



NEC3 Professional Services Contract (PSC3)

**Contract between Eskom Holdings SOC Limited
(Reg No. 2002/015527/30)**

and

Reg No.

**for The Review of Eskom's Culture Transformation
Programme**

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CONTRACT No.:

VENDOR No.:

PART C1: AGREEMENTS & CONTRACT DATA

Document reference	Title	No of pages
C1.1	Form of Offer & Acceptance	[2]
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C1.1 Form of Offer & Acceptance

Offer

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

Review of Eskom's Culture Transformation Programme

The supplier, identified in the Offer signature block, has,

<i>either</i>	examined the documents listed in the Tender Data and addenda thereto as listed in the Returnable Schedules, and by submitting this Offer has accepted the Conditions of Tender.
<i>or</i>	examined the draft contract as listed in the Acceptance section and agreed to provide this Offer.

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 *Consultant* 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	As per task orders
Value Added Tax @ 15% is	As per task orders
The offered total of the Prices inclusive of VAT is	As per task orders
As per task orders (option G)	

This Offer may be accepted by the Employer by signing the Acceptance part of this Form of Offer and Acceptance and returning one copy of this document including the Schedule of Deviations (if any) to the tenderer before the end of the period of validity stated in the Tender Data, or other period as agreed, whereupon the tenderer becomes the party named as the *Consultant* in the *conditions of contract* identified in the Contract Data.

Signature

Name

Capacity

**For the
Supplier:**Name &
signature of
witness

Date

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 Consultant the amount due in accordance with the *conditions of contract* identified in the Contract Data. Acceptance of the tenderer's Offer shall form an agreement between the Employer and the tenderer upon the terms and conditions contained in this agreement and in the contract that is the subject of this agreement.

The terms of the contract, are contained in:

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

This may be incorporated by reference into the above listed Parts.

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

The Supplier shall within One month 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 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 original copy of this document, including the Schedule of Deviations (if any).

Signature

Name(s)

Capacity

TBA

for the
Employer

Eskom Holdings SOC Ltd, Megawatt Park, Maxwell Drive, Sandton, Johannesburg, 2199

Name &
signature of
witness

Date

C1.2 PSC3 Contract Data

Part one - Data provided by the *Employer*.

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for main Option	
		G: Term contract
	dispute resolution Option	W1: Dispute resolution procedure
	and secondary Options	X2 Changes in the law
		X7: Delay damages
		X9: Transfer of rights
		X10 Employer's Agent
		X11: Termination by the <i>Employer</i>
		Z: Additional conditions of contract
	of the NEC3 Professional Services Contract (June 2005) ¹ with amendments June 2006	
10.1	The <i>Employer</i> is (Name):	Eskom Holdings SOC Limited (Reg no: 2002/015527/30), a juristic person incorporated in terms of the company laws of the Republic of South Africa
	Address	Registered office at Megawatt Park, 1 Maxwell Drive, Sandton, Johannesburg
	Tel No.	011 800 8111
	Fax No.	n/a
11.2(9)	The <i>services</i> are	The Review of Eskom's Culture Transformation Programme
11.2(10)	The following matters will be included in the Risk Register	N/A
11.2(11)	The Scope is in	Part C3 of this document

12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa	
13.1	The <i>language of this contract</i> is	English	
13.3	The <i>period for reply</i> is	One business day	
13.6	The <i>period for retention</i> is	12 to 18 months subject to budget availability and scope review	
2	The Parties' main responsibilities		
25.2	The <i>Employer</i> provides access to the following persons, places and things	access to	<i>access date</i>
		1	Relevant documentation relating to the Culture Review
			As per task orders
3	Time		
31.2	The <i>starting date</i> is:		
11.2(3)	The <i>completion date</i> for the whole of the services is:		
11.2(6)	The <i>key dates</i> and the <i>conditions</i> to be met are:	Condition to be met	<i>key date</i>
		1	As per task orders
			As per task orders
31.1	The Supplier/ <i>Consultant</i> is to submit a first programme for acceptance within	7 days after receiving each task order	
32.2	The Supplier/ <i>Consultant</i> submits revised programmes at intervals no longer than	7 days after receiving each task order	
4	Quality		
4.1	The quality policy statement and quality plan are provided within	n/a	
4.2	The <i>defects date</i> is	As per the contract Agreement	
5	Payment		
5.1	The <i>assessment interval</i> is	From the 07th day of each month to the 07 th day of the subsequent month.	
5.2	The <i>expenses</i> stated by the <i>Employer</i> are	Item	Amount
		As per the task order	As per the task order
5.3	The period within which payments are made is	Thirty (30) days from date of invoice.	
5.4	The <i>currency of this contract</i> is the	South African Rand	

5.5	The <i>interest rate</i> is	(i) zero percent above 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 (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 Rand and (ii) the LIBOR rate applicable at the time for amounts due in other currencies. LIBOR is the 6 month London Interbank Offered Rate quoted under the caption "Money Rates" in The Wall Street Journal for the applicable currency or if no rate is quoted for the currency in question then the rate for United States Dollars, and if no such rate appears in The Wall Street Journal then the rate as quoted by the Reuters Monitor Money Rates Service (or such service as may replace the Reuters Monitor Money Rates Service) on the due date for the payment in question, adjusted <i>mutatis mutandis</i> every 6 months thereafter (and as certified, in the event of any dispute, by any manager employed in the foreign exchange department of The Standard Bank of South Africa Limited, whose appointment it shall not be necessary to prove.		
6	Compensation events	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.		
7	Rights to material	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.		
8	Indemnity, insurance and liability	n/a		
81.1	The amounts of insurance and the periods for which the <i>Consultant</i> maintains insurance are	n/a		
	Event	Cover	Period following Completion of the whole of the <i>services</i> or earlier termination	
	Liability for failure by the Supplier/ <i>Consultant</i> to use the skill and care normally used by professionals providing services similar to the <i>services</i>	Whatever the Supplier/ <i>Consultant</i> deems necessary in respect of each claim, without limit to the number of claims	See Notes to Consultants in Annexure A	

	death of or bodily injury to a person (not an employee of the <i>Consultant</i>) or loss of or damage to property arising from or in connection with the <i>Consultant's</i> Providing the Services.	Whatever the <i>Consultant</i> deems necessary for any occurrence or series of occurrences arising out of one event without limit to the number of claims.	See Notes to Consultants in Annexure A
	death of or bodily injury to employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with this contract	As prescribed by the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 and the <i>Consultant's</i> common law liability for people falling outside the scope of the Act with a limit of indemnity of not less than R500 000-00 (five hundred thousand) in respect of each claim, without limit to the number of claims	As <i>Consultant</i> deems necessary
8.1.1	The <i>Employer</i> provides the following insurances	n/a.	
8.2.1	The <i>Consultant's</i> total liability to the <i>Employer</i> for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	The total of the prices.	
	The <i>Consultant</i> provides these additional insurances.		
	1 Insurance against:	n/a	
9			
10	Data for main Option clause		
G	Term contract		
10.2	The <i>Consultant</i> prepares forecasts of the total Time Charge and <i>expenses</i> at intervals no longer than	As per monthly task orders and training schedules	
11	Data for Option W1		
W1.1	The <i>Adjudicator</i> is (Name)	The person selected from the Eskom Panel of Adjudicators listed in Annexure C to this Contract Data by the Party intending to refer a dispute to him.	
W1.2(3)	The <i>adjudicator nominating body</i> is:	The Chairman of the Joint Civils Division of the South African Institution of Civil Engineering or its successor body. (See www.jointcivils.co.za).	

W1.4(2)	The <i>tribunal</i> is:	arbitration
W1.4(5)	The <i>arbitration procedure</i> is	The latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.
	The place where arbitration is to be held is	Any Official selected place in South Africa
	The person or organisation who will choose an arbitrator	
	• if the Parties cannot agree a choice or • if the <i>arbitration procedure</i> does not state who selects an arbitrator, is	The Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.
12	Data for secondary Option clauses	
	The index is	Consumer Price Index (CPI) as published by Stats SA, which is STATSSA P0141 CPI Headline (All Items). Base date is a month prior to tender closing
X2	Changes in the law	
X2.1	The law of the project is	The Law of the Republic of South Africa
X7	Delay damages	n/a
X7.1	Delay damages for late Completion of the whole of the <i>services</i> are	n/a
X10	The <i>Employer's Agent</i>	
X10.1	The <i>Employer's Agent</i> is	
	Name:	Ms Shelley George
	Address	Group Human Capital Megawatt Park 1 Maxwell Drive Sunninghill
	The authority of the <i>Employer's Agent</i> is	To carry out all the actions of the Employer in this contract
X11	Termination by the <i>Employer</i>	If the supplier fails to deliver training as per this agreement and scope of work.
X18.1	The Supplier/ <i>Consultant's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to:	Limited to the total prices of the project.

X18.2	The Supplier/ <i>Consultant's</i> liability to the <i>Employer</i> for Defects that are not found until after the <i>defects date</i> is limited to:	Total of the prices.
X18.3	The <i>end of liability date</i> is	One year after Completion of the full scope of work
Z	The <i>Additional conditions of contract</i> are	Z1 to Z11 always apply.
Z1	Cession delegation and assignment	
Z1.1	The <i>Consultant</i> does not cede, delegate, or assign any of its rights or obligations to any person without the written consent of the <i>Employer</i> .	
Z1.2	Notwithstanding the above, the <i>Employer</i> may on written notice to the Supplier/ <i>Consultant</i> cede and delegate its rights and obligations under this contract to any of its subsidiaries or any of its present divisions or operations which may be converted into separate legal entities because of the restructuring of the Electricity Supply Industry and the Electricity Distribution Industry.	
Z2	Joint ventures	
Z2.1	If the Supplier/ <i>Consultant</i> constitutes a joint venture, consortium, or other unincorporated grouping of two or more persons or organisations then these persons or organisations are deemed to be jointly and severally liable to the <i>Employer</i> for the performance of this contract.	
Z2.2	Unless already notified to the <i>Employer</i> , the persons or organisations notify the <i>Employer</i> within two weeks of the Contract Date of the key person who has the authority to bind the <i>Consultant</i> / Supplier on their behalf.	
Z2.3	The <i>Consultant/ Supplier</i> does not substantially alter the composition of the joint venture, consortium, or other unincorporated grouping of two or more persons without the consent of the <i>Employer</i> having been given to the <i>Consultant</i> in writing.	
Z3	Change of Broad Based Black Economic Empowerment (B-BBEE) status	
Z3.1	Where a change in the Supplier/ <i>Consultant's</i> legal status, ownership or any other change to his business composition or business dealings results in a change to the Supplier/ <i>Consultant's</i> B-BBEE status, the <i>Consultant</i> notifies the <i>Employer</i> within seven days of the change.	
Z3.2	The <i>Consultant</i> is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the <i>Employer</i> within thirty days of the notification or as otherwise instructed by the <i>Employer</i> .	
Z3.3	Where, as a result, the Supplier/ <i>Consultant's</i> B-BBEE status has decreased since the Contract Date the <i>Employer</i> may either re-negotiate this contract or alternatively, terminate the <i>Consultant's</i> obligation to Provide the Services.	
Z3.4	Failure by the Supplier/ <i>Consultant</i> to notify the <i>Employer</i> of a change in its B-BBEE status may constitute a reason for termination. If the <i>Employer</i> terminates in terms of this clause, the procedures on termination are those stated in core clause 91. The payment on termination includes a deduction of the forecast of the additional cost to the <i>Employer</i> of completing the whole of the <i>services</i> in addition to the amounts due in terms of core clause 92.1.	

Z4 Ethics

Z4.1 Any offer, payment, consideration, or benefit of any kind made by the Supplier/*Consultant* which constitutes or could be construed either directly or indirectly as an illegal or corrupt practice, as an inducement or reward for the award or in execution of this contract constitutes grounds for terminating the Supplier/*Consultant's* obligation to Provide the Services or taking any other action as appropriate against the *Consultant* (including civil or criminal action).

Z4.2 The *Employer* may terminate the *Consultant's* obligation to Provide the Services if the Supplier/*Consultant* (or any member of the *Consultant* where the Supplier/*Consultant* constitutes a joint venture, consortium, or other unincorporated grouping of two or more persons or organisations) is found guilty by a competent court, administrative or regulatory body of participating in illegal or corrupt practices.

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

Z4.3 If the *Employer* terminates in terms of this clause, the procedures on termination are those stated in core clause 91. The payment on termination includes a deduction of the forecast of the additional cost to the *Employer* of completing the whole of the services in addition to the amounts due in terms of core clause 92.1.

Z5 Confidentiality

Z5.1 The Supplier/*Consultant* does not disclose or make any information arising from or in connection with this contract available to Others. This undertaking does not, however, apply to information which at the time of disclosure or thereafter, without default on the part of the *Consultant*, enters the public domain or to information which was already in the possession of the Supplier/*Consultant* at the time of disclosure (evidenced by written records in existence at that time). Should the Supplier/*Consultant* disclose information to Others in terms of clause 23.1, the *Consultant* ensures that the provisions of this clause are complied with by the recipient.

Z5.2 If the Supplier/*Consultant* is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the *Employer*.

Z5.3 In the event that the Supplier/*Consultant* is, at any time, required by law to disclose any such information which is required to be kept confidential, the Supplier/*Consultant*, 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. If such protective order is not, or cannot, be obtained, then the Supplier/*Consultant* may disclose that portion of the information which it is required to be disclosed by law and uses reasonable efforts to obtain assurances that confidential treatment will be afforded to the information so disclosed.

Z5.4 The taking of images (whether photographs, video footage or otherwise) of the *Employer's* project works or any portion thereof, in the course of Providing the Services and after Completion, requires the prior written consent of the *Employer*. All rights in and to all such images vests exclusively in the *Employer*.

Z6 Waiver and estoppel: Add to core clause 12.3:

Z6.1 Any extension, concession, waiver or relaxation of any action stated in this contract by the Parties, or the *Adjudicator* does not constitute a waiver of rights and does not give rise to an estoppel unless the Parties agree otherwise and confirm such agreement in writing.

Z7 Provision of a Tax Invoice. Add to core clause 51

- Z7.1 The Supplier/*Consultant* (if registered in South Africa in terms of the companies Act) is required to comply with the requirements of the Value Added Tax Act, no 89 of 1991 (as amended) and to include the *Employer's* VAT number 4740101508 on each invoice he submits for payment.

Z8 Notifying compensation events

- Z8.1 Delete from the last sentence in core clause 61.3, "unless the *Employer* should have notified the event to the Supplier/*Consultant* but did not".

Z9 *Employer's* limitation of liability

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

Z10 Termination: Add to core clause 90.1, at the second main bullet point, fourth sub-bullet point, after the words "against it":

- Z10.1 Or had a judicial management order granted against it.

Z11 Delay damages: Addition to secondary Option X7 Delay damages (if applicable in this contract)

- Z11.1 If the *Consultant's* payment of delay damages reaches the limits stated in this Contract Data for Option X7 or Options X5 and X7 used together, the *Employer* may terminate the *Consultant's* obligation to Provide the Services.
- Z11.2 If the Employer terminates in terms of this clause, the procedures on termination are those stated in core clause 91. The payment on termination includes a deduction of the forecast of the additional cost to the Employer of completing the whole of the services in addition to the amounts due in terms of core clause 92.1.

Z12 Non-Solicitation clause

- Z12.1 Both Parties agrees not to utilize, engage, solicit for hire, or hire any individual who provided Services to Customer under this Agreement for a period of six (6) months after the termination of this Agreement under which the individual performed the Services.

However, should a position be advertised in the press, and the individual gets appointed as a result of his/her response to said advert, Eskom will not be held liable for any placement fees

Annexure A: Notes to Consultants

This is guidance to Suppliers/Consultants to assist their decision making about what cover to arrange in the insurance to be provided by the Consultant. The guidance is not part of the contract, and the Employer carries no liability for it.

1. For the purpose of works contracts, insurance provided by Eskom (the *Employer*) has been arranged on the basis of "project" or "contract" value, where the value is the total of the Prices at Completion of the whole of the works including VAT.

A "project" is a collection of contracts or work packages to be undertaken as part of a single identified capital expansion or refurbishment of a particular asset or facility.

A "contract" is a single contract not linked to or being part of a "project".

2. There are three main "formats" of cover and deductible structure: Format A, Format B and Format Dx.

Format A is for a project or contract value less than or equal to R350M (three hundred and fifty million Rand) inclusive of VAT.

Format B is for a project or contract value greater than R350M. (three hundred and fifty million Rand) inclusive of VAT.

In the case of contracts / packages within a project:

- For a contract / package of R50M which is part of a R400M project, Format B will apply
- For a contract / package of R250M which is part of a R6 billion project, Format B will apply
- For a contract / package of R120M which is part of a R350M project Format A will apply

For a contract which is not part of a project the same limits apply:

- For a contract of R350M, Format A will apply
- For a contract of R355M, Format B will apply.

Format A generally applies to Transmission Division projects and contracts. If a Transmission Division project or contract exceeds the Format A limit, the Eskom Insurance Management Services [EIMS] need to be contacted for advice on how to formulate the insurance cover.

3. **Further information and full details of all Eskom provided policies and procedures may be obtained from:**

<http://www.eskom.co.za/>

4. The Insurance which the *Consultant* is to provide against his liability for claims made against him arising out of his failure to use reasonable skill and care (first row in the Insurance Table of clause 81.1 in the PSC3) should also indemnify the *Consultant* for those sums which he could become legally liable to pay as damages arising from any claim first made against him and reported to Insurers some time after Completion of the whole of the *services*. Hence the *Consultant* needs to ensure that his cover is in place at least until all his liabilities under the contract have expired. Such claims could arise out of any negligent act, error or omission committed or alleged to have been committed by the *Consultant* in the conduct of professional services in connection with the contract.

C1.2 Contract Data

Clause	Statement	Data								
10.1	The Supplier: Address: Tel No; Fax No.									
22.1	The Supplier’s <i>key persons</i> are: 1 Name: Job: Responsibilities: Qualifications: Experience: 2 Name: Job Responsibilities: Qualifications: Experience:									
Info.		CV's (and further <i>key persons</i> data including CVs) are appended to Tender Schedule entitled .								
11.2(3)	The <i>completion date</i> for the whole of the <i>services</i> is	Twelve (12) months upon signature of this contract by both parties								
11.2(10)	The following matters will be included in the Risk Register									
11.2(13)	The <i>staff rates</i> are:	<table><tr><th>name/designation</th><th>Rate</th></tr></table>	name/designation	Rate						
name/designation	Rate									
Refer to Part C2										
25.2	The <i>Employer</i> provides access to the following persons, places and things	<table><tr><th>Names of trainers/instructors</th><th>access date</th></tr><tr><td>1</td><td></td></tr><tr><td>2</td><td></td></tr><tr><td>3</td><td></td></tr></table>	Names of trainers/instructors	access date	1		2		3	
Names of trainers/instructors	access date									
1										
2										
3										

31.1	The services identified in the Contract Data is	The Provision of Job Boards for Eskom to place and manage job adverts for a period of 5 years.	
50.3	The <i>expenses</i> stated by the <i>Consultant</i> are	Item	amount
G	Term contract		
11.2(25)	The <i>task schedule</i> is in		

PART 2: PRICING DATA
PSC3 Option G

Review of Eskom’s Culture Transformation Programme					
					Amount (ZAR)

C2.1 Pricing assumptions: Option G

PRICES AGENCY REMUNERATION:

Through a process of negotiation, the Parties have agreed that the following prices will apply for the period:

Preamble

- 1.1 The Supplier is appointed for the review of the Eskom Culture Transformation Programme as per scope in Part C3.
- 1.2 For the purposes of this agreement, the following definitions shall apply:
 - 1.1.1. Task Order is defined as an Employer approved cost estimate.
 - 1.1.2. Task Schedule is defined as an Employer approved project/campaign timing plan.
- 1.3 The content and format of a Cost Estimate and project/campaign timing plan will be included in the Service Level Agreement.
- 1.4 The prices exclude VAT.

1. Services

The service will be for the review of the Eskom Culture Transformation Programme for the period of 12 months as listed in the Scope of work

The Parties have agreed to a period of 12 months from START DATE: till END DATE, based on the budget information. The Supplier/Consultant will be entitled to charge per person for the course using the negotiated and concluded prices.

1.1. The Supplier will provide the following services – refer to scope of work C3

1.2. Rebates And Discounts

- 1.2.1. The *Consultant* shall ensure that all volume discounts and rebates in respect of all *Employer*-related third-party costs, including, without limitation, costs incurred in the production process of generating communication shall revert and be passed on by the *Consultant* to the *Employer*.

1.3. Cost Management and Reconciliations

- 1.3.1. It is the obligation of the *Consultant* to manage costs within approved purchase order values, including costs of third-party suppliers.
- 1.3.2. If it becomes evident that a purchase order value will be exceeded without a change to the scope of work requested by the *Employer*, the *Consultant* is required to issue a revised cost estimate to the *Employer* together with reasons for the anticipated increase in cost.

- 1.3.3. The *Employer* is under no obligation to accept the revised cost estimate and may request the *Consultant* to continue to deliver the work as per the original purchase order value, in which case the increased cost must be borne by the *Consultant*.
- 1.3.4. The *Consultant* is required to perform quarterly reconciliations between actual costs charged by third party suppliers and the cost estimates and invoices issued by the *Consultant* to the *Employer*.
- 1.3.5. Should an overcharge greater than R1000 arise between the actual cost charged by a third-party supplier and the invoice issued by the *Consultant* to the *Employer*, the *Consultant* will issue the *Employer* with a credit note for the overcharge.
- 1.3.6. Should an undercharge greater than R1000 arise between the actual cost charged by a third-party supplier and the invoice issued by the *Consultant* to the *Employer*, the *Consultant* will be entitled to issue the *Employer* with an additional invoice for the undercharge subject to clauses and above.
- 1.3.7. In the event that the *Consultant* sub-contracts to third parties for the performance of any of the Services, it shall ensure that no mark-ups are added to any resource related charges so that costs are not increased and so that the *Employer* shall not pay more than it would have paid the *Consultant* had the *Consultant* itself executed such sub-contracted work.

1.4. Cost Estimates

- 1.4.1. For avoidance of doubt all Cost Estimates approved by the *Employer* are considered as final unless the parties agree upon request of the *Employer* to a change in the scope of the services.
- 1.4.2. Approved Cost Estimates will be deemed as final and binding communications with respect to the services or assignments covered by such Cost Estimates and should only be modified or altered by writing and signed by both parties.
- 1.4.3. In the performance of the Services, should the service provider receive any commissions, retrospective volume credits, rebates, or other similar payments relating to the utilisation or purchase of a Third-Party services, save for those which the service provider receives directly for and on behalf of the *Employer* from a Third-Party account, shall not modify or alter the Cost Estimate arrangement.

1.5. Invoicing and payment

The Supplier/*Consultant* shall address the tax invoice to **Eskom Holdings SOC Limited** and include on it the following information:

- Name and address of the *Consultant* and the *Employer's Agent*.
- The contract number and title.
- *Consultant's* VAT registration number.
- *Consultant's* vendor number
- *Consultant's* contact information

- The *Employer's* VAT registration number 4740101508.
- Invoice Number & Date.
- Clear description of provided training; number of people trained; Training Requestor and location.
- Attendance register, google map to verify travelled and claimed KMs and any other proof of payment for Accommodation & flights to be attached (submitted to ordering party with Completion Certificate)

1.6. Audit

- 1.6.1. In respect of all expenditure which is reimbursable by the *Employer* under this Contract the Supplier/*Consultant* shall maintain such accounts and records as are reasonably necessary, but no longer than 5 (five) years, for the purpose of enabling the *Employer* to conduct an audit of that expenditure.
- 1.6.2. The Supplier/*Consultant* will allow the *Employer's* own personnel or a professionally qualified independent auditor access to all records during the term and for 3 (three) months afterwards on not less than 30 (thirty) days' notice at any time during normal business hours for the purpose of auditing or otherwise inspecting them.
- 1.6.3. Should any audit or inspection of the records by the *Employer* reveal that the *Employer* has been overcharged, the Supplier/*Consultant* will reimburse the *Employer* the amount of the overcharge within 30 (thirty) days and interest calculated at prime rate charged by the *Employer's* banker on overdraft facilities plus 0% (zero percent) per annum.
- 1.6.4. The Supplier/*Consultant* will afford to the *Employer* all reasonable assistance in the carrying out of such audit, whilst the *Employer* and its auditors will ensure that any information obtained in the course of the audit concerning the Supplier/*Consultant's* business is kept in the strictest confidence and not used for any purpose other than the proper conduct of the audit.

1.7. Travel and Sustenance cost

1.7.1. The Supplier/Consultant shall make all the travelling and arrangement, pay for such and later **claim for such as reimbursement** (as non-VAT item and for all services where no VAT was paid by the Supplier) from Eskom following the above stipulated invoicing process.

1.7.2. The Supplier/Consultant shall follow the below stipulated rates when claiming for training delivery related costs from the Employer under this contract:

Travelling KM's	- The Supplier/Consultant shall not claim for travelling km if their offices are within 50km radius from the Employer/Eskom training site. - Supplier/Consultant must submit to the Employer's Agent their national footprint map indicating areas where they have Offices and Facilitators. - Claims from the Supplier's office outside the 50 km radius must be from the Supplier's workplace/offices to the Eskom training site/venue. Claims must specify the office area/city from where the Supplier/Consultant/Facilitator is travelling and the area/training site to which they are travelling for training delivery reasons. - Kilometres from the Supplier/Consultant/Facilitators home to Eskom training site cannot be claimed
KM rates	R3.60/km
Car rental	- Car rental only allowed where the Facilitator will be moving from The Airport to the Training Venue and to the Accommodation Facility. - Any car rental request will only be approved by The Employer's Agent under unforeseen circumstances for training delivery purposes only. - Group B or Similar with: - At least have 2 airbags, - Air-conditioning - ABS brakes for safety purposes

Accommodation	Maximum 3-star hotel or Bed and Breakfast with lunch and dinner costs at Eskom rates.
Flights	Economy Class

SDL&I - Undertakings:

- Skills and Development:
For every R1 000 000.00 received from Eskom one person must be trained (e.g., Facilitator, Moderator & Assessor, or office administrator)
- 100% local content

Part C3: Scope of Work

1. Below is a breakdown of the scope of work including key deliverables and associated activities as well as relevant outcomes per deliverable:

Deliverable 1: Review of the Eskom organisational culture transformation programme including strategy, framework, implementation plan and tracking mechanisms

Activities:

1. Conduct a review of the current Eskom organisational culture programme
2. Conduct a benchmarking exercise of culture transformation programmes implemented by organisations comparative in terms of industry and workforce size, leveraging global and local best practices
3. Identify potential gaps within the existing culture transformation programme that need to be addressed to support Eskom's purpose of powering growth sustainably

Outputs:

1. Provide a comprehensive report detailing outcomes and practical, fit-for-purpose recommendations from the review including the benchmarking exercise and the desired organisational culture to support Eskom's purpose.

Deliverable 2: Development of an action plan to support the outcomes of the Culture Review

Activities:

1. Proposed actions/ initiatives from the review must be simple, relatable and actionable
2. Ensure that priority behaviours and simple actions per employee level that will drive desired organisational culture are specified
3. Ensure that the identified metrics, tracking mechanisms and actions to pursue the desired organisational culture, are relevant and customised per division/subsidiary whilst ensuring alignment to the overarching Eskom parent company
4. Ensure that action plans are aligned to Eskom corporate strategy, Eskom People Strategy and Eskom's Values (Zero Harm, Integrity, Innovation, Sinobuntu, Customer Satisfaction and Excellence)

Outputs:

1. Provide customised action plans per division/subsidiary to address any potential gaps to achieve the organisational culture aligned to specific targets identified
2. Provide a report detailing priority behaviours and simple actions per employee level to drive desired organisational culture
3. Provide a report that specifies and details the relevant and customised metrics, tracking mechanisms and actions per division/subsidiary to pursue the desired organisational culture whilst ensuring alignment to the overarching Eskom parent company

Deliverable 3: Review of the Eskom Organisational Culture Assessment Tool that supports the Eskom Culture Transformation Programme

Activities:

1. Conduct a review of the current Eskom culture assessment tool
2. Conduct a benchmarking exercise of culture assessment tools utilised by organisations comparative in terms of industry and workforce size, leveraging global and local best practices
3. Ensure that any potential gaps within the current culture assessment tool that need to be addressed to support Eskom's purpose of powering growth sustainably, are identified

Outputs:

1. Provide a comprehensive report detailing outcomes and practical, fit-for-purpose recommendations from the review of the culture assessment tool, including the benchmarking exercise

Deliverable 4: Development of an action plan to support the outcomes of the Eskom Organisational Culture Assessment Tool Review

Activities:

1. Proposed actions/ initiatives from the review must be simple, relatable and actionable
2. Ensure that the identified metrics and tracking mechanisms to be utilised by the Eskom parent company as well as the various divisions/subsidiaries to assess organisational culture are relevant, fit-for-purpose and customisable.
3. Ensure that detailed guidelines for the development of culture assessment action plans to address culture assessment gaps are aligned to Eskom corporate strategy, People Strategy and Values (Zero Harm, Integrity, Innovation, Sinobuntu, Customer Satisfaction and Excellence)
4. Ensure that the culture assessment tool roll-out process identified is clearly defined, and developed to be accessible and impactful, reaching all organisational levels
5. Ensure that the culture assessment tool accommodates Eskom's diverse workforce leveraging multi-channel platforms

Outputs:

1. Provide a comprehensive report detailing outcomes of the culture assessment review, including practical and fit-for-purpose recommendations including the benchmarking exercise
2. Provide recommendations for the culture assessment tool to be utilised
3. Provide a detailed action planning guideline for divisions & subsidiaries that is aligned to Eskom corporate strategy, Eskom People Strategy and Eskom's Values

Deliverable 5: Development of a change management and employee engagement plan to support the action plans for the reviews of the Eskom Organisational Culture as and the Culture Assessment Tool

Activities:

1. Ensure that customised change management and employee engagement plans per division/subsidiary are relevant, fit-for-purpose and aligned to Eskom's Change Management strategy and framework as well as the Eskom Employee Engagement Programme
2. All communication media and marketing collateral to support the change management and employee engagement plan must be simple and easy to understand at all occupational levels of the business
3. Ensure that the identified metrics, tracking mechanisms and actions to evaluate the effectiveness of the change management and employee engagement plan are relevant and customised per division/subsidiary whilst ensuring alignment to the overarching Eskom parent company.

Outputs:

1. Provide relevant, customised and fit-for-purpose change management and employee engagement plans for the action plans supporting the Eskom organisational culture Review as well as the review of the Eskom culture assessment tool. This should be done per division/subsidiary aligned to the Eskom parent company and Eskom's Change Management strategy and framework as well as the Eskom Employee Engagement Programme, that will support the culture assessment tool and recommended roll-out process
2. Provide the relevant metrics and tracking mechanisms to support each of these plans, that will enable the business to evaluate the effectiveness of the plans.

Deliverable 6: Knowledge management and transfer of skills to the relevant internal stakeholders.

Activities:

1. Development of a multi-channel Knowledge Management and Skills Transfer strategy and accompanying plan
2. Conduct/ execute Knowledge Management and Skills Transfer in accordance with strategy and plan

3. Ensure that the relevant metrics and tracking mechanisms are developed and optimised throughout the process, to evaluate the effectiveness of the Knowledge Management and Skills Transfer strategy.

Outputs:

1. Knowledge Management and Skills Transfer strategy and action plan
2. Provision of a Knowledge Management repository
3. Monthly report detailing the effectiveness of the Knowledge Management and Skills Transfer strategy
4. Relevant metrics and tracking mechanisms as per activity 3 above..

Interested service providers should include in their proposal:

- Understanding of the scope and approach to the work
- Project methodology and design principles
- Project plan and timelines
- Proposed team composition and relevant experience
- Overview of databases and benchmarks that will be utilised
- References and samples of similar work (Submit at least 3 strategy documents that were approved by a client with permission from client(s), and include contactable client references)
- Overview of methodologies and frameworks to be used per deliverable
- Fee structure and pricing model

Scope of Work Guiding Principles:

- Ensure benchmarking is conducted with comparative organisations in terms of industry and workforce size, and against global and local best practices.
- Ensure that all plans/ deliverables are aligned to the Eskom parent company whilst being customised for divisions/ subsidiaries.
- All plans/ deliverables must support Eskom's purpose of powering growth sustainably.
- Outcomes/ recommendations should be relevant, practical and fit-for-purpose.
- Actions/ initiatives must be simple, relatable and actionable.
- Action plans to be aligned to the Eskom Corporate Strategy, Eskom People Strategy and Eskom's Values (Zero Harm, Integrity, Innovation, Sinobuntu, Customer Satisfaction and Excellence).
- Communication media and marketing collateral must be simple and easy to understand.
- All plans/ deliverables to accommodate Eskom's diverse workforce

2. Payment

2.1 The Client shall pay the Service Provider the agreed fee of R15 million for the services provided under this contract.

2.2 Payment shall be made in accordance with the payment schedule set out in Schedule 1 of this contract.

3. Termination

3.1 Either party may terminate this contract by giving one month's written notice to the other party.

3.2 The Client may terminate this contract immediately if the Service Provider fails to perform any of its obligations under this contract.

4. Confidentiality

4.1 The Service Provider shall keep confidential all information relating to the Client's business and shall not disclose such information to any third party without the Client's prior written consent.

5. Governing Law

5.1 This contract shall be governed by and construed in accordance with the laws of [Jurisdiction].

IN WITNESS WHEREOF, the parties hereto have executed this contract as of the day and year first above written.

[Client Name] [Service Provider Name]

By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____