1. **GENERAL:** Eskom Holdings SOC Ltd (hereinafter referred to as 'Eskom') and the Supplier enter into an order/contract (hereinafter referred to as the 'agreement') on these conditions to supply the goods or execute the works/services as described in the agreement. The agreement means the order documents, the General Conditions of Purchase, any specifications, schedules, and drawings approved by Eskom relative to the order.

2. **CONDITIONS:** These conditions form the basis of the contract between Eskom and the Supplier. Where the Supplier does not indicate the non-acceptance of these conditions of contract it will be deemed to be accepted by the Supplier. Notwithstanding anything to the contrary in any document issued or sent by the Supplier, these conditions apply except as expressly agreed in writing by Eskom. No servant or agent of Eskom has authority to vary these conditions orally.

3. **PRICE AND PAYMENT:** The prices or rates for the items stated in the agreement may include an amount for price adjustment, which is calculated in accordance with the formula stated in the agreement. The Supplier may be paid in any currency, including a currency other than South African Rand. One exchange rate shall be used to convert from this currency to South African Rand (ZAR). Payment to the Supplier in any currency other than ZAR shall not exceed the amounts stated in the agreement. Eskom's CPA (IG) form must be duly completed by the Supplier. Eskom will pay for the item within 30 days after receipt of a correct Tax invoice. Eskom's VAT registration number (4740101508) has to appear on the tax invoice, before any payment will be made, as from 1 June 2004.

4. **DELIVERY AND DOCUMENTS:** 'Delivery' means delivery of goods or completion of work (if any) in compliance with the terms and conditions of the agreement at the point of delivery/site specified in the agreement on or before the date stated in the agreement. Late deliveries of the goods or late completion of the works/services may be subject to a penalty as stated in the agreement. No payment shall be made if the Supplier does not provide the goods/services/works as stated in agreement. Where goods are to be delivered the Supplier shall:-

   - clearly mark the outside of each consignment or package with the Supplier's name and full details of the destination in accordance with the order and include a packing note stating the contents thereof;
   - send an advice note specifying the means of transport, weight, number or volume as appropriate and the point and date of dispatch, to Eskom at the address for delivery of the items;
   - send a detailed Tax invoice to Eskom after delivery of the goods or after completion of the works/services;
   - state the agreement number on all communications in respect of the agreement; and
   - state in his tender whether delivery cost is included in the price. If not, it will be deemed to be included.

5. **CONTAINERS / PACKING MATERIAL:** Unless otherwise stated in the agreement, no payment shall be made for containers or packing materials or their return to the Supplier.

6. **ACCEPTANCE:** The goods/works/services shall at all times be subject to the approval of Eskom, who may inspect and/or test the goods/works/services as well as the workmanship at any stage of the work. Should Eskom fail to notify the Supplier of its acceptance, it shall be deemed that Eskom accepted the goods/works/services.

7. **RISK:** Risk shall pass to Eskom upon proof of delivery to the correct destination in accordance with the agreement, and acceptance of the goods/works/services.

8. **OWNERSHIP:** Ownership in the goods/works/services shall pass to Eskom upon payment thereof or as otherwise stated in the agreement.

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9. **REJECTION:** If the Supplier fails to comply with his obligations under the agreement, Eskom may reject any part of the goods by giving written notice to the Supplier specifying the reason for rejection and whether replacement of goods or re-work is required.

- In the case of goods delivered, Eskom may return the rejected goods to the Supplier at the Supplier's risk and expense. Any money paid to the Supplier in respect of the goods not replaced within the time required, together with the costs of returning rejected goods to the Supplier and obtaining replacement goods from a third party, shall be paid by the Supplier to Eskom.

- In the case of works/services, the Supplier shall correct non-conformances/defects as indicated by Eskom. If the supplier delays correcting the non-conformance/defect, Eskom may have the non-conformance/defect corrected by a third party at the Supplier's costs.

10. **INDEMNITY:** The Supplier indemnifies Eskom against all actions, suits, claims, demands, costs, charges and expenses arising from the negligence, infringement of intellectual or legal rights or breach of statutory duty of the Supplier, his subcontractors, agents or servants or the rights of others, or from the Supplier's defective design, materials or workmanship.

11. **WARRANTY:** Without prejudice to any other rights of Eskom under these conditions, the Supplier warrants that the goods/works/services are fit for the purpose for which they are intended and that they will remain free from defects for a period of one year (unless otherwise stated in the agreement) from acceptance. If a defect/non-conformance is found with the goods/works/services within this period, the Supplier shall rectify the defect/non-conformance within an agreed time period, free of cost to Eskom. The Supplier shall use reasonable skill and care to provide the goods/ works/services as described in the contract.

12. **ASSIGNMENT AND SUBCONTRACTING:** Neither party hereto may cede or delegate any of its rights and obligations to any person without the written consent of the other or sub-contracting by the Supplier. Notwithstanding this, Eskom may on written notice to the other party cede and delegate its rights and obligations under this agreement 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 restructuring.

13. **STATUTORY REQUIREMENTS:** The Supplier shall adhere to all statutory requirements relevant to the agreement which is governed by the law of the RSA and the parties hereby submit to the jurisdiction of the SA courts.

14. .**BREACH:** Subject to clause 15 (fifteen) hereof, should either party breach any condition of the agreement and fail to rectify or remedy the default, and after receiving written notice from the non-defaulting party, the latter shall be entitled to terminate the agreement.

15. **TERMINATION:** Eskom may terminate at any time (without prejudice to any right of action or remedy which has accrued or thereafter accrues to Eskom) if the Supplier defaults in due performance of the agreement, or becomes bankrupt or otherwise is, in the opinion of Eskom, in such financial circumstances as to prejudice the proper performance of the agreement.

16. **ETHICS:** Eskom is committed to the highest standard of ethical behavior and expects the same from all our suppliers.

This constitutes the entire agreement between Eskom and the Supplier and no addition to or variation of the agreement shall be of any force and effect unless done in writing and signed by both parties.

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