NEC3 Term Service Contract (TSC3)

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

and **…….**
(Reg No. _____)

for **The establishment of an enabling agreement with a panel of two (2) service providers for the provision of Detailed Aerial Inspection Services over the fleet of Sub-transmission networks (33-132kV), via a Helicopter on 'as and when' required basis for the Central East Cluster (Kwa-Zulu Natal and Free State Operating Units) for a period of 5 years.**

Contents:		**No of pages**
Part C1	**Agreements & Contract Data**	**[●]**

Enquiry Number **KZN164**

Closing Date **04 December 2024**

PART C1: AGREEMENTS & CONTRACT DATA

Contents: **No of pages**

C1.1 Form of Offer and Acceptance **[●]**

[to be inserted from Returnable Documents at award stage]

C1.2a Contract Data provided by the *Employer* **[●]**

C1.1 Form of Offer & Acceptance

Offer

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

The establishment of an enabling agreement with a panel of two (2) service providers for the provision of Detailed Aerial Inspection Services over the fleet of Sub-transmission networks (33-132kV), via a Helicopter on 'as and when' required basis for the Central East Cluster (Kwa-Zulu Natal and Free State Operating Units) for a period of 5 years.

The tenderer, identified in the Offer signature block, has examined the documents listed in the Tender Data and addenda thereto and by submitting this Offer has accepted the Conditions of Tender.

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 *Contractor* 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.

Options A	The offered total of the Prices exclusive of VAT is	**RATES BASED CONTRACT**
	Sub total	
	Value Added Tax @ 15% is	
	The offered total of the amount due inclusive of VAT is[1]	
	(in words) **[●]**	

This Offer may be accepted by the Employer 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 *Contractor* in the *conditions of contract* identified in the Contract Data.

Signature(s) .....

Name(s) .....

Capacity .....

For the tenderer: .....

(Insert name and address of organisation)

Name & signature of witness .....

Date .....

Tenderer's CIDB registration number: .....

[1] This total is required by the *Employer* 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 Employer identified below accepts the tenderer's Offer. In consideration thereof, the Employer shall pay the Contractor 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 Employer 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: Service Information

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

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 *Employer* prior to contract award

No.	Subject	Details
1	**[●]**	**[●]**
2	**[●]**	**[●]**
3	**[●]**	**[●]**
4	**[●]**	**[●]**
5	**[●]**	**[●]**
6	**[●]**	**[●]**
7	**[●]**	**[●]**

By the duly authorised representatives signing this Schedule of Deviations below, the Employer 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 Employer 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 Employer**
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		

C1.2 TSC3 Contract Data

Part one - Data provided by the *Employer*

Clause	Statement	Data
1	**General**	
	The *conditions of contract* are the core clauses and the clauses for main Option:	
		A: Priced contract with price list
	and secondary Options	
		X1: Price adjustment for inflation
		X2 Changes in the law
		X13: Performance Bond
		X19: Task Order
		Z: *Additional conditions of contract*
	of the NEC3 Term Service Contract April 2013[2] (TSC3)	
10.1	The *Employer* is (name):	**Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state-owned company incorporated in terms of the company laws of the Republic of South Africa**
	Address	**Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg**
10.1	The *Service Manager* is (name):	**Mohamed Rashid**
	Address	**25 Valley View New Germany 3620]**
	Tel	**031 710 5073**
	e-mail	**rashidmf@eskom.co.za**
11.2(2)	The Affected Property is	**Sub Transmission networks**
11.2(13)	The *service* is	**Detailed Aerial Inspection Services on sub transmission networks via Helicopter**
11.2(14)	The following matters will be included in the Risk Register	**1. Changes in the Law 2. Non-conformance to specification 3. Inclement Weather 4. Contact with HV live conductors**

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

11.2(15)	The Service Information is in	**Part 3: Scope of Work and all documents and drawings to which it makes reference.**
12.2	The *law of the contract* is the law of	**the Republic of South Africa**
13.1	The *language of this contract* is	**English**
13.3	The *period for reply* is	**[2] weeks**
2	**The *Contractor*'s main responsibilities**	**Data required by this section of the core clauses is also provided by the *Contractor* in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data**
21.1	The *Contractor* submits a first plan for acceptance within	**2 weeks from receipt of lines to be flown**
3	**Time**	
30.1	The *starting date* is.	**TBA**
30.1	The *service period* is	**5 years**
4	**Testing and defects**	**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**
5	**Payment**	
50.1	The *assessment interval* is	**between the [●] day of each successive month.**
51.1	The *currency of this contract* is the	**South African Rand**
51.2	The period within which payments are made is	**[●] weeks.**
51.4	The *interest rate* is	**the publicly quoted prime rate of interest (calculated on a 365 day year) charged by from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands and** **(ii) the LIBOR rate applicable at the time for amounts due in other currencies. LIBOR is the 6 month London Interbank Offered Rate quoted under the caption "Money Rates" in The Wall Street Journal for the applicable currency or if no rate is quoted for the currency in question then the rate for United States Dollars, and if no such rate appears in The Wall Street Journal then the rate as quoted by the Reuters Monitor Money Rates Service (or such service as may replace the Reuters Monitor Money Rates Service) on the due date for the payment in question, adjusted *mutatis mutandis* every 6 months thereafter (and as certified, in the event of any dispute, by any manager employed in the foreign exchange department of The Standard Bank of South Africa Limited, whose**

		appointment it shall not be necessary to prove.
8	**Risks and insurance**	
10	**Data for main Option clause**	
A	**Priced contract with price list**	
11	**Data for Option W1**	
W1.1	The *Adjudicator*	**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).**
W1.2(3)	The *Adjudicator nominating body* is:	**the Chairman of ICE-SA a joint Division of the South African Institution of Civil Engineering and the Institution of Civil Engineers (London) (see www.ice-sa.org.za) or its successor body.**
W1.4(2)	The *tribunal* is:	**arbitration**
W1.4(5)	The *arbitration procedure* is	**the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.**
	The place where arbitration is to be held is	**[●] South Africa**
	The person or organisation who will choose an arbitrator - if the Parties cannot agree a choice or - if the arbitration procedure does not state who selects an arbitrator, is	**the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.**
12	**Data for secondary Option clauses**	
X1	**Price adjustment for inflation**	
X1.1	The *base date* for indices is	**1-month prior tender closing date. The Rates will be fixed and firm for the first year of the contract . Price adjustment will apply at the anniversary of the Contract as stated below.**

The proportions used to calculate the Price Adjustment Factor are:

proportion	linked to index for	Index prepared by
85%	Table B1 - CPI headline index	Stats SA
15%	non-adjustable	
100.00		

X2	**Changes in the law**	**There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.**
X13	**Performance bond**	
X13.1	The amount of the performance bond is	**R [●]**
X19	**Task Order**	
X19.5	The *Contractor* submits a Task Order programme to the *Service Manager* within	**5 days of receiving the Task Order**
Z	**The *additional conditions of contract* are**	**Z1 to Z14 always apply.**

Z1 Cession delegation and assignment

Z1.1 The *Contractor* does not cede, delegate or assign any of its rights or obligations to any person without the written consent of the *Employer.*

Z1.2 Notwithstanding the above, the *Employer* may on written notice to the *Contractor* 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 *Contractor* 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 *Employer* for the performance of this contract.

Z2.2 Unless already notified to the *Employer*, the persons or organisations notify the *Service Manager* within two weeks of the Contract Date of the key person who has the authority to bind the *Contractor* on their behalf.

Z2.3 The *Contractor* does not alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without the consent of the *Employer* having been given to the *Contractor* in writing.

Z3 Change of Broad Based Black Economic Empowerment (B-BBEE) status

Z3.1 Where a change in the *Contractor's* legal status, ownership or any other change to his business composition or business dealings results in a change to the *Contractor*'s B-BBEE status, the *Contractor* notifies the *Employer* within seven days of the change.

Z3.2 The *Contractor* is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the *Service Manager* within thirty days of the notification or as otherwise instructed by the *Service Manager*.

Z3.3 Where, as a result, the *Contractor's* B-BBEE status has decreased since the Contract Date the *Employer* may either re-negotiate this contract or alternatively, terminate the *Contractor*'s obligation to Provide the Service.

Z3.4 Failure by the *Contractor* to notify the *Employer* of a change in its B-BBEE status may constitute a reason for termination. If the *Employer* terminates in terms of this clause, the procedures on termination are P1, P2 and P4 as stated in clause 92, and the amount due is A1 and A3 as

stated in clause 93.

Z4 Confidentiality

Z4.1 The *Contractor* 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 *Contractor*, enters the public domain or to information which was already in the possession of the *Contractor* at the time of disclosure (evidenced by written records in existence at that time). Should the *Contractor* disclose information to Others in terms of clause 25.1, the *Contractor* ensures that the provisions of this clause are complied with by the recipient.

Z4.2 If the *Contractor* is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the *Service Manager*.

Z4.3 In the event that the *Contractor* is, at any time, required by law to disclose any such information which is required to be kept confidential, the *Contractor*, to the extent permitted by law prior to disclosure, notifies the *Employer* 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 *Contractor* 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 Affected Property or any portion thereof, in the course of Providing the Service and after the end of the *service period*, requires the prior written consent of the *Service Manager*. All rights in and to all such images vests exclusively in the *Employer*.

Z4.5 The *Contractor* 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 *Service 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 27.4

Z6.1 The *Contractor* undertakes to take all reasonable precautions to maintain the health and safety of persons in and about the execution of the *service*. Without limitation the *Contractor*:

- accepts that the *Employer* may appoint him as the “Principal Contractor” (as defined and provided for under the Construction Regulations 2014 (promulgated under the Occupational Health & Safety Act 85 of 1993) (“the Construction Regulations”) for the Affected Property;
- warrants that the total of the Prices as at the Contract Date includes a sufficient amount for proper compliance with the Construction Regulations, 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 the *service*; and
- undertakes, in and about the execution of the *service*, to comply with the Construction Regulations and 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 *Contractor’s* direction and control, likewise observe and comply with the foregoing.

Z6.2 The *Contractor*, in and about the execution of the *service*, 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 *Contractor'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 *Service Manager* in terms of core clause 51.1, the *Contractor* provides the *Employer* with a tax invoice in accordance with the *Employer*'s procedures stated in the Service Information, showing the amount due for payment equal to that stated in the payment certificate.

Z7.2 If the *Contractor* does not provide a tax invoice in the form and by the time required by this contract, the time by when the *Employer* 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 *Employer* in terms of core clause 51.2 is then calculated from the delayed date by when payment is to be made.

Z7.3 The *Contractor* (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 *Employer*'s VAT number 4740101508 on each invoice he submits for payment.

Z8 Notifying compensation events

Z8.1 Delete the last paragraph of core clause 61.3 and replace with:

If the *Contractor* does not notify a compensation event within eight weeks of becoming aware of the event, he is not entitled to a change in the Prices.

Z9 *Employer's* limitation of liability

Z9.1 The *Employer's* liability to the *Contractor* for the *Contractor's* indirect or consequential loss is limited to R0.00 (zero Rand)

Z9.2 The *Contractor*'s entitlement under the indemnity in 82.1 is provided for in 60.1(12) and the *Employer*'s liability under the indemnity is limited to compensation as provided for in core clause 63 and X19.11 if Option X19 Task Order applies to this contract.

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 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 *Contractor* 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 *Contractor*, 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.

Z11.1 A Committing Party may not take any Prohibited Action during the course of the procurement of this contract or in execution thereof.

Z11.2 The *Employer* may terminate the *Contractor*'s obligation to Provide the Services if a Committing Party has taken such Prohibited Action and the *Contractor* did not take timely and appropriate action to prevent or remedy the situation, without limiting any other rights or remedies the *Employer* 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 *Employer* can terminate the *Contractor*'s obligation to Provide the Services for this reason.

Z11.3 If the *Employer* terminates the *Contractor*'s obligation to Provide the Services for this reason, the amounts due on termination are those intended in core clauses 92.1 and 92.2.

Z11.4 A Committing Party co-operates fully with any investigation pursuant to alleged Prohibited Action. Where the *Employer* does not have a contractual bond with the Committing Party, the *Contractor* ensures that the Committing Party co-operates fully with an investigation.

Z12 Insurance

Z 12 .1 Replace core clause 83 with the following:

Insurance cover 83

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

83.2 The *Contractor* provides the insurances stated in the Insurance Table A from the *starting date* until the earlier of Completion and the date of the termination certificate.

INSURANCE TABLE A

Insurance against	Minimum amount of cover or minimum limit of indemnity
Loss of or damage caused by the *Contractor* to the *Employer*'s property	The replacement cost where not covered by the *Employer*'s insurance. The *Employer*'s policy deductible as at Contract Date, where covered by the *Employer*'s insurance.
Loss of or damage to Plant and	The replacement cost where not covered by the

Materials	*Employer*'s insurance. The *Employer*'s policy deductible as at Contract Date, where covered by the *Employer*'s insurance.
Loss of or damage to Equipment	The replacement cost where not covered by the *Employer*'s insurance. The *Employer*'s policy deductible as at Contract Date, where covered by the *Employer*'s insurance.
The *Contractor*'s liability for loss of or damage to property (except the *Employer*'s property, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the *Contractor*) arising from or in connection with the *Contractor*'s Providing the Service	Loss of or damage to property The replacement cost Bodily injury to or death of a person The amount required by the applicable law.
Liability for death of or bodily injury to employees of the *Contractor* arising out of and in the course of their employment in connection with this contract	The amount required by the applicable law

Z 12.2 Replace core clause 86 with the following:

Insurance by the *Employer*

86

86.1 The *Employer* provides the insurances stated in the Insurance Table B

INSURANCE TABLE B

Insurance against or name of policy	**Minimum amount of cover or minimum lir of indemnity**
Assets All Risk	Per the insurance policy document
Contract Works insurance	Per the insurance policy document
Environmental Liability	Per the insurance policy document
General and Public Liability	Per the insurance policy document
Transportation (Marine)	Per the insurance policy document
Motor Fleet and Mobile Plant	Per the insurance policy document

Terrorism	Per the insurance policy document
Cyber Liability	Per the insurance policy document
Nuclear Material Damage and Business Interruption	Per the insurance policy document
Nuclear Material Damage Terrorism	Per the insurance policy document

Z13 Nuclear Liability

Z13.1 The *Employer* is the operator of the Koeberg Nuclear Power Station (KNPS), a nuclear installation, as designated by the National Nuclear Regulator of the Republic of South Africa, and is the holder of a nuclear licence in respect of the KNPS.

Z13.2 The *Employer* is solely responsible for and indemnifies the *Contractor* or any other person against any and all liabilities which the *Contractor* or any person may incur arising out of or resulting from nuclear damage, as defined in Act 47 of 1999, save to the extent that any liabilities are incurred due to the unlawful intent of the *Contractor* or any other person or the presence of the *Contractor* or that person or any property of the *Contractor* or such person at or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.

Z13.3 Subject to clause Z13.4 below, the *Employer* waives all rights of recourse, arising from the aforesaid, save to the extent that any claims arise or liability is incurred due or attributable to the unlawful intent of the *Contractor* or any other person, or the presence of the *Contractor* or that person or any property of the *Contractor* or such person at or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.

Z13.4 The *Employer* does not waive its rights provided for in section 30 (7) of Act 47 of 1999, or any replacement section dealing with the same subject matter.

Z13.5 The protection afforded by the provisions hereof shall be in effect until the KNPS is decommissioned.

Z14 Asbestos

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

AAIA means approved asbestos inspection authority.

ACM means asbestos containing materials.

AL means action level, i.e. a level of 50% of the OEL, i.e. 0.1 regulated asbestos fibres per ml of air measured over a 4 hour period. The value at which proactive actions is required in order to control asbestos exposure to prevent exceeding the OEL.

Ambient Air means breathable air in area of work with specific reference to breathing zone, which is defined to be a virtual area within a radius of approximately 30cm from the nose inlet.

Compliance Monitoring means compliance sampling used to assess whether or not the personal exposure of workers to regulated asbestos fibres is in compliance with the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.

OEL means occupational exposure limit.

Parallel Measurements means measurements performed in parallel, yet separately, to existing measurements

to verify validity of results.

Safe Levels means airborne asbestos exposure levels conforming to the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.

Standard means the *Employer*'s Asbestos Standard 32-303: Requirements for Safe Processing, Handling, Storing, Disposal and Phase-out of Asbestos and Asbestos Containing Material, Equipment and Articles.

SANAS means the South African National Accreditation System.

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

Z14.1 The *Employer* ensures that the Ambient Air in the area where the *Contractor* will Provide the Services conforms to the acceptable prescribed South African standard for asbestos, as per the regulations published in GNR 155 of 10 February 2002, under the Occupational Health and Safety Act, 1993 (Act 85 of 1993) ("Asbestos Regulations"). The OEL for asbestos is 0.2 regulated asbestos fibres per millilitre of air as a 4-hour TWA, averaged over any continuous period of four hours, and the short term exposure limit of 0.6 regulated asbestos fibres per millilitre of air as a 10-minute TWA, averaged over any 10 minutes, measured in accordance with HSG248 and monitored according to HSG173 and OESSM.

Z14.2 Upon written request by the *Contractor*, the *Employer* certifies that these conditions prevail. All measurements and reporting are effected by an independent, competent, and certified occupational hygiene inspection body, i.e. a SANAS accredited and Department of Employment and Labour approved AAIA. The *Contractor* may perform Parallel Measurements and related control measures at the *Contractor*'s expense. For the purposes of compliance the results generated from Parallel Measurements are evaluated only against South African statutory limits as detailed in clause Z14.1. Control measures conform to the requirements stipulated in the AAIA-approved asbestos work plan.

Z14.3 The *Employer* manages asbestos and ACM according to the Standard.

Z14.4 In the event that any asbestos is identified while Providing the Services, a risk assessment is conducted and if so required, with reference to possible exposure to an airborne concentration of above the AL for asbestos, immediate control measures are implemented and relevant air monitoring conducted in order to declare the area safe.

Z14.5 The *Contractor*'s personnel are entitled to stop working and leave the contaminated area forthwith until such time that the area of concern is declared safe by either Compliance Monitoring or an AAIA approved control measure intervention, for example, per the emergency asbestos work plan, if applicable.

Z14.6 The *Contractor* continues to Provide the Services, without additional control measures presented, on presentation of Safe Levels. The contractually agreed dates to Provide the Services, including the Completion Date, are adjusted accordingly. The contractually agreed dates are extended by the notification periods required by regulations 3 and 21 of the Asbestos Regulations, 2001.

Z14.7 Any removal and disposal of asbestos, asbestos containing materials and waste, is done by a registered asbestos contractor, instructed by the *Employer* at the *Employer*'s expense, and conducted in line with South African legislation.

Part two - Data provided by the *Contractor*

Clause	Statement	Data
10.1	The *Contractor* is (Name): Address Tel No. Fax No.	
11.2(14)	The following matters will be included in the Risk Register	
11.2(15)	The Service Information for the *Contractor*'s plan is in:	
21.1	The plan identified in the Contract Data is contained in:	
24.1	The key people are: 1 Name: Job: Responsibilities: Qualifications: Experience: 2 Name: Job Responsibilities: Qualifications: Experience:	**CV's (and further key person's data including CVs) are in .**
A	**Priced contract with price list**	

11.2(12)	The *price list* is in	**C2 the price list**

PART 2: PRICING DATA

TSC3 Option A

Document reference	Title	No of pages
C2.1	Pricing assumptions: Option A	2
C2.2	The *price list*	**[•]**

C2.1 Pricing assumptions: Option A

How work is priced and assessed for payment

Clause 11 in NEC3 Term Service Contract (TSC3) core clauses and Option A states:

Identified and defined terms 11 11.2

(12) The Price List is the *price list* unless later changed in accordance with this contract.

(17) The Price for Services Provided to Date is the total of

- the Price for each lump sum item in the Price List which the *Contractor* has completed and
- where a quantity is stated for an item in the Price List, an amount calculated by multiplying the quantity which the *Contractor* has completed by the rate.

(19) The Prices are the amounts stated in the Price column of the Price List. Where a quantity is stated for an item in the Price List, the Price is calculated by multiplying the quantity by the rate.

This confirms that Option A is a priced contract where the Prices are derived from a list of items of service which can be priced as lump sums or as expected quantities of service multiplied by a rate or a mix of both.

Function of the Price List

Clause 54.1 in Option A states: “Information in the Price List is not Service Information”. This confirms that instructions to do work or how it is to be done are not included in the Price List but in the Service Information. This is further confirmed by Clause 20.1 which states, “The *Contractor* Provides the Service in accordance with the Service Information”. Hence the *Contractor* does **not** Provide the Service in accordance with the Price List. The Price List is only a pricing document.

Link to the *Contractor*’s plan

Clause 21.4 states “The *Contractor* provides information which shows how each item description on the Price List relates to the operations on each plan which he submits for acceptance”. Hence when compiling the *price list*, the tendering contractor needs to develop his first clause 21.2 plan in such a way that operations shown on it can be priced in the *price list* and result in a satisfactory cash flow in terms of clause 11.2(17).

Preparing the *price list*

Before preparing the *price list*, both the *Employer* and tendering contractors should read the TSC3 Guidance Notes pages 14 and 15. In an Option A contract, either Party may have entered items into the *price list* either as a process of offer and acceptance (tendering) or by negotiation depending on the nature of the *service* to be provided. Alternatively the *Employer*, in his Instructions to Tenderers or in a Tender Schedule, may have listed some items that he requires the *Contractor* to include in the *price list* to be prepared and priced by him.

It is assumed that in preparing or finalising the *price list* the *Contractor:*

- Has taken account of the guidance given in the TSC3 Guidance Notes relevant to Option A;
- Understands the function of the Price List and how work is priced and paid for;
- Is aware of the need to link operations shown in his plan to items shown in the Price List;
- Has listed and priced items in the *price list* which are inclusive of everything necessary and incidental to Providing the Service in accordance with the Service Information, as it was at the time of tender, as well as correct any Defects not caused by an *Employer's* risk;
- Has priced work he decides not to show as a separate item within the Prices or rates of other listed items in order to fulfil the obligation to complete the *service* for the tendered total of the Prices.
- Understands there is no adjustment to items priced as lump sums if the amount, or quantity, of work within that item later turns out to be different to that which the *Contractor* estimated at time of tender. The only basis for a change to the (lump sum) Prices is as a result of a compensation event.

Format of the *price list*

(From the example given in an Appendix within the TSC3 Guidance Notes)

Entries in the first four columns in the *price list* in section C2.2 are made either by the *Employer* or the tendering contractor.

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

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

If the *Contractor* is to be paid a Price for an item proportional to the length of time for which a service is provided, a unit of time is stated in the Unit column and the expected length of time (as a quantity of the stated units of time) is stated in the Expected Quantity column.

C2.2 the *price list*

Item nr	Description	Unit	Rate
1	**HELICOPTER:** **Supply of the helicopter , helicopter fuel and fuel transporter, A multi-spectrum camera (Infra-red, Corona detection, HD) which must be used to detect defects/faults)**	SPAN	
2	**PILOT, SPOTTER AND CAMERA OPERATOR**	SPAN	
3	**Detailed Defect Report with Pictures, Defect Priority and GPS Co-ordinates of all identified defects**	EA	

PART 3: SCOPE OF WORK

Document reference	Title	No of pages
	This cover page	1
C3.1	*Employer*'s Service Information	
C3.2	*Contractor*'s Service Information	
	Total number of pages	

C3.1: EMPLOYER'S SERVICE INFORMATION

Description of the *service*
Executive overview

The provision of Detailed Aerial Inspection Services over the fleet of Sub-transmission networks (33-132kV), via a Helicopter on as and when required basis for the Central East Cluster (Kwa-Zulu Natal and Free State Operating Units) for a period of 5 years.

The selected list of networks to be inspected that span across the cluster province is attached.

Employer's requirements for the *service*

The service includes the following:

- Supply of the helicopter with associated fuel
- A multi-spectrum camera (Infra-red, Corona detection, HD) to be used to detect defects/faults.
- The pilot, the spotter, and the camera operator.
- The detail defect reports with pictures, defect priority and GPS coordinates of all identified defects.
- Detail components to inspect must be according to Eskom standard: 240-71380115 Metal Structure Power Line Inspections and Defect Clearing – Lattice Structures, Insulators & Conductors
- The following Eskom standards are also applicable in relation to this activity:
    - 240 -170000630 - Defect Categories in Inspection Sheets
    - 240 -138196972 - Routine Inspection and Maintenance Sub-transmission and Distribution Lines

Management strategy and start up.

Management meetings

All meetings shall be advised by the *Employer's Agent* who will specify the times and locations to suit the Parties, the nature and the progress of the *service*. Records of these meetings shall be submitted to the *Employer's Agent* by the person convening the meeting within five days of the meeting.

All meetings shall be recorded using minutes or a register prepared and circulated by the person who convened the meeting. Such minutes or register shall not be used for the purpose of confirming actions or instructions under the contract as these shall be done separately by the person identified in the *conditions of contract* to carry out such actions or instructions.

Contractor's management, supervision and key people

The *Service provider* must provide a list of people & staff on site with their respective responsibilities to the *Employer's Agent* at the start of the contract.

In the event that the helicopter is not available, Service provider to make provision to avail another helicopter in 3-5 days in order to adhere to the schedule.
The device that is used for inspection, Service provider to make provision for a new device in 10 working days to adhere to the schedule.

Documentation control

All contractual documentation and communication will be in the form of properly compiled letters (reports to be compiled in the provided format) and forms attached to email.

Invoicing and payment

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 Service Manager 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;

All invoices must be submitted via this process any invoices physically received will now be returned.

To ensure payment is made the following must be done:

1. Email pdf copies to invoiceseskomlocal@eskom.co.za
2. Each pdf (attachment) must contain **only one invoice**
3. Each **email** sent must contain **only one attachment**
4. It must be an original invoice from your system. If a word or excel document, convert it to PDF. No invoice must printed then scanned and emailed or have hand writing on it, **It will not be accepted.**
5. Please make sure you **received a valid and correct purchase order** from your end user which must be quoted on the invoice.
6. Encourage your end users to do the GR's on time to insure speedy processing.
7. All invoices must meet the Tax requirements

Things provided at the end of the *service period* for the *Employer*'s use

Information and other things

The detailed inspection report is required for each task order issued in the format provided by the Contract Manager. Contracts Manager to sign off reports before payment of invoices.

Management of work done by Task Order

Task Order clauses apply in this contract.

Health and safety, the environment and quality assurance

Health and safety risk management

The *Contractor* shall comply with the health and safety requirements stated hereunder:

Ref.	KPIs
1	Is the acknowledgement of Eskom's OHS rules and requirements form (Annexure B) signed by the Owner / CEO / MD and 2 witnesses?
2	OH&S Organogram (*Approved by CEO/Director*)-Including names and appointment reference
3	Occupational, Health and Safety Plan (OHS Plan). This must be relevant to the Scope of work. Review date to be included in the document). To be signed off by the Owner / CEO / MD.
4	Risk Assessment procedure / Method Statement. Baseline Risk Assessment
5	Valid Letter of Good Standing or equivalent, i.e., COID, RMA or FEMA, (with applicable nature of business with relevant to the scope of work).
6	Health and Safety Policy- *signed by the Owner / CEO or MD,* (Including review date).
7	Medical Fitness Certificate (including Annexure 3 template) - (done by Occupational Health Practitioner / Nurse / Doctor (Minimum of 2)
8	Substance Abuse Procedure or Policy. Policy must be sign by CEO/MD (With review date)

Environmental constraints and management

The *Contractor* shall comply with the environmental criteria and constraints stated hereunder:

Ref	KPIs
1	**Pre-requisite** Is the acknowledgement of Eskom's SHE rules and requirements form (Annexure B) signed and a copy thereof attached to this tender submissions by the tenderer?
2	**Environmental Management Plan for the Scope of work addressing the following as a minimum:** **Applicable to low risk:** • Waste management (reduction, re-use, recycling, disposal). • Environmental induction.
3	**All: Environmental (or SHE/SHEQ) policy signed by Company Owner/CEO/MD:** Commitment to: (1) compliance to environmental compliance obligations; and (2) environmental duty of care.

Or

PART B

Ref	KPIs
1	Annexure B Is the acknowledgement of **Eskom's SHE rules** and requirements form **(Annexure B)** signed and submitted by the tenderer?
2	ISO 14001 Environmental Management Standard certificate.

Score:
0 = Document not submitted OR submitted but does not satisfy the minimum requirements
1 = Document submitted and the content satisfy the minimum requirements

Quality assurance requirements

The *Contractor* shall comply with the Quality criteria and constraints stated hereunder:

SECTION A: Quality Management System Requirements ISO 9001 (Option 1) Valid certification of Quality Management System by an ISO accredited body	
	Apply = 1
A.1 Product / Service Scoping on ISO 9001 certificate is defined and relevant	**0**
A.2 Certificate by Approved and Authorized certification authority	**0**
A3 Certification Authority has Recognized International Accreditation	**0**
A.4 Validity (expiry date) of certificate	**0**
Section A Score Option 1	**0**
SECTION A: Quality Management System Requirements ISO 9001 Objective evidence of documented QMS that is not certified but complies with ISO 9001	
	Apply = 1
A.1 QMS Manual or a document that defines and describes the QMS and its scope	**1**
A.2 Quality Policy Approved by top management.	**1**
A.4 Control of documented information (i.e., document and record control) Clause 7.5 of ISO9001:2015	1
A.6 Documented information for Nonconformity and Corrective action Clause 10.2 of ISO 9001:2015	1
A.7 Documented information for Internal audit Clause 9.2 of ISO 9001:2015	1
Section A Score Option 2	5
SECTION B: Evidence of QMS in operation (Tender Quality Requirements - Ref 240-105658000	
	Apply = 1
B.1 Documented information for defined roles, responsibilities and authorities - Organization chart and Responsibility matrix (must include but not limited to quality management function/role) (Clause 5.3 of ISO 9001:2015)	1
B.2 Documented information for Control of Externally Provided Processes, Products and Services - Must include criteria for evaluation, selection, monitoring of performance, and re-evaluation of external providers (Clause 8.4 of ISO 9001:2015	1
Section B Score	2
SECTION E: User defined additional Requirements & miscellaneous (Ref 240-105658000 Customer specific requirements & other standards and required can be listed and evaluated here	
	Apply = 1
E.1 Form A is completed and signed.	1

BBBEE and preferencing scheme

Specific Goals

A maximum of 10/20 points may be awarded to a tenderer for the specific goal specified for the tender. The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places. Subject to section 2(1)(f) of the Preferential Procurement Policy Framework Act, the contract must be awarded to the tenderer scoring the highest points.

B-BBEE Status Level of Contributor	Number of points (80/20 system)	Number of points (90/10 system)
1	20	10
2	18	9
3	14	6
4	12	5
5	8	4
6	6	3
7	4	2
8	2	1
Non-compliant contributor	0	0

NB: The following documents are required to claim preference points,

- Valid BBBEE certificate issued by a SANAS accredited verification agency or a valid sworn affidavit or a valid BBBEE Certificate issued by CIPC for EME companies or for joint ventures a valid BBBEE certificate issued by a SANAS accredited verification agency in the name of the joint venture.

NB: Supporting documents may be requested during evaluation (This list is not exhaustive):

- Proof of ownership / shareholding (CIPC registration documentation) inclusive of shareholding breakdown.
- ID copies of shareholder(s) or owner(s) of the business.
- Proof of Disability of owner(s) of the business (where applicable).

Tenderer failing to provide documentation for the allocation of preference points will not be disqualified, but'

- May only score point out of 80/90 for price.
- Scores 0 points out of 10/20 for specific goals.

Tenderers submitting B-BBEE Sworn Affidavits must ensure that the affidavits meet the following key pointers to ensure their validity:

- Name/s of deponent as they appear in the identity document and the identity number.
- Designation of the deponent as the **director**, **owner** or **member** must be indicated in order to know that person is duly authorised to depose of an affidavit. **(Mark the applicable option).**
- Name of enterprise as per enterprise registration documents issued by the CIPC, where applicable, and enterprise business address.
- Percentage of black ownership, black female ownership and designated group. In the case of specialised enterprises as per Statement 004, the percentage of black beneficiaries must be reflected. (**No blank spaces to be left**).

- Indicate total revenue for the year under review and whether it is based on **audited financial statements** or **management account**. **(Mark the applicable option).**
- Financial year end as per the **enterprise's registration documents**, which was used to determine the total revenue. (Financial year end to be stipulated by **day/month/year).**
- B-BBEE Status level. An enterprise can only have one status level. **(Tick applicable level).**
- Empowering supplier status must be indicated. For QSEs, the deponent must select the basis for the empowering supplier status.
- Date deponent signed and date of Commissioner of Oath must be the same. **(The sworn affidavit must be signed in the presence of the Commissioner of Oath. Furthermore, the Commissioner must also sign and stamp).**
- Commissioner of Oath cannot be an employee or ex officio of the enterprise because, a person cannot by law, commission a sworn affidavit in which they have an interest.

Skills Development.

Tenderers are required to submit proposals in a table below for developing the skills of unemployed candidates in the country. Skills development is intended to address Eskom's core, scarce and critical skills, and the scarce and critical skills. These skills are also included in a 2020 list of occupations in high demand as stipulated in the Government Gazette 43937.

Skill Type / Occupation	Eskom target
In Service Training - Operation of Camera	2
In Service Training – Identification of Defects	2
Helicopter Flying hours	2

The process of developing these skills shall involve the participation by tenderers directly and through their supply network. In certain cases, the SETA's accredited training providers can be approached to participate in developing critical and scarce skills.

Note:
That these targets for skills development candidates categorically exclude Eskom employees and registered learners. The tenderers are required to take full responsibility for the total cost of developing the requisite skills, and Eskom shall not make any financial contribution towards the fulfilment of this obligation. Tenderers also are advised to approach their relevant SETAs to access grants, subsidies, and incentives as well as South African Revenue Services for tax rebates that are earmarked for skills development initiatives.

SDL&I Penalty and Performance Security
For the duration of the contract, Eskom will retain 2.5% of every invoice (excluding VAT) as security for the fulfilment of all SDL&I Obligations. The retained amounts shall only be released to the Contractor upon:

- Eskom receives the SDL&I progress report/s from the contractor.
- Fulfilment of all SDL&I obligations by the contractor.
- Submission of an approved compliance report by SDL&I Department.

Reporting and Monitoring

- The suppliers shall on a **yearly** basis submit a report to Eskom in accordance with Data Collection Template on their compliance with the SDL&I obligations described above.
- Eskom shall review the SDL&I reports submitted by the suppliers within 30 (thirty) days of receipt of the reports and notify the suppliers in writing if their SDL&I obligations have not been met.
- Upon notification by Eskom that the suppliers have not met their SDL&I obligations, the suppliers shall be required to implement corrective measures to meet those SDL&I

obligations before the commencement of the following report, failing which Retention clauses shall be invoked.

- Every contract shall be accompanied by the SDL&I Implementation Schedule, which must be completed by the suppliers and returned to SDL&I representative for acceptance 28 days after contract award. This will be used as a reference document for monitoring, measuring and reporting on the supplier's progress in delivering on their stated SDL&I commitments .

Subcontracting

Subcontracting is mandatory on contracts above R30 million and is a condition for contract award.

If feasible tenderers shall subcontract a minimum of 15% of the contract value to the following designated groups:

- an EME or QSE which is at least 51% owned by black people.
- an EME or QSE which is at least 51% owned by black people who are youth.
- an EME or QSE which is at least 51% owned by black people who are women.
- an EME or QSE which is at least 51% owned by black people with disabilities.
- an EME or QSE which is 51% owned by black people living in rural or underdeveloped area or townships.
- a cooperative which is at least 51% owned by black people.
- a EME or QSE which is at least 51% owned by black people who are military veterans.

Subcontract documentation, and assessment of subcontract tenders

- Subcontracting agreement signed by both parties **or**
- Copies of signed letters from the tenderer to the sub-contractors stating the intent to sub-contract
- Subcontractors' Company registration documents
- Subcontractor's valid BBBEE certificate issued by a SANAS accredited verification agency or valid sworn affidavit or valid BBBEE Certificate issued by CIPC for EME companies.

Limitations on subcontracting

Potential scope to be subcontracted and/or outsourced:

- **AV Gas**

Subcontracting, in this instance, will be treated as a condition for contract award. A supplier awarded a contract may not subcontract more than 25% of the value of the contract to any other entity that does not have an equal or higher B-BBEE status level of a contributor than the supplier concerned unless the contract is subcontracted to an EME that has the capability and ability to execute the subcontract.

Task Order

Task Order form for use when work within the *service* is instructed to be carried out within a stated period of time on a Task by Task basis

Task Order No. **[●]** *service* .**[●]**

To: **[●]**.....
..... (*Contractor*)

I propose to instruct you to carry out the following task:

Description **[●]**

Starting date **[●]**

Completion Date **[●]**

Delay damages per week **[●]**

Please submit your price and programme proposals below.

Signed: Date

(for *Employer*)

Total of Prices for items of work on the Price List (details attached) R._____

Total of Prices for items of work not on the Price List (details attached). R._____

Total of the Prices for this Task Order R _____

The programme for the Task is ..... [ref] (attached)

Signed: Date

(for *Contractor*)

I accept the above price and programme and instruct you to carry out the Task

Signed: Date:

(for *Employer*)