

SERVICE LEVEL AGREEMENT

entered into between

TRADEWIND MAINTENANCE AND SUPPLY CC

(Hereinafter referred to as "The Service Provider")

And

NQUTHU LOCAL MUNICIPALITY

(Hereinafter referred to as "The Municipality")

SUPPLY AND INSTALLATION OF LIGHTNING CONDUCTORS FOR A PERIOD OF 36 MONTHS

THE PARTIES AGREE AS FOLLOWS:

INTERPRETATION AND DEFINITIONS

1. In this agreement, unless the context indicates otherwise –

   1.1. An expression, which denotes any gender, includes the other genders, a natural person includes a judicial person and vice versa, and the singular includes the plural and vice versa.

   1.2. Clause headings are for convenience only and will not be used in its interpretation and the following expressions bear the meanings assigned to them and cognate expressions bear corresponding meaning –

   "Agreement" means this agreement and any and all Annexures thereto;

   "Service Provider" means TRADEWIND MAINTENANCE AND SUPPLY CC

   "Municipality" means Nquthu Local Municipality;

   "Parties" means the Municipality and the Service Provider;

   "Services" means SUPPLY AND INSTALLATION OF LIGHTNING CONDUCTORS FOR A PERIOD OF 36 MONTHS.

   1.3. Words and expressions defined in any sub-clause, for the purpose of the clause of which that sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause; and

   1.4. This agreement is governed by and construed in accordance with the laws of Republic of South Africa.

DURATION OF THE AGREEMENT

2. This agreement commences on 11 August 2023 and terminates on 10 August 2026, provided that the agreement may be –

   2.1. Extended as contemplated in clause 3; and

   2.2. Terminated prior to 10 August 2026 as contemplated in clause 5,8,14 and 15

EXTENSION

3. in the event that the Municipality elects to extend the agreement beyond the period contemplated in clause 2 –

   3.1. the Municipality must give the Service Provider written notice of such proposed extension, no less than 30 days prior to the termination of this Agreement; and

   3.2. The Service Provider must give written notice of acceptance or refusal, no later than 14 days after receipt of the offer contemplated in clause 3.1.

OFFER OF EXTENSION

4. Any offer extension as contemplated in clause 3, is at the sole discretion of the Municipality, and will be for a period determined suitable by the Municipality.

NOTICE OF TERMINATION

5. The Municipality is not required to give notice of termination of the agreement, provided that the Municipality, in its sole discretion, may terminate the agreement prior to the date contemplated in clause 2, in which event –

5.1. The Municipality must –

5.1.1. give written notice to the Service Provider no less than 30 days prior to the date of intended termination; and

5.1.2. As contemplated in this agreement, pay the Service Provider any remuneration due for goods supplied and reimburse the Service Provider for cost incurred up to date of termination of the agreement and

5.1.3. A party's right to terminate its contracts may originate from the general principles of contracts or it may arise out of the terms of the contract itself.

5.2. The Service Provider must immediately submit to the Municipality all documentation and materials relating in any manner whatsoever to work undertaken as contemplated in this agreement.

DUTIES OF THE SERVICE PROVIDER

SCOPE OF WORK

The Lightning Conductors should be designed to withstand the harsh rural KZN climate and shall have the following characteristics:

The Lighting Conductor shall be manufactured from high quality galvanised steel piping with a wall thickness of not less than 2mm.

Air termination rod

- 1m galvanised 16mm mild steel
- Secured firmly to top of Lightning Conductor

Down Conductor

- 3m x 65mm Normal Bore Pipe

- 6m x 50mm Normal Bore Pipe
- 3m x 40mm Normal Bore Pipe
- Down conductor shall be securely connected using Hydraulic crimping machine.
- Bolted, welded and threaded connection of down conductor id not desired.

Earth Termination Rod

- 16mm x 1.2m copper coated SABS approved earth rod.
- Connected firmly to the Down Conductor by means of self-threading bolt and Brass earth clamp.
- 10mm earth wire to be used for connection between down conductor and earth termination rod.

Installation

- The lightning conductor shall be installed in a hole that is not less than 1.2m deep.
- Holes are to be dug using mechanical means, either by means of earth Auger machine or earth coring machine.
- Manual digging of holes is not allowed as it is time consuming.
- Lightning conductors shall be stamped firm and held in a place with 25MPA concrete.
- Lightning conductors shall be installed in batches of not less than12 per day.
- No assistance will be provided by the beneficiaries or Municipal officials in the installation process.
- There is no electricity at the sites and no hot work is allowed.

TAXATION

6. Any required income tax or other taxation payments required by law are the responsibility of the Service Provider and the Municipality will not deduct any income tax or other taxation from any payments due to the Service Provider.

DUTIES OF THE MUNICIPALITY

7. The Municipality must –

8.1 Provide such assistance as is reasonably required by the Service Provider to carry out the work.

8.2 Issue all instructions related to the service through the Service Provider in writing; and

8.3 Remunerate the Service Provider as contemplated in clause 09

PAYMENTS

9 The Service Provider shall furnish the purchaser with an invoice accompanied by progress report and upon fulfilment of other obligations stipulated in the contract.

9.1 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the Service Provider.

9.2 Payment will be made in Rand unless otherwise stipulated in SCC.

9.3 Payment will be made directly to the Service Provider when goods were delivered provide that the municipality may refuse to make payment –

9.3.1 In the event the municipality, in its sole discretion, is of the opinion that the Service Provider has not performed the service as contemplated in this agreement.

BREACH OF AGREEMENT

10 If either party fails to meet its obligations in terms of this agreement, the innocent party at its choice, and after giving seven days written notice to the defaulting party at its *domicillum*, calling on the latter to remedy the breach, may-

10.1 Terminate the agreement; or

10.2 Enforce the terms of the agreement; and

10.3 In any event claim any damages that it may have suffered as a result of the breach.

TERMINATION

11 The municipality may, at its sole discretion, and after three days written notice to the liquidator, judicial manager or Service Provider, as the case may be, terminate the agreement in the event that –

11.1 An application is lodged for the liquidation of the Service Provider ;

11.2 The Service Provider reaches a compromise with any of its creditors; or

11.3 The Service Provider is placed under judicial management.

OBLIGATIONS OF THE MUNICIPALITY

12 Should the agreement be terminated for any reason whatsoever, the Municipality will not incur any obligation to the employees of the Service Provider, nor in respect of any contracts concluded by the Service Provider arising from this agreement.

SETTLEMENT OF DISPUTE

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13.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the Service Provider in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

13.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the Service Provider may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.

13.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.

13.4 Notwithstanding any reference to mediation and/or court proceedings herein,

a) The parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and

b) The purchaser shall pay the Service Provider any monies due the supplier for services rendered according to the prescripts of the contract.

ARBITRATOR

14 The parties must agree on an Arbitrator within thirty days after a dispute has been declared, failing which either of the parties to the dispute may request the State Attorney (KZN) to appoint a suitable Arbitrator.

REFERRAL TO COURT

15 The agreement to refer disputes for arbitration does not bar either of the parties to refer any dispute between them for adjudication by any court with jurisdiction, provided that seventy two hours' notice must be given to the other party prior to such referral.

DOMICILIUM AND NOTICES

16 The parties choose their *domicilium citandi et executendi* for all purposes of the giving of any notice, the payment of any sum, the serving of any process and for any other purpose arising from this agreement, as follows:

The Municipality: Private Bag x 5521
Nquthu
3135
Tel: 034 271 6100
Fax: 034 271 6111

The Service Provider: 36 Dick King Road
Amanzimtoti
4125
Tel: 073 276 0933
Fax:

VARIATION TO *DOMICILIUM*

17 Either party may from time to time, and upon written notice to the other party, vary its physical address or facsimile number to any other physical address or facsimile number within the Republic of South Africa.

NOTICES

18 Any notice given by either party to the other party, which –

18.1 Is delivered by hand during the normal business hours of the addressee at the addressee's *domicilium* will be deemed to have been received by the addressee at the time of delivery.

18.2 Is posted by prepaid registered post from an address within the Republic of South Africa to the addressee at the addressee's *domicilium* will be deemed to have been received by the addressee on the seventh day after the date of posting; and

18.3 Is sent by facsimile copier during the normal business hours of the addressee to the addressee's *domicilium* will be deemed to have been received on the date and time of successful transmission thereof.

PRICES

19 Prices charged by the Service Provider for services performed under the contract shall not vary from the prices quoted by the Service Provider in his bid, with the exception of any price adjustments authorized or in the purchaser's request for bid validity extension, as the case may be.

AMENDMENTS TO THIS AGREEMENT

20 This agreement is subject to amendment for the addition or deletion of services provided, changes to services provided as a result of process and or technology improvements and resulting enhanced levels of service performance and or reporting capabilities. Any such proposed amendments are to be recorded in an updated version of this document and are subject to the agreement of Nquthu Local Municipality.

PERFORMANCE OF SERVICE PROVIDER

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21.1 Performance of services shall be made by the Service Provider in accordance with the time schedule prescribed by the purchaser in the contract.

21.2 If at any time during performance of the contract, the Service Provider or its subcontractor(s) should encounter conditions impeding timely performance of services, the Service Provider shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Service Provider's notice, the purchaser shall evaluate the situation and may at his discretion extend the Service Provider's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.

21.3 Failure to deliver the service as per agreement will results in contract termination.

SKILLS TRANFER

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22.1 The Service provider shall arrange for the transfer of skills to be undertaken at the request of the purchaser and to the specification agreed between the Purchaser and the Service provider

22.2 The Service provider shall be required to undertake training for the specific official in which skills will be transferred to at the end of feasibility study.

SIGNING OF AGREEMENT

SIGNED AT NQUTHU ON THE 25TH DAY OF AUGUST 2023

For and on behalf of:

NQUTHU LOCAL MUNICIPALITY
who warrants being duly authorised hereto:

Name of Signatory B. BHENGU

Capacity of Signatory CHIEF FINANCIAL OFFICER

AS WITNESSES:

1. PHCCA
NAME _____ SIGNATURE _____

2. Ntombizethu
NAME _____ SIGNATURE _____

SIGNED AT STANGER ON THE 12 DAY OF FEBRUARY 2024

For and on behalf of:

TRADEWIND MAINTENANCE AND SUPPLY CC
who warrants being duly authorised hereto:

Name of Signatory LAROSHAN GOVENDER

Capacity of Signatory DIRECTOR

AS WITNESSES:

1. EDWINA PILLAY
NAME _____ SIGNATURE _____

2. Sharlet Govender
NAME _____ SIGNATURE _____