



## NEC3 Term Service

# Short Contract (TSSC3)

A contract between **Eskom Holdings SOC Ltd**  
(Reg No. 2002/015527/30)

and

for **delivery of an order of 30 000 tons of limestone from Danielskuil to Kusile Power Station for a period not exceeding 6 months.**

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# C1 Agreements & Contract Data

## C1.1 Form of Offer and Acceptance

### Offer

The Employer, identified in the Acceptance page signature block on the next page, has solicited offers to enter into a contract for the procurement of delivery of a once off order of 30 000 tons of limestone from Danielskuil to Kusile Power Station ("Kusile") for a period not exceeding 6 (six) months

The tenderer, identified in the signature block below, having examined the documents listed in the Tender Data and addenda thereto as listed in the Tender Schedules, 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.

The offered total of the Prices exclusive of VAT is	R/ton
Value Added Tax @ 15% is	R/ton[•]
The offered total of the Prices inclusive of VAT is	R/ton[•]
(in words)	

This Offer may be accepted by the Employer by signing the form of Acceptance overleaf 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

N/A

Date

Tenderer's CIDB registration number:

## 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 1 Agreements and Contract Data, (which includes this Form of Offer and Acceptance)

Part 2 Pricing Data

Part 3 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 Tender 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, which must be signed by the duly authorised representative(s) for both parties.

The tenderer shall within one week 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 copy of this document, including the Schedule of Deviations (if any) together with all the terms of the contract as listed above.

Signature(s)

Name(s)

Vuyisile Ncube

Capacity

General Manager (Acting), Fuel  
Sourcing

(Insert name and address of organisation)

**for the  
Employer**

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

Name &  
signature of  
witness

Date

Note: If a tenderer wishes to submit alternative tender offers, further copies of this document may be used for that purpose, duly endorsed, 'Alternative Tender No. \_\_\_\_\_'

## Schedule of Deviations

Note:

1. To be completed by the Employer prior to award of contract. 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)

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

Date \_\_\_\_\_

### For the Employer

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Insert name and address of organisation)  
Eskom Holdings SOC Ltd  
Megawatt Park, 1 Maxwell Drive,  
Sunninghill, Sandton, 2157

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## C1.2 Contract Data

### Data provided by the *Employer*

**[Instructions to the contract compiler: (delete these two notes in the final draft of a contract)]**

1. Please read the relevant clauses in the NEC3 Term Service Short Contract (April 2013) (TSSC3)<sup>1</sup> before you enter data. The number of the principal clause is shown for most statements however other clauses may also use the same data.
2. Where the following symbol is used “[•]” - data is required to be inserted.]

Completion of the data in full is essential to create a complete contract.

Clause	Statement	Data
<b>General</b>		
10.1	The <i>Employer</i> is (Name):	<b>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</b>
	Address	<b>Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg</b>
	Tel No.	<b>[•]</b>
	Fax No.	<b>[•]</b>
	E-mail address	<b>[•]</b>
	If the <i>Employer</i> appoints an <i>Employer's Agent</i> , the <i>Employer's Agent</i> is:	
14.5	Name	<b>Neziswa Makazi</b>
	Address	<b>Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg</b>
	Tel No.	<b>0115167110</b>
	Fax No.	<b>N/A</b>
	E-mail address	<b>MakaziNP@eskom.co.za</b>
	The authority of the <i>Employer's Agent</i> is	<b>Service Manager[•]</b>
11.2(5)	The <i>service</i> is	<b>Delivery of an order of 30 000 tons of limestone from Danielskuil to Kusile Power Station for a period not exceeding 6 months.</b>
11.2(6)	The Service Information is in	<b>the document called 'Service Information' in Part 3 of this contract.</b>
30.1	The <i>starting date</i> is.	<b>[•]</b>
30.1	The <i>service period</i> is.	<b>One month from the <i>starting date</i></b>
13.2	The <i>period for reply</i> is	<b>48 Hours</b>

<sup>1</sup> Available from Engineering Contract Strategies Tel 011 803 3008, Fax 086 539 1902 or [www.ecs.co.za](http://www.ecs.co.za).

50.1	The <i>assessment day</i> is the	Within 3 (three) business days after the 15 <sup>th</sup> (fifteenth) day of each month and within the first 3 (three) business days of the following month.
51.2	The interest rate on late payment is	the publicly quoted prime rate of interest (calculated on a 365 day year) charged by from time to time by the Standard Bank of South Africa Limited (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands
80.1	The <i>Contractor</i> is not liable to the <i>Employer</i> for loss of or damage to the <i>Employer's</i> property in excess of	the amount of the deductibles relevant to the event
	Does the United Kingdom Housing Grants, Construction and Regeneration Act (1996) apply?	No
93.1	The <i>Adjudicator</i> is	the person selected from the ICE-SA Division (or its successor body) of the South African Institution of Civil Engineering Panel of Adjudicators by the Party intending to refer a dispute to him. (see <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a> ). If the Parties do not agree on an Adjudicator the Adjudicator will be appointed by the Arbitration Foundation of Southern Africa (AFSA).
	Address	[•]
	Tel No.	[•]
	Fax No.	[•]
	e-mail	[•]
93.2(2)	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 London Institution of Civil Engineers. (See <a href="http://www.ice-sa.org.za">www.ice-sa.org.za</a> ) or its successor body
93.4	The <i>tribunal</i> is:	arbitration.
	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.

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**The conditions of contract are the NEC3 Term Service Short Contract (April 2013)<sup>23</sup> and the following additional conditions Z1 to Z11 which always apply:**

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**Z1 Cession delegation and assignment**

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

**Z2 Change of Broad Based Black Economic Empowerment (B-BBEE) status**

- Z2.1 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.
- Z2.2 The *Contractor* is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the *Employer* within thirty days of the notification or as otherwise instructed by the *Employer*.
- Z2.3 Where, as a result, the *Contractor's* B-BBEE status has decreased since the *starting date* the *Employer* may either re-negotiate this contract or alternatively, terminate the *Contractor's* obligation to Provide the Service.
- Z2.4 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 those stated in Clause 91.1 and the amount due on termination includes amounts listed in Clause 92.1 less a deduction of the forecast additional cost to the *Employer* of completing the *service*.

**Z3 Confidentiality**

- Z3.1 The *Contractor* does not disclose or make any information arising from or in connection with this contract available to others except where required by this contract. 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 where required by this contract the *Contractor* ensures that the provisions of this clause are complied with by the recipient.
- Z3.2 If the *Contractor* is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the *Employer*.
- Z3.3 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.

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<sup>2</sup> If the previous edition applies change 'April 2013' for 'September 2009'.

<sup>3</sup> State whether attached as a 'PDF' file in terms of Eskom's licence, or to be obtained from Engineering Contract Strategies Tel 011 803 3008, Fax 086 539 1902 or [www.ecs.co.za](http://www.ecs.co.za)

Z3.4 The taking of images (whether photographs, video footage or otherwise) of the *Employer's* 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 *Employer*. All rights in and to all such images vests exclusively in the *Employer*.

Z3.5 The *Contractor* ensures that all his subcontractors abide by the undertakings in this clause.

**Z4 Waiver and estoppel: Add to clause 12.2:**

Z4.1 Any extension, concession, waiver or relaxation of any action stated in this contract by the Parties or their delegates 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.

**Z5 Health, safety and the environment**

Z5.1 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*:

- 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 *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.

Z5.2 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.



**Z6 Provision of a Tax Invoice and interest. Add to clause 50**

- Z6.1 The *Contractor* provides the *Employer* with a tax invoice in accordance with the *Employer's* procedures stated in the Service Information, showing the correctly assessed amount due for payment.
- Z6.2 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 clause 51.2 is then calculated from the delayed date by when payment is to be made.
- Z6.3 The *Contractor* 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.

**Z7 Notifying compensation events**

- Z7.1 Delete from the last sentence in clause 61.1, "unless the event arises from an instruction of the *Employer*."

**Z8 *Employer's* limitation of liability; Add to clause 80.2**

- Z8.1 The *Employer's* liability to the *Contractor* for the *Contractor's* indirect or consequential loss is limited to R0.00 (zero Rand).

**Z9 Termination: Add to clause 90.2, after the words "or its equivalent":**

- Z9.1 or had a business rescue order granted against it.

**Z10 Addition to Clause 50.4**

- Z10.1 If the amount due for the *Contractor's* payment of *delay damages* reaches the limits stated in a Task Order (if any), the *Employer* may terminate the *Contractor's* obligation to Provide the Service.
- Z10.2 If the *Employer* terminates in terms of this clause, the procedures on termination are those stated in Clause 91.1 and the amount due on termination includes amounts listed in Clause 92.1 less a deduction of the forecast additional cost to the *Employer* of completing the *service*.

**Z11 Ethics**

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

- Affected Party** means, as the context requires, any party, irrespective of whether it is the *Contractor* or a third party, such party's employees, agents, or Subcontractors or Subcontractor's employees, or any one or more of all of these parties' relatives or friends,
- Coercive Action** means to harm or threaten to harm, directly or indirectly, an Affected Party or the property of an Affected Party, or to otherwise influence or attempt to influence an Affected Party to act unlawfully or illegally,
- Collusive Action** means where two or more parties co-operate to achieve an unlawful or illegal purpose, including to influence an Affected Party to act unlawfully or illegally,

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

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

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

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

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

Z11.1 A Committing Party may not take any Prohibited Action during the course of the procurement of this contract or in execution thereof.

Z11.2 The *Employer* may terminate the *Contractor's* obligation to Provide the Services if a Committing Party has taken such Prohibited Action and the *Contractor* did not take timely and appropriate action to prevent or remedy the situation, without limiting any other rights or remedies the *Employer* has. It is not required that the Committing Party had to have been found guilty, in court or in any other similar process, of such Prohibited Action before the *Employer* can terminate the *Contractor's* obligation to Provide the Services for this reason.

Z11.3 If the *Employer* terminates the *Contractor's* obligation to Provide the Services for this reason, the amounts due on termination are those intended in core clauses 92.1 and 92.2.

Z11.4 A Committing Party co-operates fully with any investigation pursuant to alleged Prohibited Action. Where the *Employer* does not have a contractual bond with the Committing Party, the *Contractor* ensures that the Committing Party co-operates fully with an investigation.

## Z12 Insurance

### Z \_\_12.1 Replace condition of contract 82 with the following:

#### Insurance cover 82

82.1 When requested by a Party, the other Party provides certificates from his insurer or broker stating that the insurances required by this contract are in force.

82.2 The *Contractor* provides the insurances in the Insurance Table A, from the *starting date* until the until the earlier of Completion and the date of the termination certificate.

**INSURANCE TABLE A**

Insurance against	Minimum amount of cover or minimum limit of indemnity
Loss of or damage caused by the <i>Contractor</i> to the <i>Employer's</i> property	The replacement cost where not covered by the <i>Employer's</i> insurance  The <i>Employer's</i> policy deductible as at contract date,

	where covered by the <i>Employer's</i> insurance
Loss of or damage to equipment, plant and materials	The replacement cost where not covered by the <i>Employer's</i> insurance  The <i>Employer's</i> policy deductible as at contract date, where covered by the <i>Employer's</i> insurance
The <i>Contractor's</i> liability for loss of or damage to property (except the <i>Employer's</i> property, equipment and other things used to Provide the Service) and 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	<b><u>Loss of or damage to property</u></b> The replacement cost  <b><u>Bodily injury to or death of a person</u></b> The amount required by the applicable law
Liability for death of or bodily injury to employees of the <i>Contractor</i> arising out of and in the course of their employment in connection with this contract	The amount required by the applicable law

82.3 The *Employer* provides the insurances stated in the Insurance Table B

**INSURANCE TABLE B**

<b>Insurance against or name of policy</b>	<b>Minimum amount of cover or minimum limit of indemnity</b>
Assets All Risk	Per the insurance policy document
Contract Works insurance	Per the insurance policy document
Environmental Liability	Per the insurance policy document
General and Public Liability	Per the insurance policy document
Transportation (Marine)	Per the insurance policy document
Motor Fleet and Mobile Plant	Per the insurance policy document
Terrorism	Per the insurance policy document
Cyber Liability	Per the insurance policy document
Nuclear Material Damage and Business Interruption	Per the insurance policy document
Nuclear Material Damage Terrorism	Per the insurance policy document

## **Z13 Nuclear Liability**

Z13.1 The *Employer* is the operator of the Koeberg Nuclear Power Station (KNPS), a nuclear installation, as designated by the National Nuclear Regulator of the Republic of South Africa, and is the holder of a nuclear licence in respect of the KNPS.

Z13.2 The *Employer* is solely responsible for and indemnifies the *Contractor* or any other person against any and all liabilities which the *Contractor* or any person may incur arising out of or resulting from nuclear damage, as defined in Act 47 of 1999, save to the extent that any liabilities are incurred due to the unlawful intent of the *Contractor* or any other person or the presence of the *Contractor* or that person or any property of the *Contractor* or such person at or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.

Z13.3 Subject to clause Z13.4 below, the *Employer* waives all rights of recourse, arising from the aforesaid, save to the extent that any claims arise or liability is incurred due or attributable to the unlawful intent of the *Contractor* or any other person, or the presence of the *Contractor* or that person or any property of the *Contractor* or such person at or in the KNPS or on the KNPS site, without the permission of the *Employer* or of a person acting on behalf of the *Employer*.

Z13.4 The *Employer* does not waive its rights provided for in section 30 (7) of Act 47 of 1999, or any replacement section dealing with the same subject matter.

Z13.5 The protection afforded by the provisions hereof shall be in effect until the KNPS is decommissioned.

## **Z14 Asbestos**

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

<b>AAIA</b>	means approved asbestos inspection authority.
<b>ACM</b>	means asbestos containing materials.
<b>AL</b>	means action level, i.e. a level of 50% of the OEL, i.e. 0.1 regulated asbestos fibres per ml of air measured over a 4 hour period. The value at which proactive actions is required in order to control asbestos exposure to prevent exceeding the OEL.
<b>Ambient Air</b>	means breathable air in area of work with specific reference to breathing zone, which is defined to be a virtual area within a radius of approximately 30cm from the nose inlet.
<b>Compliance Monitoring</b>	means compliance sampling used to assess whether or not the personal exposure of workers to regulated asbestos fibres is in compliance with the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.
<b>OEL</b>	means occupational exposure limit.
<b>Parallel Measurements</b>	means measurements performed in parallel, yet separately, to existing measurements to verify validity of results.
<b>Safe Levels</b>	means airborne asbestos exposure levels conforming to the Standard's requirements for safe processing, handling, storing, disposal and phase-out of asbestos and asbestos containing material, equipment and articles.
<b>Standard</b>	means the <i>Employer's</i> Asbestos Standard 32-303: Requirements for Safe Processing, Handling, Storing, Disposal and Phase-out of Asbestos and Asbestos Containing Material, Equipment and Articles.
<b>SANAS</b>	means the South African National Accreditation System.
<b>TWA</b>	means the average exposure, within a given workplace, to airborne asbestos fibres, normalised to the baseline of a 4 hour continuous period, also applicable to short term exposures, i.e. 10-minute TWA.

Z14.1 The *Employer* ensures that the Ambient Air in the area where the *Contractor* will Provide the Services conforms to the acceptable prescribed South African standard for asbestos, as per the regulations published in GNR 155 of 10 February 2002, under the Occupational Health and Safety

Act, 1993 (Act 85 of 1993) ("Asbestos Regulations"). The OEL for asbestos is 0.2 regulated asbestos fibres per millilitre of air as a 4-hour TWA, averaged over any continuous period of four hours, and the short term exposure limit of 0.6 regulated asbestos fibres per millilitre of air as a 10-minute TWA, averaged over any 10 minutes, measured in accordance with HSG248 and monitored according to HSG173 and OEESM.

- Z14.2 Upon written request by the *Contractor*, the *Employer* certifies that these conditions prevail. All measurements and reporting are effected by an independent, competent, and certified occupational hygiene inspection body, i.e. a SANAS accredited and Department of Employment and Labour approved AAIA. The *Contractor* may perform Parallel Measurements and related control measures at the *Contractor's* expense. For the purposes of compliance the results generated from Parallel Measurements are evaluated only against South African statutory limits as detailed in clause Z14.1. Control measures conform to the requirements stipulated in the AAIA-approved asbestos work plan.
- Z14.3 The *Employer* manages asbestos and ACM according to the Standard.
- Z14.4 In the event that any asbestos is identified while Providing the Services, a risk assessment is conducted and if so required, with reference to possible exposure to an airborne concentration of above the AL for asbestos, immediate control measures are implemented and relevant air monitoring conducted in order to declare the area safe.
- Z14.5 The *Contractor's* personnel are entitled to stop working and leave the contaminated area forthwith until such time that the area of concern is declared safe by either Compliance Monitoring or an AAIA approved control measure intervention, for example, per the emergency asbestos work plan, if applicable.
- Z14.6 The *Contractor* continues to Provide the Services, without additional control measures presented, on presentation of Safe Levels. The contractually agreed dates to Provide the Services, including the Completion Date, are adjusted accordingly. The contractually agreed dates are extended by the notification periods required by regulations 3 and 21 of the Asbestos Regulations, 2001.
- Z14.7 Any removal and disposal of asbestos, asbestos containing materials and waste, is done by a registered asbestos contractor, instructed by the *Employer* at the *Employer's* expense, and conducted in line with South African legislation.

## Data provided by the *Contractor* (the *Contractor's Offer*)

The tendering contractor is advised to read both the NEC3 Term Service Short Contract (April 2013) and the relevant parts of its Guidance Notes (TSSC3-GN)<sup>4</sup> in order to understand the implications of this Data which the tenderer is required to complete. An example of the completed Data is provided on page 24 of the TSSC3 Guidance Notes.

Completion of the data in full is essential to create a complete contract.

10.1	The <i>Contractor</i> is (Name):	[•]
	Address	[•]
	Tel No.	[•]
	Fax No.	[•]
	E-mail address	[•]
63.2	The percentage for overheads and profit added to the Defined Cost for people is	[•]%
63.2	The percentage for overheads and profit added to other Defined Cost is	[•]%
11.2(4)	The Price List is in	the document called 'Price List' in Part 2 of this contract.
11.2(4)	The offered total of the Prices for part of the <i>service</i> in Part 1 of the Price List is [Enter the total of the Prices from the Price List]:	R[•] excluding VAT [in words] [•] excluding VAT
11.2(4)	The offered total of the Prices for part of the <i>service</i> in Part 2 of the Price List is [Enter the total of the Prices from the Price List]:	R[•] excluding VAT [in words] [•] excluding VAT

<sup>4</sup> Available from Engineering Contract Strategies Tel 011 803 3008, Fax 086 539 1902, or [www.ecs.co.za](http://www.ecs.co.za).

## C2 Pricing Data

### C2.1 Pricing assumptions

The Price List is in two parts. Part 1 is for work described in the Service Information not requiring the *Employer* to issue a Task Order. Part 2 is for work to be carried out within a stated period of time on a task by Task basis and instructed by Task Order. The *service* may comprise work under Part 1 only or Part 2 only or a mix of both.

Entries in the first four columns of Part 1 of the Price List are made either by the *Employer* or the tenderer. Entries in the first four columns of Part 2 of the Price List would normally be made by the *Employer* as the Party most likely to know the kind of work which will be instructed by the issue of Task Orders. The tenderer then enters a rate for each item and multiplies it by the Expected quantity to produce the Price to be entered in the final column.

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 tenderer 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 the item of work which is the rate for the work multiplied by the quantity completed, the tenderer enters a rate for each item and multiplies it by the Expected quantity to produce the Price, to be entered in the final column.

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.

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

## C2.2 Price List

### Part 1

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

Item no.	Description	Unit	Quantity	Rate	Price
1	Transportation of Limestone from Danielskuil (Northern Cape) to Kusile Power Station (Once off)		30000		

Total of the Prices for Part 1



## C3: Scope of Work

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## 1. Description of the service

The service is for the provision of road transport services to deliver an order of 30 000 tons of limestone from Danielskuil to Kusile Power Station for a period not exceeding 6 months.

The Tenderer must provide minimum twenty-five (25) and maximum thirty (30) 22 meter interlink side tipper trucks vehicles to move the required tonnages in a period not exceeding six (6) months. The type of vehicles are 22 meter interlinked side tippers.

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

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

### ***Employer's requirements for the service***

The service includes:

This service will be a once- off order for the provision of road transport service to move 30 000 tons of Limestone s within one month. Eskom will notify the contractor seven (7) working days prior to when the required service needs to start.

The service includes:

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

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

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

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

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

### **Logistics management**

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

### **Information management**

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

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

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

Road Transport Management System (RTMS) to be made available when requested by the *Employer* for assurance purpose

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

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

The *Employer* shall ensure that information relating to availability of limestone is made available to the *Contractor* prior to the despatching of the limestone trucks.

### **Effective control and monitoring**

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

Monitor and assist to improve operations,

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

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

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

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

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

## **Fleet Management Process**

*Contractor* shall provide the *Employer* with the number of vehicles to be registered.

The *Employer* shall ensure that the process of capturing vehicles on to Eskom database is done in an auditable manner and Eskom may perform such audit from time to time.

## **Vehicle allocations and scheduling**

The *Employer* shall schedule the correct number of vehicles on the contracted route taking into consideration the following:

The vehicles that are available, verified and authorised as per the fleet management process,

Other factors that may arise from time to time and either party shall provide sufficient notice to make changes if such a need arise.

## **Determination of routes**

The *Employer* shall utilise effective means and appropriate technology to determine the most optimal and economical routes, taking into account, the operations of the *Contractors*, overall haulage costs, and road conditions, environmental and social factors.

The *Employer* shall make recommendations to the *Contractor* on route usage and support its recommendations with detailed reports and related documents.

## **Route assessments**

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

## **Control centre**

The *Contractor* shall operate a control centre on a 24/7 days per week basis. The purpose of the control centre is to improve operational efficiency by:

- Creating visibility across the entire limestone supply chain,
- Monitor the *Contractors* vehicles
- Providing a single point of access for information to assist all management decisions,
- Communicating with the *Employer* on logistical matters or issues when they occur,
- Providing "real time" visibility,
- Measuring the availability and efficiency of *Contractors'* vehicles.

## **Call centre**

The *Contractor* shall through its call centre, monitor the movement of vehicles on a continuous basis and report inter alia, on the following:

- "No-go" zones and Designated Routes;
- Speeding and other transgressions;

- Illegal stopping along the routes and in towns;
- Incidents and accidents;

### **Vehicle tracking**

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

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

## **Section 3: Description of Safety Management Services**

### **Safety management**

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

In order to ensure that the safety matters are attended to effectively and efficiently and by competent persons, the *Employer* shall ensure that the *Contractor* adhere to the following safety procedures:

### **Induction of drivers**

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

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

### **Medical surveillance**

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

### **Contractor safety packs**

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

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

### **Accident investigations**

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

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

### **Compilation of the toolbox talk**

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

### **Data Gathering And Reporting**

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

### **Tarpaulin management and cleaning services**

The *Contractor* shall be responsible for the current tarpaulin management services at the Power Stations and do so utilising temporary employment services.

### **Route monitoring**

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

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

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

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

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

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

### **Speed monitoring**

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

### **Safety alerts**

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

### **Management of RTMS**

The *Employer* shall monitor *Contractors* compliance to provisions of RTMS by contractors

## Vehicle Identification

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

## Interpretation and terminology

The following abbreviations are used in this Service Information:

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

## Terminology

Terminology	Description
Free Carrier Agreement (FCA)	Means the incoterm “Free Carrier at the designated loading point” which refers to the colliery handing over the limestone into the custody of the contractor at the designated loading point.
Designated Loading Points.	Means any of the mines to be communicated by <i>Employer</i> to the <i>Contractor</i> in simultaneously with signature of this agreement and may be altered by a Task Order from time to time as determined by operational requirements.
Designated Offloading Points	Means the stockyard at the power station or any other stock yard designated by <i>Employer</i> , which stockyard may alter from time to time.
Tonne	metric tonne (t).
Contract Fleet	The number of vehicles sufficient to load 30000 once off roadworthy trucks that the <i>Contractor</i> may utilise in order to fulfil its obligations in terms of the contract.



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

#### Management strategy and start up.

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

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

#### Management meetings

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

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

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

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

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

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

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

### **Documentation control**

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

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

### **Invoicing and payment**

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

The *Contractor* shall address the tax invoice to Primary Energy Finance and include on each invoice the following information:

- Name and address of the *Contractor* and the *Service Manager*;
- The contract number and title;
- *Contractor's* VAT registration number;
- Please note *Employer* Name has to be reflected as Eskom Holdings SOC Limited on all Tax Invoices
- The *Employer's* VAT registration number 4740101508;
- Description of service provided for each item invoiced based on the Price List;
- Total amount invoiced excluding VAT, the VAT and the invoiced amount including VAT;

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

### **Contract change management**

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

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

### **Information and other things**

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

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

### Management of work done by Task Order

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

A Task order starting with a 45 series number will be issued to the *Contractor* at the start of the service.

The *Contractor* will only act on Task Orders approved by the *Service Manager*.

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

Key Elements for the Contractor			
Element	Description	Frequency	KPI
1. Vehicle Availability	The transporter needs to make the contractual agreed number of vehicles available every month	Once off	100% availability
2. Movement of limestone	The transporter needs to make the contractual agreed volumes of limestone is moved	Once off	As per the task order

## Health and Safety, Environment and Quality Assurance

### Health and safety risk management

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

### Safety and Health

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

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

- vehicle and driver safety management procedure 240 – 629 46386
- Contractor Health and Safety Requirements 32- 136
- Eskom vehicle safety specifications 32 – 345
- Eskom standards for Life saving rules 240 -621962271
- Eskom Safety, Health, Environment and Quality Policy 32 – 737 revision 5

- Environmental, occupational health and safety incident management procedure 32 – 95
- Health, safety and environmental requirements contained in the Employer's 004 4830 Safety Health and Environmental specification revision 2

The *Contractor*, in and about the execution of the service, shall make available to the *Employer* a Safety, Health, Environmental Management and Quality (SHEQ) plan before the commencement of the service

### **Environmental constraints and management**

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

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

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

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

### **Quality assurance requirements**

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

A Quality assurance plan shall be submitted by the *Contractor* as part of the SHEQ plan and shall be accepted by the Service Manager

## **Procurement**

### **People**

### **Minimum requirements of people to be employed:**

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

### **BBBEE and Preferencing Scheme**

It is contractual requirements that service provider submit a valid B-BBEE verification certificate on an annual basis during the contract period. Based on *Employer's* Hierarchy of Procurement and *Employer's* preference to do business with those suppliers with the highest B-BBEE Statuses, service provider is encouraged to improve their status on an on-going basis.

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

Category	Eskom's Targets	Tenderer's Proposal	Tenderer's Comment
Subcontracting	30% subcontracting to EME/QSE entities that are at least 51% owned by: <ul style="list-style-type: none"> <li>Black people</li> <li>Black people who are youth</li> <li>Black people who are women</li> <li>Black people with disabilities</li> </ul>	30%	Black Youth
Skills development: the following level of skills need to be developed: <ul style="list-style-type: none"> <li>Skilled</li> </ul>	Safety Officers - 1 Code 14 Drivers - 2	2 – Code 14 Drivers 1 – Safety Officer	
Job creation: the following level of jobs need to be created: <ul style="list-style-type: none"> <li>Managerial positions;</li> <li>Expert jobs</li> <li>Skilled jobs</li> <li>Unskilled jobs</li> </ul>	Contractor should provide the number of jobs that will be created.	1 – Site Manager	

The *Contractor's* failure to comply with his Supplier Development and Localisation obligations constitutes substantial failure on the part of the *Contractor* to comply with his obligations under this contract.

## Subcontract documentation, and assessment of subcontract tenders

*Employer* will require certificate of the subcontractors as well as supporting evidence for age and disability where these two apply

- B-BBEE certificate / Affidavit
- CSD number
- Signed Sub-contracting intent agreement
- Proof (certificate/affidavit) of sub-contractor belonging to designated group

Eskom reserves the right to satisfy itself by checking and verifying such service providers as it deems fit.

The *Contractor* shall keep accurate records and provide the *Service Manager* with reports on the *Contractor's* actual delivery against the above stated criteria. Annual records should be kept for performance and monitoring.

If the *Contractor* subcontracts work, he is responsible for Providing the Service as if he had not subcontracted. This contract applies as if a *Subcontractor's* employees and equipment were the *Contractor's*.

The Contractor shall provide copies of invoices, proof of payment, B-BBEE certificate of the service provider and proof of address if different from one in the certificate as well as evidence that the service provider is either women; youth or disabled.

The Contractor shall on a submit a report to Eskom in accordance with Data Collection Template on their compliance with the SD& L obligations described above.

Eskom shall review the SD&L reports submitted by the Contractor of the reports and notify the Contractor in writing if their SD&L obligations have not been met.

Without prejudice to any other rights or claims that Eskom may have under this Contract or otherwise, if the Contractor at any time fails to meet any of the targets set out in this Contract under SD&L or fails to provide Progress Report(s), Eskom shall be entitled to withhold an amount equal to 2.5 (two point five) percent from each payment becoming due to the Contractor under this Contract from the date at which the target(s) should have been met, until the Contractor has met all of its targets as set out in SD&L.

The Contractor shall notify Eskom of its achievement of the target(s) set out under SD&L of the Contract providing evidence thereof in accordance with the requirements above. Once Eskom is satisfied with the evidence provided, Eskom shall without undue delay and within 30 (thirty) days release and pay to the Contractor the amounts withheld in respect of the Contractor's failure to meet the target(s) set out under SD&L of the Contract, free of any interest or surcharge. No money withheld shall be paid back to the Contractor if at the end of the Contract Period the Contractor has not met all of its SD&L Commitments.

## **Correction of defects**

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

## **Tests and inspections before delivery**

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

## **Working on the Affected Property**

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

- The *Contractor* provides full time supervision and control of his employees related to this service agreement.
- The *Contractor* shall perform all work in accordance with the applicable Safety Regulatory Act and will issue the most recent copy of the act to the *Service Manager* before commencement of the work.
- Employer's site entry and security control, permits, and site regulations.
- The *Contractor* will provide a complete list of names of all employees working in the Affected Property to the *Service Manager*.
- All employees of the *Contractor* requiring access to the Power Station will undergo the power station mandatory safety induction course prior to entry.
- Employees of the *Contractor* requiring frequent access will be issued permanent security passes after completion of the mandatory safety induction and submission of the relevant application forms.
- All truck drivers of the *Contractor* will undergo the mandatory safety induction facilitated by the Employer's Primary Energy Division.
- The *Contractor's* proves to the *Service Manager* that the employees used by the *Contractor* to Provide the Service are competent in their areas of responsibility.
- The *Contractor* provides the *Service Manager* with proof of legal appointments in terms of the Occupational Health and Safety Act, Act 85 of 1993 (as amended), for all the *Contractor's* employees who carry such legal responsibilities when working on the Affected Property.

- The *Contractor* does not commence to provide the Service unless the required letters of legal appointments have been accepted by the *Service Manager*.
- All personnel working on site will wear the appropriate Personal Protective Clothing as accepted by the *Service Manager*.

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

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

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

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

### ***Cooperating with and obtaining acceptance of Others***

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

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

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

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

### **Site services and facilities**

N/A

## **2. Specifications**

List the specifications that apply to this contract. Some typical headings have been provided as a minimum; delete if not required or expand and include correct titles as applicable.

Title	Date or revision	Tick if publicly available
<b><u>General Specifications:</u></b>		
<b>Health and Safety requirements</b>		
<b>Environmental requirements</b>		
<b>Site regulations and access control</b>		

<b><u>Technical specifications:</u></b>		

### 3. Constraints on how the *Contractor* Provides the Service

State any constraints on the sequence and timing of work and on the methods and conduct of work including the requirements for any work by the *Employer*.  
Also include any management related constraints, invoicing and payment procedures some of which have been inserted below as a minimum guide.

#### 3.1 Meetings

Provide information about regular meetings to be held such as early warning and compensation event meetings (suggest weekly), safety and planning meetings.

#### 3.2 Use of standard forms

Provide details of standard forms to be used by the *Contractor* in the administration of the contract, for example early warning and compensation event notifications.

#### 3.3 Invoicing and payment

The Z clauses make reference to invoicing procedures stated here in this Service Information. Also include a list of information which is to be shown on an invoice. The following text is provided as a guide; revise to suit actual requirements.

In terms of core clause 50 the *Contractor* assesses the amount due and applies to the *Employer* for payment. The *Contractor* applies for payment with a tax invoice addressed to the *Employer* as follows:

The *Contractor* includes the following information on each tax invoice:

- Name and address of the *Contractor*
- The contract number and title;
- *Contractor's* VAT registration number;
- The *Employer's* VAT registration number 4740101508;
- The total of



- The Price for each lump sum item in the Price List or Task Order which the *Contractor* has completed;
- Where a quantity is stated for an item in the Price List or Task Order, an amount calculated by multiplying the quantity which the *Contractor* has completed by the rate,
- Other amounts to be paid to the *Contractor*;
- Less amounts to be paid by or retained from the *Contractor*;
- The change in the amount due since the previous payment being the invoiced amount - excluding VAT, the VAT and including VAT;
- (add other as required)

The *Contractor* attaches the detail assessment of all work done for each item in the Price List to each tax invoice showing

- the Price for each lump sum item in the Price List or Task Order which the *Contractor* has completed and
- where a quantity is stated for an item in the Price List or Task Order, an amount calculated by multiplying the quantity which the *Contractor* has completed by the rate.

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

### 3.4 Records of Defined Cost

In order to substantiate the Defined Cost of compensation events, the *Employer* may require the *Contractor* to keep records of amounts paid by him for people employed by the *Contractor*, plant and materials, work subcontracted by the *Contractor* and equipment. [See clause 11.2(2) and 63.2]. State in what form these records are to be kept and how accessed by the *Employer*.

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

If the ASGI-SA requirements are to be included in this contract specify constraints which *Contractor* 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 *Employer* 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.

### 3.6 BBBEE and preferencing scheme

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



### 3.7 Cataloguing requirements by the *Contractor*

State whether cataloguing is applicable, if it is, reference the requirements for cataloguing that need to be satisfied by the *Contractor* (consult Procurement Instruction Number 1 of 2018 – Incorporating Cataloguing into the Procurement Environment, Unique Identifier 240-1289988974).

## 4. Requirements for the plan

State whether a plan is required and, if it is, state what form it is to be in, what information is to be shown on it, when it is to be submitted and when it is to be updated.

## 5. Services and other things provided by the *Employer*

Describe what the *Employer* will provide such as services (including water and electricity) and “free issue” plant and materials and equipment.

Item	Date by which it will be provided

## 6. Property affected by the *service*

Give information about any property upon which the *service* is to be provided. This may include the property of others as well as that of the *Employer*. Also provide any other information which is likely to affect the *Contractor's* work.



<b>Task Order form for use when work within the <i>service</i> is instructed to be carried out within a stated period of time on a Task by Task basis</b>	
Task Order No. <b>[•]</b>	<i>service</i> <b>[•]</b>
To: <b>[•]</b> ..... ..... (Contractor)	
I propose to instruct you to carry out the following task:  <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;">Description</div> <div style="width: 55%;"><b>[•]</b></div> </div>  <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;">Starting date</div> <div style="width: 55%;"><b>[•]</b></div> </div> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;">Completion Date</div> <div style="width: 55%;"><b>[•]</b></div> </div> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;">Delay damages per week</div> <div style="width: 55%;"><b>[•]</b></div> </div> Please submit your price and programme proposals below. <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;">Signed:</div> <div style="width: 55%;">Date</div> </div> <div style="text-align: center; margin-top: 10px;">         (for <i>Employer</i>)       </div>	
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;">           Total of Prices for items of work on the Price List            (details attached)         </div> <div style="width: 55%;">R. _____</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 45%;">           Total of Prices for items of work not on the Price List            (details attached).         </div> <div style="width: 55%;">R. _____</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 45%;">           Total of the Prices for this Task Order         </div> <div style="width: 55%;">R. _____</div> </div> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;">           The programme for the Task is            Signed:         </div> <div style="width: 55%;">           ..... [ref] (attached)            Date         </div> </div> <div style="text-align: center; margin-top: 10px;">         (for <i>Contractor</i>)       </div>	
I accept the above price and programme and instruct you to carry out the Task <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;">Signed:</div> <div style="width: 55%;">Date:</div> </div> <div style="text-align: center; margin-top: 10px;">         (for <i>Employer</i>)       </div>	