



DRAKENSTEIN

MUNISIPALITEIT • MUNICIPALITY • UMASIPALA

Paarl | Wellington | Gouda | Saron | Simondium

DRAFT CONTRACT

FOR THE

**PAARL WASTEWATER TREATMENT WORKS - SLUDGE STREAM:
CIVIL WORKS, MECHANICAL AND ELECTRICAL INSTALLATION**

MADE AND ENTERED INTO BETWEEN

DRAKENSTEIN MUNICIPALITY

and

STEFANUTTI STOCKS (PTY) LTD

Reg. No. 2003/022221/07

Contract No. CES11/2024

A city of excellence

www.drakenstein.gov.za

PREAMBLE

WHEREAS Tender CES11/2024 was awarded to STEFANUTTI STOCKS (PTY) LTD, in line with resolution SCMB [INSERT] dated [INSERT] for the PAARL WASTEWATER TREATMENT WORKS - SLUDGE STREAM: CIVIL WORKS, MECHANICAL AND ELECTRICAL INSTALLATION in the amount of R 978,119,583.76 (including escalation, forex and VAT), from date of commencement of contract for a period of 32 months, subject to the conclusion of a Section 33 of the MFMA process and Council adopting a resolution in which it approves the entire contract exactly as it is to be executed and in which it authorises the Municipal Manager to sign the contract on behalf of the municipality."

Commented [NA1]: DLM to complete Claudia / Andre please add.

AND WHEREAS it is recorded that this Contract will be governed by the Conditions of Contract for Plant and Design-Build for Electrical and Mechanical Plant, and for Building and Engineering Works, Designed by the Contractor, First Edition 1999, read with the Particular Conditions of Contract ("PCC") annexed hereto marked "PART C1.2: CONTRACT DATA".

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. PARTIES

The Parties to this Contract are:

- 1.1. **Drakenstein Municipality**, a municipality, established in terms of the Local Government: Municipal Structures Act. 117 of 1998 read with the Province of the Western Cape: Provincial Gazette 5588 dated 22 September 2000, as amended ("the Employer"), herein represented by the **Executive Director Engineering Services: Louis Pienaar** duly authorised hereto;
- 1.2. **Stefanutti Stocks (Pty) Ltd**, a private company registered in terms of the laws of the Republic of South Africa with registration no: **2003/022221/07** with its principal place of business situated at **1 Manhattan St, Airport Industria, Cape Town, 7490** (the "Contractor"), herein represented by its duly authorised representative, **Brett Ellis** in his/her capacity as **Director**;

Commented [NA2]: DLM to confirm Claudia / Andre please confirm who this person is

hereinafter jointly referred to as "Parties" and in singular, a "Party".

2. INTERPRETATION

- 2.1. In the event of any conflict between the provisions of this Contract, the FIDIC and any Part attached hereto, or any other document incorporated by reference to this Contract, save to the extent expressly stated to the contrary, such conflict will be resolved by giving precedence to such different parts of this Contract in the following order of precedence:
 - 2.1.1 the Form of Offer and Acceptance,
 - 2.1.2 the Particular Conditions of Contract within the Contract Data,

- 2.1.3 the Conditions of Contract for Plant and Design-Build for Electrical and Mechanical Plant, and for Building and Engineering Works, Designed by the Contractor, First Edition 1999,
- 2.1.4 the Drawings,
- 2.1.5 the Scope of Work,
- 2.1.6 the Pricing Data, and
- 2.1.7 the conditions of tender, the tender data and tender schedules

- 2.2 The provisions of this Contract supersede and replace the provisions of any previous agreement entered into between the Parties relating to the same subject matter.

3. APPOINTMENT AND DURATION

- 3.1. The Employer hereby appoints the Contractor to perform the Scope of Work for the Employer from Date of Commencement.
- 3.2. Unless terminated earlier in accordance with the provisions as set out in the FIDIC or any other provision in terms of this Contract, this Contract shall terminate **32 months from date of commencement (excluding defects liability period), inclusive of the 14 day period referred to in (Clause 5.9.3), and inclusive of non-working days referred to (Appendix 1 – Contract Data provided by the Employer), but exclusive of special non-working days (Appendix 1 - Contract Data provided by the Employer).**

Commented [NA3]: For Phase A only
DLM to confirm if Phase B programme to be included
Claudia / Andre please confirm the above

4. MUTUAL GOOD FAITH / CO-OPERATION

- 4.1. The Parties represent and undertake to do all such things, perform all such acts and take all steps to procure the doing of all such things and the performance of all such acts, as may be necessary or incidental to give effect to the execution of this Contract.
- 4.2. The Parties shall at all times during the continuance of this Contract observe the principles of good faith towards one another in the performance of their obligations in terms of this Contract.

5. OBLIGATIONS OF THE EMPLOYER

- 5.1. The Employer undertakes to perform its obligations in accordance with the Contract, including but not limited to the Scope of Work (**PART C3: SCOPE OF WORK INCLUDING ANY AMENDMENTS PRIOR TO AWARD**), subject to the satisfactory fulfilment of the obligations by the Contractor as set out in this Contract.
- 5.2. The Employer shall monitor and evaluate the Contractor's performance in respect of the Scope of Work.

6. OBLIGATIONS OF THE CONTRACTOR

- 6.1. The Contractor hereby agrees and undertakes to perform the Services to the Employer as set out in Scope of Work (**PART C3: SCOPE OF WORK INCLUDING ANY AMENDMENTS PRIOR TO AWARD**).
- 6.2. The Contractor will perform the Works as expeditiously as possible and furthermore agrees and undertakes to perform the services in accordance with the operational requirements of the Employer.
- 6.3. The Contractor will ensure that the Works will be of a satisfactory quality and fit for purpose.
- 6.4. The Contractor shall, ensure that its employees, agents, representatives, sub-contractors and suppliers comply with this Contract and all applicable Laws in the execution of the Works.
- 6.5. The Contractor will not conduct any activity of whatsoever nature which may be detrimental to the Employer's reputation and goodwill.

7. PRICING DATA

- 7.1. The Contract Price for the Works shall be as set out in the Pricing Data annexed marked "**PART C2: PRICING DATA**".
- 7.2. The Contractor shall not be entitled to any other consideration for the rendering of the Works other than as provided for in this Contract.

8. SCOPE OF WORKS

- 8.1. Amendments to Scope of Works and Phasing of Contract CES 11/2024:
 - 8.1.1. This phase includes components of the original scope of works which fits within Drakenstein Municipality's available budget. The scope of works included in this Phase are deemed critical for the upgrade of the sludge stream, which will ensure that the Paarl WWTW is fully functional from a thickening, stabilisation and dewatering perspective after successful completion of this Phase.
- 8.2. Scope of Works

This Scope of Works comprises of the Civil, Mechanical and Electrical works for the Centralised Sludge Handling Facility at the Paarl WWTW which will address the urgent upgrade required of the existing sludge infrastructure. The Works comprises of the construction of a new dewatering building, sludge silos, sludge holding tanks, gravity thickeners, anaerobic digesters and associated infrastructure, gas holding tanks and associated infrastructure, centralised heat and power building, electrical buildings (including a new MV intake substation), struvite precipitation facility and pump stations. The works for the aforementioned infrastructure includes civil, mechanical and electrical works. The works also includes general civil engineering services such as roads, stormwater, reticulation networks, etc.

a) **CIVIL WORKS:**

The Civil scope comprises the following:

- Sludge Screening Facility: A new facility will be constructed to separately screen the waste activated sludge (WAS) and primary sludge (PS) coming from Paarl WWTW, Wellington WWTW and the future Paarl South WWTW. It will include PS inline screens, hydrocyclones located on receiving sludge holding tanks for both PS and WAS, as well as grit classifiers.
- Receiving Sludge Holding Tanks: The new receiving sludge tanks will comprise of a PS tank for the screened PS, a WAS tank for the screened WAS and a mixed sludge tank (to mix both the PS and WAS sludges, before thickening).
- Main Sludge Transfer Pump Station Building: This pump station will host four types of pump systems, namely the thickener feed pumps to pump mixed sludge or PS only from the mixed sludge tank to the gravity thickeners, the WAS thickener feed pumps to pump WAS only from the WAS tank to the gravity thickeners, the digester feed pumps to pump thickened mixed sludge or thickened PS only from the gravity thickeners to the anaerobic digesters and the WAS bypass pumps to pump thickened WAS only from the gravity thickeners to the digestate holding tank.
- Gravity Thickeners: Mixed sludge or PS and WAS separately will be thickened in three (3) new gravity thickeners of 14.0 m diameter each.
- 3-Way Sludge Flow Splitter: A new 3-way splitter will be constructed to split the flow into the three (3) new gravity thickeners.
- Anaerobic Digesters: Three (3) new mesophilic anaerobic digesters of 18.5 m diameter each, will be constructed to anaerobically digest the mixed sludge or the PS only.
- Boiler House: A new boiler house facility will be constructed, with a steam boiler system. The building will also make provision for electrical infrastructure (comprising of MCC).
- Gas Holding Tanks: Two (2) new gas storage tanks of 31.0 m diameter each, will be provided.
- Gas Cleaning Facility: A facility will be constructed to remove impurities from the biogas generated during anaerobic digestion.
- Combined Heat and Power (CHP) Building: A new building will be constructed, to house internal combustion engines towards generating electricity from the biogas for onsite use. The infrastructure will also include a gas engine collector substation.
- Struvite Precipitation Facility: A facility will be constructed to recover struvite from the digestate before storage in the digestate holding tank.
- Digestate Holding Tank: The new digestate holding tank will store the digested mixed sludge or a mix of digested PS only and thickened WAS only, before dewatering. It will be located adjacent to the new dewatering building.
- Dewatering Building: The stored sludge in the digestate holding tank will be dewatered via belt presses or centrifuges, in a new dewatering building. The building will also include associated equipment required for pumping and sludge treatment and make provision for electrical infrastructure (comprising of MCC).
- Sludge Silos: Two new (2) sludge silos will be constructed to store the sludge cake before off-site disposal.
- Supernatant Holding Tank: A new holding tank will be constructed, to receive the supernatant from the new dewatering building which will flow back to the inlet works.

- Washwater Pump Station and Electrical Building: A new washwater pump station for treated effluent reticulation network to be used for mechanical equipment and on-site requirements. The washwater pump station will also include provision for electrical infrastructure (comprising of MCC, generator, transformer and fuel storage).
- Electrical Buildings: New MCCs and electrical infrastructure for sludge screening, storage, thickening, digestion, dewatering and electricity generation.
- Centralised Generator Building: A new building to be built for a centralised generator and new fuel tank.
- Process Pipework: The interconnecting pipework associated with directing flow through the new structures and the reconfiguration of the existing pipework. It will also include the pipelines which will serve as overflow or emergency bypass pipelines.
- Ancillary Structures: The construction of small concrete structures including flow diversion and division, flow measurement, distribution boxes, valve and collection chambers.
- Flow Diversions and Demolition: Decommissioning and demolition of older process units which are replaced by this proposed scope of works. Flow Diversions include diversions of sludge from primary sludge screening facility to sludge receiving tanks.
- Roads, Stormwater and Cable Ducts: Internal access roads, stormwater drainage and cable routing ducts
- Site Clearance, Bulk Earthworks and Landscaping: Site clearance, bulk earthworks and general site landscaping.
- Potable Water Network: Extension of new potable water network on site to service new and existing buildings.
- Washwater Network: Extension of new service water network on site to service new and existing buildings.
- Sludge lagoon conversion to Maturation Pond: Cleaning and minor modifications to the existing ponds including the construction of baffle walls.

This description of the Civil Works is not necessarily complete as the design is still in progress. The above list shall not limit the work to be carried out under this Contract.

b) MECHANICAL AND ELECTRICAL (M&E) WORKS:

The M&E works includes the following duties:

- Design
- Manufacture
- Supply
- Delivery
- Storage (if necessary)
- Installation
- Testing
- Commissioning and Trial Operation Period
- Training the Employer's staff in operation and maintenance
- Upholding during the Defects Notification Period.

The Works shall be designed to function safely and effectively in conjunction with the infrastructure provided by others for this project. Where components of the Works are

incorporated into structures provided by others, these components shall be designed accordingly.

The Mechanical works comprises the following:

a) Sludge Screening Facility:

- Incoming sludge transfer pumps
- Primary sludge screens
- Compressed air system
- WAS and primary sludge hydrocyclones
- Grit classifiers

b) Receiving Sludge Holding Tanks:

- Vertical shaft mixers
- Axial flow pumps for mixing WAS and primary sludge.

c) Sludge Transfer Pump Station:

- Thickener feed pumps
- Digester feed pumps
- WAS bypass pumps
- Associated equipment

d) Gravity Thickeners:

- Bridge motors and rotating equipment for three (3) gravity thickeners
- Odour control

e) Odour Control Systems for:

- Primary sludge holding tank, Mixed sludge holding tank, Sludge transfer pump station and gravity thickeners.
- Belt presses at the Dewatering building.

f) Anaerobic Digesters:

- Digester mixing pumps for three (3) anaerobic digesters
- Sludge recirculation pumps for three (3) anaerobic digesters
- Biogas pipelines and safety equipment.

g) Boiler House:

- Sludge heat exchangers for three (3) anaerobic digesters
- Dual fuel boiler and hot water recirculation pumps
- Water softening plant and associated equipment

h) Sludge Dewatering Building:

- Belt feed pumps for four (4) belt presses; or three (3) primary sludge inline screen pumps for three (3) centrifuges
- Four (4) belt presses; or three (3) centrifuges
- Poly make-up and dosing equipment
- Poly lube pumps
- Sludge cake pumps
- Dewatered centreless screw conveyors
- Compressed air system.

- i) Digestate Holding Tank:
 - Vertical shaft mixers
- j) Sludge Silo:
 - Live bottom screws
- k) Supernatant Holding Tank:
 - Supernatant return pumps
- l) Gas Cleaning Facility:
 - Gas cleaning equipment
- m) Gas Storage Tanks:
 - Two (2) double membrane gas holders
 - Air blowers and associated equipment
- n) Excess gas flare and associated equipment
- o) Struvite Precipitation Facility
- p) Combined Heat and Power (CHP) Building:
 - Biogas Engines
 - Heat Recovery Unit (Water jacket & exhaust heat recovery)
- q) Washwater Pump Station and Electrical Building:
 - Washwater pumps
 - Automatic self-cleaning filters
 - Manual strainer
 - Associated equipment
- r) General:
 - Provision of lifting equipment
 - Provision of ventilation equipment
 - Provision of spares as specified in the Contract
 - Maintenance of the works

The Electrical scope comprises the design, supply and installation of the following:

- a) Liaison with the Employer's MV department to coordinate the shutdown, decommissioning of equipment, removal and transportation of the existing MV network infrastructure and to accommodate and coordinate the electrical works described in this specification.
- b) Liaison with the supply authorities (Drakenstein Municipality and Eskom) to coordinate the electrical works described in this specification, upgrade of supply infrastructure and compliance with regulatory requirements for SSEG.
- c) Liaison with all parties required to apply and obtain wayleaves and permits.
- d) Upgrading of bulk supply to the Paarl WWTW
- e) Modification and extension of existing 11 kV cable ring main cables
- f) Decommissioning and removal off site of the existing electrical equipment above ground
- g) 2 off 11.5/11.5kV 6000kVA isolation transformers
- h) 4 off 11.5kV/415V distribution transformers
- i) 2 off additional feeder breakers at supply substation
- j) New Paarl WWTW MV Distribution 11kV AIS primary switchboard and metering
- k) 2 off 11kV collector AIS primary switchboards for centralised diesel generators and biogas (CHP) facilities

- l) 4 off 3-way secondary switchboards for MV ring
- m) 8 off 400V/11.5kV step-up transformers
- n) 2 off NECRTs
- o) MV Cables, including trenching and cable supports where required
- p) Centralized generator plant, with bulk fuel tank system and 400V/11.5kV step-up transformers
- q) Earthing and bonding
- r) Lightning Protection
- s) Protection studies
- t) 4 Motor Control Centres
- u) Local control panels and vendor package control panels
- v) Power Factor Correction and Harmonic Filtering (LV)
- w) Power quality logging and studies
- x) Hazardous Area Classification Study.
- y) LV cables
- z) Cable supports
- aa) Building electrical installations for all buildings and structures, including area lighting
- bb) Factory testing, site testing and commissioning of the electrical installation
- cc) Certificate(s) of compliance
- dd) As-built drawings
- ee) Operation and maintenance manuals
- ff) Training
- gg) Commissioning and operating spares

The Instrumentation and Control scope comprises the design, supply and installation of the following:

- a) Programmable Logic Controller (PLC), Human Machine Interface (HMI), and Remote Input/Output (RIO) based control system for the:
 - Sludge Handling Facility
 - Anaerobic Digesters
 - Dewatering Facility
 - Washwater Pump Station
- b) Ethernet device layer networks for each main PLC and process area.
- c) A new site-wide fibre optic backbone for supervisory and control layer ring networks, including splicing, testing, and trenching where required.
- d) Sub-ring control layer network for the dewatering area.
- e) Master SCADA system for the complete scheme at the process operation building control room and client operator station at the dewatering area.
- f) Historian and reporting
- g) Engineering PC and software for system configuration, maintenance, and updates of PLC, SCADA, and networks

- h) Discrete and analogue field instrumentation, flow meters and analysing stations, including installation material, and mounting brackets.
- i) Instrumentation, control and data cabling, cable racking and supports.
- j) Detailed design of the complete process control system network and all related components
- k) Factory acceptance testing of PLC panels, local control panels, instrument junction boxes, transmitter boxes, and instrument terminal boxes.
- l) Detailed functional design specification
- m) Programming of the PLC, remote IO, networks, SCADA, and HMIs for a complete and functional system
- n) Configuration and calibration of field instruments
- o) Configuration and integration of the system level SCADA, historian, and reporting
- p) Site acceptance testing and commissioning
- q) Recommended and mandatory spares
- r) As-built drawings and documentation
- s) Operation and maintenance manuals
- t) Training of the client's staff on the operation and maintenance of the new electronic equipment and software to keep the plant running optimally.
- u) Certificates of completion
- v) Any other items of hardware, software, documentation or other required to provide a fully functional process control and monitoring system meeting the functional requirement as described further on in the specification and control system drawings.
- w) Building electronic services, including access control, CCTV, and fire detection

c) SCOPE OF WORKS ON HOLD

Scope of works which has been put on hold or forms part of CP2 Phase B is as follows:

- Primary sludge inline screens: All four (4) screens and their associated air compressors, pipework, instrumentation, electrical and electronic equipment
- Hydrocyclones: Two (x 2) Primary sludge cyclones and one (1) WAS cyclone
- Grit Classifiers: Two (x2) Grit classifiers, two (x2) skip dollies and all associated pipework, electrical infrastructure including instrumentation reduced proportionally
- Gravity Thickeners: One (x1) gravity thickener, and all mechanical components, pipework and associated electrical installation including instrumentation reduced proportionally
- Anaerobic Digester Equipment: One (x1) anaerobic digester and all associated mechanical equipment such as digester mixing pumps, sludge recirculation pumps, heat exchangers, pipework, associated electrical installation and instrumentation reduced proportionally
- Combined Heat and Power Infrastructure: One (x1) double membrane gas holder.
Combined heat and power (CHP) plant in its entirety. Gas cleaning plant in its entirety, in line with removal of CHP plant. All associated pipework, electrical installation and instrumentation for CHP and gas cleaning facility descope accordingly

- Dewatering Equipment: One (x1) belt press / decanter centrifuge and all associated feed pumps, pipework, electrical installation and instrumentation for dewatering equipment reduced accordingly
- Lifting Equipment and Ventilation: All lifting equipment and ventilation associated with the CHP facility
- Maturation Pond: In its entirety
- Process Control Assistance, Maintenance and Training (Full Time): Associated with equipment described above
- Maintenance Inspections (Part Time): Associated with equipment described above
- Other: Civil infrastructure associated with equipment discussed above and other minor works.

IMPORTANT TO NOTE:

1. The Contractor's complete Tender submission (that is Book/File 1 to 5), including the Tender Drawings as well as the supporting documentation submitted with the Contractor's Tender, is incorporated by reference and forms part of this Contract.
2. All the supporting documentation (appendices and annexures) submitted with the Contractors Tender, pertaining to Addendums to Tender and Clarifications to Tender, form part of this Contract.

SIGNATURES

Thus done and signed at _____ on this _____ in the year of 2025 on behalf of the Drakenstein Municipality.

Municipal Manager

Contractor

As Witnesses: (Drakenstein Municipality)

As Witnesses: (Contractor)

1. _____

1.

2. _____

2. _____

DRAFT

COMPULSORY ENTERPRISE QUESTIONNAIRE

T2.3.12: COMPULSORY ENTERPRISE QUESTIONNAIRE

The following particulars must be furnished. In the case of a joint venture, separate enterprise questionnaires in respect of each partner must be completed and submitted.

Section 1: Name of enterprise: STEFANUTTI STOCKS (PTY) LTD

Address of enterprise: 81 MAIN ROAD
PAARL
T646

Section 2: VAT registration number, if any:

Section 3: CIDB registration number, if any:

Section 4: CSD number:

Section 5: Particulars of sole proprietors and partners in partnerships

Name*	Identity number*	Personal income tax number*

* Complete only if sole proprietor or partnership and attach separate page if more than 3 partners

Section 6: Particulars of companies and close corporations

Company registration number: 2003/022221/07

Close corporation number: N/A

Tax reference number:

Section 7: MBD4 issued by National Treasury must be completed for each tender and be attached as a tender requirement.

Section 8: MBD 6 issued by National Treasury must be completed for each tender and be attached as a tender requirement.

Section 9: MBDB issued by National Treasury must be completed for each tender and be attached as a tender requirement.

Section 10: MBD9 issued by National Treasury must be completed for each tender and be attached as a tender requirement.


The undersigned, who warrants that he/she is duly authorised to do so on behalf of the enterprise:

i) authorizes the Employer to obtain a Tax Compliance Status Document from the South African Revenue Services that my / our tax matters are in order;

August 2024



- ii) confirms that neither the name of the enterprise or the name of any partner, manager, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears on the Register of Tender Defaulters established in terms of the Prevention and Combating of Corrupt Activities Act of 2004;
- iii) confirms that no partner, member, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears, has within the last five years been convicted of fraud or corruption;
- iv) confirms that I / we are not associated, linked or involved with any other tendering entities submitting tender offers and have no other relationship with any of the tenderers or those responsible for compiling the scope of work that could cause or be interpreted as a conflict of interest;
- iv) confirms that the contents of this questionnaire are within my personal knowledge and are to the best of my belief both true and correct.

Signed		Date	20/11/24
Name	BRETT ELLIS	Position	DIRECTOR
Enterprise name	STEFANUTTI STOCKS (PT) LTD		

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C1.1 FORM OF OFFER AND ACCEPTANCE

OFFER

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

CES 11/2024: PAARL WASTEWATER TREATMENT WORKS - SLUDGE STREAM: CIVIL WORKS, MECHANICAL AND ELECTRICAL INSTALLATION

The Tenderer, identified in the offer signature block, has 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.

By the representative of the Tenderer, deemed to be duly authorized, signing this part of this form of offer and acceptance, the Tenderer offers to perform all of the obligations and liabilities of the contractor under the contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the conditions of contract identified in the contract data.

THE OFFERED TOTAL OF THE PRICES INCLUSIVE OF VALUE ADDED TAX IS

.....

.....rand (in words)

R.....(in figures)

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 to the Tenderer before the end of the period of validity stated in the Tender Data, whereupon the Tenderer becomes the party named as the Contractor in the Conditions of Contract identified in the Contract Data.

Signatures
Name(s)
Capacity
for the Tenderer
(Name and address of organisation)

Name & signature of witness:..... Date:

ACCEPTANCE

By signing this part of this Form of Offer and Acceptance, the Employer identified below accepts the Contractor's Offer. In consideration thereof, the employer shall pay the Contractor the amount due in accordance with the conditions of contract identified in the Contract Data. Acceptance of the Contractor's Offer shall form an agreement between the Employer and the Contractor 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 agreement)
Part C2 Pricing data
Part C3 Scope of work
Part C4 Site information
Part C5 Checklist

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

Deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Tender Schedules as well as any changes to the terms of the Offer agreed by the Contractor and the Employer during this process of offer and acceptance, are contained in the Schedule of Deviations attached to and forming part of this Agreement. No amendments to or deviations from said documents are valid unless contained in this Schedule, which must be duly signed by the authorised representative(s) of both parties.

The Contractor shall within an amount of ten working days after 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 bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the, Conditions of Contract identified in the Contract Data at, or just after, the date of 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 Contractor receives one fully completed original copy of this document, including the Schedule of Deviations (if any). Unless the Contractor (now Contractor) within five days of the date of such receipt notifies the Employer in writing of any reason why he cannot accept the contents of this Agreement, this Agreement shall constitute a binding contract between the parties.

Signatures

Name(s)

Capacity

for the Employer
(Name and address of organisation)

Name & signature of witness:

Date:

SCHEDULE OF DEVIATIONS

Notes:

- 1. *The extent of deviations from the tender documents issued by the Employer prior to the tender closing date is limited to those permitted in terms of the Conditions of Tender;*
- 2. *A Contractor's covering letter shall not be included in the final contract document. Should any matter in such letter, which constitutes a deviation as aforesaid become the subject of agreements reached during the process of, offer and acceptance, the outcome of such agreement shall be recorded here;*
- 3. *Any other matter arising from the process of offer and acceptance either as a confirmation, clarification or change to the tender documents and which it is agreed by the Parties becomes an obligation of the contract shall also be recorded here;*
- 4. *Any change or addition to the tender documents arising from the above agreements and recorded here, shall also be incorporated into the final draft of the Contract.*

1 Subject

Details

2 Subject

Details

3 Subject

Details

4 Subject

Details

5 Subject

Details

By the duly authorised representatives signing this agreement, the employer and the Contractor agree to and accept the foregoing schedule of deviations as the only deviations from and amendments to the documents listed in the tender data and addenda thereto as listed in the returnable schedules, as well as any confirmation, clarification or changes to the terms of the offer agreed by the Contractor and the employer during this process of offer and acceptance.

It is expressly agreed that no other matter whether in writing, oral communication or implied during the period between the issue of the tender documents and the receipt by the Contractor of a completed signed copy of this Agreement shall have any meaning or effect in the contract between the parties arising from this agreement.

FOR THE CONTRACTOR:

Signatures

Name(s)

Capacity

for the Contractor
(Name and address of organisation)

Name & signature of witness :..... Date:.....

FOR THE EMPLOYER:

Signatures

Name(s)

Capacity

for the Employer
(Name and address of organisation)

Name & signature of witness :..... Date:

Confirmation of Receipt

The Contractor, identified in the Offer part of this Agreement hereby confirms receipt from the Employer, identified in the Acceptance part of this Agreement, of one fully completed original copy of this Agreement, including the Schedule of Deviations (if any) today:

the.....(day)
of(month)
20.....(year)
at(place)

For the Contractor:

.....
Signature

.....
Name

.....
Capacity

Signature and name of witness:

.....
Signature

.....
Name

C2.2 Bills of Quantities

BILL	DESCRIPTION	AMOUNT
PRELIMINARY AND GENERAL		
BILL P&G	PRELIMINARY AND GENERAL	R105,597,413.34
CIVIL WORKS		
BILL C1	SITE CLEARANCE & BULK EARTHWORKS	R8,001,997.29
BILL C2	FLOW DIVERSIONS AND DEMOLITION	R4,465,129.00
BILL C3	MATURATION PONDS	R-
BILL C4	RECEIVING SLUDGE HOLDING TANKS	R26,295,336.41
BILL C5	GRAVITY THICKENERS	R4,833,303.84
BILL C6	3-WAY SLUDGE FLOW SPLITTER	R1,315,518.84
BILL C7	ANAEROBIC DIGESTERS AND STAIRCASES	R14,177,966.79
BILL C8	GAS HOLDING TANKS	R2,123,098.47
BILL C9	DIGESTATE HOLDING TANK	R10,856,684.08
BILL C10	SLUDGE SILOS	R7,939,467.71
BILL C11	SUPERNATANT HOLDING TANK	R3,958,698.14
BILL C12	MAIN SLUDGE TRANSFER PUMPSTATION	R5,458,836.93
BILL C13	BOILER HOUSE	R4,474,769.20
BILL C14	COMBINED HEAT AND POWER BUILDING	R-
BILL C15	DEWATERING BUILDING	R21,399,651.73
BILL C16	WASHWATER PUMPSTATION AND ELECTRICAL BUILDING	R3,937,877.54
BILL C17	CENTRALISED GENERATOR BUILDING	R7,117,192.49
BILL C18	SLUDGE HANDLING ELECTRICAL BUILDING	R1,920,667.20
BILL C19	MV DISTRIBUTION SUBSTATION	R4,967,082.88
BILL C20	ANCILLIARY STRUCTURES 1	R2,105,386.17
BILL C21	ANCILLIARY STRUCTURES 2	R1,093,448.32
BILL C22	WASHWATER NETWORK	R4,879,144.37
BILL C23	POTABLE WATER NETWORK	R1,450,743.64
BILL C24	PROCESS PIPELINES	R6,747,273.48
BILL C25	ROADS AND STORMWATER	R24,165,139.88
BILL C26	CABLE DUCTS	R2,312,348.78
BILL C27	FIRE DETECTION SERVICES	R460,733.25

BILL	DESCRIPTION	AMOUNT
MECHANICAL AND ELETRICAL WORKS		
BILL M1	SAFETY STUDIES	R309,611.56
BILL M2	SLUDGE RECEIVING PUMPS	R3,211,545.89
BILL M3	PRIMARY SLUDGE INLINE SCREENS	R-
BILL M4	HYDROCYCLONES	R2,306,020.56
BILL M5	GRIT CLASSIFIER AND SKIP DOLLY RAILS	R4,668,617.05
BILL M6	VERTICAL SHAFT MIXERS	R5,122,766.88
BILL M7	AXIAL FLOW PUMPS	R4,037,318.20
BILL M8	SLUDGE TRANSFER PUMP STATION	R7,481,492.32
BILL M9	SUBMERSIBLE CENTRIFUGAL PUMPSTATION	R899,269.95
BILL M10	GRAVITY THICKENERS	R2,839,853.02
BILL M11	ANAEROBIC DIGESTER EQUIPMENT	R14,834,000.96
BILL M12	ANAEROBIC DIGESTER: WATER EQUIPMENT	R15,815,727.83
BILL M13	DIESEL STORAGE TANKS	R1,475,484.57
BILL M14	COMBINED HEAT AND POWER (CHP) PLANT	R6,088,113.64
BILL M15	BIOGAS PIPELINES	R13,659,003.87
BILL M16	BELT PRESSES (OPTION 1)	R9,354,946.81
BILL M17	DECANTER CENTRIFUGES (OPTION 2)	R27,001,724.55
BILL M18	DEWATERING EQUIPMENT	R30,405,357.11
BILL M19	WASH WATER PUMP STATION	R6,114,218.91
BILL M20	SLUICE GATES	R958,620.84
BILL M21	ODOUR CONTROL SYSTEM AND COVERS	R19,780,023.96
BILL M22	COMPRESSED AIR SYSTEMS (INSTRUMENT AIR)	R1,790,876.49
BILL M23	LIFTING EQUIPMENT	R2,550,787.63
BILL M24	VENTILATION SYSTEM	R599,292.00
BILL M25	SPARES	R16,188,005.21
BILL M26	SUNDRIES	R25,801,728.80
BILL M27	PROCESS CONTROL ASSISTANCE, MAINTENANCE AND TRAINING (FULL TIME)	R8,677,847.91
BILL M28	MAINTENANCE INSPECTIONS (PART - TIME)	R3,022,857.70
BILL E1	SUPPLY AND LOCAL AUTHORITY LIAISON	R1,439,253.11
BILL E2	PRIMARY MV SWITCHGEAR	R33,868,135.38
BILL E3	SECONDARY MV SWITCHGEAR	R2,888,936.86

BILL	DESCRIPTION	AMOUNT
BILL E4	DISTRIBUTION TRANSFORMERS	R10,869,887.68
BILL E5	ISOLATION TRANSFORMERS	R24,667,180.15
BILL E6	MV CABLING	R31,819,182.62
BILL E7	DIESEL GENERATORS	R18,702,475.82
BILL E8	LV SWITCHGEAR AND CONTROLGEAR ASSEMBLIES	R16,991,401.70
BILL E9	LV CABLES AND CABLE SUPPORTS	R6,565,199.08
BILL E10	EARTHING, BONDING AND LIGHTNING PROTECTION	R1,928,970.71
BILL E11	BUILDING ELECTRICAL SERVICES	R6,670,075.53
BILL E12	PROCESS CONTROL SYSTEM	R7,617,334.72
BILL E13	DATA ARCHITECTURE, SCADA, HISTORIAN, AND REPORTING	R5,411,350.82
BILL E14	INSTRUMENTATION	R11,765,770.18
BILL E15	CONTROL, INSTRUMENTATION, AND DATA CABLING	R7,476,742.57
BILL E16	BUILDING ELECTRONIC SERVICES	R4,164,388.99
BILL E17	ELECTRICAL AND ELECTRONIC SPARES, SUNDRIES, AND MISCELLANEOUS	R4,279,288.69
NET TOTAL		R714,175,598.58

BILL	DESCRIPTION	AMOUNT
P&G	PRELIMINARY AND GENERAL (PHASE A)	R 105,597,413.34
C1 to C27	CIVIL WORKS (PHASE A)	R 176,457,496.42
M1 to M28	MECHANICAL WORKS (PHASE A)	R 234,995,114.22
E1 to E17	ELECTRICAL WORKS (PHASE A)	R 197,125,574.60
NET TOTAL OF WORKS (PHASE A)		R 714,175,598.58
ADD CONTINGENCIES: The Contractor shall add 7.5% of the total of Schedule of Quantities for Contingencies. The sum provided here for contingencies is under the sole control of the Engineer and may be deducted in whole or in part.		R 53,563,169.89
SUB-TOTAL (PHASE A)		R 767,738,768.47
PLUS ALLOWANCE FOR ESCALATION		R 66,100,000.00
PLUS ALLOWANCE FOR FOREIGN EXCHANGE ADJUSTMENT		R 16,700,000.00
SUB-TOTAL (PHASE A)		R 850,538,768.48
PLUS ALLOWANCE FOR 15% VAT		R 127,580,815.27
TENDER SUM INCLUSIVE OF VAT (TENDER AMOUNT CARRIED TO FORM OF OFFER – C1.1)		R 978,119,583.76

Signature of Contractor:

Signed on behalf of:

Date:

Part C1: Agreements and Contract Data

	Pages
C1.2 Contract Data (data provided by the Employer).....	21-52
C1.2 Contract Data (data provided by Contractor).....	53-5422
C1.3 Pro-Formas.....	55-73

C1.2 CONTRACT DATA

GENERAL CONDITIONS OF CONTRACT

The General Conditions of Contract (referred to as Conditions of Contract) are **the Conditions of Contract for Plant and Design-Build for Electrical and Mechanical Plant, and for Building and Engineering Works, Designed by the Contractor, First Edition 1999** published by Federation Internationale des Ingénieurs-Conseils (FIDIC).

Copies of the Conditions of Contract are available for inspection and scrutiny at the offices of the Employer's Agent and the Engineer.

The Conditions of Contract make several references to the Contract Data for specific data, which together with these Conditions collectively describe the risks, liabilities and obligations of the contracting parties and the procedures for the administration of the Contract. The Contract Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the Conditions of Contract.

The Conditions of Contract shall be read in conjunction with the variations, amendments and additions set out in the Particular Conditions of Contract below. Each item of data given below is cross-referenced to the clause in the General Conditions of Contract to which it mainly applies.

The Contract Data and Conditions of Contract shall have precedence over the Drawings, Scope of Work and Standardised Specifications in the interpretation of any ambiguity or inconsistency between these documents.

The Particular Conditions of Contract are as numbered and set out below. These Clauses are the only variations from and/or additions to the clauses of the Conditions of Contract. The variables are listed after these clauses in the form of an Appendix to the Tender.

GENERAL PROVISIONS

1.1 Definitions

1.1.1 The Contract

Delete the text of Sub-Clause 1.1.1.1 and replaced by:

"Contract" means the Form of Offer and Acceptance, Contract Data, these Conditions, the Employer's Requirements, the Specifications, the Drawings, the Schedules, and the further documents (if any) which are listed in the Form of Offer and Acceptance, and further includes drawings and documents or parts thereof which any of the aforesaid documents incorporate by reference."

Delete the text of Sub-Clause 1.1.1.2 and replaced by:

"Contract Agreement" means the document called "Form of Offer and Acceptance".

Delete the text of Sub-Clause 1.1.1.3 and replaced by:

"Letter of Acceptance" means that section of the Form of Offer and Acceptance called "Acceptance".

Delete the text of Sub-Clause 1.1.1.4 and replaced by:

"Letter of Tender" means that section of the Form of Offer and Acceptance called "Offer".

Delete the text of Sub-Clause 1.1.1.5 and replaced by:

"Employer's Requirements" means the document entitled Scope of Work, as included in the Contract, and any additions and modifications to such document in accordance with the Contract. This document specifies the purpose, scope, and/or design and/or other technical criteria, for the Works, and includes the Specifications."

In Sub-Clause 1.1.1.6, delete "lists and schedules of payments and/or prices" and substitute "lists, Bills of Quantities and schedules of payments and/or prices".

Delete the text of Sub-Clause 1.1.1.8 and replaced by:

“**Tender**” means that section of the Form of Offer and Acceptance called “Offer” and all other documents which the contractor submitted as Returnable Documents, as included in the Contract.”

Delete the text of Sub-Clause 1.1.1.9 and replaced by:

“**Appendix to Tender**” means the complete section entitled Appendix to Tender included in this Contract Data.”

Add the following Sub-Clause after Sub-Clause 1.1.1.10:

“1.1.1.11 **Returnable Schedules**” means the Schedules contained in Part T2.3 of the Tender Data and Part C2.1 of the Pricing Data, and “Bills of Quantities” means the document contained in Part C2.2 of the Pricing Data, as included in the Contract.”

1.1.2 Parties and Persons

In Sub-Clause 1.1.2.3, delete “in the Letter of Tender” and substitute “in the Appendix to the Tender and whose offer has been”

Delete the text of Sub-Clause 1.1.2.9 and replaced by:

“**Mediator**” means the person appointed under Sub-Clause 20.2.

1.1.3 Dates, Tests, Periods and Completion

Delete the text of Sub-Clause 1.1.3.1 and replaced by:

“**Base Date**” means the 7 days prior to the closing date for the submission of the Tender. “

Delete the text of Sub-Clause 1.1.3.2 and replaced by:

“**Commencement Date**” means the date the Contractor receives the fully completed Form of Offer and Acceptance, unless otherwise agreed between the Employer and Contractor.”

Delete the text of Sub-Clause 1.1.3.9 and substitute:

Where a specific number of days is allowed in the Contract for the performance of any act or is stipulated for the extinction of any right or the duration of any event or circumstance, the special non-working days as stated in the Appendix to Tender shall be excluded from the calculation of the number of days concerned.

“day” means a calendar day and where a specific number of days is allowed in the Contract for the performance of any act or is stipulated for the extinction of any right or the duration of any event or circumstance, the special non-working days and the days falling within the year end break as stated in the Appendix to Tender and the day from which the period concerned is stated to commence shall be excluded from the calculation of the number of days concerned. “Year” means 365 days.

1.1.4 Money and Payments

Delete the text of Sub-Clause 1.1.4.1 and replaced by:

“**Accepted Contract Amount**” means the amount accepted in that section of the Form of Offer and Acceptance called “Acceptance” for the execution and completion of the Works and the remedying of any defects.”

Delete the text of Sub-Clause 1.1.4.6 and replaced by:

“**Foreign Currency**” means a currency in which part (if any) of the Contract Price is payable, but not the Local Currency.”

Add the following Sub-Clause after Sub-Clause 1.1.4.12:

“1.1.4.13 **Contract Price Adjustments**” means the adjustment to be included in the Contract Price for fluctuations in the Cost of Plant and Materials, Site Installation, General Items (comprising General Requirements and Conditions, Health and Safety, Environmental Management, Sundries, etc.), and Variations in Rates of Exchange, Customs Surcharge and Customs Duty, all as provided for in for in Sub-Clause 13.8.”

*"1.1.4.14 **Pricing Strategy**" means the strategy which is adopted to secure financial offers and to remunerate contractors in terms of the contract. This incorporates the method of measurement and payment for the items in the Bill of Quantities. "*

*"1.1.4.15 **Reasonable Profit**" means an amount not exceeding 10% of the Cost of any item or activity"*

1.1.6 Other Definitions

Add the following Sub-Clause after Sub-Clause 1.1.6.9:

*"1.1.6.10 **Letter of Notification**" means the letter of formal notification, signed by the Employer, of the decision of the Supply Chain Management Bid Adjudication Committee sent to all tenderers. The notification of the decision does not form part of the Employer's Acceptance of the successful tenderer's Form of Offer - therefore no rights shall accrue.*

*1.1.6.11 **Additional Services Request**" is used interchangeably with "Variation" as defined in Sub-Clause 1.1.6.9 and should be read as such for the entirety of the Contract.*

*1.1.6.12 **Approved Programme**" means the latest programme submitted by the Contractor and approved by the Employers Agent. The latest programme approved by the Employers Agent supersedes previous Approved Programmes."*

Add to Sub-Clause 1.1:

"1.1.7 Terms that may be used elsewhere in other portions of the document

- 1.1.7.1 "Certificate of Completion" is synonymous with "Taking-over Certificate".*
- 1.1.7.2 "Defects Liability Period" is synonymous with "Defects Notification Period".*
- 1.1.7.3 "Guarantee" and Deed of Surety ship" are synonymous with "Performance Security".*
- 1.1.7.4 "Final Approval Certificate" is synonymous with "Performance Certificate".*
- 1.1.7.5 "Contract Price Adjustment Factor" is synonymous with "table of adjustment data" as used in Sub-Clause 13.8 [Adjustments for Changes in Cost].*
- 1.1.7.6 "Contract Data" means the General Conditions and the "Particular Conditions".*
- 1.1.7.7 "Offer" is synonymous with "Tender".*
- 1.1.7.8 "Form of Offer" is synonymous with "Letter of Tender".*
- 1.1.7.9 "Scope of Work" is synonymous with "Employer's Requirements".*
- 1.1.7.10 "Site Agent" is synonymous with "Contractor's Representative".*
- 1.1.7.11 "Plant" is synonymous with "Contractor's Equipment" where the context so indicates."*

1.5 **Priority of Documents**

Delete Sub-Clause 1.5 and substitute:

"The documents forming the Contract are to be taken as mutually explanatory of one another. If an ambiguity or discrepancy is found, the priority shall be such as may be accorded by the governing law. The Engineer has authority to issue any instruction which he considers necessary to resolve an ambiguity or discrepancy".

1.6 **Contract Agreement**

Delete Sub-Clause 1.6 and substitute:

"The Parties shall enter into a Contract Agreement after the Contractor is called upon to do so by the Employer. The Agreement shall be the fully completed Form of Offer, Acceptance and Schedule of Deviations (if any) sent under cover of the Employer's Letter of Acceptance".

1.9 Errors in the Employer's Requirements

Add the following before the first paragraph:

The Contractor shall give notice to the Engineer whenever the Works are likely to be delayed or disrupted if any necessary drawing is not issued to the Contractor within a particular time, which shall be reasonable. The notice shall include details of the necessary drawing, details of why and by when it should be issued, and details of the nature and amount of the delay or disruption likely to be suffered if it is late.

If the Contractor suffers delay and/or incurs Cost as a result of a failure of the Engineer to issue the notified drawing within a time which is reasonable and is specified in the notice with supporting details, the Contractor shall give further notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- (a) An extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- (b) Payment of any such Cost plus reasonable profit which shall be included in the Contract Price.

After receiving this further notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

However, if and to the extent that the Engineer's failure was caused by any error or delay by the Contractor, including an error in, or delay in the submission of, any of the Contractor's Documents, the Contractor shall not be entitled to such extension of time, Cost or Profit.

1.12 Confidential Details

Add the following to the end of Sub-Clause 1.12:

"The Contractor shall treat the details of the Contract as private and confidential, except to the extent necessary to carry out obligations under it or to comply with applicable Laws. The Contractor shall not publish, permit to be published, or disclose any particulars of the Works in any trade or technical paper or elsewhere without the express written agreement of the Employer."

1.14 Joint and Several Liability

Add at the end of Sub-Clause 1.14

"The joint venture agreement (or other agreements between partners) shall be subject to the Employer's approval."

2. THE EMPLOYER

2.1 Right of Access to the Site

Delete sub-paragraph (b) and replace with:

- (b) payment, which shall be included in the Contract Price, as follows:

The period of delay which may be determined by the Engineer and paid for under this sub-paragraph shall be agreed between the parties to cover delays, normally beyond control of the Employer, for which the Contractor may be compensated by the stipulated amount. These delays shall not be regarded as an instruction to suspend the work in terms of Sub-Clause 8.8 of the Conditions of Contract.

The amount tendered shall include for all additional Cost incurred by such delays, including financing, storage, labour, handling, protection, insurance, overheads, etc., and profit. Should no delays be experienced in terms of this sub-paragraph, the sum included in the Schedules of Quantities therefore shall be deducted.

For Contracts subject to Adjustment for Changes in Cost (Sub-Clause 13.8) the abovementioned amount shall be regarded as "extra over" any Contract Price Adjustment.

2.2 Permits, Licences or Approvals

Add the following after the last paragraph:

The following shall apply for the application of the Construction Work Permit for the Civil Works:

Where the Contract Sum exceeds sixty million Rand (R60 000 000), the Employer shall, in compliance with Regulation 3 of the Construction Regulations, read together with the exemptions published in the latest applicable Government Notice, apply to the Provincial Director of the Department of Labour for a construction work permit to perform the intended construction work. The Employer will apply for the construction work permit as soon as possible after its Bid Adjudication Committee has awarded the contract, and the period that the Department of Labour requires to issue the permit will run concurrently with the appeal period. Should the issuing of a Construction Work Permit delay the Engineer's instruction to commence executing the Works and this in turn causes a delay to Completion (Issue of Taking-Over Certificate), then the Contractor shall be entitled to make a claim in accordance with Clause 20.1. Should, however, the issuing of a Construction Work Permit be delayed by the submission of an unacceptable draft Health and Safety Plan, in the opinion of either the Employer's Health and Safety Agent, or the Provincial Director of the Department of Labour, no claim for an extension of time will be entertained.

2.4 Employer's Financial Arrangements

Delete Sub-Clause 2.4 Employer's Financial Arrangements

2.5 Employer's Claims

In Sub-Clause 2.5 Employer's Claims insert "or by law" after "Contract" in the first sentence of the first paragraph.

3 THE ENGINEER

3.1 Engineer's Duties and Authority

Add the following at the end of second paragraph:

"except in the upholding of good engineering principles and practice". The requirements for the Engineer to obtain the approval of the Employer before exercising a specified authority are:

- a. The issuing of instructions for dealing with fossils and the like in terms of Sub-Clause 4.24.
- b. Giving consent for work to be carried out on days of rest or outside normal working hours in terms of Sub-Clause 6.5 (b).
- c. The approval of a revised programme and supporting report in order to expedite progress in terms of Sub-Clause 8.6.
- d. Suspending progress of part or the whole of the Works in terms of Sub-Clause 8.8.
- e. Determining the extent required for rectifying loss or damage to the Works resulting from Employer's Risks in terms of Sub-Clause 17.4.
- f. Determinations, in terms of Sub-Clause 3.5, of Contractor's Claims, in terms of Sub-Clause 20.1."
- g. Agreeing to any advance payment, in terms of Sub-Clause 14.2.

3.2 Delegation by the Engineer

In Sub-Clause 3.2, the first paragraph, after "resident engineer" insert "Engineer's representative".

3.4 Replacement of the Engineer

Delete the text of Sub-Clause 3.4 and replace by:

"The Employer shall have the right to replace the Engineer."

4 THE CONTRACTOR

4.2 Performance Security

In Sub-Clause 4.2, delete "within 28 days after receiving the Letter of Acceptance" replace with:

“as stated in the Appendix to Tender.”

In Sub-Clause 4.2, at the end, add:

“If the Performance Security is in the form of a bank guarantee, it shall be issued either (a) by a bank located in the Country, or (b) directly by a foreign bank acceptable to the Employer. If the Performance Security is not in the form of a bank guarantee, it shall be furnished by a financial entity registered, or licensed to do business, in the Country”.

4.4 Subcontractors

Delete “28 days’ notice” in sub-paragraph (c) and replace with “14 days’ notice”.

4.5 Nominated Subcontractors

In Sub-Clause 4.5, delete “means a Subcontractor” and substitute “means a subcontractor named in the Contract and/or a Subcontractor”.

4.8 Safety Procedures

In Sub-Clause 4.8, at the end, add:

“The Contractor’s attention is also drawn to Sub-Clause 4.22 (c), and to the Health and Safety Specification in Part C3.6 of the Scope of Works and the Appendix to Tender ”.

4.9 Quality Assurance

In Sub-Clause 4.9, the first paragraph, delete “The system shall be in accordance with the details stated in the Contract”.

In Sub-Clause 4.9, at the end, add:

“See also any requirements with regard to Quality Assurance in the Scope of Works, Part C3.”

4.10 Site Data

In Sub-Clause 4.10, the first paragraph, after the first sentence, add:

“The relevant data referred to in the previous sentence shall be the data provided in the Part C4. Site Information.”

4.15 Access Routes

In Sub-Clause 4.15, replace the first paragraph with the following:

“The Contractor shall be deemed to have been satisfied as to the suitability and availability of access routes to the Site. The Contractor shall use reasonable efforts to prevent any road or bridge to, or in the vicinity of the Site from being subjected to damage by excessive loads, or disruption due to excessive traffic occasioned by the transport arrangements by the Contractor.

4.17 Contractor’s Equipment

In Sub-Clause 4.17, at the end, add:

“The Contractor shall provide all necessary storage facilities on Site.”

4.18 Protection of the Environment

In Sub-Clause 4.18, at the end, add:

“The Contractor’s attention is also drawn to the Environmental Management Specification in Part C3.6 of the Scope of Works”.

4.21 Progress Reports

Delete the text of Sub-Clause 4.21 and substitute "Progress reports shall be prepared and submitted as specified in the Employer's Requirements".

4.22 Security of the Site

Add the following Sub-Clause:

"(c) The Contractor shall in connection with the Works provide and maintain at his own cost all lights, guards, fencing, watching and other appropriate security measures when and where necessary or required by the Engineer or by any competent statutory or other authority for the protection and security of the Works and the Contractor's Equipment, or for the safety and convenience of the public and for the protection of life and property."

4.23 Contractor's Operations on Site

Add the following after the last paragraph:

"The Contractor shall protect and cover up all works as may be required and take all other precautions necessary to avoid causing damage or soiling of new and existing plant, equipment, buildings and structures. This shall inter alia apply when activities such as abrasive blasting, painting, welding, grinding, sealing, lagging and so forth, must be performed on the Site. The Contractor shall, on completion, remove all covers and shall at his cost rectify all soiling and damage to finishes to the satisfaction of the Engineer."

Add the following after Sub-Clause 4.24:

4.25 Competent employees

"The Contractor shall only employ persons with the minimum number of years' applicable experience as shown below for the execution of work on this Contract: (Years' experience after obtaining qualifications)

Contract Manager/ Director	-	minimum 15 years applicable experience
Contractor's Representative/Project Manager	-	minimum 12 years applicable experience
Site Agent (Mechanical and Electrical)	-	minimum 10 years applicable experience
Site Agent (Civil)	-	minimum 10 years applicable experience
Mechanical Design Engineer	-	minimum 10 years applicable experience
Electrical Design Engineer	-	minimum 10 years applicable experience
Quantity Surveyor	-	minimum 10 years applicable experience
Environmental Officer	-	minimum 10 years applicable experience
Health and Safety Officer	-	minimum 10 years applicable experience
All other key personnel	-	minimum 5 years applicable experience and subject to approval of Employer

Any key personnel that are replaced during the execution of the Contract, must be replaced with someone of equivalent or better qualifications, professional registration, years' experience and relevant experience."

5 DESIGN

5.1 General Design Obligations

In Sub-Clause 5.1, the first paragraph, delete the sentence "Design shall be prepared by qualified designers who are engineers or other professionals who comply with the criteria (if any) stated in the Employer's Requirements" and substitute:

"Design shall be prepared by qualified designers who are registered professional engineers."

Add the following after the last paragraph:

All civil works shall be designed by the Employer and the Contractor shall be responsible for implementing this Design. The Contractor shall study all the design documentation provided to him (and request any other documentation he may deem necessary) in order to familiarise himself completely with the design such that he can

successfully implement this design. The Contractor shall ensure his installation meets the design as intended and detailed in the design documentation.

5.2 Contractor's Documents

In Sub-Clause 5.2, the sixth paragraph, delete subparagraph (a)(iii).

5.4 Technical Standards and Regulations

Add the following after the first paragraph:

The above shall also apply to the Civil works, but design shall be excluded from the requirements.

5.8 Design Error

Add the following after the last paragraph:

Where the Employer is responsible for the design portion of the Works, if any errors, omissions, ambiguities, inconsistencies, inadequacies or other defects are found the Contractor shall notify the Engineer within 7 days of becoming aware and the Engineer shall issue an appropriate instruction to deal with the matter.

Add the following after Sub-Clause 5.8:

5.9 Employer's Documents for the Civil Works

5.9.1 On the Commencement Date, the Engineer shall deliver to the Contractor copies of the drawings and any instructions required for the commencement of the Works. The Contractor is referred to Part C3.2.6 (Drawings) of the Contract Document for conditions associated with the issue of civil construction drawings.

5.9.2 The Engineer shall deliver to the Contractor from time to time, during the progress of the Works, drawings for construction purposes, or instructions as shall be necessary for the proper and adequate construction, completion and defect correction of the Works.

5.9.3 The Contractor shall give 14 days written notice to the Engineer of any requirements in the Scope of Work or drawings, which the Contractor may require for carrying out the Works and the Engineer shall deliver such instructions and/or drawings to the Contractor.

5.9.4 The aforementioned instructions and/or drawings referred to in Clause 5.9.3 shall be delivered within a reasonable time taking the approved Programme into account.

5.9.5 The Contractor shall give effect to and be bound by any drawing or instruction given in terms of this Clause and, if such drawing or instruction shall require any variation of, addition to, or omission from the Works, Clause 13 shall apply.

5.9.6 If the Contractor suffers delay and/or incurs Cost as a result of a failure by the Employer to resolve the matter pertaining to the Employer's Civil Works Documents, the Contractor shall give notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

(a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and if applicable

(b) payment of any such Cost plus reasonable profit, which shall be included in the Contract Price.

After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

6 STAFF AND LABOUR

6.7 Health and Safety

In Sub-Clause 6.7, the first paragraph, delete reference to “medical staff” and “ambulance service” and add: “The Contractor shall display in a prominent position(s) the telephone numbers of an appropriate medical practitioner and ambulance service”.

In Sub-Clause 6.7, the second paragraph, delete “accident prevention officer” and substitute “Safety Officer in terms of the Occupational Health and Safety Act (Act No 85 of 1993)”.

In Sub-Clause 6.7, add at the end

“See also the specification dealing with Occupational Health and Safety, if any.

The Employer and the Contractor shall enter into an agreement to complete the work required for the construction of the Works in terms of the provisions of Section 37(2) of the Occupational Health and Safety Act (No. 85 of 1993) and the Construction Regulations promulgated thereunder.

The Contractor shall provide proof to the Employer, within 14 days from the Commencement Date, that he has paid all contributions required in terms of the Compensation for Occupational Injuries and Diseases Act (No. 130 of 1993).”

6.8 Contractor’s Superintendence

Add the following after the last paragraph:

The Contractor’s Representative/Project Manager must be based full time on site until issue of taking over certificate, The Site Agent: Civil must be based full time on site for the works associated with civil construction until issue of taking over certificate. The Site Agent: M&E must be based full time on site for the works associated with M&E Works (inspections, installation, testing and commissioning including Trial operation period) until issue of taking over certificate.

7 PLANT, MATERIALS AND WORKMANSHIP

7.3 Inspection

Add the following after the last paragraph:

“The Contractor shall ensure that plant and equipment comply with the specified requirements before arranging for the Engineer’s factory inspections. The Contractor shall then make all arrangements for the Engineer to perform the inspections specified in the Detailed Mechanical Specification and/or the Detailed Electrical Specification.

The purpose of these inspections is to reduce the risk of non-compliant plant and equipment being transported to Site. The inspections do not reduce the Contractor’s responsibility for complying with the Contract.

7.6 Urgent Remedial Work

Delete the last paragraph and replace with:

If, by reason of any accident, or failure, or other event occurring to, in, or in connection with the Works, or any part thereof, either during the execution of the Works, or during the Defects Notification Period, any remedial or other work is, in the opinion of the Engineer, urgently necessary for the safety of the Works, the Engineer shall give the Contractor notice and the Contractor will be provided with 7 days to comply. If the Contractor is unable or unwilling at once to do such work, the Employer shall be entitled to employ and pay other persons to carry out such work as the Engineer may consider necessary. If the work or repair so done by the Employer is work which, in the opinion of the Engineer, the Contractor was liable to do at his own cost under the Contract, then all costs consequent thereon or incidental thereto shall, after due consultation with the Employer and the Contractor, be determined by the Engineer and shall be recoverable from the Contractor by the Employer, and may be deducted by the Employer from any monies due or to become due to the Contractor and the Engineer shall notify the Contractor accordingly, with a copy to the Employer. Provided that the Engineer shall, as soon after the occurrence of any such emergency as may be reasonably practicable, notify the Contractor thereof.”

7.7 Ownership of Plant and Materials

Add the following after the last paragraph:

“Notwithstanding points (a) and (b) above, the Contractor shall remain responsible for Plant and Materials that falls within the scope of the Contract. The Contractor shall protect the equipment against theft, damage, vandalism and

unreasonable wear and tear whether the equipment is stored on-site, off-site or installed (not yet commissioned) at no additional cost to the client other than stipulated under General Requirements and Conditions until final commissioning and handover. Security is to be provided in terms of Section C3.4.3.2 (e) of the Contract Data. Insurance by the Contractor of this Plant and Material against these risks is also required to be included under Sub-Clause 18.2 (c)."

Add the following after Sub-Clause 7.8:

7.9 Quality of Construction Equipment for the Civil Works

The nature and quality of all Construction Equipment to be provided by the Contractor for carrying out and making good of defects of the Works shall be such that it corresponds with the requirements and scope of the Works and the Construction Equipment shall be in good working order and shall, in particular, be well suited to the purpose for which it is to be used. The Contractor shall provide and maintain sufficient Construction Equipment to meet all the requirements and, when so instructed by the Engineer, the Contractor shall remove from the site all unsuitable, outdated and obsolete Construction Equipment.

Add the following after Sub-Clause 7.9:

7.10 Quality of Plant, Workmanship and Materials for the Civil Works

All Plant to be supplied shall be manufactured, all workmanship shall be carried out and all materials shall be of the respective kinds specified in the Contract and shall comply with the requirements set in the Scope of Work and in the Engineer's instructions. Failing requirements or instructions, the Plant, workmanship and materials of the respective kinds shall be suitable for the purpose intended.

Add the following after Sub-Clause 7.10:

7.11 Samples and Testing for the Civil Works

7.11.1 The Contractor shall, as set out in the Scope of Work, or as instructed by the Engineer, provide at his own expense samples of materials intended to be incorporated into the Works.

7.11.2 The Contractor shall, as set out in the Scope of Work, or as instructed by the Engineer, take and deliver to the Engineer test specimens from portions of the Works already constructed, and make good any resultant damage to the Works.

7.11.3 The Contractor shall, in accordance with the Scope of Work, or if instructed by the Engineer, carry out tests on Plant and samples of materials intended to be incorporated into the Works and on any test specimens from portions of the Works, and shall carry out any other tests specified in the Scope of Works.

The Contractor shall provide all necessary assistance, labour, materials, electricity, fuel, testing equipment and instruments for the purpose of such tests to be performed by him or, if so specified in the Scope of Work, or instructed by the Engineer, for the purposes of tests to be performed by others.

7.11.4 The following provisions shall apply in respect of the cost of the Contractor's services in terms of Clauses 7.11.2 and tests 7.11.3:

(a) It shall be taken that the Contractor has allowed in his rates and/or prices for all such services as are required to be rendered by him, provided that the tests have been particularised in the Scope of Work in sufficient detail for him to allow for them, and

(b) The Contractor shall be paid the cost of any services not covered by Clause 7.11.4.a; provided that, if any test establishes that the Plant, workmanship or the materials used do not comply with the requirements of the Contract, the Contractor shall not be paid any amount in respect of the services concerned whether or not payment would otherwise have been due in terms of Clauses 7.11.4.a and 7.4.11.b.

Add the following after Sub-Clause 7.11:

7.12 Examination of the Works for the Civil Works

7.12.1 No part of the Works or excavations shall be covered up or put out of view without the consent of the Engineer, and the Contractor shall afford full opportunity for the Engineer to examine and measure the Works and to inspect the excavations before any Permanent Works are placed thereon.

- 7.12.2** No Plant shall be delivered to Site until such Plant has passed testing in accordance with Clause 7.11.3 and the subsequent written authorisation by the Engineer for delivery to Site has been issued.
- 7.12.3** The Contractor shall give adequate written notice to the Engineer whenever Plant, or any part of the Works, or excavations are ready or almost ready for testing, or inspection, and the Engineer shall visit the site, as soon as practicable, for the purpose of testing such Plant or examining such work or excavations unless he considers it unnecessary and advises the Contractor accordingly in writing (in which event it shall be taken that the consent required in terms of this Clause has been given); provided that, any delay occasioned by the said attendance of the Engineer beyond that provided in the approved programme shall entitle the Contractor to make a claim in accordance with Clause 20.1 in respect of the delay to Completion (Issue of Taking-Over Certificate) and/or to proven additional cost.
- 7.12.4** Any delay occasioned by the Employer in the dates of delivery of Plant beyond that provided in the approved programme shall entitle the Contractor to make a claim in accordance with Clause 20.1 in respect of the delay to Completion (Issue of Taking-Over Certificate) and/or to proven additional cost.
- 7.12.5** The Contractor shall uncover any part or parts of the Works, or make openings in or through the same as the Engineer may from time to time order, and reinstate and make good such part or parts in accordance with the terms of the Contract. If any such part or parts have been covered up or put out of view after compliance with the requirements of Clauses 7.12.1 and 7.12.3 and are found to have been carried out in accordance with the Contract, the Contractor shall in respect of the delay to Completion (Issue of Taking-Over Certificate) and/or to proven additional cost, be entitled to make a claim in accordance with Clause 20.1, but in any other case the cost shall be borne by the Contractor and no extension of time shall be given.

8 COMMENCEMENT, DELAYS AND SUSPENSION

8.1 Commencement of Work

Delete the first paragraph and replace with the following:

"The Commencement Date shall be not later than the number of days of the proposed Validity Period included in the Conditions of Tender after the latest date for submission of tenders, unless the tender offer validity period is extended by the Tenderer upon request of the Employer in terms of C.2.16.2 of the Standard Conditions of Tender.

The Contractor shall commence executing the Works within 14 days from the Commencement Date.

Notwithstanding the above, the Contractor will not be permitted to commence executing the Works before the following documents have been submitted

- a) Form of Performance Security – Demand Guarantee
- b) Approved Health and Safety Plan (Refer to applicable clause in the Health and Safety Specification in Part C3.5 in the Scope Work) or (Refer to Clause 6.7)
- c) Programme (Refer to Clause 8.3)
- d) Security (Refer to Clause 4.22)
- e) Evidence of Insurance (Refer to Clause 18)
- f) Occupational Health and Safety Agreement (Part C1.5 in Agreements and Contract Data)
- g) Letter of good standing from the Compensation Commissioner, or a licensed compensation insurer
- h) Proof of Registration / Letter of Good Standing with the relevant Bargaining Council
- i) Cash flow projection
- j) Environmental method statement.

Such instruction shall, where the Contract Sum exceeds sixty million Rand (R60 000 000), also be subject to the issuing, by the Provincial Director of the Department of Labour, of a construction work permit to perform the intended construction work in terms of Clause 2.2."

8.2 Time for Completion

Delete sub-paragraph (a) and replace with:

“(a) achieving the passing of the Tests on Completion and the 2-month day Trial Operation Period referred to in Sub-Clause 9.1.”

8.3 Programme

In Sub-Clause 8.3, the first paragraph, delete “within 28 days” and substitute “within the time stated in the Contract data”.

In Sub-Clause 8.3, add the following after the last paragraph: “The Contractor’s Programme will not be accepted as the basis for claims for additional compensation without due reference to all relevant associated factors.

See also any requirements with regard to Programme in Part C3.5: Management.”

8.4 Extension of Time for Completion

Replace Sub-Clause (d) with the following:

“(d) Unforeseeable shortages in the availability of personnel or Goods caused by epidemic, global pandemics or governmental actions, or”

8.7 Delay Damages

Replace Sub-Clause 8.7 (in its entirety) with the following:

“If the Contractor fails to:

- (a) Comply with Sub-clause 8.2 [Time for Completion], and/or
- (b) Comply with the Approved Programme as approved by the Engineer in accordance with Sub-clause 8.3, and/or
- (c) Provide the complete set of Contractor’s Documents required in accordance with the timelines stipulated in C3.2 - Engineering.

the Contractor shall, subject to Sub-Clause 2.5 [Employer’s Claims], pay penalties to the Employer for this default. These penalties shall be the amount stated in the Appendix to Tender, which shall be paid for:

- i. Every day which has elapsed between the relevant Time for Completion and the date stated in the Taking-Over Certificate
- ii. Every day which has elapsed in the approved project programme which relates to completion dates to the design (Contractor’s Documents required in terms of C3.2.8) and those works that will be applicable to sectional or overall completion.

Where the Contractor does not adhere to the timeline requirements and associated sequencing of the Works stipulated in items (a), (b) and (c) above, the Contractor shall be liable for any costs resulting from consequent delays in accordance with Sub-clause 2.5.

These penalties shall be the only penalties due from the contractor for such default, other than in the event of termination under Sub-Clause 15.2 [Termination by Employer] prior to the completion of the Works. These penalties shall not relieve the Contractor from his obligations to complete the Works, or from any other duties, obligations or responsibilities which he may have under the Contract.”

8.8 Suspension of Work

In Sub-Clause 8.8, the first paragraph, add the following after the first sentence “unless in the opinion of the Engineer, such suspension is deemed necessary to ensure the safety of personnel and the Works”

Add the following after Sub-Clause 8.12:

8.13 Wayleaves and Facilities

“The Contractor shall bear all costs and charges for special or temporary wayleaves required by him in connection with access to the Site. The Contractor shall also provide at his own cost any additional facilities outside the Site required by him for the purposes of the Works.”

Add the following after Sub-Clause 8.13:

8.14 Extension of time for Completion

“No extension of time will be granted in respect of any delays attributed to normal climatic conditions. Normal climatic conditions shall be deemed to include normal rainfall and associated wet conditions and materials, strong winds and extremes of temperature. However, in the annual event that delays to critical activities exceed the number of working days listed below on an annual basis (i.e., anniversary date of the commencement date as per Clauses 1.1.3.2 and 8.1), then abnormal (exceptionally adverse) climatic conditions shall be deemed to exist, and an extension of time may be claimed in accordance with the provisions of that Clause 8.4. An extension of time, if claimed in accordance with Clause 8.4, will be determined on an annual and aggregate basis (i.e., the annual number of delay days to critical activities exceed the annual number of working days listed below), where this will be determined on the anniversary date of the commencement date as per Clauses 1.1.3.2 and 8.1.

The number of days quoted below shall be regarded as a fair estimate of the delays to be anticipated and allowed for under normal climatic conditions where inclement weather prevents or disrupts critical work.

January	2 days
February	2 days
March	2 days
April	2 days
May	2 days
June	5 days
July	6 days
August	4 days
September	3 days
October	2 days
November	2 days
December	2 days

Claims for delays for abnormal climatic conditions shall be accompanied by substantiating facts and evidence, which shall be submitted timeously as each day or half-day delay is experienced.

Should an extension of time be granted by the Engineer such extension of time will be added to the Time of Completion or set off against any over-provision that may have occurred in the above-mentioned schedule and any other claim.

It shall be further noted that where the critical path is not affected, no extension of time for abnormal (exceptionally adverse) climatic conditions or for any other reason will be entertained.”

9 TESTS ON COMPLETION

9.1 Contractor's Obligations

In Sub-Clause 9.1, the third paragraph, subparagraph (c), after “trial operation” insert “(if a trial operation is required in terms of the Appendix to the Tender or the Employer's Requirements and for the period stated therein)”.

Add the following before the last paragraph of this Sub-Clause:

“The Contractor shall provide all necessary test equipment, materials and tools and competent staff for the performance of the specified performance acceptance tests and shall submit for the approval of the Engineer certified copies of the calibration certificates for the test equipment.

When all tests have been successfully completed to the satisfaction of the Engineer, a Trial Operation Period shall start and shall consist of a continuous period of operation of 2 months where all equipment has operated and performed in accordance with the specifications. During the Trial Operation Period the Contractor shall carry out all necessary servicing and any adjustments required. The Council's site staff will assist the Contractor in operating

the plant during this period and at this time the Contractor shall train the Council's operational staff in the starting, operating and stopping of the plant, and the Council's maintenance staff on the maintenance requirements and procedures.

The Contractor shall be responsible for the operation and maintenance of the works until such time that a successful trial operation period is achieved to the satisfaction of the Engineer, approval of which shall not be unreasonably withheld.

When an extended performance test period is specified, the Trial Operation Period will run concurrently with the first 28 days of the performance acceptance test period.

At the end of the Trial Operation Period the Contractor shall arrange for an acceptance inspection to be carried out together with the Engineer for the purpose of taking over the Works in terms of Clause 10."

10 EMPLOYER'S TAKING OVER

10.1 Taking Over of the Works and Sections

In Sub-Clause 10.1, add the following before the first paragraph:

"At the end of the Trial Operation Period an inspection shall be done by the Contractor and the Engineer for the purpose of taking over the Works in terms of this Clause 10. A single Taking-Over Certificate will be issued for the Mechanical, Electrical and Civil Works. The latest date of completion for either the Mechanical/Electrical Works (end of 2 month trial operation period) or Civil Works will determine the date of issue of the Taking-Over Certificate"

In Sub-Clause 10.1;

- (i) in the first paragraph, delete "or is deemed to have been issued", and*
- (ii) delete the last paragraph.*

10.2 Taking Over of Parts of the Works

In Sub-Clause 10.2, replace the first sentence with the following:

"The Employer shall not make use of the works (other than as a temporary measure which is either specified in the Contract or as agreed by both Parties, or as required in Clause C3.4.8 (Part C3.4: Construction)) unless and until the Engineer has issued a Taking-Over Certificate for this part. Where it is a requirement for commissioning of the works that the part of the works need to be brought into operation, this shall not constitute the Employer making use of the works and will not constitute Taking Over."

In Sub-Clause 10.2, the second paragraph, subparagraph (a), delete "it is used" and substitute "the trial operation ends".

10.3 Interference with Tests on Completion

In Sub-Clause 10.3, delete the first and second paragraphs.

Add the following after Sub-Clause 10.4:

"10.5 Urgent Remedial Work

If, by reason of any accident, or failure, or other event occurring to, in, or in connection with the Works, or any part thereof, either during the execution of the Works, or during the Defects Notification Period, any remedial or other work is, in the opinion of the Engineer, urgently necessary for the safety of the Works and the Contractor is unable or unwilling at once to do such work, the Employer shall be entitled to employ and pay other persons to carry out such work as the Engineer may consider necessary. If the work or repair so done by the Employer is work which, in the opinion of the Engineer, the Contractor was liable to do at his own cost under the Contract, then all costs consequent thereon or incidental thereto shall, after due consultation with the Employer and the Contractor, be determined by the Engineer and shall be recoverable from the Contractor by the Employer, and may be deducted by the Employer from any monies due or to become due to the Contractor and the Engineer shall notify the Contractor accordingly, with a copy to the Employer. Provided that the Engineer shall, as soon after the occurrence of any such emergency as may be reasonably practicable, notify the Contractor thereof."

11 DEFECTS LIABILITY

11.3 Extension of Defects Notification Period

In Sub-Clause 11.3, the first paragraph, delete the last sentence.

Add the following after Sub-Clause 11.11:

11.12 Latent defect liability for the Civil Works

The latent defect period is stated in the Appendix to Part 1-Contract Data provided by the Employer.

13 VARIATIONS AND ADJUSTMENTS

13.5 Provisional Sums

In Sub-Clause 13.5, the first paragraph, after "in whole or in part ..." add "and not limited to the value stated in the schedule of quantities,".

13.8 Adjustment for Changes in Cost

In Sub-Clause 13.8, the third paragraph, delete from "The formulae shall be of the following ..." up to and including the fourth paragraph and substitute

"Contract Price Adjustment: Mechanical and Electrical Works

The Contract Price shall be adjusted by an amount A in respect of the billed items for the supply of Plant, an amount B in respect of the billed items for the delivery of Plant to the site, an amount C in respect of the billed items for the installation of Plant, an amount D in respect of the billed items for the testing and commissioning of Plant and an amount E in respect of the billed items for the servicing of the Plant.

The amounts shall be calculated according to the following formulae:

$$A = 0,90 P_s \left(l \frac{L_s - L_o}{L_o} + m \frac{M_s - M_o}{M_o} \right)$$

$$B = 0,90 P_d \left(\frac{T_d - T_o}{T_o} \right)$$

$$C = 0,90 P_i \left(\frac{I_i - I_o}{I_o} \right)$$

$$D = 0,90 P_c \left(\frac{L_c - L_o}{L_o} \right)$$

$$E = 0,90 P_m \left(\frac{L_m - L_o}{L_o} \right)$$

in which the symbols have the following meanings:

- P_s = sum of the net tendered prices of the items for supply of Plant.
- P_d = sum of the net tendered prices of items for delivery of Plant (transport to Site).
- P_i = sum of the net tendered prices of items for installation of Plant.
- P_c = sum of the net tendered prices of items for testing and commissioning of Plant.
- P_m = sum of the net tendered prices of items for servicing of the Plant.

- I = the co-efficient which represents the proportionate value of labour within the tendered prices of items for supply of Plant.
- m = the co-efficient which represents the proportionate value of the materials within the tendered prices of items for supply of Plant.
- Lo = SEIFSA Index of Actual Labour Cost (all hourly paid Employees) for the month which incorporates the Base Date.
- Ls = SEIFSA Index of Actual Labour Cost (all hourly paid Employees) for the month which incorporates the date which is the tendered or approved actual date of delivery whichever is the earlier.
- Li = SEIFSA Index of Actual Labour Cost (all hourly paid Employees) for the month during which 60%, in the opinion of the Engineer, of the installation work (computed by value) is due to be completed in terms of the Contract.
- Lc = SEIFSA Index of Actual Labour Cost (all hourly paid Employees) for the month in which commissioning of the Works took place.
- Lm = SEIFSA Index of Actual Labour Cost (all hourly paid Employees) for the month which is mid-way through the Defects Notification Period.
- Mo = relevant price index or price of material for the month which incorporates the Base Date.
- Ms = for all items except filter media, it shall be the relevant price index or price of material stated in the Appendix to the Tender for the month which incorporates the date which is the tendered or approved actual date of delivery whichever is the earlier.

For filter media it shall be the relevant price index of material stated in the Appendix to the Tender for the month which incorporates the date on which installation is ordered to commence.

- To = SEIFSA Index of Road Freight Costs for the month which incorporates the Base Date.
- Td = SEIFSA Index of Road Freight Costs for the month which incorporates the tendered or approved actual date of delivery, whichever is the earlier.

"SEIFSA" means Steel and Engineering Industrial Federation of South Africa.

The selected values of "I" and "m" shall add up to 1,00. If required by a Tenderer, he may sub-divide the value of "m" to cater for various categories of material and expand the formula for A above accordingly.

Where items or groups of items to be supplied have different delivery dates, the indexes Ls and Ms shall be determined separately for the items or groups of items and used for calculating the adjustment amount A in parts. The same principle shall apply in respect of delivery, installation, testing and commissioning and servicing.

Where any of the activities, delivery, installation, testing and commissioning and/or servicing are not billed separately they shall be held to be included in the formula for the preceding activity.

The tendered date of delivery used in the determination of Ls, Ms and Td, and the due date for completion of 60% of the installation work used in the determination of Li shall be calculated taking into account any delay required or approved for this purpose by the Engineer.

No Contract Price Adjustment in terms of this Clause shall be applicable to "day work".

Add the following to Sub-Clause 13.8:

"13.8.1 Plant and Materials Imported from Outside South Africa

13.8.1.1 Permissible Adjustments

Adjustment to the Contract Price for the design, manufacture, painting, testing, supply, delivery, offloading and storage of any Plant and Materials imported from outside the Republic of South Africa will be permitted only in respect of the following variables:

- (a) Variations in Rates of Exchange as detailed in Sub-Clause 13.8.2.2;
- (b) Variations in Customs Surcharge and Customs Duty as detailed in Sub-Clause 13.8.2.3, and
- (c) Labour and material cost variations in the mechanical and electrical industries of the countries from which the Plant and Materials are imported as detailed in Sub-Clause 13.8.2.5.

13.8.1.2 Variations in Rates of Exchange

Adjustment for variations in rates of exchange shall be based on the following:

- (a) The Tenderer shall have completed Schedule T2.4.11 for all imported Plant, Materials and Equipment intended to be subject to variations in rates of exchange, subject to the following:
 - i. the value in foreign currency inserted in column (A) shall be subject to Sub-Clause 13.8.2.2(e) when recalculating the Rand value,
 - ii. the rate of exchange inserted in column (B) shall be the closing spot selling rate quoted by Council's main banker, ABSA, on the Base Date, rounded to the second decimal place, subject to sub-paragraph iii. below,
 - iii. if the rate of exchange inserted by the Tenderer differs from the ABSA rate referred to above, then the ABSA rate shall apply and the Rand value in columns (C) and (F) shall be recalculated accordingly, without altering the price in the Schedules of Quantities for the relevant items, and
 - iv. if a quotation from a supplier or sub-contractor provides for variations in rates of exchange, the Contractor may only claim for variations in rates of exchange if he binds the supplier or sub-contractor to the same provision to take out forward cover (forward exchange contract) as described in sub-paragraph (b) below.
- (b) The Contractor (or supplier or sub-contractor) shall within five working days from the date of placing a firm order on an overseas supplier, cover or recover forward by way of a contract with a bank which is an authorised foreign exchange dealer, the foreign exchange component of the cost of any imported Plant and Materials inserted by the Tenderer in T2.4.11. The Contractor will be required to submit the spot rate of the forward exchange contract to the Engineer for approval, prior to accepting the forward exchange contract.
- (c) When the Contractor (or supplier or sub-contractor) so obtains forward cover, the Contractor shall immediately notify the Employer of the rate obtained and furnish the Employer with a copy of the foreign exchange contract note.
- (d) Based on the evidence provided in sub-paragraph (c) above, the value in Rand inserted in column (C) of Schedule T2.4.11 shall be recalculated using the forward cover rate obtained, and any increase or decrease in the Rand value defined in Sub-Clause 13.8.2.4 shall be adjusted accordingly, subject to sub-paragraph (e) below.
- (e) The adjustments shall be calculated upon the value in foreign currency in the Contractor's (or supplier's or sub-contractor's) forward cover contract, provided that, should this value exceed the value in foreign currency inserted in column (A) of Schedule T2.4.11, then the value in column (A) shall be used.

13.8.1.3 Variations in Customs Surcharge and Customs Duty

- (a) Any increase or decrease in the Rand value between the amounts of Customs Surcharge and Customs Duty inserted in Schedule T2.4.11 and those amounts actually paid to the Customs and Excise Authorities, which are due to changes in the percentage rates applicable or to the foreign exchange rate used by the authorities, shall be adjusted accordingly.

- (b) The Tenderer shall state the Customs Duty Tariff Reference applicable to each item and the Contractor shall advise the Engineer of any changes which occur.

13.8.1.4 Value of Imported Plant and Materials at Base Date

The Rand value of imported Plant and Materials inserted in Schedule T2.4.11 (column (F)) shall be the value in foreign currency (column (A)) converted to South African Rand (column (C)) by using the closing spot selling rate quoted by Council's main banker, ABSA, on the Base Date rounded to the second decimal place (column(B)), to which shall be added any Customs Surcharge and Customs Duty applicable at that date (columns (D) and (E)).

13.8.1.5 Variation in Labour and Material Costs

If the prices for imported Plant and Materials are not fixed, the Contractor shall in his Tender specify the formula for calculating Contract Price Adjustments normally used in the country of manufacture and the indices and relative proportions of labour and material on which his Tender prices are based. Evidence of the indices applicable shall be provided with each claim. The indices applicable 42 days before contractual dispatch date from the factory will be used for the purposes of Contract Price Adjustment.

Failure to specify a formula in the Tender shall mean that the prices are fixed or shall be deemed to be fixed.

- a) Where the Contractor and the Contractor's international Supplier and/or Manufacturer secures an agreement by way of a Purchase Order (PO) to include the CPA value in the PO in the foreign currency quantum, a Forward Exchange Contract(s) [FEC] will be procured by the Contractor for the value of the Contractor's PO. When the equipment arrives on site, the international CPA will be calculated in ZAR by utilising a weighted average of the FOREX rates in the FEC's provided. No further/future FEC will be applicable for CPA payments.
- b) Where the Contractor and the Contractor's international Supplier and/or Manufacturer secures an agreement whereby the Supplier/Manufacturer will claim the CPA at a later date to extended manufacturing lead times, FEC(s) required to secure will be procured by the Contractor to value in Column A of Schedule T2.2.11. A further/future FEC will be procured to pay the CPA (CPA FEC) which will become due to the Contractor's international Supplier/Manufacturer. The FOREX rate in CPA FEC will be utilised to calculate the ZAR value of the international CPA.
- c) Sub-clause a) and b) are only applicable if all provisions of Clause 13.8.3.1.5 were adhered to at time of tender."

Add the following after Sub-Clause 13.8:

13.9 Dayworks for Civil Works Only

13.9.1 If work is to be carried out on a daywork basis and can't be quantified using the rates provided in the Bill of Quantities:

13.9.1.1 The Contractor shall be paid for such work under the provisions set out in the daywork schedule included in the Pricing Data and at the rates and/or prices stated therein.

13.9.1.2 In the absence of a daywork schedule, and for items not included in the daywork schedule, the Contractor shall be paid the aggregate of:

- (a) The gross remuneration of the workmen, and of any foremen, for the time they are actually engaged in the work concerned,
- (b) The net cost of the materials actually used in the completed work,
- (c) The percentage allowances, stated in the Contract Data, in respect of the said remuneration of workmen and the cost of materials, which allowances shall be held to cover all charges for the Contractor's and subcontractor's profits, timekeeping, clerical work, insurance, establishment, superintendence and the use of hand tools, and
- (d) An amount in respect of Construction Equipment calculated as provided for in Clause 13.9.1.3.

13.9.1.3 The use of Construction Equipment shall be charged on a time basis at the rates stated in the Pricing Data, failing which at rates to be agreed between the Contractor and the Engineer or, failing agreement, to be determined by the Engineer on the basis of ruling plant hire rates.

13.9.2 If required by the Engineer, the Contractor shall, before ordering material, submit to the Engineer quotations for the same for his approval, which approval shall not be unreasonably withheld, and shall submit to him such receipts or other vouchers as proof for the amounts paid.

13.9.3 The Contractor shall, during the continuance of all work carried out on a daywork basis, deliver each day to the Engineer, or the Engineer's Representative, a list of the exact occupation and time of all workmen and foremen employed on such work and a statement showing the description and quantity of all materials and Construction Equipment used therefor (other than tools the cost of which is covered by the percentage addition in accordance with the daywork schedule in terms of which payment for daywork is made). If correct and agreed upon by the Engineer or the Engineer's Representative, and the Contractor, the Engineer or the Engineer's Representative shall sign the copies of each list and statement and return such copies to the Contractor within one working day of carrying out the work.

13.9.4 For the purpose of each monthly certificate referred to in Clause 14.3, the Contractor shall deliver to the Engineer a priced statement of the labour, materials and Construction Equipment used (except as provided in Clause 13.9.3) and the Contractor shall not be entitled to any payment for the daywork concerned unless and until such statement has been properly rendered and supported by one copy of each of the signed lists and statements referred to in Clause 13.9.3

Add the following after Sub-Clause 13.9:

13.10 Provisional Sums and Prime Cost Sums for the Civil Works

13.10.1 If any provisional sum is set out in the Pricing Data and the work to which the provisional sum relates has been ordered by the Engineer and is:

13.10.1.1 Carried out by the Contractor, it shall be valued and paid for in accordance with the terms of Clause 13.3,

13.10.1.2 Carried out by a subcontractor, the Contractor shall be paid the sum, or sums paid, or due to be paid by him to the subcontractor, plus either:

(a) A commission on the sum, or sums paid, or due to be paid to the subcontractor by the Contractor or the Employer, at the percentage stated by the Contractor in his Pricing Data, or failing such statement at 7.5 per cent, or,

(b) If the Contractor in the Pricing Data has added to the provisional sum concerned a sum in respect of charges and profits, a pro rata amount of such sum, added in the proportion that the amount paid to the subcontractor by the Contractor or the Employer bears to the provisional sum.

13.10.2 Where a prime cost sum is provided in the Pricing Data to cover the cost price of certain goods, services or materials to be supplied under the Contract, the amount to be paid therefor to the Contractor shall be the actual price payable by him, in substitution for the prime cost sum, together with any charge included by the Contractor in the Pricing Data to allow for labour, profit, carriage, storage, establishment and other costs related to such goods, services or materials.

13.10.3 Expenditure in connection with provisional and prime cost sums and under the contingency allowance (if any) shall be solely at the discretion and on the instruction of the Engineer. Any parts of the amounts provided in the Pricing Data which are not expended shall not be included in the Contract Price.

13.10.4 The Contractor shall produce all invoices, vouchers and receipts in respect of payments made by him in connection with provisional or prime cost items when he requires payment for these items.

Add the following after Sub-Clause 13.10:

13.11 Measurements of the Works for the Civil Works

- 13.11.1** The quantities set out in the Bill of Quantities for a Re-measurement Contract are the estimated quantities of the work and they are not to be taken as the actual and final quantities of the Works to be carried out by the Contractor in fulfilment of his obligations under the Contract.
- 13.11.2** The Engineer shall ascertain and determine the value of the Works but, when required to do so by the Engineer, the Contractor shall measure the work carried out during each month and the materials on Site and shall deliver to the Engineer a supporting statement with his monthly statement in terms of Clause 14.3., showing the said measurements and the relevant amounts paid, or payable by him for such materials, and all other particulars required by the Engineer.
- 13.11.3** The Engineer shall, when he wishes to make any measurement on the Site, or requires any parts of the intention to measure Works to be measured in his presence, give notice of this fact and of the date and time at which he will be present to the Contractor who shall:

Add the following after Sub-Clause 13.11:

13.12 Adjustment in Rates and/or Prices for the Civil Works only

- 13.12.1** Except as provided in this Clause, or elsewhere in the Contract, the rates and/or prices stated in the Pricing Data shall be final and binding throughout the period of the Contract.
- 13.12.2** If the Contract Data provides for the application of a Contract Price Adjustment Factor, the value of certificates issued in terms of Clause 14.3 (excluding the value of those special materials referred to in Clause 13.12.3) shall be increased or decreased by applying a "Contract Price Adjustment Factor" calculated according to the formula and the conditions set out in the Contract Price Adjustment Schedule (see Appendix to Clause 13.12.2 of Contract data).

Contract price adjustment shall be applicable. The following coefficients will be used to determine the Contract Price Adjustment Factor and CPA Schedule.

$x = 0.15$; $a = 0.25$; $b = 0.15$; $c = 0.55$; $d = 0.05$

Fuel index for Paarl area to be used.

The value of the certificates issued shall be adjusted in accordance with the Contract Price Adjustment Schedule included in the Schedule of Contract Specific Data.

'L' is the 'Labour Index' and shall be the price index for 'Consumer Price Index' for the province/urban area(1), and as published in the Statistical News Release, P0141, Additional Tables: Table 14 "CPI – all items according to area" of Statistics South Africa.

'P' is the 'Contractor's Equipment' and shall be the Producer Price Index applicable to(2) and as published in the Statistical Release P0151, Table 4 of Statistics South Africa.

'M' is the 'Materials Index' and shall be the Producer Price Index applicable to the appropriate materials(3) and as published in the Statistical Release P0151, Table 3 or Table 4 of Statistics South Africa.

'F' is the 'Fuel Index' and shall be the Producer Price Index for(4) and as published in the Statistical News Release P0151, Table 4 of Statistics South Africa."

The base month is the month and year preceding the month in which the tender closed.

- 13.12.3** If price adjustment for variations in the cost of special materials is provided for in the Contract Data, it shall be made in the manner set out in the Contract Price Adjustment Schedule.

14 CONTRACT PRICE AND PAYMENT

14.1 The Contract Price

In Sub-Clause 14.1, in subparagraph (a), delete the words “lump sum”.

Delete sub-paragraphs (c) and (d) and replace with:

- “(c) Prices entered in the Bill or quantities, together with any schedule of rates for which provision is made in a Schedule, will be used for calculating the value of completed works for the purpose of interim payments or for determining the value of changes, omissions and additions for variation instructions when in the opinion of the Engineer such prices are applicable.
- (d) The amounts of work and material given in the Schedules of Quantities are not to be considered as limiting or extending the amount of work to be done or material to be supplied by the Contractor.
- (e) The percentage completion of the amount of work and materials given in the Schedules of Quantities shall be determined by the Engineer for interim payment certificates when checking the Contractor’s Statement referred to in Sub-Clauses 14.3 and 14.6.
- (f) The quantities entered in the Schedules of Quantities as issued by the Employer/Employer’s Representative are estimated quantities required to complete the Works. The final quantities of scheduled items are to be determined as the Works is executed. To this extent the scheduled quantities should be regarded as re-measurable and subject to adjustments, excepting where scheduled as a lump sum item, as required to correspond with the scope of works

Should the total constructions costs exceed the Employers available budget, the Employer reserves the right to delay or omit the works, or parts thereof. In the event of delay or omission, this shall not entitle the rates and costs submitted to be amended or be subject to change.”

14.3 Application for Interim Payment Certificates

In Sub-Clause 14.3,

(i) delete subparagraph (a) and substitute:

- “(a) the estimated contract value of the Works executed as determined from the Bill of Quantities up to the end of the month (including Variations but excluding items described in subparagraphs (b) to (g) below.”, and

(ii) delete subparagraph (e).

14.5 Plant and Materials intended for the Works

Delete Sub-Clause 14.5.

14.6 Issue of Interim Payment Certificates

In Sub-Clause 14.6, the first paragraph, delete “within 28 days” and substitute “within the time stated in the Appendix to Tender”.

14.7 Payment

In Sub-Clause 14.7, the first paragraph, sub-paragraphs (b) and (c), delete “within 56 days” and substitute “within the time stated in the Appendix to Tender”.

14.13 Issue of Final Payment Certificate

In Sub-Clause 14.13, the first paragraph, delete “within 28 days” and substitute “within the time stated in the Appendix to Tender”.

14.15 Currencies of Payment

In Sub-Clause 14.15, subparagraph (b) delete “damages” and substitute “penalties”.

Add the following new Sub-Clauses after 14.15:

“14.16 Tax Invoices

Section 20(1) of the Value Added Tax Act of 1991 (Act 89 of 1991) requires that a supplier (person supplying goods or services) who is registered as a VAT vendor issue to the recipient a tax invoice within 21 days of the date of a supply whether requested or not.

The Contractor shall provide a tax invoice (VAT invoice) which shall be included with each Payment Certificate and a Final Payment Certificate delivered to the Employer by the Engineer in terms of Clause 14. Failure by the Contractor to provide a tax invoice (VAT invoice) timeously may delay payment by the Employer and no interest shall accrue.

14.17 Unfulfilled Obligations

Notwithstanding the issue of the Performance Certificate the Contractor and the Employer shall remain liable for the fulfilment of any obligation incurred under the provisions of the Contract prior to the issue of the Performance Certificate which remains unperformed at the time such Performance Certificate is issued and, for the purposes of determining the nature and extent of any such obligation, the Contract shall be deemed to remain in force between the parties to the Contract.”

14.18 Additional Payment Terms for Civil Works

The percentage advance on materials not yet built into the Permanent Works is stated in Appendix to Part 1-Contract Data provided by the Employer.

15 TERMINATION BY EMPLOYER

15.2 Termination by Employer

In Sub-Clause 15.2, the first paragraph:

- (i) *in subparagraph (a), after “Sub-Clause 4.2 [Performance Security]” add “or fails to comply with Sub-Clause 18.1 [General Requirements for Insurance] and the Employer elects not to effect the relevant insurances”, and*
- (ii) *after subparagraph (f) add:*
 - “(g) the Contractor committed a corrupt or fraudulent act in relation to the Contract, or
 - (h) an official or other role player committed any corrupt or fraudulent act that benefited the Contractor,”.

In Sub-Clause 15.2, the second paragraph, the second sentence, delete “(e) or (f)” and substitute (e), (f), (g) or (h)”.

15.9 Valuation at Date of Termination

Unless prohibited by law, the Contractor shall, if so instructed by the Engineer within 14 days of such entry and termination referred to in Sub-Clause 15.2, assign to the Employer the benefit of any agreement for the supply of any goods or materials or services and/or for the execution of any work for the purposes of the Contract, which the Contractor may have entered into.”

16 SUSPENSION AND TERMINATION BY CONTRACTOR

16.1 Contractor’s Entitlement to Suspend Work

In Sub-clause 16.1, delete “Sub-Clause 2.4 or” in the first paragraph.

16.2 Termination by Contractor

Delete sub-paragraph (a).

17 RISK AND RESPONSIBILITY

17.3 Employer's Risks

In Sub-Clause 17.3, delete subparagraph (a) to (h) and substitute:

- “(a) War, invasion, act of foreign enemies, hostilities or warlike operations (whether war be declared or not) or civil war,
- (b) Insurrection. Rebellion or revolution,
- (c) Mutiny, military rising, military or usurped power, martial law or state of siege, or any other event or cause which determines the proclamation or maintenance of martial law or state of siege,
- (d) Any event which, at closing date of tenders, is defined as a risk in terms of insurance offered by the South African Special Risks Insurance Association,
- (e) Any occurrence for which a fund has been established in terms of the War Damage Insurance and Compensation Act, as amended,
- (f) The impact of meteorites,
- (g) Pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds,
- (h) Ionising radiation or contamination by radioactivity from any nuclear fuel or from nuclear waste from combustion of nuclear fuels,
- (i) The use of or occupation by the Employer or his employees or agents or other contractors (not employed by the Contractor) of any part of the Works,
- (j) The design, specification or instruction of the Engineer, Employer or any of their employees or agents, or defects in the materials supplied by the Employer for incorporation in the Works,
- (k) The confiscation, commandeering, nationalisation, requisition or destruction of or damage to property by an order of government, or any public or local authority,
- (l) The fact that the value of materials, as supplied by the Employer for incorporation in the Works, exceeds the value thereof as specified by or on behalf of the Employer at the time of delivery thereof by the Employer”.

17.4 Consequences of Employer's Risks

Delete “(f) and (g)” in the second line of sub-paragraph (b) and replace with “(i) and (j)”.

18 INSURANCE

18.1 General Requirements for Insurances

In Sub-Clause 18.1, add the following:

“Save as otherwise provided in the Contract, nothing herein contained shall oblige the Contractor to effect any insurance which is not generally obtainable from a registered insurer in South Africa.

The insurances shall be effected with an insurance company registered in South Africa and the terms thereof shall be subject to approval by the Employer, which approval shall not be unreasonably withheld.

The Contractor shall be liable for payment of the deductibles in respect of each claim settlement in terms of the policies effected by the Contractor.

In respect of Subcontractors, the Contractor shall be deemed to have complied with the provisions of the requirements relating to insurance by ensuring that the Subcontractors have effected such insurance.

If required, the Contractor shall provide proof to the Engineer that the Contractor is in good standing with respect to duties, taxes, levies and contributions required in terms of legislation applicable to the work in this Contract”.

18.2 Insurance for Works and Contractor's Equipment

In Sub-Clause 18.2, add the following:

“(f) which are to be effected and maintained by the Contractor and endorsed to note the interests of the Employer are:

- (i) transit insurance en route to Site, including whilst in temporary storage (and intended for incorporation in the Contract),
- (ii) professional indemnity insurance; including professional indemnity insurance of the registered professionals who carry out design work on behalf of the Contractor to adequately cover their liability for professional negligence. Proof of such insurance shall be submitted to the Engineer on demand, and
- (iii) where the Contract involves manufacturing and/or fabrication of the Works or part thereof at premises other than the Site, the Contractor shall satisfy the Employer that all materials and equipment for incorporation in the Works are adequately insured during manufacture and/or fabrication. In the event of the Employer having an insurable interest in such Works during manufacture or fabrication then such interest shall be noted by endorsement to the Contractor’s policies of insurance”.

18.3 Insurance against Injury to Persons and Damage to Property

In Sub-Clause 18.3, in the second paragraph, delete the sentence “if an amount is not stated shall not apply.” and substitute “If so indicated as “not applicable” in the Appendix to Tender, this Sub-Clause shall not apply”.

Add the following sub-paragraph:

- “(e) shall include a cross-liability clause such that the insurance shall apply to the Contractor and to the Employer as separate insured parties.”

18.4 Insurance of Contractor’s Personnel

In Sub-Clause 18.4, add “The insurance shall be in terms of the provisions of the Compensation for Occupational Injuries and Diseases Act (Act No 130 of 1993)”.

Add the following new Sub-Clause after 18.4:

“18.5 Special Risks Insurance

If required in terms of the Appendix to the Tender, the Contractor shall effect and maintain, in the joint names of the Employer and the Contractor a Coupon Policy for Special Risks Insurance issued by the South African Special Risks Insurance Association”.

20 CLAIMS, DISPUTES AND ARBITRATION

20.1 Contractor’s Claims

In Sub-Clause 20.1, after the fifth paragraph:

“If the Contractor fails to comply with any of the time periods stipulated in this Sub-Clause for the submission of a fully detailed, including full supporting particulars, or interim claims at monthly intervals, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment and the Employer shall be discharged from all liability in connection with the claim.”

Delete Sub-Clauses 20.2 to 20.8 and substitute:

20.2 Notice of Disagreement

In respect of any matter not required to be dealt with in terms of Sub-Clauses 20.1 [Contractor’s Claims] or 20.8 [Special Disputes], the Contractor shall have the right by written notice with supporting particulars to the Engineer to require him to consider any disagreement which he raises with the Engineer provided that the said written notice shall be given within 28 days after the cause of disagreement has arisen.

20.3 Engineer to Rule on Disagreements

The Engineer shall, within 28 days after the Contractor has delivered his disagreement, give effect to Sub-Clause 3.5 *[Determinations]* and give his ruling on the disagreement in writing to the Employer and the Contractor, referring specially to this Sub-Clause.

20.4 Dispute Notice

The Contractor and the Employer, hereinafter referred to as "the parties" shall have the right to dispute any ruling given by the Engineer in terms of Sub-Clause 20.1 *[Contractor's Claims]* or Sub-Clause 20.3 *[Engineer to Rule on Disagreements]*;

Provided that, unless the Contractor or the Employer shall, within 28 days after his receipt of a ruling, give written notice (hereinafter referred to as a "Dispute Notice") to the Engineer, referring to this Sub-Clause, with a copy to the other party, disputing the validity or correctness of the whole or a specified part of the ruling, he shall have no further right to dispute that ruling or the part thereof not disputed in the said notice.

If the Engineer fails to give his ruling according to Sub-Clause 20.1 *[Contractor's Claims]* or Sub-Clause 20.3 *[Engineer to Rule on Disagreements]*, the Contractor shall have the right to submit his claim or disagreement as a Dispute Notice within 28 days after the ruling should have been given. If the Contractor fails to do this within 28 days, the Employer shall be discharged from all liability in connection with the claim or disagreement.

If either party shall have given notice in compliance with this Sub-Clause 20.2, the parties should aim to settle via an amicable settlement, or alternatively, agree and refer immediately to mediation.

Notwithstanding that the parties may, in respect of a ruling, have given a Dispute Notice, the ruling shall be of full force and carried into effect unless and until otherwise agreed by both parties in terms of paragraph 8 of Sub-Clause 20.6 *[Mediation]* or as determined in an arbitration award.

20.5 Amicable Settlement

The provisions of this Sub-Clause are intended to encourage the parties to settle a dispute amicably, without the need for mediation or arbitration: for example, by direct negotiation, conciliation, mediation, or other forms of alternative dispute resolution. Amicable settlement procedures often depend, for their success, on confidentiality and on both Parties' acceptance of the procedure. Therefore, neither Party should seek to impose the procedure on the other Party.

20.6 Mediation

The mediation shall be conducted by a Mediator selected by agreement between the parties or, failing such agreement within 7 days after a written request by either party for such agreement, nominated on the application of either party by the President for the time being of the South African Institute of Mechanical Engineering or the South African Institution of Civil Engineering, as appropriate.

Neither party shall be entitled to be represented at any hearing before or at any meeting or in any discussion with the Mediator except by:

- a) The party himself, if a natural person,
- b) A partner in the case of a partnership,
- c) A chief executive officer or an executive director in the case of a company,
- d) A member in the case of a close corporation,
- e) The Engineer,
- f) A bona fide employee of the party concerned,
- g) A professional engineer appointed for the purpose by the party concerned.

Such limitation shall not be construed as preventing any person from giving evidence as a witness.

The Mediator shall, as he deems fit, follow formal or informal procedure and receive evidence or submissions orally or in writing, sworn or unsworn, at joint meetings with the parties or separately or from any person whom he considers can assist in the formulation of his opinion;

Provided that:

- a) Each party shall be given reasonable opportunities of presenting evidence or submissions and of responding to evidence or submissions of the other party, and
- b) Each party shall be given full details of any evidence or submissions received by the Mediator from the other party or any other person otherwise than at a meeting where both parties are present or represented.

The Mediator shall have the power to propose to the parties compromise settlements of or agreements in disposal of the whole or portion of the dispute.

The Mediator shall, as soon as reasonably practical, give to each of the parties his written opinion on the dispute, setting out the facts and the provisions of the Contract on which the opinion is based and recording the details of any agreement reached between the parties during the mediation.

The Mediator's opinion shall become binding on the parties only to the extent that it is correctly recorded as being agreed by the parties in the Mediator's written opinion or otherwise as recorded as being agreed in writing by both parties subsequent to the receipt of the Mediator's opinion.

The dispute on any matter still unresolved after the application of the provisions of the above paragraph shall be resolved by arbitration.

Save for reference to any portion of the Mediator's opinion which has become binding in terms of paragraph 8 of this Sub-Clause, no reference shall be made by or on behalf of either party, in any proceedings subsequent to mediation, to the Mediator's opinion, or to the fact that any particular evidence was given, or to any submission, statement or admission made in the course of the mediation.

Irrespective of the nature of the Mediator's opinion:

- a) Each party shall bear his own costs arising from the mediation, and
- b) The parties shall in equal shares pay the Mediator the amount of his expenses and the amount of his fee based on a scale of fees as agreed between the Mediator and the parties before the commencement of the mediation.

20.7 Arbitration

If a dispute is still unresolved as provided in paragraph 9 of Sub-Clause 20.6 [*Mediation*] or the dispute is one to which Sub-Clause 20.9 [*Special Disputes*] refers:

The matter shall be referred to a single Arbitrator to be agreed on between the parties or, failing such agreement within 28 days after delivery to the parties of the Mediator's opinion, nominated on the application of either party by the President for the time being of the South African Institute of Mechanical Engineering or the South African Institution of Civil Engineering, as appropriate, and any such reference shall be deemed to be a submission to the arbitration of a single arbitrator in terms of the Arbitration Act (Act No 42 of 1965, as amended), or any legislation passed in substitution thereof;

In the absence of any other agreed procedure, the arbitration shall take place in accordance with the Rules for the Conduct of Arbitrations issued by the Association of Arbitrators (Southern Africa) which is current at the time of the referral to arbitration;

The Arbitrator shall, in his award, set out the facts and the provisions of the Contract on which his award is based.

20.8 Common Provisions

Nothing herein contained shall deprive the Contractor of the right to institute immediate Court proceedings in respect of failure by the Employer to pay the amount of a payment certificate on its due date or to refund any amount of retention money on its due date for refund.

No ruling or decision given by the Engineer in accordance with the provisions of the Contract shall disqualify him from being called as a witness and giving evidence before the Arbitrator or the Court on any matter whatsoever relevant to the dispute concerned.

The Arbitrator and the Court shall have full power to open up, review and revise any ruling, decision, order, instruction, certificate or valuation of the Engineer relevant to the matter in dispute and neither party shall be limited in such proceedings before such Arbitrator or Court to the evidence or arguments put before the Engineer for the purpose of obtaining his ruling.

The following provisions shall apply in respect of the appointment of a mediator or arbitrator in terms of this Clause:

- a) If, for any reason, the person appointed fails to assume or to continue in the office concerned, the provisions of this Clause shall apply with the necessary changes in the appointment of a successor, and
- b) In making his nomination in terms of the first paragraph of Sub-Clause 20.6 *[Mediation]* or the last paragraph of Sub-Clause 20.7 *[Arbitration]*, the President for the time being of the South African Institution of Mechanical Engineers or the South African Institution of Civil Engineers (as appropriate) shall, at his own discretion, act in consultation with the Presidents for the time being of the Consulting Engineers South Africa and the South African Federation of Civil Engineering Contractors, and
- c) the President required to make a nomination in terms of this Clause shall have a direct or indirect interest in the subject matter of the dispute, the nomination shall be made by the next senior officer of the body concerned who has no such interest.

20.9 Special Disputes

Notwithstanding anything elsewhere provided in this Clause, any dispute between the Contractor and the Employer:

- a) Not relating to a ruling, decision, order, instruction or certificate by the Engineer, or
- b) Arising after the completion of the Contract or, if a Defects Notification Period is provided, after the termination of that period

shall be determined, without the application of the provisions of Sub-Clause 20.4 *[Dispute Notice]* and Sub-Clauses 20.6 *[Mediation]*, by arbitration and which may be initiated by either party, in which event the provisions of Sub-Clauses 20.7 *[Arbitration]* and 20.8 *[Common Provisions]* shall apply.

20.10 Continuing Validity of Sub-Clauses 20.4 to 20.9

Sub-Clauses 20.4 to 20.9 is a separate, divisible agreement from the rest of the Contract and shall remain valid and applicable notwithstanding that the Works may have been completed or that the rest of the Contract may be void or voidable or may have been cancelled for any reason."

APPENDIX TO CLAUSE 13.12 OF CONTRACT DATA

CONTRACT PRICE ADJUSTMENT SCHEDULE

“Employer’s Agent” means the Engineer

1. The value of each monthly statement for payment, submitted to the Employer’s Agent by the Contractor, shall be increased or decreased by the amount obtained by multiplying “A_c” (defined in Clause 2 of this Contract Price Adjustment Schedule) by the Contract Price Adjustment Factor, rounded off to the fourth decimal place, determined according to the formula:

$$(1 - x) \left[\frac{aL_t}{L_0} + \frac{b_t}{P_0} + \frac{cM_t}{M_0} + \frac{dF_t}{F_0} \right]$$

in which the symbols have the following meaning:

“x” is the proportion of “A_c” which is not subject to adjustment. Unless otherwise stated in the Contract Data, this proportion shall be 0.10.

“a”, “b”, “c” and “d” are the coefficients contained in the Contract Data, which are deemed, irrespective of the actual constituents of the work, to represent the proportionate value of labour, Contractors’ Equipment, material (other than “special materials” specified in the Contract Data) and fuel respectively. The arithmetical sum of “a”, “b”, “c” and “d” shall be unity.

“L” is the “Labour Index”, “P” is the “Contractor’s Equipment Index”, “M” is the “Materials Index” and “F” is the “Fuel Index”, all as defined in the Contract Data. The suffix “0” denotes the base indices applicable to the base month as stated in the Contract Data.

The suffix “t” denotes the current indices applicable to the month in which the last day of the period falls to which the relevant monthly statement relates.

If an index relevant to any particular monthly statement is unknown at the time when the monthly statement is prepared, the Contractor shall estimate the value of such index. Any correction required, when the correct indices become known, shall be made by the Contractor in subsequent monthly statements.

If the organisation publishing the indices, changes any of the indices set out in the Contract Data, the Contractor shall use a correlation factor, which integrates the old and the new indices, for adjustment of subsequent payment certificates.

2. For the purposes of calculating the adjustment to the value of the relevant monthly statement, the amount “A_c” shall be determined by the formula:

$$A_c = T - S - D - E - G - A_p$$

In which formula the symbols shall have the following meaning:

“T” is the summation of the total value of

- (i) General Items
- (ii) work done, and
- (iii) the materials on Site

as certified in the monthly statement under consideration without any deduction whatsoever and before any adjustment made in terms of this Schedule.

“S” is the aggregate of (i), (ii), (iii) and (iv) referred to below and included in “T”:

- (i) the amounts actually expended and substituted for any Prime Cost Sums;
- (ii) the value of any work done by Selected Subcontractors;

- (iii) the value of any work done against Provisional Sums;
- (iv) the value of any extra or additional work;

where special arrangements for price adjustments in respect of those amounts were made and recorded at the time the work was ordered.

"D" is the value of work included in "T" and done at new fixed rates, where those rates were not based on labour, Contractors' Equipment or materials costs in force at the time of tendering. Generally new rates may be based on current costs and de-escalated to the base month of the indices, in which case work done at these rates shall not be included in the value of "D".

"E" is the amount included in "T" and paid for any daywork carried out at cost plus percentage allowances as set out in General Conditions of Contract Clause 13.9.1.2.c.

"G" is the amount included in "T" for materials classified and dealt with as "special materials".

"A_p" is the summation of all "A_c" amounts determined in terms of Clause 2 of this Contract Price Adjustment Schedule for all monthly statements preceding in time the monthly statement under consideration.

3. Save only for additional work, or variations ordered to be carried out after the Due Completion Date, the increase or decrease applied to monthly statements in terms of this Contract Price Adjustment Schedule, relating to work done, Plant and/or materials supplied after the Due Completion Date, shall be half the factor calculated by inserting the formula referred to in Clause 1 hereof, the indices L_b , P_b , M_t and F_t applicable at the Due Completion Date.
- 4.1. The price of each "special material" specified in the Contract Data shall be increased or decreased by the net amount of any variation incurred after the date of tender on the basis set out in the Contract Data, provided that any claim for adjustment in terms hereof shall be substantiated by the submission of acceptable invoices and any other supporting documents that the Employer's Agent considers necessary for the purpose, and provided also that no further adjustment be permitted to the price of any "special material" after the Due Completion Date unless such material forms part of any additional work or variation ordered to be carried out after that date.
- 4.2. For the purposes of Clause 4.1 hereof, "the net amount of any variations" in respect of a particular "special material" shall be calculated by multiplying the difference between the rate or price entered in the Contract Data by the Contractor for that material and the equivalent rate or price actually paid by the Contractor for the material by the quantity of the material in question.
5. If more than one month intervenes between the month applicable to any monthly statement and the month applicable to the immediately succeeding monthly statement, then the indices L_t , P_t , M_t and F_t , applicable to such succeeding monthly statement shall each be the arithmetic mean, rounded off to the second decimal place, of the relevant indices applicable to the month of measurement and to such intervening months.

APPENDIX TO PART 1 – CONTRACT DATA PROVIDED BY THE EMPLOYER

Item	Sub-Clause	Entry
The Employer is:	1.1.2.2 & 1.3	The Employer is the Drakenstein Local Municipality
The Employer's address for receipt of communications is:		<p>Tel: +27 21 807 4500</p> <p>P O Box 1, PAARL, 7620 [Postal Address]</p> <p>Berg River Boulevard, PAARL, 7620 [Physical Address]</p>
The Engineer is:	1.1.2.4 & 1.3	Zutari (Pty) Ltd represented by an employee duly authorised thereto in writing
The Engineer's address for receipt of communications is:		<p>Zutari (Pty) Ltd</p> <p>Address:</p> <p>1 Century Drive</p> <p>Waterford Precinct</p> <p>Century City</p> <p>Cape Town</p> <p>7441</p>
Time for completion of the whole of the Works including the Trial Operation Period:	1.1.3.3	Phase A: 32 months which shall be inclusive of special non-working days
Defects Notification Period	1.1.3.7	12 months (365 days) after issue of the Taking-Over Certificate
Special non-working days	1.1.3.9	<p>The special non-working days are:</p> <p>The SAFCEC recommended industry shutdown period in December and January. All statutory holidays.</p> <p>All gazetted public holidays falling outside the shutdown period.</p>
Electronic transmission systems	1.3	Applicable
Governing Law	1.4	South African law
Ruling language	1.4	English
Language for communications	1.4	English
Time for access to the Site	2.1	14 days after Commencement Date, on condition of meetings the requirements of Clause 8.1 of the Conditions of Contract
Approval of Employer required for:	3.1	Not applicable
Amount of Performance Security	4.2	10% of the Accepted Contract Amount, in the currency of the Contract
Periods for submission of Performance Security	4.2	Within 14 days of Commencement Date
Periods for submission of Occupational, Health and Safety Plan	4.8	Within 14 days of Commencement Date
Period for notifying unforeseeable errors, faults and defects in the Employer's Requirements	5.1	28 days

Item	Sub-Clause	Entry
Normal working hours	6.5	08:00 to 17:00 on days other than locally recognised days of rest and special non-working days
Locally recognised days of rest	6.5	Saturdays and Sundays
Commencement of the Works	8.3	In accordance with the Conditions of Contract
Time for submission of programme and cash-flow	8.3	Within 14 days of Commencement Date
Amount of penalty for delay for Overall Works (per calendar day)	8.7	The penalty for delay shall be: 1/60th of 1% of contract value. The maximum amount of Delay Penalties shall be limited to 20% of the Contract Value (as per C1.1 Form of Offer and Acceptance)".
Trial Operation Period duration	9.1	2 months
Latent Defect Period for Civil Works	11.12	The latent defect period is 10 years for civil engineering works.
Percentage for adjustment of Provisional Sums	13.5(b)	5% or as Quoted in the Bill of Quantities.
Adjustments for Changes in Cost; Table(s) of adjustment data	13.8	As in Part 2 of Part C1.2
Total advance payment	14.2	10 % of the Accepted Contract Amount
Percentage advance on unused material for Civil Works	14.18	80% or value of Materials on Site Guarantee submitted and materials on site approved, whichever is lesser amount.
Percentage of retention	14.3(c)	10% of the Accepted Contract Amount
Limit of Retention Money	14.3(c)	5% of Accepted Contract Amount
Time for Engineer to issue interim payment certificates to Employer	14.6	Within 7 days of receipt by the Engineer of Contractor's approved statement
Pricing Strategy	1.1.4.14 & 14.1	Bill of Quantities (re-measurable)
Minimum amount of Interim Payment Certificates	14.6	Not applicable
Time for payment of interim payment certificates	14.7(b)	Within 35 days of receipt by the Engineer of Contractor's statement
Time for Engineer to issue Final Payment Certificate	14.13	Within 21 days of receipt by the Engineer of final statement
Time for payment of final payment certificates	14.7(c)	Within 35 days of receipt by the Employer of Final Payment Certificate
Currency of payments	14.15	Rand
Periods for submission of insurance: a) evidence of insurance b) relevant policies	18.1	Within 14 days of Commencement Date Within 14 days of Commencement Date
Maximum amount of deductibles for insurance of the Employer's risks	18.2(d)	R 5 000
Minimum amount of third-party insurance	18.3	R 25 000 000

Item	Sub-Clause	Entry
Proof of payment/or letter with respect to the Compensation for Occupational Injuries and Diseases Act (Workmen's Compensation Act)	18.4	Within 14 days of Commencement Date
Special Risks coupon policy	18.5	Required

C1.2 CONTRACT DATA (DATA PROVIDED BY CONTRACTOR) 22

August 2024



PART 2 – CONTRACT DATA PROVIDED BY THE CONTRACTOR

Item	Sub-Clause	Entry
The Contractor is:	1.1.2.3	STEFANUTTI STOCKS (PTY) LTD
The Contractor's address for receipt of communications is:		Tel: 021 834 6700 Fax: 086 505 7317 e-mail: tenders.wc@stefstocks.com Address (physical): 81 Main Road PAARL 7646 Address (postal): P.O. Box 6221 ROOGEBAAI 8012
Time for completion of the whole of the Works including the Trial Operation Period:	1.1.3.3	As stated in Part 1 of Appendix to Tender
Percentage for adjustment of Provisional Sums	13.5(b)	As stated in Part 1 of Appendix to Tender
Adjustments for Changes in Cost; Table(s) of adjustment data	13.8	See next page

TABLE OF ADJUSTMENT DATA – 1

Coefficients representing proportionate values applying to:

(a) Labour: "l" 0.2
 (b) Materials: "m" 0.8 } The total of "l" and "m" must equal 1.00

(i) If "m" is not sub-divided,

state: SEIFSA Table and title of table

(ii) If "m" is sub-divided to cater for various materials, state:

Proportion of tender price SEIFSA Table and title of table

"m₁" = for

"m₂" = for

"m₃" = for

and so on depending on number of materials involved.

Item	Sub-Clause	Entry
The total of "m ₁ ", "m ₂ ", "m ₃ ", etc. must equal "m" above. Values of "T" and "m" may be provided for different components of the Works, such as for mechanical work and for electrical work.		
Adjustments for Changes in Cost; Table(s) of adjustment data (for Imported Equipment)	13.8	The value of equipment imported from outside South Africa shall be adjusted in accordance with the "Schedule of Imported Equipment" in Part T2.4.10

SIGNED ON BEHALF OF TENDERER:



C1.3 PRO-FORMAS

ITEM DESCRIPTION	PAGE NO.
ANNEXURE A - Performance Guarantee.....	56
ANNEXURE B – Materials Guarantee For Works.....	59
ANNEXURE C – Advanced Payment Guarantee	61
ANNEXURE D - Cession of Rights For Payment Of Materials In Stores Or In Transit To Site (Pro Forma).....	64
ANNEXURE E - Occupational Health and Safety Agreement.....	65
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ANNEXURE A

PERFORMANCE GUARANTEE

For use with the Conditions of Contract for Plant and Design-Build for Electrical and Mechanical Plant, and for Building and Engineering Works, Designed by the Contractor, First Edition 1999 published by Federation Internationale des Ingénieurs-Conseils (FIDIC) .

GUARANTOR DETAILS AND DEFINITIONS

"Guarantor" means:

"Physical address:

"Employer" means: Drakenstein Municipality, Engineering Services

"Contractor" means:

"Engineer" means:

"Works" means: CES 11/2024: PAARL WASTEWATER TREATMENT WORKS - SLUDGE STREAM: CIVIL WORKS, MECHANICAL AND ELECTRICAL INSTALLATION

"Site" means: The site as defined in Clause 1.1.6.7 of the General Conditions of Contract

"Contract" means: The Agreement made in terms of the Form of Offer and Acceptance and such amendments or additions to the Contract as may be agreed in writing between the parties.

"Contract Sum" means: The accepted amount inclusive of tax of R

Amount in words:

"Guaranteed Sum" means: The maximum aggregate amount of R

Amount in words:

"Expiry Date" means: The date of issue by the Engineer of the Performance Certificate

CONTRACT DETAILS

Engineer issues: Interim Payment Certificates, Final Payment Certificate and the Certificate of Completion of the Works as defined in the Contract.

PERFORMANCE GUARANTEE

1. The Guarantor's liability shall be limited to the amount of the Guaranteed Sum.
2. The Guarantor's period of liability shall be from and including the date of issue of this Performance Guarantee and up to and including the Expiry Date or the date of issue by the Engineer of the Certificate of Completion of the Works or the date of payment in full of the Guaranteed Sum, whichever occurs first. The Engineer and/or the Employer shall advise the Guarantor in writing of the date on which the Certificate of Completion of the Works has been issued.

3. The Guarantor hereby acknowledges that:

3.1 any reference in this Performance Guarantee to the Contract is made for the purpose of convenience and shall not be construed as any intention whatsoever to create an accessory obligation or any intention whatsoever to create a suretyship;

3.2 its obligation under this Performance Guarantee is restricted to the payment of money.

4. Subject to the Guarantor's maximum liability referred to in 1, the Guarantor hereby undertakes to pay the Employer the sum certified upon receipt of the documents identified in 4.1 to 4.3:

4.1 A copy of a first written demand issued by the Employer to the Contractor stating that payment of a sum certified by the Engineer in an Interim or Final Payment Certificate has not been made in terms of the Contract and failing such payment within seven (7) calendar days, the Employer intends to call upon the Guarantor to make payment in terms of 4.2;

4.2 A first written demand issued by the Employer to the Guarantor at the Guarantor's physical address with a copy to the Contractor stating that a period of seven (7) days has elapsed since the first written demand in terms of 4.1 and the sum certified has still not been paid;

4.3 A copy of the aforesaid payment certificate which entitles the Employer to receive payment in terms of the Contract of the sum certified in 4.

5. Subject to the Guarantor's maximum liability referred to in 1, the Guarantor undertakes to pay to the Employer the Guaranteed Sum or the full outstanding balance upon receipt of a first written demand from the Employer to the Guarantor at the Guarantor's physical address calling up this Performance Guarantee, such demand stating that:

5.1 the Contract has been terminated due to the Contractor's default and that this Performance Guarantee is called up in terms of 5; or

5.2 a provisional or final sequestration or liquidation court order has been granted against the Contractor and that the Performance Guarantee is called up in terms of 5; and

5.3 the aforesaid written demand is accompanied by a copy of the notice of termination and/or the provisional/final sequestration and/or the provisional liquidation court order.

6. It is recorded that the aggregate amount of payments required to be made by the Guarantor in terms of 4 and 5 shall not exceed the Guarantor's maximum liability in terms of 1.

7. Where the Guarantor has made payment in terms of 5, the Employer shall upon the date of issue of the Final Payment Certificate submit an expense account to the Guarantor showing how all monies received in terms of this Performance Guarantee have been expended and shall refund to the Guarantor any resulting surplus. All monies refunded to the Guarantor in terms of this Performance Guarantee shall bear interest at the prime overdraft rate of the Employer's bank compounded monthly and calculated from the date payment was made by the Guarantor to the Employer until the date of refund.

8. Payment by the Guarantor in terms of 4 or 5 shall be made within seven (7) calendar days upon receipt of the first written demand to the Guarantor.

9. Payment by the Guarantor in terms of 5 will only be made against the return of the original Performance Guarantee by the Employer.

10. The Employer shall have the absolute right to arrange his affairs with the Contractor in any manner which the Employer may deem fit and the Guarantor shall not have the right to claim his release from this Performance Guarantee on account of any conduct alleged to be prejudicial to the Guarantor.

11. The Guarantor chooses the physical address as stated above for the service of all notices for all purposes in connection herewith.

12. This Performance Guarantee is neither negotiable nor transferable and shall expire in terms of 2, where after no claims will be considered by the Guarantor. The original of this Guarantee shall be returned to the Guarantor after it has expired.

13. This Performance Guarantee, with the required demand notices in terms of 4 or 5, shall be regarded as a liquid document for the purposes of obtaining a court order.

14. Where this Performance Guarantee is issued in the Republic of South Africa the Guarantor hereby consents in terms of Section 45 of the Magistrate's Courts Act No 32 of 1944, as amended, to the jurisdiction of the Magistrate's Court of any district having jurisdiction in terms of Section 28 of the said Act, notwithstanding that the amount of the claim may exceed the jurisdiction of the Magistrate's Court.

Signed at

Date

Guarantor's signatory (1)

Capacity

Guarantor's signatory (2)

Capacity

Witness signatory (1)

Witness signatory (2)

END OF SECTION

ANNEXURE B

MATERIALS GUARANTEE FOR WORKS (PRO FORMA)

Pro forma Material/Equipment Off Site Guarantee for use with the Conditions of Contract for Plant and Design-Build for Electrical and Mechanical Plant, and for Building and Engineering Works, Designed by the Contractor, First Edition 1999 published by Federation Internationale des Ingénieurs-Conseils (FIDIC).

GUARANTOR DETAILS AND DEFINITIONS

Guarantor means _____

Physical address (of Guarantor) _____

Guarantor's signatory 1 _____ Capacity _____

Guarantor's signatory 2 _____ Capacity _____

Employer means _____

Recipient means _____
(Contractor)

Employer's Agent means _____

Works means _____

Site means any area on or off site where material is temporarily stored for use under the Agreement. _____

Agreement means _____

Guaranteed MOS Sum means _____

Amount in words _____

Guarantee expiry date means the date of issue of the Certificate of Completion by the Employer's Agent pursuant to the Agreement

GUARANTEE DETAILS

1 MOS GUARANTEE

1.1 The Guarantor's liability shall be limited to the Guaranteed MOS Sum.

2 The Guarantor hereby acknowledges that:

2.1 Any reference in this Guarantee to the Agreement is made for the purpose of convenience and shall not be construed as any intention whatsoever to create an accessory obligation or any intention whatsoever to create a suretyship

2.2 Its obligation under this Guarantee is restricted to the payment of money

3 Subject to the Guarantor's maximum liability referred to in 1. the Guarantor hereby undertakes to pay the Employer the sum certified upon receipt of the documents identified in 3.1 to 3.3:

3.1 A copy of a first written demand issued by the Employer to the Recipient stating that payment of a sum certified by the Employer's Agent has not been made in terms of the Agreement and failing such payment within seven (7) calendar days, the Employer intends to call upon the Guarantor to make payment in terms of 3.2

- 3.2 A first written demand issued by the Employer to the Guarantor at the Guarantor's physical address with a copy to the Recipient stating that a period of seven (7) calendar days has elapsed since the first written demand in terms of 3.1 and that the sum certified has still not been paid therefore the Employer calls up this MOS Guarantee and demands payment of the sum certified from the Guarantor
- 3.3 A copy of the payment certificate which entitles the Employer to receive payment in terms of the Agreement of the sum certified in 3.
4. Subject to the Guarantor's maximum liability referred to in 1. the Guarantor undertakes to pay the Employer the Guaranteed MOS Sum upon receipt of a first written demand from the Employer to the Guarantor at the Guarantor's physical address calling up this MOS Guarantee stating that:
- 4.1 The Agreement has been cancelled due to the Recipient's default and that the MOS Guarantee is called up in terms of 4. The demand shall enclose a copy of the notice of cancellation; or
- 4.2 Where a provisional sequestration or provisional liquidation order has been granted or where an order has been granted which commences sequestration, liquidation, bankruptcy, receivership, winding-up, business rescue or any similar effect against the Recipient and that the MOS Guarantee is called up in terms of 4. The demand shall enclose a copy of the court order, if applicable;
5. It is recorded that the aggregate amount of payments required to be made by the Guarantor in terms of 3. and 4. shall not exceed the Guarantor's maximum liability in terms of 1.
6. Payment by the Guarantor in terms of 3. or 4. shall be made within seven (7) calendar days upon receipt of the first written demand to the Guarantor
7. The Employer shall have the absolute right to arrange his affairs with the Recipient in any manner which the Employer deems fit and the Guarantor shall not have the right to claim his release from this MOS Guarantee on account of any conduct alleged to be prejudicial to the Guarantor
8. The Guarantor chooses the physical address as stated above for all purposes in connection herewith.
9. This MOS Guarantee is neither negotiable nor transferable and shall expire in terms of payment of the full Guaranteed MOS Sum to the Employer or on the Guarantee expiry date, whichever is the earlier, where after no claims will be considered by the Guarantor. The original of this MOS Guarantee shall be returned to the Guarantor after it has expired
10. This MOS Guarantee, with the required demand notices in terms of 3. or 4., shall be regarded as a liquid document for the purpose of obtaining a court order

Signed at _____ Date _____

Guarantor's Signature 1 _____ Guarantor's Signature 2 _____

Witness _____ Witness _____

Guarantor's seal or stamp

ANNEXURE C

FORM OF ADVANCE PAYMENT GUARANTEE

ADVANCE PAYMENT GUARANTEE

For use with the Conditions of Contract as described in C1.2: Contract Data Part 1: Contract Data provided by the Employer

GUARANTOR DETAILS AND DEFINITIONS

"Guarantor" means:

"Physical address:

"Employer" means: DRAKENSTEIN MUNICIPALITY.

"Contractor" means:

"Employer's Agent" means:

"Works" means: Contract No. CES11/2024: PAARL WASTEWATER TREATMENT WORKS - SLUDGE STREAM: CIVIL WORKS, MECHANICAL AND ELECTRICAL INSTALLATION.....

"Site" means: The site as defined in the Contract Data.

"Contract" means: The Agreement made in terms of the Form of Offer and Acceptance and such amendments or additions to the Contract as may be agreed in writing between the parties.

"Plant and materials" means: The Plant and materials stored on-site or at places other than the Site, or in respect of which an advance payment prior to manufacture is required, which the Employer has agreed may be subject to advance payment, such Plant and materials being listed in the Schedule of Plant and materials.

"Schedule of Plant and materials" means: A list of Plant and materials which shows the value thereof to be included in the Guaranteed Advance Payment Sum.

"Guaranteed Advance Payment Sum" means: The maximum aggregate amount of R.....

Amount in words:

"Expiry Date" means: The date of the payment certificate wherein the Plant and materials have been certified by the Employer's Agent as having been built into the Permanent Works.

CONTRACT DETAILS

Employer's Agent issues: Interim Payment Certificates and Final Payment Certificate.

ADVANCE PAYMENT GUARANTEE

1. The Guarantor's liability shall be limited to the amount of the Guaranteed Advance Payment Sum.
2. The Guarantor's period of liability shall be from and including the date of issue of this Advance Payment Guarantee and up to and including the Expiry Date or the date of payment in full of the Guaranteed Advanced Payment Sum, whichever occurs first.

3. The Guarantor hereby acknowledges that:
 - 3.1 any reference in this Advance Payment Guarantee to the Contract is made for the purpose of convenience and shall not be construed as any intention whatsoever to create an accessory obligation or any intention whatsoever to create a suretyship;
 - 3.2 its obligation under this Advance Payment Guarantee is restricted to the payment of money.
4. Subject to the Guarantor's maximum liability referred to in 1, the Guarantor hereby undertakes to pay the Employer the sum certified upon receipt of the documents identified in 4.1 to 4.3:
 - 4.1 A copy of a first written demand issued by the Employer to the Contractor stating that payment of a sum certified by the Employer's Agent in an Interim or Final Payment Certificate has not been made in terms of the Contract and failing such payment within seven (7) calendar days, the Employer intends to call upon the Guarantor to make payment in terms of 4.2;
 - 4.2 A first written demand issued by the Employer to the Guarantor at the Guarantor's physical address with a copy to the Contractor stating that a period of seven (7) calendar days has elapsed since the first written demand in terms of 4.1 and the sum certified has still not been paid;
 - 4.3 A copy of the aforesaid payment certificate which entitles the Employer to receive payment in terms of the Contract of the sum certified in 4.
5. Subject to the Guarantor's maximum liability referred to in 1, the Guarantor undertakes to pay to the Employer the Guaranteed Advance Payment Sum or the full outstanding balance upon receipt of a first written demand from the Employer to the Guarantor at the Guarantor's physical address calling up this Advance Payment Guarantee, such demand stating that:
 - 5.1 the Contract has been terminated due to the Contractor's default and that this Advance Payment Guarantee is called up in terms of 5; or
 - 5.2 a provisional or final sequestration or liquidation court order has been granted against the Contractor and that the Advance Payment Guarantee is called up in terms of 5; and
 - 5.3 the aforesaid written demand is accompanied by a copy of the notice of termination and/or the provisional/final sequestration and/or the provisional liquidation court order.
6. It is recorded that the aggregate amount of payments required to be made by the Guarantor in terms of 4 and 5 shall not exceed the Guarantor's maximum liability in terms of 1.
7. Payment by the Guarantor in terms of 4 or 5 shall be made within seven (7) calendar days upon receipt of the first written demand to the Guarantor.
8. The Employer shall have the absolute right to arrange his affairs with the Contractor in any manner which the Employer may deem fit and the Guarantor shall not have the right to claim his release from this Advance Payment Guarantee on account of any conduct alleged to be prejudicial to the Guarantor.
9. The Guarantor chooses the physical address as stated above for the service of all notices for all purposes in connection herewith.
10. This Advance Payment Guarantee is neither negotiable nor transferable and shall expire in terms of 2, where after no claims will be considered by the Guarantor. The original of this Guarantee shall be returned to the Guarantor after it has expired.
11. This Advance Payment Guarantee, with the required demand notices in terms of 4 or 5, shall be regarded as a liquid document for the purposes of obtaining a court order.
12. Where this Performance Guarantee is issued in the Republic of South Africa the Guarantor hereby consents in terms of Section 45 of the Magistrate's Courts Act No 32 of 1944, as amended, to the jurisdiction of the Magistrate's Court of any district having jurisdiction in terms of Section 28 of the said Act, notwithstanding that the amount of the claim may exceed the jurisdiction of the Magistrate's Court.

Signed at
Date
Guarantor's signatory (1)
Capacity
Guarantor's signatory (2)
Capacity
Witness signatory (1)
Witness signatory (2)

ANNEXURE D

**CESSION OF RIGHTS FOR PAYMENT OF MATERIALS/EQUIPMENT IN
STORES OR IN TRANSIT TO SITE (PRO FORMA)**

PROJECT :

CONTRACT :

I/We, the undersigned,.....

in my/our capacity as.....of

.....(hereinafter referred to as the

"CEDENT"), being duly authorised by virtue of a Resolution of the Board of Directors of the CEDENT passed on the day of20.....do hereby cede, transfer and make over all the CEDENT's rights, title and interest in and to the materials and goods described below unto and in favour of THE EMPLOYER: Drakenstein Municipality (hereinafter referred to as the "CESSIONARY"). This cession shall become effective as soon as the CEDENT,

It is recorded that all the provisions for Surety, Insurance, Indemnity, Transit Insurance and Storage, will remain in force for all the material, plant and equipment detailed in the Cession of Rights until the final Approval Certificate has been issued.

DESCRIPTION OF MATERIALS AND GOODS

ITEM	MATERIAL	QTY	RATE	AMOUNT
1				
2				
3				
4				

I/We certify that these materials are the bona fide property of the CEDENT, ownership of which has passed to the CEDENT according to law and the CEDENT undertakes not to alienate or otherwise dispose of the material while it is in the care and/or possession of the CEDENT.

.....
AS WITNESS

.....
CEDENT

.....
DATE

.....
CESSIONARY

ANNEXURE E

OCCUPATIONAL HEALTH AND SAFETY AGREEMENT

AGREEMENT MADE AND ENTERED INTO BETWEEN THE DRAKENSTEIN MUNICIPALITY (HEREINAFTER CALLED THE "EMPLOYER") AND

..... ,
(Contractor/Mandatar/Company/CC Name)

IN TERMS OF SECTION 37(2) OF THE OCCUPATIONAL HEALTH AND SAFETY ACT, ACT No. 85 OF 1993 AS AMENDED.

I, , representing

..... , as an employer
in its own right, do hereby undertake to ensure, as far as is reasonably practicable, that all work will be performed, and all equipment, machinery or plant used in such a manner as to comply with the provisions of the Occupational Health and Safety Act (OHSA) and the Regulations promulgated thereunder.

I furthermore confirm that I am/we are registered with the Compensation Commissioner and that all registration and assessment monies due to the Compensation Commissioner have been fully paid or that I/We are insured with an approved licensed compensation insurer.

COID ACT Registration Number:

OR Compensation Insurer: Policy No.:

I undertake to appoint, where required, suitable competent persons, in writing, in terms of the requirements of OHSA and the Regulations and to charge him/them with the duty of ensuring that the provisions of OHSA and Regulations as well as the Council's Special Conditions of Contract, Way Leave, Lock-Out and Work Permit Procedures are adhered to as far as reasonably practicable.

I further undertake to ensure that any subcontractors employed by me will enter into an occupational health and safety agreement separately, and that such subcontractors comply with the conditions set.

I hereby declare that I have read and understand the appended Occupational Health and Safety Conditions and undertake to comply therewith at all times.

I hereby also undertake to comply with the Occupational Health and Safety Specification and Plan.

Signed aton the.....day of.....20....

Witness

Mandatar

Signed at on the.....day of.....20

Witness

for and on behalf of

DRAKENSTEIN MUNICIPALITY

OCCUPATIONAL HEALTH AND SAFETY CONDITIONS

1. The Chief Executive Officer of the Contractor shall assume the responsibility in terms of Section 16(1) of the Occupational Health and Safety Act (as amended). Should the Contractor assign any duty in terms of Section 16(2), a copy of such assignment shall immediately be provided to the representative of the Employer as defined in the Contract.
2. All work performed on the Employer's premises shall be performed under the supervision of the construction supervisor who understand the hazards associated with any work that the Contractor performs on the site in terms of Construction Regulations 2014.
3. The Contractor shall appoint a Competent Person who shall be trained on any occupational health and safety aspect pertaining to them or to the work that is to be performed.
4. The Contractor shall ensure that he familiarises himself with the requirements of the Occupational Health and Safety Act and that he, his employees, and any sub-contractors, comply with them.
5. Discipline in the interests of occupational health and safety shall be strictly enforced.
6. Personal protective equipment shall be issued by the Contractor as required and shall be worn at all times where necessary.
7. Written safe work procedures and appropriate precautionary measures shall be available and enforced, and all employees shall be made conversant with the contents of these practices.
8. No substandard equipment/machinery/articles or substances shall be used on the site.
9. All incidents referred to in terms of Section 24 of the Occupational Health and Safety Act shall be reported by the Contractor to the Department of Labour and the Employer.
10. The Employer hereby obtains an interest in the issue of any formal inquiry conducted in terms of Section 32 of the Occupational Health and Safety Act and into any incident involving a Contractor and/or his employees and/or his sub-contractor/s.
11. No use shall be made of any of the Employer's machinery / plant / equipment / substance / personal protective equipment or any other article without prior arrangement and written approval.
12. No alcohol or any other intoxicating substance shall be allowed on the site. Any person suspected of being under the influence of alcohol or any other intoxicating substance shall not be permitted access to, or allowed to remain on the site.
13. Prior to commencement of any work, verified copies of all documents mentioned in the agreement, must be presented to the Employer.

ANNEXURE F

**CERTIFICATE OF AUTHORITY FOR SIGNATORY TO AGREEMENT IN TERMS OF
OCCUPATIONAL HEALTH AND SAFETY ACT, 1993 (ACT NO 85 OF 1993)**

The signatory for the company that is the Contractor in terms of the current Contract and the Mandatory in terms of the above-mentioned Act shall confirm his or her authority thereto by attaching to this page a duly signed and dated copy of the relevant resolution of the Board of Directors.

An example is given below:

"By resolution of the Board of Directors passed at a meeting held on 20....., Mr/Ms
.....

whose signature appears below, has been duly authorised to sign the AGREEMENT in terms of THE OCCUPATIONAL HEALTH
AND SAFETY ACT, 1993 (ACT 85 of 1993) on behalf of

SIGNED ON BEHALF OF THE COMPANY :

IN HIS/HER CAPACITY AS :

DATE :

SIGNATURE OF SIGNATORY :

WITNESS: 1 2.

NAME (in capitals): 1 2.....

ANNEXURE G

INSURANCE BROKER'S WARRANTY

Pro Forma



Letterhead of Contractor's Insurance Broker

Date _____

DRAKENSTEIN MUNICIPALITY
Municipal Manager
Civic Centre
Berg River Boulevard
Paarl
7620

Dear Sir

CONTRACT NO.: CES 11/2024

CONTRACT TITLE: PAARL WASTEWATER TREATMENT WORKS - SLUDGE STREAM: CIVIL WORKS, MECHANICAL AND ELECTRICAL INSTALLATION

NAME OF CONTRACTOR: _____

I, the undersigned, do hereby confirm and warrant that all the insurances required in terms of the abovementioned contract have been issued and/or in the case of blanket/umbrella policies, have been endorsed to reflect the interests of the DRAKENSTEIN MUNICIPALITY with regard to the abovementioned contract, and that all the insurances and endorsements, etc., are all in accordance with the requirements of the contract.

I furthermore confirm that all premiums in the above regard have been paid.

Yours faithfully

Signed: _____

For: _____

ANNEXURE H

RETENTION MONEY GUARANTEE (PRO FORMA)

ISSUED TO *[INSERT NAME OF EMPLOYER]*
..... (hereinafter called "the Employer")

ON BEHALF OF *[INSERT NAME OF CONTRACTOR]*
..... (hereinafter called "the Contractor")

in connection with CONTRACT NO: (hereinafter called "the Contract").

WHEREAS the Employer and the Contractor have agreed that the Contractor may provide a guarantee in lieu of the whole or a portion of the retention moneys provided for under the Contract;

NOW THEREFORE we, the undersigned, undertake, in accordance with the following provisions, to pay to the Employer such amounts as the Employer may, from time to time, demand from us.

- 1 Each demand by the Employer shall be in writing, signed by the Employer and delivered to us at *[INSERT GUARANTOR'S FULL STREET ADDRESS]* or such other address in *[INSERT NAME OF COUNTRY]* as we shall in writing notify to the Employer, and shall be accompanied by a certificate complying with Clause 2, signed by the Engineer in office as such in terms of the Contract.
- 2 The Engineer's certificate referred to in Clause 1 shall certify that:
 - (a) he/she is the Engineer in office as such in terms of the Contract,
 - (b) the Contractor is in breach of his obligations under the Contract, and
 - (c) the amount demanded, which amount the certificate shall specify, does not exceed
 - (i) the amount of retention moneys which, but for this guarantee, would have been retained by the Employer in terms of the Contract at the date of the certificate, less the aggregate of the amounts of retention money actually retained by the Employer and the amounts previously paid by us to the Employer in terms hereof,
 - (ii) a genuine estimate of the cost to the Employer of having the breach referred to in paragraph (b) remedied less the aggregate of any amounts withheld by the Employer from payments due to the Contractor in terms of the Contract by reason of the breach referred to, and any amount of retention money actually held by the Employer save to the extent that the same had been deducted from any previous demand in terms hereof;
- 3 We shall within days after our receipt of a demand complying with the provisions in Clauses 1 and 2 make payment to the Employer of the amount demanded at *[INSERT EMPLOYER'S STREET ADDRESS]* or at such other address in *[INSERT EMPLOYER'S COUNTRY]* as the Employer shall in writing notify to us.
- 4 Subject to compliance with the provisions hereof, our liability to make the payments herein referred to shall be unconditional and shall not be affected or diminished by any disputes, claims or counterclaims between the Employer and the Contractor.
- 5 Our aggregate liability under this guarantee is limited to*[INSERT AMOUNT OF GUARANTEE IN WORDS]* (R..... *[INSERT AMOUNT OF GUARANTEE IN FIGURES]*).
- 6 This guarantee shall expire on the date on which the last of the retention moneys, which but for this guarantee would have been retained by the Employer, becomes payable to the Contractor.

7 This guarantee is not transferable and must be produced for endorsement if any part payment is made and must be returned to us against final payment of our aggregate liability or on the date of the expiry of the guarantee in terms of Clause 6, whichever is the earlier.

Signed in the presence of the subscribing witnesses:

At for and on behalf of

.....

on this the day of 20.....

SIGNATURE :

CAPACITY :

ADDRESS :

:

:

AS WITNESSES : 1

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ANNEXURE I

LIST OF APPROVED FINANCIAL INSTITUTIONS

The following financial institutions, but is not limited to the list published by the South African Reserve Bank, are currently (as from 1 February 2011) approved for issue of contract guarantees to the Municipality:

National Banks:

ABSA Group Limited
African Bank Limited
Capitec Bank Limited
Development Bank of Southern Africa
FirstRand Bank Ltd.
Bidvest
Grindrod Bank Limited
Imperial Bank Ltd.
Industrial Development Corporation of South Africa
Infrastructure Finance Corporation
Investec Bank Ltd.
Land & Agricultural Bank of SA
Mercantile Bank Ltd.
Nedbank Ltd.
Sasfin Bank Limited
Standard Bank of SA Ltd.
Grobank Limited

International Banks (with branches in SA):

Barclays Bank plc.
Bank of China Limited
Bank of Taiwan
China Construction Bank
Citibank n.a.
Deutsche Bank AG
HSBC Bank Plc
JP Morgan Chase Bank
Standard Chartered Bank
State bank of India

The above is not limited to the list published on the website of the South African Reserve Bank.

Insurance companies:

ABSA Insurance Company Limited
AIG South Africa Limited
Auto & General Insurance Company Limited
Bidvest Insurance Limited
COFACE South Africa Insurance Company Limited
Compass Insurance Co.
Constantia Insurance Co.
Credit Guarantee Insurance Co.
Discovery Insure Limited
Firstrand Insurance Services Company Limited
Guardrisk Insurance Co.
Home Loan Guarantee Co.
Lion of Africa Insurance Co.
Lombard Insurance
Mutual & Federal Insurance Co.
New National Assurance Co.
Santam Limited

The above is not limited to the list published on the website of the South African Reserve Bank.

ANNEXURE J

CONTRACT OF TEMPORARY EMPLOYMENT AS COMMUNITY LIAISON OFFICER

Construction Contract No.:

PROJECT.....

AGREEMENT made between the CONTRACTOR.....
and the Community Liaison Officer....., hereafter referred to as the CLO, for
the appointment and employment of a CLO for the duration of the work in respect of the above named construction contract.

1. THE PARTIES HAVE AGREED THAT

The CLO will be employed by the CONTRACTOR on a temporary basis for the duration of the work from the date of signing this agreement to the date of practical completion as defined in the Contract, subject to all the conditions set out below.

2. THE DUTIES OF THE COMMUNITY LIAISON OFFICER SHALL BE:

1. to keep the community informed on the progress of the project;
2. to keep the Contractor informed on relevant Community affairs and possible grievances;
3. to manage the recruitment of workers from the Sub-Council Job-Seekers Database;
4. to assist the Contractor's supervisory staff in the management of the workers.

3. THE FOLLOWING CONDITIONS OF EMPLOYMENT SHALL APPLY:

The Conditions of Temporary Employment as applicable on this Contract for the workers recruited from the Community shall apply equally to the CLO, except that the rate of remuneration shall be R..... per working day. These conditions that apply are listed below as they appear in the Contract of Temporary Employment:

- 3.1 If required to work on a statutory public holiday or Sunday the payment will be double the amount stated in the previous paragraph.
- 3.2 Maximum hours of work:
 - (i) 9½ hours per day
 - (ii) 45 hours per week;
 - (iii) 5 days per week;
 - (iv) 5 hours without an interval, whereupon there shall be an interval of at least 30 minutes;
 - (v) A spread-over period of 12 hours.
- 3.3 The CLO shall be entitled to payment where he is prevented from working by reasons which are within the control of the Contractor.
- 3.4 On days when it is raining the Contractor may, before 9 a.m., decide not to open the site and there will be no pay.

If the Contractor closes the site between 9 a.m. and 1 p.m., the CLO will be paid half the daily wage.

If the site works later than 1 p.m., the CLO will be paid the full daily wage.
- 3.5 Workers and the CLO will not be permitted to work under conditions of:
 - (i) undisciplined or unruly behaviour;
 - (ii) insubordination to Team Leader, Supervisors or Management;
 - (iii) abuse of intoxicating substances;
 - (iv) criminal actions by the employee;
 - (v) strike action or political stayaways.

3.6 Workers, including the CLO, may be dismissed after two official written warnings for the following behaviour:

- (i) undisciplined or unruly behaviour;
- (ii) insubordination to Team Leader, Supervisors or Management;
- (iii) abuse of intoxicating substances;
- (iv) wilful or negligent damage to or loss of machines or equipment.

The Contractor shall ensure that he has statements from at least two witnesses concerning any of the above situations.

The Contractor shall inform the CLO within 24 hours of any warning issued to workers employed from the Job-Seekers Database.

3.7 The CLO will be paid on a Friday afternoon every two weeks, one week in arrears.

3.8 The CLO shall be given a statement with each payment on which is recorded:

- (i) the name of the Contractor;
- (ii) the CLO's name;
- (iii) the number of days worked by the CLO;
- (iv) the rate per day;
- (v) the details of any deductions made;
- (vi) the actual amount paid to the CLO.

3.9 No deduction shall be made from the remuneration except where the CLO consents in writing or unless the Contractor is permitted or required to do so by law or the order of any competent court.

3.10 The CLO shall be supplied free of charge with all health and safety equipment required by the Occupation Health and Safety Act. The equipment shall remain the property of the Contractor.

3.11 The Contractor must give the CLO at least one week's notice of the termination of the Contract of Temporary Employment. If this is not done, the CLO must be paid earnings for five days. This condition does not apply if the CLO is dismissed.

3.12 At the end of the period of temporary employment, the Contractor shall provide a Certificate of Service recording the Contractor's name, the CLO's name and address, the period of service, the type of work on which the CLO was engaged and the rate of remuneration on termination.

4. TERMINATION OF AGREEMENT

4.1 If the CLO can no longer perform and execute his/her duties as detailed in this agreement, this agreement will be terminated without prejudice to any rights under this agreement.

5. THE CONDITIONS OF THIS AGREEMENT

5.1 The parties expressly declare that this agreement contains all the conditions negotiated between them, and no condition or stipulation not contained herein shall be binding upon the parties.

6. THUS AGREED AND SIGNED BY THE PARTIES:

Contractor:

Community Liaison officer:

Date:

Part C2: Pricing Data

	Pages
C2.1 Pricing Instructions	75-81

C2.1 PRICING INSTRUCTIONS

1. GENERAL

- 1.1. The Bill of Quantities contain only brief descriptions to identify the salient items required and the Tenderer is referred to the Scope of Work, specifications (including the project specification), drawings and the Conditions of Contract for the full requirements.
- 1.2. The prices and rates to be inserted in the Bill of Quantities are to be the full inclusive prices for the work described under the several items. Such prices and rates shall cover all costs and expenses that may be required in and for the execution of the work described, and shall cover the cost of all general risks, liabilities, and obligations set forth or implied in the documents on which the tender is based, as well as overhead charges and profit. Reasonable prices shall be inserted as these will be used as a basis for assessment of payment for additional work that may have to be carried out.
- 1.3. A price or rate is to be entered against each item in the Bill of Quantities, whether the quantities are stated or not. An item against which no price or where a word or phrase such as "included" or "provided elsewhere" will be accepted as a rate of nil (R0,00) having been entered against such items and covered by the other prices or rates in the schedule. Any work executed to which such a pay item applies, shall be measured under the appropriate items in the Bill of Quantities and valued at a rate of nil (R0,00). The rate of nil shall be valid irrespective of any change in the quantities during the execution of the Contract.
- 1.4. Except where rates only are required, insert all amounts to be included in the total tendered price in the "Amount" column and show the corresponding total tendered price. The total tendered price shall govern in the event of any arithmetical errors (refer to C3.9 in Part T1.2, Tender Data).
- 1.5. For the purposes of this Bill of Quantities, the following words shall have the meanings hereby assigned to them:
- | | | |
|----------------|---|--|
| Unit | : | The unit of measurement for each item of work as defined in the Standardised, Project or Particular Specifications |
| Qty / Quantity | : | The number of units of work for each item |
| Rate | : | The payment per unit of work at which the Tenderer tenders to do the work |
| Amount | : | The quantity of an item multiplied by the tendered rate of the (same) item |
| Sum | : | An amount tendered for an item, the extent of which is described in the Bill of Quantities, the Specifications or elsewhere, but of which the quantity of work is not measured in units. |
- 1.6. The units of measurement described in the Bill of Quantities are metric units, as well as the following:

No.	=	number
Item/Sum	=	lump sum
Prov	=	Provisional sum
PC sum	=	prime cost sum
R/only	=	Rate only
sum	=	lump sum
W/day	=	Work day
%	=	per cent
Days	=	"Day" as defined in the Conditions of Contract
Hrs	=	Hours
H	=	Hour
m	=	metre

cubicm	=	cubic metre
sqmm	=	square millimetre
m ³ -month	=	cubic metre per month
ha	=	hectare
t	=	ton (1000 kg)
kg	=	kilogram
kl	=	kilolitre
km	=	kilometre
km-pass	=	kilometre-pass
kPa	=	kilopascal
kW	=	kilowatt
kN	=	kilonewton
l	=	litre
m	=	metre
mm	=	millimetre
m ²	=	square metre
m ² -pass	=	square metre-pass
m ³	=	cubic metre
m ³ -km	=	cubic metre-kilometre
MN	=	meganewton
MN.m	=	meganewton-metre
MPa	=	megapascal
No.	=	number

1.7. Prime Cost Sum

- (a) Description of Item to which Prime Cost Sum Applies Unit : PC Sum
- (b) Charge Required by Contractor on Sub-item (a) above Unit : %

Sub-items (a) and (b) will be provided in the Bill of Quantities for each different item to which a Prime Cost Sum applies.

The Contractor shall be reimbursed under sub-item(s) (a) in substitution of the respective Prime Cost Sums included in the Contract, the actual price(s) paid or payable by him in respect of the goods, materials or services supplied by others, but excluding any charges for the Contractor's labour, profit, carriage, establishment or other charges related to such goods, services or materials.

The Contractor shall be paid under sub-item (b), the respective percentage, as stated by the Contractor in its Tender, of the amount certified by the Engineer for payment under the related sub-item (a). The percentages tendered by the Contractor for each respective sub-item (b) included in the Bill of Quantities shall be deemed to in full and final compensation to the Contractor in respect of any charge by the Contractor for labour, carriage profit, establishment and for any other charges related to the goods, services or materials supplied under the related sub-item (a).

If the Contractor shall have omitted within its Tender to insert a tendered percentage under sub-item (b), or tendered a zero percentage, the Contractor's tendered rate for sub-item (b) shall be deemed to be zero and the Contractor shall not be entitled to any payment under sub-item (b).

- 1.8. The Tenderer is referred to Sub-Clause 4.11, Sufficiency of the Accepted Contract Amount, of the Conditions of Contract.
- 1.9. The Tenderer is referred to Sub-Clause 14.1, The Contract Price, of the Conditions of Contract as amended in the Particular Conditions in Part C1.2 Contract Data.

1.10. The Tenderer is referred to C2.13.1 in Part T1.2 Tender Data and Part T1.3 Standard Conditions of Tender regarding the pricing of Variations from Specification and/or Options.

1.11. The quantities set out in the Bill of Quantities are the estimated quantities of the Works, and do not necessarily represent the actual amount of work to be done. The quantities certified for payment, and not the quantities given in the Bill of Quantities, shall be used for determining payments to the Contractor.

The Contract Price for the completed contract shall be computed from the actual quantities of work done, valued at the relevant unit rates and prices.

1.12. The Tenderer shall fill in a rate against all items where the words “rate only” appears in the amount column. The intention is that, although no work is foreseen under such item and no quantities are consequently given in the quantity column, the tendered rate shall apply should work under this item be actually required.

1.13. Except where rates only are required, the Tenderer shall insert all amounts to be included in his total tendered price in the “Amount” column and show the corresponding total tendered price.

1.14. All rates and sums of money quoted in the Bill of Quantities shall be in rands and whole cents. Fractions of a cent shall be discarded.

1.15. All prices and rates entered in the Bill of Quantities must be excluding Value Added Tax (VAT). VAT will be added last on the summary page of the Bill of Quantities.

2. PRICING INSTRUCTIONS FOR MECHANICAL AND ELECTRICAL WORKS

2.1 Items have been provided where any further items considered necessary by the Tenderer can be priced. The Tenderer must provide full details of what has been allowed for with his Tender under these items. Should the Tenderer be aware of any items included in the Works which are not itemised in the Bill of Quantities, these items should be added in the space provided, and hence included in the Tender price.

2.2 If any change in design is contemplated during the course of the Contract, the Contractor will be required to provide the Engineer with a detailed breakdown of the contract price involved with a similarly detailed breakdown of the suggested revised price together with supporting quotations and other relevant documentation to satisfy the Engineer that the revised price is built up in a similar manner to the original contract price.

2.3 The Tenderer is referred to C2.13.1 in Part T1.2 Tender Data and Part T1.3 Standard Conditions of Tender regarding the pricing of Variations from Specification and/or Options.

2.4 The Tenderer is referred to Sub-Clause 13.8 of the Particular Conditions of Contract in Part C1.2 Contract Data regarding Contract Price Adjustment and Variations in Rates of exchange; regarding the latter, the Tenderer is specifically referred to the Contractor’s obligation to take out forward cover. Returnable Schedule T2.2.11 is attached hereto and must be completed by the Tenderer in conjunction with pricing the relevant items in the Bill of Quantities. The Tenderer’s attention is also drawn to Sub-Clauses 2.1(b) and 10.3 (b) of the Particular Conditions.

2.5 The Rand value of imported equipment listed in Schedule T2.2.11 shall be carried forward from column (F) and included in the price of each of the relevant items in the Bill of Quantities

3. PRICING INSTRUCTIONS FOR CIVIL WORKS

3.1 These pricing instructions provide the Tenderer with guidelines and requirements with regard to the completion of the bill of quantities. These pricing instructions also describe the criteria and assumptions which will be assumed in the Contract to have been taken into account by the Tenderer when developing his prices.

3.2 The Conditions of Contract, the Contract Data, the Specifications (including the Project Specifications) and the Drawings shall be read in conjunction with the Bill of Quantities.

- 3.3 The Bill comprises items covering the Contractor's profit and costs of general liabilities and of the construction of Temporary and Permanent Works.

Although the Tenderer is at liberty to insert a rate of his own choosing for each item in the Bill, he should note the fact that the Contractor is entitled, under various circumstances, to payment for additional work carried out and that the Engineer is obliged to base his assessment of the rates to be paid for such additional work on the rates the Contractor inserted in the Bill.

- 3.4 Ordering of materials is not to be based on the Bill of Quantities, but only on information issued for construction purposes.
- 3.5 The method of measurement published by the South African Bureau of Standards in Clause 8 of the Standardised Specifications for Civil Engineering Construction (SANS 1200) is applicable, subject to the variations and amendments contained in Part C3.4.2 and Part C3.7.

Descriptions in the Bill of Quantities are abbreviated and comply generally with those in the Standard Specifications. The measurement and payment clause of each Standard Specification, read together with the relevant clauses of the Scope of Work, set out what ancillary or associated activities are included in the rates for the operations specified. Should any requirements of the measurement and payment clause of the applicable Standard Specification, or the Scope of Work, conflict with the terms of the Bill of Quantities, the requirements of the Standard Specification or Scope of Work, as applicable, shall prevail.

The item numbers appearing in the Bill of Quantities refer to the corresponding item number in the standard specifications or as amended in the Scope of Work (particular or project specifications). In the latter case, the item number is prefixed with the letter specific particular, or project specification description as specified in the Scope of Work. The same applies to new clauses added to the standard specification.

- 3.6 Unless otherwise stated, items are measured net in accordance with the drawings, and no allowance is made for waste.
- 3.7 It will be assumed that prices included in the bills of quantities are based on Acts, Ordinances, Regulations, By-laws, International Standards and National Standards that were published 28 days before the closing date for tenders.
- 3.8 Where the Scope of Work requires detailed drawings and designs or other information to be provided, all costs associated therewith are deemed to have been provided for and included in the unit rates and sum amount tendered such items.
- 3.9 The tendered rates, prices and sums shall, subject only to the provisions of the Conditions of Contract, remain valid irrespective of any change in the quantities during the execution of the Contract.

No unauthorized amendment shall be made to the Schedule of Rates / Bill of Quantities or any part of the Pricing Data. If such amendment is made or if the Schedule of Rates / Bill of Quantities is not properly completed, the tender will be rejected.

- 3.10 The Tenderer shall not group together a number of items and tender one rate for such group of items.
- 3.11 Should excessively high unit prices be tendered, such prices may be of sufficient importance to warrant rejection of a tender by the Employer.
- 3.12 Where the Contractor is required to furnish detailed drawings and designs or other information in terms of the Contract Documents, all costs thereof shall be deemed to have been provided for and included in the unit rates and sum amounts tendered for the items scheduled in the Bill of Quantities, and separate additional payments will not be made.

4. PRICING INSTRUCTIONS FOR OPERATION ASSISTANCE, MAINTENANCE AND TRAINING (FULL TIME)

Payment for scheduled items shall be read in conjunction with the Project Specifications (Part C3.11) and shall conform to payment clauses as stated herein under.

OMT1. Preliminary and General Items

Unit Sum

Where provision is made in the Bill of Quantities for Preliminary and General items, the sum(s) tendered shall cover the cost of all responsibilities specified in the Specifications together with all responsibilities in terms of the Conditions of Contract. In interim certificates, payment for Preliminary and General Items will be made, unless otherwise provided for, as a percentage of the tendered lump sum(s) pro-rated to the value of work certified for payment. Note that the Preliminary and General Items in Bill M10 are for the 24 months of operation assistance, maintenance and training where the Contractor's staff shall be based full time on site.

OMT2. Operation Assistance and Maintenance of Works (Full time)

Unit Month

The tendered rate or sum shall be payable monthly to the Contractor in accordance with the requirements specified in the Project Specifications.

The tendered rate shall include full compensation for all liabilities and obligations described or implied in the Project Specifications and deemed by the Contractor to be applicable to the maintenance of an entire installation and all appurtenant works deemed to form part thereof, as defined in the Project Specifications.

Remuneration for all value-related as well as all time-related preliminary and general charges shall be deemed included in the Contractor's monthly operation costs.

OMT3. Operation and Maintenance Training of Works Personnel (including Certification)

(a) Development of a Syllabus for Training of Operators

Unit Sum

The unit of measurement shall be the sum for the compilation of a training syllabus for each installation. The training material shall be revised and updated at the end of the training contract before the Municipality takes ownership of the training material.

The tendered amount shall include full compensation for identification of pre-qualification criteria and training needs, staff assessment and evaluation prior to training, all technical research, development and compilation of an accredited training course and course material, and all other actions necessary for commencement of official training sessions in accordance with the specification.

The tendered amount shall also include full compensation for the compilation of a draft syllabus and for incorporation of all the Engineer's comments and corrective requirements.

(b) Presenting a Training Course for Operators

Unit Sum

The unit of measurement shall be the sum for the number of training courses presented based on the approved syllabus.

The tendered rate shall include full compensation for presenting a training course, including lectures, demonstrations, on-site training and hands-on development and improvement of operators' skills to enable the operators to operate installations safely and efficiently.

The tendered rate shall include full compensation for the Contractor's time, appointment of the accredited trainer for the course, and for all material expenses such as paper hand-outs and slides for the whole group of trainees, the number of which shall be determined during development of the training course.

(c) Presenting a Training Course for Maintenance Personnel (mechanical and electrical)

Unit Sum

The unit of measurement shall be the sum for the number of training courses presented.

The tendered rate shall include full compensation for presenting a course, including lectures, demonstrations, on-site training and hands-on development, and improvement of maintenance personnel's skills to enable them to maintain and repair installations safely and efficiently at the satisfactory functional condition specified.

The tendered rate shall include full compensation for the Contractor's time, appointment of the accredited trainer for the course, and for all material expenses such as paper hand-outs and slides for the whole group of trainees, the number of which shall be determined during development of the training course.

(d) Arranging Demonstration Session(s) for Trainees

Unit Sum

The unit of measurement shall be a sum depending on the number of demonstration sessions arranged. This will depend on the number of trainees that underwent training.

The tendered rate shall include full compensation for any reasonable costs arising from the arrangement of demonstration sessions but shall exclude any time related claims for the course presenter(s) as this shall be assumed to be covered under (b) and (c) above.

OMT4. Compensation in terms of Clause 19.1, 19.6(c) and 19.6(d) of the FIDIC Conditions of Contract – 1999, for delays incurred

(a) Plant and equipment.....Unit: Sum per working day

(b) Labour.....Unit: Sum per working day

(c) Supervision..... Unit: Sum per working day

(d) Other services, facilities, etc. not covered by (a), (b) and (c) above..... Unit: Sum per working day

The sum tendered for each item shall cover the full and final costs of delaying the specified resource or facility and no additional compensation shall apply, notwithstanding any provisions to the contrary in the contract document in respect of any extension of time granted in relation to the circumstances described in Clauses 19.1, 19.6 (c) and 19.6(d) of the FIDIC Conditions of Contract – 1999.

For the purposes of calculating the total delay, a working week shall consist of 5 working days and a working day 8 hours.

5. MAINTENANCE INSPECTIONS (PART TIME)

Payment for scheduled items shall be read in conjunction with the Project Specifications (Part C3.12) and shall conform to payment clauses as stated herein under.

M11. Preliminary and General Items

Unit Sum

Where provision is made in the Bill of Quantities for Preliminary and General items, the sum(s) tendered shall cover the cost of all responsibilities specified in the Specifications together with all responsibilities in terms of the Conditions of Contract. In interim certificates, payment for Preliminary and General Items will be made, unless otherwise provided for, as a percentage of the tendered lump sum(s) pro-rated to the value of work certified for payment. Note that the Preliminary and General Items in Bill M11 are for a total period of 12 months (to commence after the full-time operation assistance, maintenance and training) where the Contractor's staff shall be based part time on site.

MI2. Maintenance Inspections of Specific Works for a total period of Twelve months (Part Time)

Unit Month

The tendered rate or sum shall be payable monthly to the Contractor in accordance with the requirements specified in the Project Specifications 3.12 and shall account for inspections as defined in the Bill of Quantities.

The tendered rate shall include full compensation for all liabilities and obligations described or implied in the Project Specifications and deemed by the Contractor to be applicable to conduct routine maintenance inspections for the operation of an entire installation and all appurtenant works (as defined in the Bill of Quantities) deemed to form part thereof, as defined in the Project Specifications.

Remuneration for all value-related as well as all time-related preliminary and general charges shall be deemed included in the Contractor's monthly operation costs.

MI3. Call-out charge in response to a breakdown

Unit: No

The unit of measurement shall be a single charge rate per call-out responding to a breakdown. The maximum allowable response-time is applicable (Refer to Part C3.12).

The call-out charge rate shall include full compensation for all costs related to travelling, accommodation and labour, inspecting, assessing and reporting of dysfunctional component/s or installation.

MI4. Charge for actual repair work done during breakdown

Unit: Hours

The unit of measurement shall be the number of hours the Contractor spent performing the actual repair work on a dysfunctional component or installation as a result of a breakdown. The rate shall cover all labour, travelling to site, accommodation, dismantling, resetting, calibrating, protecting, recoating, re-assembling, re-installing, testing and re-commissioning of the dysfunctional component or installation.

All consumables, materials, equipment, components and spares required in attending to a breakdown shall be covered by the Prime Cost Sum items allowed for in the Bill of Quantities.