

NEC3 Professional Services Contract (PSC3)

Between **ESKOM ROTEK INDUSTRIES SOC Ltd**
Reg No. 1990/006897/30

and [...]
Reg No. [...]

for The provision of PWD multidisciplinary Professional Services for Rosherville and various ERI sites as and when required, for 36 monthhs.

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PART C1: AGREEMENTS & CONTRACT DATA

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Part C1: Forms of Agreement and Contract data

C1.1 Forms of Offer & Acceptance, plus Deviations

C1.1.1 Offer

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

The provision of PWD multidisciplinary Professional Services for Rosherville and various ERI sites as and when required, for 36 monthths.

The tenderer, identified in the Offer signature block, has.

<i>either</i>	examined the documents listed in the Tender Data and addenda thereto as listed in the Returnable Schedules, and by submitting this Offer has accepted the Conditions of Tender.
<i>or</i>	examined the draft contract as listed in the Acceptance section and agreed to provide this Offer.

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 the obligations and liabilities of the *Consultant* 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 G	The offered total of the Prices exclusive of VAT is	R[...]
	Value Added Tax @ 15% is	R[...]
	The offered total of the amount due inclusive of VAT is ¹	R[...]
	[Amount in words ...] (Incl. VAT)	

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 *Consultant* in the *conditions of contract* identified in the Contract Data.

Signature(s)

Name(s) _____

Capacity _____

For the tenderer:

Name & signature of witness _____ (Insert name and address of organisation)

Date

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C1.1.2 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 Consultant 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
- Part C4 Site Information (*If applicable*)

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		Date
Name & signature of witness		
for the Employer	ESKOM ROTEK INDUSTRIES SOC LIMITED	Date

Note: If a tenderer wishes to submit alternative tenders, use another copy of this Form of Offer and Acceptance.

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C1.1.3 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.

	For the tenderer:	For the Employer
Signature	_____	_____
Name	_____	_____
On behalf of	_____	_____
Name & signature of witness	_____ _____	_____ _____
Date	_____	_____

C1.2 Contract Data

C1.2.a Part One – Data provided by *Employer*

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 Options and secondary Options of the NEC3 Professional Services Contract (April 2013)	<p>Option G: Term Contract</p> <p>W1: Dispute Resolution</p> <p>X1: Contract Price Adjustment</p> <p>X2: Changes in the law</p> <p>X7: Delay Damages</p> <p>X10: Employer’s Agent</p> <p>X18: Limitation of Liability</p> <p>Z: <i>Additional conditions of contract</i></p> <p>(If the December 2009 edition is to be used delete April 2013 and replace by December 2013)</p>
10.1	The <i>Employer</i> is (name): Address Tel No.	<p>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</p> <p>Roshland Office Park Lower Germiston Road Rosherville</p> <p>011 629 8000</p>
11.2(9)	The <i>services</i> are	The provision of PWD multidisciplinary Professional Services for Rosherville and various ERI sites as and when required, for 36 monthhs.
11.2(10)	The following matters will be included in the Risk Register	<p>Refer to risk register, inclusive of</p> <ol style="list-style-type: none"> 1. Non-compliance of health and safety regulations 2. Travelling 3. Site instabilities/ Strikes/ Community unrest

11.2(11)	The scope is in	Part 3: Scope of Work and all documents and drawings to which it makes reference.
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 working days
2	The parties' main responsibilities	
25.2	The Employer provides access to the following persons, places and things	As per Services Manager instructions.
3	Time	
30.1	The <i>starting date</i> is.	01 November 2025
30.1	The <i>Completion date</i> for the whole of the services is.	30 November 2028
31.1	The <i>Consultant</i> is to submit a first programme for acceptance within	As per Task Order
32.2	The <i>Consultant</i> submits revised delivery schedule at intervals no longer than	As per Task Order
4	Quality	
40.2	The quality policy statement and quality plan are provided within	Two weeks after date of Contract
5	Payment	
50.1	The <i>assessment interval</i> is	Monthly between the 20th and 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 receipt of invoice
51.4	The <i>interest rate</i> is	the publicly quoted prime rate of interest (calculated on a 365-day year) charged from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands and (ii) the LIBOR rate applicable at the time for amounts due in other currencies. LIBOR is the 6 month London Interbank Offered Rate quoted under the caption "Money Rates" in

		<p>The Wall Street Journal for the applicable currency or if no rate is quoted for the currency in question then the rate for United States Dollars, and if no such rate appears in The Wall Street Journal then the rate as quoted by the Reuters Monitor Money Rates Service (or such service as may replace the Reuters Monitor Money Rates Service) on the due date for the payment in question, adjusted <i>mutatis mutandis</i> every 6 months thereafter and as certified, in the event of any dispute, by any manager employed in the foreign exchange department of The Standard Bank of South Africa Limited, whose appointment it shall not be necessary to prove.</p>	
6	Compensation events	<p>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.</p>	
7	Rights to material	<p>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.</p>	
8	Indemnity, insurance and liability		
81.1	The amounts of insurance and the periods for which the <i>Consultant</i> maintains insurance are	<p>The amount of deductibles relevant to the event.</p>	
88.2	Event	Cover	Period following Completion of the whole of the <i>services</i> or earlier termination
	Liability for failure by the <i>Consultant</i> to use the skill and care normally used by professionals providing services similar to the <i>services</i>	Whatever the <i>Consultant</i> deems necessary in respect of each claim, without limit to the number of claims	See Notes to Consultants in Annexure A
	death of or bodily injury to a person (not an employee of the <i>Consultant</i>) or loss of or damage to property arising from or in connection with the <i>Consultant's</i> Providing the Services	Whatever the <i>Consultant</i> deems necessary for any occurrence or series of occurrences arising out of one event without limit to the number of claims	As <i>Consultant</i> deems necessary

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death of or bodily injury to employees of the *Consultant* arising out of and in the course of their employment in connection with this Contract

As prescribed by the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 and the *Consultant's* common law liability for people falling outside the scope of the Act with a limit of indemnity of not less than R500 000-00 (five hundred thousand) in respect of each claim, without limit to the number of claims

81.1 The *Employer* provides the following insurances **Refer to Annexure A for details of insurance provided by the *Employer***

88.4 The *Consultant's* total liability to the *Employer* for all matters arising under or in connection with this Contract, other than the excluded matters, is limited to **The total of the Task Order Value**

9 Termination **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.**

10 Data for Option clauses **Option G**

21.4 The *Consultant* prepares forecasts of the total Time Charge and *expenses* at intervals no longer than **Two (2) weeks after receipt of the approved Task Order**

50.4 The exchange rates are those published in N/A.

55.1 Task Order A Task Order includes:

- Detailed description of work to be done
- A Price List as per the Task Schedules
- Starting date
- Completion date

Total Task Order value

21.3 The *Consultant* prepares forecasts of the total *expenses* at intervals of no longer than **4 weeks.**

W1 Data for W1

W1.1 The *Adjudicator* is **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.	
	Fax No.	
	e-mail	
W1.2(3)	The <i>adjudicator nominating body</i> is:	the Chairman of the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering. (See www.ice-sa.org.za).
W1.4(2)	The <i>tribunal</i> is:	arbitration
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	[Johannesburg] South Africa
	The person or organisation who will choose an arbitrator	
	<ul style="list-style-type: none"> if the Parties cannot agree a choice or if the <i>arbitration procedure</i> does not state who selects an arbitrator, is	the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.
X1	Contract Price Adjustment	
X1.1	The <i>base date</i> for indices is	TBC
	Prices are fixed and firm for the first 12 months (Month prior to tender closing	
X2	Changes in the Law	
X2.1	A Change in the law in	South Africa, this is a compensation event if the change happens after the Contract Date
X7	Delay damages	

X7.1	Delay damages for tlate Completion of the whole of the services	1% daily to a minimum 10% of the task order value
		Limited to the amount stated in the purchase order
Z	The <i>additional conditions of contract</i> are	Z1 to Z15 always apply for Eskom

Z1 Cession delegation and assignment

- Z1.1 The *Consultant* 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 *Consultant* 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.

Z2 Joint ventures

- Z2.1 If the *Consultant* 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 *Supply Manager* within two weeks of the Contract Date of the key person who has the authority to bind the *Consultant* on their behalf.
- Z2.3 The *Consultant* 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 *Consultant* in writing.

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

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

Z4 Confidentiality

- Z4.1 The *Consultant* 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 *Consultant*, enters the public domain or to information which was already in the possession of the *Consultant* at the time of disclosure (evidenced by written records in existence at that time). Should the *Consultant* disclose information to Others in terms of clause 23.1, the *Consultant* ensures that the provisions of this clause are complied with by the recipient.

- Z4.2 If the *Consultant* is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the *Supply Manager*.
- Z4.3 If the *Consultant* is, at any time, required by law to disclose any such information which is required to be kept confidential, the *Consultant*, 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 *Consultant* 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 *goods* or any portion thereof, while Providing the Goods and Services and after Delivery, requires the prior written consent of the *Supply Manager*. All rights in and to all such images vests exclusively in the *Employer*.
- Z4.5 The *Consultant* 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 *Supply Manager* or the *Adjudicator* does not constitute a waiver of rights and does not give rise to an estoppel unless the Parties agree otherwise and confirm such agreement in writing.

Z6 Health, safety and the environment: Add to core clause 25.4

- Z6.1 The *Consultant* undertakes to take all reasonable precautions to maintain the health and safety of persons in and about the provision of the *goods* and execution of the *services*.

Without limitation the *Consultant*:

- warrants that the total of the Prices as at the Contract Date includes a sufficient amount for proper compliance with 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 supply and
- undertakes, in and about the execution of the supply, to comply 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 *Consultant's* direction and control, likewise observe and comply with the foregoing.

- Z6.2 The *Consultant*, in and about the execution of the supply, 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 *Consultant'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 *Supply Manager* in terms of core clause 51.1, the *Consultant* provides the *Employer* with a tax invoice in accordance with the *Employer's* procedures stated in the Goods Information, showing the amount due for payment equal to that stated in the payment certificate.
- Z7.2 If the *Consultant* 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 *Consultant* (if registered in South Africa in terms of the companies Act) is required to comply with the requirements of the Value Added Tax Act, no 89 of 1991 (as amended) and to include the *Employer's* VAT number 4740101508 on each invoice he submits for payment.

Z8 Notifying compensation events

- Z8.1 Delete from the last sentence in core clause 61.3 the words, "unless the event arises from the *Supply Manager* giving an instruction, changing an earlier decision or correcting an assumption".

Z9 Employer's limitation of liability

- Z9.1 The *Employer's* liability to the *Consultant* for the *Consultant's* indirect or consequential loss is limited to R0.00 (zero Rand)
- Z9.2 The *Consultant's* entitlement under the indemnity in 83.1 is provided for in 60.1(12) and the *Employer's* liability under the indemnity is limited.

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

- Z11.1 If the amount due for the *Consultant's* payment of delay damages reaches the limits stated in this Contract Data for Option X7, the *Employer* may terminate the *Consultant's* obligation to Provide the Goods and Services using the same procedures and payment on termination as those applied for reasons R1 to R15 or R18 stated in the Termination Table.

Z12 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 *Consultant* or a third party, such party's employees, agents, or Subcontractors or Subcontractor's employees, or any one or more of all of these parties' relatives or friends,

Coercive Action means to harm or threaten to harm, directly or indirectly, an Affected Party or the property of an Affected Party, or to otherwise influence or attempt to influence an Affected Party to act unlawfully or illegally,

- Collusive Action** means where two or more parties co-operate to achieve an unlawful or illegal purpose, including to influence an Affected Party to act unlawfully or illegally,
- Committing Party** means, as the context requires, the *Consultant*, or any member thereof in the case of a joint venture, or its employees, agents, or Subcontractors or the Subcontractor's employees,
- Corrupt Action** means the offering, giving, taking, or soliciting, directly or indirectly, of a good or service to unlawfully or illegally influence the actions of an Affected Party,
- Fraudulent Action** means any unlawfully or illegally intentional act or omission that misleads, or attempts to mislead, an Affected Party, in order to obtain a financial or other benefit or to avoid an obligation or incurring an obligation,
- Obstructive Action** means a Committing Party unlawfully or illegally destroying, falsifying, altering or concealing information or making false statements to materially impede an investigation into allegations of Prohibited Action, and
- Prohibited Action** means any one or more of a Coercive Action, Collusive Action Corrupt Action, Fraudulent Action or Obstructive Action.

- Z 12.1 A Committing Party may not take any Prohibited Action during the course of the procurement of this contract or in execution thereof.
- Z 12.2 The Employer may terminate the Consultant's obligation to Provide the Goods and Services if a Committing Party has taken such Prohibited Action and the Consultant 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 Consultant's obligation to Provide the Goods and Services for this reason.
- Z 12.3 If the Employer terminates the Consultant's obligation to Provide the Goods and Services for this reason, the procedures and amounts due on termination are respectively P1, P2 and P3, and A1 and A3.
- Z 12.4 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 Consultant 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

- 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 *Consultant* provides the insurances stated in the Insurance Table A for events which are at the *Consultant's* risk from the *starting date* until the last *defects date* or a termination certificate has been issued.

INSURANCE TABLE A

Insurance against	Minimum amount of cover or minimum limit of indemnity
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Loss of or damage to the goods, plant, and materials	<p>The replacement cost where not covered by the <i>Employer's</i> insurance.</p> <p>The <i>Employer's</i> policy deductible as at Contract Date, where covered by the <i>Employer's</i> insurance.</p>
Liability for loss of or damage to property (except the goods, plant and materials and equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Consultant</i>) caused by activity in connection with this contract	<p><u>Loss of or damage to property</u> <u><i>Employer's</i> property</u> The replacement cost where not covered by the <i>Employer's</i> insurance.</p> <p>The <i>Employer's</i> policy deductible as at Contract Date, where covered by the <i>Employer's</i> insurance.</p> <p><u>Other property</u> The replacement cost</p> <p><u>Death of or bodily injury</u> The amount required by the applicable law.</p>
Liability for death of or bodily injury to employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with this contract	The amount required by the applicable law
Z 13.2	<u>Replace core clause 87 with the following</u>
Insurance by the <i>Employer</i>	<p>87</p> <p>87.1 The <i>Employer</i> provides the insurances stated in the Insurance Table B</p>

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

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 *Consultant* or any other person against any and all liabilities which the *Consultant* 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 *Consultant* or any other person or the presence of the *Consultant* or that person or any property of the *Consultant* 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 *Consultant* or any other person, or the presence of the *Consultant* or that person or any property of the *Consultant* 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.
- 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:

- 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 <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>
SANAS	means the South African National Accreditation System.
TWA	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 *Consultant* 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 *Consultant*, 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 *Consultant* may perform Parallel Measurements and related control measures at the *Consultant'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 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 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.

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- Z15.5 The *Consultant'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 *Consultant* 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.
- 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.

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Annexure A: Notes of Consultant

Refer to attached scope of works.

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C1.2.b Part Two – Data provided by Consultant

4. The tendering consultant is advised to read both the NEC3 Professional Services Contract, April 2013 and the relevant parts of its Guidance Notes (PSC3-GN)² in order to understand the implications of this Data which the tenderer is required to complete. An example of the completed Data is provided on pages 158 & 159 of the PSC3 April 2013 Guidance Notes.
5. The number of the clause in the PSC3 which requires the data is shown in the left-hand column for each statement however other clauses may also use the same data.
6. Whenever a cell is shaded in the left-hand column it denotes this data is optional in PSC3 and would be required in relation to the option selected. The *Employer* should already have made the selection and deleted the rows not required.

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

Clause	Statement	Data
10.1	The <i>Consultant</i> is (Name):	
	Address Tel No.	
	Fax No.	
22.1	The <i>key people</i> are:	
	1 Name:	[•]
	Job:	[•]
	Responsibilities:	[•]
	Qualifications:	[•]
	Experience:	[•]
	1 Name:	[•]
	Job:	[•]
	Responsibilities:	[•]
	Qualifications:	[•]
	Experience:	[•]
	2 Name:	[•]
	Job	[•]
	Responsibilities:	[•]
	Qualifications:	[•]
	Experience:	[•]
Only if		CV's (and further <i>key persons</i> data including

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Clause	Statement	Data	
required		CVs) are appended to Tender Schedule entitled	
11.2(3)	The <i>completion date</i> for the whole of the <i>services</i> is	As per Task Order, not later than contractual end date of 31 July 2027.	
11.2(10)	The following matters will be included in the Risk Register		
11.2(13)	The <i>staff rates</i> are	name/designation	rate
	Either complete here or cross refer to a schedule in Part C2.2	Refer to the Pricing Schedule Part C2.2	Refer to the Pricing Schedule Part C2.2
25.2	The <i>Employer</i> provides access to the following persons, places and things	access to	access date
		1. ERI Sites	As per Task Order
		2. ERI Buildings and Rosherville	As per Task Order
		3.	
31.1		N/A	
50.3	The <i>expenses</i> stated by the <i>Consultant</i> are	item	amount
		As per Task Order	As per Task Order
G	Term Contract		
11.2(25)	The <i>task schedule</i> is in	The task schedule unless later changed in accordance to this Contract	

Part C2: Pricing data

Document reference	Title	Pages
C2.1	Pricing assumptions: Option G	24-26
C2.2	Staff rates, expenses, and the task schedule	27-50

C2.1 Pricing Assumptions

How work is priced and assessed for payment

From Option G: Term Contract

Identified and defined terms	11.2 (17) The Price for Services Provided to Date is, for each Task, the total of	<ul style="list-style-type: none"> • the Time Charge for work which has been completed on time-based items on the Task Schedule and • a proportion of the lump sum price for each other item on the Task Schedule which is the proportion of work completed on that item.
	11.2 (20) The Prices are	<ul style="list-style-type: none"> • the Time Charge for items described as time based on the Task Schedule and • the lump sum price in the Task Schedule for each other item.

From the Core Clauses:

Identified and defined terms, and	11.2 (13) The Time Charge is	the sum of the products of each of the staff rates multiplied by the total staff time appropriate to that rate properly spent on work in this contract.
Assessing the amount due	50.3 The amount due is	<ul style="list-style-type: none"> • the Price for Services Provided to Date, • the amount of the expenses properly spent by the Consultant in Providing the Services and • other amounts to be paid to the Consultant less amounts to be paid by or retained from the Consultant. <p>Any tax which the law requires the Employer to pay to the Consultant is included in the amount due.</p>

In effect Option G is a cost reimbursable form of contract with work ordered by the Employer on a Task by Task basis using the Task Schedule to compile the cost of carrying out a Task.

Expenses are calculated separately and added to the amount due for the services provided.

Staff rates and expenses

Tendering consultants are advised to consult the NEC3 Professional Services Contract Guidance Notes before entering *staff rates* into Contract Data, or in section C2.2 which follows.

This is because *staff rates* can be established in one of three ways:

- rates for named staff,
- rates for categories of staff, or
- rates related to salaries paid to staff.

Rate adjustment for inflation, if necessary, can be based either on actual salary adjustments or by using Option X1: Price adjustment for inflation. See pages 13 and 14 of the PSC3 Guidance Notes.

Expenses associated with employing a staff member in Providing the Services can be listed separately either by the *Employer* in Contract Data provided by the *Employer* or by the *Consultant* in Contract Data provided by the *Consultant*.

As only the *expenses* listed may be claimed by the *Consultant*, all other cost to the *Consultant* associated with Providing the Services must be included within the *staff rates*.

Rate adjustment for inflation of *expenses* is explained on page 15 of the PSC3 Guidance Notes.

The function of the Task Schedule

The Task Schedule may include items of work to be paid for on a rate (Time Charge) or on a lump sum price for the item. Any work ordered during the term of the Contract – i. e. before the Completion Date – for which there is no priced item in the Task Schedule is priced using the compensation event procedure and the resulting Price is added into the Price List.

The *task schedule* is prepared by the *Employer* for the *Consultant* to price or may be prepared jointly with the *Consultant*. It is typically priced in two parts as items of work to be carried out on a time basis and lump sum prices for other items of work. The task schedule must be as complete as possible and fully representative of all the work and *services* which the *Employer* may require the *Consultant* to carry out. The only unknown is when the work is to be carried out; the Task Order will be used to instruct when work to be done.

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PRICING SCHEDULE – PROVISION FOR PEOPLE LIVING WITH DISABILITIES

PREAMBLES - METHOD OF MEASUREMENT	
1	The Tenderer is advised to read and understand all aspects and documentation associated with this Enquiry BEFORE inserting his Prices and or Rates and or Amounts.
2	The bill of quantities provides the basis of all valuations of the work, price adjustment (CPA) and general progress monitoring.
3	The amount due at each application for payment is based as measured in terms of the bill of quantities. The Contractor provides all necessary information which is required to determine amounts due at each application for payment relative to the completed works
4	The total of the prices includes for all direct and indirect costs, overheads, profits, on costs, risks, liabilities, obligations, etc. relative to the contract.
5	All values are total values prior to any retention and excludes VAT.
6	Tenderer to check and take responsibility for all descriptions, formulae and structure of this file.
A	GUIDANCE BEFORE PRICING AND MEASURING
1	The NEC's approach to the Preliminary & General (P&G) section of the bill of quantities assumes use will be made of method related charges for project applied to providing the works based on durations shown in the Accepted Programme. Fixed charges for the use of Equipment that are required throughout the construction phase, time related charges for people working in a managerial and supervisory capacity for the period required, and lump sum charges for other facilities or services not directly related to performing work items typically included in other parts of the bill of quantities.

PRICING SCHEDULE – PROVISION FOR PEOPLE LIVING WITH DISABILITIES

3	Rates and Prices for items which are required to be inserted in the bill of quantities by the Tenderer and which have not been duly inserted, are deemed to be covered by other Rates and Prices in the bill of quantities.
4	The Tenderers omission to insert Rates and Prices shall not be deemed to be a qualified exclusion to execute such work, activity or responsibility.
5	The Rates and Prices are deemed to include (unless otherwise specifically stated in the bill of quantities or herein) all the relevant costs associated with the Clauses of Contract as amended and shall include but not be limited to the following cost components:
6	The Tenderer is deemed to have obtained all the necessary information required to adequately price the scope of work associated with this Enquiry and no claim shall be considered resulting from lack of knowledge in this respect.

Bill description	Unit	No	HRS Estimate	Total HRS	Base Rate	Escalation 12% - 2025	UIF (1%)	Provident Fund (5%)	COID/WC A (4%)	Liability Insurance (10%)	Overhead & Profit (30%)	Total (O-V)	Daily Rate (Bhrs)	Escalatio 5.2% - 2026/27	Escalatio in 10.42% 2028-29	Year 1	Year 2	Year 3	Total
PROVISION FOR PEOPLE WITH DISABILITIES																			
The Tenderer is advised to read and understand the Preambles of this Bill of Quantities prior to pricing.																			
Positions Identified for PWDs in the different Business Units at ERI across all occupational levels, but not limited to:																			
Stacker Operator	Hour	1	145	435															
Environmental Officer	Hour	1	145	435										0,00	0,00	-	-	-	-
Administrator (Sales)	Hour	1	145	435										0,00	0,00	-	-	-	-
Administrator Communication	Hour	1	145	435										0,00	0,00	-	-	-	-
Administrative Clerk	Hour	1	145	435										0,00	0,00	-	-	-	-
Projects Hrs - Administration	Hour	1	145	435										0,00	0,00	-	-	-	-
Project co-ordinator	Hour	1	145	435										0,00	0,00	-	-	-	-
SHE Officer	Hour	1	145	435										0,00	0,00	-	-	-	-
Site Clerk	Hour	1	145	435										0,00	0,00	-	-	-	-
Quantity Surveyor	Hour	1	145	435										0,00	0,00	-	-	-	-
Disbursements and Contingencies																			
Disbursement	Prov Sum																		
Contingency (10%)	%																		

Part C3: Scope of Work

Service Provider:

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Document reference	Title	Page No.
C3.1	<i>Employer's Scope</i>	52-57
C3.2	<i>Consultant's Scope</i>	58
	Total number of pages	

C3.1 Employer's Goods Information

Scope for Recruitment of People living With Disabilities (PWDs) Eskom Rotek Industries June 2025

1. INTRODUCTION

Eskom Rotek Industries - HCM Talent and Learning Department needs to secure the recruitment agencies that will provide a pool of candidates of persons living with disabilities (PwD) which will be accessible to ERI. The agencies will help the organisation in filling identified roles / positions that can accommodate PwDs. The geographic locations can cover the Rosherville Head Office and sites predominantly in the Mpumalanga Province.

The purpose of this scope is to explain the requirements needed for the filling of such vacancies. The areas of target are all Business Units roles that can accommodate persons with disability in relation to the working environment. The positions can be filled on temporary, permanent and learner basis.

2. DETAILED SPECIFICATIONS

Positions identified for PwDs in the different Business Units at ERI:

- o Stacker Operator
- o Environmental Officer
- o Administrator (Sales)
- o Administrator Communication
- o Administrative Clerk
- o Projects Hrs - Administration
- o Project co-ordinator
- o SHE Officer
- o Site Clerk
- o Quantity Surveyor

3. MORE INFORMATION

Any questions can be directed to Wisani Mbiza, MbizaWP@eskom.co.za or 0829987373.

Objective in detail:

To appoint qualified recruitment agencies to identify, source, and support the placement of Persons Living with Disabilities (PwD) in appropriate job roles within ERI. The goal is to ensure inclusive hiring and promote workplace diversity.

Scope of Services:

The recruitment agencies will be responsible for the following:

A) recruitment planning:

- Collaborate with ERI to understand the workforce requirements
- Advise on roles suitable for various types of disabilities
- Assist in co creating inclusive job advertisements

B) Candidate sourcing:

- Identify and reach out to qualified PwD candidates using appropriate channels

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C) Maintain a database of pre-screened candidates of PWD candidates Screening and shortlisting:

- Conduct the initial screening interviews and assessments tailored to each candidate's abilities
- Ensure reasonable accommodation during the recruitment process
- Provide a shortlist of qualified candidates with details on their disability types and required accommodations

D) Placement support:

- Support the onboarding process, including disability inclusion training for HCM and line managers if and when requested/required by ERI
- Assist in reasonable workplace accommodations e.g. assistive technologies, ergonomic changes
- Provide job coaching or mentoring if required

E) Reporting and monitoring:

- Submit weekly/ monthly/quarterly progress reports on recruitment activities and placement
- Track retention and satisfaction of PwD hires
- Recommend improvements in hiring and onboarding practices for PwDs

F) Deliverables:

- Inclusive recruitment strategy and plan alignment with ERI
- Database of qualified PwD candidates
- Progress and placement reports
- Final report on outcomes and impact of placements

G) Duration:

The contract will be for a period of three years, and based on performance

H) Qualifications of the agency:

- Proven experience in inclusive recruitment or disability focussed HR services
- Demonstrated partnerships with organizations for PwD
- Understanding of national disability rights legislation and employment policies
- Staff trained in disability inclusion and reasonable accommodation practices

I) Compliance:

- Adhere to all relevant labour laws and disability rights regulations
- Ensure confidentiality and non-discrimination in all processes

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C3.2 Consultant's Goods Information

This section could also be compiled as a separate file.

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Part C4: Site Information

Specific to site under consideraion.

CONFIDENTIALITY AGREEMENT

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

WHEREAS, the *Employer* and the Consultant (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 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

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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 like 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.