



NEC3 Supply Contract (SC3)

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

and

**for Supply and delivery of Fall Arrest Systems, Rescue
Equipment/Kits to the Eastern Cape Operating Unit
on an "as and when required" basis**

Contents:	No of pages
Part C1 Agreements & Contract Data	[17]
Part C2 Pricing Data	[8]
Part C3 Scope of Work	[15]

CONTRACT No.

PART C1: AGREEMENTS & CONTRACT DATA

Contents:	No of pages
C1.1 Form of Offer and Acceptance	[3]
C1.2a Contract Data provided by the <i>Purchaser</i>	[11]
C1.2b Contract Data provided by the <i>Supplier</i>	[2]
C1.3 Forms of Securities	[1]

C1.1 Form of Offer & Acceptance

Offer

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

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.
---------------	---

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

Signature(s)

Name(s)

Capacity

For the tenderer:

(Insert name and address of organisation)

Name & signature of witness

Date

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

Acceptance

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

The terms of the contract, are contained in:

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

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

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

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

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

Signature(s)

Name(s)

Capacity

**for the
Purchaser**

Name &
signature of
witness

Date

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

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.

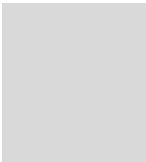
For the Schedule of Deviations reference is made to enclosed A and B schedules.

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

	For the tenderer:	For the Purchaser
Signature
Name
Capacity
On behalf of	<i>(Insert name and address of organisation)</i>
Name & signature of witness
Date

C1.2 SC3 Contract Data

Part one - Data provided by the *Purchaser*

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for Options	<p>NEC3 Supply contract with secondary clauses</p> <p>X1 Price adjustment for inflation</p> <p>X2 Changes in the law</p> <p>X4 Parent company guarantee or</p> <p>X13 Performance bond</p> <p>X7 Delay damages</p> <p>Z Additional conditions of the contract</p>
		
	of the NEC3 Supply Contract (December 2009) ²	
10.1	The <i>Purchaser</i> is (name):	Eskom Holdings SOC Limited (Reg No: 2002/015527/30), a juristic person incorporated in terms of the company laws of the Republic of South Africa
	Address	Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg
	Represented by	Lester Mackay
	Tel No.	021 980 3707
	Fax No.	086 664 2797
10.1	The <i>Supply Manager</i> is (name):	Noxolo Mabula
	Address	Sunilaws Office Park East london
	Tel	013 755 9154
	Fax	
	e-mail	mabulan@eskom.co.za

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

11.2(13)	The <i>goods</i> are	Supply and delivery of Fall Arrest Systems, Rescue Equipment/Kits to the Eastern Cape Operating Unit on an “as and when required” basis	
11.2(13)	The <i>services</i> are	Supply and delivery of Fall Arrest Systems, Rescue Equipment/Kits to the Eastern Cape Operating Unit on an “as and when required” basis	
11.2(14)	The following matters will be included in the Risk Register	<ol style="list-style-type: none"> 1. Refer to Typical Risks of the Safety Health and Environmental Specification. 2. Late delivery of goods 3. Incorrect handling and storage of goods 4. Quality of delivered goods 5. Quality of works 	
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 – Bill of Quantities	
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	5 days	
2	The <i>Supplier’s</i> main responsibilities	Data required by this section of the core clauses is provided by the <i>Supplier</i> in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data.	
3	Time		
30.1	The <i>starting date</i> is. The <i>end date</i> is		
30.1	The <i>delivery date</i> of the <i>goods</i> and <i>services</i> is:	<i>goods and services</i> 1 Completed goods and services as per purchase order	<i>delivery date</i> To be stipulated on the purchase order
30.2	The <i>Supplier</i> does not bring the <i>goods</i> to the Delivery Place more than one week before the Delivery Date.	Not Applicable	
31.1	The <i>Supplier</i> is to submit a first programme for acceptance within	10 working days of the Contract Date.	
32.2	The <i>Supplier</i> submits revised programmes at intervals no longer than	7 working days of the purchase order start date as per purchase order.	

4 Testing and defects		
42	The <i>defects date</i> is	52 weeks after Completion of the whole of the works.
43.2	The <i>defect correction period</i> is	2 weeks, unless the <i>Purchaser</i> and <i>Supplier</i> agree to a longer period.
42.2	The <i>defects access period</i> is	Maximum of 4 (four) weeks
5 Payment		
50.1	The <i>assessment interval</i> is	between the 25th and 31st day of each successive month.
51.1	The <i>currency of this contract</i> is the	South African Rand
51.2	The period within which payments are made is	As per Eskom payment terms listed against the vendor on the Eskom database from date of delivery/completion of the goods/works, and fulfilment of invoicing and payment requirements in part C3.1 Purchaser's Goods Information. Please note that no upfront payments will be done.
51.4	The <i>interest rate</i> is	<p>(i) zero percent above 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 (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	<ul style="list-style-type: none"> - Transportation damages - Road transport embargo Labour action <p>Additional risks will be managed by the parties as they arise.</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 premises. See notes in Annexure B
	The deductibles are	If this contract includes the supervision of installation, testing, commissioning or building work at the <i>Purchaser's</i> premises, the <i>Purchaser</i> also provides cover for physical loss of or damage to the <i>Purchaser's</i> 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:	Not applicable
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;

		<ul style="list-style-type: none"> • 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>Supplier'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	<p>The Contract Value</p> <p>(1) for the <i>Purchaser's</i> existing and surrounding property in the care, custody and control of the <i>Supplier</i> the amount of the deductible (first amount payable) relevant to the event described in the "Format A" / "Format B" / "Format Dx" insurance policy available on http://www.eskom.co.za/live/content.php?ItemID=9248</p> <p>and</p> <p>(2) for all other existing <i>Purchaser's</i> property the highest applicable deductible (first amount payable) namely:</p> <ol style="list-style-type: none"> 1. R15 million (fifteen million Rand) for Generation Division property; 2. R7.5 million (seven million five hundred thousand Rand) for Transmission Division property and; 3. R1 million (one million Rand) for Distribution Division and all other <i>Purchaser's</i> property <p>See notes in Annexure B</p>
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	
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:	Replacement value of the units
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	Replacement value of the units
88.5	The <i>end of liability date</i> is	As per warranties and guarantees

9		Termination and dispute resolution	
94.1	The <i>Adjudicator</i> is (Name)	the person selected from the Panel of Adjudicators listed in Annexure C to this Contract Data by the Party intending to refer a dispute to him.	
94.2(3)	The <i>Adjudicator nominating body</i> is:	the Chairman of ICE-SA, a Division of the South African Institution of Civil Engineering, or its successor body (See www.ice-sa.org.za)	
94.4(2)	The <i>tribunal</i> is:	arbitration	
94.4(5)	The <i>arbitration procedure</i> is	the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.	
94.4(5)	The place where arbitration is to be held is	South Africa	
	The person or organisation who will choose an arbitrator	the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.	
	- if the Parties cannot agree a choice or		
	- if the arbitration procedure does not state who selects an arbitrator, is		
10		Data for Option clauses	
X1		Price adjustment for inflation	
X1.1	The <i>base date</i> for indices is	The start date of the term contract. The prices will be fixed and firm rates for the first 12 months of the contract. At the anniversary date of the contract the prices will be adjusted by Contracts Management Services using the Consumer Price Index (CPI)SEIFSA. The relevant publications to be used are published by Statistics South Africa.	
X2		Changes in the law	
X2.1	A change in the law of	The Republic of South Africa is a compensation event if it occurs after the Contract Date	
X7		Delay damages	
X7.1	Delay damages for Delivery are	Delivery of	amount per day
		Delivery date per release order line.	R100.00 per order to a maximum of 15% of the release orders where after the employer may terminate.
Z	The additional conditions of contract are		Z1 to Z12 always apply for Eskom

Z1 Cession delegation and assignment

- Z1.1 The *Supplier* does not cede, delegate or assign any of its rights or obligations to any person without the written consent of the *Purchaser*.
- Z1.2 Notwithstanding the above, the *Purchaser* may on written notice to the *Supplier* cede and delegate its rights and obligations under this contract to any of its subsidiaries or any of its present divisions or operations which may be converted into separate legal entities as a result of the restructuring of the Electricity Supply Industry and the Electricity Distribution Industry.

Z2 Joint ventures

- Z2.1 If the *Supplier* constitutes a joint venture, consortium or other unincorporated grouping of two or more persons or organisations then these persons or organisations are deemed to be jointly and severally liable to the *Purchaser* for the performance of this contract.
- Z2.2 Unless already notified to the *Purchaser*, the persons or organisations notify the *Supply Manager* within two weeks of the Contract Date of the key person who has the authority to bind the *Supplier* on their behalf.
- Z2.3 The *Supplier* does not substantially alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without the consent of the *Purchaser* having been given to the *Supplier* in writing.

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

- Z3.1 Where a change in the *Supplier's* legal status, ownership or any other change to his business composition or business dealings results in a change to the *Supplier's* B-BBEE status, the *Supplier* notifies the *Purchaser* within seven days of the change.
- Z3.2 The *Supplier* is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the *Supply Manager* within thirty days of the notification or as otherwise instructed by the *Supply Manager*.
- Z3.3 Where, as a result, the *Supplier's* B-BBEE status has decreased since the Contract Date the *Purchaser* may either re-negotiate this contract or alternatively, terminate the *Supplier's* obligation to Provide the Goods and Services.
- Z3.4 Failure by the *Supplier* to notify the *Purchaser* of a change in its B-BBEE status may constitute a reason for termination. If the *Purchaser* terminates in terms of this clause, the procedures on termination are P1, P2 and P3 as stated in clause 92, and the amount due is A1 and A3 as stated in clause 93.

Z4 Ethics

- Z4.1 Any offer, payment, consideration, or benefit of any kind made by the *Supplier*, which constitutes or could be construed either directly or indirectly as an illegal or corrupt practice, as an inducement or reward for the award or in execution of this contract constitutes grounds for terminating the *Supplier's* obligation to Provide the Goods and Services or taking any other action as appropriate against the *Supplier* (including civil or criminal action).
- Z4.2 The *Purchaser* may terminate the *Supplier's* obligation to Provide the Goods and Services if the *Supplier* (or any member of the *Supplier* where the *Supplier* constitutes a joint venture, consortium or other unincorporated grouping of two or more persons or organisations) is found guilty by a competent court, administrative or regulatory body of participating in illegal or corrupt practices.

Such practices include making of offers, payments, considerations, or benefits of any kind or otherwise, whether in connection with any procurement process or contract with the *Purchaser* or other people or organisations and including in circumstances where the *Supplier* or any such member is removed from the an approved vendor data base of the *Purchaser* as a consequence of such practice.

Z4.3 Notwithstanding the provisions of core clause 90.2, the procedures on termination in terms of this clause are P1, P2 and P3 as stated in the core clause 92 and the amount due is A1 and A3 as stated in core clause 93.

Z5 Confidentiality

Z5.1 The *Supplier* does not disclose or make any information arising from or in connection with this contract available to Others. This undertaking does not, however, apply to information which at the time of disclosure or thereafter, without default on the part of the *Supplier*, enters the public domain or to information which was already in the possession of the *Supplier* at the time of disclosure (evidenced by written records in existence at that time). Should the *Supplier* disclose information to Others in terms of clause 23.1, the *Supplier* ensures that the provisions of this clause are complied with by the recipient.

Z5.2 If the *Supplier* is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the *Supply Manager*.

Z5.3 In the event that the *Supplier* is, at any time, required by law to disclose any such information which is required to be kept confidential, the *Supplier*, to the extent permitted by law prior to disclosure, notifies the *Purchaser* so that an appropriate protection order and/or any other action can be taken if possible, prior to any disclosure. In the event that such protective order is not, or cannot, be obtained, then the *Supplier* may disclose that portion of the information which it is required to be disclosed by law and uses reasonable efforts to obtain assurances that confidential treatment will be afforded to the information so disclosed.

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

Z6 Waiver and estoppel: Add to core clause 12.3:

Z6.1 Any extension, concession, waiver or relaxation of any action stated in this contract by the Parties, the *Supply Manager* or the *Adjudicator* does not constitute a waiver of rights, and does not give rise to an estoppel unless the Parties agree otherwise and confirm such agreement in writing.

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

Z8.1 Within one week of receiving a payment certificate from the *Supply Manager* in terms of core clause 51.1, the *Supplier* provides the *Purchaser* with a tax invoice in accordance with the *Purchaser's* procedures stated in the Goods Information, showing the amount due for payment equal to that stated in the payment certificate.

Z8.2 If the *Supplier* does not provide a tax invoice in the form and by the time required by this contract, the time by when the *Purchaser* is to make a payment is extended by a period equal in time to the delayed submission of the correct tax invoice. Interest due by the *Purchaser* in terms of core clause 51.2 is then calculated from the delayed date by when payment is to be made.

Z8.3 The *Supplier* (if registered in South Africa in terms of the companies Act) is required to comply with the requirements of the Value Added Tax Act, no 89 of 1991 (as amended) and to include the *Purchaser's* VAT number 4740101508 on each invoice he submits for payment.

Z9 Notifying compensation events

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

Z10 Purchaser’s limitation of liability

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

Z10.2 The *Supplier’s* entitlement under the indemnity in 83.1 is provided for in 60.1(12) and the *Purchaser’s* liability under the indemnity is limited.

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

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

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

Z12.1 If the amount due for the *Supplier’s* payment of delay damages reaches the limits stated in this Contract Data for Option X7, the *Purchaser* may terminate the *Supplier’s* obligation to Provide the Goods and Services using the same procedures and payment on termination as those applied for reasons R1 to R15 or R18 stated in the Termination Table.

Annexure A: Supply Requirements

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

The *Supplier* supplies the *goods* in accordance with INCOTERMS 2000³ as follows:

Group	Category	Term	Delivery Place
E	departure	DCE	Within the borders of South Africa

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

³ International Chamber of Commerce, Incoterms 2000, Paris, January 2000.

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

Annexure B: Insurance provided by the *Purchaser*

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:

http://www.eskom.co.za/live/content.php?Item_ID=9248

Annexure C: The Purchaser's Panel of Adjudicators

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

Name	Location	Contact details (phone & e mail)
Nigel ANDREWS	Gauteng	+27 11 836-6760 nigela@quin.net
Andrew BAIRD	Gauteng	+27 11 803 3008 andrewbaird@ecsconsult.co.za
Christopher BINNINGTON	Gauteng	+27 11 888-6141 cdb@bca.co.za
Peter HIGGINS	UK	+44 1293 873 868 peterhiggins@pdconsult.co.uk
Adv. Bruce LEECH	Gauteng	+27 11 290 4000 leech@counsel.co.za
Nigel NILEN	Gauteng	+27 11 465 3601; nilences@global.co.za
Robert St. LEGER	Cape Town	+27 21 794 7488 bobst@iafrica.com
Peter THURLOW	Gauteng	+27 11 787 6226 info@thurlowassoc.com

Information about the Panel and appointment of the selected *Adjudicator* is available from Eskom Supply Chain Operations management, by contacting Leighton Itholeng (Tel.: +27 (0)11 800 4031) (Fax :+27 (0)86 668 0419) E-mail: Leighton.Itholeng@eskom.co.za

C1.2 Contract Data

Part two - Data provided by the *Supplier*

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

Clause	Statement	Data				
10.1	The <i>Supplier</i> is (Name): Address Tel No. Fax No.					
11.2(8)	The Goods Information for the <i>Supplier's</i> design is in:	This contract, Part 3.1: Purchaser's Goods Information				
11.2(11)	The tendered total of the Prices is	Refer to C1.1 Form of Offer & Acceptance				
11.2(12)	The <i>price schedule</i> is in: Part 2	C2.2 Price Schedule				
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 <i>goods</i> and <i>services</i> is:	<table border="0"> <tr> <td style="text-align: center;"><i>goods and services</i></td> <td style="text-align: center;"><i>delivery date</i></td> </tr> <tr> <td style="text-align: center;">As per Purchase Order</td> <td style="text-align: center;">As per Purchase Order and stipulated lead times</td> </tr> </table>	<i>goods and services</i>	<i>delivery date</i>	As per Purchase Order	As per Purchase Order and stipulated lead times
<i>goods and services</i>	<i>delivery date</i>					
As per Purchase Order	As per Purchase Order and stipulated lead times					
31.1	The programme identified in the Contract Data is contained in:					

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> plus activity schedule	5

C2.1 Pricing Assumptions

The conditions of contract

How goods and services are priced and assessed for payment

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

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

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

Function of the Price Schedule

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

Preparing the price schedule

It will be assumed that the tendering supplier has read Pages 11 and 12 and Appendix 5 of the SC3 Guidance Notes before preparing the *price schedule*. Items in the *price schedule* may have been inserted by the *Purchaser* and the tendering supplier should insert any additional items which he considers necessary. Whichever party provides the items in the *price schedule* the total of the Prices is assumed to be fully inclusive of everything necessary to provide the Goods and Services as described at the time of entering into this contract.

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

2 If the *Supplier* has decided not to identify a particular item in the *price schedule* at the time of tender the cost to the *Supplier* of doing the work is assumed to be included in, or spread across, the other Prices and rates in the *price schedule* in order to fulfil the obligation to Provide the Goods and Services for the tendered total of the Prices.

3 There is no adjustment to lump sum prices in the *price schedule* if the amount, or quantity, of work within that lump sum item of *goods* or *services* later turns out to be different to that which the *Supplier* estimated at time of tender. The only basis for a change to the Prices is as a result of a compensation event. See Clause 60.1.

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

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

Format of the *price schedule*

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

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

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

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

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

C2.2 the *price schedule*

Notes

- Please note that the price above excludes VAT.
- Please note that the excel addendum for the price schedule should be completed in full.

Sap Number	DESCRIPTION	QTY	RATE	AMOUNT
0212810	FALL ARREST SYSTEM,POWERLINES SML D12700	ea		
0212821	FALL ARREST SYSTEM,POWERLINES MED D12700	ea		
0212822	FALL ARREST SYSTEM,POWERLINES LRG D12700	ea		
0212823	FALL ARREST SYSTEM,POWERLINES XLRG D12700	ea		
0212826	FALL ARREST SYSTEM, LIVE WORK SMALL D12701	ea		
0212828	FALL ARREST SYSTEM,LIVE WORK MED D12701	ea		
0212829	FALL ARREST SYSTEM,LIVE WORK LARGE D12701	ea		
0212830	FALL ARREST SYSTEM,LIVE WORK X/LRG D12701	ea		
0217951	RESCUE SYSTEM WORKING FROM HEIGHT D12703	ea		
0249906	RESCUE EQUIPMENT/KIT 20m D12704	ea		
0249907	RESCUE EQUIPMENT/KIT 30m D12704	ea		
0249909	FALL ARREST SYS,RETRACT POLY 2,5m D12705	ea		
0249911	FALL ARREST SYS,RETRACT POLY 3,5m D12705	ea		
0249913	FALL ARREST SYS,RETRACT POLY 5,5m D12705	ea		
0249914	FALL ARRESTSYS,RETRACST/WROPE2.5mD12706	ea		
0249916	FALL ARRESTSYS,RETRACST/WROPE3.5mD12706	ea		
0249917	FALL ARRESTSYS,RETRACST/WROPE5.5mD12706	ea		
0249918	FALL ARRESTSYS,GUIDEDINCL FLEX 5m D12707	ea		
0249919	FALL ARRESTSYS,GUIDEDINCL FLEX 10m D12707	ea		
0249920	FALL ARRESTSYS,GUIDEDINCL FLEX 15m D12707	ea		
0249923	FALL ARRESTSYS,GUIDEDINCL FLEX 20m D12707	ea		

0249931	FALL ARREST SYS, SUBS&AUX SMALL D12708	ea		
0249934	FALL ARREST SYS, SUBS&AUX MED D12708	ea		
0249935	FALL ARREST SYS, SUBS&AUX LARGE D12708	ea		
0249937	FALL ARREST SYS, SUBS&AUX X/LARGE D12708	ea		
	Delivery to Eastern Cape Sites	Per kg		

PART 3: SCOPE OF WORK

Document reference	Title	No of pages
	This cover page	1
C3.1	<i>Purchaser's</i> Goods Information	14

C3.1: PURCHASER'S GOODS INFORMATION

SHORT DESCRIPTION OF SCOPE OF WORK

1. Supply and delivery of Fall Arrest Systems and Rescue Equipment/Kits to the Eastern Cape Operating Unit on an "as and when required" basis for a period of 36 months.

FULL DESCRIPTION OF SCOPE OF WORK

2. Supply and delivery of Fall Arrest Systems and Rescue Equipment/Kits to the Eastern Cape Operating Unit on an "as and when required" basis for a period of 36 months.
3. The technical specification and technical evaluation criteria applicable to this scope of work are as follows:
 - a. 240-100979499 titled "Personal Protective Equipment for Work at Height Specification"
 - b. 240-171000545_D Desktop Technical Evaluation for Fall Arrest System
 - c. 240-171000577_1_D Desktop Technical Evaluation for Rescue Kits
 - d. 240-171000545_P Practical Technical Evaluation for Fall Arrest System
 - e. 240-171000577_1_P Practical Technical Evaluation for Rescue Kits
4. The following Buyer's Guide spec sheets provide details of the required FAS unit contents and applicable SANS standards per component:
 - a. D-DT-12700 Spec Sheet for Powerlines Fall Arrest Systems
 - b. D-DT-12701 Spec Sheet for Live Work Fall Arrest Systems
 - c. D-DT-12703 Spec Sheet for Rescue System Working from Heights
 - d. D-DT-12704 Spec Sheet for Rescue Equipment/Kits
 - e. D-DT-12705 Spec Sheet for Fall Arrest Systems, Retractable Polyamide Webbing
 - f. D-DT-12706 Spec Sheet for Fall Arrest Systems, Retractable Steel Wire Rope
 - g. D-DT-12707 Spec Sheet for Fall Arrest Systems, Guided Including Flex
 - h. D-DT-12708 Spec Sheet for Fall Arrest Systems, Substations and Auxillary
5. The prohibition notice with reference number "Dx/2025/0002.1" is applicable to this tender.
6. The technical evaluations will be split into two stages and the evaluation criteria applicable to each stage is as follows:
 - 6.1. Stage 1: Desktop Technical Evaluation
 - a. 240-171000545_D Desktop Technical Evaluation for Fall Arrest System
 - b. 240-171000577_1_D Desktop Technical Evaluation for Rescue Kits
 - 6.2. Stage 2: Practical Technical Evaluation
 - a. 240-171000545_P Practical Technical Evaluation for Fall Arrest System
 - b. 240-171000577_1_P Practical Technical Evaluation for Rescue Kits

Note: Only Bidders/Suppliers who have qualified on the desktop evaluation will be requested by the Buyer to submit samples.

SAP DETAILS FOR SCOPE OF WORK

7. The list of material and services is as tabulated below.

Item	SAP Number	Short Description	UoM
1	0212810	FALL ARREST SYSTEM,POWERLINES SML D12700	ea
2	0212821	FALL ARREST SYSTEM,POWERLINES MED D12700	ea
3	0212822	FALL ARREST SYSTEM,POWERLINES LRG D12700	ea
4	0212823	FALL ARREST SYSTEM,POWERLINES XLRG D12700	ea
5	0212826	FALL ARREST SYSTEM, LIVE WORK SMALL D12701	ea
6	0212828	FALL ARREST SYSTEM,LIVE WORK MED D12701	ea
7	0212829	FALL ARREST SYSTEM,LIVE WORK LARGE D12701	ea
8	0212830	FALL ARREST SYSTEM,LIVE WORK X/LRG D12701	ea
9	0217951	RESCUE SYSTEM WORKING FROM HEIGHT D12703	ea
10	0249906	RESCUE EQUIPMENT/KIT 20m D12704	ea
11	0249907	RESCUE EQUIPMENT/KIT 30m D12704	ea
12	0249909	FALL ARREST SYS,RETRACT POLY 2,5m D12705	ea
13	0249911	FALL ARREST SYS,RETRACT POLY 3,5m D12705	ea
14	0249913	FALL ARREST SYS,RETRACT POLY 5,5m D12705	ea
15	0249914	FALL ARRESTSYS,RETRACST/WROPE2.5mD12706	ea
16	0249916	FALL ARRESTSYS,RETRACST/WROPE3.5mD12706	ea
17	0249917	FALL ARRESTSYS,RETRACST/WROPE5.5mD12706	ea
18	0249918	FALL ARRESTSYS,GUIDEDINCL FLEX 5m D12707	ea
19	0249919	FALL ARRESTSYS,GUIDEDINCL FLEX 10m D12707	ea
20	0249920	FALL ARRESTSYS,GUIDEDINCL FLEX 15m D12707	ea
21	0249923	FALL ARRESTSYS,GUIDEDINCL FLEX 20m D12707	ea
22	0249931	FALL ARREST SYS, SUBS&AUX SMALL D12708	ea
23	0249934	FALL ARREST SYS, SUBS&AUX MED D12708	ea
24	0249935	FALL ARREST SYS, SUBS&AUX LARGE D12708	ea
25	0249937	FALL ARREST SYS, SUBS&AUX X/LARGE D12708	ea
26		Delivery to Eastern Cape Sites	per kg

TECHNICAL TENDER RETURNABLES AND EVALUATION STAGES

8. The technical evaluations will be structured into two stages namely a desktop evaluation (stage 1) followed by a practical evaluation (stage 2). Passing the desktop evaluation (stage 1) is a pre-requisite for moving forward to the practical evaluation.

Therefore, only Bidders/Suppliers who have qualified on the desktop evaluation will be requested by the Buyer to submit samples

STAGE 1: DESKTOP TECHNICAL EVALUATION RETURNABLES

The following documentation should be supplied by all Bidders/Suppliers as technical tender returnables for technical requirements.

9. Documentation Required for FAS Units

9.1. A package of manuals and documentation which will be supplied with each supplied FAS unit inclusive of:

- a. Warrantee information,
- b. User manual,
- c. Manufacturer/supplier contact details,
- d. Maintenance and cleaning requirements

9.2. Manufacturer's instructions (in the English language) for use, for maintenance and for periodic examination for each item/component of the **FAS unit** as per SABS EN 365 (SANS 50365) and other relevant standards.

9.3. Certificates of conformity for all the offered FAS components issued by an appropriately accredited third-party laboratory. **These conformity certificates should include the product code/model number as well as the manufacturer name for the unit/component being offered:**

- a. Conformity certificate to SABS EN 361 (SANS 50361), for fully body harness.
- b. Conformity certificate to SABS EN 355 (SANS 50355), for energy absorber/energy absorbing lanyard forming an integral part of the safety lanyard.
- c. Conformity certificate to SABS EN 354 (SANS 50354), for the lanyard forming an integral part of the safety lanyard.

Note1: If a single or double adjustable lanyard is offered as part of the submission, a test report which incorporates the adjustable safety lanyard and in effect tests the adjustment buckle is required. This is a weak point identified in the failure of other units when required to operate.

Note2: Floating pin design for the adjustment buckles on the safety lanyard or the work positioning lanyard, will be REJECTED.

- d. Conformity certificate to SABS EN 358 (SANS 50358), for webbing type work positioning lanyard.

Note2: Floating pin design for the adjustment buckles on the safety lanyard or the work positioning lanyard, will be REJECTED.

- e. Conformity certificate to SABS EN 795 (SANS 795), for the attachment straps and/or anchor device(s).
- f. Conformity certificate to SABS EN 362 (SANS 50362), for each type of connector e.g. Karabiners, pylon hooks, etc.
- g. Conformity certificates for all other components as per relevant national standards.

- 9.4. Completed Test Report Schedule as per provided template 240-171000545_TS Fall Arrest System Test Schedule. The test report schedule should include all components of the FAS offered regardless of size.
- 9.5. Annexure C of Invitation to Bid/ Invitation to Tender indicating which items (FAS units) are being tendered for.

10. Documentation Required for FAS Rescue Kits

- 10.1. A package of manuals and documentation which will be supplied with each supplied FAS Rescue equipment/kits inclusive of:
- a. Warrantee information,
 - b. User manual,
 - c. Manufacturer/supplier contact details,
 - d. Maintenance and cleaning requirements
- 10.2. Manufacturer's instructions (in the English language) for use, for maintenance and for periodic examination for each item/component of the **Rescue equipment/kit** as per SABS EN 365 (SANS 50365) and other relevant standards.
- 10.3. Certificates of conformity for all the offered Rescue equipment/kit components, issued by an appropriately accredited third-party laboratory. **These conformity certificates should include the product code/model number as well as the manufacturer name for the unit/component being offered:**
- a. Conformity certificate to SANS 50341/Pr EN 12841, for the Descender Device(s).
 - b. Conformity certificate to SANS 50362, for the Connectors.
 - c. Conformity certificate to SANS 50795, for the Anchor Device(s).
 - d. Conformity certificate to SANS 51891:1998, for the Harnesses — Low stretch kernmantle ropes.
 - e. Conformity certificate to SANS 12841, for the Descender Device(s).
 - f. Conformity certificates for all other components as per relevant national standards.
- 10.4. Completed Test Report Schedule as per provided template 240-171000577_1_TS Rescue Kits Test Schedule. The test report schedule should include all components of the Rescue equipment/kit offered regardless of size.
- 10.5. Annexure C of Invitation to Bid/ Invitation to Tender indicating which items (FAS Rescue Kits) are being tendered for.

STAGE 2: PRACTICAL EVALUATIONS

Note: Only Bidders/Suppliers who have qualified on the desktop evaluation will be requested by the Buyer to submit samples.

11. The following technical tender returnables are applicable to **qualifying** Bidders who have passed stage 1, for practical technical evaluation (stage 2):
 - 11.1. A complete sample of all the components of the full FAS being offered, for practical technical evaluation. The sample provided by the Bidder shall be free of charge to Eskom Holdings for the tender and shall not be returned to the Bidder at any stage of or post the conclusion of this tender.
 - 11.2. A Rescue equipment/kit being offered, for practical technical evaluation. The sample provided by the Bidder shall be free of charge to Eskom Holdings for the tender and shall not be returned to the Bidder at any stage of or post the conclusion of this tender.

The complete sample of the full FAS unit and Rescue equipment/kit being offered may be dropped off or couriered to Nosiphiwo Mtimba (043 703 5454) at the following Eskom Offices address between 07:30 to 16:00 from Monday to Friday:

***Eskom Sunilaws Office Park
Corner Of &, Bonza Bay Rd & Quenera Dr
East London
5241***

Contents

Drawings issued by the *Purchaser*

The *Purchaser* shall provide site-specific electrical reticulation drawings as and when required by the *Supplier*.

Drawing number	Revision	Title
	-	