

Supply and delivery of DC Systems (Essential Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards: All Units and Common Plant Non-OEM Spares on an “as and when” required basis for a period of five years to Kriel Power Station, Main Stores



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 DC Systems (Essential Supplies)
Batteries, Battery Chargers, UPSs, Diesel Generators and DC
Boards: All Units and Common Plant Non-OEM Spares on an
“as and when” required basis for a period of five years to Kriel
Power Station, Main Stores**

Contents:

Part C1 Agreements & Contract Data

Part C2 Pricing Data

Part C3 Scope of Work

CONTRACT No.

Supply and delivery of DC Systems (Essential Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards: All Units and Common Plant Non-OEM Spares on an “as and when” required basis for a period of five years to Kriel Power Station, Main Stores

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PART C1: AGREEMENTS & CONTRACT DATA

Contents:

C1.1 Form of Offer and Acceptance

[to be inserted from Returnable Documents at award stage]

C1.2a Contract Data provided by the *Purchaser*

C1.2b Contract Data provided by the *Supplier*

[to be inserted from Returnable Documents at award stage]

C1.3 Proforma Guarantees

Supply and delivery of DC Systems (Essential Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards: All Units and Common Plant Non-OEM Spares on an “as and when” required basis for a period of five years to Kriel Power Station, Main Stores

C1.1 Form of Offer & Acceptance

1.1 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 DC Systems (Essential Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards: All Units and Common Plant Non-OEM Spares on an “as and when” required basis for a period of five years to Kriel Power Station, Main Stores

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)

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*.

Supply and delivery of DC Systems (Essential Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards: All Units and Common Plant Non-OEM Spares on an “as and when” required basis for a period of five years to Kriel Power Station, Main Stores

Name &
signature of
witness

Date

1.2 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

Supply and delivery of DC Systems (Essential Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards: All Units and Common Plant Non-OEM Spares on an “as and when” required basis for a period of five years to Kriel Power Station, Main Stores

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

Supply and delivery of DC Systems (Essential Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards: All Units and Common Plant Non-OEM Spares on an “as and when” required basis for a period of five years to Kriel Power Station, Main Stores

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

Note:

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

| No. | Subject | Details |
|-----|---------|---------|
| 1 | [•] | [•] |
| 2 | [•] | [•] |
| 3 | [•] | [•] |
| 4 | [•] | [•] |
| 5 | [•] | [•] |
| 6 | [•] | [•] |
| 7 | [•] | [•] |

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

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

1.3.1.1 For the tenderer:

1.3.1.2 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

Supply and delivery of DC Systems (Essential Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards: All Units and Common Plant Non-OEM Spares on an “as and when” required basis for a period of five years to Kriel Power Station, Main Stores

C1.2 SC3 Contract Data

2 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 | |
| | | X2 Changes in the law |
| | | X7: Delay damages |
| | | Z: Additional conditions of contract |
| | of the NEC3 Supply Contract (April 2013) ² | (If the December 2009 edition is to be used delete April 2013 and replace by December 2013) |
| 10.1 | The <i>Purchaser</i> is (name): | Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state owned company incorporated in terms of the company laws of the Republic of South Africa G Bonga |
| | Address | Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg |
| | Tel No. | 017 615 2300 |
| | Fax No. | - |
| 10.1 | The <i>Supply Manager</i> is (name): | Mavis Mutheiwana |
| | Address | Kriel power station Kriel 2271 |
| | Tel | 017 615 2710 |
| | Fax | - |
| | e-mail | |
| 11.2(13) | The <i>goods</i> are | Electrical Spares |
| 11.2(13) | The <i>services</i> are | Supply and delivery of DC Systems (Essential Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards: All Units |

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

Supply and delivery of DC Systems (Essential Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards: All Units and Common Plant Non-OEM Spares on an “as and when” required basis for a period of five years to Kriel Power Station, Main Stores

and Common Plant Non-OEM Spares on an “as and when” required basis for a period of five years to Kriel Power Station, Main Stores

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|----------|--|--|---------------------------|
| 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 | 48 hours | |
| 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. | |
| 30.1 | The proposed <i>starting date</i> is. | As soon as possible after procurement process has been completed | |
| 30.1 | The <i>delivery date</i> of the <i>goods</i> and <i>services</i> is: | <i>goods and services</i> | <i>delivery date</i> |
| | | 1 As per agreement after tender evaluation | As per delivery lead time |
| 30.2 | The <i>Supplier</i> does not bring the <i>goods</i> to the Delivery Place more than one week before the Delivery Date. | | |
| 31.1 | The <i>Supplier</i> is to submit a first programme for acceptance within | Within 1 week of the Contract Date | |
| 32.2 | The <i>Supplier</i> submits revised programmes at intervals no longer than | 1 week | |
| 4 | Testing and defects | | |
| 42 | The <i>defects date</i> is | 1 week after Delivery | |
| 43.2 | The <i>defect correction period</i> is | 1 week | |
| 42.2 | The <i>defects access period</i> is | 3 days | |
| 5 | Payment | | |
| 50.1 | The <i>assessment interval</i> is | As per agreed assessment | |
| 51.1 | The <i>currency of this contract</i> is the | South African Rand | |

Supply and delivery of DC Systems (Essential Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards: All Units and Common Plant Non-OEM Spares on an “as and when” required basis for a period of five years to Kriel Power Station, Main Stores

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| 51.2 | The period within which payments are made is | 4 weeks. |
| 51.4 | The <i>interest rate</i> is | <p>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</p> <p>(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 <i>mutatis mutandis</i> 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.</p> |
| 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 | <p>1. Lead time</p> <p>2. Defects</p> |
| 84.1 | The <i>Purchaser</i> provides these insurances from the Insurance Table | See notes about <i>Purchaser</i> provided insurance in Annexure B to this Contract Data |
| | 1. Insurance against | Loss of or damage to the <i>goods</i> , plant and materials. |
| | Cover / indemnity is | Overseas shipment / transit insurance (only) to cover events at the <i>Supplier's</i> risk (if any) after the <i>goods</i> have left the <i>Supplier's</i> overseas |

Supply and delivery of DC Systems (Essential Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards: All Units and Common Plant Non-OEM Spares on an “as and when” required basis for a period of five years to Kriel Power Station, Main Stores

premises. See notes in Annexure B

If this contract includes the supervision of installation, testing, commissioning or building work at the *Purchaser's* premises, the *Purchaser* also provides cover for physical loss of or damage to the *Purchaser's* surrounding property including any temporary work required to complete the Delivery.

The deductibles are See notes in data for clause 88.2 below and Annexure B

| | | |
|------|--|---|
| 84.1 | The <i>Supplier</i> provides these additional insurances | See notes in Annexure B |
| 84.2 | The minimum amount of cover for loss of or damage to any plant and materials provided by the <i>Purchaser</i> is: | R [●] [As the <i>Supplier</i> provides this insurance, Eskom needs to tell him what the value of the “free issue” plant & materials is so that he includes it in his insurance cover. Delete this note when you have inserted the value] |
| 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>However if the <i>Supplier</i> is exposed to damage to the <i>Purchaser's</i> property the cover limit amount is not less than</p> <ul style="list-style-type: none"> • R15 million (fifteen million Rand) for exposure to Generation Division property; • R7.5 million (seven million five hundred thousand Rand) for exposure to Transmission Division property and; • R1 million (one million Rand) for exposure to Distribution Division and all other <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 insurance.</p> |
| 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: | As prescribed by the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 and the <i>Contractor's</i> 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). |
| 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 | Clause 88.2 is not applicable |

Supply and delivery of DC Systems (Essential Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards: All Units and Common Plant Non-OEM Spares on an “as and when” required basis for a period of five years to Kriel Power Station, Main Stores

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| 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: | Clause 88.3 is not applicable |
| 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 | the total of the Prices |
| 88.5 | The <i>end of liability date</i> is | 5 years after Delivery of the whole of the <i>goods</i> and <i>services</i>. |
| <hr/> | | |
| 9 | Termination and dispute resolution | |
| <hr/> | | |
| 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). |
| <hr/> | | |
| 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) |
| <hr/> | | |
| 94.4(2) | The <i>tribunal</i> is: | arbitration |
| <hr/> | | |
| 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. |
| <hr/> | | |
| 94.4(5) | The place where arbitration is to be held is | Johannesburg South Africa |
| <hr/> | | |
| | 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 | |

Supply and delivery of DC Systems (Essential Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards: All Units and Common Plant Non-OEM Spares on an “as and when” required basis for a period of five years to Kriel Power Station, Main Stores

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|-----------|---|---|-----------------------|
| 10 | Data for Option clauses | | |
| X2 | Changes in the law | | |
| X2.1 | A change in the law of | is a compensation event if it occurs after the Contract Date | |
| | | | |
| X7 | Delay damages | | |
| X7.1 | Delay damages for Delivery are | Delivery of | amount per day |
| | | Full order | |
| Z | The <i>additional conditions of contract</i> 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.

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

Supply and delivery of DC Systems (Essential Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards: All Units and Common Plant Non-OEM Spares on an “as and when” required basis for a period of five years to Kriel Power Station, Main Stores

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

Supply and delivery of DC Systems (Essential Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards: All Units and Common Plant Non-OEM Spares on an “as and when” required basis for a period of five years to Kriel Power Station, Main Stores

- 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.

Supply and delivery of DC Systems (Essential Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards: All Units and Common Plant Non-OEM Spares on an “as and when” required basis for a period of five years to Kriel Power Station, Main Stores

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 <i>Supplier</i> or a third party, such party's employees, agents, or Subcontractors or Subcontractor's employees, or any one or more of all of these parties' relatives or friends, |
| 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 <i>Supplier</i> , 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. |

- Z 12.1 A Committing Party may not take any Prohibited Action during the course of the procurement of this contract or in execution thereof.
- Z 12.2 The *Purchaser* may terminate the *Supplier's* obligation to Provide the Goods and 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 Goods and Services for this reason.
- Z 12.3 If the *Purchaser* terminates the *Supplier's* obligation to Provide the Goods and Services for this reason, the procedures and amounts due on termination are respectively P1, P2 and P3, and A1 and A3.
- Z 12.4 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.

Supply and delivery of DC Systems (Essential Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards: All Units and Common Plant Non-OEM Spares on an “as and when” required basis for a period of five years to Kriel Power Station, Main Stores

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]

2.1 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:

| 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 | Kriel 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 |

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

Supply and delivery of DC Systems (Essential Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards: All Units and Common Plant Non-OEM Spares on an “as and when” required basis for a period of five years to Kriel Power Station, Main Stores

2.2 The Supply Requirements for this contract are as follows:

[Use these when INCOTERMS do not apply].

| | | |
|--|--|----------------------------|
| 1. The requirements for the supply are | None | |
| 2. The requirements for transport are | Subcontract to either EME or QSE level 1 or 2 | |
| 3. The delivery place is | Kriel Power Station, Main Stores, Bethal-Ogies Road, Kriel, Mpumalanga, South Africa | |
| 4. Actions of the Parties during supply | Action | Party which does it |
| | Giving notice of Delivery | Contractor |
| | Checking packing and marking before dispatch | Contractor |
| | Contracting for transport | Contractor |
| | Pay costs of transport | Contractor |
| | Arrange access to delivery place | Purchaser |
| | Loading the <i>goods</i> | Contractor |
| | Unloading the <i>goods</i> | Contractor |
| For international procurement | Undertake export requirements | N/A |
| | Undertake import requirements | N/A |
| 5. Information to be provided by the Supplier | Title of document | |
| Applicable | Packing lists for cases and their contents | |
| Applicable | Copy of invoice for the <i>goods</i> | |
| Applicable | Delivery Note | |
| Applicable | Test results and maintenance manuals | |
| Applicable | Complete Drawings, Design Specifications and part numbers | |
| 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

Supply and delivery of DC Systems (Essential Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards: All Units and Common Plant Non-OEM Spares on an “as and when” required basis for a period of five years to Kriel Power Station, Main Stores

3 Annexure B: Insurance provided by the *Purchaser*

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

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

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

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

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

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

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

- R15million for Generation Division projects,
- R7.5million for Transmission Division projects or
- R1.0million for Distribution Division projects

All other insurance

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

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

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

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

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

Supply and delivery of DC Systems (Essential Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards: All Units and Common Plant Non-OEM Spares on an “as and when” required basis for a period of five years to Kriel Power Station, Main Stores

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

C1.2 Contract Data

4 Part two - Data provided by the *Supplier*

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.

| 4.1 Clause | 4.2 Statement | 4.3 Data | |
|------------|--|---------------------------|----------------------|
| 10.1 | The <i>Supplier</i> is (Name): Address Tel No. Fax No. | | |
| 11.2(8) | The Goods Information for the <i>Supplier's</i> design is in: | | |
| 11.2(11) | The tendered total of the Prices is | R | , (in words) |
| 11.2(12) | The <i>price schedule</i> is in: | | |
| 11.2(14) | The following matters will be included in the Risk Register | | |
| 25.2 | The restrictions to access for the <i>Supply Manager</i> and Others to work being done for this contract are | | |
| 30.1 | The <i>delivery date</i> of the goods and services is: | <i>goods and services</i> | <i>delivery date</i> |
| | | 1 | [•] |
| | | 2 | [•] |
| | | 3 | [•] |

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

Supply and delivery of DC Systems (Essential Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards: All Units and Common Plant Non-OEM Spares on an “as and when” required basis for a period of five years to Kriel Power Station, Main Stores

| | | |
|------|---|---|
| 31.1 | The programme identified in the Contract Data is contained in: | |
| 63.2 | The <i>percentage for overheads and profit</i> added to the Defined Cost is | % |

Supply and delivery of DC Systems (Essential Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards: All Units and Common Plant Non-OEM Spares on an “as and when” required basis for a period of five years to Kriel Power Station, Main Stores

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> | [•] |

Supply and delivery of DC Systems (Essential Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards: All Units and Common Plant Non-OEM Spares on an “as and when” required basis for a period of five years to Kriel Power Station, Main Stores

C2.1 Pricing assumptions

5 How goods and services are priced and assessed for payment

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

| | | |
|-------------------------------------|------|---|
| Identified and defined terms | 11 | |
| | 11.2 | (11) The Prices are the amounts stated in the price column of the Price Schedule. Where a quantity is stated for an item in the Price Schedule, the Price is calculated by multiplying the quantity by the rate. |
| | | (12) The Price Schedule is the <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>. <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.

6 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.

7 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*;

Supply and delivery of DC Systems (Essential Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards: All Units and Common Plant Non-OEM Spares on an “as and when” required basis for a period of five years to Kriel Power Station, Main Stores

- 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*

Price list

| <u>B2:H13Supply of DC Systems(Essenetial Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards :All Units and Common Plant Non-OEM Spares at Kriel Power Station on as and when required basis for a period of Five years</u> | | | | | |
|---|--|---------------|-----|------|--------|
| Item No | DESCRIPTION | Material No | Qty | Rate | Amount |
| 100 | <u>CARTEPILLAR DIESEL GENERATOR SET 400KVA(BARLOWORLD POWER</u> | | | | |
| 101 | Deapseas Controller 8620 | 668188 | 3 | | |
| 102 | Electronic Controller Module (to be programmed by BARLO before delivery) | 668218 | 3 | | |
| 103 | EMCP 4.2 (CAT) also to be programmed if applicable | 668219 | 3 | | |
| 104 | Finder relay 24DCV, 10VA, 250VAC | 668061 | 20 | | |
| 105 | Battery Charger | 667186 | 6 | | |
| 106 | Radiator coolant(100 Litres) | 668060/668059 | 20 | | |
| 107 | Cartepillar fuel filter:1r-0749 | 669170 | 6 | | |
| 108 | Cartepillar fuel water separator:326-1641 | | 6 | | |
| 109 | Cartepillar oil filter: IR-1808 | 516859 | 6 | | |

| | | | | | |
|-------|----------------------------------|--------|---|--|--|
| 110 | Cartepillar air filter: 151-7737 | 668220 | 8 | | |
| TOTAL | | | | | |

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

C3.1: *PURCHASER'S* GOODS INFORMATION

Contents

| | |
|--|------------------------------|
| PART C1: AGREEMENTS & CONTRACT DATA..... | 3 |
| 1.1 Offer | 4 |
| 1.2 Acceptance..... | 5 |
| 1.3 Schedule of Deviations to be completed by the <i>Purchaser</i> prior to contract award | 7 |
| 2 Part one - Data provided by the <i>Purchaser</i> | 8 |
| Statement..... | 8 |
| Data..... | 8 |
| General..... | 8 |
| 2 | 9 |
| The <i>Supplier's</i> main responsibilities..... | 9 |
| 4 | 9 |
| Testing and defects | 9 |
| 5 | 9 |
| Payment | 9 |
| 6 | 10 |
| Compensation events | 10 |
| 7 | 10 |
| Title..... | 10 |
| 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..... | 10 |
| 8 | 10 |
| Risks, liabilities, indemnities and insurance | 10 |
| 9 | 12 |
| Termination and dispute resolution | 12 |
| 10 | 13 |
| Data for Option clauses..... | 13 |
| 2.1 The Supply Requirements for this contract are based on the use of INCOTERMS: | 17 |
| 2.2 The Supply Requirements for this contract are as follows:..... | 18 |
| 3 Annexure B: Insurance provided by the <i>Purchaser</i> | 19 |
| 4 Part two - Data provided by the <i>Supplier</i> | 20 |
| 4.1 Clause | 20 |
| 4.2 Statement..... | 20 |
| 4.3 Data..... | 20 |
| Part 2: Pricing Data..... | 22 |
| 5 How <i>goods</i> and <i>services</i> are priced and assessed for payment..... | 1 |
| 6 Function of the Price Schedule | 1 |
| 7 Preparing the <i>price schedule</i> | 1 |
| Format of the <i>price schedule</i> | 2 |
| Part 3: Scope of Work..... | 4 |
| C3.1: <i>Purchaser's</i> Goods Information | 5 |
| 1. Overview and purpose of the <i>goods</i> and <i>services</i> | 8 |
| 7.1 Scope | 8 |
| 7.1.1 Purpose..... | Error! Bookmark not defined. |
| 7.1.2 Applicability | Error! Bookmark not defined. |
| 7.1.3 Effective date | Error! Bookmark not defined. |
| 7.2 Normative/Informative References..... | Error! Bookmark not defined. |
| 7.2.1 Normative..... | Error! Bookmark not defined. |
| 7.2.2 Informative | Error! Bookmark not defined. |
| 7.3 Definitions..... | Error! Bookmark not defined. |
| 7.4 Abbreviations..... | Error! Bookmark not defined. |

| | | |
|-------|--|------------------------------|
| 7.5 | Roles and Responsibilities | Error! Bookmark not defined. |
| 7.6 | Process for Monitoring | Error! Bookmark not defined. |
| 7.7 | Related/Supporting Documents | Error! Bookmark not defined. |
| 8 | WORK TO BE PERFORMED BY SUPPLIER | Error! Bookmark not defined. |
| 8.1 | SPECIFICATIONS OF THE SPARES | Error! Bookmark not defined. |
| 8.2 | SPARES IDENTIFICATION | Error! Bookmark not defined. |
| 8.3 | INFORMATION TO BE PROVIDED | Error! Bookmark not defined. |
| 8.4 | SPARES QUANTITIES | Error! Bookmark not defined. |
| 8.5 | REPLACEMENT PARTS UPGRADED/MODIFIED | Error! Bookmark not defined. |
| 8.6 | PACKAGING | Error! Bookmark not defined. |
| 8.7 | EXCLUSIONS | Error! Bookmark not defined. |
| 8.8 | ACCEPTANCE OF SPARES | Error! Bookmark not defined. |
| 8.9 | CONSTRAINTS ON HOW THE <i>SUPPLIER</i> PROVIDES THE GOODS | Error! Bookmark not defined. |
| 8.9.1 | WORK TO BE DONE BY THE DELIVERY DATE | Error! Bookmark not defined. |
| 8.9.2 | DOCUMENTATION CONTROL | Error! Bookmark not defined. |
| 8.9.3 | QUALITY ASSURANCE REQUIREMENTS | Error! Bookmark not defined. |
| 8.9.4 | PROGRAM CONSTRAINTS | Error! Bookmark not defined. |
| 8.9.5 | INSURANCE OF THE GOODS | Error! Bookmark not defined. |
| 8.10 | SHEQ | Error! Bookmark not defined. |
| 2. | Specification and description of the <i>goods</i> | Error! Bookmark not defined. |
| 2.1 | <i>Purchaser's</i> design | 13 |
| 2.2 | Procedure for submission and acceptance of <i>Supplier's</i> design | 13 |
| 2.3 | Other requirements of the <i>Supplier's</i> design | 13 |
| 2.4 | Use of <i>Supplier's</i> design | 13 |
| 2.5 | Manufacture & fabrication | 13 |
| 2.6 | Factory acceptance testing (FAT) | 13 |
| 2.7 | Other tests and inspections and commissioning in place of use | 13 |
| 2.8 | Operating manuals and maintenance schedules | 13 |
| 3. | Supply Requirements | 14 |
| 4. | Specification of the <i>services</i> to be provided | 14 |
| 5. | Constraints on how the <i>Supplier</i> Provides the Goods | 14 |
| 5.1 | Programming constraints | 14 |
| 5.2 | Work to be done by the Delivery Date | 14 |
| 5.3 | Marking the <i>goods</i> | 14 |
| 5.4 | Constraints at the delivery place and place of use | 14 |
| 5.5 | Cooperating with Others | 14 |
| 5.6 | Services & other things to be provided by the <i>Purchaser</i> or <i>Supplier</i> | 14 |
| 5.7 | Management meetings | 14 |
| 5.8 | Documentation control | 14 |
| 5.9 | Health and safety risk management | 14 |
| 5.10 | Environmental constraints and management | 14 |
| 5.11 | Quality | 15 |
| 5.12 | Invoicing and payment | 15 |
| 5.13 | Insurance provided by the <i>Purchaser</i> | 15 |
| 5.14 | Contract change management | 15 |
| 5.15 | Provision of bonds and guarantees | 15 |
| 5.16 | Records of Defined Cost, payments & assessments of compensation events to be kept by the <i>Supplier</i> | 15 |
| 6. | Procurement | 15 |
| 6.1 | Subcontracting | 15 |
| 6.1.1 | Preferred subcontractors | 15 |
| 6.1.2 | Limitations on subcontracting | 16 |
| 6.1.3 | Spares and consumables | 16 |
| 6.1.4 | Other requirements related to procurement | 16 |
| 6.1.5 | Cataloguing requirements by the <i>Supplier</i> | 16 |
| 7. | List of drawings | 16 |
| 7.1 | Drawings issued by the <i>Purchaser</i> | 16 |
| C3.2 | <i>Supplier's</i> Goods Information | 17 |

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

7.1 Scope

7.2 Scope

The Works Information specifies the required spares, quantities of spares to be supplied as and when required for 5 years by the awarded on contract *Supplier* and conditions for acceptance. The scope included here does not substitute procurement procedures that will be followed during the procurement process.

7.2.1 Purpose

The purpose of this document is to formally request the *Supplier* to supply spares and ensure that all maintenance spares which are being procured by Kriel Power Station are correct.

7.2.2 Applicability

This scope is only applicable to the spares procurement of Kriel power station covers the DC Systems (Essential Supplies) Batteries, Battery Chargers, UPSs, Diesel Generators and DC Boards: All Units and Common components or sub-components.

7.2.3 Effective date

This document shall be effective from the authorisation date

7.3 Normative/Informative References

Parties using this document shall apply the most recent edition of the documents listed in the following paragraphs.

7.3.1 Normative

- [1] ISO 9001 Quality Management Systems
- [2] 240-76960420 Guideline for Spares Procurement Technical Evaluation and Quality Inspection.
- [3] 32-1033 Eskom Procurement and Supply Chain Management Policy.
- [4] 32-1034 Eskom Procurement and Supply Chain Management Procedure.
- [5] 474-132 GBE Plant Engineering Baseline Change Management.

7.3.2 Informative

7.4 Definitions

7.5 Abbreviations

| Abbreviation | Explanation |
|--------------|---|
| DC | Direct Current |
| AC | Alternating Current |
| UPS | Uninterruptible Power Supplies |
| EOD | Electrical Operating Desk |
| OEM | Original Equipment Manufacturer |
| GO | General Outage |
| BFPT | Boiler Feed Pump Turbine |
| ES | Essential Supplies |
| SHEQ | Safety, Health, Environment and Quality |
| WI | Works Information |

7.6 Roles and Responsibilities

Supplier

- Supply procured spares as requested by the *Employer*
- Confirm correctness of the supplied spares information

- Provide spares technical information in accordance with this Works Information
- Timeously inform the *Employer* of any delays or when outstanding or additional information from the *Employer* is required
- Responsible to ensure that a quality product is delivered
- Responsible to ensure that every effort is made to keep to the agreed program and plan
- Provide all required technical datasheets and/or product brochures for all the spares supplied
- Conform to all the other requirements stipulated in this document
- Supply all the necessary test sheets/results, where applicable
- Invite the *Employer* or representative thereof three (3) working days in advance for witness/hold points, if applicable, as agreed

Engineer

- Provide input and compile this Works Information
- Liaise with all relevant stakeholders for any input
- Ensure that the Works Information is in accordance with Eskom policies and procedures
- Provide all necessary information to assist in spares procurement
- Participate in technical evaluation of the tender documents
- Assist with the preparation of all the reports to different tender committees, where applicable
- Provide technical assistance to Materials Management and Procurement Departments during the execution of this Works Information
- Perform Quality Checks on procured spares and accompanying documentation
- Provide Materials Management with fully populated DCFs for cataloguing of spares and record keeping
- Verification and acceptance of all supplied documentation
- Responsible for QC at delivery of procured spares

Materials Management

- Catalogue the spares after completion of DCFs
- Confirm that the information supplied by the engineer is enough for cataloguing
- Perform QC on all submitted DCFs
- Make provision for storage of procured spares
- Work together with engineering when accepting spares into stores

Procurement

- Perform all procurement processes outlined in this Works Information
- Issue RFQ's and/or RFI's for the procurement of spares
- Supply engineering with *Supplier* information for sole source justifications, where applicable.
- Set up clarification meetings between *Supplier* and *Employer*
- Act as communication link between *Supplier* and *Employer*
- Ensure all necessary payments are effected timeously and keep record thereof
- Arrange technical evaluation sessions

- Compile and present mandate to negotiate and arrange negotiation meetings if and when required and give feedback to relevant tender committee
- Keep record of all tender documentation

Maintenance

- Perform inspections and QC on spares upon delivery
- Ensure spare items are stored properly by Materials Management as per relevant storage recommendations by the specific manufacturers

7.7 Process for Monitoring

Not Applicable

7.8 Related/Supporting Documents

None

8 WORK TO BE PERFORMED BY SUPPLIER

The following are the *Supplier's* requirement:

- The *Supplier* will ensure that the correct spare is supplied and will replace or be liable for damage at his/her cost if the incorrect or defective spare/s is supplied. The costs may include, but not limited to, repairs and/or replacement as a result of a defective or incorrect spare.
- The *Employer's* (i.e. Eskom Holdings SOC) acceptance of delivered spare/s does not absolve the *Supplier's* of the liability to supply the correct and/or defect free spare.
- The *Supplier* may, at the *Employer's* discretion, be given access to the plant to verify the information of the installed spare.
- The spare must be exactly the same (i.e. same Part Number) as specified on this works information and the part number will also be used to perform quality control checks. **Notwithstanding the stipulated condition that the Supplier is responsible for verifying the correctness of the spares information provided by the Employer in relation to the existing installed spare. This may include the Supplier consulting the original supplier of the spare to ensure correctness of information provided by the Employer.**
- The *Employer* may at his/her discretion make the *Employer's* Engineer or employees or others available to the *Supplier* for the purpose of soliciting additional information or verifying information as the need arises.
- The *Supplier* will supply any additional information such as brochure, general arrangement drawing, certificates, detailed specification, etc.
- The *Supplier* provides the *Employer* with additional spares information and verifies information required in the attached data capturing forms (DCF) at least three months after order placement or conclusion of the contract or (where lead time is less than three months) a week before delivery of respective spare.
- The *Supplier* shall supply preservation and storage procedure/s, where applicable.
- The Spares Procurement **limit over five (year) period**, indicated by the *Employer* in the attached table as one of the subheadings, is the maximum number the *Employer* may require the *Supplier* to supply over the contract period. However the *Supplier* may only supply the quantity as specified by the *Employer* in the individual order instruction and does not imply that the *Supplier* is entitled to supply the total number indicated in the Spares Procurement Limit over Three (Year) Period.
- The *Employer* reserves the right to exclude the supply of some spares items included in the contract with the *Supplier* should the *Employer* become aware that National Supply Contract exists or is placed by the *Employer* with Others in respect to those specific spares items.
- If deemed necessary, the *Employer* may subject the *Supplier* to a quality assurance assessment at the *Supplier's* or *sub-Supplier's* premises as part of the technical evaluation or before the contract placement or at any time during the contract period.
- Where the spare requires testing, the *Supplier* will inform the *Employer* to invite or make available the *Employer's* System Engineer to witness the tests.

- Should the Employer be dissatisfied with all or certain aspects relating to a specific spare tests (including but not limited to suspected inferior quality or non-compliance) the *Supplier* will make good, rectify the faults or supply a new spare at his/her cost.
- Complete price breakdown must be supplied with the quotation and must include the cost of transport to Kriel Power Station. However, the *Employer* reserves the right to use the *Employer's* own transport.
- Spares will be opened for inspection, counting and quality control check at the *Employer's* stores.
- The *Employer* has provided the Bill of Material table and copies of individual spares DCF's in order to assist the *Supplier* to meet the requirements of the Work to be performed by the *Supplier*.
- The Employer may make clarification sessions available to either prospective *Supplier/s* in order to further assist the prospective *Supplier's* to meet the requirements of the Work to be performed by the *Supplier*.
- The *Employer* reserves the right to exclude the supply of some spares items included in the contract with the *Supplier*, should the *Employer* become aware that the National Supply Contract exists or is placed by the *Employer* with others in respect to those specific spares items.

8.1 SPECIFICATIONS OF THE SPARES

8.2 SPARES IDENTIFICATION

Appendix A lists all the spares to be procured under this works information. This list shall correspond to the provided hardcopy DCF's that will contain more information about required spares. Each spare is identifiable by means of component/part description, part number. Where the information available on the spares list in Appendix A or that supplied by materials management as catalogued is not sufficient to positively identify the applicable spare, the *Supplier* shall notify the *Employer* such that the *Employer* can assist the *Supplier* in identifying the correct spare.

The spares to be provided to be the same as the original component, in all technical respects, as those utilised on the equipment it is intended for. This includes, but is not limited to, design (including dimensions and material specifications) and manufacturing (including manufacturing processes, standards and acceptance testing).

The *Supplier* shall be liable to replace a supplied spare that is found to be defective and/or wrong.

8.3 INFORMATION TO BE PROVIDED

Accompanying this Works Information is the DCF's with the information deemed enough to procure the correct spares as required. The DCF is required by the *Employer's* Material Management System to be able to book the item in the stores and the information should be sufficient enough to procure the goods in future. Where a field is populated, the *Supplier* needs to review and verify/correct the information against the OEM part number for correctness.

The following information to be provided with the spares:

- Documentation detailing the technical characteristics of the procured spare item. This may be in the form of data sheet or brochure. The *Employer* reserves the right to reject the documentation if it is not deemed sufficient
- Any other additional information that has not been specified on the DCF / WI but necessary for storage, installation and utilisation of spares where applicable
- Supply preservation and storage procedures of goods, where applicable
- Any spares information which has been omitted which is deemed relevant for spares identification, storage, maintenance, etc.
- In instances where the *Supplier* uses another company, other than the item OEM, to provide required information, this to be declared in advance to the *Employer*

8.4 SPARES QUANTITIES

The spares quantities to be provided as stipulated in APPENDIX A.

8.5 REPLACEMENT PARTS UPGRADED/MODIFIED

Where equipment or spares, including the whole assembly, have been upgraded / modified the *Supplier* shall indicate this to the *Employer* as part of the tender. The *Employer* shall be made aware immediately where the upgrade/modification to the component is only identified subsequent to the tender being issued.

The detailed compatibility to the existing component shall be indicated. This includes hardware, firmware and software upgrade/modification.

If the components to be supplied will be obsolete, or envisaged to be obsolete, in the coming 3 years subsequent to tender being issued, the *Supplier* shall indicate this to the *Employer* and indicate viable alternatives thereof.

8.6 PACKAGING

All supplied spares shall be packaged in such a manner that they may be transported and stored for an extended period of time without resulting in damage to the packaged components. This includes preventing damage due to moisture ingress, especially for electronic components. Where possible, silica gel/desiccant may be included to ensure protection against moisture for at least 3 months. However, this inclusion should not lead to damage to the component.

Different spare types shall be packaged separately such that each spare type can be stored separately.

Packaging shall be such that the spare can be identified without opening the packaging. Packaging shall be of material that will not be damaged, to an extent possible, by harsh weather conditions during transportation. If that is not possible, then the packaging shall be protected against such conditions.

Where possible, packaging to be such that procured spares can be positively identified through the packaging. Where this is not possible, the packaging to be such that it allows opening and closing of packaging and still maintain the packaging integrity thereafter.

Delivery packaging to have the following details on it:

- Order number
- Physical address of Kriel Power Station
- Delivery note number

8.7 EXCLUSIONS

The following shall be noted as exclusions as per this works information:

- The *Supplier* shall not supply offloading facilities during delivery of spares
- The *Supplier* shall not be responsible for the storage of spares after acceptance at delivery by *Employer*
- Subcontracting shall not be permitted, unless declared and accepted prior to contract placement

8.8 ACCEPTANCE OF SPARES

- No incorrect, damaged or faulty spares will be accepted.
- All the spares will be inspected before payment could be processed.
- Data capturing forms information must be supplied and must meet an acceptable level.
- Where applicable; test certificates, material certificate, manuals, data sheet and signature shall be provided as required.
- The *Supplier* must provide references of the companies that they have supplied similar spares to, and include the respective supply order/contract value, the contact name, physical address and telephone number.

8.9 CONSTRAINTS ON HOW THE SUPPLIER PROVIDES THE GOODS

8.9.1 WORK TO BE DONE BY THE DELIVERY DATE

A clarification meeting to be held 3 weeks subsequent to the issuing of the enquiry to confirm the scope of the Works and to confirm spares identification. All questions can be forwarded to the *Employer* during this meeting. Where more than one *Supplier* is available, all responses from the *Employer* will be forwarded to all *Suppliers*, regardless of which *Supplier* required the clarification.

All required spares to be delivered to the *Employer* 4 weeks from the day the purchase order is placed by the *Employer*. In instances where design reviews are necessitated, the 4 weeks will be from the day of design freeze. The *Employer* may request, in writing, that a spare be expedited quicker if its delivery in 4 weeks may lead to a delay that may result in undesirable consequences (loss of production, loss of revenue and/or safety to personnel or environment) to the *Employer*.

8.9.2 DOCUMENTATION CONTROL

The information for spares to be provided will either be in electronic format or hard copy. Other information provided with each spare to be either in electronic format or hard copy. Information provided to be

documented in such a manner that the information for each spare will be easily identifiable. All documentation supplied shall bear the OEM's official name and logo.

8.9.3 QUALITY ASSURANCE REQUIREMENTS

The spares to be provided shall conform to all quality assurance requirements that will be defined at contracting phase.

8.9.4 PROGRAM CONSTRAINTS

The following shall be included in the *Supplier's* program:

- The delivery date as stipulated to be provisional. This date may change prior to delivery. The *Supplier* to indicate standing time and storage costs should the *Employer* delay the delivery date. Proof of actual costs to be provided.
- Provision to be made for delays that may be caused owing to items being sourced from outside The Republic of South Africa.

8.9.5 INSURANCE OF THE GOODS

The Insurance of spare components is the responsibility of the *Supplier* until delivery and acceptance by the *Employer*.

8.10 SHEQ

The *Employer* reserves the right to request certification from the *Supplier* that proves compliance to relevant SHEQ legislations, standards and procedures. If, during procurement, the *Supplier* is found guilty of contravention of any SHEQ legislations, the *Employer* shall, at *Employer's* discretion, cancel the contract and the *Supplier* shall be liable to all the costs incurred therein.

2.1 Purchaser's design

Not applicable

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

Not applicable

2.3 Other requirements of the *Supplier's* design

Not applicable

2.4 Use of *Supplier's* design

Not applicable

2.5 Manufacture & fabrication

Complete drawings and design specifications including the part numbers to be provided by the supplier

Part numbers to be included in the drawings

2.6 Factory acceptance testing (FAT)

Not applicable

2.7 Other tests and inspections and commissioning in place of use

Not applicable

2.8 Operating manuals and maintenance schedules

Test results and maintenance manuals

Complete Drawings, Design Specifications and part numbers

2. Supply Requirements

Supply and delivery to Kriel Power Station Main Stores Receiving
Contractor to provide delivery method
Notification of delivery 1 week in advance

3. Specification of the *services* to be provided

Supply and delivery of the mentioned goods only.

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

5.1 Programming constraints

Not applicable

5.2 Work to be done by the Delivery Date

Not applicable

5.3 Marking the *goods*

Not applicable

5.4 Constraints at the delivery place and place of use

None

5.5 Cooperating with Others

None

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

None

5.7 Management meetings

None

5.8 Documentation control

None

5.9 Health and safety risk management

None

5.10 Environmental constraints and management

None

5.11Quality

None

5.12Invoicing and payment

List the information that is to be shown by the *Supplier* on his invoices. State any other requirements relating to payment. For example:

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)

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

5.13Insurance provided by the *Purchaser*

None

5.14Contract change management

None

5.15Provision of bonds and guarantees

Not applicable

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

Not applicable

5. Procurement

6.1Subcontracting

6.1.1Preferred subcontractors

SC does not make use of nominated subcontracting, but the *Purchaser* may list which subcontractors or sub-suppliers the *Supplier* is required to enter into subcontracts with (if any). This is usually only required where plant and materials need to be obtained from a particular supplier or group of suppliers in order to comply with operational standards for the *goods*.

6.1.2 Limitations on subcontracting

The *Purchaser* may require that the *Supplier* must subcontract certain specialised work, or that the *Supplier* shall not subcontract more than a specified proportion of the whole of the contract.

6.1.3 Spares and consumables

Some contracts may need to include provision for the supply of a minimum category of spares, fuel, oil or other consumables which the *Purchaser* may need at or just after delivery or commissioning of the *goods* and that it is best the *Supplier* provide these initially as part of his Providing the Goods and Services

6.1.4 Other requirements related to procurement

Other requirements such as ASGISA or socio political enhancements the *Supplier* is to provide as part of Providing the Goods and Services (if any) could be included here.

6.1.5 Cataloguing requirements by the *Supplier*

State whether cataloguing is applicable, if it is, reference the requirements for cataloguing that need to be satisfied by the *Supplier* (consult Procurement Instruction Number 1 of 2018 – Incorporating Cataloguing into the Procurement Environment, Unique Identifier 240-1289988974).

6. List of drawings

7.1 Drawings issued by the *Purchaser*

Not applicable

C3.2 *SUPPLIER'S* GOODS INFORMATION

This section could also be compiled as a separate file.