



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 Digital Pressure Test Gauges

Contents:

Part C1 Agreements & Contract Data

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CONTRACT No. [Insert at award stage]

PART C1: AGREEMENTS & CONTRACT DATA

Contents:

C1.1 Form of Offer and Acceptance

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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 Digital Pressure Test Gauges

The tenderer, identified in the Offer signature block, has

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

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

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

This Offer may be accepted by the *Purchaser* by signing the Acceptance part of this Form of Offer and Acceptance and returning one copy of this document including the Schedule of Deviations (if any) to the tenderer before the end of the period of validity stated in the Tender Data, or other period as agreed, whereupon the tenderer becomes the party named as the *Supplier* in the *conditions of contract* identified in the Contract Data.

Signature(s)

Name(s) _____

Capacity _____

For the tenderer:

(Insert name and address of organisation)

Name & signature of witness

Date

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

Acceptance

By signing this part of this Form of Offer and Acceptance, the *Purchaser* identified below accepts the tenderer's Offer. In consideration thereof, the *Purchaser* shall pay the *Supplier* the amount due in accordance with the *conditions of contract* identified in the Contract Data. Acceptance of the tenderer's Offer shall form an agreement between the *Purchaser* and the tenderer upon the terms and conditions contained in this agreement and in the contract that is the subject of this agreement.

The terms of the contract, are contained in:

- Part C1 Agreements and Contract Data, (which includes this Form of Offer and Acceptance)
- Part C2 Pricing Data
- Part C3 Scope of Work: Goods Information including Supply Requirements

and drawings and documents (or parts thereof), which may be incorporated by reference into the above listed Parts.

Deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Returnable Schedules as well as any changes to the terms of the Offer agreed by the tenderer and the *Purchaser* during this process of offer and acceptance, are contained in the Schedule of Deviations attached to and forming part of this Form of Offer and Acceptance. No amendments to or deviations from said documents are valid unless contained in this Schedule.

The tenderer shall within two weeks of receiving a completed copy of this agreement, including the Schedule of Deviations (if any), contact the *Purchaser's* agent (whose details are given in the Contract Data) to arrange the delivery of any securities, bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the *conditions of contract* identified in the Contract Data at, or just after, the date this agreement comes into effect. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this agreement.

Notwithstanding anything contained herein, this agreement comes into effect on the date when the tenderer receives one fully completed and signed original copy of this document, including the Schedule of Deviations (if any).

Signature(s)

Name(s)

Capacity

**for the
*Purchaser***

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

(Insert name and address of organisation)

Name &
signature of
witness

Date

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

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

No.	Subject	Details
1	[•]	[•]
2	[•]	[•]
3	[•]	[•]

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

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

For the tenderer:

For the *Purchaser*

Signature _____

Name _____

Capacity _____

On behalf of *(Insert name and address of organisation)*

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

Name & signature of witness _____

Date _____

Part one - Data provided by the Purchaser

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

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for Options	
		<p>X2 Changes in the law</p> <p>X7: Delay damages</p> <p>X17: Low performance damages</p> <p>Z: Additional conditions of contract</p>
	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.	[•]
10.1	The <i>Supply Manager</i> is (name):	Frans Mametsa
	Address	Tutuka Power Station Bethal Road Standerton 2430
	Tel	+27 13 693 4559
	Fax	
	e-mail	MametsF@eskom.co.za
11.2(13)	The <i>goods</i> are	Digital Pressure Test Gauges
11.2(13)	The <i>services</i> are	Supply and Delivery
11.2(14)	The following matters will be included in the Risk Register	In the Risk Register Table on the last page of this document – Annexure C
11.2(15)	The Goods Information is in	Part 3: Scope of Work and all documents and drawings to which it makes reference.

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

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	1 week		
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.			
30.1	The <i>delivery date</i> of the goods and services is:	Goods and services	Delivery Date	
		1	<i>As per Batch Order</i>	As per Delivery Date on the Purchase Order
30.2	The <i>Supplier</i> does not bring the goods to the Delivery Place more than one week before the Delivery Date.	As per schedule or Purchase Order		
31.1	The <i>Supplier</i> is to submit a first programme for acceptance within	Within 1 week of the Contract Date.		
32.2	The <i>Supplier</i> submits revised programmes at intervals no longer than			
4	Testing and defects			
42	The <i>defects date</i> is	12 Months after Delivery.		
43.2	The <i>defect correction period</i> is	2 weeks		
	except that the <i>defect correction period</i> for and the <i>defect correction period</i> for			
42.2	The <i>defects access period</i> is			
5	Payment			
50.1	The <i>assessment interval</i> is	As per batch 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	4 weeks.		
51.4	The <i>interest rate</i> is	the publicly quoted prime rate of interest (calculated on a 365 day year) charged from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose		

appointment it shall not be necessary to prove) for amounts due in Rands and

(ii) the LIBOR rate applicable at the time for amounts due in other currencies. LIBOR is the 6 month London Interbank Offered Rate quoted under the caption “Money Rates” in The Wall Street Journal for the applicable currency or if no rate is quoted for the currency in question then the rate for United States Dollars, and if no such rate appears in The Wall Street Journal then the rate as quoted by the Reuters Monitor Money Rates Service (or such service as may replace the Reuters Monitor Money Rates Service) on the due date for the payment in question, adjusted *mutatis mutandis* every 6 months thereafter and as certified, in the event of any dispute, by any manager employed in the foreign exchange department of The Standard Bank of South Africa Limited, whose appointment it shall not be necessary to prove.

6	Compensation events	Spares or works not included in the scope, Appendix or Annexures
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	<ol style="list-style-type: none"> 1. Late or non-deliveries due to strikes 2. Poor quality products 3. Shortage of diesel (Fuel) within South Africa
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	<p>(1) for the <i>Purchaser’s</i> existing and surrounding property in the care, custody and control of the <i>Supplier</i> the amount of the deductible (first amount payable) relevant to the event and</p> <p>(2) for all other existing <i>Purchaser’s</i> property the applicable deductible as at contract date</p>
88.3	The <i>Supplier’s</i> liability for Defects due to his design which are not notified before the last	R[•] [This is a commercial decision, but consider using the total

	<i>defects date</i> is limited to:	of the Prices. Delete this note after inserting a Rand amount]
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	R[•] [This is a commercial decision, but consider using at least the total of the Prices. Delete this note after inserting the Rand amount]
88.5	The <i>end of liability date</i> is	12 months after Delivery of the whole of the goods received .
9	Termination and dispute resolution	NEC3 core clauses for Termination shall be applied. Exit clause: This contract will be terminated between the <i>Purchaser</i> and <i>Supplier</i> should long term contract be in place.
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	the Chairman for the time being or his nominee
	- if the arbitration procedure does not state who selects an arbitrator, is	of the Association of Arbitrators (Southern Africa) or its successor body.
10	Data for Option clauses	
X2	Changes in the law	
X2.1	A change in the law of	The Republic of South Africa is a compensation event if it occurs after the Contract Date

X7	Delay damages		
X7.1	Delay damages for Delivery are	Delivery of Digital Pressure Test Gauges	amount per day 0.2% (zero point two per centum) increments of the batch order value per calendar day late, until damages have accumulated to 10% of the batch order.
X17	Low performance damages	Low performance table is on the 2nd last page of this document- Annexure B	
X17.1	The amounts for low performance damages are:	amount	Low performance table is on the 2nd last page of this document
Z	The <i>additional conditions of contract</i> 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**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 goods, 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><i>Purchaser's</i> 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
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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 <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

[Notes: The example given in the NEC3 Supply Contract Guidance Notes pages 15 to 20 inclusive is based on Incoterms 2000. However users will probably wish to use Incoterms 2010 which the details below are based on. Users may need to adjust the information to comply with actual requirements. First decide

whether Incoterms will be used or not, then delete the arrangement below which does not apply and delete these notes]

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

The *Supplier* supplies the *goods* in accordance with INCOTERMS 2010³ as follows:

[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
	Delivery Cost Included	DCI	Tutuka Power Station

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

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

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

A	The <i>Supplier's</i> obligations	B	The <i>Purchaser's</i> obligations
A1	Provision of goods in conformity with contract	B1	Payment of the price
A2	Licences, authorisations and formalities	B2	Licences, authorisations and formalities
A3	Contracts of carriage and insurance	B3	Contracts of carriage and insurance
A4	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
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

[Should there be a need to amplify any of the published obligations listed above for the chosen INCOTERM, add them here.]

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

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

The Supply Requirements for this contract are as follows:

[Use these when INCOTERMS do not apply].

1. The requirements for the supply are	Supply and Delivery of Digital Pressure Test Gauges	
2. The requirements for transport are	Safe and reliable transportation	
3. The delivery place is	Tutuka Power Station – Main Stores	
4. Actions of the Parties during supply	Action	Party which does it
	Giving notice of Delivery	<i>Supplier</i>
	Checking packing and marking before dispatch	<i>Supplier</i>
	Contracting for transport	<i>Supplier</i>
	Pay costs of transport	<i>Supplier</i>
	Arrange access to delivery place	<i>Purchaser</i>
	Loading the <i>goods</i>	<i>Supplier</i>
	Unloading the <i>goods</i>	<i>Purchaser</i>
For international procurement	Undertake export requirements	<i>Supplier</i>
	Undertake import requirements	<i>Supplier</i>
5. Information to be provided by the Supplier	Title of document	
	Packing lists for cases and their contents	
	Copy of invoice for the <i>goods</i>	
	Delivery Note	
	Test results and maintenance manuals	
For international procurement	Licences, authorisations and other formalities associated with export of the <i>goods</i>	
	Air Waybill or Bill of Lading with associated landing, delivery and forwarding order	
	The Bill of Entry endorsed by the importation authority	
	Customs work sheets, showing tax, duties and surcharges which the law of the country into which the <i>goods</i> are being imported requires the importer to pay	
	Invoice from the importation clearing agent showing airline fees, landing charges, wharfage and dock dues as applicable	
	Specify other import documents required by authorised officials.	

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

C1.2 Contract Data

Part two - Data provided by the *Supplier*

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

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

Notes to a tendering *Supplier*:

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

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

Clause	Statement	Data												
10.1	The <i>Supplier</i> is (Name): Address Tel No. Fax No.													
11.2(8)	The Goods Information for the <i>Supplier's</i> design is in:													
11.2(11)	The tendered total of the Prices is	R	, (in words)											
11.2(12)	The <i>price schedule</i> is in:	C2.2												
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 goods and services is:	<table border="1"> <thead> <tr> <th colspan="2"><i>goods and services</i></th> <th><i>delivery date</i></th> </tr> </thead> <tbody> <tr> <td>1</td> <td>[•]</td> <td>[•]</td> </tr> <tr> <td>2</td> <td>[•]</td> <td>[•]</td> </tr> <tr> <td>3</td> <td>[•]</td> <td>[•]</td> </tr> </tbody> </table>	<i>goods and services</i>		<i>delivery date</i>	1	[•]	[•]	2	[•]	[•]	3	[•]	[•]
<i>goods and services</i>		<i>delivery date</i>												
1	[•]	[•]												
2	[•]	[•]												
3	[•]	[•]												
31.1	The programme identified in the Contract Data is contained 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

PART 2: PRICING DATA**NEC3 Supply Contract**

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

C2.1 Pricing assumptions

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

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

Identified and defined terms	11 11.2	<p>(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.</p> <p>(12) The Price Schedule is the <i>price schedule</i> unless later changed in accordance with this contract.</p>
Assessing the amount due	50.2	<p>The amount due is</p> <ul style="list-style-type: none"> • the Price for each lump sum item in the Price Schedule which the <i>Supplier</i> has completed, • where a quantity is stated for an item in the Price Schedule, an amount calculated by multiplying the quantity which the <i>Supplier</i> has completed by the rate, • plus other amounts to be paid to the <i>Supplier</i>, • less amounts to be paid by or retained from the <i>Supplier</i>. <p>Any tax which the law requires the <i>Purchaser</i> to pay to the <i>Supplier</i> is included in the amount due.</p>

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

Function of the Price Schedule

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

Preparing the *price schedule*

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

It will be assumed that the tendering *Supplier* has

- Read Pages 8, 11, 12 and Appendix 5 of the SC3 Guidance Notes before preparing the *price schedule*;
- Included in his Prices and rates for correction of Defects (core clause 43.1) as there is no compensation event for this unless the Defect is due to a *Supplier's* risk;
- Spread the cost of doing work he chooses not to list as separate items in the *price schedule* across other Prices and rates in order to fulfil the obligation to Provide the Goods and Services for the tendered total of the Prices;

- Understood that there is no adjustment to lump sum prices in the *price schedule* if the amount, or quantity, of work within that lump sum item later turns out to be different to that which the *Supplier* estimated at time of tender. The only basis for a change to the Prices is as a result of a compensation event per clause 60.1;
- Understood that the *Supplier* does not have to allow in his Prices and rates for matters that may arise as a result of a compensation event.

Format of the *price schedule*

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

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

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

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

C2.2 the *price schedule*

Item No.	Stock Number	Description	Quantity	Lead Times	Price ea. Item	Total
1		110KPABXP2i-S2 – 3 Crystal Gauges, with 3 carry cases and red boot covers.	3			
2		100KPAXP2i-S2 – 2 Crystal Gauges with 2 carry cases and red boot covers.	2			
3		200KPAXP2i-S2 – 8 Crystal Gauges with 8 carry cases and red boot covers.	8			
4		700KPAXP2i-S2 – 7 Crystal Gauges with 7 carry cases and red boot covers.	7			
5		3KKPAXP2i-S2 – 3 Crystal Gauges with 3 carry cases and red boot covers.	3			
6		20KKPAXP2i-S2 - Crystal Gauges with 2 carry cases and red boot covers.	2			
7		70KKPAXP2i-S2 – 1 Crystal Gauges with 1 carry cases and red boot covers.	1			
TOTAL OF THE PRICES					R	

PART 3: SCOPE OF WORK

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

C3.1: PURCHASER’S GOODS INFORMATION

Contents

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6.1.1 Preferred subcontractors	xxxv
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6.1.3 Spares and consumables	xxxv
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6.1.5 Cataloguing requirements by the <i>Supplier</i>	xxxv
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7. List of drawings	xxxv
7.1 Drawings issued by the <i>Purchaser</i>	xxxv
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1. Overview and purpose of the *goods and services*

- Terrace Coal Handling plant requires the supply of Brekor brand in conveyor belt cleaning and tracking and chutes sealing.

2. Specification and description of the *goods*

Item No.	Stock Number	Description	Quantity
1		110KPABXP2i-S2 – 3 Crystal Gauges, with 3 carry cases and red boot covers.	3
2		100KPAXP2i-S2 – 2 Crystal Gauges with 2 carry cases and red boot covers.	2
3		200KPAXP2i-S2 – 8 Crystal Gauges with 8 carry cases and red boot covers.	8
4		700KPAXP2i-S2 – 7 Crystal Gauges with 7 carry cases and red boot covers.	7
5		3KKPAXP2i-S2 – 3 Crystal Gauges with 3 carry cases and red boot covers.	3
6		20KKPAXP2i-S2 - Crystal Gauges with 2 carry cases and red boot covers.	2
7		70KKPAXP2i-S2 – 1 Crystal Gauges with 1 carry cases and red boot covers.	1

2.1 Purchaser's design

As per original *Supplier's* design and manufacturing drawings.

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

- As per OEM

2.3 Other requirements of the *Supplier's* design

- As per OEM

2.4 Use of *Supplier's* design

- As per OEM

2.5 Manufacture & fabrication

- As per original *Supplier's* design and manufacturing drawings.
- *Purchaser* inspects parts of the Plant at its own discretion during manufacturing stages and before shipment as per the agreed QCP.

2.6 Factory acceptance testing (FAT)

- N/A

2.7 Other tests and inspections and commissioning in place of use

- The *Supplier* to submit Calibration Certificates for all Pressure Test Gauges supplied.
- The *Supplier* may only use OEM spare components which must be approved by Eskom before they are used on equipment.
- *Employer* inspects parts of the Plant at its own discretion during manufacturing stages and before shipment as per the agreed QCP.

2.8 Operating manuals and maintenance schedules

- *Supplier* provides operating manuals for spares delivered and information on maintenance schedules or intervals of the equipment.

3. Supply Requirements

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

4. Specification of the services to be provided

- All equipment / spares must be on time of required order date.
- Transported by road on *Supplier's* costs and mode of transportation should be safe and reliable.
- *Supply Manager/* Supervisor to be informed when delivery will be done at least 2 days upfront.
- No deliveries to be done on a Friday, Weekend or public holiday except on emergency basis and *Supply Manager* to be informed on time.
- Pallets to convey the batch must be strong enough to carry and transport the load at anytime.
- All vehicles to be roadworthy.

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

5.1 Programming constraints

- Programme not submitted within agreed time.
- No adherence to Lead times.
- Late deliveries due to transportation or labour strikes
- Goods not packed correctly.

5.2 Work to be done by the Delivery Date

- The *Supplier* is to contact the Main Stores, 48 hours before any delivery is made at the Main Stores. Take note: that the Main Stores are open from 07h00 up to 16h15 from Mondays to Thursdays and the Main Stores are open from 07h00 up to 11h30 on Fridays.
- It is preferred not to do any deliveries on Fridays and Public Holidays and Week - Ends. Urgent deliveries can be made after hours, when arranged with the Main Stores
- *Purchaser* arranges gate access for the *Supplier*.
- *Purchaser* arranges Induction for the *Supplier*
- Acceptance, off-loading by personnel at Main Stores and QC by Technical Team / End User
- Ensure that the delivered goods are signed for.
- Forklift/ overhead crane with driver to be supplied by Eskom for offloading.

5.3 Marking the goods

- Batches to be clearly marked and packed according to the required specifications and stock numbers.
- The *Supplier* shall be responsible for the packaging of all Spares delivered to Tutuka Power Station – Main Stores.
- All spares supplied *shall* be individually wrapped as per the Commercial Stock Preservation and Management procedure.

5.4 Constraints at the delivery place and place of use

- No gate pass or access arranged - *Supply Manager/* Supervisor to be informed when delivery will be done at least 48 hours upfront and arrange access control permit at the gate.
- No driver available for off-loading - *Supply Manager/* Supervisor to be informed when delivery will be done at least 2 days upfront.
- Delivery after hours or weekends – Notify Supply Manager / Supervisor when delivery will be done at least 48 hours upfront.

5.5 Cooperating with Others

- *Supplier* to co-operate with other *Suppliers* delivering goods, at *Purchaser's* delivery place.

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

- *Purchaser* to ensure access to site for deliveries during normal hours.
- *Purchaser* to arrange induction.
- *Supplier* to provide proper transportation for spares.
- Forklift/ overhead crane with driver will be supplied by *Purchaser* for offloading.

5.7 Management meetings

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

Title and purpose	Approximate time & interval	Location	Attendance by:
Risk Register and compensation events	TBC	<i>Service Manager's</i> Office	<i>Supply Manager</i> and <i>Supplier</i>
Overall contract progress and feedback	TBC	Tutuka P/S	<i>Supply Manager</i> and <i>Supplier</i>
Kick-off meeting	TBC	At Purch	<i>Supply Manager</i> and <i>Supplier</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.

5.8 Documentation control

- Each instruction, certificates, submission, proposal, record, acceptance, notification, reply and other communication which this contract requires is communicated in a form which can be read, copied and recorded.
- Writing is in the Language of this contract.
- Reports to be discussed compiled and handed to the *Purchaser* and *Supply Manager*.
- All communications must be printed and filed in the *Supply Managers* file

5.9 Health and safety risk management

The *Supplier* ensures that all his personnel attend a Health and Safety Induction Course prior to contract starting date, and annual re- induction. The Induction Course is presented by the *Employer's* Safety Risk Department at the *Employer*. Arrangements are made with Safety Risk Management, by the *Contractor*.

The *Employer's* Safety Risk Manager visits and inspects the *Contractor's* workplace or site yard and the working areas to ensure that tools; machinery and Equipment comply with the minimum safety requirements.

The *Supply Manager* may instruct the *Supplier* to stop work, where the *Contractor's* personnel fail to conform to safety standards or contravene health and safety regulations. Such stop-work order is not a compensation event. The *Supply Manager* may instruct the *Supplier* to discipline his employees and to submit a disciplinary

action report to the *Supply Manager*. The *Supplier* implements additional health and safety precautions where necessary.

Health and safety

The *Supplier* complies with the Occupational Health and Safety Act 85 of 1993, as well as per the *Employer's* procedure as stipulated below:

- a) SHEQ Policy 32-727
- b) The *Purchaser's* Procurement and Supply Chain Management Procedure 32-1034
- c) SHE Requirements for the *Purchaser's* Commercial Process 32-726
- d) *Supplier* Health and Safety Requirements 32-136
- e) Integrated SHE Organization, Roles and Responsibilities and Statutory Appointments 32- 296
- f) Live-saving Rules 240-62196227
- g) Working at Heights 32-418
- h) The *Purchaser's* Vehicle Safety Specifications 32-345
- i) the *PuchaserSupplier* SHEQ Specifications 14RISK SRM - 084

Site Regulations and Procedures

Site Regulations

The latest revision the *Puchaser's* Site Regulations form part of this contract. Copies of these procedures are available on request.
(Any additional site regulations implemented will be applicable)
Safety risk management

"Standard for health and safety at Tutuka Power Station - requirements to be met by *Contractors*".

Vehicle and driver safety

All drivers, passengers and pedestrians must obey vehicle safety requirements in terms of the National Road Traffic Act, Act No 93 of 1996, as amended, including other relevant provincial or local requirements.

Speed Limit

All vehicles must be driven with due consideration for personnel and property. All speed limits will be adhered to on the premises at all times.

Transportation of passengers: open LDV's:

With effect from 31 May 2006 no *Purchaser's* employee or *Supplier* 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 the *Purchasers* and *Supplier* employees – therefore the following will be enforced:

The *Employer's* Life Saving Rules:

Five Life Saving Rules have been developed that will apply to all the *Employer's* employees, agents, Consultants and Contractors.

- a) Rule 1: Open, Isolate, Test, Earth, Bond, And / Or Insulate before touch - that is any plant operating above 1 000 V.
- b) Rule 2: Hook up at heights - no person may work at height where there is a risk of falling.
- c) Rule 3: Buckle up – no person may drive any vehicle for the *Employer's* business and/or on the *Employer's* premises: unless the driver and all passengers are wearing seat belts.

The *Purchaser* takes a "ZERO TOLERANCE" attitude to drivers and passengers who do not wear safety belts when driving in a vehicle for the *Employer's* Business and / or on the *Employer's* premises. The violation of this very important safety rule as well as any safety rule while performing work for or on behalf of the *Purchaser* may result in the *Purchaser* terminating your obligation to perform work in terms of your contract with the *Employer*.

All occupants must wear their safety belts properly and must never put the shoulder belt under their arm or behind their backs. Drivers and all passengers must buckle-up at all times for the sake of themselves and their families.

- d) Rule 4: Be sober (no person is allowed to work under the influence of drugs and Alcohol.
- e) Rule 5: Use a permit to work – where an authorization limitation exists, no person shall work without the required permit to work.

The *Supplier* acknowledges that it is fully aware of the requirements of all the above and undertakes to employ only people who have been duly authorised in terms thereof and who have received sufficient safety training to ensure that they can comply therewith.

The *Supplier* 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.

Refuse any employee, sub-*Supplier* or agent of the *Supplier* access to its premises if such person has been found to commit any unlawful act or any unsafe working practice or is found to be not authorised or qualifies in terms of the OHSACT;

Issue the *Supplier* with a work stop order or a compliance order should *Purchaser* become aware of any unsafe working procedures or conditions or any non-compliance with the Act, Regulations and Procedures by the *Supplier* or any of its employees, sub-Contractors or agents.

The *Contractors* Health and safety file is to be submitted for approval to the *Purchaser's* Safety Officer before contract commencement.

All work stoppages called by the *Purchaser* to be adhered to

Supplier's Responsible to ensure that his Letter of Good standing is valid at all times as stipulated in the construction regulations point 7 (C) (iv) and she specifications 2.5.2 (iv) and 3.10 *Supplier* will not be allowed on site if his letter of good standing is not valid.

Safety and incident prevention

The *Supplier* shall implement and maintain an active Site Safety and Accident Prevention Programme in accordance with the the *Purchaser's* SHEQ Specifications. The overriding regulations will however be the Occupational Health and Safety Act.

Incident Management, Corrective & Prevention Action Procedure to be adhered to – 14Risk IM PC-019

Reporting of accidents

The *Purchaser* follows an accident prevention policy that includes the investigation of all accidents involving personnel and property. This is done with the intention of introducing control measures to prevent a recurrence of the same incidents. The *Supplier's* expected to fully co-operate to achieve this objective. The *Supply Manager* must be informed immediately of any incidents. A written report to be submitted to the *Purchaser* within 24 Hours of incidents and any damage to property or equipment

NOTE! This report does not relieve the *Supplier* of his legal obligations to report certain incidents to the Department of Labour, or to keep records in terms of the Occupational Health and Safety Act, and Compensation for Occupational Injuries and Diseases Act.

Occupational Health and Safety Act 85 Of 1993 – SECTION 37

In accordance with Section 37 (2) of the Act, the *Supplier's* appointed by the *Purchaser's* mandatory to assume Health and Safety duties and responsibilities. The *Supplier* ensures compliance with all requirements of the Act and any instruction or notification that enhances those requirements.

The *Supplier* acknowledges that he is fully aware of all the requirements of the Occupational Health and Safety Act and undertakes to employ only staff who have been duly authorised in terms thereof and who receive sufficient safety training to ensure that they can comply therewith.

The *Supplier* undertakes not to do, and not to allow anything to be done which will contravene any of the provisions of the Act, Regulations or Safety and Operating Procedures.

5.10 Environmental constraints and management

- N/A.

5.11 Quality

- The *Supplier* must conform to Quality Management System-ISO 9001:2015 requirements.
- The *Supplier* to conforms to ISO 9001:2015 requirements (Quality Management System). *Supplier* is bound to conform to Eskom documented information such as procedures (Control of non-conforming output products and services), policies etc.
- *Supplier* to ensure all quality checks are done prior dispatch of components and where needed proof to be provided to the client.
- The *Supplier* will fully conform to the requirement of the *Supplier* Quality Requirement Specification (QM-58), standards, procedures, Eskom policies and etc.
- The *Supplier* might be subjected to audits and as part of monitoring.
- All documents that will be arising from this project must remain with the client such as manuals
- Where applicable the service provider must conform to any statutory requirements

Where the principal *service* provider will be sub-contracting, the principal service provider must provide the documented information on how to control sub-contracted service provider.

For safe keeping of components packaging must be accordingly and manuals must be part of deliveries so that client will know how to preserve items.

Supplier to deliver according to client specification. Where ITP (Inspection Tests Plans) are required, *Supplier* to submit all test results to the client.

Quality control on components to be done by the end user, to confirm components received was based on the specification given.

Supplier to conform to QM58- *Supplier* Quality Management Specification, where possible or needed the *Supplier* might be audited.

5.12 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.
- Description of *goods* and *services* provided for each item invoiced based on the Price Schedule;
- Total amount invoiced excluding VAT, the VAT and the invoiced amount including VAT;
(add other as required)

5.13 Insurance provided by the *Purchaser*

- NEC3 SC Insurance Core Clauses shall be applied and Z13 Insurance clause.

5.14 Contract change management

- Where the *Supplier* does Name Changes, Mergers, Acquisitions and Cessions the *Purchaser's* procedures must be followed. (Eskom Procurement and Supply Management)
- In a case where one *Supplier* takes over from another *Supplier*, the Site *Supply Manager* must be notified in writing immediately.
- The *Supplier* does not cede, delegate or assign any of its rights or obligations to any person without the written consent of the *Purchaser*.
- Changing the service information
- Access
- Provision by the *Purchaser*
- Stopping work
- Work of the *Purchaser* or others
- Reply to communication.
- Changing a decision
- Withholding acceptance
- Delayed tests or inspections
- Change of affected property
- Materials, facilities etc. for tests
- *Purchaser's* risks
- Assumption about compensation events
- *Purchaser's* breach of contract

5.15 Provision of bonds and guarantees

N/A

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

N/A

6. Procurement

6.1 Subcontracting

- *Sub-Contracting* will only be allowed and approved with written permission from the *Supply Manager* if it is required to do subcontracting.

6.1.1 Preferred subcontractors

- N/A

6.1.2 Limitations on subcontracting

Not more than 25% can be subcontracted for local supply spares or as per SDL&I undertaking.

6.1.3 Spares and consumables

- All materials, spares / equipment will be done via the Eskom Procurement system.

6.1.4 Other requirements related to Procurement

To be negotiated with *Supply Manager*

6.1.5 Cataloguing requirements by the *Supplier*

For new stock or change in stock numbers *Supplier* to discuss with the *Purchaser* for catalogue requirements

7. List of drawings

7.1 Drawings issued by the *Purchaser*

Supplier to contact the *Purchaser's* Engineering Department for any drawings related to the spares should the need arise

8. Low Service damages, *Employer's* risks

8.1 Annexure B - Low Service Table

X17 LOW SERVICE DAMAGE TABLE			
DESCRIPTION OF TASK	QUALITY OF PERFORMANCE	REASON FOR DAMAGES	DAMAGES TO BE IMPLEMENTED
Defective component	Component not up to quality standard	Unacceptable component quality	As per X 7

8.2 Annexure C – Risk Register

Description of the risks		Action to avoid or reduce the risks
Risk event	Cause & possible outcome	Action to be taken and who in terms of the contract is responsible for taking it
Natural Disasters	Delay completion	<i>Supplier</i> assesses the risks that are likely and plan accordingly.

Defective component supply	installation delays which may affect plant production, reliability and availability	<i>Purchaser</i> to check the supplied component at receiving to ensure that it meets specification, and do QCP. The defective component supplied to be collected by the <i>Supplier</i> and <i>Employer</i> to penalise for delays as per conditions stipulated under X7 low services damages.
Late deliveries	No spares to do the work, which could be the hazard to the plant	<i>Supplier</i> to check stock levels that is not below minimum stock and expedite