

## NEC3 Term Service

# Short Contract (TSSC3)

A contract between Eskom Rotek Industries SOC Ltd  
(Reg No. 1990/006897/30)

and

for An interim plan to appoint multiple suppliers (sub-contractors) for the transportation of 0-32 ton loads on as and when required basis.

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Contract No

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Documentation prepared by:

# C1 Agreements & Contract Data

## C1.1 Form of Offer and Acceptance

### Offer

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

**AN INTERIM PLAN TO APPOINT MULTIPLE SUPPLIERS (SUB-CONTRACTOR) FOR THE TRANSPORTATION OF 0-32 TON LOADS ON AS AND WHEN REQUIRED BASIS.**

The tenderer, identified in the signature block below, having examined the documents listed in the Tender Data and addenda thereto as listed in the Tender Schedules, 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.

|   |          |
|---|----------|
| The offered total of the Prices exclusive of VAT is | <b>R</b> |
| Value Added Tax @ 15% is                            | <b>R</b> |
| The offered total of the Prices inclusive of VAT is | <b>R</b> |
|   |          |

This Offer may be accepted by the Employer by signing the form of Acceptance overleaf 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:

N/A

## 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 1 Agreements and Contract Data, (which includes this Form of Offer and Acceptance)

Part 2 Pricing Data

Part 3 Scope of Work: Service Information

**N.B: The contractor will be responsible to execute the required load test (for all cranes) & the re-setting (for all cranes & remote controls) of all other components (such as load limiters).**

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 Tender 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, which must be signed by the duly authorised representative(s) for both parties.

The tenderer shall within one week 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 copy of this document, including the Schedule of Deviations (if any) together with all the terms of the contract as listed above.

Signature(s)

Name(s)

Capacity

**for the  
Employer**

Dr Sitsabo Kuhlase

General Manager  
Logistics Services

Eskom Rotek Industries SOC Ltd.  
Lower Germiston Road.  
Cleveland.  
2022.

Name &  
signature of  
witness

Date

Note: If tenderer wishes to submit alternative tender offers, further copies of this document may be used for that purpose, duly endorsed, 'Alternative Tender No. \_\_\_\_\_'

## Schedule of Deviations

Note:

1. To be completed by the Employer prior to award of contract. 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:

Signature \_\_\_\_\_

Name \_\_\_\_\_

Capacity \_\_\_\_\_

On behalf \_\_\_\_\_

of \_\_\_\_\_

Name & \_\_\_\_\_

signature \_\_\_\_\_

of witness \_\_\_\_\_

Date \_\_\_\_\_

### For the Employer

\_\_\_\_\_

**Dr Sitsabo Kuhlase**

**General Manager**

**Logistics Services**

**Eskom Rotek Industries SOC Ltd.**

**Lower Germiston Road.**

**Cleveland.**

**2022.**

## C1.2 Contract Data

### Data provided by the *Employer*

1. Please read the relevant clauses in the NEC3 Term Service Short Contract (April 2013) (TSSC3)<sup>1</sup> before you enter data. The number of the principal clause is shown for most statements however other clauses may also use the same data.
2. Where the following symbol is used “[●]” - data is required to be inserted.]

Completion of the data in full is essential to create a complete contract.

| Clause         | Statement  | Data  |
|----------------|--|---|
| <b>General</b> |  |   |
| 10.1           | The <i>Employer</i> is (Name):   | <b>Eskom Rotek Industries SOC Ltd<br/>(Reg no: 1990/006897/30), a state owned<br/>company incorporated in terms of the<br/>company laws of the Republic of South Africa</b> |
|                | Address  | <b>Roshland Office Park<br/>Lower Germiston Road<br/>Rosherville<br/>2094</b>   |
|                | Tel No.  | <b>011 629 8105</b>   |
|                | E-mail address   | <b>MphokaGJ@eskom.co.za</b>   |
|                | If the <i>Employer</i> appoints an <i>Employer's Agent</i> , the <i>Employer's Agent</i> is: |   |
| 14.5           | Name   | <b>Justice Mphokane</b>   |
|                | Address  | <b>Roshland Office Park<br/>Lower Germiston Road<br/>Rosherville<br/>2094</b>   |
|                | Tel No.  | <b>+27 11 629 8105</b>  |
|                | Fax No.  | <b>N/A</b>  |
|                | E-mail address   | <b>MphokaGJ@eskom.co.za</b>   |
|                | The authority of the <i>Employer's Agent</i> is  | <b>Project Manager</b>  |
| 11.2(5)        | The <i>service</i> is  | <b>For the transportation of 0-32 ton loads<br/>on as and when required basis</b>   |
| 11.2(6)        | The Service Information is in  | <b>The document called 'Service Information' in<br/>Part 3 of this contract.</b>  |

|      |   |   |
|------|---|---|
| 30.1 | The <i>starting date</i> is.  | <b>Date of contract signature</b>   |
| 30.1 | The <i>service period</i> is.   | <b>24 Months</b>  |
| 13.2 | The <i>period for reply</i> is  | <b>7 working Days</b>   |
| 50.1 | The <i>assessment day</i> is the  | 25th day of each month<br>Payment will be made within 30 days after the receipt of Tax Compliant invoices   |
| 51.2 | The interest rate on late payment is  | <b>Not applicable</b>   |
| 80.1 | The <i>Contractor</i> is not liable to the <i>Employer</i> for loss of or damage to the <i>Employer's</i> property in excess of | <b>the amount of the deductibles relevant to the event described in the "Format TSSC3" insurance policy available</b>   |
| 82.1 | The <i>Employer</i> provides this insurance   | as stated for "Format TSSC3" available on <a href="http://www.eskom.co.za/Tenders/InsurancePolicies/Procedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx">http://www.eskom.co.za/Tenders/InsurancePolicies/Procedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx</a><br><br><b>(See Annexure A for basic guidance)</b>   |
| 82.1 | The minimum amount of cover for the first insurance stated in the Insurance Table is:   | <b>the amount of the deductibles relevant to the event described in the "Format TSSC3" insurance policy available</b>   |
| 82.1 | The minimum amount of cover for the third insurance stated in the Insurance Table is:   | <b>Whatever the <i>Contractor</i> deems necessary in addition to that provided by the <i>Employer</i>.</b>  |
| 82.1 | The minimum amount of cover for the fourth insurance stated in the Insurance Table is:  | <b>As prescribed by the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 and the <i>Contractor's</i> common law liability for people falling outside the scope of the Act with a limit of Indemnity of not less than R500 000 (Five hundred thousand Rands)</b>  |
|      | Does the United Kingdom Housing Grants, Construction and Regeneration Act (1996) apply?   | <b>No</b>   |
| 93.1 | The <i>Adjudicator</i> is   | <b>the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him (see <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a>). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).</b> |
|      | Address   | An Adjudicator will be appointed when a dispute arises. The costs will be divided between both parties @ 50% for each account.  |
|      | Tel No.   | <b>[•]</b>  |
|      | Fax No.   | <b>[•]</b>  |
|      | e-mail  | <b>[•]</b>  |

|   |   |  |
|---|---|--|
| 93.2(2)   | The <i>Adjudicator nominating body</i> is:                                  | the Chairman of ICE-SA a joint Division of the South African Institution of Civil Engineering and the London Institution of Civil Engineers. (See <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a> ) or its successor body |
| 93.4  | The <i>tribunal</i> is:   | arbitration.   |
|   | The <i>arbitration procedure</i> is   | the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.   |
|   | The place where arbitration is to be held is                                | Johannesburg, South Africa   |
|   | The person or organisation who will choose an arbitrator                    |  |
|   | - if the Parties cannot agree a choice or                                   | the Chairman for the time being or his nominee   |
|   | - if the arbitration procedure does not state who selects an arbitrator, is | of the Association of Arbitrators (Southern Africa) or its successor body.   |
| <b>The <i>conditions of contract</i> are the NEC3 Term Service Short Contract (April 2013)<sup>23</sup> and the following additional conditions Z1 to Z11 which always apply:</b> |   |  |

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

- Z2.1 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.
- Z2.2 The *Contractor* is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the *Employer* within thirty days of the notification or as otherwise instructed by the *Employer*.
- Z2.3 Where, as a result, the *Contractor's* B-BBEE status has decreased since the *starting date* the *Employer* may either re-negotiate this contract or alternatively, terminate the *Contractor's* obligation to Provide the Service.
- Z2.4 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 those stated in Clause 91.1 and the amount due on termination includes amounts listed in Clause 92.1 less a deduction of the forecast additional cost to the *Employer* of completing the *service*.

<sup>2</sup> If the previous edition applies change 'April 2013' for 'September 2009'.

<sup>3</sup> State whether attached as a 'PDF' file in terms of Eskom's licence, or to be obtained from Engineering Contract Strategies Tel 011 803 3008, Fax 086 539 1902 or [www.ecs.co.za](http://www.ecs.co.za)

### **Z3 Ethics**

- Z3.1 Any offer, payment, consideration, or benefit of any kind made by the *Contractor*, which constitutes or could be construed either directly or indirectly as an illegal or corrupt practice, as an inducement or reward for the award or in execution of this contract constitutes grounds for terminating the *Contractor's* obligation to Provide the Service or taking any other action as appropriate against the *Contractor* (including civil or criminal action).
- Z3.2 The *Employer* may terminate the *Contractor's* obligation to Provide the Service if the *Contractor* is found guilty by a competent court, administrative or regulatory body of participating in illegal or corrupt practices.

Such practices include making of offers, payments, considerations, or benefits of any kind or otherwise, whether in connection with any procurement process or contract with the *Employer* or other people or organisations and including in circumstances where the *Contractor* or any such member is removed from the an approved vendor data base of the *Employer* as a consequence of such practice.

- Z3.3 If the *Employer* terminates in terms of this clause, the procedures on termination are those stated in Clause 91.1 and the amount due on termination includes amounts listed in Clause 92.1 less a deduction of the forecast additional cost to the *Employer* of completing the *service*.

### **Z4 Confidentiality**

- Z4.1 The *Contractor* does not disclose or make any information arising from or in connection with this contract available to others except where required by this contract. 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 where required by this contract the *Contractor* ensures that the provisions of this clause are complied with by the recipient.
- Z4.2 If the *Contractor* is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the *Employer*.
- Z4.3 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.
- Z4.4 The taking of images (whether photographs, video footage or otherwise) of the *Employer's* 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 *Employer*. All rights in and to all such images vests exclusively in the *Employer*.
- Z4.5 The *Contractor* ensures that all his subcontractors abide by the undertakings in this clause.

### **Z5 Waiver and estoppel: Add to clause 12.2:**

- Z5.1 Any extension, concession, waiver or relaxation of any action stated in this contract by the Parties or their delegates or the *Adjudicator* does not constitute a waiver of rights, and does not give rise to an estoppel unless the Parties agree otherwise and confirm such agreement in writing.



## **Z6 Health, safety and the environment**

- Z6.1 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*:
- 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 *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.
- Z6.2 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.

## **Z7 Provision of a Tax Invoice and interest. Add to clause 50**

- Z7.1 The *Contractor* provides the *Employer* with a tax invoice in accordance with the *Employer's* procedures stated in the Service Information, showing the correctly assessed amount due for payment.
- Z7.2 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 clause 51.2 is then calculated from the delayed date by when payment is to be made.
- Z7.3 The *Contractor* 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.

## **Z8 Notifying compensation events**

- Z8.1 Delete from the last sentence in clause 61.1, "unless the event arises from an instruction of the *Employer*."

## **Z9 *Employer's* limitation of liability; Add to clause 80.2**

## **Z10 Termination: Add to clause 90.2, after the words "or its equivalent":**

- Z10.1 or had a judicial management order granted against it.

## **Z11 Addition to Clause 50.4**

- Z11.1 If the amount due for the *Contractor's* payment of *delay damages* reaches the limits stated in a Task Order (if any), the *Employer* may terminate the *Contractor's* obligation to Provide the Service.
- Z11.2 If the *Employer* terminates in terms of this clause, the procedures on termination are those stated in Clause 91.1 and the amount due on termination includes amounts listed in Clause 92.1 less a deduction of the forecast additional cost to the *Employer* of completing the *service*.
-

## **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. Details of the insurance itself are available from the internet web link given below.*

1. Services provided in a TSSC3 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" policy which may be in place for the *Employer's* portion of the property affected by the *service* or against the *Employer's* "assets" policy which may be in place for the *Employer's* portion of the property affected by the *service*, 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 property affected by the *service* and the nature of the insurable event.
3. The *Contractor* is required in terms of Contract Data for clause 82 to provide cover for the deductibles in the insurance provided by the *Employer*. This can be provided 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 TSSC3**' to establish both the cover and the deductibles in relation to the *service* provided in terms of this contract. The Contractor must produce proof of Goods in Transit (GIT) cover to the maximum value of **R500 000.00**.
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 to cover his risks as intended by each of the listed insurances in the left hand column of the Insurance Table in clause 82.1. In terms of clause 82.1 "the *Contractor* provides .... the insurances stated in the Insurance Table. The *Contractor* does not provide an insurance which the *Employer* is to provide as stated in the Contract Data". 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. Part 2 of the contract will include a requirement for the tendering contractor to identify the cost of insurance which he has allowed for in his Prices, given the foregoing guidance, either as a separate priced item or
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\\_27\\_August1\\_2018\\_To\\_31\\_July\\_2019.aspx](http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_27_August1_2018_To_31_July_2019.aspx)***

## Data provided by the *Contractor* (the *Contractor's Offer*)

The tendering contractor is advised to read both the NEC3 Term Service Short Contract (April 2013) and the relevant parts of its Guidance Notes (TSSC3-GN)<sup>4</sup> in order to understand the implications of this Data which the tenderer is required to complete. An example of the completed Data is provided on page 24 of the TSSC3 Guidance Notes.

Completion of the data in full is essential to create a complete contract.

|         |   |  |
|---------|---|--|
| 10.1    | The <i>Contractor</i> is (Name):  | [•]  |
|         | Address   | [•]  |
|         | Tel No.   | [•]  |
|         | Fax No.   | [•]  |
|         | E-mail address:   | [•]  |
| 63.2    | The percentage for overheads and profit added to the Defined Cost for people is   | [•]%   |
| 63.2    | The percentage for overheads and profit added to other Defined Cost is  | [•]%   |
| 11.2(4) | The Price List is in  | the document called 'Price List' in Part 2 of this contract. |
| 11.2(4) | The offered total of the Prices for part of the <i>service</i> in Part 1 of the Price List is<br>[Enter the total of the Prices from the Price List]: | R[•]<br>excluding VAT<br>[in words]<br>[•]<br>excluding VAT  |
| 11.2(4) | The offered total of the Prices for part of the <i>service</i> in Part 2 of the Price List is<br>[Enter the total of the Prices from the Price List]: | R[•]<br>excluding VAT<br>[in words]<br>[•]<br>excluding VAT  |

<sup>4</sup> Available from Engineering Contract Strategies Tel 011 803 3008, Fax 086 539 1902, or [www.ecs.co.za](http://www.ecs.co.za).

## C2 Pricing Data

### C2.1 Pricing assumptions

The Price List is in two parts. Part 1 is for work described in the Service Information not requiring the *Employer* to issue a Task Order. Part 2 is for work to be carried out within a stated period of time on a task by Task basis and instructed by Task Order. The *service* may comprise work under Part 1 only or Part 2 only or a mix of both.

Entries in the first four columns of Part 1 of the Price List are made either by the *Employer* or the tenderer. Entries in the first four columns of Part 2 of the Price List would normally be made by the *Employer* as the Party most likely to know the kind of work which will be instructed by the issue of Task Orders. The tenderer then enters a rate for each item and multiplies it by the Expected quantity to produce the Price to be entered in the final column.

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 tenderer 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 the item of work which is the rate for the work multiplied by the quantity completed, the tenderer enters a rate for each item and multiplies it by the Expected quantity to produce the Price, to be entered in the final column.

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.

The rates and Prices entered for each item includes for all work and other things necessary to complete the item.

## C2.2 Price List

### Part 1

The rates and Prices entered for each item includes for all work and other things necessary to complete the item.

#### Eskom Rates:

### Subcontracting

#### DAILY RATE

| Distance |     | 0-450 | 451 – 1000 | 1001 - 1500 | 1501 – 2000 | 2001 – 2500 | 2501 - 3000 |
|----------|-----|-------|------------|-------------|-------------|-------------|-------------|
| Tonnage  |     |       |            |             |             |             |             |
| 0-1      | TON |       |            |             |             |             |             |
| 1.1-3    | TON |       |            |             |             |             |             |
| 3.1-6    | TON |       |            |             |             |             |             |
| 6.1-10   | TON |       |            |             |             |             |             |
| 10.1-24  | TON |       |            |             |             |             |             |
| 24.1-32  | TON |       |            |             |             |             |             |

#### Schedule Rates

|   |  |
|---|--|
| Round trip from Rosherville – Brackenfell - Rosherville 10.1-24 ton truck   |  |
| Round trip from Middelburg RDC to CNCs as per below:<br>1( Middelburg to Monsterlus)<br>2 ( Middelburg to Piet Retief (eMkhondo))                     |  |
| Round trip from Nelspruit RDC to CNCs as per below:<br>1(Nelspruit to Hoedspruit)<br>2 (Nelspruit to Barbeton- Badplaas)<br>3 (Nelspruit to Malelane) |  |

#### Crane Rate:

|                                |  |
|--------------------------------|--|
| 1-2.4 Ton Load mass per lift   |  |
| 2.5 - 5 Ton Load mass per lift |  |

|  |                |  |
|--|----------------|--|
| <b>Labour</b> (as and when required/ for projects) | labourer / day |  |
|--|----------------|--|

## C3: Scope of Work

The services required are that of a supply of 0-32 Ton vehicles to transport electrification and other materials from:

- I. Various Suppliers to Eskom Regional Distribution Centres (RDCs);
- II. From RDCs to Customer Network Centres (CNCs);
- III. RDCs to various project sites;
- IV. From Eskom Warehouses to various project sites;
- VI. Provision of reverse logistics solution from Eskom project sites back to various Eskom Warehouses;
- VII. Between various project sites; and
- VIII. The above list is not exhaustive and is determined by the client

The work that will be covered by this contract will include haulage and related services for loads; 0 to 32 tons within the boundaries of South Africa and SADC countries, as a panel of sub-contractors to the current contract between Logistics Services and Eskom, for the same services. The work allocation to this panel will be on an “as- and- when” required basis.

### Commodities to be transported

|    |                                  |
|----|----------------------------------|
| 1. | Wooden Poles                     |
| 2. | Transformers                     |
| 3. | Cable Drums                      |
| 4. | Pallets of Metres                |
| 5. | Electrical Consumables           |
| 6. | Pulling of Trailers and Wagons   |
| 7. | Containers and Park homes        |
| 8. | Scrap Materials                  |
| 9. | Any other Material up to 32 Tons |

Work instructions from Eskom Holdings SOC Limited (Eskom) are received by means of a transport request that stipulates the specific transport requirements. These transport requests are treated on an “as- and- when” required basis. There are no fixed volumes guaranteed in the contract.

The volumes are determined by Eskom and first preference is given to ERI Logistics Services own fleet.

Work will be allocated by applying the following scheduling principles;

- I. Own fleet vehicle within the geographical area of collection gets first preference.
- II. First come first serve of the daily declared vehicles by the Operations Department that meets specification of the client. Each sub-contractor will be assigned a Operations Controller through which they will need to advise whenever a vehicle becomes available for the next allocation. First come first serve principle in the area of request from the client will apply.
- III. The allocation will be based on operational needs and vehicle availability to suit ERI's Logistics Services requirements.

- i) Swaziland
- ii) Lesotho
- iii) Botswana
- iv) Namibia
- v) Zimbabwe
- vi) Mozambique

The maximum number of vehicles available at any given time must be 15 vehicles per subcontractor.

The above numbers are an estimate and can be changed according to the business needs per Region.

List the drawings that apply to this contract.

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### 3. Specifications

List the specifications that apply to this contract. Some typical headings have been provided as a minimum; delete if not required or expand and include correct titles as applicable.

| Title  | Date or revision | Tick if publicly available |
|--|------------------|----------------------------|
| <b>General Specifications:</b>                             |                  |                            |
| 240-77471499 – Attached                                    | NA               | ✓                          |
| 32 -95 – Attached  | June 2024        | ✓                          |
| 32 -136 - Attached   | March 2023       | ✓                          |
| 32 – 727 - Attached  | August 2021      | ✓                          |
| 240-62196227 - Attached                                    | April 2023       | ✓                          |
| 240-94027409 - Attached                                    | NA               | ✓                          |
| 240-107914949 - Attached                                   | December 2021    | ✓                          |
| 240-131838225 - Attached                                   | June 2024        | ✓                          |
| 240-133087117 - Attached                                   | February 2021    | ✓                          |
| <b>Technical specifications:</b>                           |                  |                            |
| Uprights to transport short and long poles ( 2.5 m and 18) |                  |                            |
| headboard 1.8m high from deck                              |                  |                            |
| Cranes installed on minimum 2 x 24 Ton vehicles            |                  |                            |
|  |                  |                            |
|  |                  |                            |
|  |                  |                            |
|  |                  |                            |

### 4. Constraints on how the Contractor Provides the Works

State any constraints on the sequence and timing of work and on the methods and conduct of work including the requirements for any work by the *Employer*.  
Also include any management related constraints, invoicing and payment procedures some of which have been inserted below as a minimum guide. **N/A**

#### 4.1. Meetings

Provide information about regular meetings to be held such as early warning and compensation event meetings (suggest weekly), safety and planning meetings.  
Sub-Contractors are expected to attend Monthly meetings which are held at the respective depots Rosherville - Johannesburg, Brackenfell – Cape Town and Prospecton - Durban. Meeting requests will be sent monthly.  
Ad hoc meetings will also be held should urgent matters arise.



## 4.2 Use of standard forms

Provide details of standard forms to be used by the *Contractor* in the administration of the contract, for example early warning and compensation event notifications.

1. Proof of Delivery and supporting documents
2. Signed delivery notes per manifest number – work / task completed
3. Manifest document
4. Tax Invoice
5. Risk Register
6. Early warning letters
7. Notification of defects
8. Insurance certificate
9. ERI Inspection disk
10. Task orders
11. Termination Certification
12. SDR Document
13. SHEQ Documents

## 4.3 Invoicing and payment

The Z clauses make reference to invoicing procedures stated here in this Works Information. Also include a list of information which is to be shown on an invoice. The following text is provided as a guide; revise to suit actual requirements.

1. Proof of delivery, supporting documentations and invoices for work completed per manifest must be submitted within **5** working days of delivery of materials to destination.
2. Late submission of proof of delivery, supporting documentation and invoices for work completed within 5 working days will accrue **10%** penalty per invoice.

In terms of core clause 50 the *Contractor* assesses the amount due and applies to the *Employer* for payment. The *Contractor* applies for payment with a tax invoice addressed to the *Employer* as follows:

The *Contractor* includes the following information on each **tax invoice**:

- Name, address and email address of the *Contractor*
- Contact Number (Land line and cell phone)
- The contract number and title;
- Manifest number (ManJ – Number)
- Purchase Order Number
- *Contractor's* VAT registration number;
- The *Employer's* VAT registration number 4330196330;
- The total Price for Work Done per invoice (Manifest Number)

The *Contractor* attaches the detail assessment of the amount due to each tax invoice showing the Price for Work Done to Date for each item in the Price List for work which he has completed.

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

## 4.4 Records of Defined Cost

In order to substantiate the Defined Cost of compensation events, the *Employer* may require the *Contractor* to keep records of amounts paid by him for people employed by the *Contractor*, Plant and Materials, work subcontracted by the *Contractor* and Equipment. [See clause 11.2(5) and 63.2]. State in what form these records are to be kept and how accessed by the *Employer*. **N/A**

#### 4.5 Accelerated Shared Growth Initiative – South Africa (ASGI-SA)

If the ASGI-SA requirements are to be included in this contract specify constraints which *Contractor* must comply with after contract award in regard to any ASGI-SA requirements. The ASGI-SA Compliance Schedule completed in the returnable tender schedules is reproduced here. If ASGI-SA does not apply, delete this paragraph **N/A**

The *Contractor* complies with and fulfils the *Contractor's* obligations in respect of the Accelerated and Shared Growth Initiative - South Africa in accordance with and as provided for in the *Contractor's* ASGI-SA Compliance Schedule stated below.

The *Contractor* shall keep accurate records and provide the *Employer* with reports on the *Contractor's* actual delivery against the above stated ASGI-SA criteria. [Elaborate on access to and format of records and frequency of submission etc.]

The *Contractor's* failure to comply with his ASGI-SA obligations constitutes substantial failure on the part of the *Contractor* to comply with his obligations under this contract.

#### 4.6 BBBEE and preferencing scheme

Specify constraints which *Contractor* must comply with after contract award in regard to any Broad Based Black Economic Empowerment (B-BBEE) or preferencing scheme measures.

#### 4.7 Facilities to be provided by the *Contractor*

State any requirements such as offices on site for the *Employer*.

1. Depot physical address
2. Declared number of vehicles

#### 4.8 Title to material from excavation and demolition

Read clause 70.2 then provide details as required. Particularly relevant in demolition where substantial amounts of copper are involved. **N/A**

#### 4.9 Design by the *Contractor*

Paragraph 1 above will have outlined what work is to be designed by the *Contractor* (if any). State here what procedures are required for the submission and acceptance of that design. **N/A**

### 5. Requirements for the programme

State whether a programme is required and, if it is, state what form it is to be in, what information is to be shown on it, when it is to be submitted and when it is to be updated.

State what the use of the *works* is intended to be at their Completion as defined in Clause 11.2(1).

1. Exit clause for installation of cranes, headboard and uprights (failure to install cranes within the specified 6 week period)
2. There must always be 3 vehicles available to service this contracts at any given time

## 6. Services and other things provided by the *Employer*

Describe what the *Employer* will provide such as services (including water and electricity) and “free issue” Plant and Materials and equipment.

1. 24/7 monitoring service
2. Vehicle tracking device-This remains the property of ERI Logistics and will be de-installed at the contract expiry. Contractor will be liable for any damage or loss of this unit.
3. Technical Inspection Disk
4. Stamped cable and conductor collection document for each time that this must be collected from the suppliers.

| Item | Date by which it will be provided |
|------|-----------------------------------|
|      |                                   |
|      |                                   |
|      |                                   |
|      |                                   |
|      |                                   |
|      |                                   |
|      |                                   |

## C4: Site Information

Site Information is information about the *site* at the time of tender which the tendering contractor needs to allow for in his rates and Prices. The information does not change after contract award, nor does it describe or specify anything which the Parties do during the contract. It is only referred to during administration of the contract if the *Contractor* encounters conditions which are different to those described here. The *Contractor* will then make a comparison between actual conditions encountered and those described here in his assessment of any additional cost or time he may need to be compensated for in order to complete the works. Disputes about the difference between the effects of conditions encountered and those which the *Contractor* allowed for in his Prices will be minimised if the information given here is complete and relevant. If no information is given the tendering contractor will need to guess what he may encounter thus tendering higher Prices to allow for conditions that may not even exist.

### C4.1: Information about the *site* at time of tender which may affect the work in this contract

#### 1. Access limitations

State if there is any physical, time or other “third party” constraint associated with gaining access to and doing work on the *site* that may not be immediately apparent from an inspection of the *site*.

N/A

#### 2. Ground conditions in areas affected by work in this contract

If earthworks are included in the Scope of Work, provide details of the ground conditions the *Contractor* is likely to encounter when doing the work. This could vary from indicating where a test pit has been opened up for the *Contractor* to make his own observations to providing full borehole logs and associated geotechnical report.

N/A

#### 3. Hidden and other services within the *site*

Provide details of underground or other hidden services which the *Contractor* may encounter whilst doing the work. Instructions about how to deal with them if encountered should be included in the Works Information.

N/A

#### 4. Details of existing buildings / facilities which *Contractor* is required to work on

If work is to be carried out on existing buildings or facilities Site Information would be the ‘as-built drawings’ of those buildings or facilities. If these are not a correct statement or not available other means of describing the existing buildings or facilities would have to be used, such as providing photographs

N/A

# CONFIDENTIALITY AGREEMENT

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

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

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

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

1. The parties contemplate an exchange, either orally, in writing or by inspection, of certain confidential proprietary information possessed or owned separately by them and not readily available or otherwise known to the public and which may be helpful in evaluating further business dealings. Such confidential information (the 'Subject Information') may include but not be limited to the parties' inventions, trade secrets, know-how, technical information on products and manufacturing processes, and information concerning their business assets, financial condition, operations, plans and prospects.
2. The purpose of the exchange of Subject Information is to enable the parties to evaluate the Subject information for the purpose only of considering further business dealings with each other.
3. The parties each agree that they shall maintain in secrecy in accordance with the terms of this Agreement all of the Subject Information each party receives (the 'Receiving Party') from the other party (the 'Proprietor') and shall not disclose or use other than for the purpose specified herein the Subject Information without the written consent of the Proprietor of the Subject Information. All Subject Information communicated from one 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.