

**DESCRIPTION:** The Provision of Physical Security Service for Eskom Rotek Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

## NEC3 Term Service Contract (TSC3)

**Between Eskom Rotek Industries SOC Ltd  
(Reg No. 1990/006897/30)**

**and tbc**

**for The Provision of Physical Security Service for  
Eskom Rotek Industries Packages at Duvha, Kusile  
and Tutuka Power Stations over a period of One Year  
(12 months) on as and when required basis**

---

**Contents:**

**No of  
pages**

**Part C1 Agreements & Contract Data**

**Part C2 Pricing Data**

**Part C3 Scope of Work**

---

**CONTRACT No. tbc after contract award**

---

**DESCRIPTION:** The Provision of Physical Security Service for Eskom Rotek Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

## **PART C1: AGREEMENTS & CONTRACT DATA**

---

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

---

**DESCRIPTION:** The Provision of Physical Security Service for Eskom RoteK Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

## C1.1 Form of Offer & Acceptance

### Offer

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

**The Provision of Physical Security Service for Eskom RoteK Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis**

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

By the representative of the tenderer, deemed to be duly authorised, signing this part of this Form of Offer and Acceptance the tenderer offers to perform all of the obligations and liabilities of the *Contractor* under the contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the *conditions of contract* identified in the Contract Data.

Options A	The offered total of the Prices exclusive of VAT	<b>R</b>
	Value Added Tax @ 15%	<b>R</b>
	The offered total of the amount due inclusive of VAT	<b>R</b>
	<b>(in words)</b>	

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  
Contractor:**

Name &  
signature of  
witness

Date:

**DESCRIPTION:** The Provision of Physical Security Service for Eskom RoteK Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

## Acceptance

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

The terms of the contract, are contained in:

Part C1	Agreements and Contract Data, (which includes this Form of Offer and Acceptance)
Part C2	Pricing Data
Part C3	Scope of Work: Service Information

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

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

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

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

Signature(s)

Name(s)

Capacity

for the  
Employer

Eskom RoteK Industries (SOC) Ltd  
Lower Germiston Rd, Rosherville,  
Johannesburg, 2090

Name &  
signature of  
witness

Date:

**DESCRIPTION:** The Provision of Physical Security Service for Eskom RoteK Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

### 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

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.

<b>For the Contractor:</b>	<b>For the Employer</b>
Signature .....	.....
Name .....	.....
Capacity .....	.....
On behalf of .....	Eskom RoteK Industries (SOC) Ltd Lower Germiston Rd, Rosherville, Johannesburg, 2090
Name & signature of witness .....	.....
Date .....	.....

**DESCRIPTION:** The Provision of Physical Security Service for Eskom Rotek Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

## C1.2 TSC3 Contract Data

### Part one - Data provided by the *Employer*

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

Clause	Statement	Data
1	<b>General</b>	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:	
		<b>A: Priced contract with price list</b>
	dispute resolution Option	<b>W1: Dispute resolution procedure</b>
	and secondary Options	
		<b>X2 Changes in the law</b>
		<b>X18: Limitation of liability</b>
		<b>X19: Task Order</b>
		<b>Z: Additional conditions of contract</b>
	of the NEC3 Term Service Contract April 2013 (TSC3)	
10.1	The <i>Employer</i> is (name):	<b>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</b>
	Address	<b>Roshland Office Park Lower Germiston Road Rosherville</b>
	Tel No.	<b>+27 11 629 8000</b>
	Fax No.	<b>N/A</b>
10.1	The <i>Service Manager</i> is:	<b>Joseph Ledwaba</b>
	Address	<b>Lower Germiston Road Rosherville Johannesburg 2094</b>
	Tel	<b>+27 11 629 8000</b>

**DESCRIPTION:** The Provision of Physical Security Service for Eskom Rotek Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

e-mail

[LedwabJR@eskom.co.za](mailto:LedwabJR@eskom.co.za)

11.2(2)	The Affected Properties are	Duvha Power Station Kusile Power Station Tutuka Power Station
11.2(13)	The <i>service</i> is	The Provision of Physical Security Service for Eskom Rotek Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis.
11.2(14)	The following matters will be included in the Risk Register	1.1 Subject to discussions at Weekly Security Operational Management Meetings and the Updating of the Risk Register 1.2 Theft 1.3 Unauthorised Access 1.4 Vandalising of ERI Assets and Furniture 1.5 Community unrest
11.2(15)	The Service Information is in	Part 3: Scope of Work and all documents which it refers.
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	<b>The Contractor's main responsibilities</b>	Data required by this section of the core clauses is also provided by the <i>Contractor</i> in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data
21.1	The <i>Contractor</i> submits a first plan for acceptance within	One week of the signing of the Contract
3	<b>Time</b>	
30.1	The <i>starting date</i> is.	01 June 2025
30.1	The <i>service period</i> is	12 Months
5	<b>Payment</b>	
50.1	The <i>assessment interval</i> is	25 <sup>th</sup> 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.
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

**DESCRIPTION:** The Provision of Physical Security Service for Eskom Rotek Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

6	<b>Compensation events</b>	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	<b>Use of Equipment Plant and Materials</b>	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	<b>Risks and insurance</b>	
80.1	These are additional <i>Employer's</i> risks	<b>No additional Risks</b>
83.1	The <i>Employer</i> provides these insurances from the Insurance Table	<b>as stated for "Format TSC3" available on <a href="http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx">http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx</a> (See Annexure A for basic guidance).</b>
83.1	The <i>Employer</i> provides these additional insurances	<b>as stated for "Format TSC3" available on <a href="http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx">http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx</a> (See Annexure A for basic guidance)</b>
83.1	The <i>Contractor</i> provides these additional insurances:	<b>None</b>
83.1	The minimum amount of cover for insurance against loss and damage caused by the <i>Contractor</i> to the <i>Employer's</i> property is	<b>the amount of the deductibles relevant to the event described in the "Format TSC3" insurance policy available on <a href="http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx">http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx</a></b>
83.1	The insurance against loss of or damage to the <i>works</i> , Plant and Materials is to include cover for Plant and Materials provided by the <i>Employer</i> for an amount of	<b>None</b>
83.1	The minimum amount of cover for insurance in respect of 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 for any one event is:	<b>whatever the <i>Contractor</i> deems necessary in addition to that provided by the <i>Employer</i>.</b>
83.1	The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the <i>Contractor</i> arising out of and in the course of their employment in connection with this contract for any one event is:	<b>As prescribed by the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 and the <i>Contractor's</i> common law liability for people falling outside the scope of the Act with a limit of Indemnity of not less than R500 000 (Five hundred thousand Rands).</b>



**DESCRIPTION:** The Provision of Physical Security Service for Eskom Rotek Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

<b>9</b>	<b>Termination</b>	<b>Notice Period – 30 Days</b>
<b>10</b>	<b>Data for main Option clause</b>	
<b>A</b>	<b>Priced contract with price list</b>	
20.5	The <i>Contractor</i> prepares forecasts of the final total of the Prices for the whole of the service at intervals no longer than	<b>4 weeks.</b>
<b>11</b>	<b>Data for Option W1</b>	
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 <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a> ). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).
W1.2(3)	The <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 <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a> ) or its successor body.
W1.4(2)	The <i>tribunal</i> is:	<b>arbitration</b>
W1.4(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.
	The place where arbitration is to be held is	<b>Johannesburg, South Africa</b>
	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	<b>the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.</b>
<b>12</b>	<b>Data for secondary Option clauses</b>	
<b>X2</b>	<b>Changes in the law</b>	<b>There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.</b>
<b>X18</b>	<b>Limitation of liability</b>	
X18.1	The <i>Contractor's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to	<b>To the Value of the Task Order</b>
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	<b>the amount of the deductibles relevant to the event described in the "Format TSC3" insurance policy available on</b>

**DESCRIPTION:** The Provision of Physical Security Service for Eskom Rotek Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

	limited to	<a href="http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx">http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx</a>
X18.3	The <i>Contractor's</i> liability for Defects due to his design of an item of Equipment is limited to	<p><b>The greater of</b></p> <p><b>the total of the Prices at the Contract Date and</b></p> <p><b>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 in the <i>Employer's</i> assets and works / maintenance policies available on</b></p> <p><a href="http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx">http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx</a></p>
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	<p><b>the total of the Prices other than for the additional excluded matters.</b></p> <p><b>The <i>Contractor's</i> total liability for the additional excluded matters is not limited.</b></p> <p><b>The additional excluded matters are amounts for which the <i>Contractor</i> is liable under this contract for</b></p> <p><b>Defects due 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.</b></p>
X18.5	The <i>end of liability date</i> is	<b>12 months after the end of the <i>service period</i> per task order</b>
<b>X19</b>	<b>Task Order</b>	
X19.5	The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within	<b>5 days of receiving the Task Order</b>
<b>Z</b>	<b>The <i>additional conditions of contract</i> are</b>	<b>Z1 to Z15 always apply.</b>
<b>Z1</b>	<b>Cession delegation and assignment</b>	
Z1.1	The <i>Contractor</i> does not cede, delegate or assign any of its rights or obligations to any person without the written consent of the <i>Employer</i> .	
Z1.2	Notwithstanding the above, the <i>Employer</i> may on written notice to the <i>Contractor</i> 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 because of the restructuring of the Electricity Supply Industry.	
<b>Z2</b>	<b>Joint ventures</b>	
Z2.1	If the <i>Contractor</i> 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 <i>Employer</i> for the performance of this contract.	
Z2.2	Unless already notified to the <i>Employer</i> , the persons or organisations notify the <i>Service</i>	

**DESCRIPTION:** The Provision of Physical Security Service for Eskom Rotek Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

*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 Ethics**

- Z4.1 Any offer, payment, consideration, or benefit of any kind made by the *Contractor*, 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 *Contractor's* obligation to Provide the Service or taking any other action as appropriate against the *Contractor* (including civil or criminal action).
- Z4.2 The *Employer* may terminate the *Contractor's* obligation to Provide the Service if the *Contractor* (or any member of the *Contractor* where the *Contractor* 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 *Employer* or other people or organisations and including in circumstances where the *Contractor* or any such member is removed from an approved vendor data base of the *Employer* because 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 P4 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 *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.
- Z5.2 If the *Contractor* is uncertain about whether any such information is confidential, it is to be

**DESCRIPTION:** The Provision of Physical Security Service for Eskom Rotek Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

regarded as such until notified otherwise by the *Service Manager*.

- Z5.3 If 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. If 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.
- Z5.4 The taking of images (whether photographs, video footage or otherwise) of the Affected Property or any portion thereof, while 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*.
- Z5.5 The *Contractor* 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 *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.

**Z7 Health, safety and the environment: Add to core clause 27.4**

- Z7.1 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 enough 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.
- Z7.2 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.

**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 *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.
- Z8.2 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.
- Z8.3 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

**DESCRIPTION:** The Provision of Physical Security Service for Eskom Rotek Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

include the *Employer's* VAT number 4330196330 on each invoice he submits for payment.

## **Z9 Notifying compensation events**

Z9.1 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.

## **Z10 Employer's limitation of liability**

Z10.1 The *Employer's* liability to the *Contractor* for the *Contractor's* indirect or consequential loss is limited to R0.00 (zero Rand)

Z10.2 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.

## **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 business rescue order granted against it.

## **Z12 Ethics**

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

<b>Affected Party</b>	means, as the context requires, any party, irrespective of whether it is the <i>Contractor</i> 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,
<b>Coercive Action</b>	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,
<b>Collusive Action</b>	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,
<b>Committing Party</b>	means, as the context requires, the <i>Contractor</i> , or any member thereof in the case of a joint venture, or its employees, agents, or Subcontractor or the Subcontractor's employees,
<b>Corrupt Action</b>	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,
<b>Fraudulent Action</b>	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,
<b>Obstructive Action</b>	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
<b>Prohibited Action</b>	means any one or more of a Coercive Action, Collusive Action Corrupt Action, Fraudulent Action or Obstructive Action.

Z12.1 A Committing Party may not take any Prohibited Action during the procurement of this contract or in execution thereof.

Z12.2 The *Employer* may terminate the *Contractor's* obligation to Provide the Services if a Committing Party has taken such Prohibited Action and the *Contractor* did not take timely and appropriate

**DESCRIPTION:** The Provision of Physical Security Service for Eskom Rotek Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

action to prevent or remedy the situation, without limiting any other rights or remedies the *Employer* has. It is not required that the Committing Party had to have been found guilty, in court or in any other similar process, of such Prohibited Action before the *Employer* can terminate the *Contractor's* obligation to Provide the Services for this reason.

Z12.3 If the *Employer* terminates the *Contractor's* obligation to Provide the Services for this reason, the amounts due on termination are those intended in core clauses 92.1 and 92.2.

Z12.4 A Committing Party co-operates fully with any investigation pursuant to alleged Prohibited Action. Where the *Employer* does not have a contractual bond with the Committing Party, the *Contractor* ensures that the Committing Party co-operates fully with an investigation.

## Z13 Insurance

### Z 13.1 Replace core clause 84 with the following:

- Insurance cover** 84.1 When requested by a Party, the other Party provides certificates from his insurer or broker stating that the insurances required by this contract are in force.
- 84.2 The *Contractor* provides the insurances stated in the Insurance Table A.
- 84.3 The insurances provide cover for events which are at the *Contractor's* risk 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 to the <i>works</i> , 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
Liability for loss of or damage to property (except the <i>works</i> , Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Contractor</i> ) caused by activity in connection with this contract	<b><u>Loss of or damage to property</u></b> <b><u>Employer's property</u></b> 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  <b><u>Other property</u></b> The replacement cost  <b><u>Bodily injury to or death of a person</u></b> The amount required by applicable law
Liability for death of or bodily injury to	The amount required by the applicable



**DESCRIPTION:** The Provision of Physical Security Service for Eskom Rotek Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

employees of the <i>Contractor</i> arising out of and in the course of their employment in connection with this contract	law
--	-----

## Z 13.2

**Replace core clause 87 with the following:**

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

**INSURANCE TABLE B**

<b>Insurance against or name of policy</b>	<b>Minimum amount of cover or minimum limit of indemnity</b>
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

## Z14 Nuclear Liability

- Z14.1 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.
- Z14.2 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*.
- Z14.3 Subject to clause Z14.4 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*.
- Z14.4 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.

**DESCRIPTION:** The Provision of Physical Security Service for Eskom Rotek Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

Z14.5 The protection afforded by the provisions hereof shall be in effect until the KNPS is decommissioned.

## **Z15 Asbestos**

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

<b>AAIA</b>	means approved asbestos inspection authority.
<b>ACM</b>	means asbestos containing materials.
<b>AL</b>	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 to control asbestos exposure to prevent exceeding the OEL.
<b>Ambient Air</b>	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.
<b>Compliance Monitoring</b>	means compliance sampling used to assess whether the personal exposure of workers to regulated asbestos fibres follows the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.
<b>OEL</b>	means occupational exposure limit.
<b>Parallel Measurements</b>	means measurements performed in parallel, yet separately, to existing measurements to verify validity of results.
<b>Safe Levels</b>	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.
<b>Standard</b>	means the <i>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.</i>
<b>SANAS</b>	means the South African National Accreditation System.
<b>TWA</b>	means the average exposure, within a given workplace, to airborne asbestos fibres, normalized to the baseline of a 4-hour continuous period, also applicable to short term exposures, i.e. 10-minute TWA.

Z15.1 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.

Z15.2 Upon written request by the *Contractor*, the *Employer* certifies that these conditions prevail. All measurements and reporting are affected 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



**DESCRIPTION:** The Provision of Physical Security Service for Eskom Rotek Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

statutory limits as detailed in clause Z15.1. Control measures conform to the requirements stipulated in the AAIA-approved asbestos work plan.

- Z15.3 The *Employer* manages asbestos and ACM according to the Standard.
- Z15.4 If 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.
- Z15.5 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.
- Z15.6 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.
- Z15.7 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.

**DESCRIPTION:** The Provision of Physical Security Service for Eskom Rotek Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

## **Annexure A: Insurance provided by the Employer**

*These notes are provided as guidance to tendering contractors and the Contractor about the insurance provided by the Employer. The Contractor must obtain its own advice. Details of the insurance itself are available from the internet web link given below.*

1. Services provided in a TSC3 contract could include some element of construction or refurbishment as well as a continuous maintenance or operational service activity. If an event occurs which causes loss or damage, a claim could be made either against the *Employer's* "works" type policy which may be in place for the *Employer's* portion of the Affected Property concerned or against the *Employer's* assets policy which may be in place for the *Employer's* portion of the Affected Property concerned, or both.
2. The cover provided and the deductibles under the works policy are different to those under the assets policy. Each policy has a range of applicable deductibles depending on the location of the Affected Property and the nature of the insurable event.
3. The *Contractor* is required in terms of Contract Data for clause 83 to provide cover for the deductibles in the insurance provided by the *Employer*. This can be provided from his own resources on a 'self-insured' basis or obtained by him from his own insurers. To assess the extent of this cover, tendering contractors and their brokers should consult the internet web link given below and scroll to '**Format TSC3**' to establish both the cover and the deductibles in relation to the service provided in terms of this contract.
4. Tendering contractors should note that cover provided by the *Employer* is only per the policies available on the internet web link listed below and may not be the cover required by the tendering contractor or as intended by each of the listed insurances in the left-hand column of the Insurance Table in clause 83.2. In terms of clause 83.1 "the *Contractor* provides the insurances stated in the Insurance Table except any insurance which the *Employer* is to provide". Hence the *Contractor* provides insurance which the *Employer* does not provide and in cases where the *Employer* does provide insurance the *Contractor* insures for the difference between what the Insurance Table requires and what the *Employer* provides.
5. If Marine Insurance is required, the *Contractor* needs to obtain a copy of the latest edition of Eskom's Marine Policies Procedures found at internet website given below.
6. Further information and full details of all Eskom provided policies and procedures may be obtained from:

[http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS\\_Policies\\_  
From\\_1\\_April\\_2014\\_To\\_31\\_March\\_2015.aspx](http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx)

**DESCRIPTION:** The Provision of Physical Security Service for Eskom RoteK Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

## C1.2 Contract Data

### Part two - Data provided by the Contractor

Clause	Statement	Data
10.1	The Contractor is:  Address  Cell No.	
11.2(14)	The following matters will be included in the Risk Register	
11.2(15)	The Service Information for the Contractor's plan is in:	<b>The Scope of Works</b>
21.1	The plan identified in the Contract Data is contained in:	<b>The Scope of Works</b>
24.1	The key people are:  1      Name:  Job:  Responsibilities:  Qualifications:  Experience:  2      Name:  Job:  Responsibilities:  Qualifications:  Experience:	
<b>A</b>	<b>Priced contract with price list</b>	
11.2(12)	The <i>price list</i> is in	<b>Part C2 – Pricing Data</b>
11.2(19)	The tendered total of the Prices is	<b>R</b>

**DESCRIPTION:** The Provision of Physical Security Service for Eskom Rotek Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

## **PART 2: PRICING DATA**

### **TSC3 Option A**

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

**DESCRIPTION:** The Provision of Physical Security Service for Eskom Rotek Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

## C2.1 Pricing assumptions: Option A

### How work is priced and assessed for payment

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

<b>Identified and defined terms</b>	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 Contractor has completed and where a quantity is stated for an item in the Price List, an amount calculated by multiplying the quantity which the Contractor has completed by the rate.  (19) The Prices are the amounts stated in the Price column of the Price List. Where a quantity is stated for an item in the Price List, the Price is calculated by multiplying the quantity by the rate.

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

### Function of the Price List

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

### Link to the *Contractor's* plan

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

**DESCRIPTION:** The Provision of Physical Security Service for Eskom RoteK Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

## C2.2 the *price list*

Description	Number of Security Guards				Rate per Security Guard	Total Cost Per Month
	Kusile Power Station	Tutuka Power Station	Duvha Power Station	Totals		
Grade C (Day shift)	15	2	4	21	R	R
Grade B (Day shift)	1	1	1	3	R	R
Grade C (Night shift)	29	2	4	35	R	R
Grade B (Night shift)	1	1	1	3	R	R
<b>Sub Total</b>						R

Description				Qty	Rate	Total Cost Per Month
Two-way Radios				25	R	
PPE				62	R	
Entry and Exit Medicals				124	R	
					<b>Sub Total</b>	R

<b>TOTAL</b>	R
--------------	---

**DESCRIPTION:** The Provision of Physical Security Service for Eskom RoteK Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

## PART 3: SCOPE OF WORK

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

**DESCRIPTION:** The Provision of Physical Security Service for Eskom RoteK Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

## C3.1: EMPLOYER'S SERVICE INFORMATION

### Executive overview

The Employer is a public entity, and the activities related to the physical protection of its assets at Duvha, Kusile and Tutuka Power Stations is required to comply with the following legislation and Regulatory requirements:

- Occupational Health and Safety Act, 1993 (Act no 85 of 1993)
- Criminal Procedure Act, 1977 (Act no 51 of 1977), as amended
- Private Security Industry Regulations Act 2001 (Act 56 of 2001)
- Firearm Control Act, 2000 (Act 60 of 2001) and Regulations
- Control of access to public premises and Vehicles Act (Act 53 of 1985)
- Minimum Information Security Standards (MISS)
- Minimum Physical Security Standards (MPSS)

The security sites have a mixture of physical hardware protection systems and are characterized by layers of security and defense barriers

The Employer's Contracts Manager and Project Manager have overall control of the security contract and manage the security function at Duvha, Kusile and Tutuka Power Station Projects. The Responsibility of the Security Manager at Duvha, Kusile and Tutuka Power Station Projects is to manage the day-to-day activities of the contracted security guard force.

The Aim of this contract is to ensure that the Employer source a credible and professional security service provider to provide seamless physical security services under construction service

### Interpretation and terminology

The following abbreviations are used in this Service Information:

Definition	Meaning given to the abbreviation
Operating Unit	Any defined unit within the Employer RoteK Industries environment,



**DESCRIPTION:** The Provision of Physical Security Service for Eskom RoteK Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

	operating as a business. In the context of this document and in terms of health and safety, any reference to an Operating Unit includes a defined unit within any Employer's division and its subsidiaries.
Head of Security	Any appropriately qualified person who is employed to perform Security related activities as their primary job role and job function.

Abbreviation	Meaning given to the abbreviation
GS	Group Security
SLA	Service Level Agreement
SHEQS	Safety, Health, Environmental, Quality and Security
OHS	Occupational Health and Safety
OU	Operating Unit(s)
SC	Security Company
RO	Reaction Officer
SO	Security Officer
OB	Occurrence Book

## Scope

The Contractor shall provide security services on a continuous 24-hour basis with fully trained PSIRA registered security guards. The duties of the Contractor's guards shall be those specified in the contract and job description.

- Shifts to be covered, shift times
- Day Shift: 06:00 - 18:00
- Night Shift: 18:00 -06:00 (All guards to report to duty 15min earlier)

The number of guards will be determined on as and when required basis  
Further the Contractor shall supply the Contractor with one site representative performing site inspections during shifts including holidays. The site representative shall meet with the security shift supervisor on a shift basis to inform him/her of the performance of contract security personnel on

**DESCRIPTION:** The Provision of Physical Security Service for Eskom RoteK Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

duty. The site representative shall be duty responsible for the supervision of the security guard assigned to the Contractor.

## **Duration**

The contract period will be for a period of 12 months on an "as and when" required basis

It is expected that the service provider will commence induction prior inception of the contract

## **Specification of the services to be provided**

Minimum capabilities of individual security offices

All Security Officers shall possess all or some of the following competencies and qualifications

- Communication skills/written/Oral Communication in English and radio communication
- Ability to demonstrate highest level of professionalism at all time
- Ability to engage the public with authority and respect
- All Security Officers must be South African Citizens or have a valid South African work permits if they are foreign nationals
- Complete personnel file containing all security officers' qualifications and competencies to be furnished to ERI prior to the commencement of service.

All Security Officers must demonstrate good command in respect of the following legislations and competencies

- Occupational Health and Safety Act, 85 of 1993
- Guarding and Patrolling
- Arrest and Search Procedures
- Gathering of relevant information and establishing facts
- Basic First Aid
- Basic Fire Fighting

**DESCRIPTION:** The Provision of Physical Security Service for Eskom RoteK Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

- Physical and mentally fit for the job

The service provider must provide proof of the following competencies:

### **Tracing and Observation Skills**

Security Officers must demonstrate the ability to always track suspicious behaviour, to conduct arrests and recover stolen property

### **Investigation Skills**

Security Officers must demonstrate the ability to conduct basic investigation at crime/incident scenes in respect of the following:

- Identify a crime scene
- Secure and preserve a crime scene
- Identify and secure evidence
- Identify possible suspects and witnesses
- Generally, gather evidence

### **Legal Aspects**

Security officers must demonstrate knowledge of the following legislations:

- PSIRA Act and Regulation Act, No.56 of 2001
- Firearm Control Act and Regulations, No 60 of 2000
- Criminal Procedure Act, No.51 of 1997
- Secondhand Goods Act, No 23 of 1955
- OH&S Act and Regulations, No 85 of 1994
- The constitution of the Republic of South Africa, Act 108 of 1996
- Any other relevant piece of legislation and standards. (Employer's site Representative to specify)

**DESCRIPTION:** The Provision of Physical Security Service for Eskom RoteK Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

**Responsibilities of the service provider/supplier**

The Contractor shall on commencement of the contract with the Employer comply with the following.

- Ensure full compliance to PSIRA, and the Employer's policies and procedures
- Ensure all guards are transported punctually to commence duties as per scheduled shifts
- Ensure full compliance with the Employer's Health & Safety policies and vehicle safety policies
- Supply medical certificates and PSIRA certificates for each employee
- Detailed strike management plan and a list of manpower to counter shortfalls during labour actions
- The company will be responsible to refund/reimburse all damages to the Employer's Equipment resulting from its employees whilst on the Employer's Sites
- The security guards may be subjected to a fitness evaluation at the discretion of the Employer's

**Responsibilities of the Site Representative**

The Assigned person will be responsible for, but not limited to:

- Company liaison on site dealing with all aspects of the contract
- Ensure that shift complement is according to shift posting plan
- Ensure that the shift times are adhered to, including appropriate shift hand over time
- Ensure that all personnel are fully equipped with their required resources on day-to-day basis.
- Human resources issue must be addressed by the Contractor and the Employer.
- Address operational grievances with the Employer Supervisors.
- Ensure that safe and reliable home-work-home transport is available for all shifts
- Liaise with the Employer Supervisor to schedule staff for job training

**DESCRIPTION:** The Provision of Physical Security Service for Eskom RoteK Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

- Address complaints raised by the Employer Security Management within 8 hours
- Daily interfaces with Security Management with respect to operational contractual issues as well as service provider staff performance
- Carry out on site Training/Re-training of SO's as and when required
- Attend contract safety forum applicable to each power station. The site Representative, or designated person should act as a safety representative for the company
- To inspect shifts during shift parades in conjunction with the Employer Supervisor and submit a shift list to the Employer Supervisor/manager including the PSIRA registration number for all staff on duty.
- Set up monthly meetings with the Employer Security Manager to evaluate performance of the service provided
- Knowledge of the control of access to public premises and vehicle Actv53 of 1985, Criminal Procedure Act 51 of 1977 and the Occupational Health and Safety Act 85 of 1993

### **Control Room Requirements**

- The Contractor shall have a fully functional and operational control room form which to conduct command and control and deploy operational teams
- The control room is to be appropriately manned 24 hours a day. Seven (7) days a week and 365 days a year for the fully duration of the agreement
- The control room shall be evaluated by the Employer technical evaluation team to determine their functionality, operations and effectiveness. The inspection shall be conducted periodically
- The control room may be evaluated as part of the bidding process
- The Contractor's control room shall comply with the following requirements:
  - Telephone communication via Land line
  - Fax Machine and Emailing facilities

**DESCRIPTION:** The Provision of Physical Security Service for Eskom RoteK Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

- Cell-phone Communication
- Uninterrupted Power Supply (UPS/Generator)
- Emergency Lighting
- Torches (Fully functional and operational)
- Road Map demonstrating their operational footprint
- Emergency contact Numbers (Internal and External)
- Fire Extinguishers (Fully Functional and Operational)
- Vehicle Satellite Tracking System
- Control Room Contingency Plans
- The Contractor shall provide their current Control Room locations including addresses, proof of ownership/valid lease/rental, or bond agreement. These must accompany the tender response documentation
- All documentation provided must be in the service providers registered company name
- The lease/rental agreement must be valid for the duration of the contract/project and must indicate the option to extend the lease/bond agreement for the duration of the contract
- The Contractor must provide the staff training and competency records of personnel to be deployed in the control room

#### **Location of Offices**

- The Contractor shall have a fully functional and operational offices around Standerton and Witbank within 40KM proximity to Duvha, Kusile and Tutuka Power Stations.
- The Contractor shall also ensure that the same operational offices available for evaluation during the duration of the Agreement

**DESCRIPTION:** The Provision of Physical Security Service for Eskom RoteK Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

- The occupational and maintenance of the offices shall remain in place at the Contractor's own cost for the duration of the contract.
- The Contractor shall be required to provide proof of their operational footprint including local office locations and addresses, proof of ownership/valid lease or bond agreement to the Employer. These must be furnished with the bid response documents
- All documentation presented must be in the Contractor's registered company name
- The lease agreement must be valid until at least for the duration of the contract and/or must indicate the option to extend for the duration of the contract

The Contractors' operational offices shall be equipped to meet the following minimum requirements:

- Land line Telephone Communication
- Fax Machine
- Cell-phone Communication
- Uninterrupted Power Supply (UPS/Generator)
- Internet
- Contingency Plan
- Emergency Lighting
- Torches
- Road Map: Demonstrating the service providers operational footprint
- Emergency Contract Numbers (internal and external)
- Fire Extinguishers (Fully Functional and operational)

**DESCRIPTION:** The Provision of Physical Security Service for Eskom RoteK Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

The Contactor Operational Offices shall be inspected by the appointed Employer's Technical evaluation team in order to determine their level of organization and operational effectiveness. The Employer may conduct the inspection of offices Contractors at regular intervals thereafter

### **Security Screening Requirements**

The Contractor shall on commencement of the contract and moving forward furnish the Employer's Site representative with the following background records at stipulated intervals.

- Up to date criminal background check results within 30 days of commencing the services
- Ensure that none of its employees has criminal records before and for the duration of the contract
- Provide non-criminal clearance certificates for all employees
- Conduct criminal record checks twice a year for the duration of the contract
- Furnish updated non-criminal clearance certificates to the Employer's site representative with the commencement of the service
- Contractor must take note that the acceptable source of certification for these services shall be the South African Police Services (SAPS)
- The Contractor shall bear the costs of all the administration of the non-criminal clearance certificates
- The Employer reserves the right to claim from the Contractor, all costs if the Contractor's employee is found to be involved in any criminal activities related to the Employer's property and any/all losses or damages arising from having perpetrated such activity



**DESCRIPTION:** The Provision of Physical Security Service for Eskom RoteK Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

- If the Contractor's employee is found to be involved in any criminal activity, even if it does not relate to the Employer, the Contractor shall immediately inform the Employer and withdraw such employees from the Employer site.

**Equipment to be supplied by the service provider**

- Supply of uniforms -company uniforms must reflect two company logos and PSIRA ID Card. (PSIRA 13.1)
- The Contractor must provide a detailed asset register and description of their current security equipment used e.g. batons, handcuffs, pepper-spray, etc. with the bid response
- It is the responsibility of the Contractor to ensure that their employees are equipped with the correct and suitable security equipment
- The equipment must always be functional and operational
- The Contractor is required to supply and maintain at their cost the following equipment not limited that what is listed Below
  - Flashlight
  - Reflective Jacket
  - Rain Gear, PPE (Ballistic Vests (Level 111 SA Mix), Appropriate clothing for inclement weather conditions)
  - Handheld Spotlights
  - Handcuffs
  - Panic Buttons (Linked to a 24/7/365 control center)
  - Two-way radios and mounted base station linked to a 24/7/365 control center
  - Firearm Sales (SANS/SAPS approved)
  - Radio based stations

**DESCRIPTION:** The Provision of Physical Security Service for Eskom RoteK Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

- Cellphone (Contract Only)
- Binoculars
- Night Sights (of acceptable quality)
- Vehicle Satellite Tracking System
- GPS
- First Aid Kit
- Pen and Pocketbook

#### **Identification Cards (ID's)**

The service provider's employees shall always comply with the identification requirements in accordance with PSIRA, including the display of an identification card at all times and preferably on the outer garments whilst on site.

The identity card shall contain the following information:

- A recent color photograph of the employee
- The employees name and surname (must be visible and legible)
- Identification Number (Preferably at the back of the ID card)
- PSIRA registration number
- The company's name and logo
- The employee's security grade
- The tenderer must submit examples of their current company ID Cards with the Tender Response

**DESCRIPTION:** The Provision of Physical Security Service for Eskom Rotek Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

### **Biometric Clocking**

Biometric clocking system, ERI to supply is to be utilized for all time keeping purposes.

### **Support Plan**

The Contractor must have contingency plan to cover the following scenarios:

- Industrial Unrests (National Strikes by the Security Industry)
- Control Room Back-Up
- Armed Attack
- Bomb Scare
- Theft in progress
- Hi-jacking
- Vehicle Breakdown
- Vehicle Accidents
- Bad Weather Conditions (e.g. rainstorm, flooding etc.)
- Provision of additional manpower capacity to assist the Employer in the event of unforeseen circumstances.
- Ad hoc security related operations

## **Management strategy and start up.**

### **The *Contractor's* plan for the *service***

The contractor's plan will be done for each Task order on an as and when required basis. The plan is to be discussed with the Service Manager and the site project management team.

**DESCRIPTION:** The Provision of Physical Security Service for Eskom RoteK Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

## Management meetings

Meetings of a general nature will be convened and chaired by the Supply Manager as follows:

Title and purpose	Approximate time & interval	Location	Attendance by:
Risk register and compensation events,	To be determined	Employer's office	Service Manager and, contractor and Others as required
Overall contract progress and feedback	To be determined	Employer's office	Service Manager and, contractor and Others as required
Risk Assessment Meetings	To be determined	Employer's office	Service Manager and, contractor and Others as required
Site (Kick Off) meeting	Before the Contractor's Site Establishment after official contract is placed	Venue to be determined by the Service Manager	Service Manager and, contractor and Others as required

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.

## Contractor's management, supervision and key people

Contractor to submit an organogram outlining the key people to be involved in the provision the services required. Key people specifications and requirements for the service have been outlined on the SHE specification.

## Documentation control

All documentation from the Contractor to be provided in hard copy and must also be emailed to the Service Manager, as per the communication process agreed after contract award.

**DESCRIPTION:** The Provision of Physical Security Service for Eskom Rotek Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

All project communication including drawings and design data must be provided in both soft and hard copy format and must be emailed to the Project Manager, as per the communication process agreed after task order has been awarded.

## Invoicing and payment

It is the responsibility of the Contractor to ensure that the invoices are sent electronically to Accounts Payable at [invoiceserilocal85@eskom.co.za](mailto:invoiceserilocal85@eskom.co.za), and a copy must also be sent to the Employer's Commercial Department.

The Contractor shall address the tax invoice to Employer 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)

a) Kindly ensure that the following appear on all invoices:

b) Registration No. 1990/006897/30

c) VAT number: 4330196330

d) Purchase order number – tax invoices without the correct purchase order number will be rejected

e) Physical address: Project Camp sites, nationally

f) Postal address: PO Box 40698

Cleveland

2022

Lower Germiston Road

Rosherville

Johannesburg

g) Telephone number – 011 629 4000

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

## Contract change management

Clause 6 – Compensation Events of the NEC3 Term Service Contract will apply to all changes in this contract.

**DESCRIPTION:** The Provision of Physical Security Service for Eskom Rotek Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

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

All copy of records must be provided in hard copy and must also be electronically emailed to the Service Manager and copy the Project Manager, as and when required by the Employer.

### **Insurance provided by the *Employer***

Refer to clause Z13.2 for insurance by the Purchaser.

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

#### **Information and other things**

Information and other things to be provided at the end of the service period for the Employer's use, will be stipulated and agreed upon contract award.

### **Management of work done by Task Order**

- A task order must be issued by the Site Security Manager, Physical Security Services, in consultation with the Manager PSS for each assignment.
- The task instruction must include the following: a detailed scope/description of the guarding services required – be performed by the service provider (deliverables), including take-over, completion dates.
- Any specific requirements related to the quality standards for the services required.
- Any constraints relevant to the services.
- Any specific criteria related to the suitability of sub-contractors and or suppliers to provide the service and/or reports.
- Service Provider to prepare the quote after they received the task instruction (with the above details) as per agreed price structure.
- Both parties to reply / respond within 48 hours for acceptance and quote.
- Service only to commence after official approval by the Employer Representative (Contracts /Owner).
- Service Provider to inform the Contract Owner by submitting immediately an early warning of any material deviation from the amount and/or time constraints submitted in the task order. Approval to be obtained from Contract Owner and Manager Physical Security Services for any early warning changes before the investigation can continue.
- Task Instruction and Employers Instruction to be included in NEC contract as samples.

**DESCRIPTION:** The Provision of Physical Security Service for Eskom RoteK Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

## **Health and safety, the environment and quality assurance**

### **Health and safety risk management**

The Contractor to comply with the health and safety requirements contained in SHE Specification.

### **Environmental constraints and management**

The Contractor to comply with the environmental requirements contained in SHE Specification.

### **Quality assurance requirements**

The contractor to comply with the Employer's quality requirements including those listed in the Employers specification QM58.

### **Procurement**

This refers to the local supplier development and localisation as outlined on Annexure K

## **Working on the Affected Property**

### ***Employer's site entry and security control, permits, and site regulations***

The Contractor to comply with Employer's site entry and security control, permits, and site regulations as stipulated in the Employer's standards, policies and procedures and codes and conducts.

### **People restrictions, hours of work, conduct and records**

Contractor to comply with people's restrictions, hours of work, conduct and records as stipulated in the Employer's policies and procedures and Codes and conduct.

### **Health and safety facilities on the Affected Property**

All Health and safety facilities on the Affected Property are stipulated on the SHE specification annexure.

### **Environmental controls, fauna & flora**

All environmental controls are stipulated on the SHE specification annexure. All controls and management for fauna and flora will be stipulated on the Construction Environmental Management Plan and Aspect and Impact per project/ task order.

**DESCRIPTION:** The Provision of Physical Security Service for Eskom Rotek Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

### **Equipment provided by the *Employer***

Equipment to be provided by the Employer will be stipulated and agreed upon contract award.

### **Site services and facilities**

#### **Provided by the *Employer***

##### **Site Yard**

- Contractor will share site office yard with Employer within a security fenced, for his use during the period of his/her Site works.
- The contractor will ensure that the work area in the yard is kept clean at all times after use and housekeeping is adhered to.

##### **Supply of electricity**

- The contractor will share supplied electricity with Employer site yard as agreed upon with Site management

##### **Lighting**

- The lighting requirements will be shared by site management to contractor as and when required

##### **Water**

- The Employer supplies reasonable quantities of portable water required for the purposes of this contract free of charge. The contractor is responsible to ensure that contracted labour comply with site requirements

##### **Telecommunications**

- The contractor supplies the necessary phone facilities to enable communication with the Employer and workers without any delay



**DESCRIPTION:** The Provision of Physical Security Service for Eskom Rotek Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

## **SD&L requirements**

### **SUPPLIER DEVELOPMENT LOCALISATION AND INDUSTRIALISATION COMMITMENT**

#### **OBJECTIVE CRITERIA – Local Content and Local-to-site beneficiation**

Eskom was using this procurement opportunity to promote socio-economic transformation, empowerment of small enterprises, rural and township enterprises, designated groups and promotion of local industrial development. It is against this background that Eskom awarded the contract to TBC based on its commitment to Subcontracting, Transformation/ B-BBEE Retention Plan, Enterprise Development, Skills Development and Job Creation in favour of beneficiaries residing within the Local Municipality where the service will be consumed.

#### **Supplier Development Localisation and Industrialisation Matrix**

N/A

#### **Subcontracting and Enterprise & Supplier Development Plan**

In order to increase the number of designated groups in this sector, TBC shall sub-contract 10% of the contract amount to one or more suppliers from the following categories:

- an EME or QSE which is at least 51% owned by black youth;
- an EME or QSE which is at least 51% owned by black women;
- an EME or QSE which is at least 51% owned by black people with disabilities;
- an EME or QSE which is at least 51% owned by black people living in rural or underdeveloped areas or townships;
- a cooperative which is at least 51% owned by black people.

#### **Transformation or B-BBEE Improvement Plan**

Transformation remains an area of focus, where Eskom continuously strives to align itself with national transformation imperatives to unlock growth, drive industrialisation, create employment and contribute to skills development.

TBC shall maintain or improve its current B-BBEE recognition status of Level 1 Contributor and its Black Ownership of 68.36% including its Black Women Ownership of 21.01% for the duration of the contract.

TBC shall notify Eskom in writing within 14 (fourteen) days of any occurrence which affects, will affect, or would be reasonably likely to affect its compliance with respect to its B-BBEE rating of Level 1 Contributor including its Black Ownership status referred to above.

**DESCRIPTION:** The Provision of Physical Security Service for Eskom Rotek Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

TBC shall also notify Eskom in writing within 30 (thirty) days of the occurrence as to what steps have been and/or will be taken to restore its compliance with respect to its B-BBEE rating of Level 1 contributor including its Black Ownership status referred to above.

In the event that the TBC fails to comply with the B-BBEE provision above, the Parties may (but are not obliged to) negotiate and agree on a time plan within which TBC shall become compliant. Eskom shall be entitled to suspend TBC service and remove TBC from all sites, at TBC expense, while negotiations are ongoing.

If the Parties do not agree on a date, action and preventative plan(s) by which TBC must become compliant, Eskom shall be entitled to terminate the agreement with immediate effect and without payment of any compensation to TBC (other than amounts due and payable under the agreement at the date of termination.)

### **Skills Development**

N/A

### **Job creation**

N/A

### **SDL&I Penalty**

N/A

### **Monitoring and reporting of SDL&I commitments**

N/A

## 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

**DESCRIPTION:** The Provision of Physical Security Service for Eskom RoteK Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

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

**DESCRIPTION:** The Provision of Physical Security Service for Eskom Rotek Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

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.

**DESCRIPTION:** The Provision of Physical Security Service for Eskom RoteK Industries Packages at Duvha, Kusile and Tutuka Power Stations over a period of One Year (12 months) on as and when required basis

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.