



NEC3 Supply Contract (SC3)

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

and _____
(Reg. No. _____)

for **SUPPLY AND DELIVERY OF MODULE INTERFACE
24 VDC AT MATIMBA POWER STATION.**

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CONTRACT No.

PART C1: AGREEMENTS & CONTRACT DATA

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C1.1 Form of Offer & Acceptance

Offer

The Purchaser, identified in the Acceptance signature block, has solicited offers to enter into a contract for the procurement of:

SUPPLY AND DELIVERY OF MODULE INTERFACE 24 VDC AT MATIMBA POWER STATION.

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

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

Signature(s)

Name(s)

Capacity

**For the
tenderer:**

Name &
signature of
witness

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 original copy of this document, including the Schedule of Deviations (if any).

Signature(s)

Name(s)	Obakeng Mabotja	Fulufhelo Munyai
Capacity	General Manager	Procurement Manager
for the Purchaser		Eskom Holdings SOC Ltd (Reg. No 2002/015527/30) Matimba Power Station Private Bag x 215, Lephalale 0555

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	N/A	N/A
2.	N/A	N/A
3	N/A	N/A
4	N/A	N/A
5	N/A	N/A
6	N/A	N/A
7	N/A	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

Capacity

On behalf
of

Name &
signature
of witness

Date

Obakeng Mabotja
General Manager

Eskom Holdings SOC Ltd
(Reg. No. 2002/015527/30)
Matimba Power Station
Private Bag x 215, Lephalale
0555

Fulufhelo Munyai

Procurement Manager

C1.2 SC3 Contract Data

Part one - Data provided by the *Purchaser*

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for Options	C Contract with price list W1: Dispute resolution procedure X2: Changes in the law X7: Delay damages X17: Low performance damages X19: Task Order X20 Key performance Indicators Z: Additional conditions of contract
	of the NEC3 Supply Contract (April 2013) ²	
10.1	The <i>Purchaser</i> is (name):	Eskom Holdings SOC Limited (Reg. No: 2002/015527/06), a juristic person 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.	014 763 8067
	Fax No.	014 763 8444
10.1	The <i>Supply Manager</i> is (name):	D. Makgamatha
	Address	Eskom Holdings SOC Limited (Reg. No: 2002/015527/06) Matimba Power Station Private Bag x 215, Lephalale 0555
	Tel	014 763 8067
	Fax	014 763 8444
	e-mail	Makgamdl@eskom.co.za
11.2(13)	The <i>goods</i> are	SUPPLY AND DELIVERY OF MODULE INTERFACE 24 VDC AT MATIMBA POWER STATION
11.2(13)	The <i>services</i> are	Supply and deliver on site Matimba Power Station, Main Stores Receiving

² Available from Engineering Contract Strategies Tel 011 803 3008 Fax 011 803 3009, www.ecs.co.za.

11.2(14)	The following matters will be included in the Risk Register	N/A
11.2(15)	The Goods Information is in	Part 3: Scope of Work and all documents and drawings to which it makes reference.
11.2(15)	The Supply Requirements as part of the Goods Information is in	Annexure A to this Contract Data
12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa
13.1	The <i>language of this contract</i> is	English
13.3	The <i>period for reply</i> is	1 weeks
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 <i>goods</i> and <i>services</i> is:	Stated in every purchase order
30.2	The <i>Supplier</i> does not bring the <i>goods</i> to the Delivery Place more than one week before the Delivery Date.	N/A
31.1	The <i>Supplier</i> is to submit a first programme for acceptance within	N/A
32.2	The <i>Supplier</i> submits revised programmes at intervals no longer than	N/A
4	Testing and defects	
42	The <i>defects date</i> is	2 weeks after delivery
43.2	The <i>defect correction period</i> is	4 weeks
	except that the <i>defect correction period</i> for	4 weeks
	and the <i>defect correction period</i> for	4 weeks
42.2	The <i>defects access period</i> is	5 days or as agreed by the parties
	except that the <i>defect access period</i> for	5 days or as agreed by the parties
	and the <i>defect access period</i> for	5 or as agreed by the parties
5	Payment	
50.1	The <i>assessment interval</i> is	Between 30 day of each successive month
51.1	The <i>currency of this contract</i> is the	ZAR
51.2	The period within which payments are made is	4 weeks.
51.4	The <i>interest rate</i> is	N/A

6	Compensation events	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
7	Title	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
8	Risks, liabilities, indemnities and insurance	
80.1	These are additional <i>Purchaser's</i> risks	None
84.1	The <i>Purchaser</i> provides these insurances from the Insurance Table	N/A
	1. Insurance against	N/A
	Cover / indemnity is	N/A
	The deductibles are	N/A
84.1	The <i>Supplier</i> provides these additional insurances	N/A
84.2	The minimum amount of cover for loss of or damage to any plant and materials provided by the <i>Purchaser</i> is:	The greater of the total of the prices and the Generation asset property damage insurance deductible in the amount of R25 Million
84.2	The minimum limit of indemnity for insurance in respect of 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 for any one event is:	<p>Whatever the <i>Supplier</i> deems necessary in addition to that provided by the <i>Purchaser</i> for any one event with cross liability so that the insurance applies to the Parties separately.</p> <p>The minimum cover for the <i>Purchaser's</i> property, notwithstanding anything stated to the contrary in the <i>Purchaser's</i> insurances, this insurance procured by the supplier will be required to indemnify the <i>Purchaser</i> for loss of or damage to the purchasers' property.</p> <p>Consequently, the cover limit should be in an amount not less than:</p> <p>For any one occurrence or series of occurrences arising out of one but unlimited during the period of insurance:</p> <ul style="list-style-type: none"> • R25 million (twenty five million Rand) for Generation property;
84.2	The minimum limit of indemnity for insurance in respect of 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 for any one event is:	<p>As prescribed by the Compensation for Occupational Injuries and Diseases Act No.130 of 1993 and the Contractor's common law liability for people falling outside the scope of the Act with a limit of Indemnity of not less than R500 000(five hundred thousand Rand) and or</p> <p>As provided by the laws of the Country in which the supplier's employees are domiciled</p>

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	R0.00 (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>To be provided by the <i>supplier</i></p> <ul style="list-style-type: none"> • for the <i>Purchaser's</i> 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 described in the "Format A" insurance policy available on request from Eskom Insurance Management Services. • or all other existing <i>Purchaser's</i> property <p>For any one occurrence or series of occurrences arising out of one event but unlimited during the period of contract:</p> <ul style="list-style-type: none"> ○ R25 million (twenty-five million Rand) for Generation property;
88.3	The <i>Supplier's</i> liability for Defects due to his design which are not notified before the last <i>defects date</i> is limited to:	<p>The greater of</p> <ul style="list-style-type: none"> • the total of the Prices or where a claim is made against the <i>Purchaser's</i> insurance the amounts excluded and unrecoverable from the <i>Purchaser's</i> insurance (other than the resulting physical damage to the <i>Purchaser's</i> property which is not excluded) <p>plus,</p> <p>where a claim is made against the <i>Purchaser's</i> assets policy, the highest applicable deductible (first amount payable) namely:</p> <ul style="list-style-type: none"> ○ R25 Million for Generation property ○ Distribution of all other <i>Purchasers</i> property
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	<p>The total of the price at the completion other than for the additional excluded matters.</p> <p>The <i>Supplier's</i> total liability for the additional excluded matters is not limited.</p> <p>The additional excluded matters are amounts for which the <i>Supplier</i> is liable under this contract for:</p> <ul style="list-style-type: none"> • Loss of or damage to property (other

than the works, *Purchaser's* property, Plant and Materials.

- Death or injury to a person and infringement of an intellectual property right.

88.5	The <i>end of liability date</i> is	1 years after expiry of contract		
9	Termination and dispute resolution			
94.1	The <i>Adjudicator</i> is (Name)	To be appointed when a dispute arises by mutual agreement of both parties. If the parties are unable to agree then an adjudicator will be appointed by the Chairman of ICE- SA.		
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.		
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	Johannesburg, South Africa		
	The person or organisation who will choose an arbitrator	the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.		
	- if the Parties cannot agree a choice or - if the arbitration procedure does not state who selects an arbitrator, is			
10	Data for Option clauses			
X1	Price adjustment for inflation			
X1.1	The <i>base date</i> for indices is			
	The proportions used to calculate the Price Adjustment Factor are:			
		proportion	linked to index for	Index prepared by
			Fixed Portion	
X2	Changes in law			
X2 1	A change in law	There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.		

X7	Delay damages	Will be determined as per NCR raised	
X7.1	Delay damages for Delivery are	Delivery of Incorrect items or late delivery	amount 10% of purchase order value
X17	Low performance damages		
X17 1	The amounts for low performance damages are	Amount R50 000.00	Performance Level For each low performance product
X20	Key Performance Indicator(not used when Option X12 applies)		
X20 2	A report of performance against each KPI is provided at intervals of	10 months	
Z	The additional conditions of contract are	Z1 to Z12 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 and the Electricity Distribution 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 substantially 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 Ethics

- Z4.1 Any offer, payment, consideration, or benefit of any kind made by the *Supplier*, which constitutes or could be construed either directly or indirectly as an illegal or corrupt practice, as an inducement or reward for the award or in execution of this contract constitutes grounds for terminating the *Supplier's* obligation to Provide the Goods and Services or taking any other action as appropriate against the *Supplier* (including civil or criminal action).
- Z4.2 The *Purchaser* may terminate the *Supplier's* obligation to Provide the Goods and Services if the *Supplier* (or any member of the *Supplier* where the *Supplier* constitutes a joint venture, consortium or other unincorporated grouping of two or more persons or organisations) is found guilty by a competent court, administrative or regulatory body of participating in illegal or corrupt practices.
- Such practices include making of offers, payments, considerations, or benefits of any kind or otherwise, whether in connection with any procurement process or contract with the *Purchaser* or other people or organisations and including in circumstances where the *Supplier* or any such member is removed from the an approved vendor data base of the *Purchaser* as a consequence of such practice.
- Z4.3 Notwithstanding the provisions of core clause 90.2, the procedures on termination in terms of this clause are P1, P2 and P3 as stated in the core clause 92 and the amount due is A1 and A3 as stated in core clause 93.

Z5 Confidentiality

- Z5.1 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.
- Z5.2 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*.
- Z5.3 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.
- Z5.5 The *Supplier* ensures that all his subcontractors abide by the undertakings in this clause.

Z6 Waiver and estoppel: Add to core clause 12.3:

- Z6.1 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.

Z8 Provision of a Tax Invoice and interest. Add to core clause 51

- Z8.1 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.
- Z8.2 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.
- Z8.3 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.

Z9 Notifying compensation events

- Z9.1 Delete from the last sentence in core clause 61.3, "unless the *Supply Manager* should have notified the event to the *Supplier* but did not".

Z10 Purchaser's limitation of liability

- Z10.1 The *Purchaser's* liability to the *Supplier* for the *Supplier's* indirect or consequential loss is limited to R0.00 (zero Rand)
- Z10.2 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.

Z11 Termination: Add to core clause 91.1, at the second main bullet point, fourth sub-bullet point, after the words "against it":

- Z11.1 or had a judicial management order granted against it.

Z12 Addition to secondary Option X7 Delay damages (if applicable in this contract)

- Z12.1 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.

Special Z Clause: "Eskom intends to conclude a National Contract for Passenger and goods lifts maintenance and supply spares. Upon concluding the said National Contract, Eskom reserves the rights to terminate to terminate the Matimba Power Station contract in order to allow full operation of the National Contract"

Annexure A: Supply Requirements

The Supply Requirements for this contract are as follows:

The Supplier supplies Printing Papers in accordance with INCOTERMS 2010 as follows

Group	Category	Term	Delivery Place
E	Departure	EXW	
F	Main carriage unpaid	FCA, FAS, FOB	
C	Main carriage paid	CFR, CIF, CPT, CIP	
D	Arrival	DAT, DAP, DDP	

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 the 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 covers the following subjects:

The Supply Requirements for this contract are as follows:

1. The requirements for the supply are	SUPPLY AND DELIVERY OF MODULE INTERFACE 24 VDC AT MATIMBA POWER STATION	
2. The requirements for transport are	Delivered and off – loaded at Matimba Power Station Main Stores Receiving	
3. The delivery place is	Matimba Power Station	
4. Actions of the Parties during supply	Action	Party which does it
	Giving notice of Delivery	Supplier
	Checking packing and marking before dispatch	Supplier
	Contracting for transport	Supplier
	Pay costs of transport	Purchaser /Supplier
	Arrange access to delivery place	Purchaser
	Loading the <i>goods</i>	Supplier
	Unloading the <i>goods</i>	Purchaser
For international procurement	Undertake export requirements	Supplier
	Undertake import requirements	Supplier
5. Information to be provided by the Supplier	Title of document	
	Packing lists for cases and their contents	
	Copy of electronic invoice to Finance Shared Services	
	Delivery Note	

	Test results and maintenance manuals were applicable
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Annexure C: The *Purchaser's* Panel of Adjudicators

The following persons listed in alphabetical order of their surname have indicated their willingness to be included in the *Purchaser's* Panel of Adjudicators. Their CV's may be obtained by using the contact details provided.

Name	Location	Contact details (phone & e mail)
Nigel ANDREWS	Gauteng	+27 11 836-6760 nigela@quoin.net
Andrew BAIRD	Gauteng	+27 11 803 3008 andrewbaird@ecsconsult.co.za
Christopher BINNINGTON	Gauteng	+27 11 888-6141 cdb@bca.co.za
Peter HIGGINS	UK	+44 1293 873 868 peterhiggins@pdconsult.co.uk
Adv. Bruce LEECH	Gauteng	+27 11 290 4000 leech@counsel.co.za
Nigel NILEN	Gauteng	+27 11 465 3601; nilences@global.co.za
Peter THURLOW	Gauteng	+27 11 787 6226 info@thurlowassoc.com

C1.2 Contract Data

Part two - Data provided by the *Supplier*

Clause	Statement	Data
10.1	The <i>Supplier</i> is (Name): Address Tel No. Fax No.	
11.2(8)	The Goods Information for the <i>Supplier's</i> design is in:	Annexure A
11.2(11)	The tendered total of the Prices is	R ()
11.2(12)	The <i>price schedule</i> is in:	
11.2(14)	The following matters will be included in the Risk Register	N/A
25.2	The restrictions to access for the <i>Supply Manager</i> and Others to work being done for this contract are	None
30.1	The <i>delivery date</i> of the goods and services is:	<i>Stated in every purchase order</i>
63.2	The <i>percentage for overheads and profit</i> added to the Defined Cost is	N/A

C2.1 pricing assumptions

The *conditions of contract*

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

Clause 11 in NEC3 Supply Contract, December 2009 (SC3) core clauses states:

Identified and defined terms	11	
	11.2	(11) The Prices are the amounts stated in the price column of the Price Schedule. Where a quantity is stated for an item in the Price Schedule, the Price is calculated by multiplying the quantity by the rate.
		(12) The Price Schedule is the <i>price schedule</i> unless later changed in accordance with this contract.
Assessing the amount due	50.2	The amount due is
		<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>.
		Any tax which the law requires the <i>Purchaser</i> to pay to the <i>Supplier</i> is included in the amount due.

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

Function of the Price Schedule

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

Preparing the *price schedule*

It will be assumed that the tendering supplier has read Pages 11 and 12 and Appendix 5 of the SC3 Guidance Notes before 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.

1 As the *Supplier* has an obligation to correct Defects (core clause 43.1) and there is no compensation event for this unless the Defect was due to a *Supplier's* risk, the lump sum Prices and rates must also include for the correction of Defects.

2 If the *Supplier* has decided not to identify a particular item in the *price schedule* at the time of tender

the cost to the *Supplier* of doing the work is assumed to be included in, or spread across, the other Prices and rates in the *price schedule* in order to fulfil the obligation to Provide the Goods and Services for the tendered total of the Prices.

3 There is no adjustment to lump sum prices in the *price schedule* if the amount, or quantity, of work within that lump sum item of *goods* or *services* 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. See Clause 60.1.

4 Hence the Prices and rates tendered by the *Supplier* in the *price schedule* are inclusive of everything necessary and incidental to Providing the Goods and Services in accordance with the Goods Information, as it was at the time of tender, as well as correct any Defects not caused by a *Purchaser's* risk.

5 The *Supplier* does not have to allow in his Prices and rates for matters that may arise as a result of a compensation event. It should be noted that the list of compensation events includes those arising as a result of a *Purchaser's* risk event listed in core clause 80.1.

Format of the *price schedule*

(From Appendix 5 on page 78 of the SC3 Guidance Notes)

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.

2 the *price schedule*

Material	Short Text	OPU	Quantity	Unit Price	Total
	MODULE: TYPE: INTERFACE; POWER SOURCE: 24 VDC; MANUF P/N: 3BHE022294R0103; REFERENCE NO: GFD233				
0580171	MAKE: ABB	EA	10		

PART 3: SCOPE OF WORK

C3.1: *PURCHASER'S* GOODS INFORMATION

Specifications of the *goods* and *services*

Item No	Mat No	Material Descriptions and Texts	UMC
00010	0580171	MODULE: TYPE: INTERFACE; POWER SOURCE: 24 VDC; MANUF P/N: 3BHE022294R0103; REFERENCE NO: GFD233 MAKE: ABB	EA

Quality assurance requirements

Goods will go through quality check process before accepted and if not accepted, must be replaced by a new one.

Vendors are responsible for ensuring that they are performing against the correct drawing revision if applicable

Invoicing and payment

Detailed tax invoice, clearly showing: Eskom Holdings SOC LTD
Electronic copy to Finance Shared Services
Megawatt Park

Within one week of receiving a payment certificate from the Service Manager in terms of core clause 51.1, the Contractor provides the Employer with a tax invoice showing the amount due for payment equal to that stated in the Service Manager's payment certificate.

The Contractor shall address the tax invoice to

Invoices@eskomlocal@eskom.co.za

and include on each invoice the following information:

Name and address of the Contractor and the Service Manager;
The contract number and title;
Contractor's VAT registration number;
The Employer's VAT registration number 4740101508;
Description of service provided for each item invoiced based on the Price List;
Total amount invoiced excluding VAT, the VAT and the invoiced amount including VAT;
(add other as required)

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

Plant and Materials

Quality

Temporary works, Site services & construction constraints.

The following Eskom Life Saving Rules applies when entering premises.

- a. Open, isolate, earth, bond or and isolate before touch.
- b. Hook up at heights.
- c. Buckle up.
- d. Be sober.
- e. Permit to work.

Compliance requirements.

Eskom reserves the right to commercially and technically disqualify a tender.

Suppliers are responsible to establish their own sources of supply.

CPA will only be applied at the agreed period only no ad hoc price adjustment will be permitted.

Failure to comply with the above will result in tender being disqualified.