



NEC3 Term Service Contract (TSC3)

Between **ESKOM HOLDINGS SOC Ltd**
(Reg No. 2002/015527/30)

and **[Insert at award stage]**
(Reg No. _____)

for **PROVISION OF SCHOLAR TRANSPORT FROM ARNOT POWER STATION TO
VARIOUS HIGH SCHOOLS IN HENDRINA AND MIDDELBURG FOR THE PERIOD
OF 36 MONTHS**

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CONTRACT No.

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:

Title of the Contract

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.

PLACE THE TOTAL OF THE 3 YEARS CONTRACT HERE FROM THE PRICE LIST 2.1

Options A	The offered total of the Prices exclusive of VAT is	R
	Value Added Tax @ 15% is	R
	The offered total of the amount due inclusive of VAT is ¹	R
	(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.

Signature(s)

Name(s)

Capacity

For the tenderer:

.....
(Insert name and address of organisation)

Name & signature of witness

Date

Tenderer's CIDB registration number:

Acceptance

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*.

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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

**for the
Employer**

.....
(Insert name and address of organisation)

Name &
signature of
witness

Date

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

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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.

For the tenderer:

For the Employer

Signature _____

Name _____

Capacity _____

On behalf of *(Insert name and address of organisation)*

(Insert name and address of organisation)

Name & signature of witness _____

Date _____

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:	
	<div style="background-color: #cccccc; width: 100px; height: 60px; margin-bottom: 5px;"></div> dispute resolution Option	A: Priced contract with price list
	<div style="background-color: #cccccc; width: 100px; height: 20px; margin-bottom: 5px;"></div> and secondary Options	W1: Dispute resolution procedure
	<div style="background-color: #cccccc; width: 100px; height: 40px; margin-bottom: 5px;"></div>	X1 Price Adjustment for Inflation
		X2 Changes in the law
		X17: Low service damages
		X19: Task Order
		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
10.1	The <i>Service Manager</i> is (name):	Mxolisi Ngwenya
	Address	Arnot Power Station Private Bag X2 RIETKUIL 1097
	Fax	0865371115
	e-mail	NgwenyaMH@eskom.co.za
11.2(2)	The Affected Property is	Arnot Power Station

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

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11.2(13) The *service* is **PROVISION OF SCHOLAR TRANSPORT FROM ARNOT POWER STATION TO VARIOUS HIGH SCHOOLS IN HENDRINA AND MIDDELBURG FOR THE PERIOD OF 36 MONTHS**

11.2(14)	The following matters will be included in the Risk Register	None.
11.2(15)	The Service Information is in	Part 3: Scope of Work and all documents and drawings 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	1 day
21.1	The <i>Contractor</i> submits a first plan for acceptance within	14 Days of the contract date
3	Time	
30.1	The <i>starting date</i> is.	
30.1	The <i>service period</i> is	36 months
5	Payment	
50.1	The <i>assessment interval</i> is	The 25th day of each successive 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	4 weeks.
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 appointment it shall not be necessary to prove.</p>

6 Compensation events

The latest edition of the NEC3 TSC rules apply

8	Risks and insurance	
80.1	These are additional <i>Employer's</i> risks	Labour Unrest
83.1	The <i>Employer</i> provides these insurances from the Insurance Table	as stated for "Format TSC3" available on http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx (See Annexure A for basic guidance).
83.1	The <i>Employer</i> provides these additional insurances	as stated for "Format TSC3" available on http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx (See Annexure A for basic guidance)
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	the amount of the deductibles relevant to the event described in the "Format TSC3" insurance policy available on http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx
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:	whatever the <i>Contractor</i> deems necessary in addition to that provided by the <i>Employer</i>.
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

The latest edition of the NEC3 TSC rules apply

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 <i>service</i> at intervals no longer than	4 weeks
11	Data for Option W1	
W1.1	The <i>Adjudicator</i>	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 www.ice-sa.org.za). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).
	Address	To be appointed when disputes arises
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	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	

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X1.1	The base date for indices is			
	The proportions used to calculate the price adjustment Factor are:	proportion	Linked to index for	Index prepared by
		20%	Labour	Seifsa Table C3
		60%	Transport	Seifsa Table L1A
	Fixed	5%	Consumable (CPI)	Seifsa Table D3
		15%	Non-Adjustable	
		100%		
X2	Changes in the law	The latest edition of the NEC3 TSC rules apply		
X19	Task Order			
X19.5	The <i>Contractor</i> submits a Task Order programme to the <i>Service Manager</i> within	1 day of receiving the Task Order		
Z	The additional conditions of contract are	Z1 to Z11 always apply.		

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

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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

- Z4.1 Any offer, payment, consideration, or benefit of any kind made by the *Contractor*, which constitutes or could be construed either directly or indirectly as an illegal or corrupt practice, as an inducement or reward for the award or in execution of this contract constitutes grounds for terminating the *Contractor's* obligation to Provide the Service or taking any other action as appropriate against the *Contractor* (including civil or criminal action).
- Z4.2 The *Employer* may terminate the *Contractor's* obligation to Provide the Service if the *Contractor* (or any member of the *Contractor* where the *Contractor* constitutes a joint venture, consortium or other unincorporated grouping of two or more persons or organisations) is found guilty by a competent court, administrative or regulatory body of participating in illegal or corrupt practices.

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

- Z4.3 Notwithstanding the provisions of core clause 90.2, the procedures on termination in terms of this clause are P1, P2 and P4 as stated in the core clause 92 and the amount due is A1 and A3 as stated in core clause 93.

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.

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- 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 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.

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- 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 4740101508 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:

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.

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.

Z12 Supplier Development and Localization

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

C1.2 Contract Data

Part two - Data provided by the Contractor

Notes to a tendering contractor:

1. Please read both the both the NEC3 Term Service Contract April 2013 and the relevant parts of its Guidance Notes (TSC3-GN)³ in order to understand the implications of this Data which the tenderer is required to complete.
2. The number of the clause which requires the data is shown in the left hand column for each statement however other clauses may also use the same data.
3. Where a form field like this [] appears, data is required to be inserted relevant to the option selected. Click on the form field **once** and type in the data. Otherwise complete by hand and in ink.

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	%
	The <i>subcontracted fee percentage</i> is	%
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:

³ Available from Engineering Contract Strategies Tel 011 803 3008 Fax 086 5391902 or www.ecs.co.za

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Qualifications:

Experience:

2 Name:

Job

Responsibilities:

Qualifications:

Experience:

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**CV's (and further key person's data including
CVs) are in _____ .**

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

PART 2: PRICING DATA

TSC3 Option A

Document reference	Title	No of pages
C2.1	Pricing assumptions: Option A	2
C2.2	The <i>price list</i>	4

C2.1 Pricing assumptions: Option A

The conditions of contract

How work is priced and assessed for payment

Clause 11 in NEC3 Term Service Contract, June 2005 (TSC3) core clauses and Option A states:

Identified and defined terms	11 11.2	(12) The Price List is the <i>price list</i> unless later changed in accordance with this contract.
		(17) The Price for Services Provided to Date is the total of <ul style="list-style-type: none"> • the Price for each lump sum item in the Price List which the <i>Contractor</i> has completed and • where a quantity is stated for an item in the Price List, an amount calculated by multiplying the quantity which the <i>Contractor</i> has completed by the rate.
		(19) The Prices are the amounts stated in the Price column of the Price List. Where a quantity is stated for an item in the Price List, the Price is calculated by multiplying the quantity by the rate.

This confirms that Option A is a priced contract where the Prices are derived from a list of items of service which can be priced as lump sums or as expected quantities of service multiplied by a rate or a mix of both.

Function of the Price List

Clause 54.1 in Option A states: "Information in the Price List is not Service Information". This confirms that instructions to do work or how it is to be done are not included in the Price List but in the Service Information. This is further confirmed by Clause 20.1 which states, "The *Contractor* Provides the Service in accordance with the Service Information". Hence the *Contractor* does **not** Provide the Service in accordance with the Price List. The Price List is only a pricing document.

Link to the *Contractor's* plan

Clause 21.4 states "The *Contractor* provides information which shows how each item description on the Price List relates to the operations on each plan which he submits for acceptance". Hence when compiling the *price list*, the tendering contractor needs to develop his first clause 21.2 plan in such a way that operations shown on it can be priced in the *price list* and result in a satisfactory cash flow in terms of clause 11.2(17).

Preparing the *price list*

It will be assumed that the tendering contractor has read Pages 14, 15 and 73 of the TSC3 Guidance Notes before preparing the *price list*. Items in the *price list* may have been inserted by the *Employer* and the tendering contractor should insert any additional items which he considers necessary. Whichever party provides the items in the *price list* the total of the Prices is assumed to be fully inclusive of everything necessary to Provide the Service as described at the time of entering into this contract.

PROVISION OF SCHOLAR TRANSPORT FROM ARNOT POWER STATION TO VARIOUS HIGH SCHOOLS IN HENDRINA AND MIDDELBURG FOR THE PERIOD OF 36 MONTHS

1 As the *Contractor* has an obligation to correct Defects (core clause 42.1) and there is no compensation event for this unless the Defect was due to an *Employer's* risk, the lump sum Prices and rates must also include for the correction of Defects.

2 If the *Contractor* has decided not to identify a particular item in the *price list* at the time of tender the cost to the *Contractor* of doing the work must be included in, or spread across, the other Prices and rates in the *price list* in order to fulfil the obligation to complete the *service* for the tendered total of the Prices.

3 There is no adjustment to lump sum prices in the *price list* if the amount, or quantity, of work within that lump sum item of service later turns out to be different to that which the *Contractor* estimated at time of tender. The only basis for a change to the Prices is as a result of a compensation event. See Clause 60.1.

4 Hence the Prices and rates tendered by the *Contractor* in the *price list* are inclusive of everything necessary and incidental to Providing the *Service* in accordance with the *Service Information*, as it was at the time of tender, as well as correct any Defects not caused by an *Employer's* risk.

5 The *Contractor* does not have to allow in his Prices and rates for matters that may arise as a result of a compensation event. It should be noted that the list of compensation events includes those arising as a result of an *Employer's* risk event listed in core clause 80.1.

Format of the *price list*

(From page 73 of the TSC3 Guidance Notes)

Entries in the first four columns in the *price list* in section C2.2 are made either by the *Employer* or the tendering contractor.

If the *Contractor* is to be paid an amount for the item which is not adjusted if the quantity of work in the item changes, the tendering contractor enters the amount in the Price column only, the Unit, Expected Quantity and Rate columns being left blank.

If the *Contractor* is to be paid an amount for an item of work which is the rate for the work multiplied by the quantity completed, the tendering contractor enters the rate which is then multiplied by the Expected Quantity to produce the Price, which is also entered.

If the *Contractor* is to be paid a Price for an item proportional to the length of time for which a service is provided, a unit of time is stated in the Unit column and the expected length of time (as a quantity of the stated units of time) is stated in the Expected Quantity column.

C2.2 the *price list*

**NB: PARTS OR SECTIONS OF THIS CONTRACT CAN BE TERMINATED AT ANY GIVEN TIME
THE CONTRACTOR MUST HAVE A REFERENCE OF 12 MONTHS IN SIMILAR WORK**

WORKING HOURS

MONDAY TO FRIDAY IN ALL SCHOOL DAYS STARTING FROM 6HOUR TO COLLECT SCHOOL CHILDREN AND BRING THEM BACK IN THE AFTERNOON AS PER THE SCHOOLS SCHEDULED TIMES.

Please note: The Prices and rates stated in the Bill of Quantities shall be treated as being fully inclusive of all, risks, liabilities, obligations, consumables, overheads, profit and everything necessary as incurred or required by the *Contractor* in carrying out or providing for the service.

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

Item no.	Description	Unit of measure	Quantity	Rate	Price
1	1 X 65 Seater bus - From Arnot Properties to Hendrina Combined and back	Monthly	36		
2	1 x 35-Seater bus - From Arnot Properties to Hendrina Combined and back	Monthly	36		
3.	1 X 22-Seater bus – From Arnot Properties to Middelburg Combined and Eastden Combined Kanonkop High and Steel crest High School and back	Monthly	36		
4	1 X 22-Seater bus – From Arnot Properties to Middelburg High and Middelburg Technical High School and back	Monthly	36		
5	1 X 22-Seater bus – From Arnot Properties to Middelburg College and back	Monthly	36		
6	Transport Co-Ordinator	Monthly	36		
7	Safety file first year	One-Off	1		
8	Safety file Year 2 and 3	Annual	2		
9	Safety officer as and when required	EA	12		
10	Medicals 6 Personnel	Annually	18		
11	Criminal Records 6 Personnel	Annually	18		

Total of the Prices for Part 1

Important Notes:**PART 3: SCOPE OF WORK**

Document reference	Title	No of pages
	This cover page	1
C3.1	<i>Employer's Service Information</i>	22
	Total number of pages	23

C3.1: EMPLOYER'S SERVICE INFORMATION

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Description of the *service*

Part C3: Scope of Work

A1.

Contractor to provide a transportation service for high school going kids travelling from Arnot Properties to various high schools in Middelburg and Hendrina Combined School for a period of 36 months according to the Mpumalanga's official school calendar.

2. Specifications

65 Seater bus specifications

- The vehicle must not be more than 5 year old and not more than 300 000km
- The body must comply to the SABS "Compulsory Vehicle Standard" as well as the National Road Traffic Act(NRTA) Regulations
- Factory-fitted antilock brake system (ABS)
- Factory-fitted power steering
- 2 x Emergency warning triangles
- No fold-up or jockey seats
- Vehicles must have SABS approved three-point safety belt for every seat.
- Vehicles must have a speed warning sign (100 km/h) at the back of the vehicle
- Vehicles must have a yellow reflective tape that must be fitted at a height of between 250 mm and 1,5m from the road surface, to both sides as well as across the rear covering
- Door steps must have anti-slip treads.
- Passenger door must be electronically or pneumatically controlled
- Spare wheels must be available for all vehicles
- 2 x emergency triangles
- Fully Serviced fire extinguisher
- Vehicles must be fitted with a reverse alarm beeper

35 Seater bus specifications

- The vehicle must not be more than 5 year old and not more than 300 000km
- The body must comply to the SABS "Compulsory Vehicle Standard" as well as the National Road Traffic Act(NRTA) Regulations
- Factory-fitted antilock brake system (AB S)
- Factory-fitted power steering
- 2 x Emergency warning triangles
- No fold-up or jockey seats
- Vehicles must have SABS approved three-point safety belt for every seat.
- Vehicles must have a speed warning sign (100 km/h) at the back of the vehicle
- Vehicles must have a yellow reflective tape that must be fitted at a height of between 250 mm and 1,5m from the road surface, to both sides as well as across the rear covering
- Door steps must have anti-slip treads.
- Passenger door must be electronically or pneumatically controlled
- Spare wheels must be available for all vehicles
- 2 x emergency triangles
- Fully Serviced fire extinguisher
- Vehicles must be fitted with a reverse alarm beeper
-

22 Seater bus specifications

- The vehicle must not be more than 4 years old and not more than 250 000km
- Vehicle must comply to all regulations as stipulated in the NTRA
- Factory-fitted antilock brake system (ABS)
- Factory-fitted driver airbags Front seats
- Factory-fitted power steering
- 2 x Emergency warning triangles
- No fold-up or jockey seats
- Vehicles must have SABS approved three-point safety belt for every seat.
- Vehicles must have a speed warning sign (100 km/h) at the back of the vehicle
- Vehicles must have a yellow reflective tape that must be fitted at a height of between 250 mm and 1,5m from the road surface, to both sides as well as across the rear covering
- Door steps must have anti-slip treads.
- Spare wheels must be available for all vehicles
- 2 x emergency triangles
- Fully Serviced fire extinguisher
- Vehicles must be fitted with a reverse alarm beeper

	Requirement	Bus	Mini-bus	Sedan
2.1	The entire fleet that will be used on this contract will be inspected a month before the contract start date.			
2.2	Wrap around windscreen, excluding minibus and sedan			
2.3	ABS brakes/ Air brakes			
2.4	Slam type passenger door - not concertina door, excluding minibus and sedan			
2.5	No rear window (all busses) except minibus and sedan			
2.6	Tinted side windows (busses/mini bus)			
2.7	Interior sides covered in carpet / vinyl, excluding minibus and sedan			
2.8	Interior sides covered in carpet / vinyl, excluding minibus and sedan			
2.9	Seatbelts for the driver and all the passengers shall be fitted. The belt configuration for a seat in the rear of a motor vehicle shall be a 3-point emergency locking retractor type with anchorages in accordance with SANS 1430: Anchorages for restraining devices in motor vehicles”, and installed in accordance with SANS 10168: Installation of safety devices (Safety belts in motor vehicles) Reg 213.(3)(e)(f) (busses/mini bus/sedan)			
2.10	Steps shall be of the non-slip plate step with adequate provision for 2 point contact. Extra step required on all buses if necessary, excluding minibus and sedan			
2.11	Side and rear retro-reflective material to be fitted to vehicles and shall comply with SABS ECE R104 “Uniform provisions concerning the approval of retro-reflective markings for heavy and long vehicles and their trailers”. The contour markings may not be fitted more than 600 millimeters from the lower part of the body of such vehicle. Reg 192A(1)(2)(a) (all busses/mini bus)			

2.1 2	1 x Emergency warning sign (triangle) must be fitted which comply with the requirement of standard specification SABS 1329 “Retro-reflective and Fluorescent Warning Signs for Road Vehicles” Part 1: “Triangles or UN ECE Regulation 27 “Uniform provisions for approval of advance-warning triangles” and bears a certification mark. Reg 214(1A)(b) (busses/mini bus/sedan)			
2.1 3	Emergency exits must be fitted and shall evenly distributed throughout the vehicle in the roof of such bus or on both sides of the bus (in windows) or on both sides in the floor. Emergency escape exits shall have dimensions of at least 800 by 400 millimeters or 700 by 500 millimeters and shall be capable of being opened from the inside and outside and shall not open inwards. Reg 25.2 (all busses and minibus) except sedan			
2.1 4	Driver seat must be adjustable and have a partition board immediately behind it and it is so placed as to afford the driver ample space. Reg 256 (all busses/mini bus)			
2.1 5	Split seats to be covered in cloth (busses/mini bus/sedan) All seats shall be forward facing (busses/mini bus/sedan) The strength of the seats shall comply with the requirements of UN Reg 80 or SANS 1564:1992. (busses/mini bus/sedan)			
2.1 6	Reverse alarm: Beeper type or OEM reversing alarm must be fitted on all busses and mini bus			
2.1 7	Busses to be equipped with reflective numbers on front, rear and both sides (front) in order to allow other vehicle drivers to clearly identify the bus from a safe distance. Reflecting sheeting must be 3M Diamond Grade DG3 Reflecting sheeting fluorescent yellow green 4083. Number to be transparent (As required by local road traffic department) Numbering on buses will begin with (KRL 200) Minimum size 170mm x 250mm.(Attachment) (busses/mini bus. Sedan only rear and sides). Reflective numbers to be provided by the Contractor. Eskom will provide and fit.			
2.1 8	Fire extinguisher (9 kg dry powder ABC handheld) and first aid box must be installed and record of inspections must be provided (busses-2/mini bus-1/sedan-1) To be provided by the Contractor			
2.1 9	No retread tyres are allowed. (busses/minibus/sedan) Front-, Rear-, and Spare Wheels – new tyres only. Standard rims preference: OEM <u>Specification</u> . All tyres fitted to be the same size, brand and pattern and it must be commercial steel radial tyres. Reg 212(n) (busses/mini bus)			
2.2	Buckle up signs must be installed inside the bus (1 in front and			

0	1 in back) (busses/mini bus) Sedan – small in front of vehicle			
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Contractor should ensure compliance of the following all times

- Route permit or a letter from the relevant taxi associations for each route
- Business Traffic Register Certificate
- Vehicles list of existing vehicles with maintenance records
- Proof of Passenger liability cover
- Copies of valid national driver's licence and valid PRDP for each bus
- Contingency plan in case of vehicle/ driver unavailability
- The service it is from Monday to Friday it does not include the extramural activities.

Management strategy and start up.

2.1 The *Contractor's* plan for the *service*

The *Contractor* must adhere to the schedule as set out in the Scope of work.

2.2 Management meetings

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:
Overall contract progress and feedback and risk register	Monthly on the 2 nd week of each month	Arnot Power Station in Services Manager`s office	Service Manager and Contractors representative.

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.

2.3 *Contractor's* management, supervision and key people

The Transport Co-Ordinator will be responsible for all admin related outputs as well as Safety and Health and the supervision of the cleaners within the various locations to oversee the work outputs, quality of the work, inventory management of cleaning materials and the like.

The Transport Co-Ordinator shall ensure the Service Manager has all the contact details of his management and supervision and roles and responsibilities of each person.

2.4 Provision of bonds and guarantees

The form in which a bond or guarantee required by the *conditions of contract* (if any) is to be provided by the *Contractor* is given in Part 1 Agreements and Contract Data, document C1.3, Sureties.

The *Employer* may withhold payment of amounts due to the *Contractor* until the bond or guarantee required in terms of this contract has been received and accepted by the person notified to the *Contractor* by the *Service Manager* to receive and accept such bond or guarantee. Such withholding of payment due to the *Contractor* does not affect the *Employer's* right to termination stated in this contract.

2.5 Documentation control

All daily diaries documentation, safety documentation to be filed and handed to the Employer at the end of the contract.

The contractor must supply and keep a book for logging of comments, complaints and incidents. This should be implemented and should be made available for anyone to use.

2.6 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
_Eskom Holding Limited, P/Bag X2, Rietkuil 1097 _____
And include on each invoice the following information:

Name and address of the *Contractor* and the *Service Manager*;
The contract number and title;
Contract order number 45.....
Contractor's VAT registration number;
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;
(Add other as required)

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

2.7 Contract change management

Compensation events should be dealt with as per clauses in section 6 of the core closes. Standard forms must be used.

2.8 Records of Defined Cost to be kept by the *Contractor*

Defined Cost according to the NEC April 2013 is payments by the Contractor in Providing the Service for

- People who are employed by the Contractor
- Plant and Materials
- Work subcontracted by the Contractor and
- Equipment

Less Disallowed Cost.

The amount for Equipment includes amounts paid for hired Equipment and an amount for the use of Equipment owned by the Contractor which is the amount the Contractor would have paid if the Equipment has been hired.

The Contractor needs to keep record of all defined costs as laid out in the NEC April 2013 rules and make them available to the service manager for inspection on request within 24 hours. The direct fee

percentage filled in 11.2. (8) Under the contractor data will be deemed" the fee" and will be used to calculate an compensation event cost.

2.9 Insurance provided by the *Employer*

2.10 Training workshops and technology transfer

2.11 Design and supply of Equipment

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

2.12.1 Equipment

None

2.12.2 Information and other things

Certain documentation such as safety files to be kept for the employer

2.13 Management of work done by Task Order

In some cases only parts of the *service* may require to be handled by Task Order, for example the cleaning of certain areas will be done by means of a task order.

Ad-hoc work will be defined on separate task orders as is required form the *Service Manager*.

Health and safety, the environment and quality assurance

3.1 Health and safety risk management

The contractor must adhere will adhere to ALL health, safety and environmental laws of South Africa and Eskom related to the work environment.

The *Contractor* must ensure that cleaners wear appropriate safety equipment at all times supplied by the Contractor.

The Arnot Power Station Safety Risk Manager or his representative having jurisdiction over the works must provide the relevant safety, health and environmental (SHE) criteria for incorporation into this Works Information. The SHE specification / scope must be signed off by the Divisional/Regional Safety Risk Manager or his representative confirming that the applicable safety criteria have been taken into account.

The Commodity Manager / Buyer must refer the tender to the Arnot Power Station Safety Risk Manager or his representative in order to evaluate against enquiry-specific safety criteria.

The Divisional Safety Risk Managers who will be responsible for the allocation of resources to assist P&SCM with the above processes are as follows:

- Generation: Amu Maluleke

The *Contractor* shall comply with the health and safety requirements contained in the SHE SPECIFICATON.

3.2 Environmental constraints and management

The *Contractor* shall comply with the environmental criteria and constraints stated in Eskom Procedure.

3.3 Quality assurance requirements

The *Contractor* shall submit a complaints procedure to the Service Manager within 2 Weeks of the contract start date for approval. (How he will deal with any complaints received from the customer).

The *Contractor* shall submit a Staff training and motivation programme

- Safety training
- On job training
- Training on use of Chemical
- Training on use of equipment

4 PROCUREMENT

4.1 People

4.1.1 Minimum requirements of people employed

Eskom reserve the right to ask for the replacement of any contract personnel who is found to be incompetent or guilty of any misconduct.

4.1.2 BBBEE and preferencing scheme

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

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

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

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

[Insert the agreed ASGI-SA Compliance Schedule here]

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

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

4.2 Subcontracting

4.2.1 Preferred subcontractors

Not applicable

4.2.2 Subcontract documentation, and assessment of subcontract tenders

Not applicable

4.2.3 Limitations on subcontracting

Not applicable

4.2.4 Attendance on subcontractors

Not applicable

4.3 Plant and Materials

4.3.1 Specifications

All chemicals need to meet the SABS standards and MSDS to be carefully understood by all workers.

4.3.2 Correction of defects

Not applicable

4.3.3 Contractor's procurement of Plant and Materials

The contractor will use his/her own transport and materials. The contractor can procure this anywhere from the place of his or her choice.

4.3.4 Tests and inspections before delivery

The service manager will inspect the material upon delivery for compliance.

4.3.5 Plant & Materials provided "free issue" by the *Employer*

None

5 Working on the Affected Property

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

- . No taking of pictures allowed on *Employer's* premises without prior approval or consent
- *Contractor* must attend induction before entering premises
- *Contractor* must make pre-arrangements before coming to *Employer's* site to allow *Employer* to make proper arrangements with Security. If no arrangements made, no access will be granted to the *Contractor*
- Contractor must have submitted their safety file with safety department and file passed evaluation before commencement of work

5.2 People restrictions, hours of work, conduct and records

School days and time

5.3 Health and safety facilities on the Affected Property

The employer will provide ablution facilities

Drinking water

5.4 Environmental controls, fauna & flora

This sub-paragraph may not be required in a service contract or if these matters are dealt with in the general environmental requirements referred to in section 3 above.

5.5 Records of Contractor's Equipment

The contractor will keep his own records of his equipment.

5.7 Equipment provided by the *Employer*

None

5.8 Site services and facilities

5.8.1 Provided by the *Employer*

Ablution facilities

Water

5.8.2 Provided by the *Contractor*

Accommodation

Transport to work

5.9 Control of noise, dust, water and waste Caution must be taken that the level of noise is not exuberant to workers.