

Schedule D (Charges)

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INSTRUCTIONS FOR RESPONDING TO THIS DOCUMENT:

General Guidelines

- These RFP documents contain the key legal terms and conditions that the Supplier will be required to comply with in relation to this Project.
- Eskom requires the Supplier to comply with the requirements as written, and compliance with these RFP documents will be a critical component of Supplier’s response to the RFP.
- The Supplier must complete Schedule Q (Supplementary Terms), as it is a mandatory requirement. Non-compliance will result in the Supplier being disqualified from further evaluation.

1. GENERAL

- 1.1. This Schedule D (Charges) describes how the Charges payable by Eskom to the Supplier pursuant to this Agreement will be calculated and invoiced.
- 1.2. The following provisions of this Agreement set out the charges and other amounts payable by Eskom to the Supplier in relation to this Agreement (the “**Charges**”):
 - 1.2.1. this Schedule D (Charges) (and the Appendices to this Schedule D (Charges)); and
 - 1.2.2. express references in this Agreement to repaying particular costs incurred by the Supplier.
- 1.3. The amounts due under this Agreement, as further described in this Schedule D (Charges) are as follows:
 - 1.3.1. the “**Core Charges**” comprising the following:
 - 1.3.1.1. the Fixed Charges specified in Appendix D-2 (Fixed Charges);
 - 1.3.1.2. the PxQ Charges, calculated in accordance with Appendix D-1 (Billable Unit Descriptions and Counting Rules);
 - 1.3.1.3. the Other Charges set out in section 1 of this Schedule D (Charges); and
 - 1.3.1.4. as such Charges may be adjusted in accordance with section 5 and together with any applicable taxes on the foregoing, as set out in section 1.5.
 - 1.3.2. The Parties agree that the Charges calculated in accordance with the provisions referred to in section 1.2 are the only amounts payable by Eskom to the Supplier in relation to this Agreement and that no other charges, or expenses, costs or other amounts

incurred by the Supplier in performing the Services and other obligations pursuant to this Agreement, will be additionally chargeable to Eskom.

1.4. Pricing Principles

1.4.1. The Parties agree that the pricing mechanisms set out in this Schedule D (Charges) are intended to:

1.4.1.1. be straightforward, benchmarkable, auditable and capable of withdrawal or extraction;

1.4.1.2. provide predictable pricing with no unanticipated or hidden charges;

1.4.1.3. remain market competitive throughout the Term;

1.4.1.4. be capable of accommodating changes in Eskom's business, policies and requirements during the Term (including where required as a result of the divestiture or acquisition of businesses); and

1.4.1.5. be capable of accommodating any withdrawal of Service or partial withdraw or renewal of Service as contemplated in the Agreement.

1.4.1.6. be adjustable where a Tool or platform supports multiple services, the charge of such tool shall be apportioned based on the percentage of utilisation by each Service. Upon withdrawal of any service, the associated charge shall be removed from the total service Charge.

1.4.2. Such withdrawal effected shall not trigger penalties, minimum volume commitments, or cross-charges for shared tools, provided the remaining services continue to utilise the tool.

1.4.3. The Supplier will apply its pricing methodology fairly throughout the Term so as not to recover the Supplier's fixed costs and overheads more than once from Eskom. Without limiting the generality of the foregoing:

- 1.4.3.1. to the extent that the Supplier provides Service Personnel or other resources for the Services on a dedicated basis which are charged through the pricing mechanisms described in section 3.1, the Supplier shall not be entitled to charge Eskom using the same Service Personnel or resources for separately charged New Services Projects; and
 - 1.4.3.2. if a reduction in Eskom's requirements in one element of the Services can be offset against an increase in Eskom's requirements in another element of the Services, but the pricing methodology would have the effect of allowing the Supplier to recover associated overhead items twice, the Supplier will adjust the Charges accordingly to ensure that such double recovery is not made.
- 1.4.4. Eskom expects the Supplier to propose to Eskom through the appropriate governance forum referred to in Appendix E-1 (Committees and Key Management Meetings), during the Term, efficiencies (including the use of new or different technology and processes) and other savings that the Supplier is able to introduce in providing the Services.
- 1.4.5. Save to the extent that expenses are recoverable by the Supplier pursuant to section 4.1.3.5 in relation to New Services Projects, no other expenses incurred by the Supplier in providing the Service will be reimbursable by Eskom.
- 1.4.6. Where Charges are linked to software licenses or usage-based metrics, the Supplier shall [on a bi-annual basis] evaluate the actual usage by Eskom against any contracted metrics, reduce the Charges and or minimum consumption volumes without imposing penalties, minimum volume commitments, or fixed charge obligations. The Charges shall be adjusted proportionally to reflect the reduced usage, and Eskom shall not be liable for any unused license capacity.
- 1.5. Taxes
 - 1.5.1. All Charges and rates set out in this Schedule D (Charges) are exclusive of all applicable taxes payable in respect of the provision of the Services such as VAT or sales taxes. Where such taxes are properly chargeable on the supply of Services made pursuant to this Agreement, Eskom will be responsible for paying such taxes on production of valid tax invoices by the Supplier.

- 1.5.2. Each Party will be responsible for any of their own applicable taxes as follows:
- 1.5.2.1. for any personal property taxes on property, Equipment or Software which it has financial responsibility for (including taxes for which it has Software capital or Equipment capital);
 - 1.5.2.2. arising in relation to its employees or contractors;
 - 1.5.2.3. based upon its net income or gross receipts; and
- 1.5.3. The Supplier will be responsible for all sales, use, excise, value added, services, consumption and other taxes when due to be payable on any goods or services used or consumed in providing the Services where the taxes are imposed on its acquisition or use of such goods or its provision of such Services.
- 1.5.4. All Charges will be inclusive of any import or export duties and charges levied by relevant taxation authorities on goods delivered to Eskom.
- 1.5.5. The Supplier will cooperate with Eskom in relation to Invoices rendered in accordance with this Agreement to:
- 1.5.5.1. enable Eskom to more accurately determine its tax liability and to ensure Eskom will be liable only for taxes that are due in accordance with Applicable Law; and
 - 1.5.5.2. address any claims asserted by the taxation authority, including assisting Eskom in the challenge of any imposition of taxes.
- 1.5.6. The following provisions will apply, should any payment in respect of any Invoice for the provision of Services be subject by Applicable Law to any withholding tax:

- 1.5.6.1. Eskom will make payment to the Supplier of the amount owing less a deduction for such withholding tax and will account to the relevant taxation authority for the appropriate withholding tax;
 - 1.5.6.2. payment of such net sum to the Supplier and of the withholding tax to the relevant taxation authority will constitute full settlement of the sums owing pursuant to the relevant Invoice;
 - 1.5.6.3. on written request from the Supplier to Eskom, and at the Supplier's expense, Eskom will provide any necessary evidence that may be reasonably required of the payment of the relevant withholding tax; and
 - 1.5.6.4. The Supplier will, on written request from Eskom, provide a declaration of tax residence on the prescribed forms and obtain certification by the relevant taxation authority in order to confirm the applicability and availability of any reduced rate of withholding tax pursuant to the provisions of any relevant double taxation treaties.
- 1.5.7. If a payment due from an indemnifying Party pursuant to an indemnity given by a Party in this Agreement is subject to tax (whether by way of direct assessment or withholding at its source) the Indemnitee will be entitled to receive from the Indemnitor such amounts as will ensure that the net receipt, after tax, in respect of the payment is the same as it would have been were the payment not subject to tax. Where Eskom is the indemnifying Party and is required to gross-up any payment pursuant to this section 1.5.7, Eskom shall be entitled to be repaid any tax credits that the Supplier is entitled to as a result of the receipt of the grossed-up amount.
- 1.5.8. If the Supplier is registered in South Africa in terms of the Companies Act, the Supplier shall comply with the requirements of the Value Added Tax Act, no 89 of 1991 (as amended) and to include Eskom's VAT number 4740101508 on each Invoice submitted for payment.

1.6. AI and Automation Savings Pass-Through

- 1.6.1. Where the Supplier deploys AI Tools, automation, or Advanced Technologies in providing the Services, the Supplier shall ensure that any efficiencies or cost savings resulting from such deployment are shared with Eskom through reductions in the relevant Charges, as agreed by the Parties in accordance with the governance mechanisms in Schedule E (Governance) and benchmarking provisions in Schedule N (Value and Competitiveness Rider).

2. INVOICING

- 2.1. The Supplier will invoice Eskom for the Charges in accordance with this section 2.
- 2.2. All payments by Eskom shall be made in arrears only and no upfront, advance or pre-payment shall be made or be payable by Eskom for any Services whatsoever, including but not limited to Transition, Transformation, or any other Charges.
- 2.3. Invoices will be raised on a monthly basis to Eskom in South African Rand. Each Invoice will be sent by the Supplier so that it is received by Eskom on or before 30th of the month. Each Invoice will consist of:
- 2.3.1. a written version;
 - 2.3.2. an electronic version in the format specified by Eskom, which is compatible with Eskom's billing system (as the same may change over the Term);
 - 2.3.3. VAT invoices (if required by a tax authority) in the format required by the tax authority and Applicable Law; and
 - 2.3.4. the details set out in Appendix D-4 (Invoicing and Payment Requirements), and any other information, as required from Eskom from time to time.

- 2.4. All invoices shall be sent to the individual and department (and copied to other relevant individuals and departments) as notified by Eskom to the Supplier, from time to time, by giving not less than 30 (thirty) days' written notice to the Supplier.
- 2.5. The Supplier will ensure that each Invoice is complete, accurate and conforms to the requirements of this Agreement (including by carrying out detailed checks of each Invoice before sending the Invoice to Eskom).
- 2.6. At Eskom's request from time to time, the Supplier will provide Eskom with other documentation and information with respect to an Invoice to:
- 2.6.1. verify the accuracy of the Invoice and its compliance with the Agreement; and
- 2.6.2. satisfy Eskom Group's internal accounting requirements.
- 2.7. The Supplier will maintain complete and accurate records of, and supporting documentation for, the amounts invoiced to and payments made by Eskom hereunder in accordance with International Financial Reporting Standards principles applied on a consistent basis. Such records and documentation will be deemed to be 'Records' and retained in accordance with Schedule E (Governance).
- 2.8. The Supplier may not submit an Invoice without a valid Purchase Order issued by Eskom. Eskom must verify and approve the Invoice prior to submission.
- 2.9. The Supplier and Eskom will each provide appropriately skilled individuals as their respective points of contact for answering invoicing queries. Such individuals will respond promptly to any billing queries, and the Parties will each use Commercially Reasonable Efforts to resolve any queries by the date of issue of the following Invoice. Such individuals will meet, prior to the issuance of each Invoice, to review the Invoice, if required.
- 2.10. The Supplier shall further be required to provide an automated billing tool in order to enable Eskom to verify all invoicing detail (and supporting information). Such automated billing tool must integrate with the CMS and be capable of extracting billing volumes from the CMS.
- 2.11. Payment

- 2.11.1. Eskom will pay undisputed Charges to the Supplier within 60 (sixty) days of receipt of a relevant valid Tax (VAT) Invoice.
- 2.11.2. If any submitted Invoice does not comply with the requirements pursuant to the Agreement (including any associated supporting data not being provided) then the Invoice will not be payable by the date specified in section 2.11.1 and the Invoice will not become payable until after the receipt of the corrected Invoice and all supporting information is received by Eskom in the agreed format.
- 2.11.3. If a Party fails to pay any undisputed sum by the due date for payment, the other Party may charge that Party interest on the sum calculated at the Interest Rate in respect of the period from the due date until the date the outstanding sum is paid (whether before or after judgement). Any interest payable pursuant to the Agreement will be calculated on the basis of the actual number of days elapsed, over a 365 (three hundred and sixty-five) day year.
- 2.11.4. Eskom may set off any amounts due from the Supplier pursuant to this Agreement against any Charges payable by Eskom pursuant to this Agreement. If the amounts payable by the Supplier to Eskom exceed the Charges payable by Eskom to the Supplier pursuant to an Invoice, then at Eskom's option, the Supplier will either issue a credit note for the net amount which Eskom may set against any other invoice from the Supplier or pay the amount to Eskom in accordance with section 2.11.2.

2.12. Disputed Charges and Invoicing Errors

- 2.12.1. Eskom may withhold payment of charges that Eskom disputes in good faith (or, if the disputed charges have already been paid, then Eskom may withhold an equal amount from a later payment), including disputes in respect of an error in an Invoice or an amount paid. If Eskom withholds any such amount:
 - 2.12.1.1. Eskom, will notify the Supplier, in writing, that it is disputing such Charges (and in the case of withheld payments, prior to the due date of payment); and
 - 2.12.1.2. the Parties will promptly address such dispute in accordance with the Dispute Resolution Procedure.

- 2.12.2. Where an incorrect amount has been paid by Eskom (including incorrect amounts identified through the Dispute Resolution Procedure):
- 2.12.2.1. if Eskom has overpaid any amounts, then at Eskom's election: the Supplier will make a correcting payment to Eskom within fifteen (15) Business Days of the date the Supplier becomes aware of the error or Eskom shall be entitled to set-off such amounts against any amounts lawfully due to the Supplier, together with:
- 2.12.2.1.1. interest on the overpaid amount calculated at the Interest Rate in respect of the period from the date of Eskom's payment of such amount to the Supplier until the Supplier pays such amounts back to Eskom (calculated on the basis of the actual number of days elapsed, over a 365-day year); and
- 2.12.2.1.2. where the error is due to the Supplier's act or omission, is in excess of 10% (ten percent) of the Charge for the period audited and was identified by an external audit or reconciliation by, or on behalf of, Eskom, reimbursement of direct and reasonable external costs incurred by Eskom in performing such audit or reconciliation; or
- 2.12.2.2. if Eskom has been undercharged for any Charges (including where the Supplier has not submitted an Invoice in the timescales required in accordance with section 2.3), Eskom will make an appropriate correcting payment to the Supplier within 60 (sixty) days of receipt of a valid Invoice; provided that:
- 2.12.2.2.1. Eskom will not be responsible for paying interest on any such undercharged amounts;
- 2.12.2.2.2. Eskom will not be obliged to pay any amounts which were incurred more than 3 (three) months prior to the date that the amount was notified to Eskom;

2.12.3. If an Invoice is identified as incorrect, then the Supplier will either issue a correct Invoice if the amount has not yet been paid or issue a debit or credit note depending on the circumstances and in accordance with the applicable provisions of the Value-Added Tax Act, 1991.

2.13. Late Invoices

2.13.1. All invoiced amounts must be charged in a timely manner and within no later than a period of 3 (three) months of the completion of the Services in question. Should the Supplier furnish any invoice later than 3 (three) months after completion of the Services, Service Recipient shall be entitled to impose a penalty of 10% (ten percent) of the invoice amount for each month after the 3 (three) month period that the Supplier is late in furnishing that invoice to the Service Recipient, provided that in respect of the first 6 (six) months following the Effective Date, the 3 (three) month period referred to above shall be a period of 6 (six) months.

2.14. Refunded Amounts

2.14.1. If identified by any Party, the Supplier will refund to Eskom, by crediting the same against the next Invoice or at Eskom's option, paying the same within 10 (ten) Business Days of the relevant Party receiving an invoice from Eskom for any refund, credit or other rebate received by the Supplier from a Third Party for goods or services previously paid for by Eskom (including as a Pass-Through Expenses).

3. CHARGES

3.1. General

3.1.1. These are the pricing mechanisms used to calculate the Charges:

3.1.1.1. the "**PxQ Charges**" calculated using the PxQ Billable Units described in Appendix D-1 (Billable Unit Descriptions and Counting Rules); and

3.1.1.2. the “**Fixed Charges**” as described in Appendix D-2 (Fixed Charges).

3.1.2. The PxQ Charges will be calculated for each Month during the Service Period. The Actual Usage of Billable Units in such Month will be calculated as set out in Appendix D-1 (Billable Unit Descriptions and Counting Rules). Eskom will pay the sum of the PxQ Charges and the Fixed Charges.

3.2. PxQ Charges

3.2.1. The PxQ Charges will be calculated by multiplying, for each PxQ Billable Unit:

3.2.2. the Actual Usage of PxQ Billable Units in the relevant Month calculated in accordance with Appendix D-1 (Billable Unit Descriptions and Counting Rules), by

3.2.3. the relevant Unit Rates for such PxQ Billable Units (as specified in Appendix D-1 (Billable Unit Descriptions and Counting Rules)).

3.3. Fixed Charges

3.3.1. Each Fixed Charge described in Appendix D-2 (Fixed Charges) will be divided into twelve (12) equal parts and billed on a Monthly basis during each Contract Year unless other milestone payments are specified in Appendix D-2 (Fixed Charges) for a specific Fixed Charge or for any Contract Year.

3.3.2. The Fixed Charges may only be adjusted in accordance with the adjustment mechanisms specified for the relevant Fixed Charge as set out in this Schedule D (Charges).

4. OTHER CHARGES

4.1. Project Costs

- 4.1.1. A project will only be additionally chargeable if it is approved in writing in advance by Eskom.
- 4.1.2. Eskom may request proposals for New Services Projects on either a fixed charge and/or time and materials basis and/or Target Charge basis in accordance with the process set out in the Terms and Conditions. If Eskom elects to accept a fixed charge proposal, then the agreed fixed charges will apply. Otherwise, the amounts charged in respect of New Services Projects will be calculated in accordance with this section 4.1.
- 4.1.3. Unless otherwise agreed by the Parties in writing, the following will apply to New Services Projects charged on a time and materials basis:

4.1.3.1. Project Rates

- 4.1.3.1.1. The Project Rates that apply to a New Services Project will be specified in Appendix D-3 ("**Project Rates**") for the skill classifications of the Service Personnel performing the New Services Project, or other Project Rates agreed in accordance with the Change Management Procedure. Eskom reserves the right to request a reduction in Project Rates based on volume of hours required per Project and the Supplier shall be required to negotiate same in good faith.
- 4.1.3.1.2. For time charged on a Project Rate basis the Service Personnel will work a minimum of 8 (eight) working hours of Chargeable Time per day ("**Billable Day**").

4.1.3.2. Chargeable Time

- 4.1.3.2.1. **“Chargeable Time”** will be the actual time spent by the Service Personnel in performing the New Services Project and will not include:
- 4.1.3.2.1.1. lunch breaks, vacation, appraisals, sickness or training;
 - 4.1.3.2.1.2. time spent performing any services other than the New Services Project; or
 - 4.1.3.2.1.3. time spent performing services for the Supplier or other Supplier customers; or
 - 4.1.3.2.1.4. travel time.
- 4.1.3.2.2. The Supplier will perform the New Services Project in an efficient manner (including using Service Personnel charged at a lower rate where appropriate and where such Service Personnel have sufficient capacity to perform the relevant Project notwithstanding on-going service activity and a commitment to perform continuous improvement activity as part of the on-going Services).
- 4.1.3.2.3. Eskom will not be charged for time spent by the Supplier in remedying the Supplier’s errors in performing the New Services Project.
- 4.1.3.2.4. the Supplier shall only be entitled to charge the Project Rate for the role listed in the Statement of Work regardless of the grade of the Service Personnel provided to perform the role.
- 4.1.3.2.5. Overtime will only be considered in exceptional circumstances and where approved in advance by Eskom in writing.
- 4.1.3.3. Day Rates
- 4.1.3.3.1. Subject to section 4.1.3.4, all New Services Project work will be charged on the following basis:

- 4.1.3.3.1.1. the Service Personnel will work a professional day consisting of a minimum of 8 (eight) working hours per day (excluding lunch time);
- 4.1.3.3.1.2. the Service Personnel will work for additional hours as required by Eskom, provided that if the average time worked by the individual during a week is greater than 9 (nine) working hours per day, then the Parties will meet to agree how to address the situation (including whether overtime should be paid); and
- 4.1.3.3.1.3. where the Parties agree that overtime is payable then periods worked outside the standard Business Day will not be charged at overtime rates unless overtime has been agreed by the relevant Eskom project manager in writing. The process for authorising and signing off overtime will be defined and operated jointly by the relevant Eskom project manager and the Supplier's project manager, or the project office (where one exists for projects or assignments).

4.1.3.4. Pro-Rated Day Rates

- 4.1.3.4.1. The daily rate for any Service Personnel will be pro-rated based upon hours actually worked for any days worked where the minimum hours specified in section 4.1.3.3.1.1 have not been achieved.

4.1.3.5. Chargeable Expenses

- 4.1.3.5.1. the Supplier will only be entitled to claim expenses:
 - 4.1.3.5.1.1. that are actually incurred by the Service Personnel in performing New Services Projects;

- 4.1.3.5.1.2. that are reimbursable pursuant to Eskom's generally applied expenses policy (as the same may change from time to time);
- 4.1.3.5.1.3. in respect of which the Supplier complies with the requirements of Eskom's expenses policy, including in respect of providing sufficiently detailed information;
- 4.1.3.5.1.4. that are expressly agreed to in advance in writing by an authorised representative of Eskom, whether by way of specific approval (e.g. all travel by plane) or, in certain limited cases, general prior approval (e.g. late-night taxis); and
- 4.1.3.5.1.5. that are included on an Invoice to Eskom within three (3) months of being incurred.
- 4.1.3.5.2. All expenses will be chargeable by the Supplier on a Pass-Through Expense basis.
- 4.1.3.5.3. the Supplier will provide Eskom with receipts and invoices as evidence of expenses.
- 4.1.3.5.4. For New Services Projects that are charged on a time and materials basis, the Supplier will not charge Eskom more than any estimate given for the New Services Project without first obtaining Eskom's written consent.
- 4.1.4. Target Charge:
 - 4.1.4.1. The Parties may agree that the Supplier will provide Services on a Target Charge basis.
 - 4.1.4.2. Where it is agreed to use a Target Charge, the Supplier will provide:
 - 4.1.4.2.1. **"Baseline Target Charge"** means the total agreed estimated remuneration for the relevant Project;

- 4.1.4.2.2. **"High Band Ceiling"** means the Baseline Target Charge plus 20% (twenty percent);
- 4.1.4.2.3. **"High Band"** means the charges band between the Baseline Target Charge and the High Band Ceiling;
- 4.1.4.2.4. **"Low Band Floor"** which means the Baseline Target Charge minus 20% (twenty percent);
- 4.1.4.2.5. **"Low Band"** means the charges band between the Baseline Target Charge and the Low Band Floor;
and
- 4.1.4.2.6. **"Target Charge Adjustment"** means the amount to be added to or subtracted from the Baseline Target Charge.
- 4.1.4.3. The Target Charge Adjustment shall be calculated as follows:
 - 4.1.4.3.1. The **"Actual Charge"** means the actual charges in respect of providing the Services to Eskom during each agreed period for which the Services are provided, where the charge is calculated as the actual hours worked by each member of the Supplier Personnel resource assigned to the Project during each agreed period multiplied by the applicable hourly rate for that resource in accordance with Appendix D-5 (Remuneration – Rate Card) to the Agreement and subject to a cap of 40 (forty) hours per week, unless otherwise agreed in the relevant Project, or Eskom's written prior authorisation is obtained by the Supplier.
 - 4.1.4.3.2. Where the Actual Charge is within the High Band (i.e. the Actual Charge is greater than the Baseline Target Charge, but below or up to the High Band Ceiling) this is an over-run which is shared 50% (fifty percent) by the Supplier and 50% (fifty percent) by Eskom. That is, the positive Target Charge

Adjustment is calculated as 50% (fifty percent) of the difference between the Actual Charge and the Baseline Target Charge.

- 4.1.4.3.3. Any portion of the Actual Charge, which is greater than the High Band Ceiling, shall be borne 100% (hundred percent) by the Supplier above the High Band Ceiling.
- 4.1.4.3.4. Where the Actual Charge is within the Low Band (i.e. the Actual Charge is lower than the Baseline Target Charge, but equal to or higher than the Low Band Floor), this is an under-run which is shared 50% (fifty percent) by the Supplier and 50% (fifty percent) by Eskom. That is, the negative Target Charge Adjustment is calculated as 50% (fifty percent) of the difference between the Actual Charge and the Baseline Target Charge.
- 4.1.4.3.5. Any portion of the Actual Charge which is less than the Low Band Ceiling shall be for the benefit of the Supplier and the difference between the Actual Charge and the Low Band Floor will not be shared with Eskom. The Supplier shall provide a monthly report showing the forecasted Actual Charges for the Project, and any forecasted Target Charge Adjustment projected to the end of the Project. Based on this report, the Parties may agree any actions that can reasonably be taken to minimise any forecasted Target Charge Adjustment.
- 4.1.4.3.6. The Target Charge Adjustment will usually be determined at the end of the Project, but where a Target Charge Adjustment is forecasted, the Parties may agree to adjust the Projects payment schedule at any point to accommodate the forecast.
- 4.1.4.3.7. A positive Target Charge Adjustment will result in additional Remuneration being payable to the Supplier for the Project, while a negative Target Charge Adjustment will result in the Remuneration payable to the Supplier for the Project being reduced.

- 4.1.4.4. Any increase or decrease in the Baseline Target Charge shall be subject to written agreement between the Parties following the Change Control Procedure.
- 4.1.4.5. Unless otherwise agreed in a Project, any expenses shall be excluded from the calculation of the Baseline Target Charge.
- 4.1.5. Pass-Through Expenses
 - 4.1.5.1. The only expenses and costs incurred by the Supplier that are separately chargeable as Pass-Through Expenses to Eskom will be identified during the execution of the Agreement.
 - 4.1.5.2. With respect to Pass-Through Expenses, the Supplier will:
 - 4.1.5.2.1. review the invoice charges to determine the validity and accuracy of the Pass-Through Expense before submitting the same to Eskom;
 - 4.1.5.2.2. provide Eskom with a reasonable opportunity to review the original invoice; and
 - 4.1.5.2.3. pay the amounts due to the Third Party and invoice Eskom, as part of an Invoice, for the Pass-Through Expense, without mark-up, fees or overhead charges of any kind. Any rebates, commissions, revenue shares or the like received by the Supplier in respect of such amounts will be passed in full to Eskom in accordance with section 2.14.
 - 4.1.5.3. With respect to services or materials paid for on a Pass-Through Expenses basis, Eskom reserves the right to:
 - 4.1.5.3.1. obtain such services or materials directly from a Third Party;
 - 4.1.5.3.2. designate the Third Party who will provide such services or materials;

- 4.1.5.3.3. designate the particular services or materials (e.g., equipment make and model) that the Supplier will obtain;
 - 4.1.5.3.4. designate the terms for obtaining such services or materials (e.g., purchase or lease and one-off payment or payment over time);
 - 4.1.5.3.5. reasonably require the Supplier to identify and consider multiple sources for such services or materials, or to conduct a competitive procurement; and
 - 4.1.5.3.6. review and approve the Pass-Through Expense for such services or materials before entering into a contract for such services or materials.
- 4.1.5.4. The Supplier will use Commercially Reasonable Efforts to reduce the Pass-Through Expenses so that they are lower than (and in any event no more than) the then current market prices for equivalent goods or services.
- 4.1.5.5. Where the Supplier pays any incorrect amounts to a Third Party and claims such amount from Eskom as a Pass-Through Expense, the Supplier shall, as soon as becoming aware of such overpayment, reimburse the Pass-Through Expense with interest to Eskom. Interest shall be charged at the Interest Rate from the date of payment of the Pass-Through Expense by Eskom until the date of reimbursement of same (calculated based on the actual number of days elapsed, over a 365 (three hundred and sixty-five) day year).
- 4.1.5.6. CPA shall not apply to Pass-Through Expense, taxes, statutory charges or third-party cost reimbursed at cost.
- 4.1.6. Exit Assistance Charges
 - 4.1.6.1. Exit Assistance Services shall only be chargeable where Eskom has provided its prior written approval, and the following conditions are satisfied:

4.1.6.2. the Supplier is unable, notwithstanding the exercise of Commercially Reasonable Efforts, to utilise the Service Personnel engaged in performing the Services to provide the Exit Assistance Services; and Eskom has approved the deployment of additional resources for the provision of the Exit Assistance Services. Eskom may, in its sole discretion, waive or defer any of the Supplier's other obligations under the Services to enable the existing Service Personnel to perform the Exit Assistance Services Exit Assistance Services which:

4.1.6.2.1. are chargeable in accordance with section **Error! Reference source not found.**; or

4.1.6.2.2. are performed following the relevant Termination Date.

4.1.6.3. Exit Assistance Services will not be chargeable in the event that Eskom terminates any Services in accordance with Terms and Conditions (Termination for Cause by Eskom).

4.1.6.4. During any Exit Period the Charges will reduce commensurate with the reduction in Charges during that Exit Period.

4.1.7. Termination Charges

4.1.7.1. Termination Charges will only be payable in the circumstances specified in the Terms and Conditions and shall be based on the methodology and terms set forth hereunder.

4.1.7.2. Eskom shall in each applicable case pay the Supplier the Termination Charges as shall be determined in accordance with this section 4.1.7, subject to the Supplier's duty to use its best efforts to mitigate its costs in relation to the termination of the Agreement and the Termination Charge.

4.1.7.3. The Parties shall on a quarterly basis meet to discuss and provide a draft calculation of the Termination Charges payable in the event of an early termination in the subsequent quarter.

- 4.1.7.4. Subject to the Supplier's requirement to mitigate its costs, the Termination Charges shall be determined with reference to the month in which the termination is effective, relative to the remaining term of the Agreement and shall comprise the sum of:
- 4.1.7.4.1. the de-installation costs for any agreed infrastructure that is physically located on Eskom premises, and which will not transfer from the Supplier to Eskom and any actual and direct de-commissioning costs of the Supplier Equipment on Eskom premises;
 - 4.1.7.4.2. the outstanding net book value of all the Supplier Equipment which are utilised exclusively for the provision of the Services to Eskom in respect of the Services and which using the Supplier's best efforts cannot, be redeployed by the Supplier within a period of 6 (six) months following the date of termination (and in such event such Supplier Equipment shall transfer to Eskom);
 - 4.1.7.4.3. the outstanding prepayment already made or which the Supplier is obliged to make to Third Party the Suppliers in relation to the provision of the Services affected by the termination (including in respect of maintenance and licence fee charges), provided that the Supplier can demonstrate to Eskom that such prepayments cannot be lawfully avoided or recouped from the Third Party the Supplier; and
 - 4.1.7.4.4. payment of an amount comprising of any other direct costs incurred by the Supplier exclusively as a consequence of entering into the Agreement with Eskom which do not fall within the categories set forth in section 4.1.3above, provided that the Supplier can demonstrate to Eskom that such costs have actually been incurred or relate to a fixed and contractually avoidable commitment and that such commitment was made as a sole consequence of the Parties entering into the Agreement;

- 4.1.7.5. In addition to the terms set forth in the Agreement, and for the sake of clarity, the Parties agree that:
- 4.1.7.5.1. Service Charges will not be included in the Termination Charges for the period after the termination date;
 - 4.1.7.5.2. no amount shall be payable in respect of the cost of retrenchment or redeployment in respect of Employees directly or indirectly involved with the provision of the Services being terminated;
 - 4.1.7.5.3. no amount shall be paid in respect of a loss of revenue or profits due to such early termination;
 - 4.1.7.5.4. payments that were to be made by Eskom after the date of termination for Services to be rendered, if any, shall not be included in the Termination Charges; and
 - 4.1.7.5.5. the Termination Charge shall not include, as part of its calculation, any fees and charges whatsoever relating to those assets and Equipment that Eskom agrees to purchase from the Supplier in terms of Schedule I (Exit Assistance).
- 4.1.7.6. The Supplier shall provide a detailed schedule of the calculation including asset lists, net book values, depreciation schedules, and evidence that the assets and commitments cannot be lawfully avoided or reasonably redeployed within six months of Termination Notice. Any disputed amount will be resolved under the Dispute Resolution Procedure, and Eskom may appoint an independent Auditor at its cost to verify the calculation, with the Supplier providing full cooperation. Should the outcome of verification of the calculation prove to be incorrect by more than five (5%) percent, then Supplier will be liable for the Auditor's cost.
- 4.1.7.7. The Supplier shall calculate the Termination Charge associated with the termination for convenience by Eskom and provide a statement thereof to Eskom, in a timely manner and with all reasonable detailed supporting documentation, whereupon, unless disputed by Eskom in terms of the provisions of section 2.11.4 above, shall be payable by Eskom

to the Supplier within sixty (60) calendar days of the date of the statement, which statement may only be issued after the Exit Assistance Period.

4.1.7.8. Where requested by Eskom, Eskom may engage an independent Auditor, at its cost, to verify the Termination Charge calculation. The Supplier agrees to co-operate with Eskom in this regard. The Parties agree that the Auditor shall be required to sign an appropriate confidentiality agreement. For the avoidance of doubt, the provisions of dispute resolution provisions set forth in Schedule E (Governance) to the Agreement will apply. In the event that the Auditor determines that the Termination Charge calculated by the Supplier is in excess of those that are rightfully recoverable hereunder, then the Auditor shall recalculate the Termination Charge in a manner consistent with this section 4.1.7 and promptly notify the Parties of the recalculated Termination Charge, together with the supporting analysis underpinning how the Auditor arrived at the Termination Charge.

4.1.7.9. If the Parties are unable to agree on the quantum of the Termination Charge, this shall be referred to the dispute resolution procedure set forth in Schedule E (Governance).

5. ADJUSTMENTS TO CHARGES

5.1. Service Credits

5.1.1. Invoices will be adjusted by applying Service Credits as specified in Schedule C (Performance Standards).

5.1.2. Service Credits shall be deducted from the next Invoice automatically and will not limit Eskom's right to Step In or to Terminate for cause where the thresholds in the Agreement are reached or exercising any other remedies under the Agreement.

5.2. Partial Renewal

- 5.2.1. In the event of a Partial Renewal of Services or a Withdrawal of Services, the Charges shall be reduced on a pro rata basis to reflect avoided costs, including direct labour, locations, and volumes, and a fair apportionment of shared tool or platform costs. No minimum volume, stranded cost recovery, or early termination fee applies unless expressly stated in the Pricing Workbook for a specific asset that cannot be redeployed. The Parties shall implement the adjustment through the Change Management Procedure within 15 (fifteen) Business Days of Eskom's notice.

5.3. Withdrawal of Services

- 5.3.1. **[Drafting note: The mechanisms to adjust the Charges in the event of a withdrawal of services is to be agreed and inserted herein. The mechanism in this section must be read with the Terms and Conditions clause 11.2.3 (Withdrawal of Services). If there is any inconsistency, clause 11.2.3 of the Terms and Conditions prevails.]**
- 5.3.2. In the event Eskom elects to withdraw any Service, the Charges shall be reduced on a pro rata basis, taking into account (i) the proven avoided costs of the Supplier; (ii) any proven shared Tool or platform costs which must be equitably apportioned across remaining Services; and (iii) any associated PxQ Charges will be recalculated based on actual usage during a defined ramp-down period. No penalties, stranded cost recovery, Fixed Charges, or minimum volume commitments shall apply.

5.4. Contract Price (Charges) Adjustments ("CPA")

- 5.4.1. Unless otherwise expressly stated in this Agreement, the Charges shall be fixed for the first twelve (12) months from the Service Commencement Date.
- 5.4.2. Thereafter, and subject to this clause, the Charges may be adjusted annually on each anniversary of the Service Commencement Date by way of a Contract Price Adjustment ("CPA"), which shall apply prospectively only.

- 5.4.3. The only permissible index for CPI-based adjustments shall be the Consumer Price Index (CPI) Headline Index Numbers (All Items) as published by Statistics South Africa (Stats SA), Table B1 (or its direct successor).
- 5.4.4. The Base CPI Index shall be the CPI Headline Index Number (All Items) published in Table B1 for the month immediately preceding the month in which the tender closed, unless otherwise expressly stated in Appendix D-2 (Fixed Charges).
- 5.4.5. The Adjustment CPI Index shall be the most recently published CPI Headline Index Number (All Items) in Table B1 available at the relevant anniversary of the Service Commencement Date.
- 5.4.6. The CPI-based CPA percentage shall be calculated as follows:
- $CPA (\%) = (Adjustment\ CPI\ Index - Base\ CPI\ Index) \div Base\ CPI\ Index \times 100$
- 5.4.7. Fixed Charges may only be adjusted strictly in accordance with the applicable adjustment mechanisms specified for the relevant Fixed Charge in this Schedule D (Charges), including Appendices D-1 and D-2.
- 5.4.8. Any adjustment related to foreign currency exposure shall be applied only where expressly provided for in this Schedule D (Charges), shall be calculated separately from CPI-based adjustments, and shall utilise the applicable Rand/Euro or Rand/US Dollar exchange rates as published by the South African Reserve Bank, and shall be subject to verification and approval by Eskom Treasury prior to implementation.
- 5.4.9. Where a foreign currency adjustment is applicable, the exchange rate shall be fixed for a period of twelve (12) months using the forward exchange rate agreed and confirmed by Eskom Treasury. The fixed exchange rate shall apply for the relevant twelve-month period and shall be re-determined on each anniversary of the Service Commencement Date for the remainder of the Contract term.

- 5.4.10. For purposes of determining the applicable exchange rate, the Supplier and Eskom shall, on the same day and at the same time, consult with their respective bankers to obtain a spot rate and a forward cover rate. Eskom Treasury shall be advised in advance of the applicable currency, currency amount, contract or purchase order reference, supplier name, and the maturity date of the forward cover.
- 5.4.11. Once the exchange rate has been fixed and approved by Eskom Treasury, such rate shall be final and binding for the applicable period, and Eskom shall not be liable for any further exchange rate fluctuations or adjustments in respect of that period.
- 5.4.12. No adjustment to the Charges shall be implemented except in accordance with the objective formulae and mechanisms expressly set out in this Schedule D (Charges).
- 5.4.13. Any CPA implemented under this clause shall be without prejudice to Eskom's rights under Schedule N (Value and Competitiveness Rider), including the right to enforce benchmarking and market testing. Where benchmarking demonstrates that Charges exceed prevailing market rates, the Supplier shall adjust the Charges accordingly within thirty (30) days of Eskom's written notice.
- 5.4.14. Unless otherwise agreed in writing, any approved adjustment shall take effect from the first day following the relevant anniversary of the Service Commencement Date.

Appendix D-1 (Billable Unit Descriptions and Counting Rules) and Appendix D-2 (Fixed Charges)

[Drafting Note: to the Supplier: The Pricing work book will be attached here which will include Transition Charges and Exit Assistance]

Appendix D-3 Project Rates

Drafting Note: To be finalised

Appendix D-4 Invoicing and Payment Requirements

1. Invoicing and payment

To facilitate prompt and accurate processing of invoices, it is imperative that all invoices and credit notes include the required legal information and comply with Eskom Holdings SOC Ltd.'s specified requirements. Please note that Eskom reserves the right to withhold payment if an invoice is incomplete, lacks the necessary supporting documentation, or fails to meet the established invoicing, legal, or tax standards.

2. Payment terms

All invoices must adhere to the established payment process in accordance with the agreed contractual terms. Payment will be made as stipulated in the contract, calculated from the date of **receipt** of a valid undisputed tax invoice.

3. Purchase Order Requirement

The Supplier shall not deliver any goods or render any services to Eskom unless a valid Eskom Purchase Order (PO) has been issued. All invoices submitted must clearly reference the corresponding Eskom PO number. Eskom shall not be liable for payment of any invoice that does not include the correct PO number.

4. Invoice Submission Requirements

The Supplier shall ensure that each Invoice submitted to Eskom includes the following details:

- 4.1. The words "Tax Invoice" or "VAT Invoice";
- 4.2. the correct Eskom Purchase Order number;
- 4.3. the Supplier's name, address, and VAT registration number;

- 4.4. Eskom's name, address and VAT registration number: 4740101508;
- 4.5. Individualise Invoice (serial) number and the date upon which Tax Invoice is issued;
- 4.6. a breakdown of the invoiced amount, specifying:
 - 4.6.1. total amount excluding VAT;
 - 4.6.2. VAT amount;
 - 4.6.3. total amount including VAT;
 - 4.6.4. the Supplier's banking details; and
 - 4.6.5. each line item on the invoice must correspond exactly to the Eskom PO:
 - 4.6.5.1. full and proper description of the goods including accurate units of measure;
 - 4.6.5.2. pricing alignment with the PO; and
 - 4.6.5.3. consistency of payment terms with those stipulated in the PO.

5. Submission Format and Channel

- 5.1. The Supplier shall ensure that:
- 5.2. Invoices must be submitted to: **invoiceseskomlocal@eskom.co.za**.
- 5.3. the subject line of the email must contain only the Supplier's registered vendor number.

- 5.4. all Invoices must be submitted in PDF format only.
- 5.5. each PDF file must be named using the invoice number exclusively, without additional text.
- 5.6. each PDF file must contain only one document, which may be:
 - 5.6.1. one invoice, or
 - 5.6.2. one debit note, or
 - 5.6.3. one credit note.

6. CPA/ROE Adjustments

- 6.1. Where the contract includes provisions for CPA (Contract Price Adjustment) or ROE (Rate of Exchange), the applicable CPA or ROE adjustment shall be invoiced together with the corresponding base Charges invoice for the relevant billing period.
- 6.2. The CPA or ROE adjustment shall be clearly identified as a separate line item on the invoice and must reference the approved CPA or ROE calculation.
- 6.3. The signed and approved CPA or ROE calculation sheet shall be submitted with the invoice as supporting documentation in accordance with Appendix D-4 (Invoicing and Payment Requirements).

7. SDL&I Retention

The Supplier must, where applicable, make provision for SDL&I Credit on each monthly Invoice. The Invoice shall clearly indicate the SDL&I Credit amount as a separate line item on the Invoice.

8. Annual Compliance Documentation and Vendor Record Maintenance

8.1. The Supplier shall submit the following documents annually to Eskom vendor management via email to VendorMDM@eskom.co.za, prior to the expiry date of each respective document:

8.1.1. A valid Broad-Based Black Economic Empowerment (B-BBEE) certificate or affidavit;

8.1.2. A valid Letter of Good Standing issued by the Department of Labour in terms of the Compensation for Occupational Injuries and Diseases Act (COIDA);

8.1.3. A valid Tax Clearance Certificate;

8.1.4. Notification of any changes in directorship during the Term, accompanied by supporting documentation issued by the Companies and Intellectual Property Commission (CIPC);

8.1.5. Confirmation that the Supplier's profile on the National Treasury Central Supplier Database (CSD) has been updated with all relevant and current information. The Supplier shall refer to <http://www.csd.gov.za> for further details.

8.2. Non-Compliance Consequences: Failure by the Supplier to comply with the above requirements may result in the blocking of the Supplier's vendor number, thereby preventing further transactions and payments.

9. Contact details for payment queries:

9.1. All queries and follow-up on invoice payments should be directed to the Finance Shared Services (FSS) Contact Centre:

9.1.1. e-mail: FSS@eskom.co.za or Tel: 011 800 5060

Appendix D-5 (Remuneration Rate Card)

Drafting Note: To be inserted