



NEC3 Term Service Contract (TSC3)

Between ESKOM HOLDINGS SOC LTD
(Reg No. 2002/015527/30)
(hereinafter referred to as “Employer”)

and XXXXXXXXXXXXXXXXXXXXXXXXXX
(Registration No. XXXXXXXXX)
(hereinafter referred to as “the Contractor”)

for Provision of road transport services for limestone
from Highveld Industrial Complex (Pty) Ltd to Kusile
Power Station

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CONTRACT No. [TBC]

PART C1: AGREEMENTS & CONTRACT DATA

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C1.1 Form of Offer & Acceptance

Offer

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

Provision of road transport services for limestone from Highveld Industrial Complex to Kusile Power Station

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

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

Options A	The offered total of the Prices exclusive of VAT is	R/ton
	Sub total	R/ton
	Value Added Tax @ 15% is	R/ton
	The offered total of the amount due inclusive of VAT is ¹	R/ton
	(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 Contractor before the end of the period of validity stated in the Tender Data, or other period as agreed, whereupon the Contractor becomes the party named as the *Contractor* in the *conditions of contract* identified in the Contract Data.

Signature(s)

Name(s)

Capacity

**For the
Contractor:**

Date

Name &
signature of
witness

Contractor's CIDB registration number:

N/A

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

Acceptance

By signing this part of this Form of Offer and Acceptance, the Employer identified below accepts the Contractor'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 Contractor's Offer shall form an agreement between the Employer and the Contractor 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 Contractor and the Employer during this process of offer and acceptance, are contained in the Schedule of Deviations (if any) 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 Contractor 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 Contractor receives one fully completed and signed original copy of this document, including the Schedule of Deviations (if any).

Signature(s)

Name(s)

Capacity

**for the
Employer**

Name &
signature of
witness

Eskom Holdings SOC Ltd
Megawatt Park, 1 Maxwell Drive,
Sunninghill, Sandton, 2157

Date

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

C1.2 TSC3 Contract Data

Part one - Data provided by the *Employer*

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option:	
		A: Priced contract with price list
	dispute resolution Option	W1: Dispute resolution procedure
	and secondary Options	
		X1: Price adjustment for inflation
		X2: Changes in the law
		X18: Limitation of liability
		X19: Task Order
		X20: Key performance indicators
		Z: <i>Additional conditions of contract</i>
	of the NEC3 Term Service Contract April 2013 ² (TSC3)	
10.1	The <i>Employer</i> is (name):	Eskom Holdings SOC Ltd (reg no: 2002/015527/30), a state-owned company incorporated in terms of the company laws of the Republic of South Africa
	Address	Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg
	Tel No.	011 800 8111
10.1	The <i>Service Manager</i> is:	Neziswa Makazi
	Address	Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg
	Tel	+27 11 516 7110
	Fax	
	e-mail	MakaziNP@eskom.co.za
11.2(2)	The Affected Property is	Eskom designated delivery points (power stations)
11.2(13)	The <i>service</i> is	Delivery of limestone from Highveld to Kusile Power Station over two (2) years and eight (8) months from 1 April 2024 to 30 November 2026

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

11.2(14)	The following matters will be included in the Risk Register	1. General Strikes (mass protest) 2. Infrastructure delays
11.2(15)	The Service Information is in	Part 3: Scope of Work and all documents to which it makes reference.
12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa
13.1	The <i>language of this contract</i> is	English
13.3	The <i>period for reply</i> is	12 hours
2	The Contractor's main responsibilities	Data required by this section of the core clauses is also provided by the <i>Contractor</i> in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data
21.1	The <i>Contractor</i> submits a first plan for acceptance within	1 day (one) of the Contract Date
3	Time	
30.1	The <i>starting date</i> is.	1 April 2024 (or a date to be agreed between the Parties)
30.1	The <i>service period</i> is	
4	Testing and defects	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data
5	Payment	
50.1	The <i>assessment interval</i> is	Within 3 (three) business days after the 15th (fifteenth) day of each month and within the first 3 (three) business days of the following month.
51.1	The <i>currency of this contract</i> is the	South African Rand
51.2	The period within which payments are made is	15 (fifteen) days from the receipt of valid invoice.
51.4	The <i>interest rate</i> is	the publicly quoted prime rate of interest (calculated on a 365 day year) charged by from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands.
6	Compensation events	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data
7	Use of Equipment Plant and Materials	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data

8 Risks and insurance

80.1	These are additional <i>Employer's</i> risks	N/A																		
83.1	The <i>Contractor</i> provides the insurances stated in the Insurance Table below. INSURANCE TABLE <table><tr><th>Insurance against</th><th>Minimum amount of cover or minimum limit of indemnity</th></tr><tr><td>Assets All Risk</td><td>As per the insurance policy document.</td></tr><tr><td>Project insurance</td><td>As per the insurance policy document.</td></tr><tr><td>General and Public Liability</td><td>As per the insurance policy document.</td></tr><tr><td>Environmental Liability</td><td>As per the insurance policy document.</td></tr><tr><td>Transport (Marine)</td><td>As per the insurance policy document.</td></tr><tr><td>Motor Fleet and Mobile Plant</td><td>As per the insurance policy document.</td></tr><tr><td>Terrorism</td><td>As per the insurance policy document.</td></tr><tr><td>Cyber Liability</td><td>As per the insurance policy document.</td></tr></table>		Insurance against	Minimum amount of cover or minimum limit of indemnity	Assets All Risk	As per the insurance policy document.	Project insurance	As per the insurance policy document.	General and Public Liability	As per the insurance policy document.	Environmental Liability	As per the insurance policy document.	Transport (Marine)	As per the insurance policy document.	Motor Fleet and Mobile Plant	As per the insurance policy document.	Terrorism	As per the insurance policy document.	Cyber Liability	As per the insurance policy document.
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83.1	The <i>Contractor</i> provides the insurances stated in the Insurance Table: The insurances provide cover for events which are at the <i>Contractor's</i> risk from the <i>starting date</i> until the end of the <i>service period</i> or a termination certificate has been issued INSURANCE TABLE <table><tr><th>Insurance against</th><th>Minimum amount of cover or minimum limit of indemnity</th></tr><tr><td>Loss of or damage caused by the <i>Contractor</i> to the <i>Employer's</i> property</td><td> The replacement cost where not covered by the <i>Employer's</i> insurance. The <i>Employer's</i> policy Deductible where covered by the <i>Employer's</i> insurance. </td></tr><tr><td>Loss of or damage to Plant and Materials</td><td> The replacement cost where not covered by the <i>Employer's</i> insurance. The <i>Employer's</i> policy Deductible where covered by the <i>Employer's</i> insurance. </td></tr><tr><td>Loss of or damage to Equipment</td><td> The replacement cost where not covered by the <i>Employer's</i> insurance. The <i>Employer's</i> policy Deductible where covered by the <i>Employer's</i> insurance. </td></tr><tr><td>The <i>Contractor's</i> liability for 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</td><td> <u>Loss of or damage to property</u> The replacement cost </td></tr></table>		Insurance against	Minimum amount of cover or minimum limit of indemnity	Loss of or damage caused by the <i>Contractor</i> to the <i>Employer's</i> property	The replacement cost where not covered by the <i>Employer's</i> insurance. The <i>Employer's</i> policy Deductible where covered by the <i>Employer's</i> insurance.	Loss of or damage to Plant and Materials	The replacement cost where not covered by the <i>Employer's</i> insurance. The <i>Employer's</i> policy Deductible where covered by the <i>Employer's</i> insurance.	Loss of or damage to Equipment	The replacement cost where not covered by the <i>Employer's</i> insurance. The <i>Employer's</i> policy Deductible where covered by the <i>Employer's</i> insurance.	The <i>Contractor's</i> liability for 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	<u>Loss of or damage to property</u> The replacement cost								
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	employee of the <i>Contractor</i>) arising from or in connection with the <i>Contractor's</i> Providing the Service	<u>Bodily injury to or death of a person</u> The amount required by the applicable law.
	Liability for 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	The amount required by the applicable law
83.1	The <i>Contractor</i> provides these additional insurances:	N/A
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	the amount of the deductibles
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	N/A
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:	N/A
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:	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).
9	Termination	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
10	Data for main Option clause	
A	Priced contract with price list	
20.5	The <i>Contractor</i> prepares forecasts of the final total of the Prices for the whole of the service at intervals no longer than	N/A
11	Data for Option W1	
W1.1	The <i>Adjudicator</i>	The person selected from Eskom Panel of Adjudicators listed in Annexure B to this Contract Data

W1.2(3)	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 Institution of Civil Engineers (London) (see www.ice-sa.org.za) or its successor body.
W1.4(2)	The <i>tribunal</i> is:	Arbitration
W1.4(5)	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.

12 Data for secondary Option clauses

X1	Price adjustment for inflation			
X1.1	The <i>base date</i> for indices is			
	Component	Proportion	linked to index for	Cycle
	Fuel (Diesel)	30%	DOE 0.5 sulphur, Zone Adjusted	N/A
	Fixed	70%	N/A	N/A
		100%		
The price is fixed for the duration of the agreement from base date, excluding Fuel (diesel) published by DOE. 1 April 2024 Diesel Base Index Value will be used as reference for the monthly diesel movements				
X2	Changes in the law	There is no reference to Contract Data in this Option and terms in italics are identified elsewhere in this Contract Data.		
X18	Limitation of liability			
X18.1	The <i>Contractor's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to	R0.0 (zero Rand)		
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	the amount of the deductibles		
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	the total of the Prices other than for the additional excluded matters. The <i>Contractor's</i> total liability for the additional excluded matters is not limited.		

		The additional excluded matters are amounts for which the <i>Contractor</i> is liable under this contract for • loss of or damage to property (other than the <i>Employer's</i> property, Plant and Materials), • death of or injury to a person and
X18.5	The <i>end of liability date</i> is	3 (Three) months after the services have been rendered.
X19	Task Order	
X19.5	The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within	To be specified under a Task Order
Z	The additional conditions of contract are	Z1 to Z11 always apply.
Z1	Cession delegation and assignment	
Z1.1	The <i>Contractor</i> does not cede, delegate or assign any of its rights or obligations to any person without the written consent of the <i>Employer</i> .	
Z1.2	Notwithstanding the above, the <i>Employer</i> may on written notice to the <i>Contractor</i> 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 <i>Contractor</i> 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 <i>Employer</i> for the performance of this contract.	
Z2.2	Unless already notified to the <i>Employer</i> , the persons or organisations notify the <i>Service Manager</i> within two weeks of the Contract Date of the key person who has the authority to bind the <i>Contractor</i> on their behalf.	
Z2.3	The <i>Contractor</i> does not alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without the consent of the <i>Employer</i> having been given to the <i>Contractor</i> in writing.	
Z3	Change of Broad Based Black Economic Empowerment (B-BBEE) status	
Z3.1	Where a change in the <i>Contractor's</i> legal status, ownership or any other change to his business composition or business dealings results in a change to the <i>Contractor's</i> B-BBEE status, the <i>Contractor</i> notifies the <i>Employer</i> within seven days of the change.	
Z3.2	The <i>Contractor</i> is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the <i>Service Manager</i> within thirty days of the notification or as otherwise instructed by the <i>Service Manager</i> .	
Z3.3	Where, as a result, the <i>Contractor's</i> B-BBEE status has decreased since the Contract Date the <i>Employer</i> may either re-negotiate this contract or alternatively, terminate the <i>Contractor's</i> obligation to Provide the Service.	
Z3.4	Failure by the <i>Contractor</i> to notify the <i>Employer</i> of a change in its B-BBEE status may constitute a reason for termination. If the <i>Employer</i> 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 Confidentiality

- Z4.1 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.
- 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 Service Manager.
- 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 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.
- Z4.5 The Contractor ensures that all his subcontractors abide by the undertakings in this clause.

Z5 Waiver and estoppel: Add to core clause 12.3:

- Z5.1 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.

Z6 Health, safety and the environment: Add to core clause 27.4

- 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:
- 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.

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 core clause 51

Z7.1 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.

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 core clause 51.2 is then calculated from the delayed date by when payment is to be made.

Z7.3 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 4740101508 on each invoice he submits for payment.

Z8 Notifying compensation events

Z8.1 Delete the last paragraph of core clause 61.3 and replace with:

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

Z9 Employer's limitation of liability

Z9.1 The *Employer's* liability to the *Contractor* for the *Contractor's* indirect or consequential loss is limited to R0.00 (zero Rand)

Z9.2 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.

Z10 Termination: Add to core clause 91.1, at the second main bullet point, fourth sub-bullet point, after the words "against it":

Z10.1 or had a business rescue order granted against it.

Z11 Ethics

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 <i>Contractor</i> 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.
- Z 11.1 A Committing Party may not take any Prohibited Action during the course of the procurement of this contract or in execution thereof.
- Z 11.2 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.
- Z 11.3 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.
- Z 11.4 A Committing Party co-operates fully with any investigation pursuant to alleged Prohibited Action. Where the *Employer* does not have a contractual bond with the Committing Party, the *Contractor* ensures that the Committing Party co-operates fully with an investigation.

C1.2 Contract Data

Part two - Data provided by the Contractor

Clause	Statement	Data
10.1	The <i>Contractor</i> is (Name): Address Tel No. e-mail address.	
11.2(8)	The <i>direct fee percentage</i> is The <i>subcontracted fee percentage</i> is	0.00% 0.00%
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:	N/A
21.1	The plan identified in the Contract Data is contained in:	N/A
24.1	The key people are: 1 Name: Job: Responsibilities: Qualifications: Experience: 2 Name: Job: Responsibilities: Qualifications: Experience:	
A	Priced contract with price list	
11.2(12)	The <i>price list</i> is in	C2.2 the Price List
11.2(19)	The tendered total of the Prices is	Task order based

PART 2: PRICING DATA

TSC3 Option A

C2.1 Pricing Assumptions

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

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 Contractor'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 Contractor 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 Contractor 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 Contractor 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 Contractor:

For the Employer

Signature _____

Name _____

Capacity _____

On behalf
of _____

Name &
signature
of witness _____

Date _____

C2.2 the *price list*

PRICE TABLE FOR THE PERIOD:

Item	Description	Unit	Source	Destination	One Way Distance (km)	Rate Rand per tonne (R/t)
1	Service	Tons	Highveld	Eskom's Kusile Power Station (Mpumalanga)	29.2	

The total of the Prices

N/A

PART 3: SCOPE OF WORK

Document reference	Title	No of pages
	This cover page	1
C3.1	<i>Employer's Service Information</i>	16
C3.2	<i>Contractor's Service Information</i>	N/A
	Total number of pages	

C3.1 Employers Service Information

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Description of the service

Executive overview

The service is for the provision of road transport services to move an estimate of 36 000 tons per month of limestone from Highveld Industrial Complex to Kusile Power Station, at an estimated distance of 29.2 km for two (2) years and 8 months from 1 April 2024 to 30 November 2026.

The Tenderer must provide sufficient vehicles to move the required tonnages within a period of one month. The type of vehicles are 22 meter interlinked side tippers.

The tenderer must provide proof of vehicle ownership/lease, (in the form of certified vehicle registration documents in the name of the supplier/ shareholder/s).

The tenderer must provide a certified road worthy certificate(s) valid at the time of tender.

The tenderer must also provide an operational project plan as proof to deliver the tons stipulated on the task order.

Employer's requirements for the service

The service includes:

This service will be a for two years and 8 months for the provision of road transport service to move an estimated 36 000 tons of Limestone per month for the duration of the contract. Eskom will notify the contractor seven (7) working days prior to when the required service needs to start.

The service includes:

- The supply of sufficient number of 22 meter interlinks side tipper trucks for the provision of the service.
- Making the Contracted Fleet available for inspection and evaluation by Eskom, prior to commencement of the service.
- All drivers to have a valid medical certificate of fitness prior to commencement of the service
- Making the Contracted Fleet and drivers available for safety induction at Designated Loading and Offloading Points.
- Presenting the vehicle at the designated Loading Point, including:
 - Queuing,
 - Weighing the empty vehicle at the inbound weighbridge,
 - Loading of Limestone onto the Vehicle
 - Weighing the loaded vehicle at the outbound weighbridge,
 - Receiving of the Loading Waybill,
 - Ensuring the vehicle does not leave the Loading overloaded.
 - Tarping of the Vehicle by the Loading Agent.
 - Tamper proof sealing of the trailers by the Loading Agent.
- Transporting the loaded Limestone to Kusile Power Station
 - Offloading of Limestone at Kusile Power Station - Queuing,
 - Un-tarping and removal of seals on the Vehicle by Driver and Eskom personnel,
 - Weighing the loaded vehicle at the inbound weighbridge,
 - Presentation of the Loading Waybill,

- Offloading of Limestone onto the designated stockpile,
- Weighing the empty vehicle at the outbound weighbridge,
- Receiving of the Power Station Waybill, and

In providing the service, the *Contractor* shall comply with the provisions of all relevant health, safety and environmental legislation applicable to them. In addition, the *Contractor* shall comply with *Employer's* health and safety rules, codes of practice and all other relevant safety policies and procedures.

The *Contractor* shall be obliged to take out insurance policies in respect of all risks in respect of the carrying out of the limestone transportation functions.

For the purpose of payment the *Contractor* will be paid for the tonnages delivered over the stipulated distance, i.e. for one way only.

Description of the logistics management services to be provided by the *Employer*

Logistics management

The *Employer* shall be required to establish centralised operational standards and procedures as well as perform the following services:

Information management

The *Employer* shall collate data on the limestone deliveries on a daily basis (daily limestone trend report) for road. In doing so, the *Employer* shall endeavour to provide up-to-date information on limestone deliveries.

Manual input mechanisms (may be automated in the future),

Vehicle Tracking systems information/access and other systems used by the *Contractor* to be made available to the *Employer* as and when required,

The *Employer* shall enhance and further develop existing and new centralised operational procedures that will facilitate safe effective transportation of limestone from various limestone sources to various Power Stations as communicated by the *Employer* from time to time.

The *Employer* shall monitor and provide information on the operational status of the supply chain.

Effective control and monitoring

The *Employer* shall provide controllers which shall be based at all Power Stations. The function of these controllers shall be inter alia to;

Monitor and assist to improve operations,

Facilitate that the vehicles of the *Contractor* are not overloaded.

Report on the limestone haulage problems and non-compliance by the *Contractor* on sites.

Ensure that only vehicles with Valid Inspections are allowed access to the Power Stations.

The *Employer* shall advise Eskom of issues of non-compliance in writing and Eskom shall address such issues timeously.

The *Employer* shall monitor all vehicle movements in respect of prohibited areas and report on vehicle congestion and route transgressions.

Route assessments

The *Employer* shall perform a route assessment, inclusive of a map and road condition analysis, on all authorised routes.

Vehicle tracking

The *Contractor* shall ensure that their vehicles are fitted with vehicle monitoring systems. These systems, shall be maintained and kept in good working order by the *Contractor*. The *Employer* shall report any transgression thereon to the *Contractor*.

The *Employer* shall use the information from the systems to identify the location of vehicles, monitor driver behaviour including speeding and further, communicate with the *Contractor* as and when required.

Section 3: Description of Safety Management Services

Safety management

Safety is paramount to the *Employer's* business and therefore, the *Contractor* shall ensure that limestone haulage is done in compliance with all health, safety and environmental legislations, regulations, policies and procedures. The *Contractor* shall report all safety matters to the Eskom Primary Energy Division's Safety representative.

In order to ensure that the safety matters are attended to effectively and efficiently and by competent persons, the *Contractor* shall appoint safety officers/ investigators with the following minimum qualification - national certificate in Safety or Risk Management or diploma in Safety or Risk Management, law, or environmental health and safety diploma. Other qualifications that can be considered are SAPS diploma or certificate. Eskom shall check job specifications and qualifications of these safety officers/ investigators within 6 (six) months of the *start date* of the Agreement.

The *Employer* shall ensure that the *Contractor* adhere to the following safety procedures:

Induction of drivers

The *Employer* shall provide centralised induction training to all drivers.

The induction training will be valid for a period of 12 (twelve) Months where after the drivers shall be re-inducted.

Each inducted driver shall receive the *Employer* induction card detailing their medical surveillance and the validity of the induction training.

Medical surveillance

The *Employer* shall facilitate that medical check-ups as per the agreed standard are conducted on all drivers prior to limestone haulage.

The *Employer* shall ensure that periodic medical check-ups coincide with the validity of the induction training.

Contractor safety packs

The *Employer* shall assist the *Contractors* in compiling a *Contractor's* safety pack, based on the approved index of the said *Contractor's* safety pack.

The Employer shall review each Contractor's safety pack every 6 (six) Months or earlier as a result of any safety incident or series of incidents.

The results of such review shall be communicated to the Contractor and shall be made available to the Employer

Accident investigations

The Contractor shall develop, implement and maintain a reporting system to communicate or report accidents in line with the Employer reporting requirements. The Employer shall distribute and present the lessons learned on all serious or fatal accidents to the Contractor.

The Contractor shall report any spillage and/or accident to the Service Manager within 24 (twenty-four) hours of such spillage and/or accident occurring.

Compilation of the toolbox talk

The *Employer* shall compile a toolbox talk on safety for distribution to all contractors on a weekly basis.

Data Gathering And Reporting

The *Contractor* shall on a Monthly basis provide the *Employer* with a consolidated report of all reports submitted during that month and actions taken and recommendations made by the *Contractor*.

Tarpaulin management and cleaning services

The *Contractor* shall continue to be responsible for the tarpaulin management services at both the loading and delivery point being the Power Station.

Route monitoring

The *Employer* shall deploy route monitors as and when required.

The route monitors shall monitor driver behaviour and traffic transgressions and report this to the *Employer*.

Route monitors shall, on an ad hoc basis, conduct an assessment of vehicles for safety and roadworthiness by way of the approved inspection list at the Siding or Power Stations.

In addition to the above, the route monitors shall also perform the following functions:

Together with the safety officers identify safety hazards and where possible eliminate such hazards,

Where applicable in a safe manner, interact with the drivers to ensure the adherence to road traffic laws and transport rules,

Speed monitoring

The *Employer* shall utilise the vehicle monitoring system to monitor speed on all vehicles fitted with same as when required.

Safety alerts

The *Employer* shall send safety alert messages using the bulk SMS system to the contractors with regard to adverse weather conditions, specific problem areas or general safety reminders, to increase the safety awareness of the contractors. The *Employer* shall not be held liable for any loss or damage suffered as a result of its failure to advise the contractors of any incidents or accidents that the *Employer* was not aware of.

Vehicle Identification

The *Employer* shall develop and implement a vehicle fleet identification system that will allow vehicles to be positively identified at the Power Station. This system shall assist the *Employer* and other stakeholders in identifying the limestone haulage vehicles.

Interpretation and terminology

The following abbreviations are used in this Service Information:

Abbreviation	Meaning given to the abbreviation
Abbreviation	Meaning given to the abbreviation
BBBEE	Broad Based Black Economic Empowerment
QM	Quality Management
PED	Primary Energy Division
SD&L	Supplier Development and Localisation
SHEQ	Safety, Health, Environmental and Quality
TSC	Term Services Contract
FCA	Free Carrier Agreement
M	Metre
Mtpa	million tonnes per annum

Terminology

Terminology	Description
Free Carrier Agreement (FCA)	Means the incoterm “Free Carrier at the designated loading point” which refers to the colliery handing over the limestone into the custody of the contractor at the designated loading point.
Designated Loading Points.	Means any of the Siding to be communicated by <i>Employer</i> to the <i>Contractor</i> in simultaneously with signature of this agreement and may be altered by a Task Order from time to time as determined by operational requirements.
Designated Offloading Points	Means the stockyard at the power station or any other stock yard designated by <i>Employer</i> , which stockyard may alter from time to time.

Terminology	Description
Tonne	metric tonne (t).
Contract Fleet	Vehicles that the <i>Contractor</i> may utilise in order to fulfil its obligations in terms of the contract.
Delivery	Means offloaded or tipped limestone at the designated offloading point with <i>Employer</i> site official having signed on receipt of the weigh bill. "Deliver" shall have a corresponding meaning
Month	Means a calendar month.
Power Station	Means one of the premises at which the designated offloading point may be located where <i>Employer</i> may direct the contractor to transport limestone from time to time under a task order.
Vehicle Tracking Device	means the Orchid Dx 250 on board computer system or any other replacement system installed in the <i>Contractors</i> vehicles and owned by the <i>Employer</i> and used to manage the <i>Contractor</i> and shall not be used as a vehicle recovery system.
Incoterm	means the standard trade definitions used in sales contracts published by the International Chamber of Commerce as the year 2000, as amended or replaced from time to time
Valid Inspections	means the process whereby all vehicles from the transporters are inspected and declared to have complied to the prescribed checklist used by the <i>Employer</i>

Management strategy and start up.

The *Contractor's* plan for the service

The *Contractor* must submit a first plan to the Service Manager for acceptance, showing the timing of work and operations to provide the service.

Management meetings

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

Title and purpose	Approximate interval	Location	Attendance by:
Operational Progress / feedback Meeting	Monthly	To be determined	<i>Employer</i> and <i>Contractor</i>

Meetings of a specialist nature may be convened as specified elsewhere in this Service Information. Records of these meetings shall be submitted to the *Service Manager* by the person convening 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.

Contractor's management, supervision and key people

The *Contractor* provides all adequately qualified and suitably experienced staff and other resources required for the management and operational activities needed for the efficient execution

The *Contractor* provides all other resources such as service vehicles, fuel, and consumables or incidentals required to sustain a continuous provision of the services described in this Service Information.

Documentation control

The Parties shall keep records of all the waybills for a period of 1 (one) year after the termination or expiry of this Agreement. Should there be an unresolved dispute between the Parties pertaining to the weighing of the vehicles and related issues, the Parties shall keep the records referred to herein until the dispute has been resolved, even if that is later than 1 (one) year past termination or expiry of this Agreement.

The *Contractor* is expected to keep appropriate and sufficient records (including but not limited to) of his operations including that of the Sub-contractor such as *Contractors* performance, safety and environmental statistics, and any correspondence relating to this agreement.

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 Primary Energy Finance 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;
- Please note *Employer* Name has to be reflected as Eskom Holdings SOC Limited on all Tax Invoices
- The *Employer's* VAT registration number 4740101508;
- 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;

Please note merely referring to the Contract is not sufficient, the quantities or volume of goods or service supplied.

Contract change management

The *Employer* serves the rights to re-negotiate the Contract price at any time during the Contract period when the Terms of the required changes substantially such as a change in volume.

Things provided at the end of the service period for the Employer's use

Information and other things

The *Contractor* provides all files, records, documents and electronic media used to provide or monitor the service or that formed part of the services provision process to the *Employer* at the end of the service period.

The *Contractor* provides a close out report to the *Service Manager* after the service period.

Management of work done by Task Order

The *Service Manager* will draft and approve a Task order.

A Task order starting with a 45 series number will be issued to the *Contractor* at the beginning of each month.

Response to the issued task order must be dealt with as per the secondary option X19 of this agreement
The *Contractor* will only act on Task Orders approved by the *Service Manager*.

The KPI's provided shall form the minimum baseline for performance review by the *Employer*, together with any other performance indicators and in relation to core clause 9.

Key Elements for the Contractor				
Element	Description	Frequency	KPI	
1. Movement of limestone	The transporter needs to make the task order agreed volumes of limestone is moved	Monthly	As per the task order	

Health and Safety, Environment and Quality Assurance

Health and safety risk management

The *Contractor* shall comply with the health and safety requirements pertaining to this Service Information.
The *Contractor* shall ensure that before the contract commences the following are in place and have been verified by an Eskom representative:

Safety and Health

- Safety and Health Policy
- Valid Letter of good standing with COID
- LTIR and statistics for the past 3 years
- Health and Safety legal appointments
- Appointment of a Safety officer with a National Diploma in Health and Safety
- OHSAS certificate or other safety system in place
- Baseline Risk Assessments or HIRA
- Safe work procedures
- Health and safety plan based on the scope
- Medical fitness certificates of the appointed employees
- A fully functional control room
- Defensive driver training certificates for all drivers

The *Contractor* shall comply with the Employers health and safety requirements (and as amended from time to time) as outlined below:

- vehicle and driver safety management procedure 240 – 629 46386

- Contractor Health and Safety Requirements 32- 136
- Eskom vehicle safety specifications 32 – 345
- Eskom standards for Life saving rules 240 -621962271
- Eskom Safety, Health, Environment and Quality Policy 32 – 737 revision 5
- Environmental, occupational health and safety incident management procedure 32 – 95
- Health, safety and environmental requirements contained in the Employer's 004 4830 Safety Health and Environmental specification revision 2

The *Contractor*, in and about the execution of the service, shall make available to the *Employer* a Safety, Health, Environmental Management and Quality (SHEQ) plan before the commencement of the service and shall update the file on a six monthly basis for inspection by the *Service Manager*.

Environmental constraints and management

The *Contractor* shall comply with the following *Employers* Requirements (and as amended from time to time):

The Contractor undertakes to inform the Employer in writing of any spillage within 24 hours of its occurrence. The Contractor shall at its own cost clean such spillage.

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

Employer shall be entitled to conduct inspections and or audits in respect of the provisions of the above clause to ensure the *Contractor's* compliance herewith and the *Contractor* agrees to co-operate with Employer in this regard. To that end, Employer and or its designated representatives, including without limitation, its attorneys, auditors, environmental representatives shall at all reasonable times, with reasonable prior notice to the *Contractor*, have access to the sites under this Agreement and to all records, wherever located, pertaining to the service in terms of this Agreement, which access will be at Employer's expense and risk

Quality assurance requirements

The *Contractor must* submit all road worthy certificates to the *Employer*.

A Quality assurance plan shall be submitted by the *Contractor* as part of the SHEQ plan and shall be accepted by the Service Manager and reviewed every six months.

Procurement

People

Minimum requirements of people to be employed:

- Drivers must have work permits if foreigners and must meet all the requirement required by law.
- Training (other than H & S)
- Driver induction
- Use of labour from designated areas and industrial relations
- Valid Medical certificates
- Valid driver's licence
- Valid PDP

BBBEE and Preferencing Scheme

It is contractual requirements that service provider submit a valid B-BBEE verification certificate on an annual basis during the contract period. Based on *Employer's* Hierarchy of Procurement and *Employer's* preference

to do business with those suppliers with the highest B-BBEE Statuses, service provider is encouraged to improve their status on an on-going basis.

Notwithstanding the above, service provider will in terms of this contract be obliged to notify *Employer* in writing of any changes in your B-BBEE Status as a result of a sale / loss of shares by a Black shareholder, or any other change to your business composition or legal status, than service provider must immediately begin a new BEE verification process and provide *Employer* with confirmation of the status.

Correction of defects

The KPIs provided shall form the minimum baseline for performance review by the *Employer*, together with any other performance indicators and in relation to core clause 9.

Tests and inspections before delivery

The *Employer* will provide vehicle inspection test and compliance disc should the vehicle pass the requirements.

Working on the Affected Property

Employer's site entry and security control, permits, and site regulations

- The *Contractor* provides full time supervision and control of his employees related to this service agreement.
- The *Contractor* shall perform all work in accordance with the applicable Safety Regulatory Act and will issue the most recent copy of the act to the *Service Manager* before commencement of the work.
- Employer's site entry and security control, permits, and site regulations.
- The *Contractor* will provide a complete list of names of all employees working in the Affected Property to the *Service Manager*.
- All employees of the *Contractor* requiring access to the Power Station will undergo the power station mandatory safety induction course prior to entry.
- Employees of the *Contractor* requiring frequent access will be issued permanent security passes after completion of the mandatory safety induction and submission of the relevant application forms.
- All truck drivers of the *Contractor* will undergo the mandatory safety induction facilitated by the Employer's Primary Energy Division.
- The *Contractor's* proves to the *Service Manager* that the employees used by the *Contractor* to Provide the Service are competent in their areas of responsibility.
- The *Contractor* provides the *Service Manager* with proof of legal appointments in terms of the Occupational Health and Safety Act, Act 85 of 1993 (as amended), for all the *Contractor's* employees who carry such legal responsibilities when working on the Affected Property.
- The *Contractor* does not commence to provide the Service unless the required letters of legal appointments have been accepted by the *Service Manager*.
- All personnel working on site will wear the appropriate Personal Protective Clothing as accepted by the *Service Manager*.

People restrictions, hours of work, conduct and records

Contractor keeps records of his people working on the Affected Property, including those of his Subcontractors. The records shall contain the hours worked including start and end times and dates as well as any misconduct by such workers stating date and details of misconduct. The *Service Manager* shall have access to these records at any time.

Health and safety facilities on the Affected Property

As per SHEQ plan to be provided by *Contractor* and accepted by Service Manager.

Cooperating with and obtaining acceptance of Others

Contractor shall establish and maintain at all times a good working relationship with personnel *Employer* representation and various applicable stakeholders.

Contractor shall establish and maintain at all times good working relationship with statutory authorities or inspection agencies.

Records of *Contractor's* Equipment

Records are to be kept of all vehicles related to this service agreement, whether it is owned or hired. All vehicles will be maintained in the appropriate area. In an event of a break down under this service agreement, an appropriate removal of the vehicle from the Affected Property must be planned by *Contractor* and accepted by the *Service Manager*.

Site services and facilities

N/A