



## VOLUME 3 OF 3

## THE CONTRACT

### DEVELOPMENT BANK OF SOUTHERN AFRICA

### TENDER NO. RFP 082/2026

### APPOINTMENT OF A CONTRACTOR FOR DRILLING AND GROUTING WORKS FOR THE TZANEEN DAM PROJECT.



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### **Notes:**

The Tender Document must be submitted as a whole. All forms must be properly completed as required and the document shall not be taken apart or altered in any way whatsoever.

All forms must be duly completed in **black ink** as required.

The list of returnable documents, which consists of forms and schedules to be completed and company specific certificates and information pages to be attached, comprise the following:

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## THE CONTRACT

- C1 : AGREEMENT AND CONTRACT DATA**
- C2 : PRICING DATA**
- C3 : SCOPE OF WORK**
- C4 : SITE INFORMATION**

## **PART C1: AGREEMENT AND CONTRACT DATA**

The **General Conditions of Contract for Construction Works, Third Edition, 2015** issued by the South African Institution of Civil Engineering (including amendments).

<b>Document reference</b>	<b>Title</b>	<b>No of pages</b>
C1.1	Form of Offer and Acceptance	5
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	Total number of pages	21

## **C1.1 FORM OF OFFER AND ACCEPTANCE**

### **C1.1.1 Offer**

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

**TENDER No: RFP082/2026 – APPOINTMENT OF A CONTRACTOR FOR-DRILLING AND GROUTING WORKS FOR THE TZANEEN DAM PROJECT.**

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.

Signature .....

Name .....

Capacity .....

### **For the Tenderer**

Name of Tenderer .....

Address of Tenderer) .....

Name of witness.....

Signature of witness ..... Date .....

## **C1.1 FORM OF OFFER AND ACCEPTANCE (Continued)**

### **C1.1.2 Acceptance**

By signing this part of this form of offer and acceptance, the Employer identified below accepts the Tenderer's offer. In consideration thereof, the Employer shall pay the contractor the amount due in accordance with the conditions of contract identified in the contract data. Acceptance of the Tenderer's offer shall form an agreement between the employer and the Tenderer upon the terms and conditions contained in this agreement and in the contract that is the subject of this agreement.

The terms of the contract, are contained in:

- Part C1: Agreements and contract data, (which includes this agreement)
- Part C2: Pricing data
- Part C3: Scope of work.
- Part C4: Site information

and the schedules, forms, drawing and documents or parts thereof, which may be incorporated by reference into Parts 1 to 4 above.

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

The Tenderer shall deliver the security in terms of **Clause 6.2 of the GCC 2015** within the period stated in the Contract Data, and he shall, immediately after receiving a completed copy of this Agreement, including the Schedule of Deviations (if any), contract the Employer's Agent (whose details are given in the Contract Data) to arrange the delivery of any other bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the Conditions of Contract identified in the Contract Data, within 14 days of the date on which this Agreement comes into effect. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this Agreement.

**Any cover letter must be referenced here if applicable, or it will not be valid as part of this submission).**

Notwithstanding anything contained herein, this Agreement comes into effect on the date when the Tenderer receives one fully completed original copy of this document, including the Schedule of Deviations (if any). Unless the Tenderer (now Contractor) within five days of the date of such receipt notified the Employer in writing of any reason why he cannot accept the contents of this Agreement, this Agreement shall constitute a binding contract within parties.

Signature .....

Name .....

Capacity .....

**for the**

**Employer**

**Development Bank of Southern Africa Limited**

1258 Lever Road, Headway Hill,  
Midrand, Gauteng Province

Name of witness .....

Signature of witness ..... Date .....

## Schedule of Deviations

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 Tender Data and the Conditions of Tender.

A Tenderer's covering letter will not necessarily be included in the final contract document. Should any matter in such letter, which constitutes a deviation as aforesaid becomes the subject of agreements reached during the process of offer and acceptance, the outcome of such agreement shall be recorded here.

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 and obligation of the contract shall also be recorded here.

Any change or addition to the Tender documents arising from the above agreements and recorded here shall also be incorporated in to the final draft of the Contract.

- 1 Subject .....
- Details .....
- .....
- 2 Subject .....
- Details .....
- .....
- 3 Subject .....
- Details .....
- .....
- 4 Subject .....
- Details .....
- .....
- .....
- 5 Subject .....
- Details .....
- .....
- .....

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

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

**For the Tenderer:**

Signature(s) .....

Name(s) .....

Capacity .....

Name of Tenderer .....

Address of Tenderer .....

Name of witness .....

Signature of witness ..... Date .....

**For the Employer:**

Signature(s) .....

Name(s) .....

Capacity .....

Name of Employer: **Development Bank of Southern Africa Limited**

Address of Employer 1258 Lever Road, Headway Hill, Midrand, Gauteng Province

Name of witness .....

Signature of witness ..... Date .....



**C1.2 CONTRACT DATA**

<b>Document reference</b>	<b>Title</b>	<b>No of pages</b>
C1.2	Contract Data	1
C1.2.1	Conditions of Contract	6
C1.2.2	Contract Specific Data	4
C1.3	Security for Performance /Construction Guarantee	5
	Total number of pages	16

## **C1.2.1 CONDITIONS OF CONTRACT**

### **GENERAL CONDITIONS OF CONTRACT**

The Conditions of Contract are clauses 1 to 10 of the **GENERAL CONDITIONS OF CONTRACT FOR CONSTRUCTION WORKS, THIRD EDITION, 2015** (hereinafter referred to as the "GCC 2015") published by the South African Institution of civil Engineering.

Copies of these conditions of contract may be obtained from the South African Institution of Civil Engineering, Private Bag X200, Halfway House, 1685 and is obtainable from [www.saice.org.za](http://www.saice.org.za).

The GCC 2015 makes 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 GCC 2015.

Each item of data given below is cross-referenced to the clause in the GCC 2015 to which it mainly applies.

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 Specific Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the Conditions of Contract or the Special Conditions of Contract.

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

### **SPECIAL CONDITIONS OF CONTRACT**

#### **1. GENERAL**

These Special Conditions of Contract (SCC) form an integral part of the Contract. The Special Conditions of Contract shall amplify, modify or supersede, as the case may be, the Conditions of Contract of GCC 2015 to the extent specified below, and shall take precedence and shall govern in the interpretation of any ambiguity or inconsistency between it and the Conditions of Contract.

The clauses of the Special Conditions hereafter are numbered "SCC" followed in each case by the number of the applicable clause or sub clause in the GCC 2015, and the applicable heading, or (where a new special condition that has no relation to the existing clauses is introduced) by a number that follows after the last clause number in the Conditions, and an appropriate heading.

The Forms included in the GCC 2015, are replaced with the Forms included in this Tender Document.

## AMENDMENTS AND ADDITIONS

Clause Number	Clause
1.	<b>GENERAL</b>
1.1	<b>Definitions</b>
n/a	Where the Contract is executed by virtue of a " <i>Form of Agreement</i> ", all references to " <i>Form of Offer and Acceptance</i> " shall be read as " <i>Form of Agreement</i> ".
1.1.1.1	The definition of " <b>agreed</b> " is amended to read "means <i>expressly</i> agreed in writing by the Employer and the Contractor, unless specifically stated otherwise ( <i>but for this purpose, "in writing" shall, notwithstanding the provisions of Clause 1.1.1.34, exclude electronic communication</i> )."
1.1.1.31	The definition of " <b>Supplementary Agreement</b> " is amended to read "means an additional contract <i>agreed</i> between the Employer and the Contractor..."
1.1.0	<b>Definitions</b>
	Add the following definitions at the end of the clause:
1.1.1.36	" <b>Affiliate</b> " means any other entity that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with the Party in question. For the purpose hereof, " <b>control</b> " means the beneficial ownership of the majority in number of the issued equity of any entity (or the whole or majority of the entity's assets), and/or the right or ability to directly or otherwise control the entity or the votes attaching to the majority of the entity's issued share capital and, <b>controlled</b> or <b>under common control</b> shall have a similar meaning;
1.1.1.37	" <b>Client</b> " mean the Department of Water and Sanitation which appointed the Employer to implement the project as its agent;
1.1.1.38	<p>"<b>Collusive Practice</b>" means any agreement (which includes, without limitation, a contract, arrangement or understanding, whether or not legally enforceable) or concerted practice (being co-operative, or co-ordinated conduct between firms, achieved through direct or indirect contact, that replaces their independent action, but which does not amount to an agreement) between two or more persons (other than between the Contractor and its Affiliates), regardless of any technological, efficiency or other pro-competitive gains, involving any of the following:</p> <ul style="list-style-type: none"> <li>(i) the direct or indirect fixing of a purchase or selling price or any other trading condition;</li> <li>(ii) the division of markets by allocating customers, suppliers, territories, or specific types of goods or services; or</li> <li>(iii) collusive tendering;</li> </ul>
1.1.1.39	" <b>Construction Manager</b> " has the meaning given to it in Clause 4.12.2;
1.1.1.40	" <b>Contractor Delay Event</b> " means:

- (i) any default, failure, negligence or delay by the Contractor or Subcontractor and any event or circumstance arising as a result thereof; and
- (ii) any other event or circumstance for which Contractor carries the risk or bears the responsibility under the Contract (and generally includes all events or circumstances which, unless expressly stated to be at the risk of the Employer under this Contract, are ordinarily at the risk of the contractor party in contracts for works of the nature of the Works, including breakdown or unavailability of Construction Equipment and the like).

1.1.1.40

**“Contractor Insolvency Event”** means, and is considered to occur if:

- (i) the Contractor commits an act which, if committed by an individual, would constitute an act of insolvency within the meaning of Sections 8 or 9(3)(a)(v) of the Insolvency Act 24 of 1936, as amended, or any equivalent legislation in any jurisdiction to which it is subject;
- (ii) the Contractor begins negotiations or takes any other step with a view to generally deferring, re-scheduling or otherwise re-adjusting all or a material part of its indebtedness or proposes or makes a general scheme, arrangement, assignment, or composition with or for the benefit of its creditors or a moratorium is proposed or agreed in respect of or affecting all or a material part of its indebtedness;
- (iii) the Contractor makes an application to court for business rescue supervision or for its winding-up (whether provisionally or finally);
- (iv) a court of competent jurisdiction grants an order winding-up Contractor (whether provisionally or finally) or makes an order placing the Contractor under business rescue supervision;
- (v) an application or other legal process (including the filing of any document commencing judicial process) is issued seeking an order for the winding-up of the Contractor (whether provisionally or finally) or placing the Contractor under business rescue supervision, except for so long as such application or other legal process is being contested in good faith and by appropriate means or except for the bona fide purpose of reconstruction, amalgamation, reorganisation, merger or consolidation; or
- (vi) a resolution is passed by:
  - a) the shareholders of the Contractor for the winding-up of the Contractor, whether by way of a members’ or creditors’ voluntary winding-up; or
  - b) the board of the Contractor for the Contractor to voluntarily begin business rescue proceedings and place himself under business rescue supervision.

1.1.1.41	<b>“Corrupt Act”</b> means any offence in respect of corruption or corrupt activities contemplated in the Prevention and Combating of Corrupt Activities Act No. 12 of 2004;
1.1.1.42	<b>“Main Contractor”</b> means DWS Construction North (Pty) Ltd appointed by the Client for the construction of Tzaneen Dam;
1.1.1.43	<b>“Parties”</b> means the Employer and the Contractor, and “Party” shall mean either of them, as the context may require;
1.1.1.44	<b>“Performance Guarantee”</b> means the performance guarantee referred to in clause 6.2.1;
1.1.1.45	<b>“Prime Rate”</b> means the publicly quoted rate of interest as certified by any duly authorised representative (whose appointment or authority or designation it shall not be necessary to prove) of Standard Bank of South Africa Limited as being the prime lending rate at which that bank lends in South African Rand from time to time, on the basis of such interest being calculated daily on a 365 (three hundred and sixty-five) day year, irrespective of whether or not the year in question is a leap year;
1.1.1.46	<b>“Progress Reporting Requirements”</b> means the progress reporting requirements set forth in Appendix 3;
1.1.1.47	<b>“Special Conditions”</b> means these Special Conditions of Contract.
1.2	<b>Interpretations</b>
	<b>Amend the following clauses</b>
1.2.1	<b>Delivery of notices</b>  Add the following at the end of this Clause: “A <i>“written communication”</i> includes any letter, notice, drawing, order, instruction, account, claim, determination, certification or site meeting minutes, to be delivered by the Employer or Employer’s Agent to the Contractor, or by the Contractor to the Employer or Employer’s Agent”
	<b>Insert the following new clauses:</b>
1.2.6	Any reference to a person includes any individual, body corporate, unincorporated association, firm, company, corporation, government, state or agency of a state or any trust, association or partnership (whether or not having separate legal personality) or two or more of the foregoing or other entity recognised under any law as having a separate legal existence or personality.
1.2.7	References in the Special Conditions to “clauses” are to clauses of the General Conditions of Contract, as amended, where applicable, by the Special Conditions.
1.2.8	Any word or expression defined in any clause in these Special Conditions shall, unless the application of the word or expression is specifically limited to the clause in question, bear the meaning ascribed to the word or expression throughout these Special Conditions.
1.2.9	The schedules and appendices to the Contract form an integral part hereof and words and expressions defined in the Contract shall bear, unless the context otherwise requires, the same meaning in such appendices and schedules.

1.2.10	If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it appears only in an interpretation clause, effect shall be given to it as if it were a substantive provision of the Contract.
1.2.11	References to a statutory provision include any subordinate legislation (including regulations) made from time to time under that provision and references to a statutory provision include that provision as from time to time modified or re-enacted as far as such modification or re-enactment applies, or is capable of applying, to the Contract.
1.2.12	Any reference in the Contract to “the Contract” or “this Contract” or any other agreement, document or instrument shall be construed as a reference to the Contract or that other agreement, document or instrument as amended, varied, restated, novated or substituted from time to time.
1.2.13	Unless otherwise expressly stated, any number of Days prescribed shall be determined by excluding the first and including the last day. In the event that the Day for payment of any amount due by the Employer in terms of the Contract should fall on a Saturday, Sunday or official public holiday, the relevant day for payment shall be the next ordinary business day.
1.2.14	Save to the extent expressly provided for, no provision of the Contract constitutes a stipulation for the benefit of any person who is not a Party to the Contract.
1.2.15	Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
1.2.16	The use of the word “including” followed by a specific example/s shall not be construed as limiting the meaning of the general wording preceding it and the <i>eiusdem generis</i> rule shall not be applied in the interpretation of such general wording or such specific example(s).
1.3.0	<b>General Provisions</b>
	Insert the following new clauses at the end of this clause:
1.3.8	<b>Severance</b> If any provision of the Contract is rendered void, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
1.3.9	<b>Entire Agreement &amp; Amendments to Contract</b>  The Contract contains the entire agreement between the Parties in regard to the subject matter. No matter, whether in writing, oral communication or implied, not expressly contained in the Contract shall have any meaning or effect in the Contract.  Save to the extent expressly otherwise provided for in the Contract no amendment or consensual cancellation of the Contract or any provision or term thereof (including this Clause) shall be binding or have any force or effect unless reduced to writing and signed by or on behalf of the Parties (by duly authorised representatives). Without derogating from the foregoing, no agreement or purported agreement reached at any project review or other meeting, notwithstanding that it may be contained in any minute signed by or

	on behalf of the Parties, shall constitute an amendment to the Contract unless and until incorporated in a formal addendum to the Contract signed by or on behalf of the Parties (by duly authorised representatives). The provisions of this clause do not, however, limit or derogate from the provisions of Clause 6.3.
<b>2.</b>	<b>BASIS OF CONTRACT</b>
<b>2.1.2</b>	<p><b>Available data and information</b></p> <p><b>Obtaining information</b> Add the following at the end of Clause 2.1.3:</p> <p><i>“The Contractor shall furthermore be deemed to have:</i></p> <ul style="list-style-type: none"> <li><i>(i) obtained all information and to have satisfied himself as to the laws, procedures and labour practices applicable to the country, the Works and the execution thereof; and</i></li> <li><i>(ii) satisfied himself before tendering as to the correctness and sufficiency of his tender for the Works and of the rates and prices for the Works (as applicable), which rates and prices shall (except in so far as otherwise provided in the Contract) collectively cover full payment for the discharge of all his obligations under the Contract and all matters and things necessary for the proper completion of the Works..”</i></li> </ul>
<b>2.2.4</b>	<p><b>Adverse Physical Conditions</b></p> <p><b>Contractor’s right to claim</b> Add the following at the end of Clause 2.2.4:</p> <p><i>“However, when determining the Contractor’s entitlement to such proven additional cost, the Employer’s Agent may:</i></p> <ul style="list-style-type: none"> <li><i>(i) take into account the extent to which relevant physical conditions encountered by the Contractor while carrying out the Works were more favourable than could reasonably have been foreseen when the Contractor submitted his tender; and</i></li> <li><i>(ii) appropriately reduce the Contractors claimed entitlement to take into account the savings enjoyed by the Contractor’s by reason of these more favourable physical conditions.”</i></li> </ul>
<b>2.5</b>	<b>Assignment</b>
<b>2.5.1</b>	<p><i>Clause 2.5.1 is deleted and replaced with the following:</i></p> <p><i>“The Employer may, on written notice to the Contractor, cede and delegate its rights and obligations under this Contract to a Related Party or a Client of the Employer. The Contractor may subcontract part (but not all) of the Works in the manner provided for and subject to the terms of this Contract. The Contractor shall procure from the subcontractor all consents required in order to ensure that all the rights and obligations the Contractor may have under the subcontract agreements can be ceded and delegated. Save as aforesaid,</i></p>



	<p><i>neither party shall cede, delegate or assign any of its rights or obligations to any person without the prior written consent of the other.</i></p> <p><i>For the purpose hereof:</i></p>
2.5.1.1	<p><i>an "Employer party" means the Employer and includes its successors in title and permitted assignees under this Contract;</i></p>
2.5.1.2	<p><i>a "Related Party" means any entity that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with the Employer and includes any other "Organ of State" as defined in section 239 of the Constitution of the Republic of South Africa, 1996 and any entity or Organ of State for whom the Employer carries out the Works or acts as an implementing agent; and</i></p>
2.5.1.1	<p><i>"Control" means the beneficial ownership of the majority in number of the issued equity of any entity (or the whole or majority of the entity's assets), and/or the right or ability to direct or otherwise control the entity or the votes attaching to the majority of the entity's equity and "controlled" or "under common control" shall have a similar meaning."</i></p>
3.	<p><b>EMPLOYER'S AGENTS</b></p>
3.2.3	<p><b>Specific approval of the Employer required</b> Delete clause 3.2.3 and replace with the following:</p> <p><i>"The Employer's Agent, before instructing or approving any Variation or any other changes to the Works (including any increase in quantities), is required to obtain the prior written approval of the Employer if the Variation or other change ("<b>restricted change</b>" for the purpose of this Clause):</i></p> <ul style="list-style-type: none"> <li><i>(i) constitutes additional work which (reasonably considered) ought to be the subject matter of a Supplementary Agreement; or</i></li> <li><i>(ii) either itself or taken in the aggregate with all prior Variations or other changes:</i> <ul style="list-style-type: none"> <li><i>a) will result in the Contract Price (excluding amounts for adjustment under clause 6.8.2 or 6.8.3 if any), whether lump-sum or re-measurable, exceeding the Contract Sum;</i></li> <li><i>b) will, for the re-measurable portions of the Contract Price, result in the final measured quantity of any item exceeding the estimated quantity of that item as stated in Bill of Quantities ; or</i></li> <li><i>c) will result in a contingency deficit (and for this purpose "contingency deficit" means that the Contract Price, whether as a result of changes to the Works or otherwise, exceeds the Contract Sum or such higher amount as the Employer may notify the Contractor in writing from time to time).</i></li> </ul> </li> </ul> <p><i>The Contractor shall be solely responsible for ascertaining and satisfying himself that each restricted change has been expressly and specifically approved in writing by the Employer and accepts that it is not, notwithstanding</i></p>



	<p><i>anything to the contrary in the Contract, entitled to any upward adjustment to the Contract Price pursuant to a restricted change unless the restricted change has been so approved by the Employer (and in the case of (i) above, is provided for by way of a Supplementary Agreement).</i></p> <p><i>The Employer's Agent shall have no authority (i) to amend the Contract or (ii) unless and except to the extent expressly and specifically authorised to do so by the Employer in writing from time to time, to relieve the Contractor of any of his obligations under the Contract."</i></p>
3.3.6	<p><b>Contractor's right to refer to Employer's Agent</b></p> <p>Amend clause 3.3.6 by inserting the words "<i>within 7 (seven) days thereof</i>" directly after the words "he shall be entitled".</p>
4.	<b>CONTRACTOR'S GENERAL OBLIGATIONS</b>
4.2	<b>Delete Clause 4.2 and replace with the following:</b>
4.2.1	The Contractor acknowledges that a Main Contractor has been appointed by the Client for the construction of the Tzaneen Dam. The Contractor has been appointed to provide and execute the Works for and on behalf of the Main Contractor as set out in part C3: scope of work. The Contractor shall in carrying out his aforesaid obligations, comply with the Employer's Agents instructions and shall co-operate with and comply with ;the Main Contractor's instructions on all matters relating to the Works. In the event of any conflict between instructions issued by the Employer's Agent and those issued by the Main Contractor, the Contractor shall promptly seek and obtain written clarification from the Employer's Agent and shall act in accordance with such written confirmation.
4.2.2	<p>The Contractor shall take instructions only from:</p> <ol style="list-style-type: none"> <li>the Main Contractor, the Main Contractor's representative or a person authorised by the Main Contractor; or</li> <li>the Employer's Agent, the Employer's Agent representative or a person authorised by the Employer's Agent in terms of Clause 3.3.4.</li> </ol>
4.2.3	If any instruction issued by the Main Contractor would result in a variation to the Works or the Prices, the Contractor shall notify the Employer's Agent prior to implementing such instruction and shall not proceed unless and until the Employer's Agent has issued a written instruction authorising the variation, in accordance with Clauses 6.3, 6.4 and 6.8, as applicable.
4.2.4	The Contractor shall execute the Works under the management and supervision of the Main Contractor, subject to monitoring, inspection, and approval by the Employer's Agent.
4.3	<b>Insert the following new Clause 4.3.3 with marginal heading "Health and Safety"</b>
4.3.1	The Contractor shall take all reasonable steps and precautions to assess the Site, consider and receive all relevant information on the Site and health and safety related to the Works, maintain the health and safety of persons in and

	about the execution of the Works.
4.3.2	The Contractor acknowledges that the Occupational Health and Safety Act No. 85 of 1993 and the regulations promulgated therein ("the Act"); and the Construction Regulations 2014 promulgated under the Act ("the Construction Regulations") will in all respects be applicable to this Contract and the Works.
4.3.3	The Employer appoints the Contractor as the "Principal Contractor" (as defined and provided for under the Construction Regulations 2014) for the Site.
4.3.4	Accordingly, the Contractor is responsible for all obligations of the "Principal Contractor" as defined and provided for under the Act and the Construction Regulations including but not limited to those obligations defined and provided for in Annexures A Baseline Risk Assessment and Health and Safety Specifications of this Contract.
4.3.5	The Contractor hereby confirms that it has received sufficient information about the Site and the Works in order to:
4.3.5.1	comply with the provisions of the Act and the Construction Regulations,
4.3.5.2	comply with the provisions of this clause 4.3;
4.3.5.3	adhere to the employer's health and safety specification as set out in Annexures A, B and C; and
4.3.5.4	be properly appointed in accordance with Section 37(2) of the Act as contemplated in clause 4.3.7.1.
4.3.6	The Contractor acknowledges that the Employer's Agent acts as the Employer's "Agent" as defined in the Construction Regulations and the Act.
4.3.7	Without limitation, the Contractor:
4.3.7.1	notwithstanding any actions which the Employer may take, accepts sole liability for due compliance with the relevant duties, obligations, prohibitions, arrangements and procedures imposed by the Act, all its regulations (including the Construction Regulations , 2014 ) , Health and Safety Specifications and Annexures A(Baseline Risk Assessment . By entering into this Contract it shall be deemed that the parties have agreed in writing to the above provisions in terms of Section 37 (2) of the Act;
4.3.7.2	acknowledges and confirms that the Contract Price includes a sufficient amount for proper compliance with the Construction Regulations 2014 , Health and Safety Specifications and , all applicable health and safety laws, regulations, rules, guidelines, procedures and all obligations imposed by this Contract and Annexures A and generally for the proper maintenance of health and safety in and about the execution of Works;
4.3.7.3	undertakes, in and about the execution of the Works, to comply with all applicable health and safety laws, regulations, rules, guidelines and procedures otherwise provided for under this Contract and shall ensure that all subcontractors, employees and others under the Contractor's direction and control, likewise observe and comply with the foregoing; and
4.3.7.4	indemnifies the Employer against any loss, damage or claim suffered by the Employer due to a failure to comply with any provision of this clause 4.3 by the

	Contractor.
4.3.8	The Contractor and his designer shall accept full responsibility and liability to comply with the Act, the Construction Regulations 2014 , Health and Safety Specifications and Annexures A, Baseline Risk Assessment for the design of the Temporary Works and those parts of the Permanent Works which the contractor is responsible to design in terms of this Contract;
4.3.9	The Employer retains a right to inspect, review, obtain copies of all documents regarding, attend and participate in all meetings regarding; all inquiries, audits and reports conducted under this Contract including but not limited to those that are conducted in accordance with:
4.3.9.1	Annexures A of this Contract; and
4.3.9.2	Section 31 and/or 32 of the Act, its regulations and the Construction Regulations 2014 following any incident involving the Contractor and/or subcontractor and/or their employees.
4.3.10	The Contractor shall notify the Employer's Agent and copy in the Employer, immediately on receiving notice in writing or otherwise, in writing of all inquiries, audits, reports, investigations, complaints or criminal charges which may arise pursuant to work performed under this Contract.
4.3.11	The Employer and the Employer's Agent shall, at all times during construction and for a period of 5 (five) years after final completion, have the right to access and inspect any part of the site/ works and all documents, reports, designs, specifications whatsoever that are prepared pursuant to any clause of this Contract.
4.3.12	The Contractor shall liaise with the Employer and the Employer's Agent regarding all issues related to this clause 4.3, and shall in particular, comply with all reasonable requests from the principal agent to (i) attend any meetings and/or (ii) provide any documents, audits and reports; required by the Employer or Employer's Agent.
4.4.8	<p><b>Subcontracting</b></p> <p>Insert the following new clause 4.4.8:</p> <p><i>"The Contractor shall ensure that each subcontract shall include provisions which would entitle the Employer access to information regarding the execution of the subcontract or to require the subcontract to be assigned to the Employer, in full without limitation and/or further consent being required from the Contractor, under sub-clause 4.4.6 and sub-clause 4.4.7."</i></p>
4.9.1	<p><b>Construction Equipment</b></p> <p>Insert the following sentence at the end of Clause 4.9.1:</p> <p><i>"The Contractor shall be solely and exclusively responsible for all the Construction Equipment provided by the Contractor."</i></p>
4.11.2	<p><b>Removal of incompetent employees</b></p> <p>Insert the following after the words "is guilty of misconduct, or"</p> <p><i>", in the opinion of the Employer's Agent,"</i></p>

4.12.3	<p><b>Construction Manager</b></p> <p>Add the following new sentence after the last sentence in sub-clause 4.12.3:</p> <p><i>“The Construction Manager shall also have authority to generally act for and bind the Contractor under the Contract, but shall not (unless expressly authorised thereto by the Contractor from time to time) have the authority to amend the Contract.”</i></p>
5.	<b>TIME AND RELATED MATTERS</b>
5.6	<b>Programme</b>
5.6.1	<p><b>Amend Clause 5.6.1 as follows:</b></p> <p>Insert the following after</p> <p><i>“Before commencing with the Works in accordance with Clause 5.3.1, the Contractor shall consult with the Main Contractor and align its initial programme with the Main Contractor and”</i></p>
5.6.6	<p><b>Insert the following additional clause as Clause 5.6.6:</b></p> <p><i>“Without limiting or derogating from the other rights of the Employer, the Employer’s Agent shall not issue (and shall not be obliged to issue) any payment certificates, and the Contractor’s rights to payment under the Contract shall be deemed suspended, until the Contractor has furnished the detailed programme as per Clause 5.6.1 and if and for so long as the Contractor is otherwise in default of any of its obligations under this Clause 5.6.”</i></p>
5.6.7	<p><b>Progress Reporting Requirements</b></p> <p><b>Insert the following additional clause as Clause 5.6.7:</b></p> <p><i>“Without derogating from the obligations of the Contractor to otherwise report under the Contract or limiting the rights of the Employer or the Employer’s Agent to require the Contractor to furnish information under the Contract (whether under this Clause 5.6, Clause 7 or otherwise), the Contractor shall monitor and report on the progress of the Works in accordance with the Progress Reporting Requirements. Neither the submission of a progress report nor anything contained in any progress report shall constitute notice of a claim under the Contract (whether in terms of GCC clause 10.1 or otherwise).”</i></p>
5.3	<b>Commencement of the Works</b>
5.3.1	<p><b>Commencement of the Works</b></p> <p>Amend the first sentence of this clause by inserting the following words after the words “commence carrying out the Works”: <i>“and shall proceed with the Works with due expedition and without delay.”</i></p>
5.3.4	<b>Insert the following new Clause 5.3.4 with marginal heading “Setting Out”:</b>

	<p><i>“The Employer’s Agent shall establish the basic reference pegs and benchmarks on the Site and give to the Contractor the particulars thereof in sufficient time to enable the Contractor to proceed with the Works. After compliance by the Employer’s Agent with the foregoing, the Contractor shall be responsible for the true and proper setting out of the Works and for the correctness of the position, levels, dimensions and alignment of all parts of the Works and for the provision of all necessary instruments, appliances and labour in connection therewith.</i></p> <p><i>The Contractor shall carefully protect and preserve all benchmarks, sight-rails, pegs and other things used in setting out the Works.</i></p> <p><i>The checking of any setting-out or of any line or level by the Employer’s Agent shall not relieve the Contractor of his responsibility for the correctness thereof.</i></p> <p><i>If at any time during the progress of the Works, any error shall appear or arise in the position, levels, dimensions or alignment of any part of the Works, the Contractor shall at his own expense rectify such error to the satisfaction of the Employer’s Agent. If, however, such error is based on incorrect data supplied in writing by the Employer’s Agent or if there is any delay by the Employer’s Agent in providing the particulars required in terms of this Clause, the Contractor shall, in respect of that delay and the cost of such rectification, be entitled to make a claim in accordance with Clause 10.”</i></p>
<b>5.4</b>	<b>Access to the Site</b>
<b>5.4.4</b>	<p><b>Insert the following new Clause 5.4.4 with marginal heading “Setting Out”:</b></p> <p><i>“The Contractor shall be deemed to have satisfied himself as to the suitability and availability of access routes to the Site. The Employer</i></p> <ul style="list-style-type: none"> <li><i>(i) shall not be responsible for any claims which may arise from the use or otherwise of any access route; and</i></li> <li><i>(ii) does not guarantee the suitability or availability of any particular access routes to or at Site and costs due to non-suitability or non-availability, for the use required by the Contractor, of access routes shall be borne by the Contractor.”</i></li> </ul>
<b>5.7</b>	<b>Progress of the Works</b>
<b>5.7.1</b>	<p><b>Rate of Progress</b></p> <p>Insert the words “<i>or is too slow for the Works to be completed by the Due Date for Completion</i>” are inserted in the second line of clause 5.7.1 after the words “<i>the approved programme</i>”.</p>
<b>5.12</b>	<b>Extension of time for Practical Completion</b>
<b>5.12.2.2</b>	<p><b>Some reasons for extension of time</b></p> <p>Amend this Sub-Clause by adding the words “<i>subject to Clause 5.12.5</i>” at the end of “<i>Abnormal climatic conditions</i>”.</p>
<b>5.12.5</b>	<b>Abnormal rainfall formula</b>

Insert the following new Clause 5.12.5:

Extensions of time in respect of clause 5.12 in respect of abnormal rainfall shall be calculated using the following formula for each calendar month or part thereof:

$$V = (Nw - Nn) + \frac{(Rw - Rn)}{X}$$

Where:

V = Extension of time in calendar days in respect of the calendar month under consideration.

Nw = Actual number of days during the calendar month on which a rainfall of 10 mm or more has been recorded.

Nn = Average number of days in the relevant calendar month, as derived from existing rainfall records, on which a rainfall of 20mm or more has been recorded for the calendar month.

Rw = Actual average rainfall in mm recorded for the calendar month under consideration.

Rn = Average rainfall in mm for the calendar month as derived from existing rainfall records as stated in the Site Information.

For purposes of the Contract Nn, Rn, X and Y shall have those values assigned to them in the South African Weather Service's rainfall records of the nearest station to the site.

If V is negative and its absolute value exceeds Nn, then V shall be taken as equal to minus Nn.

The total extension of time shall be the algebraic sum of all monthly totals for the period under consideration, but if the total is negative the time for completion shall not be reduced due to subnormal rainfall. Extensions of time for part of a month shall be calculated using pro rata values of Nn and Rn.

This formula does not take account flood damage which could cause further or concurrent delays and will be treated separately as far as extension of time is concerned.

The factor (Nw – Nn) shall be considered to represent a fair allowance for variations from the average in the number of days during which rainfall exceeds 10 mm. The factor (Rw-Rn) shall be considered to represent a fair allowance for variations from the average in the number of days during which the rainfall did not exceed 10 mm but wet conditions prevented or disrupted work.

For the purpose of applying the formula, accurate rain gauging shall be taken at a suitable point on the Site and the Contractor shall at his own expense, take all necessary precautions to ensure that rain gauges cannot be interfered with by unauthorized persons.

5.14.

#### **Completion**

5.14.1

#### **Practical Completion**

Delete the second paragraph of Sub-clause 5.14.1 and replace with the following:



	<p><i>"When the Works are about to reach the said stage, the Contractor shall, in writing, request a Certificate of Practical Completion and the Employer's Agent shall, within 14 days after receiving such request, if he considers that the Works have achieved Practical Completion issue a Practical Completion Certificate or if he considers that the Works have not achieved Practical Completion issue to the Contractor a written list setting out the work to be completed to justify Practical Completion. Should the Employer's Agent not issue such a list within 14 days and if the requirements for Practical Completion have been substantially achieved, Practical Completion shall be deemed to have been achieved on the expiry of the 14 days."</i></p>
5.14.5.1	<p><b>Consequences of Completion</b> Amend this clause by deleted clause 5.14.5.1 in its entirety and mark it [<b>"NOT USED"</b>]</p>
6	<p><b>PAYMENT AND RELATED MATTERS</b></p>
6.1	<p><b>Payment to the Contractor</b></p>
6.1.2	<p><b>Invoice Procedure</b></p> <p>Insert the following new Sub-clause 6.1.2:</p> <p><i>"The Contractor shall issue invoices to the Employer for the amounts due to it from time to time and payment of amounts due and payable to the Contractor shall be made by way of electronic money transfer directly into the Contractor Designated Account."</i></p> <p>Insert the following new sub-clause 6.1.3:</p> <p><i>"The Contractor shall not, subject only to Clause 9.3, be entitled to stop or suspend the further execution of the Works by reason of any dispute relating to the payment of any amount due to or claimed to be due to it."</i></p>
6.2	<p><b>Security</b></p>
6.2.3	<p><b>Validity of performance guarantee</b> Amend the first sentence of this clause by deleting the words "Certification of Completion" and replacing them with the words "<i>Final Approval Certificate</i>".</p> <p>Delete the second sentence of Clause 6.2.3 starting with the words "<i>The performance guarantee shall...</i>" and replace it with the following:</p> <p><i>"If the terms of the performance guarantee specify its expiry date and the Contractor has not become entitled to receive the Certificate of Completion of the Works ("<b>expiry event</b>") by the date 28 (twenty eight) Days prior to the said expiry date, the Contractor shall promptly (and in any event within not more than 3 Days thereof) extend the validity of the performance guarantee until the expiry event has occurred. If the Contractor fails to do so, the employer may (without limiting the Employer's other rights under the Contract) claim the full amount of the performance guarantee, which shall then be retained by the Employer as cash security (and the Employer's Agent is hereby authorised to issue a payment certificate or other certificate as required by the terms of the performance guarantee to facilitate this claim and payment). The amount so claimed against and paid under the performance guarantee shall be</i></p>

	<i>reimbursed to the contractor (without interest or other additional charge) if and when the performance guarantee is reinstated, extended or substituted in compliance with the above (as the case may be) and the Employer's Agent shall forthwith issue a payment certificate certifying the amount so due to the contractor."</i>
6.2	<b>Insert the following new Clauses 6.2.4 with marginal heading "Claims under the performance guarantee"</b>
6.2.4	The Employer may make a claim under the performance guarantee, for amounts to which the Employer is entitled under the contract in the event of:
6.2.4.1	failure by the Contractor to extend the validity of the performance guarantee as described in 6.2.3 above, in which event the Employer may claim the full amount of the performance guarantee,
6.2.4.2	failure by the Contractor to pay the Employer an amount due, as either agreed with the Contractor or assessed by the Employer's Agent (or otherwise determined) in accordance with the provisions of this contract, within 28 days after this agreement, assessment or determination,
6.2.4.3	failure by the Contractor to remedy a default within 28 days after receiving the Employer's notice requiring the default to be remedied, or
6.2.4.4	a termination by the Employer in accordance with clause 9.2.1.
6.2.	<b>Insert the following new Clauses 6.2.5 with marginal heading "Indemnity for invalid claims"</b>
6.2.5	The Employer indemnifies and hold the Contractor harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from a claim under the performance guarantee to the extent to which the Employer is not entitled to make the claim.
6.2	<b>Insert the following new Clauses 6.2.6 with marginal heading "Step Down"</b>
6.2.6	The performance guarantee shall reduce by half its value on the date of issue of the Certificate of Practical Completion. The performance guarantee shall lapse/expire on the issue of the Final Approval Certificate.
6.3	<b>Variations</b>
6.3.1	<p><b>Variations</b></p> <p>Amend Sub-Clause 6.3.1.2 to read "<i>Omit any such work (provided it is not to be carried out by someone else, unless the Contractor is in default as provided for below),</i>"</p> <p>Insert the following new paragraph at the end of Sub-Clause 6.3.1.6 but before the final paragraph of Clause 6.3.1:</p> <p><i>"A variation may comprise the omission of any work which is to be carried out by someone else where the Contractor is in default. In such event the Employer's Agent shall first give notice to the Contractor to make good the</i></p>



	<i>failure under Clause 11.1. The omission may include any part of the Works which, in the opinion of the Employer's Agent, should be omitted to allow the default to be remedied by the Contractor (whether by the reallocation of resources or otherwise) or by others."</i>
<b>6.8</b>	<b>Adjustment in rates and/or prices</b>
<b>6.8.4</b>	<p><b>Subsequent changes in legislation</b></p> <p>Clause 6.8.4 is amended by adding the following at the end of the clause:</p> <p><i>"Notwithstanding anything contained in this clause or this agreement, a "change in legislation" shall not include any law or piece of legislation that was enacted or made but not yet in force as at the date when the tender was submitted, or any proposed or draft law that was promulgated or issued for comment at any time before the tender was submitted if and to the extent that such law when enacted or made and brought into effect is materially unchanged;</i></p>
<b>6.10</b>	<b>Payments</b>
<b>6.10.1</b>	<p><b>Amend Clause 6.10.1 as follows:</b></p> <p>Insert "Main Contractor" after "Employer"</p>
<b>6.10.4</b>	<p><b>Delivery, dissatisfaction with and payment of payment certificate</b></p> <p>Clause 6.10.4 is amended as follows:</p> <p>Insert "Main Contractor" after "Employer" in the first sentence.</p> <p>Insert the following new sentence at the end of the first sentence "The Main Contractor together with the Employer shall review and approve the payment certificate for payment. Only once approval is received shall payment of the amount due be made".</p> <p>The period of "28 days" in clause 6.10.4 is changed to "30 days".</p> <p>Delete the last sentence in this sub-clause and replace with the following:</p> <p><i>"Payment within the said 30 day period is subject to the Contractor submitting a valid tax invoice and compliance by Contractor with the Invoice Procedure."</i></p>
<b>6.10.6.2</b>	<p><b>Set-off and delayed payments</b></p> <p>Clause 6.10.6.2 is amended as follows:</p> <p>The words "the prime overdraft rate certified by the Contractor's banker" in the second and third lines of Clause 6.10.6.2 are substituted with "<i>Prime Rate</i>".</p>
<b>6.10.8</b>	<p><b>Contractor's completion statement</b></p> <p>Clause 6.10.8 is amended as follows:</p>

	<p>The period of “28 days” in Clause 6.10.8 is changed to “30 days”.</p> <p>The following sentence is to be inserted at the end of Clause 6.10.8: <i>“Payment within the said 30 day period is subject to compliance by Contractor with the Invoice Procedure.”</i></p>
6.10.9	<p><b>Final Payment Certificate</b></p> <p>Clause 6.10.9 is amended as follows:</p> <p>The period of “28 days” in Clause 6.10.9 is changed to “30 days”.</p> <p>The following sentence is to be inserted at the end of Clause 6.10.9: <i>“Furthermore, payment within the said 30 day period is subject to compliance by Contractor with the Invoice Procedure.”</i></p>
8.3	<b>Excepted Risks</b>
8.3.1.12	<p>The words “or defects in the materials supplied by the Employer for incorporation in the Works” in the penultimate and last line of Clause 8.3.1.12 are deleted.</p>
8.6	<b>Insurances</b>
8.6.7	<p>Insert the following at the end of clause 8.6.7:</p> <p><i>“Notwithstanding anything contained in this Contract, the Employer shall be entitled to cancel this Contract if the Contractor fails to effect and keep in force any of the insurances referred to in Clause 8.6.1.”</i></p>
9	<b>TERMINATION OF CONTRACT</b>
9.2	<b>Termination by Employer</b>
9.2.1	<p><b>Termination by the Employer</b></p> <p>Clause 9.2.1.1 is replaced in its entirety with <i>“A Contractor Insolvency Event occurs,”</i></p> <p>Clause 9.2.1.2 is replaced in its entirety with <i>“The Contractor:</i></p> <ul style="list-style-type: none"> <li><i>(i) attempts or purports, save to the extent permitted under the Contract, to cede any of its rights or delegate any of its obligations under or in terms of the Contract to any third party,</i></li> <li><i>(ii) committed or commits any Corrupt Act in relation to procurement, entering into or execution of this Contract or generally in connection with the Works;</i></li> <li><i>(iii) committed, engaged in or engages in any Collusive Practice in connection with this Contract or generally in connection with the Works.”</i> <p>At the beginning of Clause 9.2.1, in the main body of the cause after 9.2.1.3.8, insert the following after “then the Employer may,”: <i>“ (i) where Clause 9.2.1 1 or 9.2.1.2 apply, on written notice to the Contactor (with specific reference to this Clause and with or without, at the Employer’s sole and absolute discretion, first giving the Contractor an opportunity to remedy the event or default))</i></p> </li></ul>

	<p><i>terminate the Contract and order the Contractor to vacate the Site and hand it over to the Employer or (ii) where Clause 9.2.1.3 applies, ...</i></p> <p>Clause 9.2.1.3.6 is replaced in its entirety with “(i) <i>has failed to make good a failure and remedy it within the time required by the Employer’s Agent pursuant to a notice under Clause 11.1, (ii) is not carrying out the Works in accordance with the Contract, or (iii) is neglecting to carry out his obligations under the Contract; or</i>”</p> <p>Insert a new clause 9.2.1.3.9 at the end of clause 9.2.1.3 “<i>Has failed to comply with the provisions of clauses 11.7 or 11.8;</i>”</p>
9.2.3	<p><b>Notices to trustee/liquidator</b></p> <p>Delete the words “<i>If the provisions of Clause 9.2.1.1 apply, any notice or order referred to in this Clause shall be delivered to the trustee or liquidator,</i>” and replace with “<i>In the event of a Contractor Insolvency Event and a trustee, liquidator, business rescue practitioner or like administrator is appointed, any notice or order referred to in this Clause shall be delivered to that person...</i>”</p>
9.2	<p><b>Insert the following new Clause 9.2.4 with marginal heading “Termination for Convenience”</b></p>
9.2.4	<p><b>Termination for Convenience</b></p> <p><i>“The Employer shall be entitled to terminate the Contract, at any time for the Employer’s convenience, by giving notice of such termination to the Contractor. The termination shall take effect 28 days after the later of the dates on which the Contractor receives this notice or the Employer returns the performance guarantee and all monies held in retention. The Employer shall not terminate the Contract under this sub-clause in order to execute the Works himself or to arrange for the Works to be executed by another contractor. The Employer shall return the performance guarantee and/or all monies held in retention promptly after such termination takes effect, unless there are outstanding calls/claims thereon in which event, and if applicable, the Employer shall return the performance guarantee and/or the monies held in retention promptly after the last of the outstanding calls/claims have been met.”</i></p>
9.3	<p><b>Termination by Contractor</b></p>
9.3.1.2	<p><b>Termination by the Contractor</b></p> <p>Amplify this clause by including the following after the words “<i>within the time of payment provided for in the Contract</i>”:</p> <p><i>“and persisting in such default for more than 30 days after receipt of a written notice from the Contractor requiring such payment to be made (which notice, to be valid must (i) refer to this Clause and (ii) notify the Employer of the Contractor’s intention to exercise his rights in terms hereof if payment is not made)”</i></p>
9.3.2.2	<p>Delete the words “<i>without prejudice to the exercise of any lien the Contractor may have acquired over the Employer’s property.</i>”</p>
9.3.2.3	<p><b>Removal of items and payment to Contractor</b></p>

	The word " <i>direct</i> " is inserted before the words " <i>loss or damage</i> " in the 6 <sup>th</sup> line of this Clause.
9.3.3	<p><b>Other rights of the Contractor</b></p> <p>Delete this Clause and replace with the following:</p> <p><i>"The Contractor's rights to payment and damages arising in connection with such termination shall be limited to the remedies and amounts payable under Clause 9.3.2.3."</i></p>
9.3.4	<p><b>Notices to trustees/liquidators</b></p> <p>Delete this Clause in its entirety.</p>
10	<b>CLAIMS AND DISPUTES</b>
10.1	<b>Contractor's Claim</b>
10.1.3.4	The words "conclusive evidence" in Clause 10.1.3.4 are deleted and replaced with the words "prima facie evidence".
10.1.3.6	<p><b>Records of facts and circumstances for claim</b></p> <p>Delete this Sub-clause in its entirety.</p>
10.1.6	<b>Insert the following new Clause 10.1.6 with marginal heading "Critical Path &amp; Concurrent Delays &amp; General Limitation on Entitlement"</b>
10.1.6.1	<p><i>"Notwithstanding anything to the contrary in the Contract:</i></p> <ul style="list-style-type: none"> <li><i>(i) Only delays to activities on the critical path that will actually delay Practical Completion of the Works beyond the Due Completion Date, or to such activities therein that are reasonably calculated to become critical due to the delay in question, will found claims for an extension of time;</i></li> <li><i>(ii) The Contractor shall not be entitled to an extension of time for any Contractor Delay Event or to the extent that Practical Completion of the Works would in any event have delayed beyond the Due Completion Date by reason of a Contractor Delay Event.</i></li> <li><i>(iii) The Contractor shall not be entitled to any extension of time or additional payment or compensation if and to the extent the cause, event or circumstance giving rise thereto is attributable to:</i> <ul style="list-style-type: none"> <li><i>a) the negligence, error or default of the Contractor or any subcontractor or any Affiliate of the Contractor;</i></li> <li><i>b) any matters or events which are within the reasonable control of the Contractor or of any of its subcontractors or any Affiliate of the Contractor which should reasonably have been foreseen and provided for or avoided by the Contractor or by any of its subcontractors;</i></li> </ul> </li> </ul> <p><i>The Contractor shall use reasonable endeavours and take reasonable steps to preclude the occurrence of delays, avoid and/or minimise the consequences of</i></p>

	<p><i>delays and generally to mitigate the effects of a cause or circumstance giving rise to a claim (whether for extension of time or compensation).</i></p> <p><i>The Contractor shall bear the onus of showing that its claim for an extension of time and/or additional compensation satisfies all of the requirements of this Clause 10.1."</i></p>
10.2	<b>Dissatisfaction Claim</b>
10.2.2	<p><b>Failure to claim dissatisfaction</b></p> <p>Delete and replace this Clause with the following:</p> <p><i>"If, in respect of any matter referred to in Clause 10.2.1 above, the Contractor fails to submit a claim within 28 days after the cause of the dissatisfaction, he shall have no further right to raise any dissatisfaction on such matter."</i></p>
10.5	<b>Adjudication</b>
10.5.4	<p><b>Implementation of decision</b></p> <p>Replace the first sentence of this clause with the following:</p> <p><i>"Subject to Clause 10.6.3, the parties shall implement the Adjudication Board's decision without delay whether or not the dispute is to be referred to arbitration or court proceedings."</i></p>
10.6	<b>Disagreement with Adjudication Board's decision</b>
10.6.1.1	<p><b>Disagreement with Adjudication Board's decision</b></p> <p>Delete and replace this clause with the following:</p> <p><i>"Subject to clause 10.6.3, the decision shall be binding on both parties unless and until it is revised by an arbitration award or court judgment, whichever is applicable in terms of the Contract."</i></p>
10.6.3	<p><b>Failure to give a decision in time</b></p> <p>Delete and replace this Clause with the following:</p> <p><i>"If the Adjudication Board does not give its decision within the time stated in the Adjudication Board Rules, or otherwise extended in writing by the parties, any decision delivered thereafter shall not be binding on the parties, and shall not be a "decision" for the purposes of Clauses 10.5 to 10.10. Either party shall then have a right to submit the dispute to arbitration or court proceedings, whichever is applicable in terms of the Contract, provided that a written notice is given to the other party, referring to this Clause, within 28 days after the decision should have been given. If either party fails to give such a notice within the 28 days, the ruling of the Employer's Agent shall be final and binding."</i></p>
11	<b>Insert the following new clause "11. FURTHER RIGHTS AND REMEDIES"</b>

11.1	<p><b>Insert the following new Clause 11.1 with marginal heading “Employer’s Agent’s right to require performance”</b></p> <p><i>“If the Contractor fails to comply with or carry out any of his obligations under the Contract, the Employer’s Agent may (without limiting the Employer’s other rights under the Contract) give notice to the Contractor to make good the failure and remedy it within a time which the Employer’s Agent considers reasonable for that purpose. The Contractor’s failure to comply with any such notice constitutes a default of the Contractor under the Contract.</i></p>
11.2	<p><b>Insert the following new Clause 11.2 with marginal heading “Employer’s right to step-in”</b></p> <p><i>“If the Contractor fails to comply with or carry out any of his obligations under the Contract and fails to make good the failure and remedy it within the time specified by the Employer’s Agent in a notice under Clause 11.1, the Employer, without prejudice to its other rights, powers and remedies under the Contract or in law, shall be entitled to make good the failure and remedy it either himself or via other persons, and the reasonable costs of doing so shall be for the account of the Contractor. Further, notwithstanding anything contained in this Contract, where the Employer has “stepped-in” the Contractor shall remain responsible for the Works as if it was the executing the Works itself, up to the date of issue of the Certificate Of Completion</i></p> <p><i>The Contractor shall co-operate with the Employer and facilitate and permit the use of all required goods, information, materials and other matter (including drawings, CAD files, technical data, models, plans, designs (if any), diagrams, evaluations, details, specifications, schedules, reports, calculation results, manuals or other documents or recorded information (electronic or otherwise) which have been or are at any time prepared by or on behalf of the Contractor under the Contract or otherwise for and/or in connection with the Works) and shall generally do all things required by the Employer’s Agent to achieve this end.</i></p> <p><i>Any information, materials and other matter made available by the Contractor under this Clause shall be used solely and exclusively for the purpose of making good and remedying the Contractor’s failure and shall thereafter be returned to the Contractor.”</i></p>
11.3	<p><b>Insert the following new Clause 11.3 with marginal heading “Further Remedy for Breach”</b></p> <p><i>“Without derogating from its other rights, the Employer is entitled to withhold 10% (ten per cent) from any payments otherwise due to the Contractor, and the Employer’s Agent is empowered to withhold that amount from any payment certificate, without the Employer incurring any obligation for interest, where and for so long as the Contractor fails to comply with or carry out any of his obligations under the Contract and fails to make good the failure and remedy it within the time specified by the Employer’s Agent in a notice under Clause 11.1.”</i></p>
11.4	<p><b>Insert the following new Clause 11.4 with marginal heading “Early Warning”</b></p>



*"In order to mitigate risk, the Employer and the Contractor require open and effective communication and co-operation to deal with events, circumstances or factors which may adversely affect the Works or the progress thereof, including any events, circumstances or factors which may delay the execution of the Works or increase the Contract Price ("**Early Warning Event**").*

*With a view to facilitating this, the Contractor shall give written notice to the Employer's Agent of an Early Warning Event as soon as reasonably possible, but in any event within 7 (seven) days, after it has come to his attention. In such notice the Contractor shall provide:*

- (i) detailed particulars of the event and the potential adverse effects; and*
- (ii) proposals for the steps to be taken to mitigate the potential adverse effects thereof.*

*Either the Employer's Agent or the Contractor shall be entitled, by written notice, to require the other of them to attend an early warning meeting in respect of any Early Warning Event (whether or not notified by the Contractor). The purpose of the early warning meeting is to raise and discuss Early Warning Events in a co-operative manner and to jointly make and consider proposals and seek solutions to mitigate the potential adverse effects thereof.*

*The early warning notice and meetings contemplated in this Sub-clause are intended as a risk management tool and open discussion is of paramount importance. To this end:*

- A. notification in terms of this Clause shall not constitute notification of a claim for extension of time or additional payment under the Contract,*
- B. unless otherwise specifically agreed in writing by the Employer and the Contractor from time to time nothing raised or agreed at any early warning meeting shall limit or derogate from the rights and obligations of the Employer, the Employer's Agent or Contractor under the Contract."*

**11.5**

**Insert the following new Clause 11.5 with marginal heading "**Access to Works Records**"**

*"The Contractor shall maintain all records and accounts pertaining to the Works, during the execution thereof and for a period of 5 (five) years after the Due Completion Date and shall ensure that his Subcontractors do likewise. The Employer's personnel and the Employer's other authorised representatives and agents (including the Employer's Agent) have the right to examine, audit, copy and inspect the said records and accounts at all reasonable times during the execution of the Works and during the said 5 (five) year period."*

**11.6**

**Insert the following new Clause 11.6 with marginal heading "**Employer Procured Materials**"**

**11.6.1**

*"The Employer is entitled but not obliged to procure materials and goods on behalf of the Contractor. The Contractor may request that the Employer procures materials and goods on its behalf*

11.6.2	<i>Should the Employer exercise this right, or should the employer accept the Contractor's request, the Contractor shall:</i>
11.6.2.1	<i>issue to the Employer Agent a list of all materials and goods the Contractor requires;</i>
11.6.2.2	<i>state in the list considered above, the time within which such materials and goods must be provided;</i>
11.6.2.3	<i>take delivery of such materials and goods provided by the Employer;</i>
11.6.3	<i>The Contractor shall be responsible for and takes the risk on all materials and goods after taking delivery of such materials and goods at Site and indemnifies the Employer against all losses or costs arising from any damage, loss or theft of such materials and goods</i>
11.6.4	<i>The Contractor shall not be entitled to any extension of time and costs for the late delivery of any materials and goods to be procured by the Employer under the provision of this clause 11.6</i>
11.6.5	<i>The direct cost of all materials and goods procured by the Employer on behalf of the Contractor in accordance with the provisions of this clause 11.6 shall be deducted from each payment due to the Contractor</i>
11.6.6	<i>The Contractor acknowledges that all Employer supplied materials and goods remain the property of the Employer</i>
11.7	<b>Insert the following new Clause 11.7 with marginal heading "Based Black Economic Empowerment, Construction Industry Development Board grading and the relevant Tax Clearance Certificate"</b>
	<i>The Contractor warrants that it will:</i>
11.7.1	<i>comply with all laws including the Broad Based Black Economic Empowerment Act 53 of 2003, its regulations and Codes of Good Practice; and the Preferential Procurement Act 5 of 2000 and all its regulations;</i>
11.7.2	<i>maintain or improve (i) the BEE rating stated in its BEE certificate (ii) the contractors Construction Industry Development Board grading, and (iii) its Tax Clearance Certificate submitted at tender stage; and</i>
11.7.3	<i>not conduct any Fronting practices as defined in the Codes of Good Practice.</i>
11.8	<b>Insert the following new Clause 11.8 with marginal "The contractor's recovery plan"</b>
11.8.1	<i>"Where actual progress on site is not in accordance with the most current programme or where the Employer or Employer's Agent is of the opinion, at any time during the execution of the Works, that the Contractor will not achieve completion on the date stated contract data, the Contractor shall prepare a recovery plan within 14 days of receipt of an instruction from the Employer or Employer Agent requesting such recovery plan detailing:</i>



11.8.1.1	<i>the Contractor's plan to ensure that the works will achieve completion on the date stated in the contract data;</i>
11.8.1.2	<i>all additional resources which will be employed by the Contractor in order to ensure that the Contractor achieves completion on the date stated in the contract data;</i>
11.8.1.3	<i>any other information which may be required by the Employer or the Employers Agent to ascertain that the Contractor will achieve completion on the date stated in the contract data"</i>

## CONTRACT SPECIFIC DATA

The Contract Data shall be read with the General Conditions of Contract for Construction Works, Third Edition (2015) published by the South African Institution of Civil Engineering and the Special Conditions of Contract.

### Compulsory Data


Item	Sub- Clause(s)	Entry
The Defects Liability Period is:	1.1.1.13	<b>6 months</b>
The time for achieving Practical Completion is:	1.1.1.14	<b>3 months from Commencement of the Works</b>
The times for achieving Practical Completion for the portions set out in the Scope of Work are:	5.14.7	<b>There are no portions</b>
The time for completion of the whole of the Works (if Practical Completion in portions is required) is:		<b>Not applicable</b>
The name of the Employer is:	1.1.1.15 / 1.2.1.2	<b>Name: Development Bank of Southern Africa Limited</b> Telephone: (011) 313 3911 Facsimile: (011) 313 3086 E-mail: [TBC] <b>Physical Address:</b> 1258 Lever Road, Headway Hill, Midrand, 1685 <b>Postal Address:</b> P O Box 1234 Halfway House Midrand 1685

Item	Sub- Clause(s)	Entry
The name of the Employer's Agent is:	1.1.1.16 / 1.2.1.2	Name: <b>ARQ Consulting (ARQ Dams (Pty) Ltd)</b> Telephone: +27 (012) 348 6668 E-mail: arq@arq.o.za <b>Physical Address:</b> 6 Daventry Street, Lynwood Manor, Pretoria, 0081 <b>Postal Address:</b> PO Box 76379, Lynnwood Ridge, Pretoria, 0040
The Pricing Strategy is:	1.1.1.26	Bill of Quantities contract (measurable)
The non-working days are:	5.1.1 and	The non-working days are Saturdays and Sundays.
The special non-working days are:	5.8.1	The special non-working days are the official public holidays of the Republic of South Africa (which shall include public holidays set aside for voting purposes) and the industry year end break with effective dates published by the South African Forum of Civil Engineering Contractors (SAFCEC).
<b>Commencement of the Contract</b>	5.2	
	5.2.1	The Commencement Date shall be the date that the Agreement is signed by the last party signing.
<b>Commencement of the Works</b>	5.3	Commencement of the Works shall be <b>3 Days</b> after the date of Site Handover.
The documentation required before Commencing with the Works are:	5.3.1	The documentation required before commencement with Works or Employer's instruction for execution are in addition to those listed in the <b>Letter of Appointment</b> : a) Health and Safety Plan (Refer to clause 4.3) b) <i>Initial Programme</i> (Refer to clause 5.6) c) Initial cash flow projection linked to the Programme (Refer to clause 5.6.2.6) d) Security (Refer to clause 6.2) e) Insurance (refer to clause 8.6)

Item	Sub- Clause(s)	Entry
The time to submit the documentation required before commencement of the Works is:	5.3.2	The time to submit the documentation required before commencement with Works execution is as per the date set out in the <b>Letter of Appointment</b> .
The penalty for failing to complete the Works is:	5.13.1	<p>The penalty for failing to complete the Works at the Due Completion Date is <b>0.11%</b> of the Contract Sum excluding VAT (round up to the nearest 100) per day up to 10% of the Contract Sum.</p> <p>The Contractor is to note that delay penalties, in addition to monies still owed to the Contractor (including retention monies) and the Guarantee, shall effectively be used to address additional costs incurred by the Employer, such as the Employer's Agent's construction monitoring fees and other service providers' fees and wayleave extension costs, as a result of the Works not being completed at the Due Completion Date.</p> <p>Example of penalty calculation:  <math display="block">= \text{R}5,000,000.00 \text{ (Contract value excl vat)} \times \frac{0.11}{100}</math> <math display="block">= \text{R}5,500/\text{day}</math></p>
The penalty for failing to complete portions as set out in the Scope of Work is:		No sections or portion applicable
The penalty for failing to complete the whole of the Works (if completion in portions is required) is:		No sections or portion applicable
The requirements for achieving Practical Completion are:	5.14.1	The requirements for achieving Practical Completion are all those for the Works to reach a state of readiness, fit for the intended purpose and occupation without danger or undue inconvenience to the Employer.

Item	Sub- Clause(s)	Entry
If completion in portions is required, then the requirements for achieving Practical Completion for the portions are:		No sections or portion applicable
The latent defects period is:	5.16.3	The latent defect period is 10 years
The type of security for the due performance of the Contract to be delivered to the Employer's Agent is:	6.2.1	A Security of Performance / Construction Guarantee in the form attached issued by a registered entity approved by the Employer at 10% of the total of offer prices reducing to 5% of the total of offered prices when the Contractor is issued with Certificate of Completion and reducing further to 0% at the end of the Defects Notification Period.
The percentage allowance on the net cost of materials actually used in the completed work is:	6.5.1.2.3	0%
The percentage allowance on the gross remuneration of the workmen and foremen actually engaged is:		0%
The percentage advance on materials not yet built into the Permanent Works is:	6.10.1.5	The percentage advance on materials not yet built into the Permanent Works is: Sixty percent (60%) of the invoiced value for materials which have already been delivered to site.
The percentage advance on Plant not yet supplied to the Site is:		0%
The limit of retention money is:	6.10.3	<p>10% of the payment certificate or retention bond equivalent to a maximum 5% of the total Contract Sum offered.</p> <p>The amount in retention by the Employer shall be released by 50% when the Works reaches practical completion and the balance thereof shall be released on issued of Final Approval Certificate. The retention bond or guarantee or security shall expire on issue of the Final Approval Certificate.</p>

Item	Sub- Clause(s)	Entry
The value of Plant and materials supplied by the Employer to be included in the insurance sum is:	8.6.1.1.2	Total Value of Plant, Materials and Equipment supplied and used for the Works
The amount to cover professional fees for repairing damage and loss to be included in the insurance sum is:	8.6.1.1.3	The amount to cover professional fees for repairing damage and loss to be included in the insurance sum is 20% of the Contract Sum.
The limit of indemnity for liability insurance is:	8.6.1.3	An amount no less than the Contract Price plus 20 %
The number of Adjudication Board Members to be appointed is:	10.5.3	One

 <p><b>DÉSA</b> DEVELOPMENT BANK OF SOUTHERN AFRICA <i>Building Africa's Prosperity</i></p>	<p><b>VOLUME 3 OF 3</b></p> <p><b>GCC 2015</b></p> <p><b>THE CONTRACT</b></p>	<p>Tender No. <b>RFP082/2026</b></p> <p><b>APPOINTMENT OF A CONTRACTOR FOR DRILLING AND GROUTING WORKS FOR THE TZANEEN DAM PROJECT.</b></p>
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## CONTRACT SPECIFIC DATA – Optional Data

	Sub-Clause(s)	Entry
The governing law is:	1.3.2	Law of South Africa
The language of the Contract and for written communications is:	1.3.3	English
The Employer's Agent shall obtain the specific approval of the Employer before carrying out any of his functions or duties according to the following Clauses:	3.2.3	<p>Clause 3.2.3 of the Special Conditions:</p> <p>The Employer's Agent, before instructing or approving any Variation or any other changes to the Works (including any increase in quantities), is required to obtain the prior written approval of the Employer if the Variation or other change ("restricted change" for the purpose of this Clause):</p> <ul style="list-style-type: none"> <li>• constitutes additional work which (reasonably considered) ought to be the subject matter of a Supplementary Agreement; or</li> <li>• either itself or taken in the aggregate with all prior Variations or other changes:</li> <li>• will result in the Contract Price (excluding amounts for adjustment under clause 6.8.2 or 6.8.3 if any), whether lump-sum or re-measurable, exceeding the Contract Sum;</li> <li>• will, for the re-measurable portions of the Contract Price, result in the final measured quantity of any item exceeding the estimated quantity of that item as stated in Bill of Quantities ; or</li> <li>• will result in a contingency deficit (and for this purpose "contingency deficit" means that the Contract Price, whether as a result of changes to the Works or otherwise, exceeds the Contract Sum or such higher amount as the Employer may notify the Contractor in writing from time to time).</li> </ul>



	Sub-Clause(s)	Entry
The access and possession of Site shall not be exclusive to the Contractor but as set out in the Site Information.	5.4.2	The access and possession of Site shall not be exclusive to the Contractor but as set out in the Scope of Work and Site Information. Tenderers are to note that this is a brownfields project where the existing facilities will be in use during construction and therefore due care and associated planning is expected.
Parent Guarantor for the purposes of the Parent Company Guarantee is:	6.2.4	Not Applicable
The Contract Price Adjustment Factor is:	6.8.2	Not Applicable–
The value of the certificates issued shall be adjusted in accordance with the Contract Price Adjustment Schedule with the following values:		Not applicable. This is a fixed price contract in which tenderers are expected to include in their item rates any potential price escalations that might be experienced during the duration of the contract.
Price adjustments for variations in the costs of special materials are:	6.8.3	Not Allowed
A Coupon Policy for Special Risks Insurance issued by SASRIA is:	8.6.1.2	Required
Ground support insurance, effected and maintained by the Contractor as set out in the Scope of Work is:	8.6.1.4	Lateral Support Insurance
In addition to the insurances required in terms of Clauses 8.6.1.1 to 8.6.1.4, the following insurance is also required:	8.6.1.5	The Contractor is to provide all additional insurances including for, but not limited to, his own employees, vehicles and equipment and plant not incorporated into the Works.
Insurances shall be effected with an insurance company approved by the Employer and registered in South Africa	8.6.5	Allowed

	Sub-Clause(s)	Entry
Dispute resolution shall be by a standing Adjudication Board:	10.5.1	There shall be no standing Adjudication Board Applicable  For avoidance of doubt adjudication shall be by Ad-hoc adjudication as stated in 10.5.2
The final determination of disputes shall be by:	10.7.1	Arbitration

## **C1.3 CONSTRUCTION GUARANTEE**

### **Pro-Forma GCC Performance Guarantee**

#### **GUARANTOR DETAILS AND DEFINITIONS**

"Guarantor" means: .....

Physical address: .....

"Employer" means: .....

"Contractor" means: .....

"Employer's Agent" means: .....

"Works" means: .....

"Site" means: .....

"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: .....

Type of Performance Guarantee: ..... (*Insert Variable or Fixed*)

"Expiry Date" means: ..... The date when the Final Approval Certificate is issued or any other later date set by the Contractor and/or Employer provided such instruction is received prior to the Expiry Date as indicated here.

#### **CONTRACT DETAILS**

Employer's Agent issues: Interim Payment Certificates, Final Payment Certificates and the Certificate of Completion of the Works, Final Approval Certificate as defined in the Contract.

#### **1. VARIABLE PERFORMANCE GUARANTEE**

1.1 Where a Variable Performance Guarantee has been selected, the Guarantor's liability shall be limited during the following periods to diminishing amounts of the Guaranteed Sum as

follows:

From and including the date of signing the Performance Guarantee up to and including the date of the of issue by the Employer's Agent of the Certificate of Practical Completion, The full Guaranteed Sum of

R .....

(Amount in words .....)

From and including the day following the date of the aforesaid Certificate of Practical Completion up to and including the date of issue by the Employer's Agent of the Final Approval Certificate: R .....

(Amount in words .....)

- 1.2 The Employer's Agent and/or the Employer shall advise the Guarantor in writing of the date on which the interim payment certificate certifying, for the first time, more than 50% of the Contract Sum, has been issued and the date on which the Certificate of Completion of the Works has been issued.

## **2. FIXED PERFORMANCE GUARANTEE**

- 2.1 Where a Fixed Performance Guarantee has been selected, the Guarantor's liability shall be limited to the amount of the Guaranteed Sum
- 2.2 The Guarantor's period of liability shall be from and including the date on which the Performance Guarantee is signed, up to and including the Expiry Date, or the date of issue by the Employer's Agent of the Certificate of Completion of the Works, or the date of payment in full of the Guaranteed Sum, whichever occurs first.
- 2.3 The Employer's Agent 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. CONDITIONS APPLICABLE TO VARIABLE AND FIXED PERFORMANCE GUARANTEES**

- 3.1 The Guarantor hereby acknowledges that:
- 3.1.1 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 suretyship.
- 3.1.2 Its obligation under this Performance Guarantee is restricted to the payment of money.
- 3.2 Subject to the Guarantor's maximum liability referred to in 1.1 or 2.1, the Guarantor hereby undertakes to pay the Employer the sum certified upon receipt of the documents identified in 3.2.1 to 3.2.3:
- 3.2.1 A copy of the 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 3.2.2;

- 3.2.2 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 3.2.1 and the sum certified has still not been paid;
- 3.2.3 A copy of the aforesaid payment certificate which entitles the Employer to receive payment in terms of the Contract of the sum certified in 3.2.
- 3.3 Subject to the Guarantor's maximum liability referred to in 1.1 or 2.1, 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 upon this Performance Guarantee, such demand stating:
  - 3.3.1 the Contract has been terminated due to the Contractor's default and that this Performance Guarantee is called up in terms of 3.3; or
  - 3.3.2 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 3.3; and
  - 3.3.3 the aforesaid written demand is accompanied by a copy of the notice of termination and/or the provisional and/or final sequestration and/or provisional liquidation court order.
- 3.4 It is recorded that the aggregate amount of payments required to be made by the Guarantor in terms of 3.2 and 3.3 shall not exceed the Guarantor's maximum liability in terms of 1.1 or 2.1.
- 3.5 Where the Guarantor has made payment in terms of 3.3, the Employer shall upon the date of issue of the Final Payment Certificate submit an expense account to the Guarantor showing how all the monies received in terms of this Performance Guarantee have been expended and shall refund 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.
- 3.6 Payment by the Guarantor in terms of 3.2 or 3.3 shall be made within seven (7) calendar days upon receipt of the first written demand to the Guarantor.
- 3.7 Payment by the Guarantor in terms of 3.3 will only be made against the return of the original Performance Guarantee by the Employer.
- 3.8 The Employer shall have the absolute right to arrange his affairs with the Contractor in any manner which the Employer may consider 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.

- 3.9 The Guarantor chooses the physical address as stated above for the service of all notices for purposes in connection herewith.
- 3.10 This Performance Guarantee is neither negotiable not transferrable and shall not expire in terms of 1.1.2 or 2.2, where after no claims will be considered by the Guarantee after it has expired.
- 3.11 This Performance Guarantee, with the required demand notices in terms of 3.2 or 3.3, shall be regarded as a liquid document for the purposes of obtaining a court order.
- 3.12 Where this Performance Guarantee is issued in the Republic of South Africa the Guarantor hereby consents in terms of Section 45 of the Magistrates' 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 Signatory (1) .....

Capacity .....

Guarantor Signatory (2) .....

Capacity .....

Witness (1) .....

Witness (2) .....

## PART 2: PRICING DATA

Document reference	Title	No of pages
C2.1	Pricing Instructions	4
C2.2	Bill of Quantities	1
C.2.3	Amendments and Qualifications	1
	Total number of pages	6



## **C2.1 PRICING INSTRUCTIONS**

### **1. GENERAL**

- 1.1 In this Bill of Quantities the headings and item descriptions identify the work covered by the respective items shall be read in conjunction with those items contained in the Measurement and Payment Clauses of the various Specifications contained in Volume 3 as cross referenced.
- 1.2 The quantities of work and material set forth in the Bill of Quantities are estimates set against abbreviated item descriptions.
- 1.3 The nature and extent of the work is to be ascertained by reference to all the documents comprising the Contract. Where Clause references are contained in item descriptions, these are given for guidance only and are not exclusive to other relevant provisions of the Contract.
- 1.4 The Conditions of Contract, special conditions of contract (if any), specifications and drawings are to be read in conjunction with this Bill of Quantities.
- 1.5 The rates and prices entered in the Bill of Quantities shall represent full compensation for executing and completing the work as specified or implied including inter alia the following, unless explicitly stated otherwise:
  - 1.5.1 General obligations, overheads, liaison, liabilities and risks involved in the proper management and execution of the Works as set forth in or reasonably to be implied from the Contract.
  - 1.5.2 All taxes, duties, surcharges, royalties and the like payable by the Contractor.
  - 1.5.3 Complying with Health and Safety, Environmental, Recruitment and Training, Industrial Relations and Quality Management provisions.
  - 1.5.4 All testing and quality control and supplying results of tests carried out by the Contractor to the Design Engineer. Attendance and transport for sampling and testing carried out by the supervisory Engineer.
  - 1.5.5 Design, drawings and documentation for Mechanical and Electrical Equipment.
  - 1.5.6 Preparation and timely supply of detailed working drawings as applicable.
  - 1.5.7 The submission of Method Statements as required by the Design Engineer.
  - 1.5.8 Preparation and timely supply to the Design Engineer of all the specified records of the Works.
  - 1.5.9 The effect on the planning of the Works.
  - 1.5.10 Labour and supervision.
  - 1.5.11 The procurement and supply of materials and goods including purchase, loading, transport, delivery to and handling at Site, storage and eventual delivery to and handling at the point of incorporation in the Works. Taking delivery of materials and goods supplied by others, handling, storage and incorporation of materials and goods into the Works.
  - 1.5.12 Obtaining natural material from borrow pits and the quarry, identification and demarcation of borrow areas, loading and transport of such material to the Works.

- 1.5.13 Processing of goods and materials as specified and incorporation in the Works as specified such that the Works will be fit for the purpose for which they are being provided.
- 1.5.14 Contractor's Equipment supply and utilisation.
- 1.5.15 Temporary Works and infrastructure requirements.
- 1.5.16 Waste.
- 1.5.17 All test on completion, maintenance and remedying of defects during the Contract, including the Defects Liability Period.
- 1.5.18 All other incidentals necessary for the completion of the work and maintenance thereof.
- 1.6 The Bill of Quantities does not form the basis on which the Contractor shall order materials for the construction of the Works. Responsibility for the accuracy of quantities of materials ordered shall be solely that of the Contractor.

**Note:**

The contractor must ensure that his unit prices are correct. The final tender price shall be calculated from unit prices and any mathematical errors shall be corrected in the tendered amount.

## **2. MEASUREMENT OF COMPLETED WORK**

- 2.1 Measurement for the works shall be in accordance with the relevant provisions of clause 8 of each of the SABS 1200 Standardized Specifications for Civil Engineering Construction, or to the relevant pay items in the particular specifications referred to in the Scope of Work. The Preliminary and General items shall be measured in accordance with the provisions of SABS 1200-A, General.
- 2.2 Unless otherwise stated, items are measured net in accordance with the drawings, and no allowance is made for waste.
- 2.3 The quantities set out in these Bills of Quantities are approximate and do not necessarily represent the actual amount of work to be done. The quantities of work accepted and certified for payment will be used for determining payments due and not the quantities given in the Bills of Quantities.
- 2.4 The short descriptions of the items of payment given in these Bills of Quantities are only for the purposes of identifying the items. More details regarding the extent of the work entailed under each item appear in the Scope of Work.
- 2.5 Descriptions in the Bills of Quantities are abbreviated and comply generally with those in the SABS 1200 Standardized Specifications.

## **3. PRICING OF ITEMS**

- 3.1 A price or rate shall be entered against each item in this Bill of Quantities, whether or not quantities are stated. An item against which no price is entered will be considered to be covered by the other prices or rates in the Bills of Quantities. A single lump sum will apply should a number of items be grouped together for pricing purposes.
- 3.2 Where allowance is made in the Bill for the Contractor to enter items and the space provided

is insufficient, the Contractor shall attach such additional Bill pages to the back of the relevant page of the Bill. **Any such additions shall be clearly referenced and identified as additional pages and will be viewed to be an integral part of the Bill.**

3.3 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.

3.4 Rates and prices shall be expressed to two decimal places except in the case of a "NIL" rate or price.

#### **4. USE OF ALTERNATIVE SPECIFIED MATERIALS**

4.1 Where a choice of alternative materials is indicated for a given purpose, the description scheduled and the rates and prices inserted shall be deemed to cover any of the permitted alternative materials which the Contractor may elect to use.

#### **5. LABOUR INTENSIVE CONSTRUCTION METHODS**

5.1 Pursuant to the sub clause PS-6.13 of the contract Specification, certain works shall be required to be undertaken utilizing labour intensive construction methods and which shall be undertaken by unskilled or semi-skilled workers. Each item in the Bill of Quantities to which the labour intensive requirements shall be applicable is marked "#".

#### **6. UNIT OF MEASURE**

6.1 The following abbreviations may be used for the units of measurement:

<b>UNIT</b>	<b>ABBREVIATION</b>	<b>UNIT</b>	<b>ABBREVIATION</b>
Litre	ℓ	Meganewton	MN
Millimetre	mm	Number	No
Metre	m	Hour	hr
Kilometre	km	Day	d
Square millimetre	mm <sup>2</sup>	Week	wk
Square metre	m <sup>2</sup>	Month	Mth
Cubic metre	m <sup>3</sup>	Provisional sum	PS
Hectare	ha	Extra over	E/o
Gram	g	Rate only	R/o
Kilogram	kg	Pocket	Pkt
Newton	N	Sum, Lump sum	Sum
Megalitre	Mℓ		

Cubic metre kilometre	m <sup>3</sup> .km		
Kilonewton	kN		

## **C2.2 BILL OF QUANTITIES**

Use this page as a cover page to the *Contractor's Bill of Quantities*.

- 1) Tenderers are to ensure that adequate provision for the health and safety measures have been and provided detailed breakdown in the *Bill of Quantities*, as required by the Department of Labour.
- 2) The PDF/ original format *Bill of Quantities* must be populated by hand in black ink and will be the document used for evaluation purposes.
- 3) Tenderers are also required to electronically populate the Excel format and add to the required electronic Drive with your submission. This will be used to support verification of pricing errors.

<b>DAM WALL DRILLING AND GROUTING</b>						
ITEM	PAYMENT	DESCRIPTION	UNIT	QUANTITY	RATE	AMOUNT
NO	REFERS					
13		<b>Preliminary and Generals</b>				
		<b>Fixed</b>				
13.1		Establishment and De-Establishment on site to include all necessary Storages.	Sum	1		
		Plant or lifting equipment required to reach +/- 65 m height and radius of 40 m. (To include Operating personel)	Sum	1		
		<b>Time Related</b>				
13.2		Supervision , Accomodation and Travel	Months	3.00		
		<b>Insurances</b>				
		Cost for Performance Bond, All Risk Contractors Insurance, SASRIA,etc	Sum	1.00		
13.3		<b>Health &amp; Safety Management</b>				
13.3.1		Allow for the necessary Workman's Compensation Fund or FEM contributions for the duration of the project with and including renewals	Sum	1.00		
13.3.2		Allow for the preparation and approval of project-specific H&S Plan & File [CR 7(1)(a)]	sum	1.00		

13.3.3		Allow for the implementation and maintenance of project-specific H&S Plan & File. [CR 7]	Months	3.00		
13.3.4		Allow for the appointment of a Part-Time Competent Construction Health & Safety Officer (SACPCMP Registered) to assist in the control of all health and safety related aspects on site as per CR 8(5)	Months	3.00		
13.3.5		Allow for provision of Basic Emergency Preparedness and Response equipment & at least Two (2) First Aiders	sum	1.00		
13.3.6		<b>Provide, supply and maintenance for each worker the following SANS approved personal protective equipment &amp; clothing as per the site-specific risk assessments:</b>				
		Hard Hats (High Density polyethylene, & 6-point lining)	sum	1.00		
		Overall/work suit (100% Cotton)	sum	1.00		
		Rain suits	sum	1.00		
		Safety boots/shoes (Steel-Toe)	sum	1.00		
		Safety Gumboots (Steel-Toe)	sum	1.00		
		Safety gloves	sum	1.00		
		Ear Plugs/Muffs	sum	1.00		
		Dust Mask (at least FF2 type)	sum	1.00		
		Respiratory Protective Equipment	sum	1.00		
		Safety goggles/ Eye Protective Equipment	sum	1.00		
		High visibility reflective vests and/or bibs	sum	1.00		
		Personal Fall arrest and rescue equipment with and including life lines and associated equipment	sum	1.00		
13.3.8		Temporary warning signs and symbols	sum	1.00		

13.3.9		SANS approved safety netting (orange color with minimum of 1,2 meters high)	sum	1.00		
13.3.10		Allow for pre-employment medical examinations	sum	1.00		
13.3.11		Allow for exit medical examinations	sum	1.00		
13.3.12		Allow for all compulsory health and safety awareness programme (e.g. Inductions, toolbox Talks, Safety Promotions, Risk Assessment, First Aid, Fire Fighting, H&S related training, etc.)	sum	1.00		
<b>13.4</b>		<b>Environmental Management</b>				
13.4.1		Provide for adequate handling and storage of materials so as to minimize contamination of ground, air or water.	Months	3.00		
13.4.2		Provide for the adequate and safe collection and disposal of waste material from site by an approved method.	Months	3.00		
	<b>PPS-9</b>	<b>DRILLING AND GROUTING (DAMS)</b>				
	PPS9.14.1	Setting up equipment for drilling grout & drainage holes				
		a) Percussion drilling rigs for grouting (DWG. 9368-331)				
		i) for grouting primary holes	No	16		
		ii) for grouting secondary holes	No	19		
		iii) for grouting tertiary holes	No	38		
		iv) for grouting quaternary holes	No	76		
		v) for exposing drain holes (within 0.5m radius)	No	9		
		vi) for new piezometers in Gallery	No	6		
	PPS9.14.2	<b>Drilling of holes</b>				
		a) Percussion drilling 0 - 25 m, 0 - 30 degrees (DWG. 9368-331)				
		i) for grouting primary holes	m	400		
		ii) for grouting secondary holes	m	475		
		iii) for grouting tertiary holes	m	950		
		iv) for grouting quaternary holes	m	1900		
		v) for exposing drain holes	m	40.5		
		vi) for new piezometers in Gallery	m	81		



		b) Percussion drilling 25 - 50 m, 0 - 30 degrees (DWG. 9368-331)				
		i) for grouting primary holes	m	80		
		ii) for grouting secondary holes	m	95		
		iii) for grouting tertiary holes	m	190		
		iv) for grouting quaternary holes	m	380		
	PPS9.14.3	<b>Re-drilling of grouting holes</b>				
		a) Grout Holes (All)	m	447		
	PPS9.14.7	<b>Curtain and Consolidation grouting</b>				
		Curtain grouting - Stage to 1m above joint	No	94		
		Curtain grouting - Stage from 1m above joint to end	No	94		
	PPS9.14.4	<b>Water pressure tests</b>				
		a) Abbreviated water pressure tests (DWG. 9368-331)	No	298		
	PPS9.14.8	<b>Grouting materials</b>				
		CEM 1 cement	kg	13330		
		Bentonite	kg	400		
	PPS9.14.16	<b>Backfilling of exploratory boreholes</b>				
		Backfilling of new piezometer holes	No	76		
<b>CARRIED FORWARD TO SUMMARY</b>					<b>TOTAL</b>	
			<b>CONTEGENCIES 5%</b>			
			<b>SUBTOTAL</b>			
			<b>VAT @ 15 %</b>			
			<b>GRANDTOTAL</b>			

I, \_\_\_\_\_ of \_\_\_\_\_,  
(Authorised Signatory) (Company Name)

Hereby acknowledge having read, understood and agree to requirements as set out in C2.2 and warrant that the documents submitted are true and accurate.

(Signature)

(Date)

**C2.3 ~~AMENDMENTS, QUALIFICATIONS AND ALTERNATIVES BY TENDERER~~**

**~~Subject to condition stated in Tender Data:~~**

~~Use this page as a cover page to the *Amendments, Qualifications and Alternatives by Tenderer*~~

## PART C3: SCOPE OF WORK

Document reference	Title	No of pages
	This cover page	1
C3.1	Project Specifications	10
C3.2	Particular Specifications	1
C3.3	Drawings (list of all drawings)	4
	Total number of pages	16

## Contents

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<b><u>2. DRAWINGS</u></b> .....	<b>33</b>
<b><u>3. PROCUREMENT</u></b> .....	<b>33</b>
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<b><u>5. MANAGEMENT</u></b> .....	<b>36</b>

## **C3.1 PROJECT SPECIFICATIONS**

### **1. DESCRIPTION OF THE WORKS**

#### **1.1. Employer's objectives**

The Employer's objectives are to deliver public infrastructure using labour-intensive methods where possible as required by the Expanded Public Works Programme (EPWP) to provide temporary employment opportunities to local unemployed people and to provide training or skills development to these locally employed workers. The Contractor shall provide necessary employment opportunities to qualifying individuals as and when required to comply with the job creation requirements to the satisfaction of the Employer. The contractor shall provide monthly records of EPWP employment created to the Employer.

#### **1.2. Overview of the works**

The DBSA, on behalf of the Department of Water and Sanitation (DWS) has an objective to complete the upgrading of the Tzaneen Dam.

#### **1.3. Extent of the works**

The Works to be carried out by the Contractor under this contract is outlined in the document. The location will be within the identified District Municipality [Refer to the drawings (where applicable) for detailed specifications of work to be done]:

#### **1.3.1 THE DRILLING AND GROUTING FOR THE RAISING OF TZANEEN DAM WALL PROJECT.**

##### **1.3.1.1 Description**

Drilling and Pressure Grouting of concrete section (not foundation) for the Tzaneen Dam Raising Project.

##### **1.3.1.2. Project Location.**

- a) Tzaneen Dam is located on the Groot Letaba River, immediately upstream of the Town of Tzaneen in Limpopo. Tzaneen Dam is normally accessed directly from the R71 which runs through Tzaneen via Voortrekker Road. Voortrekker Road runs through a gated area before entering the dam site. The road connects almost directly to the end of the western embankment of the dam, and splits onto a local access road running along the dam toe. Access to the Tzaneen Dam site for construction activities, however, will be limited to a dedicated route on the left bank of the Groot Letaba River. This route also starts from the R71 on an Deerpark surfaced road leading to the north-west. Some 400m from the junction, an unsurfaced road runs westward alongside a small airfield, then turns north towards the dam.

##### **1.3.1.3. Service Required**

The Contractor will be required to perform the following service as part of this contract:

- (i) Drilling and Pressure Grouting on concrete structures:
  - Spillway section; and
  - Non-Overspill Crest (NOC) section.
- (ii) Water pressure testing.
- (iii) Check hole core drilling to confirm grouting efficiency.
- (iv) Contractors shall provide in their bid for all materials as per bill of quantities, labour, plant, implements and vehicles necessary for the execution of the contract and all operating and maintenance costs in accordance with the bid documents and project specification.

#### **1.3.1.4 Details of the Works (Drilling and Grouting)**

The Contractor will be required to perform the following drilling and grouting of concrete structures on the Spillway section and Non-Overspill Crest (NOC) section.

The Contractor will be required to produce a method statement to be approved by the Engineer, that deals with the seepage interception grouting of the concrete spillway and Non-Overspill Crest (NOC). The “Cavity grouting” means grouting to fill any voids in concrete or first stage/ second stage concrete interface around structures, with topics to be discussed are as follows:

- Drilling holes
- Equipment
- Grout Material
- Grouting Method
- Insert Pecker/Collar Valve
- LUGEON Packer water test
- Cavity Grouting (Gravity feed)
- Cavity Grouting Stage 1
- Cavity Grouting Stage 2
- Water Pressure Testing
- Recordkeeping and Reporting

#### **Refer to the attached drawings and Method Statement:**

1. Drawing 9638 – 331
2. Drawing 9638 – NOC
3. Method Statement no: TDR MS 80

### **1.4 Methodology**

The general requirements for the seepage interception drilling and grouting of the *works* are shown on the Drawings 9638 -331 however, the final extent of the drilling and grouting will be determined by the conditions which are encountered during the progress of the work.

The eleven (11) Primary grouting holes of 82 mm diameter and 22 m deep has already been drilled and grouted. The thirty-three (33) Drainage holes of 82 mm diameter have been drilled from the demolition level down into the drainage gallery. The drainage holes will act as drainage for the concrete structure, reducing the water pressure in the dam wall for grouting purposes and monitoring the grouting operation effectiveness. The drainage holes will be kept clean by the Bidder from possible excess grouting by washing it with high pressure water hose. Should the work undertaken by the Bidder result in the closure of the drainage holes, the Bidder shall redrill the holes at his cost.

The Tongue wall holes for leakage interception grouting has already been drilled on the dam reference line, a total of six (6) holes.

#### **1.4.1 Grout material to be used**

Refer to PPS9. Attached

#### **1.4.2 Grouting procedure**

Refer to PPS9. Attached

#### **1.5 Construction Management Requirement.**

- a). The Contractor is referred to SANS 1921: 2004 parts 1, 2 and 3: Construction and Management Requirements for Works Contracts. These specifications shall be applicable to the contract under consideration, and the Contractor shall comply with all requirements relevant to the project.
- b). The Contractor shall provide sufficient equipment and all necessary ancillary equipment and other accessories to complete the demolition and removal of structural concrete required for the raising of Tzaneen dam wall project. Such services shall be approved by the Engineer.
- c). Contractor shall provide in this bid for all labour, plant, implements and vehicles necessary for the execution of the services of Drilling and Grouting of structural concrete Spillway and NOC as required for the raising of Tzaneen dam wall project and all operating and maintenance costs in accordance with the bid documents and project specification.
- d). **Quality Assurance (QA)** (Read with SANS 1921 1: 2004 clause 4.4) The Contractor will be solely responsible to produce work that complies with the Specifications to the satisfaction of the Engineer. To this end it will be the full responsibility of the Contractor to institute an appropriate Quality Assurance (QA) system on site. The Engineer will audit the Contractor's quality assurance (QA) system on a regular basis to verify that adequate independent checks and tests are being carried out and to ensure that the Contractor's own control is sufficient to identify any possible quality problems which could cause a delay or failure.



The Contractor shall ensure that efficient supervisory staff, the required transport, instruments, equipment and tools are available to control the quality of his own workmanship in accordance with his QA-system. His attention is drawn to the fact that it is not the duty of the Engineer or the Representative to act as foreman or surveyor.

## **1.6 Health and Safety** (Read with SANS 1921 - 1: 2004 clause 4.18)

It is a requirement of this contract that the Contractor shall provide a safe and healthy working environment and to direct all his activities in such a manner that his employees and any other persons who may be directly affected by his activities, are not exposed to hazards their health and safety. To this end the Contractor shall assume full responsibility to conform to all the provisions of the Occupational Health and Safety Act No 85 and Amendment Act No 181 of 1993, and the OHSA 1993 Construction Regulations 2014 issued on 07 February 2014 by the Department of Employment and Labour.

For this contract, the Contractor is required to confirm his status as mandatory and employer in his own right for the execution of the contract by entering into an agreement with the Employer in terms of the Occupational Health and Safety Act in the form as included in Part V of the Returnable Schedules.

### **1.6.1 Health and Safety Specifications and Plans**

- (a) Employer's Health and Safety Specification. The Employer's Health and Safety Specification will be included in the tender documents as part of the Project Specifications.
- (b) Tenderer's Health and Safety Plan. The Tenderer shall submit with his tender his own documented Health and Safety Plan he proposes to implement for the execution of the work under the contract. His Health and Safety Plan must at least cover the following:
  - (i) A proper risk assessment of the works, risk items, work methods and procedures in terms of Regulations 7 to 28;
  - (ii) Pro-active identification of potential hazards and unsafe working conditions;
  - (iii) Provision of a safe working environment and equipment;
  - (iv) Statements of methods to ensure the health and safety of subcontractors, employees and visitors to the site, including safety training in hazards and risk areas (Regulation 5);
  - (v) Monitoring health and safety on the site of works on a regular basis, and keeping of records and registers as provided for in the Construction Regulations.
  - (vi) Details of the Construction Supervisor, the Construction Safety Officers and other competent persons he intends to appoint for the construction works in terms of Regulation 6 and other applicable regulations; and
  - (vii) Details of methods to ensure that his Health and Safety Plan is carried out effectively in accordance with the Construction Regulations 2014.

The Contractor's Health and Safety Plan will be subject to approval by the Employer, or amendment, if necessary, before commencement of construction work. The Contractor will not be allowed to commence work, or his work will be suspended if he had already commenced work, before he has obtained the Employer's written approval of his Health and Safety Plan.

Time lost due to delayed commencement or suspension of the work as a result of the Contractor's failure to obtain approval for his safety plan, shall not be used as a reason to claim for extension of time or standing time and related costs

### **1.6.2 Cost of compliance with the OHSA Construction Regulations**

The rates and prices tendered by the Contractor shall be deemed to include all costs for conforming to the requirements of the Act, the Construction Regulations and the Employer's Health and Safety Specification as applicable to this contract. Should the Contractor fail to comply with the provisions of the Construction Regulations, he will be liable for penalties as provided in the Construction Regulations and in the Employer's Health and Safety Specification.

## **1.7 Management of the environment**

Respect for the environment is an important aspect of this contract, and the Contractor shall pay special attention to the following:

### **(a) Natural Vegetation**

The Contractor shall confine his operation to the limits of the road reserve for the purpose of constructing the works and where applicable detours, shall be sited in consultation with the Engineer. Only those trees and shrubs directly affected by the works and such others as the Engineer may direct in writing shall be cut down and stumped. The natural vegetation, grass and other plants shall not be disturbed other than in areas where it is essential for the execution of the work or were directed by the Engineer.

### **(b) Fires**

The Contractor shall comply with the statutory and local fire regulations. He shall also take all necessary precautions to prevent any fires. In the event of fire, the Contractor shall take active steps to limit and extinguish the fire and shall accept full responsibility for damages and claims resulting from such fires which may have been caused by him or his employees.

### **(c) Environmental Management Plan**

In addition to the above all requirements according to the Environmental Management Plan as detailed in Specifications, will be adhered to.

## **1.8 Quantities.**

It is a contractual requirement that the items be delivered as per indicated Bill of quantities and time frame after signing of the contract by the successful Contractor.

#### **1.9 Delivery.**

Rendering of service may be made during working hours:06h30 to 17h00, but not on the following days or periods:

- (i) Saturdays 12h00 to Mondays 07h00.
- (ii) All public holidays.
- (iii) The period 11 December to 9 January.

Unless otherwise agreed before delivery.

#### **1.10. Payment.**

- a) Payments will be made monthly on receipt of specified tax invoices.
- b) Escalation will only be paid if stipulated in the Special Conditions of Contract.
- c) Payment will be done within 30 days of receipt of original invoice by depositing the payment directly into the bank account of the successful Tenderer. No cash payment or cheque payment will be done.
- d) No Payment for standing time will be made

SIGNATURE: \_\_\_\_\_  
(Authorised Person)

DATE: \_\_\_\_\_

**a. Recording of weather**

The Contractor shall erect an effective rainfall gauge on the site and record the daily rainfall figures in a book. Such book shall be handed to the employer's representative for his signature no later than 1 days after rain that is considered to justify an extension of time occurs.

**b. Unauthorised persons**

The Contractor shall keep unauthorized persons from the works at all times. Under no circumstances may any person except guards be allowed to sleep on the building site.

**c. Management meetings**

A Schedule of meetings will be agreed with the contractor.

**d. Daily records**

The Contractor is instructed to keep a set of signed off daily diaries with specific detail relating to EPWP requirements.

**e. Payment certificates**

Payment Certificates will be done as per **Clause 6 of GCC 2015**. Payments will not be processed unless all the required job creation statistics and all supporting information are attached to the claim for payment.

**f. Job statistics/targeted labour**

The contractor must provide monthly statistics to the DBSA indicating the number of new jobs created through this contract. This statistic **must be provided with each monthly payment certificate** using the electronic prescribed format, which will be provided by the Employer's Agent to the successful bidder.

**5.7.1 Expanded Public Works Programme (EPWP)**

**5.7.1.1 Labour intensive competencies of supervisory and management staff**

~~Contractors having a CIDB contractor grading designation of 6CE and higher shall only engage supervisory and management staff in labour intensive works who have either completed, or for the period 1 September 2013 to 30 June 2013, are registered for training towards, the skills programme outlined in Table 1.~~

~~The managing principal of the contractor, namely, a sole proprietor, the senior partner, the~~

managing director or managing member of a close corporation, as relevant, having a contractor grading designation of 1CE, 2CE, 3CE and 4CE shall have personally completed, or for the period 1 September 2013 to 30 June 2013 be registered on a skills programme for the NQF level 2. All other site supervisory staff in the employ of such contractors must have completed, or for the period 1 September 2013 to 30 June 2013 be registered on a skills programme for, the NQF level 2 unit standards or NQF level 4 unit standards.

**Table 1: Skills programme for supervisory and management staff**

Personnel	NQF level	Unit standard titles	Skills programme description
Team leader / supervisor	2	Apply Labour Intensive Construction Systems and Techniques to Work Activities	This unit standard must be completed, and
		Use Labour Intensive Construction Methods to Construct and Maintain Roads and Storm water Drainage	any one of these 3-unit standards
		Use Labour Intensive Construction Methods to Construct and Maintain Water and Sanitation Services	
		Use Labour Intensive Construction Methods to Construct, Repair and Maintain Structures	
Foreman/ supervisor	4	Implement labour Intensive Construction Systems and Techniques	This unit standard must be completed, and
		Use Labour Intensive Construction Methods to Construct and Maintain Roads and Storm water Drainage	any one of these 3-unit standards
		Use Labour Intensive Construction Methods to Construct and Maintain Water and Sanitation Services	
		Use Labour Intensive Construction Methods to Construct, Repair and Maintain Structures	
Site Agent / Manager (i.e. the contractor's most senior representative that is resident	5	Manage Labour Intensive Construction Processes	Skills Programme against this single unit standard

on the site)

## **5.7.1.2 Employment of unskilled and semi-skilled workers in labour-intensive works**

### **5.7.1.2.1 Requirements for the sourcing and engagement of labour.**

**5.7.1.2.2.** Unskilled and semi-skilled labour required for the execution of all labour intensive works shall be engaged strictly in accordance with prevailing legislation and SANS 1914-4, Participation of Targeted enterprise and targeted labour.

**5.7.1.2.3.** The rate of pay set for the SPWP is equal to 100% of normal daily payment

**5.7.1.2.4.** Tasks established by the contractor must be such that:

i) the average worker completes 5 tasks per week in 40 hours or less; and

ii) the weakest worker completes 5 tasks per week in 55 hours or less.

**5.7.1.2.5.** The contractor must revise the time taken to complete a task whenever it is established that the time taken to complete a weekly task is not within the requirements of 4.2.1.3.

**5.7.1.2.6.** The Contractor shall, through all available community structures, inform the local community of the labour intensive works and the employment opportunities presented thereby. Preference must be given to people with previous practical experience in construction and / or who come from households:

i) where the head of the household has less than a primary school education;

ii) that have less than one full time person earning an11 income;

iii) where subsistence agriculture is the source of income.

iv) those who are not in receipt of any social security pension income

**5.7.1.2.7.** The Contractor shall endeavour to ensure that the expenditure on the employment of temporary workers (local) is in the following proportions:

i) 10 % women;

ii) 50% youth who are between the ages of 18 and 25; and

iii) 2% on persons with disabilities.

## **5.7.2 Training of targeted labour (non-accredited training)**

a) The Contractor shall provide all the necessary on-the-job training to targeted labour to enable such labour to master the basic work techniques required to undertake the work in accordance with the requirements of the contract in a manner that does not compromise worker health and safety.

b) The Contractor shall do nothing to dissuade targeted labour from participating in training programmes.

c) Proof of compliance with all the requirements must be provided by the Contractor to the

~~Employer prior to submission of the final payment certificate.~~

### **5.7.3 Employment of local labour**

- ~~a) It is the intention that this Contract should make maximum use of the local labour force that is presently under employed. To this end the Contractor shall limit the utilisation on the Contract of non-local employees to that of key personnel only and to employ and train local labour to the extent necessary for the execution and completion of this Contract.~~
- ~~b) The Contractor shall fill in the form entitled Key Personnel in the Forms to be completed by the Bidder. The data stated on the above mentioned form will be strictly monitored during the Contract period and any deviations there from shall be subject to the prior approval of the Employer's Agent, which approval shall not be unreasonably withheld.~~
- ~~c) The employment of casual labour will be done in co-operation with community leaders and local structures. The bidder shall ensure that all remuneration paid to employees is in line with the relevant sectorial determination in terms of the Basic Conditions of Employment Act, No 75 of 1997, as determined by the Department of Labour.~~

~~Should the contractor at Works Completion, be in default by non-attainment of the above mentioned labour intensive targets, the Employer shall have the right to, without prejudice of any other rights, apply a penalty of **not exceeding 5% of the contract sum** basis in which event a minimum of 5% of the value the works is to be subcontracted. The onus is on the Contractor to prove to the employer that no fully fledged SMMES are active in the area of the project.~~

~~Regarding procurement of materials, local is hereby defined as the district in which the project(s) is/are located which is Mopane District Municipality.~~

### **g. DECANTING PLAN**

Where temporary decanting structures are required in terms of the Site Development Plan (Refer Section C5), such structures shall be constructed in accordance with drawings provided by the professional team at the start of the project and before work commences on buildings in use. The Contractor shall programme the works as such and submit the programme to the Professional Team for approval of the sequencing of the works.



## **C3.2 PARTICULAR SPECIFICATIONS**

In addition to the Standardized and Project Specifications the following Particular Specifications shall apply to this contract and are bound in hereafter.

### **PARTICULAR SPECIFICATION**

### **PAGE NO.**

DBSA OCCUPATIONAL HEALTH AND SAFETY SPECIFICATION

Annexure A

B/RA: DBSA BASELINE RISK ASSESSMENT

Annexure B

SHEQ: SAFETY, HEALTH, ENVIRONMENT AND QUALITY POLICY

Annexure C

### **C3.3 DRAWINGS**

Drawing Folder: Attached Drawing no: 0368-331 R2

## **PART 4: SITE INFORMATION**

<b>Document reference</b>	<b>Title</b>	<b>No of pages</b>
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C4.1	<i>Site Location – Map</i>	1
	Total number of pages	2

#### **C4.1 Locality Map:**

##### **TZANEEN DAM**

The Works to be implemented are located in the area of jurisdiction as shown in the map below:

Tzaneen – Tzaneen Dam (construction of the dam wall).

Latitude: 23°47'58.10"S (approx. coordinates) & Longitude: 30° 9'59.05"E (approx. coordinates)

