

NEC3 Term Service Contract (TSC3)

Between **ESKOM ROTEK INDUSTRIES SOC Ltd**
(Reg No. _____)

and [Insert at award stage]
(Reg No. _____)

for **Installation and Management of Satellite tracking
system for 60 months (5 years)**

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

CONTRACT No. [Insert at award stage]

PART C1: AGREEMENTS & CONTRACT DATA

Contents:	No of pages
C1.1 Form of Offer and Acceptance	[•]
C1.2a Contract Data provided by the <i>Employer</i>	[•]
C1.2b Contract Data provided by the <i>Contractor</i>	[•]

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:

Installation and Management of Satellite tracking system for 60 months (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.

Option A	The offered total of the Prices exclusive of VAT is	Rate Based
	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:

N/A

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)

Dr Sitsabo Kuhlase

Capacity

**General Manager
Logistics Services**

**for the
Employer**

**Eskom Rotek Industries SOC Ltd.
Lower Germiston Road.
Cleveland.
2022**

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

Note:

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

No.	Subject	Details
1	[•]	Not Applicable
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:

Signature _____

Name _____

Capacity _____

On behalf of _____

Name & signature of witness _____

Date _____

For the Employer

Dr Sitsabo Kuhlase

General Manager

Logistics Services

Eskom Rotek Industries SOC Ltd.

Lower Germiston Road.

Cleveland.

2022.

C1.2 TSC3 Contract Data

Part one - Data provided by the *Employer*

[Instructions to the contract compiler: (delete these two notes in the final draft of a contract)]

1. Please read the relevant clauses in the conditions of contract before you enter data. The number of the clause which requires the data is shown in the left hand column for each statement however other clauses may also use the same data.
2. Some TSC3 options are always selected by Eskom Holdings SOC Ltd. The remaining TSC3 options are identified by shading in the left hand column. In the event that the option is not required select and delete the entire row. Where the following symbol is used “[●]” – data is required to be inserted relevant to the specific option selected.

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

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:	
		A: Priced contract with price list
	dispute resolution Option	W1: Dispute resolution procedure
	and secondary Options	
		X1: Price adjustment for inflation
		X2: Changes in the law
		X17: Low service damages
		X18: Limitation of liability
		X19: Task Order
		Z: Additional conditions of contract
	of the NEC3 Term Service Contract April 2013 ² (TSC3)	
10.1	The <i>Employer</i> is (name):	Eskom Rotek Industries SOC Ltd (Reg no: 1990/006897/30), a state owned company incorporated in terms of the company laws of the Republic of South Africa
	Address	Roshland Road Lower Germiston Road Rosherville

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

	Tel No.	011 629 4000
	Fax No.	N/A
10.1	The <i>Service Manager</i> is (name):	Nelisiwe Kubheka
	Address	Roshland Road Lower Germiston Road Rosherville 2094
	Tel	+27 11 621 3002
	Fax	N/A
	e-mail	KubhekNE@eskom.co.za
11.2(2)	The Affected Property is	Eskom Rotek Industries SOC Ltd, Logistics Services
11.2(13)	The <i>service</i> is	Installation and Management of Satellite Tracking System for 60 Months (5 years)
11.2(14)	The following matters will be included in the Risk Register	As provided in the Contract Data
11.2(15)	The Service Information is in	C3: Scope of Work and the Service Level Agreement
12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa
13.1	The <i>language of this contract</i> is	English
13.3	The <i>period for reply</i> is	1 (one) week
2	The Contractor's main responsibilities	
21.1	The <i>Contractor</i> submits a first plan for acceptance within	1 (one) week of the Contract Date
3	Time	
30.1	The <i>starting date</i> is.	Date of contract signature
30.1	The <i>service period</i> is	60 Months (5 years)
4	Testing and defects	
5	Payment	
50.1	The <i>assessment interval</i> is	between the 25th 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	30 days from date of invoice
51.4	The <i>interest rate</i> 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

6	Compensation events																								
7	Use of Equipment Plant and Materials																								
8	Risks and insurance																								
80.1	These are additional <i>Employer's</i> risks	<table><tr><th>Risk</th><th>Mitigation</th><th>Priority</th></tr><tr><td>1. Inability to measure turnaround time</td><td>Manual recording of data</td><td>Medium</td></tr><tr><td>2. Coal theft on-route to Power Stations</td><td>Coal truck seals being utilised</td><td>Medium</td></tr><tr><td>3. Route deviations from designated routes</td><td>Route monitors(patrollers)</td><td>Medium</td></tr><tr><td>4. Speed monitoring is compromised</td><td>Driver briefing on speeding at the beginning of each trip</td><td>Medium</td></tr><tr><td>5. After hours driving tracking is compromised</td><td>Control room calls to drivers</td><td>Medium</td></tr><tr><td>6. Protection of Eskom High Value assets</td><td>Secondary recovery devices are used in case of emergency to recover vehicles</td><td>Medium</td></tr></table>	Risk	Mitigation	Priority	1. Inability to measure turnaround time	Manual recording of data	Medium	2. Coal theft on-route to Power Stations	Coal truck seals being utilised	Medium	3. Route deviations from designated routes	Route monitors(patrollers)	Medium	4. Speed monitoring is compromised	Driver briefing on speeding at the beginning of each trip	Medium	5. After hours driving tracking is compromised	Control room calls to drivers	Medium	6. Protection of Eskom High Value assets	Secondary recovery devices are used in case of emergency to recover vehicles	Medium		
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10	Data for main Option clause																								
A	Priced contract with price list																								
20.5	The <i>Contractor</i> prepares forecasts of the final total of the Prices for the whole of the <i>service</i> at intervals no longer than	4 (four) weeks																							
11	Data for Option W1																								
W1.1	The <i>Adjudicator</i>	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).																							
	Address	[•]																							
	Tel No	[•]																							
		[•]																							

e-mail		
W1.2(3)	The <i>Adjudicator nominating body</i> 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 <i>tribunal</i> is:	arbitration
W1.4(5)	The <i>arbitration procedure</i> is The place where arbitration is to be held is 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 latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body. Johannesburg, South Africa 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 <i>base date</i> for indices is The proportions used to calculate the Price Adjustment Factor are:	12 (twelve) months after start		
		Proportion	Linked to index for	Index prepared by
		0.	[•]	[•]
		0.	[•]	[•]
		0.	[•]	[•]
		0.	[•]	[•]
		0.	[•]	[•]
		[•]	Non-adjustable	
		1.00		

X2	Changes in the law
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X17	Low service damages
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X17.1	<table border="1"> <thead> <tr> <th colspan="2">Service Level Table</th></tr> <tr> <th>Description</th><th>Damages per incident</th></tr> </thead> <tbody> <tr> <td>Supplier to comply with all Eskom's Vehicle Safety Specification</td><td>Failure to comply will result to 2.5% deducted from the monthly invoice</td></tr> <tr> <td>Supplier to comply with all the Eskom SHEQ mandatory requirements</td><td>Failure to comply will result to 2.5% deducted from the monthly invoice</td></tr> <tr> <td>Supplier to comply with all OBC requirements</td><td>Failure to comply will result to 2.5% deducted from the monthly invoice</td></tr> </tbody> </table>	Service Level Table		Description	Damages per incident	Supplier to comply with all Eskom's Vehicle Safety Specification	Failure to comply will result to 2.5% deducted from the monthly invoice	Supplier to comply with all the Eskom SHEQ mandatory requirements	Failure to comply will result to 2.5% deducted from the monthly invoice	Supplier to comply with all OBC requirements	Failure to comply will result to 2.5% deducted from the monthly invoice
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		invoice
X18	Limitation of liability	
X18.1	The <i>Contractor's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to	R0.0 (zero Rand)
X18.2	For any one event, the <i>Contractor's</i> liability to the <i>Employer</i> for loss of or damage to the <i>Employer's</i> property is limited to	The amount of the deductibles relevant to the event
X18.3	The <i>Contractor's</i> liability for Defects due to his design of an item of Equipment is limited to	The greater of - the total of the Prices at the Contract Date and - the amounts excluded and unrecoverable from the <i>Employer's</i> insurance (other than the resulting physical damage to the <i>Employer's</i> property which is not excluded) plus the applicable deductibles
X18.4	The <i>Contractor's</i> total liability to the <i>Employer</i> , for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	the total of the Prices other than for the additional excluded matters. The <i>Contractor's</i> total liability for the additional excluded matters is not limited. The additional excluded matters are amounts for which the <i>Contractor</i> is liable under this contract for - Defects due to his design, plan and specification, - Defects due to manufacture and fabrication outside the Affected Property, - loss of or damage to property (other than the <i>Employer's</i> property, Plant and Materials), - death of or injury to a person and - infringement of an intellectual property right.
X18.5	The <i>end of liability date</i> is	At the end of the contract
X19	Task Order	
X19.1	Identified and defined terms	Task Order issued to Contractor
X19.2	Providing the Services	Stipulated in the Employer Scope of Work
X19.4	Time	Monthly after services are provided, documents required: - Job Card and Schedule - Invoice
Z	The <i>additional conditions of contract</i> 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 4330196330 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 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 Subcontractors 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, to obtain a financial or other benefit or to avoid an obligation or incurring an obligation,

Obstructive Action means a Committing party unlawfully or illegally destroying, falsifying, altering or concealing information or making false statements to materially impede an investigation into allegations of Prohibited Action and,

Prohibited Action means any one or more of a Coercive Action, Collusive Action, Corrupt Action, Fraudulent Action, or Obstructive Action.

Z 11.1 A Committing Party may not take any Prohibited Action during the procurement of this contract or in execution thereof.

Z 11.2 The Employer may terminate the Contractor's obligation to Provide the Works 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 Works for this reason.

Z 11.3 If the Employer terminates the Contractor's obligations to Provide the Works for this reason, the procedures and amounts due on termination are respectively A

Z 11.4 A Committing Party co-operates fully with any investigation pursuant to alleged Prohibited Action. Where the Employer does not have contractual bond with the Committing Party, the Contractor ensures that the Committing Party co-operates fully with an investigation.

Z12 Insurance

Z12.1 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 require by this contract are in force.
- 83.2 The *Contractor* provides the insurance 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 <i>Contractor</i> to the <i>Employer's</i> property	The replacement cost where not covered by the <i>Employer's</i> insurance The <i>Employer's</i> policy deductible as at Contract Date, where covered by the <i>Employer's</i> insurance.
Loss of or damage to Plant and Materials	The replacement cost where not covered by the <i>Employer's</i> insurance. The <i>Employer's</i> policy deductible as at Contract Date, where covered by the <i>Employer's</i> insurance.
Loss of or damage to Equipment	The replacement cost where not covered by the <i>Employer's</i> insurance. The <i>Employer's</i> policy deductible as at Contract Date, where covered by the <i>Employer's</i> insurance.
The <i>Contractor's</i> liability for loss of or damage to property (except the <i>Employer's</i> property, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Contractor</i>) arising from or in connection with the <i>Contractor's</i> providing the Service	<u>Loss of or damage to property</u> The replacement cost <u>Bodily injury to or death of a person</u> The amount required by the applicable law.

Liability for death of or bodily injury to employees of the <i>Contractor</i> arising out of an in the course of their employment in connection with this contract.	The amount required by the applicable law.
---	--

Z12.2

Insurance by the Employer

Replace core clause 86 with the following:

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 limit 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.

C1.2 Contract Data

Part two - Data provided by the *Contractor*.

[Instructions to the contract compiler: (delete this notes before issue to tenderers with an enquiry)

Whenever a cell is shaded in the left hand column it denotes this data is optional and would be required in relation to the option selected. In the event that the option is not required select and delete the whole row.]

Notes to a tendering contractor:

1. Please read both the both the NEC3 Term Service Contract April 2013 and the relevant parts of its Guidance Notes (TSC3-GN)¹ in order to understand the implications of this Data which the tenderer is required to complete.
2. The number of the clause which requires the data is shown in the left-hand column for each statement however other clauses may also use the same data.
3. Where a form field like this [] appears, data is required to be inserted relevant to the option selected. Click on the form field **once** and type in the data. Otherwise complete by hand and in ink.

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

Clause	Statement	Data
10.1	The <i>Contractor</i> is (Name): Address Tel No. Fax No.	
11.2(8)	The <i>direct fee percentage</i> is	%
	The <i>subcontracted fee percentage</i> is	%
11.2(14)	The following matters will be included in the Risk Register	
11.2(15)	The Service Information for the <i>Contractor's</i> 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 <i>price list</i> is in _____
11.2(19)	The tendered total of the Prices is R _____

DRAFT

Part 2: Pricing Data

TSC3 Option A

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

DRAFT

C2.1 Pricing assumptions: Option A

1. 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 <i>price list</i> 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 <i>Contractor</i> has completed and - where a quantity is stated for an item in the Price List, an amount calculated by multiplying the quantity which the <i>Contractor</i> 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.

2. 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.

3. 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).

4. 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.

5. 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*

INSTALLATION AND MANAGEMENT OF TRACKING SYSTEM FOR A PERIOD OF FIVE YEARS

Hardware Rental Price + Monthly services	No. of Vehicles (60 Months)	Rate
Software monthly Licence Fee (Minimum 50 Users)	3000	
OBC Base Unit Only Rental Only	3000	
OBC Base Monthly Service Fee (Subject to CPI escalation)	3000	
OBC First Time installation Cost (Should be Normally Included but if not supply Cost per installation)	3000	
Tamper Switches (Min 4 Switches) (There is normally only a Hardware Cost Once Off) Display Price for 4 devices	3000	
Driver ID Tag (There is normally only a Hardware Cost Once Off)	3000	
Starter Cut Relay Hardware (There is normally only a Hardware Cost Once off)	3000	
Voice Kit with Microphone, speaker and call-me button integrated system. (No Bluetooth System)	3000	
Speed Buzzer (Once-off)	3000	
Installation cost of Accessories (Normally Inclusive on First Time Installation)	3000	
Monthly Recovery Service Fee per vehicle if not inclusive of monthly Service Fee (See ADHOC)	3000	
Cost for extended warranty per Unit	3000	
ADHOC ITEMS		
De- installation (This can be based on 3000 activities over the 5-year Period)	3000	
Re-installation (This can be based on 3000 activities over the 5-year Period)	3000	
DE installation and Reinstallation of OBC's to both vehicles at the same time (This can be based on 3000 activities over the 5-year Period)	3000	
Travelling costs per kilometre if any traveling outside of the declared areas need to be travelled	3000	
Safeguarding of the vehicle on breakdown	3000	
Non-Reporting unit repair	3000	
Recovery Service - This must be Per Hour i.e.: In case of an accident roadside assistance. Base it on 2500 HRS for total term of 60 Months	3000	

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

C3.1: EMPLOYER'S SERVICE INFORMATION

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1 Description of the service

1.1 Executive overview

Installation and Management of Satellite Tracking System for 60 Months (5 years), for Eskom Rotek Industries, Logistics Services, Fleet Management Department.

1.2 Employer's requirements for the service

Vehicles must be fitted with a device underpinned by the latest technology that is easy to fit, monitor and comprehensive in terms of information that it can generate according to the requirements of the complete scope of work and all the technical requirements.

Each vehicle / truck to be fitted with the following :

Section A – Hardware Specifications

1. On Board Computer (OBC) Hardware Specifications:

- Communication (2G-GPRS class 10, Quad Band: 850, 900, 1800, 1900 MHZ. 3G)
- GSM/GPRS/EDGE: 850,900,1899,1900 MHZ)
- Internal Multi band GSM antennae
- GLONASS has better accuracy at high latitudes.
- GSM Jamming detection
- Internal battery
- Power and ignition input 7-32V
- IP40 rated (min)
- 3D Accelerometer
- Unit Tamper Detection

2. Driver Behaviour Manoeuvres: (GPS)

- Speeding
- Harsh Brake
- Harsh Acceleration
- Harsh Turn
- Turn and Acceleration
- Turn & Brake
- Off Road
- Excessive RPM
- Impact or Crash detection

3. Emergency Data Recording

- Daily health reporting
- OTA (over air diagnostics) upgrades and diagnostics
- Vectors change reporting (Curve smoothing)
- Base unit must have not less than 4 inputs to accommodate all peripherals.
- Minimum of 2 fixed inputs and 2 configurable inputs

4. Reporting

- Two (2) minute or higher report rate
- Black Box data for accident analysis at minimum. 1 Second resolution at least 50

- seconds

5. Driver identification Tag

- Starters inhibit though relay's
- Driver Authorization
- Unauthorized driving alerts
- Driver Tag management
- Remote disable driver identification

6. Safety Peripherals

- Panic button can also use the call me facility
- Revolutions per minute (RPM) Sensing
- Power Take Off (PTO) Sensing (Must be able to disallow any PTO Engagement in a specified zone)
- True excessive Idling (Engine running detection)
- Starter inhibitor to prevent vehicle from starting after unit was removed by criminals

7. Bi-Directional "Push to Talk" Voice Kit

- Single or multi-numbering
- Call me button to that will alert control room on screen as well as pre-defined cell numbers
- Covert voice ability
- Device must be an integrated part of the OBC. No Bluetooth devices allowed
- Controlled Disclosure: Controlled Disclosure to external parties (either enforced by law, or discretionary)

8. In Cab driver feedback

- In Cab Speed buzzer
- In Cab Driver Tag Buzzer. Driver MUST Tag before Buzzer will stop

9. CANbus Capabilities (operational extra and not part of OBC base units)

- CANH (can high) & CANL (can low)
- J1939 & OBD2 support - adapters for any brand engine
- Contactless CAN adapter
- Diagnostic code reporting
- Standard reporting
- Speed
- RPM
- Odometer
- Fuel level
- Fuel consumption

10. Fuel Monitoring Capabilities (optional extra and not part of OBC base units)

- Ultrasonic Fuel Sensors (where CANbus is not available)
- Support up to 2 fuel tanks
- Fuel Usage and Consumption
- Fuel Level %

11. Mobile Data Terminal Capabilities (optional extra and not part of OBC base units)

- Task assignment acceptance
- Status update
- Text communication

- Navigation to tasks

12.Video Recorder (MDVR) Specifications Capability (optional extra and not part of the OBC base units)

- Capture and store all footage for a minimum of 4 days. (Footage downloadable upon request)
- Continuously record 24 hours period or ignition base
- In-cab audio to analysis, verify and monitor communication and other cabin sounds
- Remote hard disk capacities 1 TB
- Events stored for a minimum of 180 days
- Event based recording and storage namely: driver behaviour event; and emergency event buffering
- Evidence files to analysis footage for investigation
- Integration with OBCs events (Speeding (with severity bands), panic, impact, PTO and other events as and when required)

Section B - Software Technical Specifications**13.Security**

- Cloud platform – IP lock deployment – Lock user to configured IP addresses (Platform cannot be accessed externally if enabled)
- Permission based – down to user level
- User password expiry
- ERI to setup and remove users through In-house Administrator

14.Backups and redundancy

- High availability
- Always-on SQL DBs
- Parallel network infrastructure
- Data restoration

15.Access to platform

- Support all mainstream browsers
- Smartphone & Tablet – Native (Android, iOS) applications for Drivers and Fleet managers. Mobile web interface for other mobile OS's.

16.Integration Capabilities (optional extra and not part of OBC base units)

- Dedicated interface within platform that allows custom app development and deployment
- API (application programming interface) that allows integration with in-house ERP (enterprise resource planning) systems (SAP, Tswelopele, and 5D Truck simulator integration).

17.Administration & Platform configuration

- User groups
- Vehicle groups
- Vehicle service maintenance reminder
- Vehicle license renewal reminder
- Driver license expiry reminder PRDP
- Vehicle type/class
- Driver tag or fingerprint management

18.Map View

- Google maps (Vector, Street View, Satellite View)

19.Map Overlays

- Points of Interest

- Geo-fences
- Landmarks

Section C - Notifications/ Messages

20.Messages

- On Screen
- SMS Push Notifications through APP
- Email

21.Alert Management

- Power Cut
- Low Battery Warning
- Panic Alert
- Tamper Alert
- Crash/Impact Detection
- Unauthorized driving
- Speeding: (Road Sector, Geo-speed zones, general speed)
- PTO
- GPS antennae disconnect
- Geo-fence violations (In and Out of geo-fence)
- Specify alert severity
- Type of feedback required (none / optional / mandatory)
- Automatic assignment to vehicles option
- Define schedule of when the alert is active
 - Days of week
 - Time range
 - Shift Alerts

22.Reminders

- Vehicle license.
- Driver license; medical certificate; Eskom driver permit; Prdp.
- Upcoming service

Section D - Report Requirements

The Reports must have ability to be scheduled and emailed in any of the following formats: PDF, Excel, XML or CSV for the duration of the contract at no additional cost.

23.Minimum Standard Reports required

- Turn-around time analysis TAT Report- Development
- Congestion Reporting- Development
- Excessive Standing Time
- Unit uptime
- Fleet health
- Unauthorized PTO use
- Excessive idling
- Fatigue management
- Automated accident analysis & reconstruction directly after an accident

1.3 Interpretation and terminology

The following abbreviations are used in this Service Information:

Abbreviation	Meaning given to the abbreviation
ERI	Eskom Rotek Industries
LS	Logistics Services
SHEQ	Safety, Health, Environmental, Quality
RPM	Revolutions per minute
OTA	Over air diagnostics
PTO	Power take off
OBC	On Board Computing
TB	Terabyte
PPE	Personal Protective Equipment

2 Management strategy and start up.

2.1 The Contractor's plan for the service

In the TSC3 the *Contractor's* plan is his "design" for performing the *service* throughout the *service period*. Section 2 of the *conditions of contract* describes what the *Contractor* is to show in his plan both in the core clauses and some additional requirements in each of the main Options.

The extent of the *Contractor's* plan will depend on whether the *Contractor* is required to develop a plan in accordance with the *Employer's* broad outline of the *service* or whether the *Employer* has provided a plan for the *Contractor* to follow. Read the TSC3 Guidance Notes pages 21 and 22 for more information on the *Contractor's* plan.

Use this section to describe any particulars which must be taken into account by the *Contractor* in developing his plan as required by clause 21.2. For example information about the order and timing or method of carrying out particular items of work.

List technical reporting and scheduling requirements which are to be incorporated into the *Contractor's* plan.

2.2 Management meetings

The *conditions of contract* (e.g. Clause 16.2) and other sections of the Service Information (e.g. safety risk management) may require that a meeting shall be held. However the intention of all NEC contracts is that the Parties and their agents use the techniques of partnering to manage the contract by holding meetings designed to pro actively and jointly manage the administration of the contract with the objective of minimising the adverse effects of risks and surprises for both Parties.

Depending on the size and complexity of the *service*, it is probably beneficial for the *Service Manager* to hold a weekly risk register meeting (Clause 16.2). This could be used to discuss safety, compensation events, subcontracting, overall co-ordination and other matters of a general nature. Separate meetings for specialist activities such as planning and activities of a technical nature may also be warranted.

Describe here the general meetings and their purpose. Provide particulars of approximate times, days, location, and attendance requirements, stipulating that attendees shall have the necessary delegated authority to make decisions in respect of matters discussed at such meetings.

The following text could be used as a model for this section:

Regular meetings of a general nature may be convened and chaired by the *Service Manager* as follows:

Title and purpose	Approximate time & interval	Location	Attendance by:
Risk register and compensation events	Quarterly as per agreed date & time	Online / At Offices	Employer, Contractor & Contract Management
Overall contract progress and feedback	Monthly as per the agreed date & time	At Offices - Rosherville	<i>Employer, Contractor and Contract Management</i>
Daily updates	Daily in the mornings	Telephonically	Contractor
Weekly progress meetings	As per agreed on the day of the week	Online / At offices	Employer, Contractor & Contract Management

Meetings of a specialist nature may be convened as specified elsewhere in this Service Information or if not so specified by persons and at times and locations to suit the Parties, the nature and the progress of the *service*. Records of these meetings shall be submitted to the *Service Manager* 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.

2.3 Contractor's management, supervision and key people

State any additional constraining requirements on *Contractor's* supervision and key people that are not already stated in other sections such as for Health and Safety. This section could be used to solicit an organogramme from the *Contractor* showing his people and their lines of authority / communication. This would be essential if the *Contractor* is a Joint Venture.

2.4 Provision of bonds and guarantees

N/A

2.5 Documentation control

Specify how documentation will be identified with an alpha numeric which indicates source, recipient, communication number etc. Provide details of any particular format or other constraints; for example that all contractual communications will be in the form of properly compiled letters or forms attached to e mails and not as a message in the e mail itself. State any particular routing requirements but note from TSC3 who issues what to whom. The documentation to utilised will be as per the TSC3 contracts documentation

2.6 Invoicing and payment

The Z clauses make reference to invoicing procedures stated here in this Service Information. Also include a list of information which is to be shown on an invoice.

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
Eskom Rotek Industries SOC Ltd.
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 4330196330;
- Description of service provided for each item invoiced based on the Price List;
- Total amount invoiced excluding VAT, the VAT and the invoiced amount including VAT;
- (add other as required)

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

Invoices are to be submitted using the following email address: invoicserilocal85@eskom.co.za

Below are your invoice submission requirements:

- All Electronic invoices must be sent in PDF format only, no larger than 10mb.
- Only one PDF per mail, each PDF file must contain one invoice; or one credit note; etc. only, as Eskom ROTEK Industries SOC Ltd, SAP system does not support more than one PDF being linked into workflow at a time.
- Send all invoices in PDF straight from your system to Eskom ROTEK Industries SOC Ltd email address invoicserilocal85@eskom.co.za
- Subject line of your PDF invoice needs to read as follows:

Your Company Name; Your Vendor Number; Your Invoice number; Your Order Number.

Kindly ensure the following ERI details appear on all invoicing;

- Eskom ROTEK Industries SOC Ltd
- Registration Number: 1990/006897/30
- Vat Number: 4330196330
- Purchase order number (invoices with the incorrect order reference will be rejected)
- Physical address: Lower Germiston Road, Rosherville, Johannesburg
- Postal address: P O Box 40698, Cleveland, 2022 SA
- Telephone Number 011 621 3000

Ensure that the Eskom ROTEK Industries SOC Ltd Order number is clearly indicated on your invoice.

Kindly ensure the following details of Your Company (Contractor) appear on all invoicing;

- If you are a VAT registered vendor, kindly ensure your VAT number and address, appear on your invoice.
- Ensure if you are a registered Vat vendor that your invoice states "Tax Invoice"
- Ensure the detail of service or delivery is clearly stated on your invoice (description, quantity, nett value, vat, etc.) and that this does tie back to the order received from our procurement department.
- Banking details and your Vendor number must be quoted on your invoices when submitting.
- **Note** No hand written invoices will be accepted.

Supporting documentation attached to receipting

As a state owned entity we received a National Treasury instruction to attach the relevant supporting documentation (time sheets, proof of delivery, assessments, etc.) to goods receipting.

It is absolutely imperative for vendors to ensure that end users receive all the relevant supporting documentation to attach to their goods receipting in SAP.

Accounts Payable will park invoices where any goods receipting does not have relevant supporting documentation attached, meaning, no payment will be made.

If the goods receipt is not done the invoice will be parked. This is tracked by Eskom ROTTEK Industries SOC Ltd through weekly parked report distributions to all business units.

Your company can request a parked invoice report from the relevant Custodian of your account, which can then be followed up and corrected with the relevant end users.

You are welcome to forward the details of resolved invoices to the relevant Accounts Payable Assistant Officer and their Accounts Payable Officers.

It is in everybody's best interest to comply with the instruction note.

You do not require a goods receipt (GR) number to submit your invoices, although it has been found to be advantageous.

All queries and follow ups on status of submitted invoices or account status etc. should be made by contacting your allocated custodian or their Officer.

2.7 Contract change management

Any changes of company structures or names changes should be communicated to the Service Manager of this contract in writing.

2.8 Records of Defined Cost to be kept by the *Contractor*

If Option C or E applies first read clause 52.2 and then state whether the *Contractor* is required to keep any other records. Include any other constraint which may be required in regard to format and filing of the records, and whether access for the *Service Manager* shall be provided in hard copy or electronically.

Could delete if Option A applies unless the *Employer* requires some form of control over the *Contractor's* record keeping for the purpose of compensation event management.

2.9 Insurance provided by the *Employer*

First read TSC3 Core Clause 86.1 and then add anything necessary for the management of insurance related issues such as a cross reference to where procedures for making claims can be found. Also provide contact details for persons capable of being able to answer any insurance related queries the *Contractor* may have, as well as to whom the information required by Marine Insurance (if any) may be addressed.

2.10 Training workshops and technology transfer

Update and transfer knowledge of the system / installation as and when required.

2.11 Design and supply of Equipment

Hardware and software to be supplied by the Contractor as per the scope of work.

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

2.12.1 Equipment

The *Employer* may wish to use some of the Equipment used by the *Contractor* after the end of the *service period*. Clause 70.2 requires that details of such requirement be stated in the Service Information. Complete here or if not applicable retain the heading and state 'None'. None

2.12.2 Information and other things

Clause 70.2 requires that information and other things which the *Contractor* is to provide at the end of the *service period* be stated in the Service Information. N/A

2.13 Management of work done by Task Order

Only use this heading if Option X19 applies to this contract.

In some cases all work may be done in terms of Task Orders in which case it may be logical to move this section closer to the start of this part 2 of the Service Information. In some cases only parts of the *service* may require to be handled by Task Order, for example a major repair which has become necessary during a continuous maintenance service contract.

Please read Option X19 before drafting requirements here as much of the procedure for the administration of Task Orders is already provided in X19, for example X19.2 specifies what a task Order should include

A Task Order format could be provided in an Annexure to this Service Information.

Many considerations can apply to Task Orders, such as availability of resources, arrangements for emergency work, Task Order reporting (work carried out and service results), assessment of additional Prices for *service* not included in the Price List etc.

Clause X19.6 requires information which should be included on a Task Order programme. Further requirements for Task Orders include things to be provided by the *Employer* under a Task Order and the conditions under which the *Employer* or Others are to work.

3 Health and safety, the environment and quality assurance

3.1 Health and safety risk management

In addition to the requirements of the laws governing health and safety, Eskom may have some additional requirements particular to the *service* and the Affected Property for this contract. The text below provides for these being attached as an Annexure to this Service Information. PLEASE ALSO READ CORE CLAUSE 27.4 TOGETHER WITH Z7 IN THE ADDITIONAL CONDITIONS OF CONTRACT TO MAKE SURE THAT WHATEVER IS INCLUDED IN THE ANNEXURE FOLLOWS ON FROM THOSE CLAUSES.

The Divisional/Regional Safety Risk Manager or his representative having jurisdiction over the *service* must provide the relevant safety, health and environmental (SHE) criteria for incorporation into this Service Information. The SHE specification / scope must be signed off by the Divisional/Regional Safety Risk Manager or his representative confirming that the applicable safety criteria have been taken into account.

The Commodity Manager / Buyer must refer the tender to the Divisional/Regional Safety Risk Manager or his representative in order to evaluate against enquiry-specific safety criteria.

The SHEQ Business Partner who will be responsible for the allocation of resources to assist P&SCM with the above processes are as follows:

- Logistics Services: Sandhya Narainsingh

The *Contractor* shall comply with the health and safety requirements contained in Annexure _____A_____ to this Service Information.

3.2 Environmental constraints and management

Describe or cross refer to environmental constraints applicable to the *Contractor's* plan and his activities on the Affected Property and how they should be managed. Include here or cross refer to an Annexure to the Service Information.

The *Contractor* shall comply with the environmental criteria and constraints stated in Annexure __A_____

3.3 Quality assurance requirements

Specify minimum requirements for the *Contractor's* Quality Plan and Work Procedures or provide the *Employer's* Quality Plan if that is to be used. Make sure witness and hold points are identified generally and describe any particular requirements for QA outside the Affected Property. Indicate how the *Contractor's* QA documentation is to be submitted for acceptance and any conditions that need to be imposed relating to acceptance. State whether ISO compliance is a condition and if so which ISO standard shall apply.

4 Procurement

There is a cross reference from the core clause 11.2(6) definition of Disallowed Cost to the Service Information regarding procurement procedures. This part of the Service Information MUST include any such procedures to be able to administer Disallowed Cost.

4.1 People

4.1.1 Minimum requirements of people employed

Job Creation

The successful supplier must indicate the number of jobs to be created and / or retained as a direct result of this contract.

Skill Development

The successful supplier is obliged to develop skills through a bursary valued at R80 000.00 for every R4.8 million invoiced of the contract amount as per assigned ERI beneficiary.

4.1.2 BBBEE and preferencing scheme

Specify constraints which *Contractor* must comply with after contract award in regard to any Broad Based Black Economic Empowerment (B-BBEE) or preferencing scheme measures. N/A

4.1.3 Accelerated Shared Growth Initiative – South Africa (ASGI-SA)

Job Creation

The successful supplier must indicate the number of jobs to be created and / or retained as a direct result of this contract.

Skill Development

The successful supplier is obliged to develop skills through a bursary valued at R80 000.00 for every R4.8 million invoiced of the contract amount as per assigned ERI beneficiary.

4.2 Subcontracting

4.2.1 Preferred subcontractors

TSC3 does not make use of nominated subcontracting, but the *Employer* may list which subcontractors or suppliers the *Contractor* is required to enter into subcontracts with. This is usually only required where specialist services need to be obtained from a particular supplier or group of suppliers in order to comply with operational standards. N/A

4.2.2 Subcontract documentation, and assessment of subcontract tenders

Specify any constraints on how the *Contractor* is to prepare subcontract documentation, whether use of the NEC system is compulsory or not (compulsory is recommended) and how subcontract tenders are to be issued, received, assessed (using a joint report?) and awarded. N/A

4.2.3 Limitations on subcontracting

The *Employer* may require that the *Contractor* must subcontract certain specialised work, or that the *Contractor* shall not subcontract more than a specified proportion of the whole of the contract. N/A

4.2.4 Attendance on subcontractors

State requirements for attendance on Subcontractors, if any N/A

4.3 Plant and Materials

4.3.1 Specifications

Plant and Materials are defined as items intended to be included in the Affected Property. This will refer to replacement of worn or defective parts, routine replacement as part of regular preventative maintenance and supply of spare parts. Quality is usually designed in or specified in the technical specifications. However to cover circumstances where quality may not be prescribed, this sub-paragraph could also be used to state an overarching default requirement – fitness for purpose etc.

Either specify here or provide a list of the applicable specifications and attach them as Annexure or state where they can be obtained from. (Upon site inspection it shall be confirmed)

4.3.2 Correction of defects

State any constraints when dealing with defective Plant and Materials such as how repairs are carried out - can the item be fixed up or must it be replaced by a new one. (Fixed up as they arise)

4.3.3 Contractor's procurement of Plant and Materials

Specify any constraints on how the *Contractor* is to order, codify, expedite, freight, import, transport to the Affected Property and any other requirements for delivery and storage before installation. The *Employer* may require warranties from suppliers to be in favour of the *Employer* and not just to the *Contractor*. The *Employer* may also need schedules of vendor data for his own use after the end of the *service period*.

4.3.4 Tests and inspections before delivery

Core Clause 41.1 makes reference to the Service Information stating which Plant and Materials are to be inspected and tested before delivery. Specify any requirements particularly if such tests and inspections are to be carried out by agents of the *Employer* overseas. N/A

4.3.5 Plant & Materials provided “free issue” by the Employer

List any Plant and Materials which are to be provided by the *Employer*.

State arrangements for collection by *Contractor* or delivery by others on behalf of the *Employer*, off loading, inspection, storage, care custody and control, return of unused Plant and Materials, etc. Always include a statement to the effect that ‘all other Plant and Materials are to be provided by the *Contractor*’. N/A

4.3.6 Cataloguing requirements by the Contractor

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

5 Working on the Affected Property

This part of the Service Information addresses constraints, facilities, services and rules applicable to the *Contractor* whilst he is doing work on the Affected Property.

5.1 Employer's site entry and security control, permits, and site regulations

The Contractor and its representatives relevant to this contract will undergo Induction from ERI, Logistics Services at the commencement of the contract.

The Contractor and the representatives will sign the register at the ERI Logistics Services Reception when installation of units are made at the Rosherville or any other Logistics Services site.

The Contractor will wear the correct PPE when on site, PPE will consist of :

Reflective Vest for visibility

Safety shoes

Identification

5.2 People restrictions, hours of work, conduct and records

Restrictions and hours of work may apply on some sites. It is very important that the *Contractor* keeps records of his people working on the Affected Property, including those of his Subcontractors. State that the *Service Manager* shall have access to them at any time. These records may be needed when assessing compensation events.

5.3 Health and safety facilities on the Affected Property

Section 3 deals with contractual H & S requirements in addition to those of the OHSA Act. This section allows the *Employer* to state what measures are to be taken on the Affected Property by describing where First Aid facilities provided by the *Employer* are located and any other emergency arrangements.

First Aid boxes and Fire Extinguishers are placed on site and in all administration building

5.4 Environmental controls, fauna & flora

This sub-paragraph may not be required in a service contract or if these matters are dealt with in the general environmental requirements referred to in section 3 above.

5.5 Cooperating with and obtaining acceptance of Others

This sub-paragraph could be used to deal with two issues.

1) The cross reference from core clause 25.1 about cooperation generally as well as details about Others with whom the *Contractor* may be required to share the Affected Property. See clause 11.2(9) for the definition of Others.

2) Requirements for liaison with and acceptance from statutory authorities or inspection agencies. N/A

5.6 Records of Contractor's Equipment

This sub-paragraph is intended to address how records are to be kept of Equipment on Site including whether it is owned or hired. Include any constraints about scaffolding, rigs, heavy lifts and cranes, including removal from the Affected Property.

5.7 Equipment provided by the *Employer*

Provide details of equipment (e.g. overhead cranes) made available for use by the employer and set out conditions relating thereto.

5.8 Site services and facilities

5.8.1 Provided by the *Employer*

This is a mandatory cross reference from clause 25.2 in TSC3. State what the *Employer* will provide in the way of power, water, waste disposal, telecomms, ablutions, fire protection and lighting (etc) on the Affected Property. Give hook up locations and any constraints on how the hook up is to be done. Always conclude by stating that the *Contractor* shall provide everything else necessary for Providing the Service.

5.8.2 Provided by the *Contractor*

Describe what the *Contractor* is to provide in the way of accommodation, laboratories, storage, vehicles and office equipment for the *Service Manager* and any restrictions or minimum requirements concerning the *Contractor's* own facilities. Also state what happens to these facilities upon completion of the contract.

5.9 Control of noise, dust, water and waste

State requirements, if any.

5.10 Hook ups to existing works

State any constraints

5.11 Tests and inspections

5.11.1 Description of tests and inspections

Describe the tests and inspections to be carried out by the *Contractor* and the *Service Manager* and others [40.1].

5.11.2 Materials facilities and samples for tests and inspections

State what materials facilities and samples for tests and inspections the *Contractor* and the *Employer* are to provide, per core clause 40.2.

6 List of drawings

6.1 Drawings issue by the *Employer*

This is the list of drawings issued by the *Employer* at or before the Contract Date and which apply to this contract.

Drawing number	Revision	Title

CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement ('Agreement') is entered into between the Employer and the Contractor.

WHEREAS, the Employer and the Contractor (the Parties) desire to exchange certain confidential information; and consider further business dealings with each other.

WHEREAS, the parties desire to evidence their agreements governing the exchange of certain confidential information as set forth below.

Now therefore, for good and valuable consideration, including the mutual agreements hereinafter recited, the parties hereby agree as follows:

1. The parties contemplate an exchange, either orally, in writing or by inspection, of certain confidential proprietary information possessed or owned separately by them and not readily available or otherwise known to the public and which may be helpful in evaluating further business dealings. Such confidential information (the 'Subject Information') may include but not be limited to the parties' inventions, trade secrets, know-how, technical information on products and manufacturing processes, and information concerning their business assets, financial condition, operations, plans and prospects.
2. The purpose of the exchange of Subject Information is to enable the parties to evaluate the Subject information for the purpose only of considering further business dealings with each other.
3. The parties each agree that they shall maintain in secrecy in accordance with the terms of this Agreement all of the Subject Information each party receives (the 'Receiving Party') from the other party (the 'Proprietor') and shall not disclose or use other than for the purpose specified herein the Subject Information without the written consent of the Proprietor of the Subject Information. All Subject Information communicated from one party to the other shall be deemed to be proprietary and confidential to the Proprietor whether marked or identified as such or not.
4. The duty of care to safeguard Subject Information shall be the same as that which the parties each use to safeguard their own respective proprietary and confidential information.
5. The Receiving Party of Subject Information shall not be obligated to maintain Subject Information received from its Proprietor in secrecy or refrain from using it to the extent that any such information is or rightfully becomes publicly available information other than through a breach of this Agreement, or which the Receiving Party later obtains lawfully from anyone else who is not known by the Receiving Party to be obligated under any secrecy agreement with Proprietor to maintain the information in secrecy. The Receiving Party also shall not be obligated to maintain in secrecy any information it receives from the Proprietor which it can demonstrate was already in its possession when the information was disclosed to the Receiving Party by the Proprietor.
6. The Receiving Party shall promptly return to its Proprietor any Subject Information in tangible form it has received from the Proprietor immediately upon the Proprietor's request, without retaining any copies, summaries, analyses or extracts thereof. All documents, memoranda,

notes and other writings prepared by the parties, or their advisors, based on the Subject Information of each other, shall be destroyed, and such destruction shall be certified in writing by an authorised officer supervising such destruction.

7. If a party, with the written consent of the Proprietor of Subject Information, discloses any Subject Information received from its Proprietor to any third party, it shall do so only under a secrecy agreement having a scope similar to and which is consistent with this Agreement, and the disclosing party shall be primarily responsible for any compromise of the secrecy of Subject Information by such third party
8. Each party agrees that it shall not, while and for so long as it is obligated to maintain Subject Information in secrecy, use for its own benefit, or for the benefit of others or exploit, commercialise, develop, test promote, sell, lease, market or otherwise dispose of any products or services using, incorporating or relying on Subject Information received from its Proprietor without the written consent of the Proprietor.
9. The obligations of the party receiving Subject Information pursuant to this Agreement shall be effective with respect of each item of Subject Information for a term of five (5) years from the date of submission of the Subject Information to the Receiving Party by its Proprietor, unless the Proprietor agrees otherwise in writing.
10. For purposes of this Agreement, each party shall include (to the extent applicable) the officers, directors, employees, agents, representatives, attorneys, joint ventures, partnerships, affiliates, subsidiaries, and divisions of the party, and any other entity or entities which such party controls or which controls it, and, further, shall include any transferee, successor and assign of the assets of the party.
11. This Agreement shall be construed (both as to validity and performance) and enforced in accordance with, and governed by, the laws of Republic of South Africa.
12. Neither this Agreement nor the exchange of Subject Information between the parties shall create or be relied on by either party as a basis for creating any license between the parties under any patent, or other industrial or intellectual property rights of the Proprietor of the Subject Information, or any other license between the parties in the absence of any express written license agreement between them
13. The parties agree that no contract or agreement providing for a transaction shall be deemed to exist between them unless and until a definitive agreement has been executed and delivered, the parties hereby waive, in advance, any claim (including, without limitation, breach of contract) in connection with a possible transaction with each other unless and until they shall have entered into a definitive agreement. The parties also agree that unless and until a definitive agreement between them has been executed and delivered, neither party has any legal obligation of any kind whatsoever with respect to any such transaction by virtue of this Agreement or any other written or oral expression with respect to such transaction, except, in the case of this Agreement, for the matters specifically agreed to herein. For purposes of this paragraph, the term 'definitive agreement'; does not include an executed letter of intent, memorandum of understanding.

IN WITNESS WHEREOF, and intending to be legally bound, this Agreement has been executed by the parties as of and effective from the date first written above.