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Deputy Executive Director
Human Science Research Council
134 Pretorius Street
Arcadia
Pretoria
0083

Dear Prof Bank

RE: LETTER OF AWARD

This correspondence serves to inform you that the Human Science Research Council (**Human Science Research Council**) has been awarded **R900 000.00 (Nine Hundred Thousand Rand Only)** discretionary funding to implement skills development programmes for Human Science Research Council employees.

The ETDPSETA would like to enter into a Memorandum of Agreement (MoA) with you to implement this initiative. The discretionary funding is intended to be utilized in the 2021/22 financial year for the skills development interventions any uncommitted funds on 31 March 2022 will be forfeited.

The following is expected of Human Science Research Council:

- Recruit beneficiaries and ensure that beneficiaries complete the required ETDPSETA administrative forms,
- Identify a service provider for the selected programme/s and provide evidence of supply chain management processes,
- Report to the ETDPSETA on programme implementation.

The following is expected of ETDPSETA:

- Monitor the implementation of the programme,
- Report on targets achieved to the Department of Higher Education and Training,
- Process payments to the service provider.

Yours sincerely,



Ms Nombulelo Nxesi

Chief Executive Officer

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MEMORANDUM OF AGREEMENT (MoA)

Entered into between the:

**EDUCATION, TRAINING AND DEVELOPMENT PRACTICES
SECTOR EDUCATION AND TRAINING AUTHORITY
(ETDP SETA)**

And

Human Science Research Council

1 **Introduction:**

The Education Training and Development Practices Sector Education and Training Authority (ETDP SETA) has allocated funding through Discretionary Grants as per the Skills Development Levies Act and the ETDP SETA Grants Policy. In accordance with the Act and the Grants Policy, the ETDP SETA has allocated Discretionary Grants to constituent members of the SETA who have submitted WSP/R to the SETA. To facilitate the allocation of this funding, the ETDP SETA and constituent members will sign this Memorandum of Agreement (MOA). Through the signing of this agreement, the ETDP SETA will commit the Discretionary funding to the constituent member. In turn, the constituent member will commit to train their employees as per the skills development programmes in this MOA and pay the service provider for said training where applicable. In turn, the ETDP SETA will pay the constituent member on submission of the agreed deliverables and documents. Should the skills development programmes be full qualifications, then the constituent member will submit bursary documentation for said learner/s and the ETDP SETA will pay the service providers directly.

2 **Definitions and interpretations:**

- 2.1 "agreement" means the agreement set out in this document and includes the schedules;
- 2.2 "parties" means **ETDP SETA** and **HSRC**;
- 2.3 "signing date" means the date upon which this agreement is signed by the last party signing this agreement.
- 2.4 "constituent member" means any member of the ETD sector as described in the Skills Development Act and related Acts and defined in the SIC codes allocated to the ETDP SETA.
- 2.5 "the constituent member referred to" means HSRC.
- 2.6 If any provision in the definition clause is a substantive provision conferring rights or imposing obligations on a Party, then notwithstanding that such provision is contained in this clause, effect will be given thereto as if such provision were a substantive provision in the body of the Agreement.
- 2.7 Clause and paragraph headings are for purposes of reference only and shall not be used in interpretation.
- 2.8 Unless the context clearly indicates a contrary intention, any word connoting:
 - 2.8.1 any gender denotes the other genders;
 - 2.8.2 the singular includes the plural and vice versa; and
 - 2.8.3 natural persons includes legal entities and vice versa.
- 2.9 A business day is any day excluding Saturday, Sunday and a public holiday in the Republic of South Africa.

- 2.10 When any number of days is prescribed such number shall exclude the first day and include the last day unless such day falls on a Saturday, Sunday or a public holiday in the Republic of South Africa, in which case the last day shall be next succeeding business day.
- 2.11 The Annexures and Schedules to this Agreement form an integral part hereof and the words and expressions defined in this Agreement shall bear, unless the context otherwise requires, the same meaning in the Annexures and Schedules.
- 2.12 In the event of a conflict between this Agreement and the terms of any schedules or annexures which may be attached to this Agreement (exclusive of addenda drafted, signed and agreed to by both Parties with the specific aim to change and supersede a provision / the provisions of this Agreement), the terms of this Agreement will take precedence.
- 2.13 The rules of interpretation that a written agreement shall be interpreted against the Party responsible for the drafting or preparation of that agreement shall not apply.
- 2.14 The expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

2.15 This agreement shall be governed by and construed and interpreted in accordance with the laws of the Republic of South Africa;

3 Parties:

3.1 The parties to this agreement are:

3.1.1 ETDP SETA; and

3.2 HSRC

3.3 The parties agree to the conditions of this agreement as set out below.

4 Duration of agreement:

- 4.1 This agreement commences on the date of last signature and remains in effect until and will terminate on **31 December 2023** or until it has been cancelled in terms of this Agreement.
- 4.2 The Parties agree that time is of the essence in the execution of this Agreement and the Parties will take all necessary steps to ensure that they meet their respective obligations.
- 4.3 The Parties may agree, in writing, to extend this Agreement for such further period and on such terms and conditions, to be agreed to by the Parties at the time. The employer must provide the SETA with written reasons for requesting an extension of time to perform its obligations in terms of this Agreement.

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4.4 The Minister has re-established the SETA from 1 April 2018 to 31 March 2030. The Parties acknowledge that their rights and obligations in terms of this Agreement are subject to establishment of the SETA as contemplated in section 9 of the Skill Development Act, 1998.

5 Timeframes to be met:

The following timeframes must be met for the agreement to be implemented;

- 5.1 Service providers must have been appointed by 1 November 2021.
- 5.2 All training must have started by 1 March 2022.
- 5.3 All invoices and claim documents must have been submitted to the ETDP SETA within 30 days of the completion of the training/ or completion of verification.
- 5.4 After any training intervention it is the responsibility of the employer to submit either Certificates or SPORs to the SETA within 90 days of completion.

6 Funding and approved programmes:

The ETDP SETA will provide **HSRC** with funding of up to **R900 000.00** (VAT included) to implement the approved skills development programme/s listed below and as described in Schedule 1 of this agreement;

Approved programme	No. of Learners	Approved Cost
Skills development programmes	A minimum of 18 learners at a maximum cost of R50 000 per learner	R900 000.00

7 Obligations of HSRC :

HSRC undertakes:

- 7.1 To accept and use the funding provided by the ETDP SETA solely for purposes described in this agreement and its schedules;
- 7.2 To identify programmes that meet the skills development needs of the employees. These programmes may be part qualifications or full qualifications.
- 7.3 To identify employees who will participate in the programme/s;
- 7.4 **Part qualifications:** To contract an accredited service provider to conduct the agreed training. **HSRC** will use its own procurement policy to procure the provider and will enter into an agreement with the service provider that clearly describes the training

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programme and deliverables; The procurement process, with all documents, will be submitted to ETDP SETA for approval prior to the training commencing.

- 7.5 To make the full payment to the contracted service provider on completion of the described training and completion of the agreed deliverables by the service provider;
- 7.6 To invoice the ETDP SETA as per the agreed deliverables contained in Schedule 1. Please provide official banking details.
- 7.7 **Full qualifications/ bursaries:** The employer will identify employees to participate in full qualifications. These should not exceed a single academic year for the funding contained in this MOA. The employees identified will complete Bursary Agreements and submit all supporting documents as per a bursary recipient. After ETDP SETA approval, the payment, as per the statement from the service provider, will be paid directly to the service provider. Should the employer wish to implement the same full qualification bursary to more than 20 employees, then they should obtain 3 quotes and follow their own procurement policy. The complete documents of the procurement process; are to be submitted to the ETDP SETA for approval prior to the commencement of training.
- 7.8 The employer should apply strict criteria when allocating skills development funding to employees. Should any employees drop out of programmes, they will not be paid for when doing short courses. For bursaries, the employer should recover the funding from the employee and allocate it to a different employee for skills development, within the same financial year.
- 7.9

8 **ETDP SETA's obligations:**

The ETDP SETA undertakes to pay **HSRC** the agreed costs, as per this agreement, incurred when paying the service provider for the training of the approved programme. This payment will be conditional to **HSRC** and the service provider meeting all deliverables and submitting all the necessary documentation as listed in Schedule 1 of this agreement. For a full qualification, the ETDP SETA undertakes to pay the service provider directly on approval of the bursary. This is subject to registration and submission of fully compliant documentation.

9 **Obligations to notify:**

HSRC must notify ETDP SETA in writing within fourteen (14) days of any of the following events occurring:

- 9.1 a change in control;
- 9.2 inability to perform any of the key objectives of this agreement;

9.3 any other event which could reasonably be regarded as materially altering the nature of agreement from the manner described herein.

10 Reporting requirements:

HSRC must provide the ETDP SETA with reports, information and documentation set out in Schedules 1 by the dates contained therein.

11 Pre-condition to Funding:

The funding to be provided to **HSRC** by the ETDP SETA is subject to the pre-conditions that:

11.1 All payments will be made on receipt of all documents required by ETDP SETA and paid directly to **HSRC**.

11.2 ETDP SETA will not make any payment into an individual/personal bank account.

11.3 For a full qualification, ETDP SETA will pay the service provider directly on approval of a bursary.

12 Funding arrangements:

12.1 ETDP SETA has undertaken to make payment on the fulfilment of the provisions of Schedule 1.

12.2 Payments will be processed on submission of all necessary deliverables required at that stage as specified in Schedule 1.

12.3 ETDP SETA will not pay value-added tax ("VAT").

12.4 ETDP SETA is not responsible for any expenditure incurred by **HSRC** that exceeds the amount of funding granted as stated in this agreement.

12.5 ETDP SETA will effect payment to **HSRC** within 30 (thirty) working days of receipt of **authorised invoices and complete supporting documentation as per schedule 1.**

13 Financial Transactions:

All financial transactions in connection with this agreement must be transacted in accordance with Generally Accepted Accounting Practices ("GAAP").

14 Relationship:

14.1 This agreement does not constitute either of the parties an agent of the other for any purpose whatsoever.

14.2 The parties will not be entitled to act on behalf of, or to represent each other, besides as provided for in the terms of this agreement unless duly authorised thereto in writing.

15 **Disclosure of confidential information:**

- 15.1 The ETDP SETA constituency member may not, without the prior written approval of ETDP SETA, disclose any confidential information.
- 15.2 The obligation to maintain the confidentiality of information will survive the termination of this agreement, but will not apply to confidential information that was in the public domain.

16 **Representations and Warranties:**

- 16.1 Each party represents and warrants that it has the authority necessary to enter into this agreement and to do all things necessary to procure the fulfilment of its obligations in terms of this agreement.
- 16.2 **HSRC** warrants that:
- 16.2.1 It will use all funds received from the ETDP SETA in terms of this agreement for the sole purpose for which they have been provided
- 16.2.2 It will implement the terms of this agreement with utmost good faith and integrity.
- 16.2.3 There will be no corruption or mismanagement of the funds provided by the ETDP SETA in terms of this agreement.

17 **Breach and termination:**

- 17.1 If any party breaches any provision of this agreement and remains in breach for 14 days after written notice requiring rectification of the breach, the aggrieved party will, without prejudice to any other remedy it may have, including any rights to claim damages; be entitled, at its option:
- 17.1.1 To cancel this agreement upon 7 days' written notice to the defaulting party.

18 **Arbitration of disputes:**

- 18.1 Any dispute between the parties in connection with the interpretation, application or termination of this agreement must, unless resolved by the parties, be determined by arbitration in terms of this clause.
- 18.2 This clause does not preclude any party from obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision of the arbitrator.
- 18.3 Except as provided in this clause, neither party is entitled to institute any legal proceedings against the other in connection with any dispute in connection with the interpretation, application or termination of this agreement.
- 18.4 Either party to this agreement may require that a dispute be determined by arbitration in terms of this clause by giving written notice to the other party.
- 18.5 The arbitrator must be appointed by agreement between the parties.

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- 18.6 In the event that the nominated arbitrator is not available within the time frame anticipated by the parties, a further (or further) nomination procedure/s must be pursued by the parties to confirm the arbitration of the dispute.
- 18.7 The arbitration must take place on a date and at a place determined by the arbitrator.
- 18.8 The arbitration must be conducted in a manner that the arbitrator considers appropriate in order to determine the dispute fairly and quickly, but must deal with the substantial merits of the dispute with the minimum of legal formalities.
- 18.9 The parties shall be entitled, at their discretion, to have legal representation at the arbitration. A party choosing to use legal representation will be responsible for the costs of such representation.
- 18.10 The party against whom the arbitration award is made shall be responsible for the arbitrator's fees and all administrative costs associated with the holding of the arbitration.
- 18.11 The award of the arbitrator is final and binding on the parties to the dispute.

19 **Domicilium address and notices:**

- 19.1 The parties choose as their domicilium addresses for all purposes arising from or pursuant to this agreement, as follows:

ETDP SETA

2-6 New Street South

ETDP SETA House, Ghandi Square

Johannesburg CBD

Human Science Research Council

134 Pretorius Street

Arcadia

Pretoria

0083

- 19.2 Any party may change its domicilium as aforesaid by written notice to the other party, which change will take effect seven (7) days after the date of receipt or deemed receipt of such notice. The changed address must be a physical address
- 19.3 Any notice given in terms of this agreement must be in writing and must:
- 19.3.1 if delivered by hand be deemed to have been duly received by the addressee on the date of delivery;
- 19.3.2 if delivered by registered post be deemed to have been duly received by the addressee 5 days after it was sent;

- 19.3.3 if delivered by recognised courier service be deemed to have been received by the addressee on the first business day following the date of such delivery by the courier service concerned; or
- 19.3.4 if transmitted by facsimile is deemed to have been received by the addressee one business day after dispatch.
- 19.4 Despite anything to the contrary contained in this agreement, a written notice or communication actually received by one party from the other, is deemed adequate written notice or communication to such party.

20 **General:**

- 20.1 This agreement constitutes the sole record of the agreement between the parties with regard to its subject matter and comes into effect on the date of the final official signature.
- 20.2 The ETDP SETA is not bound to any representation, warranty, undertaking, promise or the like not recorded in this agreement.
- 20.3 No addition to, variation or consensual cancellation of this agreement is of any force or effect unless done in writing and signed by or on behalf of the parties.
- 20.4 Neither party can cede any of its rights, or delegate any of its obligations, under this agreement.

For HSRC

SIGNED at Pretoria on 21 October 2021

Sign: _____

Designation: Acting GE: Shared Services

AS WITNESS:

For ETDP SETA

Signed at the **ETDP SETA House, Ghandi Square** on 21 September 2021

For and on behalf of **ETDP SETA**:

Sign:  _____

Ms Nombulelo Nxesi

Chief Executive Officer

AS WITNESS:



SCHEDULE 1:

SCHEDULE OF PAYMENTS AND ASSOCIATED DELIVERABLES

OVERVIEW

1. The ETDP SETA will only make payment to HSRC once all the requirements and deliverables noted in this Schedule 1 have been fulfilled.
2. HSRC **must** invoice ETDP SETA; and/ or submit all full qualification documents.
3. Payments will be processed on **completion** of the agreed training as per the deliverables described and the evidence provided for part qualifications.
4. Payments for full qualifications/ bursaries will be processed

Approved programme details

Approved programme/s	No. of Learners	Approved Cost
Skills development programmes	A minimum of 18 learners at a maximum of R50 000 per learner	R900 000.00

1. Part Qualifications:

Schedule of Payments	Deliverables
100% payment	1. Complete and correct documents for all learners submitted to the ETDP SETA; 2. Database of all learners; 3. Attendance registers; 4. Training must have been 100% completed; 5. Training report; 6. Monitoring report (with SETA); 7. Copies of certificates/ Statements of Results as; evidence of attending and completing training; 8. Proof of banking details and 9. Invoice from HSRC to the ETDP SETA.

2. Full qualifications/ Bursaries:

Schedule of Payments	Deliverables
100% payment	1. Complete and correct documents for all learners submitted to the ETDP SETA; 2. Current statement from the service provider;

SCHEDULE 2 – IMPLEMENTATION PLAN AND TIMEFRAMES

Programme details

Part Qualifications:

Name of programme	
Number of learners	
Approved cost of training	
NQF Level (if available)	
Credits (if available)	
Duration of training	
Training provider	
Provider accreditation number	

KEY DELIVERABLES	PERIOD OF IMPLEMENTATION	
	START DATE	END DATE
1. Identify learners to participate in the skills development programmes.		
2. Each learner to complete the ETDP SETA Commitment form and include: • Certified copy of ID • Certified copy of highest qualification • Proof of employment for each learner • These documents shall be completed and collected before the start of the training sessions. • HSRC will be responsible for the completion of an attendance register at each training intervention, to be completed in full and signed by each learner for all days attended. • HSRC will supply a training report for the training conducted. This may be developed by the training provider and should specify the learner results and challenges experienced.		

3. HSRC will be responsible for the payment of all services related to the training contained and stipulated in this agreement to the contracted training provider.		
4. HSRC will appoint the service provider to conduct the approved training as per the MOA.		
5. The service provider and HSRC agree on an implementation plan that includes dates, venues and deliverables.		
6. All learner documents are submitted to ETDP SETA		
7. Training report is submitted		
8. HSRC pays the service provider.		
9. HSRC invoices the ETDP SETA as per the MOA.		

Full Qualifications/ bursaries:

No of learners:	Training provider:	Total budget:
Full qualification:		
Part qualification:		

KEY DELIVERABLES	PERIOD OF IMPLEMENTATION	
	START DATE	END DATE
1. Identify learners to participate in the skills development (bursary) programme.		
2. Each learner to complete the ETDP SETA Bursary form and include: • Certified copy of ID • Certified copy of highest qualification • Proof of employment for each learner • Proof of registration • A currently dated statement from the training provider • These documents shall be completed and collected before the start of the programme and given to the ETDP SETA.		
3. All bursary documents are submitted to ETDP SETA		

Implementation summary:

Programme:	No of learners:	Total Budget:
	Total:	Total:

Please note: The total budget should not exceed the allocation as reflected in point 6 of the MOA.

