NEC3 Supply Contract (SC3)

Between	**ESKOM HOLDINGS SOC Ltd**
	(Reg No. 2002/015527/30)
and	**[Insert at award stage]**
	(Reg No. ___________)
for	**: Supply and delivery of SSC Spares to Matimba Power Station for a period of five years as and when required basis.**

Contents: **No of pages**

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

PART C1: AGREEMENTS & CONTRACT DATA

Contents:		No of pages
C1.1	Form of Offer and Acceptance	[●]
C1.2a	Contract Data provided by the *Purchaser*	[●]
C1.2b	Contract Data provided by the *Supplier*	[●]

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 SSC Spares to Matimba Power Station for a period of five years as and when required basis.

The tenderer, identified in the Offer signature block, has

either	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.
or	examined the draft contract as listed in the Acceptance section and agreed to provide this Offer.

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

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

This Offer may be accepted by the Purchaser by signing the Acceptance part of this Form of Offer and Acceptance and returning one copy of this document including the Schedule of Deviations (if any) to the tenderer before the end of the period of validity stated in the Tender

[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*.

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

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)	Wikus Janse van Rensburg	Dumisani Makamu
Capacity	General Manager- Matimba Power Station	Acting Procurement Manager
for the Purchaser	**Eskom Holdings SOC Ltd, Megawatt Park, Maxwell Drive, Sandton, Johannesburg, 2199**	
	(Insert name and address of organisation)	
Name & signature of witness		Date

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	N/A	

By the duly authorised representatives signing this Schedule of Deviations below, the Purchaser and the tenderer agree to and accept this Schedule of Deviations as the only deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Tender Schedules, as well as any confirmation, clarification or changes to the terms of the Offer agreed by the tenderer and the Purchaser during this process of Offer and Acceptance.

It is expressly agreed that no other matter whether in writing, oral communication or implied during the period between the issue of the tender documents and the receipt by the tenderer of a completed signed copy of this Form shall have any meaning or effect in the contract between the parties arising from this Agreement.

	For the tenderer:	**For the Purchaser**
Signature		
Name		Wikus Janse Van Rensburg
Capacity		General Manager- Matimba Power Station
On behalf of	*(Insert name and address of organisation)*	**Eskom Holdings SOC Ltd, Megawatt Park, Maxwell Drive, Sandton, Johannesburg, 2199**

Name & signature of witness		
Date		

C1.2 SC3 Contract Data

Part one - Data provided by the *Purchaser*

Clause	Statement	Data
1	**General**	
	The *conditions of contract* are the core clauses and the clauses for Options	**W1: Dispute resolution procedure** **X1: Price adjustment for inflation** **X2: Changes in the law** **X7: Delay damages** **X17: Limitation of liability** **Z: Additional conditions of contract** **All Z clause are all applicable**
	of the NEC3 Supply Contract (April 2013) [2]	(If the December 2009 edition is to be used delete April 2013 and replace by December 2013)
10.1	The *Purchaser* is (name):	**Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state-owned company incorporated in terms of the company laws of the Republic of South Africa**
	Address	**Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg**
	Tel No.	

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

	Fax No.	
10.1	The *Supply Manager* is:	**Refilwe Mohale**
	Address:	**Eskom Holdings SOC Limited (Reg No: 2002/015527/06)** **Matimba Power Station** **Private Bag x215, Lephalale 0555**
	Tel	**014 763 8100**
	e-mail	**mohaleDR@eskom.co.za**
11.2(13)	The *goods* are	**Supply and delivery of SSC Spares to Matimba Power Station for a period of five years as and when required basis.**
11.2(14)	The following matters will be included in the Risk Register	**Riots, Strike, community unrest, late delivery.**
11.2(15)	The Goods Information is in	**Part 3: Scope of Work and all documents and drawings to which it makes reference.**
11.2(15)	The Supply Requirements as part of the Goods Information is in	**Annexure A to this Contract Data**
12.2	The *law of the contract* is the law of	**the Republic of South Africa**
13.1	The *language of this contract* is	**English**
13.3	The *period for reply* is	**3 working days**
2	**The *Supplier's* main responsibilities**	**Data required by this section of the core clauses is provided by the *Supplier* in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data.**
3	**Time**	
30.1	The *starting date* is.	**TBC**

30.1	The *delivery date* of the *goods* and *services* is:	**Will be stated in every purchase order**
31.1	The *Supplier* is to submit a first programme for acceptance within	**04 weeks of the Contract Date.**
32.2	The *Supplier* submits revised programmes at intervals no longer than	**08 weeks.**
4	**Testing and defects**	
42	The *defects date* is	**1 week after delivery**
43.2	The *defect correction period* is	**Shall be determined by the nature of the defect and shall be such period as is reasonable in all circumstances as agreed between the parties.**
42.2	The *defects access period* is	**Shall be determined by the nature of the defect and shall be such period as is reasonable in all circumstances as agreed between the parties.**
5	**Payment**	
50.1	The *assessment interval* is	**After each delivery and acceptable of the items**
51.1	The *currency of this contract* is the	**South African Rand**
51.2	The period within which payments are made is	**As per Eskom payment terms applicable to vendor registration**
51.4	The *interest rate* is	**the publicly quoted prime rate of interest (calculated on a 365 day year) charged from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands and**

6	**Compensation events**	**Follow compensation events process as per the NEC**
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**	
88.1	The *Supplier's* liability to the *Purchaser* for indirect or consequential loss, including loss of profit, revenue and goodwill is limited to	**80% of liability**
88.2	For any one event, the *Supplier's* liability to the *Purchaser* for loss of or damage to the *Purchaser's* property is limited to	**(1) for the *Purchaser's* existing and surrounding property in the care, custody and control of the *Supplier* the amount of the deductible (first amount payable) relevant to the event** **and** **(2) for all other existing *Purchaser's* property the applicable deductible as at contract date**
88.3	The *Supplier's* liability for Defects due to his design which are not notified before the last *defects date* is limited to:	**The total of the Prices**
88.4	The *Supplier's* total liability to the *Purchaser*, for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	**The total of the Prices**
88.5	The *end of liability date* is	**12 months after Completion of the contract**
9	**Termination and dispute resolution**	**Termination as per the NEC3 will be followed**

94.1	The *Adjudicator* 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 *Adjudicator nominating body* 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 *tribunal* is:	**Arbitration**
94.4(5)	The *arbitration procedure* 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	**Gauteng, 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**	
X1.1	The *base date* for indices is	**CPA will be applicable 16 months from the base date (one month prior to tender closing) irrespective of contract start date.**
	The proportions used to calculate the Price Adjustment Factor are:	**15%** **Non-adjustable**
X2	**Changes in the law**	
X2.1	A change in the law of	**South Africa is a compensation event if it occurs after the Contract Date**

X7	**Delay damages**	**Will be determined as per NCR raised**	
X7.1	Delay damages for Delivery are	**Delivery of**	**amount per day**
		Incorrect item or late delivery	1 Day- 1% of the PO 2 Days- 2% of the PO 3 Days- 3% of the PO 4 Days- 4% of the PO 5 Days- 5% of the PO 6 Days- 6% of the PO 7 Days- 7% of the PO 8 Days- 8% of the PO 9 Days- 9% of the PO 10 Days- 10% of the PO
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.

Z13 Insurance

<u>Z 13.1 Replace core clause 84 with the following:</u>

Insurance cover **84**

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

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

INSURANCE TABLE A

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

connection with this contract	

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 limit of indemnity**
Assets All Risk	Per the insurance policy document
Contract Works insurance	Per the insurance policy document
Environmental Liability	Per the insurance policy document
General and Public Liability	Per the insurance policy document
Transportation (Marine)	Per the insurance policy document
Motor Fleet and Mobile Plant	Per the insurance policy document
Terrorism	Per the insurance policy document
Cyber Liability	Per the insurance policy document
Nuclear Material Damage and Business Interruption	Per the insurance policy document
Nuclear Material Damage Terrorism	Per the insurance policy document

Z14 Nuclear Liability

Z14.1 The *Purchaser* is the operator of the Koeberg Nuclear Power Station (KNPS), a nuclear installation, as designated by the National Nuclear Regulator of the Republic of South Africa, and is the holder of a nuclear licence in respect of the KNPS.

Z14.2 The *Purchaser* is solely responsible for and indemnifies the *Supplier* or any other person against any and all liabilities which the *Supplier* or any person may incur arising out of or resulting from nuclear damage, as defined in Act 47 of 1999, save to the extent that any liabilities are incurred due to the unlawful intent of the *Supplier* or any other person or the presence of the *Supplier* or that person or any property of the *Supplier* or such person at or in the KNPS or on the KNPS site, without the permission of the *Purchaser* or of a person acting on behalf of the *Purchaser*.

Z14.3 Subject to clause Z14.4 below, the *Purchaser* waives all rights of recourse, arising from the aforesaid, save to the extent that any claims arise or liability is incurred due or attributable to the unlawful intent of the *Supplier* or any other person, or the presence of the *Supplier* or that person or any property of the *Supplier* or such person at or in the KNPS or on the KNPS site, without the permission of the *Purchaser* or of a person acting on behalf of the *Purchaser*.

Z14.4 The *Purchaser* does not waive its rights provided for in section 30 (7) of Act 47 of 1999, or any replacement section dealing with the same subject matter.

Z14.5 The protection afforded by the provisions hereof shall be in effect until the KNPS is decommissioned.

Z15 Asbestos

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

AAIA	means approved asbestos inspection authority.
ACM	means asbestos containing materials.
AL	means action level, i.e. a level of 50% of the OEL, i.e. 0.1 regulated asbestos fibres per ml of air measured over a 4 hour period. The value at which proactive actions is required in order to control asbestos exposure to prevent exceeding the OEL.
Ambient Air	means breathable air in area of work with specific reference to breathing zone, which is defined to be a virtual area within a radius of approximately 30cm from the nose inlet.
Compliance Monitoring	means compliance sampling used to assess whether or not the personal exposure of workers to regulated asbestos fibres is in compliance with the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.
OEL	means occupational exposure limit.
Parallel Measurements	means measurements performed in parallel, yet separately, to existing measurements to verify validity of results.
Safe Levels	means airborne asbestos exposure levels conforming to the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.
Standard	means the *Purchaser*'s Asbestos Standard 32-303: Requirements for Safe Processing, Handling, Storing, Disposal and Phase-out of Asbestos and Asbestos Containing Material, Equipment and Articles.
SANAS	means the South African National Accreditation System.

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

Z15.1 The *Purchaser* ensures that the Ambient Air in the area where the *Supplier* will Provide the Services conforms to the acceptable prescribed South African standard for asbestos, as per the regulations published in GNR 155 of 10 February 2002, under the Occupational Health and Safety Act, 1993 (Act 85 of 1993) ("Asbestos Regulations"). The OEL for asbestos is 0.2 regulated asbestos fibres per millilitre of air as a 4-hour TWA, averaged over any continuous period of four hours, and the short term exposure limit of 0.6 regulated asbestos fibres per millilitre of air as a 10-minute TWA, averaged over any 10 minutes, measured in accordance with HSG248 and monitored according to HSG173 and OESSM.

Z15.2 Upon written request by the *Supplier*, the *Purchaser* certifies that these conditions prevail. All measurements and reporting are effected by an independent, competent, and certified occupational hygiene inspection body, i.e. a SANAS accredited and Department of Employment and Labour approved AAIA. The *Supplier* may perform Parallel Measurements and related control measures at the *Supplier*'s expense. For the purposes of compliance the results generated from Parallel Measurements are evaluated only against South African statutory limits as detailed in clause Z15.1. Control measures conform to the requirements stipulated in the AAIA-approved asbestos work plan.

Z15.3 The *Purchaser* manages asbestos and ACM according to the Standard.

Z15.4 In the event that any asbestos is identified while Providing the Services, a risk assessment is conducted and if so required, with reference to possible exposure to an airborne concentration of above the AL for asbestos, immediate control measures are implemented and relevant air monitoring conducted in order to declare the area safe.

Z15.5 The *Supplier*'s personnel are entitled to stop working and leave the contaminated area forthwith until such time that the area of concern is declared safe by either Compliance Monitoring or an AAIA approved control measure intervention, for example, per the emergency asbestos work plan, if applicable.

Z15.6 The *Supplier* continues to Provide the Services, without additional control measures presented, on presentation of Safe Levels. The contractually agreed dates to Provide the Services, including the Completion Date, are adjusted accordingly. The contractually agreed dates are extended by the notification periods required by regulations 3 and 21 of the Asbestos Regulations.

Z15.7 Any removal and disposal of asbestos, asbestos containing materials and waste, is done by a registered asbestos contractor, instructed by the *Purchaser* at the *Purchaser*'s expense, and conducted in line with South African legislation.

Annexure A: Supply Requirements

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

The *Supplier* supplies the *goods* in accordance with INCOTERMS 2010[3] as follows:

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

Group	Category	Term	Delivery Place
D	arrival	DDP	Matimba Power Station, Lephalale

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

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

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

A	**The *Supplier*'s obligations**	**B**	**The *Purchaser*'s obligations**
A1	Provision of goods in conformity with contract	**B1**	Payment of the price
A2	Licences, authorisations and formalities	**B2**	Licences, authorisations and formalities
A3	Contracts of carriage and insurance	**B3**	Contracts of carriage and insurance
A4	Delivery	**B4**	Taking delivery
A5	Transfer of risks	**B5**	Transfer of risks
A6	Division of costs	**B6**	Division of costs
A7	Notice to the buyer	**B7**	Notice to the seller

[3] International Chamber of Commerce, Incoterms 2010, Paris, January 2011

A8	Proof of delivery, transport document or equivalent electronic message	**B8**	Proof of delivery, transport document or equivalent electronic message
A9	Checking - packing - marking	**B9**	Inspection of goods
A10	Other obligations	**B10**	Other obligations

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

The Supply Requirements for this contract are as follows:

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

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

C1.2 Contract Data

Part two - Data provided by the *Supplier*

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

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

Clause	Statement	Data
10.1	The *Supplier* is (Name): Address Tel No. Fax No.	
11.2(8)	The Goods Information for the *Supplier's* design is in:	
11.2(11)	The tendered total of the Prices is	**R ,** **(in words)**
11.2(12)	The *price schedule* is in:	

[4] Either April 2013 or December 2009 Edition as stated by *Purchaser* in Contract Data part 1.
[5] Available from Engineering Contract Strategies Tel 011 803 3008, Fax 086 539 1902, or www.ecs.co.za

11.2(14)	The following matters will be included in the Risk Register			
25.2	The restrictions to access for the *Supply Manager* and Others to work being done for this contract are			
30.1	The *delivery date* of the *goods* and *service*s is:		***goods and services***	***delivery date***
		1	**[•]**	**[•]**
		2	**[•]**	**[•]**
		3	**[•]**	**[•]**
31.1	The programme identified in the Contract Data is contained in:			
63.2	The *percentage for overheads and profit* 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 *price schedule*	**[•]**

C2.1 Pricing assumptions

1. 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.

2. 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.

3. 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.

3.1. 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 *service*s 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 No	Material Number	Material Descriptions and Texts	UMC	QTY	Rate	Price
00010	39440	CHAIN PWR TXMSN:RD LINK;LG 8.3 M;100 MM	EA	600	R36 075.00	R21 645 000.00
00020	39453	LINK CHN TXMSN:CONNECTING;STL;100 MM	EA	500	R6 830.50	R3 415 250.00
00030	193445	ATTACHMENT:SSC FLANGE;51337	PAA	1900	R927.00	R1 761 300.00
00040	193446	SCRAPER BELT:SUBMERSIBLE;LG 1.675 M;MS	EA	1900	R4 070.00	R7 733 000.00
00050	193447	SPROCKET:10;OD 639 MM;180 MM;100 MM;340	EA	100	R82 100.00	R8 210 000.00
00060	570649	CHAIN PWR TXMSN:DUP;LG 6.1 M;63.5;STL	EA	100	R32 300.00	R3 230 000.00
00070	570652	SPROCKET WHL:DRIVE CHAIN;62;63.5 MM;1.22	EA	50	R41 254.00	R2 062 700.00
00080	570651	SPROCKET WHL:DRIVE CHAIN;15;63.5 MM	EA	50	R41 254.00	R2 062 700.00
00090	570650	LINK CHN TXMSN:CONNECTING;STL;63.5 MM	EA	500	R705.09	R352 543.82
00100	244079	SHAFT:SSC MAIN DRIVE;LG 3 M;STL EN19;180	EA	30	R29 346.47	R880 394.10

00110	635862	BRG:SD3140TS;SPHERICAL ROLLER;ID 180 MM	EA	70	R31 450.92	R2 201 564.40
00120	38776	WHEEL:CHAIN GUIDE;260 MM;OD 610 MM;STL	EA	130	R25 060.00	R3 257 800.00
00130	214717	WHEEL:CHAIN GUIDE;200 MM;OD 620 MM;STL	EA	120	R20 515.00	R2 461 800.00
00140	244081	SHAFT:SSC CHAIN TENSIONING;LG 2.47 M;100	EA	30	R24 937.63	R748 128.96
00150	31627	BRG RLR:SELF ALIGNING;ID 110 MM;OD 200	EA	130	R2 106.00	R273 780.00

PART 3: SCOPE OF WORK

C3.1: PURCHASER'S GOODS INFORMATION
Contents

Contents

Item No	Material Number	Material Descriptions and Texts	UMC
00010	39440	CHAIN, POWER TRANSMISSION: STYLE: RD LINK; LENGTH: 8.3 M; PITCH: 100 MM; MATERIAL: STL; FOR SUBMERSIBLE SCRAPER CONVEYOR; 26MM X 100MM; INNER WD MIN. 31MM; OUTER WD MAX. 87MM; WEIGHT 13.3KG/M; PROOF LOAD 255 KN; BREAKING LOAD 425 KN; PROOF STRESS ON PRODUCTION (SIGMA PR) 240N/MM SQUARE; BREAKING STRESS ELONGATION AT FRACTURE APPR. 2PCT (SIGMA B) 400 N/MM SQUARE; SURFACE HARDNESS AT INTERLINK (HV 30 MIN.) 800; CARBURIZING DEPTH AT INTERLINK AFTER MACROETCHING HTA HTA (.D +-0.01D): 0.09, CASE HARDENING DEPTH AT INTERLINK TO DIN50190 PART 1 ETH 550 HV3 (.D MIN) 0.05; SECTION LG 8.3M; TO BE DELIVERED IN MATCHED PAIR SETS; 1 SET=2 EA (10 SETS ARE REQUIRED TO COVER THE WHOLE SSC) BRAND NAMES: RUD; HEKO & PEWAG	EA
00020	39453	LINK, CHAIN TRANSMISSION: TYPE: CONNECTING; MATERIAL: STL; PITCH: 100 MM; FASTENING METHOD: LOCK PIN; REFERENCE NO: 62113; FASTENING METHOD NOT ALEN CAP SCREW; FLAT COUPLING - FL (CHAIN HALF LINK), FOR SUBMERGED SCRAPER CONVEYOR CHAIN; CHAIN SIZE: 26MM WD X 100MM LG	EA
00030	193445	ATTACHMENT: TYPE: SSC FLANGE; REFERENCE NO: 51337; FOR THE SUBMERSIBLE SCRAPER CONVEYOR; CHAIN SIZE 26MM X 100MM; TO BE SUPPLIED IN PAIRS; INNER PLUS OUTER; WITH M24 X 160 8.8 BOLT AND LOCKNUT; VENDORS ARE RESPONSIBLE FOR ENSURING THAT THEY ARE PERFORMING AGAINST THE CORRECT DRAWING REVISION NUMBER (IF APPLICABLE).	PAA

00040	193446	SCRAPER, BELT: TYPE: SUBMERSIBLE; DIMENSIONS: LG 1.675 M; MATERIAL: MS; APPLICATION: CONVEYOR; DRAWING NO: ESKOM 20.58/52720 REV 01 REV 1; ESKOM 20.58/52720 REV 1; VENDORS ARE RESPONSIBLE FOR ENSURING THAT THEY ARE PERFORMING AGAINST THE CORRECT DRAWING REVISION NUMBER (IF APPLICABLE).	EA
00050	193447	SPROCKET: TEETH: 10; OUTSIDE DIAMETER: 639 MM; BORE: 180 MM; PITCH: 100 MM; ROOT DIAMETER: 340 MM; MATERIAL: STL; TYPE: CHAIN CONVEYOR; REFERENCE NO: RUD 61095; SUBMERSIBLE SCRAPER, SIZE 26MM X 100MM, 3 SEGMENT, TO BE SUPPLIED IN SETS AND WITH HEX MACHINED BOLTS 8.8, SHANK DIA 25MM X LG 45MM X THD LG 45MM, THREAD SIZE M24 X 3MM, M24 X 8.8 NUTS	EA
00060	570649	CHAIN, POWER TRANSMISSION: STYLE: DUPLEX; LENGTH: 6.1 M; PITCH: 63.5; MATERIAL: STL; FOR POWER TRANSMISSION FROM THE DRIVE GEARBOX TO SSC MAIN DRIVE SHAFT THROUGH TOOTHED SPROCKET WHEELS; Z = (2 X 15) & Z = (2 X 62)	EA
00070	570652	SPROCKET, WHEEL: TYPE: DRIVE CHAIN; TEETH: 62; PITCH: 63.5 MM; INSIDE DIAMETER: 180 MM; ROOT DIAMETER: 1.22 M; MATERIAL: SS10/200 BENNOX; USED TO TRANSMIT TORQUE TO THE CONVEYOR CHAIN (100 X 26); USED IN CONJUSTION WITH A 40B-2; Z=2 X 15; T=63.5MM & 40B-2 CHAIN	EA
00080	570651	SPROCKET, WHEEL: TYPE: DRIVE CHAIN; TEETH: 15; PITCH: 63.5 MM; INSIDE DIAMETER: 130 MM; MATERIAL: EN8 FLAME HARDENED; USED TO TRANSMIT TORQUE FROM DRIVE GEARBOX TO THE CONVEYOR CHAIN (100 X 26) THROUGH A DRIVE CHAIN 40B-2 & A SPROCKET Z=2 X 62; T=63.5MM	EA
00090	570650	LINK, CHAIN TRANSMISSION: TYPE: CONNECTING; MATERIAL: STL; PITCH: 63.5 MM; FASTENING METHOD: PIN LOCK; REFERENCE NO: 40B-2	EA

00100	244079	SHAFT: TYPE: SSC MAIN DRIVE; LENGTH: 3 M; MATERIAL: STL EN19; END 1 SIZE: 180 MM; END 2 SIZE: 180 MM; DRAWING NO: ESKOM 0 58/40459 REV 1	EA
00110	635862	BEARING: TYPE: SPHERICAL ROLLER; INSIDE DIAMETER: 180 MM; OUTSIDE DIAMETER: 340 MM; WIDTH: 132 MM; STYLE: DOUBLE ROW; MATERIAL: CI; SERIES: 23140CCK/W33; OEM P/N: SD3140TS; DRAWING NO: 0.66/95586 REV 0; ADAPTOR SLEEVE; H3140 LOCATING RING 2FRB10/340; SELF ALIGNING; EXCLUDING PLUMMER BLOCK AND END COVER	EA
00120	38776	WHEEL: TYPE: CHAIN GUIDE; HUB SIZE: 260 MM; OUTSIDE DIAMETER: 610 MM; WIDTH: 118 MM; MATERIAL: STL; SUBMERSED WHEELS FOR SSC (TREAD FOR CHAIN PULLER), MATERIAL: AUS TEMPERED DUCTIVE IRON TO SABS: 1656, O/DIAMETER (CHAIN CONTACT) 500MM, 4 HOLES EQUI-SPACED ON PCD OF 310MM, MATERIAL SPECIFICATION DOCUMENTS TO BE INCLUDED WITH DELIVERY; MATERIAL CERTIFICATE, HEAT TREATMENT CERTIFICATE AND HEAT CHART; S	EA
00130	214717	WHEEL: TYPE: CHAIN GUIDE; HUB SIZE: 200 MM; OUTSIDE DIAMETER: 620 MM; WIDTH: 118 MM; MATERIAL: STL; SPECIFICATION: EN 9; SABS 1656; REVERSING SHAFT AND TENSIONING SHAFT WHEEL FOR SSC (TREADED FOR CHAIN PULLER), MATERIAL: AUS TEMPERED DUCTIVE IRON TO SABS: 1656, O/DIAMETER (CHAIN CONTACT) 500 MM, 4 HOLES EQUI-SPACED ON PCD OF 250MM, ESKOM DRAWING NO: 40446 REV 0, MATERIAL SPECIFICATION DOCUMENTS TO BE INCLUDED WITH DELIVERY, MATERIAL CERTIFICATE, HEAT TREATMENT CERTIFICATE AND HEAT CHART; SIZE:118MM HT	EA
00140	244081	SHAFT: TYPE: SSC CHAIN TENSIONING; LENGTH: 2.47 M; MATERIAL: STL EN19; APPLICATION: SUBMERGED SCRAPER CONVEYOR; END 1 SIZE: 100 MM; END 2 SIZE: 100 MM; DRAWING NO: ESKOM 0 58/40459 REV 1	EA
00150	31627	BEARING, ROLLER: TYPE: SELF ALIGNING; INSIDE DIAMETER: 110 MM; OUTSIDE DIAMETER: 200 MM; WIDTH: 53 MM; ROW: DOUBLE; SUPPL P/N: 22222 CDE4C3	EA

1 Constraints on how the *Supplier* Provides the Goods

1. **SCOPE OF WORK**

2. ESKOM Matimba Power Station intends to enter a 5-year contract commencing with a suitable supplier with the capacity to Supply and deliver SSC Spares at Matimba Power Station.

NOTE: PACKAGING AND DELIVERY OF GOODS

- All goods should be purchased from approved/reputable suppliers.
- Please provide a certificate of acceptability on the 1st delivery from the source of supply. If it happens that you change your suppliers, a new CoA will be required.
- All products delivered to Matimba Power Station, will be subjected to quality checks, products that do not meet our food safety quality standards will be rejected.

3. **TRANSPORTATION:**

- These items must be delivered in a closed/ covered bakkie/truck according to the food safety regulations and food safety standards.

4. **PPE:**

The protective clothing, including head and other coverings and footwear, of a person handling food must:

- Be clean and neat when the person begins to handle material.
- At all times during the handling of the material, be in such a clean condition and be of such design and material that it cannot contaminate the spares.

5. STANDARD AND REQUIREMENTS FOR THE HANDLING AND TRANSPORTATION OF GROCERY

- The food and beverages delivered to Matimba Power Station will be inspected using the following:

1. Food safety regulation(R638) and food safety standards
2. SANS 10049:2019: Food Safety Management

- Upon delivery an inspection will be conducted by both Contract Manager and the supplier representative confirming the quality and the quantity.
- The returned order must be corrected within 24 hours from the date of rejection.
- The supplier is responsible for the labour arrangement at the time of delivery to offload and pack the goods in the storeroom.

6. COMMERCIAL TERMS AND CONDITIONS

7. Undertaking and responsibilities

Subject to the terms and conditions as set out in this agreement and read in conjunction with Annexure A, B, and C; ESKOM, namely Matimba Power Station, undertakes during the duration of this agreement to employ the supplier for the supply and delivery of the Food and Beverages.

The Supplier agrees to provide all transport, to carry out the services as specified in compliance with ESKOM's environmental policy and other conditions the supplier may have deemed fit to impose. The Supplier will comply with the rules, regulations, and standards in force at the workplace. (With emphasis on safety, health, and environmental compliance to regulations). The agreement will be enhanced by regular and open communication, joint planning, co-operation and sharing of responsibilities around the image and specific culture of the business unit.

8. Payment

Payment will be based on a monthly assessment / agreement according to the scope of work compiled by Matimba Power Station. The total monthly payment will be according to conformance of specification in all areas. The amount subtracted will be for the total areas not conforming to specifications.

9. Duration

The agreement will be effective from 01 December 2024 to 30 November 2029

10. OCCUPATIONAL HEALTH AND SAFETY

The Service Provider must fully comply with the applicable legal and standards which are deemed to be necessary for operation of the cleaning to avoid jeopardising the services rendered to Eskom.

11. Eskom Life Saving Rules (240-62196227)

RULE 1: OPEN, ISOLATE, TEST, EARTH, BOND, AND/OR INSULATE BEFORE TOUCH

With the aim to ensure a safe electrical work environment, no person may work/operate on, around or near any electrical network, line or apparatus, electrically connected to the power system and/or electrically charged and/or not electrically charged unless:

a) He/she is trained and authorised as competent for the task to be done.

b) There is a valid permit to work, where required.

c) A pre-task risk assessment to identify all risks and hazards has been conducted prior to any work commencing.

d) He/she follows the requirements on OPEN, ISOLATE, TEST, EARTH, BOND and/or INSULATE BEFORE TOUCH, correctly based on applicable/related standards, procedures and outcome of risk assessment fit for the type of work or task to be performed.

e) The authorised person (team leader) has certified and physically shown all team members that the apparatus is safe to work on.

f) He/she makes the specific electrical environment safe prior to performing the work; and

g) All the appropriate PPE (including face shield and insulated gloves for low voltage work) are worn.

RULE 2: HOOK UP AT HEIGHTS

Working at height is a significant part of work in Eskom Holdings and is regarded as a high-risk activity, and as a result all precautions must be taken to prevent incidents while working at height. Wherever reasonably practicable, preference must be given to the performance of work at ground level as opposed to work in an elevated position. Where work in an elevated position is necessary, the requirements in this document shall apply.

No person may work at height where there is a risk of falling unless:

a) He/she is medically fit to work at height.

b) A pre-task risk assessment to identify all risks and hazards has been conducted prior to commencing any work of this nature.

c) He/she is appropriately trained as determined by the risk assessment.

d) He/she is appropriately secured during ascending and descending; and

e) He/she is using an Eskom approved fall arrest system where applicable.

RULE 3: BUCKLE UP

Where required, the proper wearing of seat belts for any driver, operator and passenger is mandatory in all vehicles/equipment when driving and/or travelling for Eskom business purposes. The driver is obligated to ensure that he/she as well as all passengers are properly seated and wearing their seatbelts at all times while being transported in the vehicle, as per Eskom specifications.

Note: This rule is applicable on any road or parking lot, irrespective of the speed, and when the vehicle moves in a forward or backward direction.

RULE 4: BE SOBER

No person who is under the influence or who appears to be under the influence of intoxicating liquor or drugs will be permitted to enter or remain on an Eskom site or conduct Eskom business or drive/operate a vehicle/equipment for Eskom business purposes.

This includes any level of alcohol or the presence of any drugs, controlled substances, and/or illegal substances in the body that impairs or could impair mental and physical functioning, irrespective of when the substance was used.

RULE 5: ENSURE THAT YOU HAVE A PERMIT TO WORK

Where an authorisation limitation exists, no person shall work without the required Permit to Work (PTW), which is governed by for example the:

a) Plant Safety Regulations; or

b) Operating Regulations for High Voltage Systems (ORHVS); or

c) Any other activity where a permit is required.

No plant is to be returned to service without the cancellation of all permits on that plant in accordance with procedure, unless permission is granted for a particular plant to be returned to service with permits still open, like in the case of redundant systems.

NOTE: In the case of live work, a “live work declaration form” is to be completed by the authorised person, who is the person responsible for the safe execution of work according to relevant standards and procedures. Outline the key principles or rules to support the implementation of the standard statement.

12. Health and Safety Plan (Construction Regulations)

The following will be required after contract reward:

The Contractor shall compile a Health and Safety Plan, filed in a Health and Safety File, comprising of the following:

- Proof of the contracting company’s own Health and Safety Policy
- Proof of appointments, assignments and designations as required in terms of the Occupational Health and Safety Act, No 85 of 1993
- Proof of Risk Assessments regarding Hazards identified and proof of training of own employees regarding controls derived from the risk assessment.
- Proof of Safe Work Procedures that derived out of the Risk Assessments
- Proof of the contracting company’s own Emergency Plan that will deal with their own emergencies on site.
- Proof of a Fall Protection Plan, if required to perform work at elevated levels developed by a competent person appointed by the contracting company
- Proof of “Notification to perform Construction Work” – a copy of the notification addressed to the Department of Labour as required Regulation 3 of the Construction Regulations
- Proof of an Induction Program (it is advised that the Matimba SHE Rules as a Guide) and an attendance register signed by its employees prior the commencement of any construction work on site.
- Proof of the contracting company’s employees Medical Fitness Certificate. (Must still be valid – one year. May only have been issued by an occupational health practitioner)
- Proof of contractors weekly Health and Safety Rep Inspections regarding its own site and where detached work is performed.
- Proof of Personal Protective Equipment (PPE) issued to Contractor’s employees.
- Proof of contracting company’s Accident/Incident Reporting and Investigation System
- Proof of checklists and where applicable test certificates, regarding contractor’s tools, equipment, machinery, mobile equipment, vessels under pressure and any other applicable checks required by the Act.
- A “Section 37(2) Agreement with Mandatory” needs to be drawn up by the Employer and co-signed by the Contractor before work can commence.
- The Contractor shall ensure that his Subcontractors do also have a Health and Safety File and that it must be accepted by the Contractor.
- The Safety Officer employed by Matimba Power Station will audit these Health and Safety Plans to ensure compliance with the provisions of the Act.
- In terms of Clause 4 (b) of the Construction Regulations, the Employer points out the hazards or risks that is associated with the works, as indicated in Appendix B, to the Contractor. The hazards or risks it are however not limited to this list.

13. Environmental constraints and management

The Contractor shall adhere to all requirements as set out in 240-146112716: Environmental management.

requirements for contractors.

The Contractor provides an Environmental Management Plan applicable during the execution of the Works. The plan provides a guideline on the environmental management of the handling of the works. All waste is handled in an environmentally friendly manner. The Contractor conforms to the “polluter pays principle”, duty of care and other NEMA principles.

The Contractor conforms to all requirements dictated in the document as well as the National Environmental Management Act (NEMA, Act No. 107 of 1998) and the National Environmental Management Waste Act (NEMWA, Act No. 59 of 2008). This is achieved by undertaking inspections, audits, monitoring and reviews, conducted internally by the Contractor and externally by the Project Manager.

The Contractor ensures that all environmental authorization obligations, applicable legislative requirements, and Employer’s specific requirements are fulfilled. This includes all national, provincial, and local environmental legislation and requirements.

The Contractor issues on a monthly basis, Environmental Management Performance and Expenditure Reports to the Project Manager.

The Contractor conducts their environmental management based on the ISO 14001 requirements and implement their environmental management practices accordingly.

The Contractor develops and implements as a minimum the following procedures:

- Environmental Management Plan,
- Waste Management Work Instruction,
- Spill Management Procedure,
- Hazardous Chemical Substances Management and Storage Procedure,
- Stockpile and Erosion Management Procedure,
- Clear-and-Grub Procedure,
- Environmental Rehabilitation Procedure.

All environmental procedures, as listed above, are site-specific and submitted to the Employer for acceptance by the Project Manager before the commencement of construction activities. The Employer provides a copy of the environmental authorisation and Environmental Management Plan to the contractor for the drafting of the above procedures.

13.1.1 Waste Management

All waste management activities, which includes procurement of control measures, handling and disposal or processing of all waste forms generated on the Contractor’s site, are conducted according to Matimba Power Station Waste Management Procedure – PS/244/001, and all requirements of the Employer as per the Environmental Management Programme All costs associated with waste management are the responsibility of the Contractor.

Provide sufficient storage containers, labelled depicting general or hazardous waste and store in a designated storage area.

13.1.2 Rehabilitation

The Contractor rehabilitates both its lay-down and construction site including all disturbed areas under their jurisdiction and or as directed by Supervisor at the end of the project. The Contractor submits to the Project Manager a rehabilitation plan and schedule at least 2 weeks before finalisation of the works for acceptance by the Project Manager. All rehabilitation costs are the responsibility of the Contractor.

13.1.3 Hazardous Waste

All waste introduced to and/or produced on *Emp*loyer's Premises by the *Contractor* for this order, must be handled in accordance with the minimum requirements for the Handling and Disposal of hazardous waste in terms of Government Legislation as proclaimed by the Department of Water Affairs and Forestry 1994 Ref.: BN0621-16296-5. (A copy of this document is available at the Power Station for reference purposes).

No hazardous waste may be stored for a period of more than 90 days on the Matimba premises.

Ensure that all hazardous waste is disposed of at a licensed Class H disposal site. A copy of the hazardous waste disposal certificate is submitted to the Project Manager.

13.1.4 Environmental Management

Matimba has an Environmental Policy, PP/240/001, to which the *Contractor* and his employees must adhere. It is the responsibility of the *Contractor* to ensure that he obtains copies of the Matimba Environmental Policy, the legal register applicable to his area of responsibility, the aspect register and the Matimba procedures (applicable to the *Contractor's* area of responsibility) and to familiarize themselves on such procedures, within 30 days from the date of commencement of work at Matimba, to assist the *Contractor* and his/her employees to prevent pollution and to comply with legislative requirements. Copies of the above-mentioned documents shall be obtained from the *Project Manager* or Environmental Officer on the first day prior to commencement of work at Matimba. The *Contractor* shall submit proof to the Environmental Officer of Matimba that he and his employees has done all the necessary training on procedures and Policies supplied to them and that they do understand the contents of the procedures, registers and policies and will adhere to them at all times.

The non-adherence to the Matimba Environmental policy and rules could result in the termination of this contract.

14. Quality assurance requirements

14.1.1 Quality Management System

The *Contractor* shall implement and maintain a quality management system that as a minimum meets the requirements of 240-105658000 - Supplier Quality Management: Specification. If the *Contractor* is registered, the appropriate ISO 9001:2000 Registration certificate of compliance must be supplied with the tender.

The *Contractor* further ensures that the subcontractor's programmes comply with the requirements of the Works Information.

The *Contractor* notifies the *Project Manager* of any changes to the Quality System and obtains agreement prior to implementation on existing orders and contracts, or sub orders and subcontracts.

14.1.2 Quality Documents Submitted with the Tender

The Contractor submits a copy of his quality policy and quality system procedures relevant to the Works.

The Contractor also submits a typical quality control plan.

The Project Manager evaluates the Contractor's capabilities with regards to quality assurance and quality control based on these submissions and the performance history of the Contractor. The Project Manager performs pre-award assessments where necessary, giving further information to aid the selection process.

14.1.3 Quality Documents Submitted after the Contract Date

Contractor submits a fully detailed Quality Assurance Programme (QAP) for acceptance by the Project Manager within four weeks of the Contract Date.

The documents submitted by the Contractor shall include the following:

- Copy of the Quality Manual
- Copy of the Quality System Procedure
- Copy of the Contract Quality Management Plan
- Copy of Quality Control Plans
- Copy of the proposed index of the QA/QC, inspection, and test records

The Contractor will further submit the following documents during the course of the contract:

- Non-conformance reports (NCR's) raised by the Contractor.
- Notification of any planned changes to the Contractor's quality manual, quality system procedures, contract quality management plan or quality plan for acceptance by the Project Manager prior to implementation

- Concession/production permit applications and supporting documentation.
- Data books and/or data packages

14.1.4 Contract Quality Management Plan Requirement

The Contractor prepares a contract quality management plan that, where appropriate, indicates the following:

- Indicates the interface with the Contractors quality system and applicable documents such as procedures and work instructions.
- Establishes communication channels between the Contractor and the Project Manager in respect of quality and the integration of such with prescribed contract communication channels.
- Indicates how specific subcontractors will be monitored.
- Identifies items or activities for which quality control plans will be prepared.
- Identifies the specifications, drawings, and acceptance criteria for material for which quality control plans are not required.
- Identifies the areas or processes requiring special controls.
- Identifies the Contractor's Management Representative and personnel responsible for the control of quality activities and their relationship to the Contractor's management structure.
- Identifies the documents which are to be submitted to the Project Manager
- Identifies the Contractor's quality monitoring programme.

The Contractor periodically updates the contract quality management plan to reflect changes in any of the above details. The frequency of such updates is determined by the Project Manager but will not be greater than one year.

14.1.5 Quality Control Plan

The Contractor quality control plans cover inspection and test proposals for items or activities to be supplied as part of the works.

The quality control plan indicates the following as appropriate:

- The identification of the item
- The material
- A list of the sequence of operations including inspections and tests
- The identification of the specification, drawings, or procedures for each operation
- The acceptance criteria with reference to the appropriate technical specification, in-house, national, or international standard and relevant clause number
- The inspections and tests the Contractor has nominated for hold and witness points.
- Provision for inspections and tests nominated by the Project Manager
- Provision for inspection status indication
- Inspection and test records that are generated by the Contractor.

The quality control plans are reviewed by the Project Manager to allow for insertion of his specific requirements, including hold and witness points, prior to commencement of work. The Contractor does not commence work until the Project Manager accepts.

15. Invoicing and payment

There are no additional requirements to the invoicing and payment clauses in Section 5 of the core clauses.

At each assessment interval, the Contractor submits to the Project Manager a forecast rate of invoicing that includes all the expected payments by the Employer to the Contractor on a month-by-month basis.

The Contractor addresses the tax invoice to Eskom Holdings SOC Ltd and include on each invoice the following information:

- The registered name of the Contractor
- The VAT registration number of the Contractor
- The address of the Contractor
- The Employer's contract number
- The VAT registration number of the Employer
- The value of the invoice split into payments as per the activity schedule as indicated in the Price Lists.
- Any retention monies to be deducted from the invoice.
- Any interest payable
- Escalation formula used where applicable.

All invoices in PDF format are emailed straight from your system to an Eskom email address.

- Email addresses for invoice submission: Invoiceseskomlocal@eskom.co.za. The Project Manager is copied when submitting invoices.
- All queries and follow up on invoice payments are made by contacting the FSS Contact Centre:
  Tel: 011 800 5060 or e-mail: fss@eskom.co.za
- For Foreign invoices, the Contractor is required to physically deliver hard copies of original documents to the Project Manager even though the Contractor has e-mailed those invoices.
- The Contractor ensures compliance with the tax Requirement for submitting invoices electronically.
- If there is Cost Price Adjustment (CPA) on your invoice, the Employer recommends that the Contractor issue a separate invoice for CPA so that if there are any issues on the CPA the rest of the invoice can be paid while resolving CPA issues.
- The base invoice number needs to be mentioned on the CPA invoice.

- Electronic invoicing does not guarantee payment but ensures visibility of all invoices and ensures that no invoices get lost. If the Goods Receipt (GR) is not done the invoice is parked and the system automatically sends an e-mail to the Project Manager to do the goods receipt. This is also tracked by the Employer through the parked invoice report.
- The Contractor can request a parked invoice report from the Finance Shared Services (FSS) Contact Centre which can then be followed up and corrected. The Contractor is allowed to forward the details of invoices corrected to the FSS Contact Centre.

16. Insurance provided by the *Purchaser.*

There are no additional requirements to the risk and insurance clause in Section 8 of the core clauses and Z13 of the A*dditional conditions of contract*.

17. List of drawings

17.1 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