

NEC3 Term Service Contract (TSC3)

Between **ESKOM ROTTEK INDUSTRIES SOC Ltd**
(Reg No. 1990/006897/30)

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

For **The maintenance of Transformers for Eskom Rotek Industries on site for a period of Four (4) years as and when required.**

Contents:

Part C1	Agreements & Contract Data
Part C2	Pricing Data
Part C3	Scope of Work

CONTRACT No.	[Insert at award stage]
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PART C1: AGREEMENTS & CONTRACT DATA

Contents:

C1.1	Form of Offer and Acceptance
	[to be inserted from Returnable Documents at award stage]
C1.2a	58
C1.2b	Contract Data provided by the <i>Contractor</i>
	[to be inserted from Returnable Documents at award stage]

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 maintenance of Transformers for Eskom RoteK Industries on site for a period of Four (4) years as and when required.

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.

	Sub total	Rate Based Contract
	Value Added Tax @ 15% is	Rate Based Contract
	The offered total of the amount due inclusive of VAT is ¹	Rate Based Contract
	(in words)	

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

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

MAINTENANCE OF TRANSFORMERS FOR ESKOM ROTEK INDUSTRIES ON SITE FOR A PERIOD OF FOUR (4) YEARS AS AND
WHEN REQUIRED

Signature(s)

Name(s)

Capacity

For the Vendor details
tenderer:

(Insert name and address of
Name & organisation)

signature of
witness

Date

Tenderer's CIDB registration number:

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

MAINTENANCE OF TRANSFORMERS FOR ESKOM ROTEK INDUSTRIES ON SITE FOR A PERIOD OF FOUR (4) YEARS AS AND
WHEN REQUIRED

for the Eskom RoteK Industries SOC Ltd
Employer

Name & signature of witness	<i>(Insert name and address of organisation)</i>	Date
_____	_____	_____

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

Note:

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

No.	Subject	Details
1	N/A	
2		
3		
4		
5		
6		
7		

By the duly authorised representatives signing this Schedule of Deviations below, the Employer and the tenderer agree to and accept this Schedule of Deviations as the only deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Tender Schedules, as well as any confirmation, clarification or changes to the terms of the Offer agreed by the tenderer and the Employer during this process of Offer and Acceptance.

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

MAINTENANCE OF TRANSFORMERS FOR ESKOM ROTEK INDUSTRIES ON SITE FOR A PERIOD OF FOUR (4) YEARS AS AND
WHEN REQUIRED

For the tenderer:

For the Employer

Signature _____

Name _____

Capacity _____

On behalf of *(Insert name and address of organisation)* _____

Eskom RoteK Industries SOC Limited

Name &
signature
of
witness _____

Date _____

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	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:	
		A: Priced contract with price list
	dispute resolution Option	W1: Dispute resolution procedure
	and secondary Options	
		X1: Price adjustment for inflation
		X2 : Changes in the law
		X17: Low service damages
		X18: Limitation of liability
		X19: Task Order
		Z: <i>Additional conditions of contract</i>
	of the NEC3 Term Service Contract April 2013 ² (TSC3)	
10.1	The <i>Employer</i> is (name):	Eskom Rotek Industries SOC Ltd (Reg no: 1990/006897/30), a state owned company incorporated in terms of the company laws of the Republic of South Africa
	Address	Roshland Office Park Lower Germiston Road Rosherville
	Tel No.	073 872 6632/011 629 4165

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

Fax No.	
10.1	<div> <div>The <i>Service Manager</i> is (name):</div> <div>Address</div> <div>Tel</div> <div>Fax</div> <div>e-mail</div> </div>
	<div>Thembhani Chauke</div> <div>Roshland Office Park Lower Germiston Road Rosherville</div> <div>082 859 0990/011 629 4396</div>
11.2(2)	<div>The Affected Property is</div> <div>Transformers and reactors in South Africa and neighbouring countries</div>
11.2(13)	<div>The <i>service</i> is</div> <div>The maintenance of Transformers for Eskom RoteK Industries on site for a period of Four (4) years as and when required.</div>
11.2(14)	<div>The following matters will be included in the Risk Register</div> <div> Cost Scope Safety Quality Technical functionality Additional items identified by the parties from time to time and recorded in the site or works specific risk registers </div>
11.2(15)	<div>The Service Information is in</div> <div>Part 3: Scope of Work and all documents and drawings to which it makes reference.</div>
12.2	<div>The <i>law of the contract</i> is the law of</div> <div>the Republic of South Africa</div>
13.1	<div>The <i>language of this contract</i> is</div> <div>English</div>
13.3	<div>The <i>period for reply</i> is</div> <div>2 working days unless otherwise indicated in Task Order</div>
2	<div>The Contractor's main responsibilities</div> <div>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</div>
21.1	<div>The <i>Contractor</i> submits a first plan for acceptance within</div> <div>1 week of the Contract Date</div>

3	Time	
30.1	The <i>starting date</i> is	01 December 2025 or soon after signatures
30.1	The <i>service period</i> is	4 (four) years
4	Testing and defects	<p>Testing will be performed by the <i>Employer</i> after during and before hand over of project or tasks.</p> <p>The defect correction period for particular defect will be agreed upon by the parties at the first, meeting when the defect is formally discussed.</p>
5	Payment	
50.1	The <i>assessment date</i> is	To be specified in task order
51.1	The <i>currency of this contract</i> is the	South African Rand
51.2	The period within which payments are made is	4 weeks of receipt of the valid contractor's tax compliant invoice
51.4	The <i>interest rate</i> is	<p>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</p> <p>(ii) The LIBOR rate applicable at the time for amounts due in other currencies. LIBOR is the 6 month London Interbank Offered Rate quoted under the caption "Money Rates" in The Wall Street Journal for the applicable currency or if no rate is quoted for the currency in question then the rate for United States Dollars, and if no such rate appears in The Wall Street Journal then the rate as quoted by the Reuters Monitor Money Rates Service (or such service as may replace the Reuters Monitor Money Rates Service) on the due date for the payment in question, adjusted <i>mutatis mutandis</i> every 6 months thereafter (and as certified, in the event of any dispute,</p>

		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.
6	Compensation events	To be approved by the <i>Employer</i> within 48 hours of receipt from the contractor, should the employer not agree with the terms of the compensation events, a dispute shall be declared within 24 hours.
7	Use of Equipment Plant and Materials	The <i>Contractor</i> shall provide their own equipment, plant and materials, any further requirements shall be agreed upon between parties.
8	Risks and insurance	
80.1	These are additional <i>Employer's</i> risks	N/A
83.1	The <i>Employer</i> provides these insurances from the Insurance Table	as stated for "Format TSC3" available on http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx (See Annexure A for basic guidance).
83.1	The <i>Employer</i> provides these additional insurances	as stated for "Format TSC3" available on http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx (See Annexure A for basic guidance)
83.1	The <i>Contractor</i> provides these additional insurances:	
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	the amount of the deductibles relevant to the event described in the "Format TSC3" insurance policy available on http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies

From_1_April_2014_To_31_March_2015.a
spx

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	
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:	Whatever the Contractor deems necessary in addition to that provided by the Employer.
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:	As prescribed by the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 and the Contractor's 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).
9	Termination	
10	Data for main Option clause	
A	Priced contract with price list	Refer to the pricing schedule part 2 pricing data
20.5	The <i>Contractor</i> prepares forecasts of the final total of the Prices for the whole of the <i>service</i> at intervals no longer than	N/A
20.4	The <i>Contractor</i> prepares forecasts of the total Defined Cost for the whole of the <i>service</i> at intervals no longer than	N/A
50.6	The <i>exchange rates</i> are those published in	N/A
53.1	The <i>Contractor's</i> share percentages and the share ranges are	share range Contractor's share %-age

		less than [•] %	[•]%
		from [•]% to [•]%	[•]%
		from [•]% to [•]%	[•]%
		greater than [•]%	[•]%
53.3	The <i>Contractor's</i> share is assessed on (dates)	[•]	
	The <i>exchange rates</i> are those published in	[•] on [•] (date)	
11	Data for Option W1		
W1.1	The <i>Adjudicator</i>	The person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see www.ice-sa.org.za). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).	
	Address		
	Tel No.		
	Fax No.		
	e-mail		
W1.2(3)	The <i>Adjudicator nominating body</i> is: An Adjudicator will be appointed between the Contractor and the Employer should a dispute arises. The costs that the Adjudicator charge will be divided between both Parties at 50% for each parties account.	the Chairman of ICE-SA a joint Division of the South African Institution of Civil Engineering and the Institution of Civil Engineers (London) (see www.ice-sa.org.za) or its successor body.	
W1.4(2)	The <i>tribunal</i> is:	Arbitration	

W1.4(5)	The <i>arbitration procedure</i> is	the 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	The Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.
	<ul style="list-style-type: none"> - if the Parties cannot agree a choice or - if the arbitration procedure does not state who selects an arbitrator, is 	
12	Data for secondary Option clauses	
X1	Price adjustment for inflation	
X1.1	The <i>base date</i> for indices is The proportions used to calculate the Price Adjustment Factor are:	1(One) month prior to the contract date 15% - Fixed 65% - Seifsa Table C3 (a) - All hourly paid employees 20% - SEIFSA
X2	Please add wording for X 2	Table E-B - Material
X17	Low service damages	
X17.1	The low performance damages is	10% of task order value
X18.1	The <i>Contractor's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to	R0.0 (zero Rand)

X18.2	For any one event, the <i>Contractor's</i> liability to the <i>Employer</i> for loss of or damage to the <i>Employer's</i> property is limited to	<p>the amount of the deductibles relevant to the event described in the "Format TSC3" insurance policy available on http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies</p> <p><i>From_1_April_2014_To_31_March_2015.a spx</i></p>
X18.3	The <i>Contractor's</i> liability for Defects due to his design of an item of Equipment is limited to	The amount of the task order from which the defect arose.
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>The amount of the task order from which the defect arose.</p> <p>The <i>Contractor's</i> total liability for the additional excluded matters is not limited.</p> <p>The additional excluded matters are amounts for which the <i>Contractor</i> is liable under this contract for</p> <ul style="list-style-type: none"> • Defects due to his design, plan and specification, • Defects due to manufacture and fabrication outside the Affected Property, • loss of or damage to property (other than the <i>Employer's</i> property, Plant and Materials), • death of or injury to a person and • Infringement of an intellectual property right.
X18.5	The <i>end of liability date</i> is	12 months after the end of the service period.
X19	Task Order	
X19.5	The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within	7 days of receiving the Task Order

Z1 Cession delegation and assignment

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

Z2 Joint ventures

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

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

- Z3.1 Where a change in the *Contractor's* legal status, ownership or any other change to his business composition or business dealings results in a change to the *Contractor's* B-BBEE status, the *Contractor* notifies the *Employer* within seven days of the change.
- Z3.2 The *Contractor* is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the *Service Manager* within thirty days of the notification or as otherwise instructed by the *Service Manager*.
- Z3.3 Where, as a result, the *Contractor's* B-BBEE status has decreased since the Contract Date the *Employer* may either re-negotiate this contract or alternatively, terminate the *Contractor's* obligation to Provide the Service.
- Z3.4 Failure by the *Contractor* to notify the *Employer* of a change in its B-BBEE status may constitute a reason for termination. If the *Employer* terminates in terms of this clause, the procedures on termination are P1, P2 and P4 as stated in clause 92, and the amount due is A1 and A3 as stated in clause 93.

Z4 Ethics

Z4.1 For the purposes of this Z-clause, the following definitions apply:

Affected Party means, as the context requires, any party, irrespective of whether it is the Contractor or a third party, such party's employees, agents, or Subcontractors or Subcontractor's employees, or any one or more of all of these parties' relatives or friends,

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

Collusive Action means, where two or more parties co-operate to achieve an unlawful or illegal purpose, including to influence an Affected Party to act unlawfully or illegally,

Committing Party means, as the context requires, the Contractor, or any member thereof in the case of a joint venture, or its employees, agents, or Subcontractors or the Subcontractor's employees,

Corrupt Action means, the offering, giving, taking, or soliciting, directly or indirectly, of a good or service to unlawfully or illegally influence the actions of an Affected Party,

Fraudulent Action means, any unlawfully or illegally intentional act or omission that misleads, or attempts to mislead, an Affected Party, in order to obtain a financial or other benefit or to avoid an obligation or incurring an obligation,

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

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

Z4.2 A Committing Party may not take any Prohibited Action during the course of the procurement of this contract or in execution thereof.

Z4.3 The Employer may terminate the Contractor's obligation to Provide the Service if a Committing Party has taken such Prohibited Action and the Contractor did not take timely and appropriate action to prevent or remedy the situation, without limiting any other rights or remedies the Employer has. It is not required that the Committing Party had to have been found guilty, in court or in any other similar process, of such Prohibited Action before the Employer can terminate the Contractor's obligation to Provide the Service for this reason.

Z4.4 If the Employer terminates the Contractor's obligation to Provide the Service for this reason, the procedures and amounts due on termination are respectively P1, P2, P3 and P4, and A1 and A3

Z4.5 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.

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 regarded as such until notified otherwise by the *Service Manager*.
- Z5.3 In the event that the *Contractor* is, at any time, required by law to disclose any such information which is required to be kept confidential, the *Contractor*, to the extent permitted by law prior to disclosure, notifies the *Employer* so that an appropriate protection order and/or any other action can be taken if possible, prior to any disclosure. In the event that such protective order is not, or cannot, be obtained, then the *Contractor* may disclose that portion of the information which it is required to be disclosed by law and uses reasonable efforts to obtain assurances that confidential treatment will be afforded to the information so disclosed.
- Z5.4 The taking of images (whether photographs, video footage or otherwise) of the Affected Property or any portion thereof, in the course of Providing the Service and after the end of the *service period*, requires the prior written consent of the *Service Manager*. All rights in and to all such images vests exclusively in the *Employer*.
- 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 a sufficient amount for proper compliance with the Construction Regulations, all applicable health & safety laws and regulations and the health and safety rules, guidelines and procedures provided for in this contract and generally for the proper maintenance of health & safety in and about the execution of the *service*; and
- undertakes, in and about the execution of the *service*, to comply with the Construction Regulations and with all applicable health & safety laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his Subcontractors, employees and others under the *Contractor’s* direction and control, likewise observe and comply with the foregoing.

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 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 48 hours 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.

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. In order 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

C1.2 Contract Data

Part two - Data provided by the *Contractor*

Notes to a tendering contractor:

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

Clause	Statement	Data
10.1	The <i>Contractor</i> is (Name): Address Tel No. Fax No.	
11.2(8)	The <i>direct fee percentage</i> is	% n/a
	The <i>subcontracted fee percentage</i> is	% n/a
11.2(14)	The following matters will be included in the Risk Register	
11.2(15)	The Service Information for the <i>Contractor's</i> plan is in:	
21.1	The plan identified in the Contract Data is contained in:	
24.1	The key people are:	
	1 Name:	
	Job:	
	Responsibilities:	
	Qualifications:	
	Experience:	
	2 Name:	
	Job	
	Responsibilities:	
	Qualifications:	

Experience:

CV's (and further key person's data
including CVs) are in _____.

A	Priced contract with price list
11.2(12)	The <i>price list</i> is in _____
11.2(19)	The tendered total of the Prices is R _____

C1.3 Forms of Securities

MAINTENANCE OF TRANSFORMERS FOR ESKOM ROTEK INDUSTRIES ON SITE FOR A PERIOD OF FOUR (4) YEARS AS AND
WHEN REQUIRED

PART 2: PRICING DATA**TSC3 Option A**

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

C2.1 Pricing assumptions: Option A

How work is priced and assessed for payment

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

- Identified and defined terms** 11
- 11.2 (12) The Price List is the *price list* unless later changed in accordance with this contract.
- (17) The Price for Services Provided to Date is the total of
- the Price for each lump sum item in the Price List which the *Contractor* has completed and
 - Where a quantity is stated for an item in the Price List, an amount calculated by multiplying the quantity which the *Contractor* has completed by the rate.
- (19) The Prices are the amounts stated in the Price column of the Price List. Where a quantity is stated for an item in the Price List, the Price is calculated by multiplying the quantity by the rate.

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

Function of the Price List

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

Link to the *Contractor's* plan

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

Preparing the *price list*

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

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

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

Format of the *price list*

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

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

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

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

MAINTENANCE OF TRANSFORMERS FOR ESKOM ROTEK INDUSTRIES ON SITE FOR A PERIOD OF FOUR (4) YEARS AS AND WHEN REQUIRED

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

C2.2 the price list

Transformer Maintenance 315KVA to 1000MVA: Labour, Transport and Consumable Price list					
Item	Description	Unit	Estimate Quantity	Rate	Total
1	Safety File	pu	300		
	Labour CTP (Transformer) team normal				
2	Supervisor	R/Hour	18000		
3	Artisan	R/Hour	18000		
4	Semi Skilled	R/Hour	36000		
5	LOA CTP team	R/Day	12000		
6	Accommodation CTP team	R/Day	12000		
7	LOA 10T crane Truck Driver	R/Day	2400		
8	Accommodation 10T crane truck Driver	R/Day	2400		
	Labour CTP team Saturday				
9	Supervisor	R/Hour	480		
10	Artisan	R/Hour	480		
11	Semi Skilled	R/Hour	480		
	Labour CTP team Sunday/Public Holiday				
12	Supervisor	R/Hour	480		
13	Artisan	R/Hour	480		
14	Semi Skilled	R/Hour	480		
	Transport CTP Team/tools				
15	Staff Travelling LDV	R/km	60000		
16	10 TON Crane truck for CT painting, tool transport	R/km	60000		
17	10 TON Crane truck for CT painting, tool transport	R/Day	480		
18	8 TON Crane truck for CT painting, tool transport	R/km	60000		
19	8 TON Crane truck for CT painting, tool transport	R/Day	480		
	Equipment, Materials and Consumables				

PROJECT OR CONTRACT TITLE

20	CYLINDER, COMPR GAS: DRY AIR;9.8 KG	kg	1500		
18	CORK SHEET 6MM	mm	6000		
19	CORK SHEET 3MM	mm	4000		
20	CORK SHEET 9.5MM	mm	2000		
21	MALTHOID 5 ply	m	3000		
22	PAINT RED OXIDE 1lt	ltr	3000		
23	CLEANER: AERODET DETERGENT; LIQUID (25L)	ltr	20000		
24	DEGREASER: BIO-D EXTRA 5L	ltr	20000		
25	INHIBITOR: MULTI PURPOSE LUBE; CRC 2-26	ltr	3000		
26	RAGS.CLEANING COL GRADE CLK 5kg	kg	3000		
27	GLOVE: PIGSKIN/ CUT REST. L/CHMCL PROTECT	each	1500		
28	Scaffolding.	R/Day	1000		
29	Diesel	ltr	8000		
30	PAINT BRUSH 50MM	each	1500		
31	PAINT BRUSH 75MM	each	1500		
32	SHROUD CABLE GLAND NO 1	each	1500		
33	GAUGE PRESSURE 0-60 KPA	each	1500		
34	CCG CABLE GLANDS No: 0 Part no: 0523-0+LN	each	1500		
35	CCG CABLE GLANDS No: 1 Part no: 052301	each	1500		
36	TUBE, REFRIGN: OD 9.53 MM	each	300		
37	KIT: OIL SAMPLING; BUCHHOLZ 9.53mm	each	300		
38	PRV, TRFR: XPRD; CAST ALUMINIUM; 55 KPA	each	300		
39	QUATRO RADIATOR O-RING	each	1500		
40	Radiator valves 75mm Aluminium	each	1500		
41	Radiator studs M16x 75mm SS 304	each	14000		
42	RELAY, BUCHHOLZ: TRF; CAST ALUMINIUM; BS80	each	200		
43	RELAY, BUCHHOLZ: TRF; CAST ALUMINIUM; BS25	each	300		
44	Generator 3 Phase 200 A and 50m 5 core Cable	R/Day	2000		
TOTAL EXC VAT and CPA					

PART 3: SCOPE OF WORK

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

Description of the service

1. Description of the service

The Maintenance of Transformers for Eskom RoteK Industries for a period of Four (4) years.
Transformer Site work 315KVA /132kV to 1000 MVA and 765 kV.

SCOPE OF WORK		SOW Reference	
Transformer maintenance from 315 KVA /380V to 1000 MVA/765 kV. High level SOW <ol style="list-style-type: none"> 1. Total regasketting 2. Transformer exchanger by means of crane 3. Transformer exchange by means of rigging 4. Partial drain and minor oil leak repair 5. Oil top up 6. Transformer Internal inspection 7. Weld Transformer top cover 8. Sergi work 		No:	Rev:
ROTEK REF. NO: ENABLING CONTRACT		CNT	

Detail Scope

1. Total regasketting

Travel to site

Site Establishment

Take oil sample from bottom main tank and analyse for gases

Take work permit, conduct risk analysis and complete workers register

Disconnect and mark secondary wiring from fans, CT's, gauges, etc. Complete wash transformer

Totally drain oil into the iso tanks under positive dry air Pressurize transformer for 24hrs

Conduct dew point test

Disconnect cable from the fans/CT's

Remove fans

Remove radiators Remove Pipe work
Remove header pipe
Disconnect and remove HV bushing
Disconnect and remove MV bushing
Disconnect and remove LV bushing
Remove and regasket HV Turrets
Remove and regasket MV Turrets
Regasket and install HV bushing
Regasket and install MV bushing
Regasket and install LV bushing
Regasket inspection covers
mark and disconnect CT terminal block
Regasket/replace CT terminal block
Install terminal block
remove and lower down the conservator tank
Regasket conservator tank
Install Conservator tank
Regasket/replace Header valves
Ragasket and install header pipes-
Replace Jonson coupling regasket and install pipe work -replace
flexibles, buchholz Replace radiator valves
install radiator valves install fans regasket/replace -PRV
regasket/replace Temperature
probes Replace valves
Cable work
pressurize transformer and conduct
soap test conduct dew point test after
24hors
Travel from site

2. Transformer exchange by means of crane

Travel to site

Take work permit, conduct risk analysis and complete workers
register Site establishment

Take oil sample prior to commencing

Pipe establishment

Oil drain (full or partially)

Dismantle and remove conservator tank

Disconnect and remove HV bushing

Disconnect and remove MV bushing

Disconnect and remove LV bushing

Remove and regasket HV Turrets

Remove and regasket MV Turrets

Remove radiators and blank off

Remove Pipe work and bank off

Remove selector and blank off

Conduct insulation resistance

Fit Impact recorder

Jack and move Transformer out of position
where required Load faulty transformer by
means of mobile crane

Offload the replacement transformer to the

Position install identification tags on all

parts and label accordingly load

transformer parts

Transport Transformer part to Rosherville -

ER Transport Transformer to Rosherville -

ER Hand over to customer

Clear site

3. Transformer exchange by means of Rigging

Dismantle and load replacement Transformer

Travel to site

Take work permit, conduct risk analysis and complete workers register

Site establishment

Take oil sample prior to commencing Pipe establishment

Oil drain (full or partially)

Pressurize transformer with dry air for 24hrs Performer dew point test

Dismantle and remove conservator tank

Disconnect and remove HV bushing

Disconnect and remove MV bushing

Disconnect and remove LV bushing

Remove and blank HV Turrets

Remove and blank MV Turrets

Remove radiators and blank off

Remove and blank off header pipe

Remove Pipe work and bank off

Remove selector and blank off

Conduct insulation resistance

Fit Impact recorder

Jack and move Transformer out of position where required

Load faulty transformer on the low bed or beam wagon by means of rigging

install identification tags on all parts and label accordingly

load transformer parts

Transport Transformer part from storage to Site Transport Transformer from Storage to site

Hand over to customer

Clear site

Dismantle and load faulty Transformer

Travel to site

Take work permit, conduct risk analysis and complete workers register Site establishment

Take oil sample prior to commencing Pipe establishment

Oil drain (full or partially)

Pressurize transformer with dry air for 24hrs

Performer dew point test

Dismantle and remove conservator tank

Disconnect and remove HV bushing

Disconnect and remove MV bushing

Disconnect and remove LV bushing

Remove and blank HV Turrets

Remove and blank MV Turrets

Remove radiators and blank off

Remove and blank off header pipe

Remove Pipe work and bank off

Remove selector and blank off

Conduct insulation resistance

Fit Impact recorder

Jack and move Transformer out of position where required

Load faulty transformer on the low bed or beam wagon by means of rigging install identification tags on all parts and label accordingly

load transformer parts

Transport Transformer part from site to ERI Transport Transformer from Site to ERI Hand over to customer

Clear site

Offload Replacement Transformer and assemble

Travel to Site

Take work permit, conduct risk analysis and complete workers
register test the transformer before offloading

Establishment of rigging equipment

Offload transformer by mean of rigging

conduct insulation test the transformer after offloading

Move transformer to the final position by means of rigging
conduct insulation test the transformer on final position

Remove impact recorder and download readings

Performer dew point test

install conservator tank

Regasket and install HV

Turrets Regasket and install

MV Turrets

Regasket and install HV bushings

Regasket and install MV

bushings Regasket and install

LV bushings Regasket and
install header pipes Regasket
and install radiators Install

selector switches

Install pipe, buchholz,

PRV Install cooling fans

Conduct insulation resistance

Do cable work

Conduct internal inspection

Pressurize Transformer to 25kpa for 24hrs

Conduct soap test

Performer dew point test Hand over

Clear site

4. Partial drain and minor oil leak repair

Travel to site

Take work permit, conduct risk analysis and complete
workers register

Site establishment

Partial drain oil to required level

Regasket Inspection covers

Regasket CT terminal box

Regasket Temperature probe

Regasket Pipe work and buchholz

Regasket/Nip up HV bushings

Regasket/Nip up MV bushings

Regasket/Nip up LV bushings

Regasket/Nip up Neutral bushings

Regasket/Nip up earthing bushings

Nip up the whole transformer

Clean and Clear Site

Hand over

Travel from site

5. Transformer oil top up

Travel to site

Take work permit, conduct risk analysis and complete workers

register Site establishment

Top up transformer without Airbag

Top up transformer with Airbag Remove pipes and pump

Clean site

Clear Site

Hand over

Travel

from site

6. Transformer Internal Inspection

Travel to site

Take work permit, conduct risk analysis and complete workers

register Site establishment

Conduct insulation Resistance test

Drain oil from Transformer into clean ISO tank Pressurize transformer with dry air

Performer dew point test after 24hrs Drain residual oil from transformer Open Inspection covers

Connect and start dehumidifier

machine carry out internal

inspection

report on finding

Refit Inspection covers

Pressurize transformer with dry air Performer dew point test after 24hrs Clean and Clear Site

Hand over

Travel

from site

7. Weld transformer main top cover

Travel to site

Safety & Environmental induction training – Central Grid – approximately 2 hours

Take work permit, conduct risk assessments and complete workers register

Establish site

Take work permit, conduct risk analysis and

complete workers register Transformer must be

sealed off and pressurized with nitrogen for

welding Remove every second lid bolt and weld

pin into place. Complete all bolts Weld angle

iron around edges of tank and lid flanges

Pressurize transformer with nitrogen (20 kPA) and check

for leaks by using soap Complete daily activity report

Complete handing over certificate Complete transformer / reactor work report

Clean and clear site

Hand over Travel from site

8. Sergi Work

Travel to site

Take work permit, conduct risk analysis and
complete workers register Site establishment

Activation and de-

activation relief

system Maintenance

and assessment

Clean and Clear Site Hand over

Travel from site

2. Specifications

Title	Date or revision	Tick if publicly available
<u>General Specifications:</u>		
Health and Safety requirements	240-151887139 rev 0	Yes
Environmental requirements	240-151887139 rev 0	Yes
Site regulations and access control	F-408 rev 0	No
<u>Technical specifications:</u>		
Major Transformer overhaul	240-101387867 rev 3	No
Partial drain & oil leak repairs	240-111113696 rev 2	No
Drain oil under positive pressure	240-94065144 rev 4	No
Top up various design conservator tank	240-94065550 rev 7	No
On site Transformer dismantle, load & transportation	240-94065354 rev 1	No
On site Transformer load & assemble	240-94065562 rev 1	No
Preparation & working in confined space	240-139108932 rev 2	No
Welding, flame cutting, soldering	6033568 Rev 1	no

7. Management strategy and start up.

7.1. The Contractor's plan for the service

- The employer requires two (2) working days prior notification to perform final inspection before hand over of projects.
- One person should be authorised to receive a work permit and deemed as responsible person.
- The contractor to provide method statement or Work instructions on all relevant scope of work.
- All required documentation shall be collected from ERI before work commences.

7.2. Management meetings

- Project post-mortem as and when required
- Incident investigations when required
- Site meetings (Pre project, during and before hand over)

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

Title and purpose	Approximate time & interval	Location	Attendance by:
Risk register and compensation events	Weekly on _____ at ____		
Overall contract progress and feedback	Monthly on _____ at ____		<i>Employer, Contractor and ____</i>

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.

7.3. Contractor's management, supervision and key people

7.4. Provision of bonds and guarantees

Refer to attached Appendix A (SD&L)

7.5. Documentation control

N/A

7.6. Invoicing and payment

Within one week of receiving a payment certificate from the *Service Manager* in terms of core clause 51.1, the *Contractor* provides the *Employer* with a tax invoice showing the amount due for payment equal to that stated in the *Service Manager's* payment certificate.

The *Contractor* shall address the tax invoice to

And include on each invoice the following information:

- Name and address of the *Contractor* and the *Service Manager*;
- The contract number and title;
- *Contractor's* VAT registration number;
- The *Employer's* VAT registration number 4330196330;
- Description of service provided for each item invoiced based on the Price List;
- Total amount invoiced excluding VAT, the VAT and the invoiced amount including VAT;
- (add other as required)

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

7.7. Contract change management

N/A

7.8. Records of Defined Cost to be kept by the *Contractor*

N/A

7.9. Insurance provided by the *Employer*

The contractor shall provide the employer with its valid The Compensation for Occupational Injuries and Diseases Act (COIDA) Certificate thorough the duration of the service period,

The contractor shall provide the employer with its valid Public liability Certificate thorough the duration of the service period,

7.10. Training workshops and technology transfer

N/A

7.11. Design and supply of Equipment

N/A

7.12. Things provided at the end of the *service period* for the *Employer's* use**7.12.1. Equipment**

N/A

7.12.2. Information and other things

- The contractor shall provide at the end of the projects the guarantees on the paint work
- The contractor shall provide at the end of the projects the Paint thickness certificate

8. Health and safety, the environment and quality assurance

8.1. Health and safety risk management

The *Contractor* shall comply with the health and safety requirements as required by the law.

The Contractor shall comply with the requirements of the ERI SHEQ Specification on Transformer Maintenance.

8.2. Environmental constraints and management

The *Contractor* shall comply with the health and safety requirements as required by the law.

8.3. Quality assurance requirements

The contractor's (Employer's) in house policies and procedures shall be adhered to strictly. The Contractor shall comply with the requirements of the ERI SHEQ

9. Procurement

The contractor to supply their own materials and equipment's to carry out the services.

9.1. People

9.1.1. Minimum requirements of people employed

The minimum of 5 people is required per task and one person should be authorised to receive a work permit and deemed as responsible person.

9.1.2. BBBEE and preferencing scheme

Only tenderers that are classified as Exempted Micro Enterprises or Qualifying Small Enterprises **and** have a B-BBEE recognition status of Level 1 will be considered

10. Working on the Affected Property

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

The Employer shall inform the contractor of any site entry and security controls, permits and site Regulations prior to the commencement of any work.

10.2. People restrictions, hours of work, conduct and records

10.3. Health and safety facilities on the Affected Property

The Employer shall inform the contractor of the health and safety facilities on the affected property during the SHE/Q induction

10.4. Environmental controls, fauna & flora

The contractor shall conform to the approved Environmental Management Plan as agreed during SHE File evaluation per project.

10.5. Records of *Contractor's* Equipment

The contractor shall provide a list of equipment to be used during the execution of the project.

All statutory equipment shall conform to all applicable health & safety laws and regulations and the health and safety rules, guidelines and procedures.

10.6. Equipment provided by the *Employer*

The contractor shall provide a list of equipment to be provided by the Employer during the execution of the project.

All statutory equipment shall conform to all applicable health & safety laws and regulations and the health and safety rules, guidelines and procedures.

Site services and facilities

10.7. Control of noise, dust, water and waste

The contractor shall conform to the approved Environmental Management Plan as agreed during SHE File evaluation per project.

10.8. Hook ups to existing works

The contractor shall conform to the approved fall protection plan as agreed during SHE File evaluation per project.

CONFIDENTIALITY AGREEMENT

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

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

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

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

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

shall not be obligated to maintain in secrecy any information it receives from the Proprietor which it can demonstrate was already in its possession when the information was disclosed to the Receiving Party by the Proprietor.

6. The Receiving Party shall promptly return to its Proprietor any Subject Information in tangible form it has received from the Proprietor immediately upon the Proprietor's request, without retaining any copies, summaries, analyses or extracts thereof. All documents, memoranda, notes and other writings prepared by the parties, or their advisors, based on the Subject Information of each other, shall be destroyed, and such destruction shall be certified in writing by an authorised officer supervising such destruction.
7. If a party, with the written consent of the Proprietor of Subject Information, discloses any Subject Information received from its Proprietor to any third party, it shall do so only under a secrecy agreement having a scope similar to and which is consistent with this Agreement, and the disclosing party shall be primarily responsible for any compromise of the secrecy of Subject Information by such third party
8. Each party agrees that it shall not, while and for so long as it is obligated to maintain Subject Information in secrecy, use for its own benefit, or for the benefit of others or exploit, commercialise, develop, test promote, sell, lease, market or otherwise dispose of any products or services using, incorporating or relying on Subject Information received from its Proprietor without the written consent of the Proprietor.
9. The obligations of the party receiving Subject Information pursuant to this Agreement shall be effective with respect of each item of Subject Information for a term of five (5) years from the date of submission of the Subject Information to the Receiving Party by its Proprietor, unless the Proprietor agrees otherwise in writing.
10. For purposes of this Agreement, each party shall include (to the extent applicable) the officers, directors, employees, agents, representatives, attorneys, joint ventures, partnerships, affiliates, subsidiaries, and divisions of the party, and any other entity or entities which such party controls or which controls it, and, further, shall include any transferee, successor and assign of the assets of the party.
11. This Agreement shall be construed (both as to validity and performance) and enforced in accordance with, and governed by, the laws of Republic of South Africa.
12. Neither this Agreement nor the exchange of Subject Information between the parties shall create or be relied on by either party as a basis for creating any license between the parties under any patent, or other industrial or intellectual property rights of the Proprietor of the Subject Information, or any other license between the parties in the absence of any express written license agreement between them

13. The parties agree that no contract or agreement providing for a transaction shall be deemed to exist between them unless and until a definitive agreement has been executed and delivered, the parties hereby waive, in advance, any claim (including, without limitation, breach of contract) in connection with a possible transaction with each other unless and until they shall have entered into a definitive agreement. The parties also agree that unless and until a definitive agreement between them has been executed and delivered, neither party has any legal obligation of any kind whatsoever with respect to any such transaction by virtue of this Agreement or any other written or oral expression with respect to such transaction, except, in the case of this Agreement, for the matters specifically agreed to herein. For purposes of this paragraph, the term 'definitive agreement'; does not include an executed letter of intent, memorandum of understanding.

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

FROM
ESKOM ROTEK INDUSTRIES SOC LTD

By _____

Title _____

As Witness _____

Date _____

ESKOM ROTEK INDUSTRIES SOC LTD

Reg. No.: 1990/006897/30

Lower Germiston Road

P.O. Box 40698

CLEVELAND

2022

FROM
[CONTRACTOR **REGISTERED**
NAME]

By _____

Title _____

As Witness _____

Date _____

[Contractor to enter registered details here]

Annexure C – KEY PERFORMANCE INDICATORS

KPI Deliverables			
Key Performance Indicator	Unit of measure	Source of Evidence	Target
NCR's longer than 30 days	Number	SHEQ Report	➤ 30 days
Time responsiveness to request (Availability)	Percentage	Procurement report	95%
Rework cost	Percentage	Finance report	➤ 3% of total purchase order placed
On time completion of projects	Percentage	Critical path report	98%
Handling in of Hand Over Certificates.(HOC)	Percentage	Billing and debtors report	100%