

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS



NEC3 Term Service Contract (TSC3)

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

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

**for WORK HOME WORK TRANSPORT SERVICES
(VILLAGES) AT MATIMBA POWER STATION FOR A
PERIOD OF FIVE (5) YEARS**

Contents:	No of pages
Part C1 Agreements & Contract Data	16
Part C2 Pricing Data	4
Part C3 Scope of Work	8

CONTRACT No. [Insert at award stage]

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS

PART C1: AGREEMENTS & CONTRACT DATA

Contents:	No of pages
C1.1 Form of Offer and Acceptance	2
[to be inserted from Returnable Documents at award stage]	
C1.2a Contract Data provided by the <i>Employer</i>	16
C1.2b Contract Data provided by the <i>Contractor</i>	2
[to be inserted from Returnable Documents at award stage]	

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS

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 Horticulture Services for Matimba 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
	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: _____

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*.

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS
Acceptance

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

The terms of the contract, are contained in:

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

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

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

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

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

Signature(s)

Name(s)

Capacity

**for the
Employer**

*Eskom Holdings SOC Limited
Matimba Power Station
Private Bag x215
LEPHALALE
0555*

Name &
signature of
witness

Date

**WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER
STATION FOR A PERIOD OF FIVE (5) YEARS**

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

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS

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:

Signature

.....

Name

.....

Capacity

.....

On behalf of

(Insert name and address of organisation)

.....

For the Employer

Fulufhelo Munyai

Procurement Manager

*Eskom Holdings SOC Limited
Matimba Power Station x215
LEPHALALE
0555*

Name & signature of witness

.....

.....

Date

.....

.....

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS

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:	
	dispute resolution Option and secondary Options	<p>A: Priced contract with price list</p> <p>W1: Dispute resolution procedure</p>
		<p>X1: Price adjustment for inflation</p> <p>X2 Changes in the Law</p> <p>X18: Limitation of liability</p>
		<p>X19: Task Order</p> <p>X19.3: Delay Damages</p>
		<p>Z: Additional conditions of contract</p>
	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.	[014] 763 8258
	Fax No.	[014] 763 3616
10.1	The <i>Service Manager</i> is (name):	Charlotte Bapela
	Address	Matimba Power Station Private Bag x 215, Lephala 0555
	Tel	014 763 8139
	Fax	-
	e-mail	bapelamc@eskom.co.za
11.2(2)	The Affected Property is	Matimba Power Station

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

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS

11.2(13) The service is

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS

11.2(14)	The following matters will be included in the Risk Register	N/A
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	Immediately
2	The Contractor's main responsibilities	Data required by this section of the core clauses is also provided by the Contractor in Part 2 and terms in italics used in this section are identified elsewhere in this Contract Data
21.1	The <i>Contractor</i> submits a first plan for acceptance within	1 weeks of the Contract Date
3	Time	
30.1	The <i>starting date</i> is.	01 January 2024 – 30 November 2028
30.1	The <i>service period</i> is	60 months
4	Testing and defects	The period for repair of defect shall be determined by the nature of the defect and the period must be agreed upon by both parties.
5	Payment	
50.1	The <i>assessment interval</i> is	25th 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	14 Days
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</p>

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS

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 *mutatis mutandis* 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.

6	Compensation events	Compensation events are to be approved by the Employer within 14 days of receipt from the contractor, if the Employer do not agree with the compensation events terms, he/she shall declare a dispute within 14 days.
7	Use of Equipment Plant and Materials	There is no reference to Contract Data in this section of the core clauses and terms in <i>italics</i> used in this sections are identified else wherein the Contract Data.
8	Risks and insurance	As stated in the contract
80.1	These are additional <i>Employer's</i> risks	N/A
83.1	The <i>Employer</i> provides these insurances from the Insurance Table	as stated for "Format TSC3" available on http://www.eskom.co.za/Tenders/InsurancePolicies_Procedures/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/InsurancePolicies_Procedures/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:	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 relevant to the event described in the "Format TSC3" insurance policy available on http://www.eskom.co.za/Tenders/InsurancePolicies_Procedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx
83.1	The insurance against loss of or damage to the works, 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	

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS

the *Contractor*) arising from or in connection with the *Contractor's* Providing the Service for any one event is:

whatever the *Contractor* deems necessary in addition to that provided by the *Employer*.

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)..
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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 1 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).
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)	<p>The <i>arbitration procedure</i> is</p> <p>The place where arbitration is to be held is JHB South Africa</p> <p>The person or organisation who will choose an arbitrator</p> <ul style="list-style-type: none"> - if the Parties cannot agree a choice or - if the arbitration procedure does not state who selects an arbitrator, is 	<p>the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.</p> <p>JHB South Africa</p> <p>the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.</p>

12 Data for secondary Option clauses

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS

X1	Price adjustment for inflation			
X1.1	<p>The <i>base date</i> for indices is</p> <p>The proportions used to calculate the Price Adjustment Factor are:</p>	<p>One month prior to tender closing date</p> <p>proportion</p> <p>85%</p> <p>15%</p> <p>100%</p>	<p>linked to index for</p> <p>Transport</p> <p>Fixed</p> <p>Total</p>	<p>Index prepared by</p> <p>TableL1</p>
				1.00
X17	Low service damages	Late coming of busses after arrival or pick up time – penalty fees per bus		
X17.1	The <i>service level table</i> is in	<p>First 30 minutes – R5000.00</p> <p>Every 30 minutes thereafter – R7000.00</p>		
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	<p>the amount of the deductibles relevant to the event described in the “Format TSC3” insurance policy available on</p> <p>http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx</p>		
X18.3	The <i>Contractor's</i> liability for Defects due to his design of an item of Equipment is limited to	<p>The greater of</p> <ul style="list-style-type: none"> the total of the Prices at the Contract Date and the amounts excluded and unrecoverable from the <i>Employer's</i> insurance (other than the resulting physical damage to the <i>Employer's</i> property which is not excluded) plus the applicable deductibles in the <i>Employer's</i> assets and works / maintenance policies available on <p>http://www.eskom.co.za/Tenders/InsurancePoliciesProcedures/Pages/EIMS_Policies_From_1_April_2014_To_31_March_2015.aspx</p>		

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS

X18.4	<p>The <i>Contractor's</i> total liability to the <i>Employer</i>, for all matters arising under or in connection with this contract, other than the excluded matters, is limited to</p>	<p>the total of the Prices other than for the additional excluded matters.</p> <p>The <i>Contractor's</i> total liability for the additional excluded matters is not limited.</p> <p>The additional excluded matters are amounts for which the <i>Contractor</i> is liable under this contract for</p> <ul style="list-style-type: none"> • Defects due to his design, plan and specification, • Defects due to manufacture and fabrication outside the Affected Property, • 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 • infringement of an intellectual property right.
X18.5	The end of liability date is	Months after the end of the service period.
X19	Task Order	One task order will be issued for the whole works and each task order will be issued for additional work.
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 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

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS

- 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.
- 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,

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS

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.
- 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.

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS

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

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS

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*

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</i> 's plan is in:	
21.1	The plan identified in the Contract Data is contained in:	
24.1	The key people are: 1 Name: Job: Responsibilities: Qualifications:	

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS

Experience:

2 Name:

Job

Responsibilities:

Qualifications:

Experience:

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

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS

C2.1 Pricing assumptions: Option A

How work is priced and assessed for payment

Clause 11 in NEC3 Term Service Contract (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*

Before preparing the *price list*, both the *Employer* and tendering contractors should read the TSC3 Guidance Notes pages 14 and 15. In an Option A contract, either Party may have entered items into the *price list* either as a process of offer and acceptance (tendering) or by negotiation depending on the nature of the service to be provided. Alternatively the *Employer*, in his Instructions to Tenderers or in a Tender Schedule, may have listed some items that he requires the *Contractor* to include in the *price list* to be prepared and priced by him.

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS

It is assumed that in preparing or finalising the *price list* the *Contractor*:

- Has taken account of the guidance given in the TSC3 Guidance Notes relevant to Option A;
- Understands the function of the Price List and how work is priced and paid for;
- Is aware of the need to link operations shown in his plan to items shown in the Price List;
- Has listed and priced items in the *price list* which 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;
- Has priced work he decides not to show as a separate item within the Prices or rates of other listed items in order to fulfil the obligation to complete the service for the tendered total of the Prices.
- Understands there is no adjustment to items priced as lump sums if the amount, or quantity, of work within that item later turns out to be different to that which the *Contractor* estimated at time of tender. The only basis for a change to the (lump sum) Prices is as a result of a compensation event.

Format of the *price list*

(From the example given in an Appendix within 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.

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS

C2.2 Price List

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

BUS	DESCRIPTION	KM P/M	MONTHS	RATE	TOTAL
A	22 Seleka Villages		60		
B	22 Shongoane Villages		60		
C	Safety file				
D	Medicals		Annually		

Important note

Tenderers shall allow in their rates for the cost of all materials, labour, profit, supervision, insurance, toll fees and all other costs which may be incurred in the proper execution of the service. This could also include, but not limited to, levies payable to any industrial councils, associations, the set of compliance to legislation, National Road Traffic act and legislations, etc. that may be due by the contractor

VARIABLE COST
Include fuel, lubricants, consumables, operating and maintenance
For Tender purpose an estimated kilometres per month is reflected in the price list
After contract award the assessment for invoicing of variable cost is determined by multiplying the variable cost per km with the actual distance Travelled per route during the month of assessment
All Routes: Distance travelled starts from the pickup point to Matimba Power Station and from Matimba Power Station to the last drop off as per the contract
Only actual kilometres will be paid not estimates
FIXED COSTS
Fixed cost contains all cost elements for the services such as depreciation, insurance, staff, salaries etc

C3: Scope of Work

C3.1 Service Information

The provision of transport is needed for the transportation of Matimba Power Station employees to and from Home Work Home

1. Description of the service

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS

The provision of transport is needed for the transportation of Matimba Power Station employees to and from Home Work Home

SPECIFICATION DETAIL

The specification / scope of work of the item / service was compiled by Charlotte Bapela (014 763 8139) and is stated in the enquiry as follows:

2.1. 22-Seater Midi-Busses Requirements x2

- Vehicles that is not older than 2 years
- Vehicle must have less than 50 000KM
- Vehicle must have factory-fitted antilock brake system (ABS)
- Vehicle must have Factory-fitted front driver and passenger airbags
- Vehicle must have Factory-fitted power steering
- Vehicle must have Factory-fitted air conditioner
- Vehicle must be fitted with an air conditioner for rear passengers
- Vehicle must have Factory-fitted audio system – radio/CD player
- All seats must be covered with cloth material
- Vehicle must have a fully equipped First Aid box
- Vehicle must have a fully serviced Fire Extinguisher
- Vehicle must have 2 x Emergency warning triangle
- Vehicle must have SABS Approved three-point safety belts for every seat
- Vehicle must have No fold-up or jockey seats
- There must be a speed warning sign at the back of every midi-bus
- Yellow reflective tape that must be fitted as per the National Road Traffic Act specification on all midi buses
- The driver's seat must be adjustable. The driver's compartment must be partitioned as per the National Road Traffic Act specification
- The midi buses must have at least two identified emergency exits for every 12 (twelve) passengers as per the National Road Traffic Act specification
- Vehicle must comply to the National Traffic Act Specifications

2.2 Driver Requirements

- Drivers must be in possession of a valid national Driver's license with PDP
- Drivers to have a minimum of three years passengers driving Experience

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS

- Drivers must be in possession of a valid medical certificate

2.3 Contractor Requirements

- Contractor must in possession of a Traffic Business Number Registration Certificate (BNRC)
- Contractor must be in possession of a Valid Operating Permit from traffic department for passenger transport in each service area he/she wishes tender for, or a sign letter from each Taxi Association in which they wish to operate (the validity will be verified during the evaluation of the tender)
- Contractor must provide proof of cover for a passenger liability insurance for All the vehicles
- In case of vehicle breakdown, the contractor must provide alternative transportation with the same vehicle category.
- The contractor must provide a detailed Operational/contingency plan in case of vehicle breakdown, unavailability of driver and strikes/riots.
- It is the responsibility of the Contractor to fit the Eskom tracking system in All the vehicles
- All the busses must have the company name and contact details. Eskom sticker and contact number

NB: NORMAL WORKING TIMES

NB: Monday – Thursday working time: 07H00 – 16H30

Fridays working time: 07H00 – 12H00

(All the busses must be at Matimba Power Station latest @ 06h55 from Monday to Friday) and leave the site at 16h30 Monday to Thursday and at 12h00 on Friday

Note to the contractor

- Estimated number of kilometres: Eskom only provides for the first pick-up point per bus not from the parking area.
- The supplier should be in a position of all the vehicles tendered for before the commencement of the contract.
- All vehicles must comply to the Eskom Vehicle safety standards (Airbag, ABS and seat belts) as per Eskom Vehicle Specifications. The completed check list to be submitted with the tender and for new vehicle's the OEM specification to be attached
- Existing vehicles to comply to the following:
 - Vehicle Registration Certificate

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS

- The contractor must provide proof of maintenance record as per OEM specification.
- The Contractor should make the vehicles available for inspection within 10 days prior to the starting of the contractor.

2.4 Safety of the Mini-Busses

The Supplier must ensure that, before every trip:

- The interior and exterior of the midi buses are examined and any damage or default, is identified and corrected before the departure.
- The buses must be thoroughly searched for suspicious parcels or objects. It is of utmost importance that suspicious parcel or objects are reported to the S A Police Immediately.
- In areas of danger the bus driver must remove the bus immediately.
- The buses must be parked in a safe place when not in use.
- Busses must go through roadworthy test every 12 months and proof of this must be submitted to the Fleet Office

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS

2. Specifications

Title	Date or revision	Tick if publicly available
General Specifications:		
Health and Safety requirements		
Environmental requirements		
Site regulations and access control		
Technical specifications:		

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 2 nd week of each month at _____	Service manager's office	<i>Employer, Contractor</i>

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.

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
invoiceseskocomlocal@eskom.co.za
 and include on each invoice the following information:

- Name and address of the *Contractor* and the *Service Manager*;
- The contract number and title;
- *Contractor*'s VAT registration number;
- The *Employer*'s VAT registration number 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)

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS

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

Insurance provided by the *Employer*

First read TSC3 Core Clause 86.1 and then add anything necessary for the management of insurance related issues such as a cross reference to where procedures for making claims can be found. Also provide contact details for persons capable of being able to answer any insurance related queries the *Contractor* may have, as well as to whom the information required by Marine Insurance (if any) may be addressed.

Training workshops and technology transfer

- Training for safety for all contractors employees to be discussed with service manager

Management of work done by Task Order

A task order will be issued at the beginning of each month for the month maintenance and both the service manager and contractor to sign before commencement of the service

Health and safety, the environment and quality assurance**Health and safety risk management**

In addition to the requirements of the laws governing health and safety, Eskom may have some additional requirements particular to the service and the Affected Property for this contract. The text below provides for these being attached as an Annexure to this Service Information. PLEASE ALSO READ CORE CLAUSE 27.4 TOGETHER WITH Z7 IN THE ADDITIONAL CONDITIONS OF CONTRACT TO MAKE SURE THAT WHATSOEVER IS INCLUDED IN THE ANNEXURE FOLLOWS ON FROM THOSE CLAUSES.

The Divisional/Regional Safety Risk Manager or his representative having jurisdiction over the service must provide the relevant safety, health and environmental (SHE) criteria for incorporation into this Service 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 Divisional/Regional 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: Roley McIntyre
- Transmission: Tony Patterson
- Distribution: Alex Stramrood
- Enterprises: Jace Naidoo
- Corporate: Kerseri Pather

The *Contractor* shall comply with the health and safety requirements contained in Annexure A to this Service Information.

Environmental constraints and management

The *Contractor* shall comply with the environmental criteria and constraints stated in the Waste management procedure (ASEN 0008) and EH&S Incident management procedure 32-95

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS

The Contractor shall further comply with all Matimba Power Station procedures and policies and all level 3 documentation and legislations which the station prescribes to.

Quality assurance requirements

- The returnable in terms of Quality will be based on the Supplier Quality Management Specification 240-105658000. The supplier will submit the quality information based on the category that is relevant to them. Refer to document 240-105658000. In case where there are QCP (quality control plans) required also 3.2 and 5.1 of the document 240-105658000 will be applicable and other Eskom Holdings SOC Limited's Standards and specifications (QM58)

Procurement

There is a cross reference from the core clause 11.2(6) definition of Disallowed Cost to the Service Information regarding procurement procedures. This part of the Service Information MUST include any such procedures to be able to administer Disallowed Cost.

People

Minimum requirements of people employed

- All the personnel employed must have the necessary training and competent to perform the tasks
- Drivers must be in a possession of a valid national driver's licence with PDP
- Drivers to have a minimum of three years passengers driving experience
- All personnel must be in possession of a valid medical certificate
- Eskom reserves the right to ask for the replacement of any contract personnel who is found to be incompetent or is guilty of any misconduct.

BBBEE and preferencing scheme

SD&L Undertaking obligation

SKILL TYPE	ENTRY LEVEL	ESKOM TARGET	OUTPUT	TENDERERS PROPOSAL

Pre- Qualification Criteria

The following will be special conditions

Eskom calls for Level 1 B-BBEE compliant suppliers that are EME' and QSE's as per Eskom's hierarchy of PPPFA.

Subcontracting

Preferred subcontractors

N/A

Plant and Materials

Specifications

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS

Plant and Materials are defined as items intended to be included in the Affected Property. This will refer to replacement of worn or defective parts, routine replacement as part of regular preventative maintenance and supply of spare parts. Quality is usually designed in or specified in the technical specifications. However to cover circumstances where quality may not be prescribed, this sub-paragraph could also be used to state an overarching default requirement – fitness for purpose etc.

Either specify here or provide a list of the applicable specifications and attach them as Annexure or state where they can be obtained from.

Correction of defects

The employer will notify the Contractor of any defect encountered in the plant, and the supplier must respond within 48 hours by phone or email and respond to site within a week

Contractor's procurement of Plant and Materials

N/A

Tests and inspections before delivery

N/A

Plant & Materials provided “free issue” by the Employer

Employer to provide spares and special tools for maintenance purpose

Working on the Affected Property

Protective clothing must be worn at all times

A work permit must be inforce

Safety harness to be worn at all times when repairing lights above 2M

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

People restrictions, hours of work, conduct and records

- Monday – Thursday working time: 07H00 – 16H30
- Fridays working time: 07H00 – 12H00
- Any deliveries or visits outside above timelines, arrangements must be made with an Employer in advance

Health and safety facilities on the Affected Property

The employer will provide ablution facilities

Drinking water

Provided by the Contractor

Accommodation

Transport to work

WORK HOME WORK TRANSPORT SERVICES (VILLAGES) AT MATIMBA POWER STATION FOR A PERIOD OF FIVE (5) YEARS**Control of noise, dust, water and waste**

Protective clothing to be worn at all times

Hook ups to existing works

Safety harnesses to be used all the time

Tests and inspections**Description of tests and inspections****Materials facilities and samples for tests and inspections**

State what materials facilities and samples for tests and inspections the *Contractor* and the *Employer* are to provide, per core clause 40.2.

List of drawings**Drawings issued by the *Employer***

This is the list of drawings issued by the *Employer* at or before the Contract Date and which apply to this contract.

Drawing number	Revision	Title
N/A		

Task Order

Task Order form for use when work within the service is instructed to be carried out within a stated period of time on a Task by Task basis

Task Order No. [•] service [•]

To: [•].....
..... (Contractor)

I propose to instruct you to carry out the following task:

Description [•]

Starting date [•]

Completion Date [•]

Delay damages per week [•]

Please submit your price and programme proposals below.

Signed: Date

(for Employer)

Total of Prices for items of work on the Price List
(details attached)

R._____

Total of Prices for items of work not on the Price List
(details attached).

R._____

Total of the Prices for this Task Order

R._____

The programme for the Task is

..... [ref] (attached)

Signed: Date

(for Contractor)

I accept the above price and programme and instruct you to carry out the Task

Signed: Date:

(for Employer)