible for the supervision of its employees, agents, Sub-Contractors and mandataries and takes full responsibility and accountability for ensuring they are competent, aware of the SHEQ Requirements and execute the Works in accordance with the SHEQ Requirements.
- The *Contractor* acknowledges that it is fully aware of the requirements of all the above and undertakes to employ only people who have been duly authorized in terms thereof and who have received sufficient training to ensure that they can comply therewith.
- The *Contractor* ensures that all statutory appointments and appointments required by any Eskom Regulations are made and that all appointees fully understand their responsibilities and is trained and competent to execute their duties. The *Contractor* supervises the execution of their duties by all such appointees.
- The *Contractor* shall appoint a person who will liaise with the Eskom Safety Officer responsible for the premises relevant to this contract. The person so appointed shall, on request: supply the Eskom Safety Officer with copies of minutes of all Health And Safety Committee meetings, whenever he is required to do so; supply the Eskom Safety Officer with copies of all appointments in respect of employees employed on this contract, in terms of the Act and Regulations and shall advise the Eskom Safety Officer of any changes thereto.

The *Employer*, or any person appointed by the *Employer*, may, at any stage during the duration of this contract:

- conduct health and safety audits regarding all aspects of compliance with the SHEQ Requirements, at any off-site place of work, or the site establishment of the *Contractor*;
- refuse any employee, Subcontractor or agent of the *Contractor* access to the premises if such person has been found to commit an unsafe act or any unsafe working practice or is found not to be qualified or authorised in terms of the SHEQ Requirements;
- Issue the *Contractor* with a stop order should the *Employer* become aware of any unsafe working procedure or condition or any non-compliance with any provision of the SHEQ Requirements.
- The *Contractor* immediately reports any disabling injury as well as any threat to health or safety of which it becomes aware at the Works or on the Site to the *Employer's Representative*.
- The *Contractor* undertakes not to do, or not to allow anything to be done which will contravene any of the provisions of the Act, Regulations or Safety and Operating Procedures.

- The *Contractor* appoints a person, qualified in accordance with the SHEQ Requirements, as the liaison with the Eskom Safety Officer for all matters related to health and safety, this person shall be contactable 24 hours a day.
- The *Contractor* confirms that it has been provided with sufficient written information regarding the health and safety arrangements and procedures applicable to the Works to ensure compliance by it and all employees, agents, Sub-*Contractors* or mandataries with the SHEQ Requirements while providing the Works in terms of this contract. As such, the *Contractor* confirms that this contract and the relevant Eskom Regulations referred to in this contract constitute written arrangements and procedures between the *Contractor* and the *Employer* regarding health and safety for the purposes of section 37(2) of the OHSA.
- The *Contractor* agrees that the *Employer* is relieved of any and all of its responsibilities and liabilities in terms of Section 37(1) of OHSA in respect of any acts or omissions of the *Contractor*, and the *Contractor's* employees, agents or Sub-*Contractors*, to the extent permitted by the OHSA.
- The *Contractor* hereby indemnifies the *Employer* and holds the *Employer* harmless in respect of any and all loss, costs, claims, demands, liabilities, damage, penalties or expense that may be made against the *Employer* and/or suffered or incurred by the *Employer* (as the case may be) as a result of, any failure of the *Contractor*, its employees, agents, Sub-*Contractors* and/or mandataries to comply with their obligations in terms of clause 16, and/or the failure of the *Employer* to procure the compliance by the *Contractor*, its employees, agents, Sub-*Contractors* and/or mandataries with their responsibilities and/or obligations in terms of or arising from the OHSA.
- In carrying out his obligation as the mandatory to the *Employer* for this contract in terms of the National Environmental Management Act No.107 of 1998, the *Contractor* ensures that he complies with the Act when Providing the Services or using plant, materials or equipment.

1.5 Permit to Work System

- NO work shall be carried out without a "PERMIT TO WORK"
- The *Contractor's* Responsible Person must satisfy himself that all sources of possible danger are isolated. Details of the Permit to Work system can be found in the Plant Safety Regulations for Lethabo Power Station, Eskom. The *Contractor* must also make provision for sufficient Authorise Supervisor(s) depending on the contractual obligations. The Authorised Supervisor will need to undergo a week's training, which will be arranged at a suitable Eskom facility. This person must also pass an exam to verify his understanding of the procedure, after which he/she will need to be interviewed by a panel to discuss the practical understanding of being appointed as an Authorised Supervisor.
- Master Permit to Work is used on declared major outages, details can be found in local procedure LBA 00085. Permit changes are made during the dead time, if it is required by the *Contractor* that a certain supply be made available or plant tested than this can be applied for at the Outage Management Meeting at least 1 day in advance.
- Plant with a prohibitive sign attached may only be operated by appointed Eskom personnel. Any *Contractor* employee found tampering with such plant will be permanently removed from Site.

1.6 Transportation of passengers: open LDV's:

No *Eskom employee* or *Contractor* would be allowed to transport passengers on the back of open light delivery vehicles (LDV's). It is a legal requirement to provide safe transportation of *Eskom* and *Contractor* employees – therefore the following will be enforced:

- All passengers must be transported in a closed vehicle with proper and adequate Seating, fitted with safety belt for the number of passengers to be transported.
- Tools and equipment must be properly secured.
- Only authorised drivers may transport passengers
- Proof must be submitted on request in terms of valid roadworthiness of all vehicles
- The above must apply to on site and off site transportation of passengers.

1.7 Eskom Life Saving Rules:

Life Saving Rules have been developed that will 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.

Rule 2: Hook up at heights - no person may work at 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: No person is allowed to text/talk on cell phone as this distracts attention

1.8 Local Safety Procedures

The *Contractor* adheres to all local procedures. A list of local procedures is available on request from the *Employer*.

1.9 Incidents/Accidents

- Incidents and accidents must be reported and investigated as detailed in LBA 00030. All incidents must also be reported to the *Employer* within 24 hours.
- First aid must be made available either by the *Contractor* or use can be made of the Lethabo medical centre at a fee. The availability of the *Contractor's* own first aid does not relieve the *Contractor* of his obligation to report and investigate the incident in accordance with Lethabo Procedure.
- The *Employer* will accompany the *Contractor* to hospital in the case of serious injury.

1.10 Fire Prevention

- Fire prevention and protection requirements to which *Contractors* must comply are detailed in LBA 00030.

1.11 Protective Equipment and Clothing

- The *Contractor* supplies his own personal protective equipment necessary to carry out the *works* and the *Contractor* shall ensure that all overalls for his staff have clearly identifying company LOGO's

- The *Contractor* is also responsible to inspect and maintain such equipment as required in terms of the OHS Act and local procedures.

1.12 Inspection of Equipment

- The *Contractor's* equipment is inspected by an authorised Eskom employee on arrival at the site.
- The following documentation is required to accompany the equipment where applicable: copies of all test certificates and maintenance records.
- Lifting equipment and electrical equipment must be marked with a unique number, code or colour code for identification. If the equipment is found to be in an unsatisfactory condition or if insufficient maintenance has been carried out on the equipment then it will not be approved for use on Site. A list of all lifting equipment and electrical equipment must be submitted to the *Employer* at least 2 days prior to the occupation date. This list must indicate the unique number and description of the equipment.
- Training requirements must comply with the Works Information and statutory requirements

1.13 Documentation

The *Contractor* is responsible to have the following documentation available on site in accordance with LBA 00030:

- A copy of the OHS Act.
- Copies of all site accident report forms as required by the OHS Act.
- Copies of minutes of health and safety meetings held on site.
- Copies of inspection reports produced by the accident prevention officer.
- Copies of attendance registers for all incidents or work stoppages

1.14 Environmental Policy and Waste Handling

The *Contractor* shall submit an Environmental Management Plan (EMP) to be reviewed and approved by Eskom environmental officer, one week before the commencement of works if required as per the Works Information.

1.15 Disposal of Waste

Waste shall be removed promptly to the designated disposal area as per below requirements:

- Domestic waste to the white waste bins
- No stockpiling will be permitted
- Production waste in the marked bins i.e. coal and ash only
- Paper in its recycling bin
- Contact Civil Engineering for the disposal of building rubble
- Scrap metal, Wood & Rubber, Redundant Valves, Pipes, and Equipment etc. to be placed in the marked bins in the Salvage Yard. Solvents and cloths used to the Cleaning Bay.

1.16 Hazardous Waste Disposal and Handling

- Any new hazardous waste that comes to the temporary hazardous waste site must be accompanied by an SDS; all other hazardous waste can be delivered without the SDS.
- An inventory is signed by the person who delivers the hazardous waste and the waste coordinator must acknowledge the receipt of the waste.
- A 210l drum with lid will be issued to the person who has delivered the waste after the inventory is signed.
- Drums with incorrect colour coding or drums without lids will not be accepted at the temporary hazardous waste site.

2. Additional General information

LBS00067 to be used as it contains statutory requirements as well as the minimum SHE requirements to which Eskom employees and contractors must comply whilst performing work on the premises of Lethabo Power Station.

The purpose of the procedure is to assist the Contract Supervisor or Project Manager, and the contractor to develop, implement and maintain an organised Safety, Health and Environment Management Plan performing work.

Contractors are accountable for taking all the necessary steps to protect all persons (including employees, visitors, and the general public), to protect the environment and property against any harm during the course of performing work or services in relation to their contractual obligations. In addition, all work procedures and equipment will be carried out in accordance with Eskom and legislative requirements.

Eskom's contractors have the fundamental accountability and responsibility for executing on-site safety, health, and environment issues for their activities, services, products, and work. Each contractor is responsible for ensuring that its employees and the employees of any appointed contractors comply with all occupational safety, health, and environmental (SHE) statutory requirements and the policies and procedures of Eskom Holdings SOC Limited.

This procedure is supplementary to the requirements of relevant legislation and the conditions of the contract.

2.1 Plant & Materials

- The *Employer* may at his own discretion, supply any Plant and Materials as may be required by the *Contractor* to Provide the Works.
- The *Contractor* is to notify the *Employer* in writing, 48 hrs in advance, of such Plant and Materials required.

2.2 equipment or Material Access and Removal

2.2.1 Access

The *Contractor* ensures that all equipment and materials brought through the security gate is signed in at the main security gate on an OV18 form.

2.2.2 Removal

- The *Contractor* is not allowed to remove any equipment or materials from site without producing the relevant OV18 forms or the equipment lists. (Security Access Sign In)
- If the equipment or material is to be removed the same day, on which they were brought on to site, then the OV18 form will need to be produced at the gate when leaving the site.
- If the equipment or material is removed after this time then a Non-Returnable Gate Release will be provided by the *Employer's Representative*, on receipt of the original OV18, with which the *Contractor* brought the equipment on site.