NEC3 Term Service Contract (TSC3)

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

and
(Reg No.)

for **The Provision Of Pest Control for a period of Five Years**

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CONTRACT No.

PART C1: AGREEMENTS & CONTRACT DATA

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C1.1 Form of Offer & Acceptance

Offer

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

The Provision of Pest Control for a period of five years

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

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

Options A	The offered total of the Prices exclusive of VAT is	
	Value Added Tax @ 15% is	
	The offered total of the amount due inclusive of VAT is[1]	
	(in words)	

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

Signature(s) .....

Name(s) .....

Capacity .....

For the tenderer: .....

Name & signature of witness .....

Date .....

Tenderer's CIDB registration number:

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

Acceptance

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

The terms of the contract, are contained in:

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

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

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

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

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

Signature(s) .....

Name(s) .....

Capacity .....

for the Employer .....

Eskom Rotek Industries SOC Ltd
Lower Germiston road, Rosherville,2022

Name & signature of witness .....

Date .....

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

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

Note:

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

No.	Subject	Details
1	**N/A**	

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		
Capacity		
On behalf of		**Eskom Rotek Industries SOC Ltd** **Lower Germiston road, Rosherville,2022**
Name & signature of witness		
Date		

C1.2 TSC3 Contract Data

Part one - Data provided by the *Employer*

Clause	Statement	Data
1	**General**	
	The *conditions of contract* 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	
		X2 Changes in the law
		X17: Low service damages
		X18: Limitation of liability
		X19: Task Order
		X20: Key performance indicators
		Z: *Additional conditions of contract*
	of the NEC3 Term Service Contract April 2013[2] (TSC3)	
10.1	The *Employer* 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**
10.1	The *Service Manager* is (name):	
	Address	**Roshland Office Park Lower Germiston Road Rosherville**
	Tel	

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

	e-mail	**vvuurema@eskom.co.za**
11.2(2)	The Affected Property is	**Eskom Rotek Industries - Rosherville**
11.2(13)	The *service* is	**Pest Control services**
11.2(14)	The following matters will be included in the Risk Register	**As indicated by the Service Manager and reflected on the risk register.**
11.2(15)	The Service Information is in	**Part 3: Scope of Work and all documents and drawings to which it makes reference.**
12.2	The *law of the contract* is the law of	**the Republic of South Africa**
13.1	The *language of this contract* is	**English**
13.3	The *period for reply* is	**1 week**
2	**The *Contractor*'s main responsibilities**	**Data required by this section of the core clauses is also provided by the *Contractor* in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data**
21.1	The *Contractor* submits a first plan for acceptance within	**N/A**
3	**Time**	
30.1	The *starting date* is.	
30.1	The *service period* is	**Five years**
4	**Testing and defects**	**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**
5	**Payment**	
50.1	The *assessment interval* is	**between the 1st day of each successive month.**
51.1	The *currency of this contract* is the	**South African Rand**
51.2	The period within which payments are made is	**4 weeks.**
51.4	The *interest rate* is	**the publicly quoted prime rate of interest (calculated on a 365 day year) charged by from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands and** **(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 *mutatis mutandis* 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.
6	**Compensation events**	**There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data**
7	**Use of Equipment Plant and Materials**	**There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data**
8	**Risks and insurance**	
80.1	These are additional *Employer*'s risks	**1. As per Eskom's requirements**
83.1	The *Employer* provides these insurances from the Insurance Table	**as stated for "Format TSC3" available on** *http://www.eskom.co.za/Tenders/InsurancePolicies Procedures/Pages/EIMS_Policies_ From_1_April_2014_To_31_March_2015.aspx* **(See Annexure A for basic guidance).**
83.1	The *Employer* provides these additional insurances	**as stated for "Format TSC3" available on** *http://www.eskom.co.za/Tenders/InsurancePolicies Procedures/Pages/EIMS_Policies_ From_1_April_2014_To_31_March_2015.aspx* **(See Annexure A for basic guidance)**
83.1	The *Contractor* provides these additional insurances:	**Any that the Contractor deems necessary in addition to the insurances provided by the Employer plus the amount of the deductibles in respect of the Employers Format a insurance Policy**
83.1	The minimum amount of cover for insurance against loss and damage caused by the *Contractor* to the *Employer*'s 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/InsurancePolicies Procedures/Pages/EIMS_Policies_ From_1_April_2014_To_31_March_2015.aspx*
83.1	The insurance against loss of or damage to the *works*, Plant and Materials is to include cover for Plant and Materials provided by the *Employer* for an amount of	**N/A**
83.1	The minimum amount of cover for	

	insurance in respect of loss of or damage to property (except the *Employer*'s property, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the *Contractor*) arising from or in connection with the *Contractor*'s 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 *Contractor* 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**	**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 main Option clause**	
A	**Priced contract with price list**	
20.5	The *Contractor* prepares forecasts of the final total of the Prices for the whole of the *service* at intervals no longer than	**N/A**
11	**Data for Option W1**	
W1.1	The *Adjudicator*	**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	**To be appointed when dispute arise.**
W1.2(3)	The *Adjudicator nominating body* 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 *tribunal* is:	**arbitration**
W1.4(5)	The *arbitration procedure* 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	**South Africa**

	The person or organisation who will choose an arbitrator - if the Parties cannot agree a choice or - if the arbitration procedure does not state who selects an arbitrator, is	**the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.**
12	**Data for secondary Option clauses**	
X2	**Changes in the law**	**There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.**
X17	**Low service damages**	
X17.1	The *service level table* is in	**The service table matrix**
X18	**Limitation of liability**	
X18.1	The *Contractor*'s liability to the *Employer* for indirect or consequential loss is limited to	**R0.0 (zero Rand)**
X18.2	For any one event, the *Contractor*'s liability to the *Employer* for loss of or damage to the *Employer*'s property is limited to	**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.aspx*
X18.3	The *Contractor*'s liability for Defects due to his design of an item of Equipment is limited to	**The greater of** • **the total of the Prices at the Contract Date and** • **the amounts excluded and unrecoverable from the *Employer*'s insurance (other than the resulting physical damage to the *Employer*'s property which is not excluded) plus the applicable deductibles in the *Employer*'s assets and works / maintenance policies available on** http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx
X18.4	The *Contractor*'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 Prices other than for the additional excluded matters.** **The *Contractor's* total liability for the additional excluded matters is not limited.** **The additional excluded matters are amounts for which the *Contractor* is liable under this contract for** • **Defects due to his design, plan and specification,** • **Defects due to manufacture and fabrication**

		outside the Affected Property, • **loss of or damage to property (other than the *Employer*'s property, Plant and Materials),** • **death of or injury to a person and** • **infringement of an intellectual property right.**
X18.5	The *end of liability date* is	**months after the end of the *service period*.**
X19	**Task Order**	
X19.5	The *Contractor* submits a Task Order programme to the *Service Manager* within	**N/A**
Z	**The *additional conditions of contract* are**	**Z1 to Z11 always apply.**

Z1 Cession delegation and assignment

Z1.1 The *Contractor* does not cede, delegate or assign any of its rights or obligations to any person without the written consent of the *Employer.*

Z1.2 Notwithstanding the above, the *Employer* may on written notice to the *Contractor* cede and delegate its rights and obligations under this contract to any of its subsidiaries or any of its present divisions or operations which may be converted into separate legal entities as a result of the restructuring of the Electricity Supply Industry.

Z2 Joint ventures

Z2.1 If the *Contractor* constitutes a joint venture, consortium or other unincorporated grouping of two or more persons or organisations then these persons or organisations are deemed to be jointly and severally liable to the *Employer* for the performance of this contract.

Z2.2 Unless already notified to the *Employer*, the persons or organisations notify the *Service Manager* within two weeks of the Contract Date of the key person who has the authority to bind the *Contractor* on their behalf.

Z2.3 The *Contractor* does not alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without the consent of the *Employer* having been given to the *Contractor* in writing.

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

Z3.1 Where a change in the *Contractor's* legal status, ownership or any other change to his business composition or business dealings results in a change to the *Contractor*'s B-BBEE status, the *Contractor* notifies the *Employer* within seven days of the change.

Z3.2 The *Contractor* is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the *Service Manager* within thirty days of the notification or as otherwise instructed by the *Service Manager*.

Z3.3 Where, as a result, the *Contractor's* B-BBEE status has decreased since the Contract Date the *Employer* may either re-negotiate this contract or alternatively, terminate the *Contractor*'s obligation to Provide the Service.

Z3.4 Failure by the *Contractor* to notify the *Employer* of a change in its B-BBEE status may

constitute a reason for termination. If the *Employer* terminates in terms of this clause, the procedures on termination are P1, P2 and P4 as stated in clause 92, and the amount due is A1 and A3 as stated in clause 93.

Z4 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 eight weeks of becoming aware of the event, he is not entitled to a change in the Prices.

Z10 *Employer's* limitation of liability

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

Z10.2 The *Contractor*'s entitlement under the indemnity in 82.1 is provided for in 60.1(12) and the *Employer*'s liability under the indemnity is limited to compensation as provided for in core clause 63 and X19.11 if Option X19 Task Order applies to this contract.

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

Z11.1 or had a business rescue order granted against it.

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*

[Instructions to the contract compiler: (delete this notes before issue to tenderers with an enquiry) Whenever a cell is shaded in the left hand column it denotes this data is optional and would be required in relation to the option selected. In the event that the option is not required select and delete the whole row.]

Notes to a tendering contractor:

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

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

Clause	Statement	Data
10.1	The *Contractor* is (Name): Address Tel No.	
11.2(19)	The tendered total of the Prices is	

[3] Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 5391902 or www.ecs.co.za

PART 2: PRICING DATA

TSC3 Option A

Document reference	Title	No of pages
C2.1	Pricing assumptions: Option A	2
C2.2	The *price list*	**[1]**

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.

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*

ERI Pest Control Pricing Schedule - Annexure F							
	Service every month	**Monthly Qty**	**Yearly Qty**	**5-Year Qty**	**Unit Price**	**5-Year Price (Contract price)**
1	Canteen Ant & Roach Treatment (1855 Sq)	1	12	60		-
2	Door Ant and Roach Service	2000	24000	120000		-
3	Kitchen Ant & Roach service	150	1800	9000		-
4	Fly Unit rental	48	576	2880		-
	Service every second week	**Monthly Qty**	**Yearly Qty**	**5-Year Qty**	**Unit Price**	**5-Year Price (Contract price)**
5	Canteen Fly Unit service (7 Units)	14	168	840		-
	Service every second month	**Monthly Qty**	**Yearly Qty**	**5-Year Qty**	**Unit Price**	**5-Year Price (Contract price)**
6	Ant treatment house internal (188 Sq)	62	372	1860		-
7	Ant treatment house external (655 Sq)	62	372	1860		-
8	Rodent box service	250	3000	15000		-
9	Fly Unit service	48	288	1440		-
	Ad hoc service	**Monthly Qty**	**Yearly Qty**	**5-Year Qty**	**Unit Price**	**5-Year Price (Contract price)**
10	Bee nest Treatment	2	24	120		-
11	Bee nest Removal	2	24	120		-
12	Wasp nest Removal	8	96	480		-
13	Ferral Cat Sterilization and Dr Treatment	2	24	120		-
14	Mole treatment (10 Mole heaps / treatment)	12	144	720		-
15	Office Rodent treatment (2 x Boxes / treatment)	16	192	960		-
16	New Rodent Box (New installation or replacement)	10	120	600		-
17	New Fly Unit rental	20	240	1200		-
18	New Fly Unit service (Every 2nd month) (6 x 20)	10	120	600		-
19	Truck cab treatment	10	120	600		-
20	Crawling insect treatment (Ticks, fleas, Spiders, Ants, Mites, Roaches etc.)(10 Sq)	1000	12000	60000		-
21	Flying Insect treatment (10 Sq)(Flies, Mosquitos etc) (10 Sq)	1000	12000	60000		-
22	Removal of Reptiles (Snakes, Lizzards etc.)	5	60	300		-
23	Termite Treatment (1 x Service = 10 Sq)	20	240	1200		-
24	Removal of Birds and Rodents	10	120	600		-
25	Rodent Box Service (Every 2nd Month)	5	60	300		-
					TOTAL	R -

PART 3: SCOPE OF WORK

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

Scope Of Work

SCOPE OF WORK/SPECIFICATION

3.1 All areas stipulated on the matrix must be attended to **on an as and when required** basis as other building might be under construction or closed.

3.2 The service provider will be required to:

- Maintain premises in a pest-free and hygienic condition using an Integrated Pest Management approach.
- Prevent pest ingress, harbourage and breeding through inspection, monitoring, proofing and sanitation recommendations.
- Apply pesticides only when justified, using registered products, approved labels and competent registered personnel.
- Provide traceable records, trend analysis, corrective actions and auditable service reports.
- Respond promptly to infestations, health risks, complaints and emergency callouts.

3.3 The services on site are divided into monthly, bi-monthly / every second month, fortnightly /every second week and ad hoc services.

3.4 Monthly treatments for ants and roaches throughout ERI Rosherville farm will be required.

3.5 Bi-monthly treatments required to provide services regarding rodent boxes, fly units and treatment of ants.

3.6 It is also required that a competent, registered technician to be based on site.

3.7 It should be noted that all areas and quantities might be subject to change based on availability and occupation of the premises.

3.8 Ad hoc services treatment of pests may be required e.g.

Category	Examples	Minimum service requirement
Crawling insects	Cockroaches, ants, fleas, bedbugs, crickets, silverfish	Inspect, monitor, identify species, treat harbourages and verify effectiveness.
Flying insects	Flies, mosquitoes, moths, wasps and bees	Monitor breeding / entry points; maintain traps; treat only where necessary. Bee work must prioritise safe removal / relocation where practicable.
Rodents	Rats and mice	Risk-based baiting / trapping, tamper-resistant stations, proofing recommendations and carcass removal.
Stored-product pests	Weevils, beetles, moths	Inspect affected goods / areas, isolate sources, advise disposal and apply approved treatment.
Termites / wood-destroying organisms	Subterranean termites, dry-wood termites, wood-boring beetles	Specialist inspection and treatment by a PCO registered for the applicable field.
Birds and nuisance animals	Pigeons, bats and other nuisance species	Humane, lawful deterrence / exclusion only; no poisoning. Obtain permits where legally required.
Other pests	As confirmed by site risk assessment	Submit a species-specific method statement for Client approval before treatment.

3.9 The service provider to provide all equipment and apparatus necessary to execute all the tasks.
3.10 The service provider shall use chemicals that are certified and registered with an applicable authority and safety data sheets should be made available on request.
3.11 All work done must be accompanied by a service certificate report. The service provider must ensure that the representative from ERI verify and signs off the certificate on completion of the service.
3.12 Glue boards for fly units to be provided and serviced on a bi-monthly schedule. In case of canteen, glue boards fly trap shall be placed in areas that minimise the risk of killed pest coming into contact with the food or food contact surfaces.
3.13 Office areas may be sprayed or treated on request. Pre-treatment of the building or offices spaces shall be accompanied by notices stating that employees are prohibited to enter as per notice. Sufficient warning must be given to employees when treatment will take place and the duration of the treatment communicated.
3.14 Rodents in offices and workshops should be treated as an ad hoc service on request. Folded paper boxes should be installed in affected areas.
3.15 Rodent boxes already installed on outside of buildings at entrance and exit points, should be serviced every second month and service report must be accompanied by a service matrix. Follow up treatments should be done if there is movement in the boxes. All rodent boxes to be clearly identified and when last serviced.
3.16 All sixty-two house gardens and common areas should be treated for ants. Spray, gel or granules.
3.17 Houses should be treated on inside for ants by means of gel and granule or any appropriate / approved applications. Spray only if a special arrangement with the tenant is made through the ERI leasing officer.
3.18 Treatments inside offices for ants and roaches should be gel or granule or any appropriate / approved application.
3.19 Chemicals used for spraying should be changed when their effectiveness is inadequate or no longer suitable.
3.20 Method statements to be provided for the removal of Birds and Bats as per pricing schedule. Birds and Bats must be removed and not killed.

4. SAFETY, HEALTH, AND ENVIRONMENTAL REQUIREMENTS

4.1 Service providers are required to comply with SHEQ requirements and will be required to develop, submit and maintain a SHE Plan and file that should be approved before commencement of work.
4.2 Detailed SHEQ requirements and specifications shall form part of the tender requirements.
4.3 The service provider shall conduct documented task risk assessments and toolbox talks; use barricading, signage, area isolation and re-entry controls as required.

4.4 The service provider will be audited to ensure that they comply with SHEQ regulatory and legal requirements.

4.5 All work shall be conducted in accordance with the manufactures, or product procedures and the SDS requirements which are not older than 5 years.

4.6 The service provider must use environmentally friendly, registered chemicals and products, with approved labels, SDS.

4.7 The pest control operator (PCO) must be registered as a Structural Pest Control and Rodent Control PCO with the Department of Agriculture, Land Reform and Rural Development (DALRRD) and during execution of work to ensure compliance with Department of Forestry, Fisheries, and the Environment (DFFE) and applicable pest control regulatory bodies under in South Africa regulates under the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947).

4.8 The service provider must be registered for **COIDA**, **Public Liability**.

4.9 The entire canteen must be treated for ants and roaches. Treatment of the canteen must comply with applicable legal requirements.

4.10 The service provider will be required to:

- Notify the Client immediately of any spill, exposure, environmental release, injury, property damage, non-conformance or potential food contamination.
- Prevent pollution of soil, stormwater, surface water and drains. No pesticide rinsed or container may be discharged to the environment or sewer unless lawfully authorised.
- Apply environmentally responsible controls and protect non-target organisms, including pollinators, pets and wildlife.
- The service provider must provide the safety disposal certificate for all the pest control waste that has been collected on site.

5. FUNCTIONAL SPECIFICATIONS

5.1 No chemicals will be stored on ERI premises.

5.2 Use the original labelled container only. Empty containers and pesticide waste shall be managed in accordance with the label and applicable waste requirements; provide disposal evidence where required.

5.3. Waste to be transported and disposed at an authorised dumping site.

6. PERFORMANCE SPECIFICATION

The services rendered should eliminate and control the pests as specified. Poison used should be low odour, effective and must not be harmful to people.

7. CHEMICALS, EQUIPMENT AND PPE

The service provider shall:

7.1. Submit a proposed product register to ERI management for approval showing product name, active ingredient, registration number, target pest, application method and area of use.
7.2. Provide current SDSs and product labels in English and in formats accessible to workers. Keep copies available at the work area and in service vehicles.
7.3. Store and transport pesticides securely, upright and segregated from food, feed, clothing and incompatible materials. Vehicles shall carry spill-control and first-aid equipment.
7.4. All application equipment shall be suitable, maintained, leak-free with reliable serviceability. **Maintenance records shall be available for audit**.
7.5. PPE shall be selected from the SDS, label and risk assessment and supplied at the service provider's cost. Contaminated PPE shall be cleaned, stored or disposed of safely.

8. LEGAL AND TECHNICAL COMPLIANCE

The service provider shall comply with all legislation, municipal requirements and recognised standards applicable to the service, including subsequent amendments. At minimum, the following shall be addressed:

- Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act 36 of 1947), the Pest Control Operator Regulations, 2011, and the Regulations Relating to Agricultural Remedies, 2023.
- Occupational Health and Safety Act, 1993 (Act 85 of 1993), including the Regulations for Hazardous Chemical Agents, 2021 and other applicable regulations.
- Hazardous Substances Act, 1973 (Act 15 of 1973), where applicable.
- National Environmental Management Act, 1998 (Act 107 of 1998) and National Environmental Management: Waste Act, 2008 (Act 59 of 2008), including lawful waste handling and disposal.
- Regulations Governing General Hygiene Requirements for Food Premises, transport of Food and Related Matter under Foodstuffs, Cosmetics and Disinfectants Act no. 54 of 1972.
- Compensation for Occupational Injuries and Diseases Act, 1993 (Act 130 of 1993), with a current Letter of Good Standing.
- SANS 10206: Handling, Storage and Disposal of pesticides.
- Applicable municipal environmental health, food premises, access, fire, security and waste requirements.

1.1 Invoicing and payment

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

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

The *Contractor* shall address the tax invoice to

_____
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)

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.