

Cabling and Stringing Maintenance and Cabling and stringing new Installation for Eskom RoteK Industries for a period of Three (3) years

## NEC3 Term Service Contract (TSC3)

**Between**

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

**And**

**(Reg No. \_\_\_\_\_ )**

**For**

**Cabling and Stringing Maintenance and Cabling and stringing new Installation for Eskom RoteK Industries for a period of Three (3) years as and when required**

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### **Contents:**

<b>Part C1</b>	<b>Agreements &amp; Contract Data</b>
<b>Part C2</b>	<b>Pricing Data</b>
<b>Part C3</b>	<b>Scope of Work</b>

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**CONTRACT No.**

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Cabling and Stringing Maintenance and Cabling and stringing new Installation for Eskom RoteK Industries for a period of Three (3) years

## **PART C1: AGREEMENTS & CONTRACT DATA**

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### **Contents:**

<b>C1.1</b>	<b>Form of Offer and Acceptance</b>
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<b>C1.2b</b>	<b>Contract Data provided by the <i>Contractor</i></b>

## C1.1 Form of Offer & Acceptance

### Offer

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

**The Cabling and Stringing Maintenance and Cabling and stringing new Installation for Eskom RoteK Industries on site for a period of three (3) years as and when required.**

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

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

	Sub total	
	Value Added Tax @ 15% is	
	The offered total of the amount due inclusive of VAT is <sup>1</sup>	
	(in words)	

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

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

Cabling and Stringing Maintenance and Cabling and stringing new Installation for Eskom RoteK Industries for a period of Three ( 3) years

Signature(s)

Name(s)

Capacity

**For the** Vendor details  
**tenderer:**

(

Date

Name &  
signature of  
witness

Tenderer's CIDB registration number:

Cabling and Stringing Maintenance and Cabling and stringing new Installation for Eskom RoteK Industries for a period of Three ( 3) years

## Acceptance

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

The terms of the contract, are contained in:

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

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

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

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

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

Signature(s)

Name(s)

Capacity

Cabling and Stringing Maintenance and Cabling and stringing new Installation for Eskom RoteK Industries for a period of Three (3) years

**for the Employer** Eskom RoteK Industries SOC Ltd

\_\_\_\_\_  
*(Eskom RoteK Industries,  
Rosherland Officer Park  
Lower Germiston Road  
Rosherville)*

Name &  
signature of  
witness \_\_\_\_\_

Date \_\_\_\_\_

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### **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.

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**For the tenderer:**

**For the Employer**

Signature \_\_\_\_\_

Name \_\_\_\_\_

Capacity \_\_\_\_\_

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

Eskom RoteK Industries SOC  
Limited  
Rosherland Officer Park  
Lower Germiston Road  
Rosherville

Name &  
signature  
of  
witness \_\_\_\_\_

Date \_\_\_\_\_

## C1.2 TSC3 Contract Data

### Part one - Data provided by the *Employer*

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

Clause	Statement	Data
1	<b>General</b>	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:	
		<b>A: Priced contract with price list</b>
	dispute resolution Option	<b>W1: Dispute resolution procedure</b>
	and secondary Options	
		<b>X1: Price adjustment for inflation</b>
		<b>X2 : Changes in the law</b>
		<b>X17: Low service damages</b>
		<b>X18: Limitation of liability</b>
		<b>X19: Task Order</b>
		<b>Z: <i>Additional conditions of contract</i></b>
10.1	The <i>Employer</i> is (name):	<b>Eskom Rotek Industries SOC Ltd (Reg no: 1990/006897/30), a state owned company incorporated in terms of the company laws of the Republic of South Africa</b>
	Address	<b>Roshland Office Park Lower Germiston Road Rosherville</b>
	Tel No.	<b>011 629 4000</b>
	Fax No.	
10.1	The <i>Service Manager</i> is (name):	<b>Valencia Baloyi</b>

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Address	<b>Roshland Office Park Lower Germiston Road Rosherville</b>
Tel	<b>072 526 3465/011 629 4895</b>
Fax	
e-mail	<a href="mailto:baloyiv@eskom.co.za">baloyiv@eskom.co.za</a>
11.2(2) The Affected Property is	<b>Transmission yards and substations, Distribution yards and substations in South Africa and neighbouring countries</b>
11.2(13) The service is	<b>The cabling and string of TX and DX yards for Eskom Rotek Industries for a period of Three (3) years as and when required.</b>
11.2(14) The following matters will be included in the Risk Register	<b>Cost Scope Safety Quality Technical functionality Additional items identified by the parties from time to time and recorded in the site specific risk registers</b>
11.2(15) The Service Information is in	<b>Part 3: Scope of Work and all documents and drawings to which it makes reference.</b>
12.2 The <i>law of the contract</i> is the law of	<b>the Republic of South Africa</b>
13.1 The <i>language of this contract</i> is	<b>English</b>
13.3 The <i>period for reply</i> is	<b>2 working days unless otherwise indicated in Task Order</b>
2 <b>The Contractor's main responsibilities</b>	<b>Data required by this section of the core clauses is also provided by the Contractor in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data</b>
21.1	The <i>Contractor</i> submits a first plan for acceptance within <b>1 week of the Contract Date</b>
3 <b>Time</b>	

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30.1	The <i>starting date</i> is	
30.1	The <i>service period</i> is	<b>3 (Three) years</b>
4	<b>Testing and defects</b>	<p>Testing will be performed by the <i>Employer</i> before hand over of project or tasks.</p> <p>The defect correction period for particular defect will be agreed upon by the parties at the first meeting when the defect is formally discussed.</p>
5	<b>Payment</b>	
50.1	The <i>assessment date</i> is	<b>To be specified in task order</b>
51.1	The <i>currency of this contract</i> is the	<b>South African Rand</b>
51.2	The period within which payments are made is	<b>4 weeks of receipt of the valid contractor's tax compliant invoice</b>
51.4	The <i>interest rate</i> is	<p>the publicly quoted prime rate of interest (calculated on a 365 day year) charged by from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove for amounts due in Rands and</p> <p>(ii) The LIBOR rate applicable at the time for amounts due in other currencies. LIBOR is the 6 month London Interbank Offered Rate quoted under the caption "Money Rates" in The Wall Street Journal for the applicable currency or if no rate is quoted for the currency in question then the rate for United States Dollars, and if no such rate appears in The Wall Street Journal then the rate as quoted by the Reuters Monitor Money Rates Service (or such service as may replace the Reuters Monitor Money Rates Service) on the due date for the payment in question, adjusted <i>mutatis mutandis</i> every 6 months thereafter (and as certified, in the event of any dispute, by any manager employed in the foreign exchange department of The Standard Bank of South Africa Limited, whose</p>

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

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83.1	The insurance against loss of or damage to the <i>works</i> , Plant and Materials is to include cover for Plant and Materials provided by the <i>Employer</i> for an amount of	
83.1	The minimum amount of cover for insurance in respect of loss of or damage to property (except the <i>Employer's</i> property, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Contractor</i> ) arising from or in connection with the <i>Contractor's</i> Providing the Service for any one event is:	<b>Whatever the <i>Contractor</i> deems necessary in addition to that provided by the <i>Employer</i>.</b>
83.1	The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the <i>Contractor</i> arising out of and in the course of their employment in connection with this contract for any one event is:	<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>
<b>9</b>	<b>Termination</b>	
<b>10</b>	<b>Data for main Option clause</b>	
<b>A</b>	<b>Priced contract with price list</b>	<b>Refer to the pricing schedule part 2 pricing data</b>
20.5	The <i>Contractor</i> prepares forecasts of the final total of the Prices for the whole of the <i>service</i> at intervals no longer than	<b>N/A</b>
20.4	The <i>Contractor</i> prepares forecasts of the total Defined Cost for the whole of the <i>service</i> at intervals no longer than	<b>N/A</b>
<b>11</b>	<b>Data for Option W1</b>	
W1.1	The <i>Adjudicator</i>	<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</b>

**the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).**

Address

Tel No.

Fax No.

e-mail

W1.2(3)	<p>The <i>Adjudicator nominating body</i> is:</p> <p>An Adjudicator will be appointed between the Contractor and the Employer should a dispute arises. The costs that the Adjudicator charge will be divided between both Parties at 50% for each parties account.</p>	<p><b>the Chairman of ICE-SA a joint Division of the South African Institution of Civil Engineering and the Institution of Civil Engineers (London) (see <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a> ) or its successor body.</b></p>
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W1.4(2)	The <i>tribunal</i> is:	<b>Arbitration</b>
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W1.4(5)	<p>The <i>arbitration procedure</i> is</p> <p>The place where arbitration is to be held is</p> <p>The person or organisation who will choose an arbitrator</p> <ul style="list-style-type: none"> <li>- if the Parties cannot agree a choice or</li> <li>- if the arbitration procedure does not state who selects an arbitrator, is</li> </ul>	<p><b>the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.</b></p> <p><b>Johannesburg South Africa</b></p> <p><b>The Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.</b></p>
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<b>12</b>	<b>Data for secondary Option clauses</b>	
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<b>X1</b>	<b>Price adjustment for inflation</b>	
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X1.1	The <i>base date</i> for indices is	<b>After the first anniversary of the contract.</b>
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The proportions used to calculate **Refer to:**

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the Price Adjustment Factor are: **S.E.I.F.S.A. Table C3, all hourly paid employees**

X2 Changes in the Law **Is a Compensation event if it occurs after the signing of the Contract.**

X17	Low service damages	
X17.1	The low performance damages is	10% of task order value
X18.1	The <i>Contractor's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to	<b>R0.0 (zero Rand)</b>

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X18.2	For any one event, the <i>Contractor's</i> liability to the <i>Employer</i> for loss of or damage to the <i>Employer's</i> property is limited to	<p><b>the amount of the deductibles relevant to the event described in the "Format TSC3" insurance policy available on <a href="http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx">http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx</a></b></p>
X18.3	The <i>Contractor's</i> liability for Defects due to his design of an item of Equipment is limited to	<b>The amount of the task order from which the defect arose.</b>
X18.4	The <i>Contractor's</i> total liability to the <i>Employer</i> , for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	<p><b>The amount of the task order from which the defect arose.</b></p> <p><b>The <i>Contractor's</i> total liability for the additional excluded matters is not limited.</b></p> <p><b>The additional excluded matters are amounts for which the <i>Contractor</i> is liable under this contract for</b></p> <ul style="list-style-type: none"> <li>• Defects due to his design, plan and specification,</li> <li>• Defects due to manufacture and fabrication outside the Affected Property,</li> <li>• loss of or damage to property (other than the <i>Employer's</i> property, Plant and Materials),</li> <li>• death of or injury to a person and</li> <li>• Infringement of an intellectual property right.</li> </ul>
X18.5	The <i>end of liability date</i> is	<b>12 months after the end of the service period.</b>
<b>X19</b>	<b>Task Order</b>	
X19.5	The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within	<b>7 days of receiving the Task Order</b>

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## **Z1 Cession delegation and assignment**

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

## **Z2 Joint ventures**

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

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

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

## **Z4 Ethics**

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

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

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

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

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

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

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

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

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

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

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

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

Z4.5 A Committing Party co-operates fully with any investigation pursuant to alleged

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Prohibited Action. Where the Employer does not have a contractual bond with the Committing Party, the Contractor ensures that the Committing Party co-operates fully with an investigation.

## **Z5 Confidentiality**

- Z5.1 The *Contractor* does not disclose or make any information arising from or in connection with this contract available to Others. This undertaking does not, however, apply to information which at the time of disclosure or thereafter, without default on the part of the *Contractor*, enters the public domain or to information which was already in the possession of the *Contractor* at the time of disclosure (evidenced by written records in existence at that time). Should the *Contractor* disclose information to Others in terms of clause 25.1, the *Contractor* ensures that the provisions of this clause are complied with by the recipient.
- Z5.2 If the *Contractor* is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the *Service Manager*.
- Z5.3 In the event that the *Contractor* is, at any time, required by law to disclose any such information which is required to be kept confidential, the *Contractor*, to the extent permitted by law prior to disclosure, notifies the *Employer* so that an appropriate protection order and/or any other action can be taken if possible, prior to any disclosure. In the event that such protective order is not, or cannot, be obtained, then the *Contractor* may disclose that portion of the information which it is required to be disclosed by law and uses reasonable efforts to obtain assurances that confidential treatment will be afforded to the information so disclosed.
- Z5.4 The taking of images (whether photographs, video footage or otherwise) of the Affected Property or any portion thereof, in the course of Providing the Service and after the end of the *service period*, requires the prior written consent of the *Service Manager*. All rights in and to all such images vests exclusively in the *Employer*.
- Z5.5 The *Contractor* ensures that all his subcontractors abide by the undertakings in this clause.

## **Z6 Waiver and estoppel: Add to core clause 12.3:**

- Z6.1 Any extension, concession, waiver or relaxation of any action stated in this contract by the Parties, the *Service Manager* or the *Adjudicator* does not constitute a waiver of rights, and does not give rise to an estoppel unless the Parties agree otherwise and confirm such agreement in writing.

## **Z7 Health, safety and the environment: Add to core clause 27.4**

- Z7.1 The *Contractor* undertakes to take all reasonable precautions to maintain the

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health and safety of persons in and about the execution of the *service*. Without limitation the *Contractor*:

- accepts that the *Employer* may appoint him as the “Principal Contractor” (as defined and provided for under the Construction Regulations 2014 (promulgated under the Occupational Health & Safety Act 85 of 1993) (“the Construction Regulations”) for the Affected Property;
- warrants that the total of the Prices as at the Contract Date includes a sufficient amount for proper compliance with the Construction Regulations, all applicable health & safety laws and regulations and the health and safety rules, guidelines and procedures provided for in this contract and generally for the proper maintenance of health & safety in and about the execution of the *service*; and
- undertakes, in and about the execution of the *service*, to comply with the Construction Regulations and with all applicable health & safety laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his Subcontractors, employees and others under the *Contractor’s* direction and control, likewise observe and comply with the foregoing.

Z7.2 The *Contractor*, in and about the execution of the *service*, complies with all applicable environmental laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his Subcontractors, employees and others under the *Contractor’s* direction and control, likewise observe and comply with the foregoing.

## **Z8 Provision of a Tax Invoice and interest. Add to core clause 51**

Z8.1 Within one week of receiving a payment certificate from the *Service Manager* in terms of core clause 51.1, the *Contractor* provides the *Employer* with a tax invoice in accordance with the *Employer’s* procedures stated in the Service Information, showing the amount due for payment equal to that stated in the payment certificate.

Z8.2 If the *Contractor* does not provide a tax invoice in the form and by the time required by this contract, the time by when the *Employer* is to make a payment is extended by a period equal in time to the delayed submission of the correct tax invoice. Interest due by the *Employer* in terms of core clause 51.2 is then calculated from the delayed date by when payment is to be made.

Z8.3 The *Contractor* (if registered in South Africa in terms of the companies Act) is required to comply with the requirements of the Value Added Tax Act, no 89 of 1991 (as amended) and to include the *Employer’s* VAT number 4330196330 on each invoice he submits for payment.

## **Z9 Notifying compensation events**

Z9.1 Delete the last paragraph of core clause 61.3 and replace with:

Cabling and Stringing Maintenance and Cabling and stringing new Installation for Eskom RoteK Industries for a period of Three ( 3) years

If the *Contractor* does not notify a compensation event within 48 hours of becoming aware of the event, he is not entitled to a change in the Prices.

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**Z10      *Employer's limitation of liability***

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

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

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

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

## Annexure A: Insurance provided by the Employer

*These notes are provided as guidance to tendering contractors and the Contractor about the insurance provided by the Employer. The Contractor must obtain its own advice. Details of the insurance itself are available from the internet web link given below.*

1. Services provided in a TSC3 contract could include some element of construction or refurbishment as well as a continuous maintenance or operational service activity. If an event occurs which causes loss or damage, a claim could be made either against the *Employer's* "works" type policy which may be in place for the *Employer's* portion of the Affected Property concerned or against the *Employer's* assets policy which may be in place for the *Employer's* portion of the Affected Property concerned, or both.
2. The cover provided and the deductibles under the works policy are different to those under the assets policy. Each policy has a range of applicable deductibles depending on the location of the Affected Property and the nature of the insurable event.
3. The *Contractor* is required in terms of Contract Data for clause 83 to provide cover for the deductibles in the insurance provided by the *Employer*. This can be provided from his own resources on a 'self-insured' basis or obtained by him from his own insurers. In order to assess the extent of this cover, tendering contractors and their brokers should consult the internet web link given below and scroll to '**Format TSC3**' to establish both the cover and the deductibles in relation to the *service* provided in terms of this contract.
4. Tendering contractors should note that cover provided by the *Employer* is only per the policies available on the internet web link listed below and may not be the cover required by the tendering contractor or as intended by each of the listed insurances in the left hand column of the Insurance Table in clause 83.2. In terms of clause 83.1 "the *Contractor* provides the insurances stated in the Insurance Table except any insurance which the *Employer* is to provide". Hence the *Contractor* provides insurance which the *Employer* does not provide and in cases where the *Employer* does provide insurance the *Contractor* insures for the difference between what the Insurance Table requires and what the *Employer* provides.
5. If Marine Insurance is required the *Contractor* needs to obtain a copy of the latest edition of Eskom's Marine Policies Procedures found at internet website given below.
6. Further information and full details of all Eskom provided policies and procedures may be obtained from:

[http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS\\_Policies\\_From\\_1\\_April\\_2014\\_To\\_31\\_March\\_2015.aspx](http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx)

## C1.2 Contract Data

### Part two - Data provided by the *Contractor*

#### Notes to a tendering contractor:

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

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

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Experience:

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

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

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

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

## C2.2 the *price list*

[illegible]

\_\_\_\_\_



## PART 3: SCOPE OF WORK

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

**Description of the service****SCOPE OF WORK FOR REFURBISHMENT OF CABLING AND STRINGING IN  
SUBSTATIONS SERVICES CONTRACT  
FOR A PERIOD OF 3 YEARS****REFURBISHMENT AND NEW INSTALLATION OF SUBSTATION BAYS.****Introduction:**

Eskom have embarked on refurbishing and replacement of feeders, incoming bays, coupler, bus zone panels and capacitor bays with new equipment.

**Purpose:**

For refurbishing and replacing of feeder bays, incoming feeders, buss coupler bays, cap bank bays, control panels and testing/repair of earth mats.

**Functional specifications;**

- Installation of new cabling from control room panels to JB. See drawing no. 0.08/20514 sheet 64 as an example.
- Installation of cables from JB to bay equipment. See drawing no. 0.08/20514 sheet 64 as an example.
- Installation of glands on all cables.
- Numbering of cable cores as per Eskom drawings no. 0.18/33292 sheet 44 as an example.
- Crimping of lugs on cable ends. (all lugs to be double grip as per Eskom spec)
- Installation on cable identification tags on all cable ends. (all tags to be copper, 12 mm wide and 2 mm thick)
- Looming of cable ends to the correct termination points.
- Removal and installing of CTs, VTs, Surge arrestors, Line traps, post insulators.
- Removal and installation of control panels in control room.
- Testing of earth mats in HV yards, control rooms, fencing, guard rooms. See drawing No. 0-NT-106 sheet 15A as an example.
- Repairing of earth mats. See drawing No. 0-NT-106 sheet 15A as an example.
- Trenching must be opened and closed for cable installation.
- Digging of trenches for new cables to new equipment in bay.
- Removal of all old equipment, cabling, panels.
- Installation and removal of JB foundations by subcontractor. See Drawing no. 0.54/3568 and 0.54/4713 as an example.
- Installation of chemical anchor bolts for structures. See Works instruction ESTSTI040.
- Installation of conductor to be done with bucket truck. See drawing no. 0-NT-106 sheet 15 as an example.
- Crane truck to be used for moving of cable drums and putting drums on cable stands.

- Installation of Breaker foundation as per drawing as per example, D-DT-5200 set 2, sheet1.
- Installation of trenching, see drawings, 0.54/390, sheet 15, 16B, 19, 22, 29B, 37 as examples.
- Installation of by passes, see design doc for marathon bypass as an example.
- Installation and removal of medium equipment support structures, see drawing no's 0.54/304, 0.54/673, o.54/779
- Back fill and compact all excavations, supply and spread yard stone where needed.
- Disposal of all rubble and excavated surplus soil. All equipment and structures will be scraped and disposed of by the client.

### Delivery requirements;

- All bay equipment to be delivered to site by OEM.
- Client to arrange for all cable deliveries.
- Client to insure all clamps are correct and on site.
- Client to arrange for all control panels to be delivered to site.
- Client to supply all copper for earthing requirements.

## 7. Management strategy and start up.

### 7.1. The Contractor's plan for the service

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

### 7.2. Management meetings

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

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

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

progress feedback	and	_____	_____	<i>Contractor</i> and _____

Meetings of a specialist nature may be convened as specified elsewhere in this Service Information or if not so specified by persons and at times and locations to suit the Parties, the nature and the progress of the *service*. Records of these meetings shall be submitted to the *Service Manager* by the person convening the meeting within five days of the meeting.

All meetings shall be recorded using minutes or a register prepared and circulated by the person who convened the meeting. Such minutes or register shall not be used for the purpose of confirming actions or instructions under the contract as these shall be done separately by the person identified in the *conditions of contract* to carry out such actions or instructions.

### 7.3. *Contractor's* management, supervision and key people

### 7.4. Provision of bonds and guarantees

Refer to attached Appendix A (SD&L)

### 7.5. Documentation control

N/A

### 7.6. Invoicing and payment

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

The *Contractor* shall address the tax invoice to

\_\_\_\_\_ And include on each invoice the following information:

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

- (add other as required)

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

#### **7.7. Contract change management**

N/A

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

N/A

**7.9. Insurance provided by the *Employer***

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

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

**7.10. Training workshops and technology transfer**

N/A

**7.11. Design and supply of Equipment**

N/A

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

N/A

**7.12.2. Information and other things**

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

## **8. Health and safety, the environment and quality assurance**

### **8.1. Health and safety risk management**

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

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

### **8.2. Environmental constraints and management**

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

### **8.3. Quality assurance requirements**

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

## **9. Procurement**

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

### **9.1. People**

#### **9.1.1. Minimum requirements of people employed**

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

#### **9.1.2. BBBEE and preferencing scheme**

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

## **10. Working on the Affected Property**

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

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

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

### **10.3. Health and safety facilities on the Affected Property**

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

### **10.4. Environmental controls, fauna & flora**

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

### **10.5. Records of *Contractor's* Equipment**

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

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

### **10.6. Equipment provided by the *Employer***

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

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

Site services and facilities

### **10.7. Control of noise, dust, water and waste**

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

### **10.8. Hook ups to existing works**

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

