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NEC3 Engineering & Construction Contract

PART ONE – COMMERCIAL REQUIREMENTS

Request for Proposal and Subsequent award of a contract for a Turn-key Project for the Design, Supply and installation of Solar Photovoltaic (PV) and Battery Energy Storage Systems (BESS) at Westville Menston Road Office Complex in Kwa-Zulu Natal Operating Unit.

ENQUIRY NUMBER : E1147DXKZN

TENDERER NAME : _____

**TENDER CLOSING
DATE : 22 MAY 2025 at 10:00 AM**

TENDERER INFORMATION

It is important that this information is completed accurately and completely.

| | | |
|--|----------------------------------|--|
| 1. | Eskom Vendor Registration Number | |
| <p>If you are not currently a registered vendor with Eskom, you are not required to register for tender submission. Registration on the Eskom Vendor Database is not a prerequisite for submitting a tender. Companies who are not currently registered will not be prejudiced in any way for the evaluations.</p> | | |

| | | |
|-----|--|--|
| 2. | CSD Registration Number (MAAA.....) | |
| 3. | Company Legal Name | |
| 4. | Company Trading Name | |
| 5. | Income Tax Number as per South African Revenue Services (SARS) Tax Clearance Certificate | |
| 6. | VAT Number as per SARS Tax Clearance Certificate | |
| 7. | Company Registration Number as per SARS Tax Clearance Certificate | |
| 8. | Expiry Date as per SARS Tax Clearance Certificate | |
| 9. | B-BBEE Status as per SANAS accredited certificate or Affidavit | |
| 10. | B-BBEE Expiry Date as per SANAS accredited certificate or 12 months from Commissioner of Oaths Stamp | |
| 11. | CRS Number as per CIDB Registration | |
| 12. | CIDB Grading and Class of Works | |
| 13. | Expiry Date as per Compensation for Occupational Injuries and Diseases Act (COID) | |
| 14. | Nature of Business as per COID certificate | |

| | | |
|-----|--|-------------------------------------|
| 15. | Shareholders as per Declaration of Shareholding or Beneficiaries | |
| | Names of all Shareholders | Identity Number of all Shareholders |
| | | Number / Percentage of Shares |
| | | |
| | | |
| | | |

| | | |
|-----|--|--|
| 16. | Are any shareholders employed by or close family members to employees of Eskom Holdings and/or its subsidiaries? | |
| 17. | If Yes, provide details | |
| 18. | Office Telephone Number | |
| 19. | Your cell phone contact details | |
| 20. | Your office email address | |

21. COMPANY BANK DETAILS

| | |
|-------------------------|--|
| Name of Account Holder: | |
| Bank: | |
| Account Number: | |
| Branch: | |
| Branch Code: | |
| Type of Bank Account: | |

MANDATORY REQUIREMENT

Attendance at the compulsory site clarification meeting.
(The attendance register MUST be signed by the attending companies).
An attendees list will be posted on the Eskom Tender Bulletin after the site clarification meeting that tenderers can use to prove they attended the meeting.

ATTACH ATTENDEES LIST HERE

THIS IS A MANDATORY REQUIREMENT – FAILURE TO PROVIDE THIS REQUIREMENT IN YOUR TENDER SUBMISSION WILL DEEM YOUR TENDER NON-RESPONSIVE AND YOUR TENDER WILL NOT BE EVALUATED FURTHER

MANDATORY REQUIREMENT

- E-Tenderers' E-Tendering Training Acknowledgement Form to be fully completed and signed in its entirety and submitted at tender closing.

**** COMPLETE AND SIGN FORM ON NEXT PAGE ****

ACKNOWLEDGEMENT FORM – E-TENDERING TRAINING

Enquiry no: [...**E1147DXKZN**.....]

Business name/JV: _____

Contact Person: _____

Tel (landline): _____

Cellphone: _____

E-mail address: _____

Acknowledgment: [Select and complete in full applicable paragraph below]

I _____ (Tenderer's Name) acknowledge that I have undergone self-training through the e- Tendering Noddy Guide **or video** or via a clarification meeting for me to understand. I am satisfied with my self-training and confirm that I will be able to operate the E- Tendering Solution.

This document is a Mandatory returnable prior to for E-Tendering. Failure to FULLY complete the form and submit it to Eskom at tender closing will render the Tenderer non-responsive and will be disqualified from the Procurement Process.

Authorized Signature: _____

Designation: _____

Date: _____

Commercial Mandatory Returnable (Non-Disqualifiable)

These returnables are also required to be fully completed, signed and submitted with Tender at Tender closing date and time, however, if not submitted by Tender closing, the Procurement Practitioners will request in writing the outstanding returnable to be submitted within 5 working days. If the requested returnable (s) are not fully completed, signed and/or received by the Procurement Practitioner within 5 working days of the request; the tender will be disqualified.

- Authorisation Form (Annexure A)
- Acknowledgement Form (Annexure B)
- Tenderer's Particulars (Annexure C)
- Integrity Declaration Form (Annexure D)
- Fully completed and duly signed SBD 6.2 – Declaration Certificate for Local Production and Local Content (Annexure G1)
- Annexure C – Local Content Declaration- Summary Schedule (Annexure G2)
- Fully complete and duly signed SBD 1 – Invitation to Bid (Annexure H)
- Fully complete and duly signed SBD 4 (Annexure J)

- Acceptance of the terms and conditions of the enquiry (i.e., return of the NEC 3 ECC offer and acceptance as well as deviations if applicable)

**Attach Request for Proposal Here with all the
Annexures Completed and Signed**

TOTAL OFFER PRICE FOR PROPOSAL

TOTAL PRICE EXCLUDING VAT = R _____

AMOUNT IN WORDS

TOTAL PRICE INCLUDING VAT = R _____

AMOUNT IN WORDS

Only tenderers who achieve a minimum score of 80% in the Functional Scoring Technical Evaluation Criteria will be eligible to provide further clarifications to ensure full compliance with Eskom's technical requirements. This means that all technical requirements must ultimately be met at 100%.

- **NB:** A mandate to negotiate will be obtained from the Delegated Approval Authority requesting all tenderers that are deemed 100% Technically Compliant to submit a Price Breakdown of their offer to Eskom based on their respective technical proposals for executing the works.

NEC3 Engineering & Construction Contract

NEC 3 - ENGINEERING AND CONSTRUCTION CONTRACT

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:

**WESTVILLE OFFICES SOLAR PANEL AND BESS PROJECT, KZN OPERATING UNIT,
CENTRAL EAST CLUSTER.**

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

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

| | | |
|----------|--|--|
| Option B | 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 | |
| | (Excluding VAT). | |

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

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: Works Information |
| Part C4 | Site 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 original copy signed between them of this document, including the Schedule of Deviations (if any).

Unless the tenderer (now *Contractor*) within five working days of the date of such receipt notifies the Employer in writing of any reason why he cannot accept the contents of this agreement, this agreement shall constitute a binding contract between the Parties.

Signature(s)

Name(s)

.....
BRENDA CEBEKHULU

Capacity

.....
SENIOR MANAGER
ASSET CREATION

**for the
Employer**

.....
Eskom Holdings SOC Limited

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 | | |
| 2 | | |
| 3 | | |
| 4 | | |
| 5 | | |
| 6 | | |
| 7 | | |

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

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

For the tenderer:

For the Employer

Signature

.....

.....

Name

.....

BRENDA CEBEKHULU

Capacity

.....

SENIOR MANAGER ASSET CREATION

On behalf
of

.....

Eskom Holdings SOC Limited

Name &
signature
of witness

.....

.....

Date

.....

.....

**ATTACH PROOF THAT YOR COMPANY IS REGISTERED
ON CIDB HERE**

LEVEL 5EP CIDB GRADE OR HIGHER

This returnable is required to be submitted with Tender at Tender closing date and time, however, if not submitted by Tender closing, the Procurement Practitioners will request in writing the outstanding returnable to be submitted within 21 working days. If the requested returnable (s) are not fully completed, signed and/or received by the Procurement Practitioner within 21 working days of the tender request date; the tender will be disqualified.

Attach your South African Revenue Services (SARS) Tax Clearance Certificate to this page

SARS Tax Clearance Certificate should preferably be Valid and Original. However, should this not be available then a valid, original certified copy (not a copy of a certified copy) of the tax clearance certificate issued by the South African Revenue Service (SARS) will be accepted.

Please also provide the pin that comes with the printed certificate

Attach your Compensation for Occupational Injuries and Diseases Act (COLD) Certificate to this page.

Please note that this must be valid and the Nature of Business must be relevant to this Scope of Work

| | | |
|--|---|-------------------------------------|
| | DECLARATION OF SHAREHOLDING OR BENEFICIARIES | Tender Schedule T2.2a – No 8 |
|--|---|-------------------------------------|

Eskom prospective Suppliers are requested to declare the names of Shareholders in their Company. Kindly disclose all the names of individuals or/and companies that own shares in your organization.

Details of Disclosure

I, the undersigned _____ (Position) _____ hereby
 Declare that I am the authorized representative of my organisation _____ (name of Company or Trust). I further declare that the following people are Shareholders/Beneficiaries in
 _____ (Name of Company or Trust)

| Name of the Company/Trust | Registration number of the Company/Trust | Names of all Shareholders | Number/Percentage of Shares |
|---------------------------|--|---------------------------|-----------------------------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

(Tick applicable box)

Are any of the shareholders or beneficiaries declared above employed by or close family members* to employees of Eskom Holdings SOC Limited and/or its subsidiaries?

| | |
|-----|----|
| Yes | No |
|-----|----|

If yes, please provide details of position held in Eskom by Employee or relationship with Eskom Holding SOC Limited Employee and such shareholder/beneficiary's interest in your organization.

SIGNATURE: _____

DATE: _____

DESIGNATION: _____

Close family member means: person related by birth or marriage or similar relationship, including domestic partnership, adoption or a guardian.

| | | |
|--|-------------------------------------|-----------------------------------|
| | Authority to submit a tender | Tender Schedule T2.2a No.1 |
|--|-------------------------------------|-----------------------------------|

Indicate the status of the tenderer by ticking the appropriate box hereunder. The tenderer must complete the certificate set out below for his category of organisation or alternatively attach a certified copy of a company / organisation document which provides the same information for the relevant category as requested here.

| | | | |
|--------------|------------------|--------------------|----------------------|
| A COMPANY | B PARTNERSHIP | C JOINT VENTURE | D SOLE PROPRIETOR |
| | | | |

A. Certificate for company

I, _____, chairperson of the board of directors of _____, hereby confirm that by resolution of the board taken on _____ (date), Mr/Ms _____, acting in the capacity of _____, was authorised to sign all documents in connection with this tender offer and any contract resulting from it on behalf of the company.

Signed _____ Date _____
 Name _____ Position _____ Chairman of the Board of Directors

B. Certificate for partnership

We, the undersigned, being the **key partners** in the business trading as _____ hereby authorise Mr/Ms _____, acting in the capacity of _____, to sign all documents in connection with the tender offer for Contract _____ and any contract resulting from it on our behalf.

| Name | Address | Signature | Date |
|------|---------|-----------|------|
| | | | |
| | | | |
| | | | |

NOTE: This certificate is to be completed and signed by the full number of Partners necessary to commit the Partnership. Attach additional pages if more space is required.

C. Certificate for Joint Venture

We, the undersigned, are submitting this tender offer in Joint Venture and hereby authorise Mr/Ms _____, an authorised signatory of the company _____, acting in the capacity of lead partner, to sign all documents in connection with the tender offer for Contract _____ and any contract resulting from it on our behalf.

This authorisation is evidenced by the attached power of attorney signed by legally authorised signatories of all the partners to the Joint Venture.

Furthermore we attach to this Schedule a copy of the joint venture agreement which incorporates a statement that all partners are liable jointly and severally for the execution of the contract and that the lead partner is authorised to incur liabilities, receive instructions and payments and be responsible for the entire execution of the contract for and on behalf of any and all the partners.

| Name of firm | Address | Authorising signature, name (in caps) and capacity |
|--------------|---------|--|
| Lead partner | | |
| | | |
| | | |
| | | |

D. Certificate for sole proprietor.

I, _____, hereby confirm that I am the sole owner of the business trading as _____.

Signed

Date

Name

Position

Sole Proprietor

| | | |
|--|--|------------------------------------|
| | Declaration of Fair Bidding Practices | Tender Schedule T2.2a No .2 |
|--|--|------------------------------------|

The essence of competitive tendering is that Eskom will receive *bona fide* competitive tenders from all tenderers.

In recognition of these principles, we hereby declare that this is a *bona fide* tender, intending to be competitive, and that we have not engaged in price-fixing with any other tenderer or person, or in any way colluded with any other tenderer or person in an attempt to alter or pre-empt the outcome of this competitive tender.

DECLARATION:

I, the undersigned [*insert full name of signatory*] _____,
duly authorised to complete this tender in my capacity as [*insert capacity, i.e., member, director, partner, etc*]
_____ on behalf of the tenderer [*insert full name of the business entity*]

certify that, to the best of my knowledge, the information furnished herein is true and correct.

I accept that Eskom reserves its right to act against the tenderer or me personally in terms hereof, should this declaration prove to be false.

Signed _____ Date _____

| | | |
|--|---|--|
| | Confirmation of receipt of addenda to tender documents | |
|--|---|--|

We confirm that the following communications received from the *Employer* before the submission of this tender offer, amending the tender documents, have been taken into account in this tender offer:

| | Date | Title or Details |
|----|------|------------------|
| 1. | | |
| 2. | | |
| 3. | | |
| 4. | | |
| 5. | | |
| 6. | | |
| 7. | | |

Signed

Date

Name

Position

Tenderer

| | | | | | | |
|---|---|----------------------------|------------------|------------|---|--|
|  | Supplier Declaration of Interest | Template Identifier | 240-43921804 | Rev | 6 | |
| | | Document Identifier | 240-59385360 | Rev | 3 | |
| | | Effective Date | 01 February 2015 | | | |
| | | Review Date | November 2023 | | | |

I, the undersigned [*insert full name of signatory*]....., in my capacity as [*insert capacity, i.e., member, director, partner, etc.*] of the supplier [*insert registered full legal name of the supplying entity AND their company registration number*], certify under oath that, to the best of my knowledge, the information furnished herein is true and correct. I accept that Eskom reserves its right to act against the supplier named above or me personally in terms hereof, should this declaration prove to be false.

Eskom employees and directors that engage in **private work** for or on behalf of the Supplier are not permitted to financially benefit from the procurement associated with this **enquiry / tender / negotiation [~~delete whichever option is not applicable~~]**

In order to manage situations where conflicts of interests may exist, involving Eskom employees and/or directors engaging in **private work** with the Supplier (named above) associated with this **enquiry / tender / negotiation [~~delete whichever option is not applicable~~]**, you are hereby required to declare their positions to Eskom and take an oath declaring their interests.

For the purposes of this Declaration:

1. **Private Work** includes private interests, and means any employment or commercial activity, or any other interests embarked on by an employee outside the scope of his/her Eskom employment.
2. A **commercial activity** means any activity an employee engages in outside Eskom for the purpose of generating income, whether or not the activity actually produces income and/or is profitable.
3. **Close Family** means persons related to the employee or director by birth, marriage, domestic partnership, adoption, guardianship or the like, who may influence, or be seen to influence the objectivity of the employee or director **OR** related persons who may be influenced by the employee or director in their dealings with Eskom;
4. **Associate** means any person (i.e. a friend, rival, business partner, neighbour or the like) who has a relationship with an employee or director who may influence, or be seen to influence the objectivity of the employee or director **OR** who may be influenced by the employee or director in their dealings with Eskom;
5. **Participation in the Procurement Process** means conceptualisation, proposal, specification, feasibility studies, sourcing, evaluation, benchmarking, negotiation, approval and awarding or withdrawal of offers / tenders in relation to orders / contracts for performing any work, providing any services, or supplying any material, article or equipment or performing any other act; and
6. **Business Courtesy** means a gift or favour received from a person or a firm for which fair market value is not paid, and includes non-monetary gifts, meals, drinks, entertainment, hospitality, recreation, transportation, attendance prizes, discounts, tickets, passes, promotional items, materials, equipment and the like.

In order to give effect to the above, the following questionnaire must be completed and submitted

as a returnable with your enquiry / tender/ attendance at a negotiation.

*** Delete whichever is not applicable.**

Are you or any other person who holds an interest in the Supplier named above (i.e. a shareholder, a director, or a member or partner, a line manager, or a fellow employee), employed by Eskom or serves as a director at Eskom?

***YES/NO**

If so, state particulars

.....
.....
.....
.....

Are you, or any other person who holds an interest in the Supplier named above, a **close family** member to or an **associate** of an Eskom employee and/or director, who may be **participating in the procurement process** associated with this enquiry / tender / negotiation?

***YES/NO**

If so, state particulars

.....
.....
.....
.....

Are you aware of any relationship which amounts to that of **close family** (i.e. related by birth, marriage, domestic partnership, adoption, guardianship or the like) or that of an **associate** (i.e. a friend, rival, business partner, neighbour, etc.) between person/s acting for or on behalf of the Supplier and an Eskom employee and/or director, who may be **participating in the procurement process** associated with this enquiry / tender / negotiation?

***YES/NO**

If so, state particulars

.....
.....
.....
.....

Have you, or any other person who holds an interest in the Supplier named above, given a **business courtesy** to or received a business courtesy from an Eskom employee and/or director over the last 12 (twelve) months?

***YES/NO**

If so, state particulars

.....
.....
.....
.....

If providing services as a consultant to Eskom, please state the particulars of any other services that the Supplier named above is currently rendering to any other Eskom business units, Eskom Divisions, Eskom subsidiaries, Eskom suppliers of primary energy (coal, water, fuel and associated logistics), Eskom suppliers of strategic commodities (specifically primary plant, IT hardware, IT software, construction services, consulting services and professional services), and key industrial customers. For purposes of this declaration a consultant is deemed to be a supplier that is providing Eskom with advice / contracted deliverables linked to specific technical and /or strategic issues that are core to Eskom's approved strategic direction, and /or where the services of a registered professional are required (e.g. attorneys, auditors, engineers, etc.).

| Declaration of other work | | | |
|---------------------------|--------------------|--------------------|--------------------------------------|
| Name of Client | Nature of Services | Date/s of contract | Contact person/s and contact details |
| | | | |
| | | | |
| | | | |
| | | | |

| Name | Designation | Signature | Date |
|----------------------------------|---------------------------------------|---------------------------|------|
| <i>[insert your full name/s]</i> | <i>[Insert your full designation]</i> | | |
| Telephone number | | Fax and/or e-mail address | |

| | | | | | | |
|---|---|--|-----------------|------------|---|--|
|  | Non-Disclosure Agreement (NDA) Vendors | Template Identifier | 240-43921804 | Rev | 6 | |
| | | Document Identifier | 240-63152171 | Rev | 4 | |
| | | Effective Date | 01 January 2017 | | | |
| | | Review Date | November 2023 | | | |
| Project Title | | SOLAR PANELS & BESS PROJECT WESTVILLE OFFICES | | | | |

**CONFIDENTIALITY AGREEMENT
"Agreement"**

Between

ESKOM HOLDINGS SOC LTD

and

| | | | | | |
|---|---|--|-----------------|------------|---|
|  | Non-Disclosure Agreement (NDA) Vendors | Template Identifier | 240-43921804 | Rev | 6 |
| | | Document Identifier | 240-63152171 | Rev | 4 |
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| Project Title | | SOLAR PANELS & BESS PROJECT WESTVILLE OFFICES | | | |

The Parties to this Agreement are:-

- I. **ESKOM HOLDINGS SOC LTD** a company incorporated under the laws of the Republic of South Africa, having its registered office at Megawatt Park, Maxwell Drive, Sunninghill ext.3, Sandton, Republic of South Africa, with registration number 2002/015527/06 [hereinafter referred to as “**the Disclosing Party**”].
- II. a company incorporated under the laws of [insert name of country], having its registered office at [registered address], with registration number [insert registration number], hereinafter referred to as “**the Receiving Party**”.

Hereinafter individually referred to as a “Party” and jointly as the “Parties”.

NOW THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

- 1.1 The Disclosing Party intends providing the Receiving Party with certain information relating to [state the nature of the discussions and the reason for the disclosure here] (“**the Project**”).
- 1.2 The parties wish to record the terms and conditions upon which the Disclosing Party shall disclose Confidential Information to the Receiving Party, which terms and conditions shall constitute a binding and enforceable Agreement between the parties and their agents.
- 1.3 Notwithstanding the date of signature hereof, this agreement shall be binding upon the parties with effect from the date upon which the Disclosing Party shall have disclosed any Confidential Information to the Receiving Party, whichever date is the earliest.
- 1.4 Neither this Agreement nor the exchange of information contemplated hereby shall commit either party to continue discussions or to negotiate, or to be legally bound to any potential business relationship. The parties shall only be bound to a business relationship by way of a further definitive written Agreement signed by the Parties.
- 1.5 The party disclosing the Confidential Information shall be known as the “**Disclosing Party**” and the party receiving Confidential Information shall be known as the “**Receiving Party**”.

| | | | | | | |
|---|---|--|-----------------|------------|---|--|
|  | Non-Disclosure Agreement (NDA) Vendors | Template Identifier | 240-43921804 | Rev | 6 | |
| | | Document Identifier | 240-63152171 | Rev | 4 | |
| | | Effective Date | 01 January 2017 | | | |
| | | Review Date | November 2023 | | | |
| Project Title | | SOLAR PANELS & BESS PROJECT WESTVILLE OFFICES | | | | |

2. The Confidential Information

“**Confidential Information**” shall for the purpose of this Agreement mean all information and materials (whether in written, graphic, electronically stored or oral form) owned and/or developed by the Disclosing Party or its affiliates, including, without limitation, any technical, commercial, financial or marketing information, strategies, operations, know-how, trade secrets, processes, machinery, designs, drawings, formulae, test work data, equipment, notes, memoranda, methods and other natural resources, technical specifications and data relating to the Project (including, but not Ltd to, the information set out in 1.1 above), relating to the disclosing Party's business practices or the promotion of the disclosing Party's business plans, policies or practices, which information is communicated to the receiving Party, or otherwise acquired by the Receiving Party from the Disclosing Party, during the course of the Parties' commercial interactions, discussions and negotiations with one another, whether such information is formally designated as confidential or not.

3. Disclosure of Confidential Information

3.1 The Disclosing Party shall only disclose the Confidential Information to the Receiving Party to the extent deemed necessary or desirable by the Disclosing Party in its discretion.

3.2 The Parties acknowledge that the Confidential Information is a valuable, special and unique asset proprietary to the Disclosing Party.

3.3 The Receiving Party agrees that it will not, during or after the course of its relationship with the disclosing party under this agreement and/or the term of this Agreement, disclose the Confidential Information to any third party for any reason or purpose whatsoever without the prior written consent of the Disclosing Party and to the extent of such authorisation, save in accordance with the provisions of this Agreement. In this Agreement “**third party**” means any party other than the Receiving and Disclosing Parties or their Representatives.

| | | | | | | |
|---|---|--|-----------------|------------|---|--|
|  | Non-Disclosure Agreement (NDA) Vendors | Template Identifier | 240-43921804 | Rev | 6 | |
| | | Document Identifier | 240-63152171 | Rev | 4 | |
| | | Effective Date | 01 January 2017 | | | |
| | | Review Date | November 2023 | | | |
| Project Title | | SOLAR PANELS & BESS PROJECT WESTVILLE OFFICES | | | | |

3.4 Notwithstanding anything to the contrary contained in this Agreement the Parties agree that the Confidential Information may be disclosed by the Receiving Party to its respective employees, agents, officers, directors, subsidiaries, associated companies, shareholders and advisers (including but not Ltd to professional financial advisers, legal advisers and auditors) ("**Representatives**") on a need-to-know basis and for the purposes of the Project; provided that the Receiving Party takes whatever steps are necessary to procure that such Representatives agree to abide by the terms of this Agreement to prevent the unauthorised disclosure of the Confidential Information to third parties. For purposes of this clause, the Receiving Party's Representatives shall be deemed to be acting, in the event of a breach, as the Receiving Party's duly authorised agents.

3.5 Except as otherwise contemplated in this Agreement, the Parties agree in favour of one another not to utilise, exploit or in any other manner whatsoever use the Confidential Information disclosed pursuant to the provisions of this Agreement for any purpose whatsoever other than the Project without the prior written consent of the Disclosing Party.

3.6 Accordingly, the Receiving Party agrees to indemnify, defend and hold the Disclosing Party harmless from and against any and all suits, liabilities, causes of action, claims, losses, damages, costs (including, but not Ltd to, cost of cover, reasonable attorneys' fees and expenses), or expenses of any kind (collectively, "Losses") incurred or suffered by the Disclosing Party and/or its Representatives arising from or in connection with the Receiving Party's unauthorized use or disclosure of the Disclosing Party's Confidential Information in violation of the Agreement.

4. Title

All Confidential Information disclosed by the Disclosing Party to the Receiving Party is acknowledged by the Receiving Party to be proprietary and the exclusive property of the Disclosing Party. This Agreement shall not confer any rights of ownership or license on the Receiving Party of whatever nature in the Confidential Information.

5. Restricting on disclosure and use of the Confidential Information

5.1 The Receiving Party undertakes not to use the Confidential Information for any purpose other than:

| | | | | | | |
|---|---|--|-----------------|------------|---|--|
|  | Non-Disclosure Agreement (NDA) Vendors | Template Identifier | 240-43921804 | Rev | 6 | |
| | | Document Identifier | 240-63152171 | Rev | 4 | |
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5.1.1 the Project; and

5.1.2 in accordance with the provisions of this Agreement.

6. Standard of care

The Receiving Party agrees that it shall protect the Confidential Information disclosed pursuant to the provisions of this Agreement using the same standard of care that it applies to safeguard its own proprietary, secret or Confidential Information but no less than a reasonable standard of care, and that the Confidential Information shall be stored and handled in such a way as to prevent any unauthorised disclosure thereof.

7. Return of material containing or pertaining to the Confidential Information

7.1 The Disclosing Party may, at any time, and in its sole discretion request the Receiving Party to return any material and/or data in whatever form containing, pertaining to or relating to Confidential Information disclosed pursuant to the terms of this Agreement and may, in addition request the Receiving Party to furnish a written statement to the effect that, upon such return, the Receiving Party has not retained in its possession, or under its control, either directly or indirectly, any such material and/or data.

7.2 If it is not practically able to do so, the Receiving Party shall destroy or ensure the destruction of all material and/or data in whatever form relating to the Confidential Information disclosed pursuant to the terms of this Agreement and delete, remove or erase or use best efforts to ensure the deletion, erasure or removal from any computer or database or document retrieval system under its or the Representatives' possession or control, all Confidential Information and all documents or files containing or reflecting any Confidential Information, in a manner that makes the deleted, removed or erased data permanently irrecoverable. The Receiving Party shall furnish the Disclosing Party with a written statement signed by one of its directors or duly authorized senior officers to the effect that all such material has been destroyed.

7.3 The Receiving Party shall comply with any request by the Disclosing Party in terms of this clause, within 7 (seven) business days of receipt of any such request.

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8. Excluded Confidential Information

The obligations of the Receiving Party pursuant to the provisions of this Agreement shall not apply to any Confidential Information that:

- 8.1 is known to, or in the possession of the Receiving Party prior to disclosure thereof by the Disclosing Party;
- 8.2 is or becomes publicly known, otherwise than as a result of a breach of this Agreement by the Receiving Party;
- 8.3 is developed independently of the Disclosing Party by the Receiving Party in circumstances that do not amount to a breach of the provisions of this Agreement;
- 8.4 is disclosed by the Receiving Party to satisfy an order of a court of competent jurisdiction or to comply with the provisions of any law or regulation in force from time to time; provided that in these circumstances, the Receiving Party shall advise the Disclosing Party to enable the Disclosing Party to take whatever steps it deems necessary to protect its interests in this regard and provided further that the Receiving Party will disclose only that portion of the Confidential Information which it is legally required to disclose and the Receiving Party will use its reasonable endeavours to protect the confidentiality of such Confidential Information to the greatest extent possible in the circumstances;
- 8.5 is disclosed to a third party pursuant to the prior written authorisation and Ltd to the extent of such approval of the Disclosing Party;
- 8.6 is received from a third party in circumstances that do not result in a breach of the provisions of this Agreement.

9. Term

This Agreement shall commence upon the date referred to in date of signature and shall endure for a period of 3 (three) years after the date of termination of the relationship between the parties or at a

date specified in any subsequent agreement(s) between the Parties in pursuance of the Project referred to herein.

10. Additional Action

- 10.1 Each Party to this Agreement shall execute and deliver such other documents and do such other acts and things as may be reasonably necessary or desirable to give effect to the provisions of this Agreement.
- 10.2 Nothing contained in the Agreement shall be construed as creating an obligation on the part of either Party to refrain from entering into a business relationship with any third party. Nothing contained in the Agreement shall be construed as creating a joint venture, partnership or employment relationship between the Parties. Except as specified herein, neither Party shall have the right, power or implied authority to create any obligation or duty (express, implied or otherwise) on behalf of the other Party. For the avoidance of doubt, nothing in this Agreement shall oblige either of the Parties to enter into any agreements or transactions whatsoever.

11. Breach

In the event that the Receiving Party should breach any of the provisions of this Agreement and fail to remedy such breach within seven (7) business days from date of a written notice to do so, then the Disclosing Party shall be entitled to invoke all remedies available to it in law including, but not limited to, the institution of urgent proceedings as well as any other way of relief appropriate under the circumstances, in any court of competent jurisdiction, in the event of breach or threatened breach of the Agreement and/or an action for damages.

12. Amendments

No amendment, interpretation or waiver of any of the provisions of this Agreement shall be effective unless reduced in writing and signed by the duly authorised representatives of both Parties.

13. Enforcement

The failure or delay by the Disclosing Party to enforce or to require the performance at any time of any of the provisions of this Agreement shall not be construed to be a waiver of such provision, and shall not affect either the validity of this Agreement or any part hereof or the right of the Disclosing Party to enforce the provisions of this Agreement.

14. Representations & Warranties

14.1 Each Party represents that it has authority to enter into this Agreement and to do all things necessary to procure the fulfilment of its obligations in terms of this Agreement.

14.2 The Disclosing Party warrants that disclosure of the Confidential Information to the Receiving Party:

14.2.1 will not result in a breach of any other Agreement to which it is a party; and

14.2.2 will not, to the best of its knowledge and belief, infringe the rights of any third party; and the Disclosing Party hereby indemnifies and holds the Receiving Party harmless against any liability for third party claims on such a basis.

15. Entire agreement

This Agreement contains the entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all prior agreements between the Parties, whether written or oral, with respect to the subject matter of this Agreement.

16. Governing law

This Agreement and the relationship of the Parties in connection with the subject matter of this Agreement and each other shall be governed and determined in accordance with the laws of the Republic of South Africa.

17. Addresses and Notices

17.1 The Parties hereby choose the address for service (“domicilium”) for all purposes under the Agreement the addresses set out below:

| PARTY | PHYSICAL ADDRESS | POSTAL ADDRESS | TELEPHONE NO. | FAX NO. | CONTACT PERSON |
|-----------------------------------|---|-----------------------------------|-----------------|-----------------|----------------|
| ESKOM HOLDINGS SOC LTD | MEGAWATT PARK, MAXWELL DRIVE, SUNNINGHILL | P O BOX 1091 JOHANNESBURG 2000 SA | +27 11 800 | +27 11 800 | |
| INSERT PARTICULARS OF OTHER PARTY | | | | | |

| | | | | | | |
|---|---|--|-----------------|------------|---|--|
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17.2 A Party may change its domicilium address, by giving thirty (30) business days prior notice in writing to the other Party.

17.3 Any notice given by one party to the other is deemed to have been received by the addressee:

17.3.1 on the date on which the it was delivered to the addressee's address if delivered by hand; or

17.3.2 on the seventh (7th) business day after the date of posting if sent by pre-paid registered post to the addressee's address; or

17.3.3 when received in legible form, if sent to the addressee's then telefax number.

18. Severability

In the event of any one or more of the provisions of this Agreement being held for any reason to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provisions was not a part of this Agreement, and this Agreement shall be carried out as nearly as possible in accordance with its original terms and intent.

19. Assignment

19.1 Neither Party may assign or otherwise transfer any of its rights or obligations under this Agreement to any third party without the prior written consent of the other Party.

19.2 Notwithstanding the above, Eskom may on written notice to the other Party hereto, 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 and the Electricity Distribution Industry.

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20. Publicity

Neither party will make or issue any formal or informal announcement or statement to the press or any third party in connection with this Agreement without the prior written consent of the other Party.

21. Interpretation

21.1 For the purposes of this Agreement the following rules of construction shall apply, unless the context requires otherwise:

21.1.1 the singular shall include the plural and vice versa;

21.1.2 a reference to any one gender, whether masculine, feminine or neuter, includes the other two;

21.1.3 any reference to a person includes, without being Ltd to, any individual, body corporate, unincorporated association or other entity recognised under any law as having a separate legal existence or personality;

21.1.4 any word or expression defined in, and for the purposes of, this agreement shall if expressed in the singular include the plural and vice versa, and a cognate word or expression shall have a corresponding meaning;

21.1.5 references in this agreement to “clauses”, “sub-clauses” and are to clauses and sub-clauses of this agreement; and

21.1.6 any reference in this agreement to this agreement or any other agreement, document or instrument shall be construed as a reference to this agreement or that other agreement, document or instrument as amended, varied, novated or substituted from time to time.

21.2 All the headings and sub-headings in this agreement are for convenience only and are not to be taken into account for the purposes of interpreting it.

| | | | | | |
|---|---|--|-----------------|------------|---|
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SIGNED by the Parties and witnessed on the following dates and at the following places respectively:

SIGNED at _____ on _____

AS WITNESS:

For: **ESKOM HOLDINGS SOC LTD**
[No lower than an E-Band Manager to sign]

(Name of witness in print)

Duly authorised

SIGNED at _____ on _____

AS WITNESS:

For: **[NAME OF OTHER PARTY]**

(Name of witness in print)

Duly authorised

| | | | | | |
|---|---|----------------------------|----------------------|------------|----------|
|  | Occupational Health and Safety Act: Section 37(2) Agreement - Form | Template Identifier | 240-43921804 | Rev | 5 |
| | | Document Identifier | 240-77037682 | Rev | 6 |
| | | Effective Date | December 2020 | | |
| | | Review Date | December 2025 | | |

**SECTION 37(2) AGREEMENT
CONCLUDED BETWEEN**

.....
.[insert name of subsidiary or Eskom Holdings SOC Limited]

AND

.....
(Name of contractor/supplier)

I,*.[insert name of person representing contractor/supplier company]* representing *.[insert name of contractor/supplier]*, do hereby acknowledge that *.[insert name of contractor/supplier]* is an employer in his/her own right, with duties as prescribed in the Occupational Health and Safety Act No. 85 of 1993 (“the Act”), as amended, and agree to ensure that all work will be performed and/or machinery or plant used in accordance with the provisions of the Act.

I undertake that *.[insert name of contractor/supplier]* shall strictly adhere to, and ensure that his/her employees adhere to, the provisions of the Occupational Health and Safety Act, 1993 (Act 85 of 1993).

I have been provided with SHE specifications for project/service*.[insert brief details of project/service, for example, name, contract/project number]* and will comply with the requirements set out in these.

I accept and agree that the SHE specifications constitute arrangements and procedures between *(insert name of contractor/supplier)* and *.[insert name of subsidiary or Eskom Holdings SOC Limited]* which will ensure compliance by *.[insert name of contractor/supplier]* with the provisions of the Act, as contemplated in section 37(2) of the Act.

This agreement constitutes the sole agreement between the parties, and no variation, modification, or waiver of any of the provisions of this agreement or consent to any departure from these shall, in any manner, be of any force or effect, unless confirmed in writing and signed by both parties, and such variation, modification, waiver, or consent shall be effective only in the specific instance and for the specific purpose and to the extent for which it was made or given.

This agreement is signed on behalf of the parties, each signatory to this warranting that he/she has the requisite authority to do so.

Signed this day of 20 at

..... *(Place)*

(Full name)..... (Signature)on

behalf of **(Contractor/supplier)**

Contractor Responsible Manager (*responsible for signing the contract on behalf of the contractor/supplier*)

Witnesses

1.

2.

Signed this day of 20 at (*Place*)

(Full name)..... (Signature) on

behalf of [insert name of subsidiary or Eskom Holdings SOC Limited]

(Contracts and/or Project Manager or Representative)

Witnesses

1.

2.

DECLARATION OF INSURANCES

I hereby declare that the insurance policies as required in terms of this Contract are in place and copies thereof will be made available if requested.

Signed this day of 20..... at

(Place)

(Full name)..... *(Signature)*on

behalf of **(supplier/contractor)**

| | | |
|--|---|--|
| | C3 List of Eskom Policies and Procedures related to the Tender | |
|--|---|--|

The following policies and procedures are applicable to this tender:

| Name of Policy / Procedure | Reference |
|---|----------------------|
| The Eskom Code of Ethics (Standard 32-527) | 32-527 |
| Supplier Contract Quality Requirement Specification | QM58 A& B; Form A& B |
| | |

CHECKLIST OF SHEQ ANNEXURES TO BE READ AND UNDERSTOOD BY THE CONTRACTOR

| No. | Document Description | Unique Identifier | Acceptance |
|------------|---|--------------------------|-------------------|
| 1. | Operating a Vehicle Mounted Crane | 240-77858652 | |
| 2. | Road Crossing Overhead Lines (Intermediate Poles on both sides of the Road) | 34-318 | |
| 3. | Maintain Overhead LV Lines under Energised HV Lines (11/22 kv) | 34-307 | |
| 4. | Road Crossing Overhead Lines (Strain One Side and Intermediate on the other side) | 240-145514226 | |
| 5. | Excavations | 240-100176167 | |
| 6. | Eskom Vehicle Specification | 32-345 | |
| 7. | Backfill and Compacting of Excavations | 34-183 | |
| 8. | Excavation for Lines & Substations | 240-129249916 | |
| 9. | Covering of Cable Trenches | 34-276 | |
| 10. | Barricading of Exposed Excavations | 240-134795927 | |
| 11. | Installation of Pole-Mounted Transformer on a Reticulation Line | 240-129252518 | |
| 12. | Stringing of Conductors and Connections of Droppers | 34-288 | |
| 13. | Installation of Post Insulators | 240-129252792 | |
| 14. | Installation of Surge Arrestors | 34-294 | |
| 15. | Installation of Earthing on Sub-Transmission Line Structures | 34-295 | |
| 16. | Task Manual for Mechanical Handling of Rural Line Poles and Cross arm On a Pole-Trailer and Truck | 240-1346388776 | |
| 17. | The use, care, Maintenance and Transportation of Crane Mounted Aerial Bucket | 34-1660 | |
| 18. | Vehicle and Driver Safety Management Procedure | 240-62946386 | |
| 19. | Access to Private Property (includes strategy on accessing game reserves / farm / small holdings) | 240-80605256 | |
| 20. | Working At height Procedure | 32-418 | |
| 21. | Manual Replacement of a Rotten / Damaged Wooden pole structure | 240-97759835 | |
| 22. | Replacement of Pole Mounted Transformer | 240-77090525 | |
| 23. | Replacement of pole dead end assembly | 240-129277459 | |
| 24. | Replacement of a rotten or broken pole with a vehicle mounted crane | 34-96 | |
| 25. | Lifting, Installing and securing of LV and MV Cable onto vertical structures | 240-76677057 | |
| 26. | Tensioning of Stay Wires on an energized Overhead Lines | 240-68701299 | |
| 27. | Joining LV Conductor and Aerial Bundle conductor (Dead Work) | 240-66129387 | |
| 28. | Build LV under Dead MV Lines on the same structure | 34-102 | |
| 29. | Physical Material Handling | 34-106 | |
| 30. | Stay Assembly Maintenance and Repair | 34-107 | |
| 31. | Road Crossing Overhead Lines Strain Poles on both Sides | 34-222 | |
| 32. | Install / Replace Surge Arrestors (Up to and Including 33KV) | 34-313 | |
| 33. | Replacement of Cross Arm | 34-1987 | |
| 34. | Working with Petrol Drilling Machine | 34-2119 | |
| 35. | Pulling / Strengthening of Leaning poles | 34-2249 | |
| 36. | Operating a Hydraulic Auger attached to a | 240-51065201 | |

| | | | |
|-----|---|-----------------|--|
| | vehicle mounted crane | | |
| 37. | Working on suspect for unclassified poles | 240-147749433 | |
| 38. | Dismantling of Overhead Lines | 240-77090523 | |
| 39. | Identifying, Analysing and Observing Tasks According to its Criticality | 34-380 (32-520) | |
| 40. | Emergency Planning Procedure | 32-123 | |
| 41. | Replacement Process for Working at Heights PPE Standard | KZN 16CSTI-168 | |
| 43. | Occupational H&S Risk Assistance Procedure | 32-520 | |
| 44. | MV Fuse Replacement | 240-134634269 | |
| 45. | Drill holes underneath or in close proximity of High Voltage Apparatus with a drilling rig. | 240-134697232 | |
| 46. | Stringing of MV & HV Lines | 34-180 | |
| 47. | Operating Jackhammers | 240-100176182 | |
| 48. | Assembly of Structures | 34-182 | |
| 49. | Campsite Establishment | 34-184 | |
| 50. | Access to Worksite | 34-2208 | |
| 51. | Installation of Tubular Bus bar | 34-296 | |
| 52. | Shoring of Excavation for Lines and Substations | 34-301 | |
| 53. | Install Earth Mat in Substation | 240-129250746 | |
| | Installation of yard lighting in a substation | 34-282 | |
| 54. | Metering commissioning / remote commissioning | 34-2211 | |
| 55. | Dynamic Core Perimeter Test | 240-129239389 | |
| 56. | Custing of Concrete | 240-129231187 | |
| 57. | Eskom Substance Abuse Procedure | 32-37 | |
| 58. | Incident Management Standard | 240-131838225 | |
| 59. | Incident Management Procedure Rev.8 | 32-95 | |
| 60. | Installation of Control Panels | 34-289 | |
| 61. | Installation of Isolators | 240-129251032 | |
| 62. | Installation of Junction Boxes | 240129251311 | |
| 63. | Installation of NEC's & NERS | 34-292 | |
| 64. | Installation of Pre-Paid Meters | 240-129252968 | |
| 65. | Installation of Prepaid Split Meters | 240-142000175 | |

Normative

| Act | Legislation |
|---|--|
| Act No 108 of 1996 | Constitution of the Republic of South Africa |
| Act 83 of 1993 | Tobacco Products Control |
| Basic Conditions of Employment | Act No 75 of 1997. |
| National Road Traffic | Act 93 of 1996 |
| National Environmental Management | Act NEMA 107 of 1998. |
| Occupational Health and Safety | Act and Regulations No 85 of 1993 |
| Developing a SHE Specification and SHE Plan | 32-524 |
| Eskom Procurement and Supply Management Procedure | 32-1034 |
| Contractor Health and Safety Requirements | 32-136 |
| | |
| | |

I hereby acknowledge that I have read and understood all of the above-mentioned SHEQ Policies / Annexures and they are applicable to this contract.

.....
CONTRACTOR'S NAME:

.....
CONTRACTOR'S SIGNATURE:

.....
DATE:

**Attach your latest Financial
Statements here**

Financial Year End February 2025

**IF YOU CANNOT PROVIDE YOUR
LATEST FINANCIALS
FOR FINANCIAL YEAR END
FEBRUARY 2025**

**KINDLY PROVIDE A LETTER ON
YOUR COMPANY LETTERHEAD
PROVIDING A REASON FOR
NON-SUBMISSION.**