

CONTRACT

PART 1: AGREEMENT AND CONTRACT DATA

**C1.1 FORM OF OFFER AND ACCEPTANCE
 (Agreement)**

OFFER

The TENDERER is to complete and sign the Form of Offer

The Employer, identified in the Acceptance signature block, has solicited offers to enter into a contract in respect of the following works;

The Tenderer, identified in the Offer signature block below, has examined the documents listed in the Tender Data and addenda thereto as listed in the Tender Schedules, and by submitting this Offer has accepted the Conditions of Tender.

By the representative of the Tenderer, deemed to be duly authorised, signing this part of this Form of Offer and Acceptance, the Tenderer offers to perform all of the obligations and liabilities of the 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

AMOUNT	AMOUNT IN WORDS
R.....	

(firm)* (adjustable)*
 *(delete which does not apply)

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(s)

Name(s)

Capacity

**For the
 Tenderer**

 (Name and address of organisation)

**Name and
 signature of
 witness**

Date _____

Acceptance

The EMPLOYER will complete and sign the form of Acceptance

By signing this part of the 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 1 Agreement and Contract Data, (which includes this Agreement)

Part 2 Pricing Data

Part 3 Scope of Work

Part 4 Site Information

and drawings 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 authorised representative(s) of both parties.

The Tenderer shall within two weeks after receiving a completed copy of this Agreement, including the Schedule of Deviations (if any), contact the employer's agent (whose details are given in the Contact Data) to arrange the delivery of any bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the Conditions of Contract identified in the Contract Data at, or just after, the date of this Agreement comes into effect. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this Agreement.

Notwithstanding anything contained herein, this Agreement comes into effect on the date when the Tenderer receives one fully completed original copy of this document, including the Schedule of Deviations (if any). Unless the Tenderer (now the Contractor) within five (5) days after the date of such receipt notifies the Employer in writing of any reason why he cannot accept the contents of this Agreement, this Agreement shall constitute binding contract between the parties,

Signature(s)

Name(s)

Capacity

**For the
Employer**

(Name and address of organisation)

**Name and
signature of
witness**

Date _____

SCHEDULE OF DEVIATIONS

Notes:

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

1	Subject	_____
	Details	_____
2	Subject	_____
	Details	_____
3	Subject	_____
	Details	_____
4	Subject	_____
	Details	_____
5	Subject	_____
	Details	_____
6	Subject	_____
	Details	_____
7	Subject	_____
	Details	_____
8	Subject	_____
	Details	_____

By the duly authorised 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 and amendments to the documents listed in the Tender Data and addenda 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 the 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 and 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 and address of organisation)

**Name and
signature of
witness**

Date _____

For the Employer:

Signature(s)

Name(s)

Capacity

(Name and address of organisation)

**Name and
signature of
witness**

Date _____

C1.2 CONTRACT DATA

PART 1: DATA PROVIDED BY THE EMPLOYER

CONDITIONS OF CONTRACT

This Contract will be based on the "General Conditions of Contract for Construction Works – 3rd Edition 2015", issued by the South African Institution of Civil Engineering. (Short title: "General Conditions of Contract") and can be obtained from:

SAICE Waterfall
Park Howick
Gardens
Vorna Valley Half way House
Becker Street
MIDRAND
1685
www.saice.org.za

Gauteng Province
Tel: (011) 805-5947/8
Fax: (011) 805-5971.

It is agreed that the only variations from the General Conditions of Contract 2015 are those set out hereafter under "Special Conditions of Contract".

SPECIAL CONDITIONS OF CONTRACT

1. GENERAL

These Special Conditions of Contract (SCC) form an integral part of the Contract. The Special Conditions shall amplify, modify or supersede, as the case may be, the General Conditions of Contract 2015 to the extent specified below, and shall take precedence and shall govern.

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 General Conditions of Contract 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 General Conditions, and an appropriate heading.

2. AMENDMENTS TO THE GENERAL CONDITIONS OF CONTRACT

The variations to the General Conditions of Contract are:

- SCC 4.4.3 For conditions regarding selection of **LOCAL EMERGING SUB-CONTRACTORS** (LES Work), see additional clauses below.

The additional clauses to the General Conditions of Contract are:

LOCAL EMERGING SUBCONTRACTORS (LES)

The Contractor shall promptly, and in any event within a reasonable time after the Commencement Date, sub-contract a portion of the Works to the value of **thirty (30) percent** of the work specified in the Schedule of Works (excluding preliminary and general costs) (“the LES Work”) to one or more of the local emerging sub-contractors notified by the Employer to the Contract (“the Local Emerging Sub-Contractors”), in strict accordance with, and subject to, the requirements set out in Paragraphs (i) to (x) of this Clause, as follows:

- (i) The Contractor shall select the Local Emerging Sub-Contractor(s) to whom he is to sub-contract the LES Work by means of a competitive bidding process conducted strictly in accordance with the CIDB Standard for Uniformity in Construction Procurement and Best Practice Guidelines January 2009, and in doing so shall exercise all reasonable endeavours to ensure as inclusive and equal a distribution of the LES Work as shall be practicable amongst all the Local Emerging Sub-Contractors, taking into account price, competency and capacity only.
- (ii) The Contractor shall, without reference to the Employer, consider only the competencies and capacity of each Local Emerging Sub-Contractor, be free to identify those components of the LES Work that he shall allocate to each Local Emerging Sub-Contractor.
- (iii) Subject to paragraphs (iv) and (vii) of this clause, in the event that the Contractor fails to sub-contract and/or allocate the required quantum of LES Work or any portion thereof in accordance with this clause, the Engineer may either a) apply a penalty equal to 10% of the value of the shortfall, or b) make a determination regarding the setting aside of the LES Work so as to prevent the shortfall.
- (iv) Subject to paragraph (vii) of this clause, and notwithstanding paragraph (iii) of this clause, in the event that the Contractor fails to sub-contract and/or allocate the required quantum of LES Work or any portion thereof in accordance with this clause by reason of his inability to reach agreement on price with one or more of the Local Emerging Sub-Contractor(s), the Engineer may, in his absolute discretion, advise the Employer to allow an increase in the Contractor’s rates to so as to facilitate successful price negotiation. In the event that the Employer refuses to authorise an increase to the Contractor’s rates or, in the event that the authorised increase in rates fails to facilitate successful negotiation between the Contractor and the relevant Local Emerging Sub-Contractor(s), the Contractor shall be relieved of his obligation to sub-contract the relevant portion of LES Work, always subject to paragraph (vii) of this clause.
- (v) The rates to be applied by the Contractor in the sub-contracts with the Local Emerging Sub-Contractors for the LES Work shall at all times be based strictly on the rates applicable to the Contractor under the Contract, save for any adjustments allowed in terms of paragraph (iv) above.

- (vi) The Contractor shall apply the same rates to each Local Emerging Sub-Contractor in respect of each component of the LES Work, such that, in the event that more than one Local Emerging Sub-Contractor is successfully selected for a single component of the LES Work, the same rates shall apply to each of the selected Local Emerging Sub-Contractors in respect of the said single component.
- (vii) The Contractor shall not be under any obligation to employ a Local Emerging Sub-Contractor against whom the Contractor raises reasonable objection by written notice to the Engineer as soon as practicable, with supporting particulars in writing. In the event of failure on the part of the Contractor to prove reasonable objection to the satisfaction of the Engineer, the Engineer's determination shall be final and binding.
- (viii) The Contractor shall be entitled to include within the Contract Price a maximum management fee of 10% in excess of the rates paid to the Local Emerging Sub-Contractors.
- (ix) When tendering the Contractor shall have exercised all reasonable care not to distort any rates in such a way as to hinder or preclude his obligations under this clause, and, in the event that the Engineer determines the setting aside of the LES Work in terms of paragraph (iii) above, the Contractor shall be prevented from arguing that such LES Work is reserved not to be subcontracted.
- (x) The Contractor shall submit a priced copy of the final agreed version of each proposed sub-contract with a Local Emerging Sub-Contractor ("the Final Draft LES Sub-Contract") to the Employer prior to the execution of such sub-contract. In the event that the Employer, in consultation with the Engineer, deems the price or any other term of any Final Draft LES Sub-Contract to be unduly onerous or unfair to the Local Emerging Sub-Contractor concerned, the Contractor shall modify the price and/or terms in accordance with the Engineer's reasonable instructions.

In sub-contracting the LES Work, the Contractor shall be responsible for performing the LES Work as if he had not sub-contracted. The Contractor shall be liable for the acts and omissions of the employees, sub-contractors and agents of the Local Emerging Sub-Contractors as if they were his own employees, sub-contractors and agents.

CONDITIONS OF CONTRACT FOR LABOUR-INTENSIVE CONSTRUCTION

Payment for the labour-intensive component of the works

Payment for works identified in the Scope of Work as being labour-intensive shall only be made in accordance with the provisions of the Contract if the works are constructed strictly in accordance with the provisions of the scope of work.

Any non-payment for such works shall not relieve the Contractor in any way from his obligations either in contract or in delict.

Applicable labour laws

The Ministerial Determination, Special Public Works Programmes, issued in terms of the Basic Conditions of Employment Act of 1997 by the Minister of Labour in Government Notice N° R63 of 25 January 2002 shall apply to works described in the scope of work as being labour intensive and which are undertaken by unskilled or semi-skilled workers, as reproduced below.

1 Introduction

1.1 This document contains the standard terms and conditions for workers employed in elementary occupations on a Special Public Works Programme (SPWP). These terms and conditions do NOT apply to persons employed in the supervision and management of a SPWP.

In this document –

“department” means any department of the State, implementing agent or contractor;

“employer” means any department, implementing agency or contractor that hires workers to work in elementary occupations on a SPWP;

“worker” means any person working in an elementary occupation on a SPWP; “elementary occupation” means any occupation involving unskilled or semi-skilled work; “management” means any person employed by a department or implementing agency to administer or execute an SPWP;

“task” means a fixed quantity of work;

“task-based work” means work in which a worker is paid a fixed rate for performing a task;

“task-rated worker” means a worker paid on the basis of the number of tasks completed;

“time -rated worker” means a worker paid on the basis of the length of time worked.

2 Terms of Work

2.1 Workers on a SPWP are employed on a temporary basis.

2.2 A worker may NOT be employed for longer than 24 months in any five-year cycle on a SPWP.

2.3 Employment on a SPWP does not qualify as employment as a contributor for the purposes of the Unemployment Insurance Act 30 of 1966.

3 Normal Hours of Work

3.1 An employer may not set tasks or hours of work that require a worker to work–

- (a) more than forty hours in any week
- (b) on more than five days in any week; and
- (c) for more than eight hours on any day.

3.2 An employer and worker may agree that a worker will work four days per week.

The worker may then work up to ten hours per day.

3.3 A task-rated worker may not work more than a total of 55 hours in any week to complete the tasks allocated (based on a 40-hour week) to that worker.

4 Meal Breaks

4.1 A worker may not work for more than five hours without taking a meal break of at least thirty minutes duration.

4.2 An employer and worker may agree on longer meal breaks.

4.3 A worker may not work during a meal break. However, an employer may require a worker to perform duties during a meal break if those duties cannot be left unattended and cannot be performed by another worker. An employer must take reasonable steps to ensure that a worker is relieved of his or her duties during the meal break.

4.4 A worker is not entitled to payment for the period of a meal break. However, a worker who is paid on the basis of time worked must be paid if the worker is required to work or to be available for work during the meal break.

5 Special Conditions for Security Guards

5.1 A security guard may work up to 55 hours per week and up to eleven hours per day.

5.2 A security guard who works more than ten hours per day must have a meal break of at least one hour or two breaks of at least 30 minutes each.

6 Daily Rest Period

Every worker is entitled to a daily rest period of at least eight consecutive hours. The daily rest period is measured from the time the worker ends work on one day until the time the worker starts work on the next day.

7 Weekly Rest Period

Every worker must have two days off every week. A worker may only work on their day off to perform work which must be done without delay and cannot be performed by workers during their ordinary hours of work ("emergency work").

8 Work on Sundays and Public Holidays

8.1 A worker may only work on a Sunday or public holiday to perform emergency or security work.

8.2 Work on Sundays is paid at the ordinary rate of pay.

8.3 A task-rated worker who works on a public holiday must be paid –

- (a) the worker's daily task rate, if the worker works for less than four hours;
- (b) double the worker's daily task rate, if the worker works for more than four hours.

8.4 A time-rated worker who works on a public holiday must be paid –

- (a) the worker's daily rate of pay, if the worker works for less than four hours on the public holiday;
- (b) double the worker's daily rate of pay, if the worker works for more than four hours on the public holiday.

9 Sick Leave

9.1 Only workers who work four or more days per week have the right to claim sickpay in terms of this clause.

9.2 A worker who is unable to work on account of illness or injury is entitled to claim one day's paid sick leave for every full month that the worker has worked in terms of a contract.

9.3 A worker may accumulate a maximum of twelve days' sick leave in a year.

9.4 Accumulated sick-leave may not be transferred from one contract to another contract.

9.5 An employer must pay a task-rated worker the worker's daily task rate for a day's sick leave.

9.6 An employer must pay a time-rated worker the worker's daily rate of pay for a day's sick leave.

9.7 An employer must pay a worker sick pay on the worker's usual payday.

9.8 Before paying sick-pay, an employer may require a worker to produce a certificate stating that the worker was unable to work on account of sickness or injury if the worker is –

- absent from work for more than two consecutive days; or
- absent from work on more than two occasions in any eight-week period.

9.9 A medical certificate must be issued and signed by a medical practitioner, a qualified nurse or a clinic staff member authorised to issue medical certificates indicating the duration and reason for incapacity.

9.10 A worker is not entitled to paid sick-leave for a work-related injury or occupational disease for which the worker can claim compensation under the Compensation for Occupational Injuries and Diseases Act.

10 Maternity Leave

10.1 A worker may take up to four consecutive months' unpaid maternity leave.

10.2 A worker is not entitled to any payment or employment-related benefits during maternity leave.

10.3 A worker must give her employer reasonable notice of when she will start maternity leave and when she will return to work.

10.4 A worker is not required to take the full period of maternity leave. However, a worker may not work for four weeks before the expected date of birth of her child or for six weeks after the birth of her child, unless a medical practitioner, midwife or qualified nurse certifies that she is fit to do so.

10.5 A worker may begin maternity leave –

- (a) four weeks before the expected date of birth; or
- (b) on an earlier date –
 - (i) if a medical practitioner, midwife or certified nurse certifies that it is necessary for the health of the worker or that of her unborn child; or
 - (ii) if agreed to between employer and worker; or
- (c) on a later date, if a medical practitioner, midwife or certified nurse has certified that the worker is able to continue to work without endangering her health.

10.6 A worker who has a miscarriage during the third trimester of pregnancy or bears a stillborn child may take maternity leave for up to six weeks after the miscarriage or stillbirth.

10.7 A worker who returns to work after maternity leave, has the right to start a new cycle of twenty-four months' employment, unless the SPWP on which she was employed has ended.

11 Family responsibility leave

11.1 Workers, who work for at least four days per week, are entitled to three days paid family responsibility leave each year in the following circumstances -

- (a) when the employee's child is born;
- (b) when the employee's child is sick;
- (c) in the event of a death of –
the employee's spouse or life partner;
the employee's parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.

12 Statement of Conditions

12.1 An employer must give a worker a statement containing the following details at the start of employment –

- (a) the employer's name and address and the name of the SPWP;
- (b) the tasks or job that the worker is to perform; and
the period for which the worker is hired or, if this is not certain, the expected duration of the contract;
the worker's rate of pay and how this is to be calculated;
the training that the worker will receive during the SPWP.

12.2 An employer must ensure that these terms are explained in a suitable language to any employee who is unable to read the statement.

12.3 An employer must supply each worker with a copy of these conditions of employment.

13 Keeping Records

13.1 Every employer must keep a written record of at least the following –

- (a) the worker's name and position;
- (b) in the case of a task-rated worker, the number of tasks completed by the worker;
- (c) in the case of a time-rated worker, the time worked by the worker;
- (d) payments made to each worker.

13.2 The employer must keep this record for a period of at least three years after the completion of the SPWP.

14 Payment

14.1 An employer must pay all wages at least monthly in cash or by cheque or into a bank account.

14.2 A task-rated worker will only be paid for tasks that have been completed.

14.3 An employer must pay a task-rated worker within five weeks of the work being completed and the work having been approved by the manager or the contractor having submitted an invoice to the employer.

14.4 A time-rated worker will be paid at the end of each month.

14.5 Payment must be made in cash, by cheque or by direct deposit into a bank account designated by the worker.

14.6 Payment in cash or by cheque must take place –

- (a) at the workplace or at a place agreed to by the worker;
- (b) during the worker's working hours or within fifteen minutes of the start or finish of work;
- (c) in a sealed envelope which becomes the property of the worker.

14.7 An employer must give a worker the following information in writing –

- (a) the period for which payment is made;
- (b) the numbers of tasks completed or hours worked;
- (c) the worker's earnings;
- (d) any money deducted from the payment;
- (e) the actual amount paid to the worker.

14.8 If the worker is paid in cash or by cheque, this information must be recorded on the envelope and the worker must acknowledge receipt of payment by signing for it.

14.9 If a worker's employment is terminated, the employer must pay all monies owing to that worker within one month of the termination of employment.

15 Deductions

15.1 An employer may not deduct money from a worker's payment unless the deduction is required in terms of a law.

15.2 An employer must deduct and pay to the SA Revenue Services any income tax that the worker is required to pay.

15.3 An employer who deducts money from a worker's pay for payment to another person must pay the money to that person within the time period and other requirements specified in the agreement law, court order or arbitration award concerned.

15.4 An employer may not require or allow a worker to –

- (a) repay any payment except an overpayment previously made by the employer by mistake;
- (b) state that the worker received a greater amount of money than the employer actually paid to the worker; or pay the employer or any other person for having been employed.

16 Health and Safety

16.1 *Employers must take all reasonable steps to ensure that the working environment is healthy and safe.*

16.2 *A worker must –*

- (a) work in a way that does not endanger his/her health and safety or that of any other person;*
- (b) obey any health and safety instruction;*
- (c) obey all health and safety rules of the SPWP;*
- (d) use any personal protective equipment or clothing issued by the employer;*
- (e) report any accident, near-miss incident or dangerous behaviour by another person to their employer or manager.*

17 Compensation for Injuries and Diseases

17.1 *It is the responsibility of the employers (other than a contractor) to arrange for all persons employed on a SPWP to be covered in terms of the Compensation for Occupational Injuries and Diseases Act, 130 of 1993.*

17.2 *A worker must report any work-related injury or occupational disease to their employer or manager.*

17.3 *The employer must report the accident or disease to the Compensation Commissioner.*

17.4 *An employer must pay a worker who is unable to work because of an injury caused by an accident at work 75% of their earnings for up to three months.*

The employer will be refunded this amount by the Compensation Commissioner. This does NOT apply to injuries caused by accidents outside the workplace such as road accidents or accidents at home.

18 Termination

18.1 *The employer may terminate the employment of a worker for good cause after following a fair procedure.*

18.2 *A worker will not receive severance pay on termination.*

18.3 *A worker is not required to give notice to terminate employment. However, a worker who wishes to resign should advise the employer in advance to allow the employer to find a replacement.*

18.4 *A worker who is absent for more than three consecutive days without informing the employer of an intention to return to work will have terminated the contract. However, the worker may be re-engaged if a position becomes available for the balance of the 24-month period.*

18.5 *A worker who does not attend required training events, without good reason, will have terminated the contract. However, the worker may be re-engaged if a position becomes available for the balance of the 24-month period.*

19 Certificate of Service

19.1 *On termination of employment, a worker is entitled to a certificate stating –*

- (a) the worker's full name;*

(b) the name and address of the employer; (c) the SPWP on which the worker worked; (d) the work performed by the worker; (e) any training received by the worker as part of the SPWP; (f) the period for which the worker worked on the SPWP; any other information agreed on by the employer and worker.

The additional clauses to the General Conditions of Contract are:

Clause	Data
SCC5.12.2.2.1	<p>A delay caused by inclement weather conditions will be regarded as a delay only if, in the opinion of the Engineer, all progress on an item or items of work on the critical path of the working programme of the contractor has been brought to a halt. Delays on working days only (based on a five-day working week) will be considered for the extension of time, but the Contractor shall make provision in his programme of work for an expected delay of "n" working days caused by normal rainy weather, for which he will not receive any extension of time. Extension of time during working days will be granted to the degree to which actual delays, as defined above, exceed the number of "n" working days. The number of "n" working days will be calculated based on the Contract period and the expected number of working days lost as a result of normal rainfall between the contractual commencement and completion dates.</p> <p>For the purpose of this contract, the value of "n" is fifteen (15) days as based on the historic rainfall data for the region</p>

CONTRACT SPECIFIC DATA

The following contract specific data are applicable to this

Contract: C1.2.2: PART 1: DATA PROVIDED BY THE EMPLOYER

The following contract specific data are applicable to this contract.

CONTRACT SPECIFIC DATA BY THE EMPLOYER

Clause 1.1.1.15: The name of the Employer is Molemole Local Municipality
 Clause 1.2.1.2: Address of Employer:

The address of the Employer is:

<u>Physical:</u>	<u>Postal:</u>	
303 Church Street	Private Bag X44	Tel: 015 501 0243/4
Mogwadi	Mogwadi	Fax: 015 501 0419
0715	0715	

Clause 1.1.1.16: The name of the Engineer is:
 NKP Consulting Engineers (Pty) Ltd.

Clause 1.2.1.2: Address of Engineer:

<u>Physical:</u>	<u>Postal:</u>	
Plot 76, The Rest	P.O.Box 11	Tel: 013 492 0492
Nelspruit	Nelspruit	Fax: 086 554 6578
1200	1200	info@nkpsa.co.za

Clause 2.4: If an ambiguity or discrepancy between the documents is found the Contractor shall immediately notify the Engineer and giving effect to clause 2.1 and the Engineer shall issue any necessary clarification or instruction.

For the purpose of interpretation, the priority of the documents shall be in accordance with the following sequence:

1. Letters of offer and acceptance
2. Contract data
3. Particular conditions of contract
4. General conditions of contract
5. Scope of works
6. Schedule of quantities
7. Project drawings
8. Standard specifications
9. Standard drawings
10. Schedules and other documents forming part of the contract

- Clause 5.3.1: The documentation required before commencement with Works execution are:
Health and Safety Plan (Refer to Clause 4.3)
Initial programme (Refer to Clause 5.6)
Security (Refer to Clause 6.2)
Insurance (Refer to Clause 8.6)
- Clause 5.3.1: The contractor shall commence executing the work within 28 days of the Commencement date.
- Clause 5.3.2: The time to submit the documentation required before commencement with Works execution is 14 days
- Clause 5.5.1: The Works shall be completed within 8 months including special non- working days and the year-end break.
- Clause 5.6.2.5: The contractor shall make allowance for the following requirements in his programme:
(a) Accommodation of traffic restrictions (access to private properties)
(b) 3 weeks from commencement date for the execution of material investigations by an appointed materials laboratory.
(c) Normal inclement weather restrictions.
- Clause 5.8.1: Special non-working days are Sundays and the following statutory public holidays as declared by National or Regional Government:

New Year's Day, Human Rights Day, Good Friday, Family Day, Freedom Day, Workers day, Youth Day, National Women's Day, Heritage Day, Day of Reconciliation, Christmas Day and the Day of Goodwill including the annual year-end shutdown periods as recommended by the South African Federation of Civil Engineering Contractors, and which commence before the Completion Date.
- Clause 5.13.1: The penalty for failing to complete the works is 0.05 % of the Total Tender Sum per Calendar Day
- Clause 5.16.3: The latent defect period is 10 years, commencing on the day after the date of certification of Practical Completion.
- Clause 6.2.1: The Liability of the Guarantee shall be 10% of the Accepted Tender Sum.
- Clause 6.5.1.2.3: The percentage allowance to cover overhead charges is 15%
- Clause 6.8.2: The value of the certificates issued shall not be adjusted in accordance with the Contract Price Adjustment Schedule.
- Clause 7.8.1: The Defects Liability Period is applicable to this contract for the duration of 12 months measured from the date of the Certificate of Completion.
- Clause 6.10.1.5: The percentage advance on materials not yet built into the Permanent Works is **80 %**.
-

- Clause 6.10.3: The limit of the retention money is **10%** of which half will be released after practical completion and half after the defects liability period
- Clause 8.6.1.1.3: The amount to cover professional fees for repairing damage and loss to be included in the insurance sum is **R 500 000.00**
- Clause 8.6.1.2: Special risk insurance issued by SASRIA is required
- Clause 8.6.1.3: The limit of indemnity for liability insurance is **R 5 000 000.00** for any single liability claim.
- Clause 10.3.2: Dispute Resolution shall be by amicable settlement.
- Clause 10.5.3: The number of adjudication board members to be appointed is one (1).

C1.2.2: PART 2: DATA PROVIDED BY THE CONTRACTOR

The following contract specific data are applicable to this contract.

REFERENCE

CONTRACT SPECIFIC DATA BY THE CONTRACTOR

Clause 1.1.1.9: **Name of Contractor:**.....

Clause 1.2.1.2: **Address of the Contractor:**

Physical:

Postal:

.....
.....
.....

E-Mail:

Telephone No: Fax No:

C1.2 CONTRACT DATA

PART 2: DATA PROVIDED BY THE CONTRACTOR

Clause 6.8.3: The variation in cost of all special materials is to be provided in the table SM1 for special materials.

The rates and prices for the special materials shall be furnished by the Tenderer, which rates and prices shall not include VAT but shall include all other obligatory taxes and levies.

TABLE 1: SPECIAL MATERIALS

Special Materials	Unit*	Rate or Price for the base month
Cement	ton
.....
.....
.....
.....
.....
.....
.....
.....
.....

* Indicate whether the material shall be delivered in bulk or in containers. When called upon to do so, the Contractor shall substantiate the above rates or prices with acceptable documentary evidence.

Signed on behalf of Tenderer:

Clause 4.4.3: **Selection of Sub-Contractors**

The Tenderer shall list on FORM A10 the Subcontractors and Suppliers whom he intends to appoint in respect of the various specialist items of work to be done or goods supplied on this contract. Alternatives may be mentioned.

The Tenderer shall state whether he intends to carry out any specialised work or supply of goods himself.

Acceptance of this tender shall not be construed as approval of all or any of the listed specialist Subcontractors or Suppliers. Should any of or all of the specialist Subcontractors or Suppliers not be approved subsequent to the acceptance of the tender, it shall in no way invalidate this tender, and the tendered unit rates for the various items of work shall remain final and binding, even in the event of a Subcontractor or Supplier not listed below being approved by the Employer.

The sub-contractors listed on FORM A10 exclude the identified local emerging contractors who will be identified by the Employer.

Signed on behalf of Tenderer:

.....

C1.3 FORMS OF SECURITIES

FORMS FOR COMPLETION BY THE CONTRACTOR

THE FOLLOWING FORMS ARE TO BE COMPLETED BY THE CONTRACTOR AFTER THE TENDER HAS BEEN AWARDED TO THE SUCCESSFUL TENDERER

Form		Page
C1.3.1	Form of Guarantee	F.2
C1.3.2	Agreement with Adjudicator	F.5
C1.3.3	Agreement in terms of the Occupational Health and Safety Act	F.7
C1.3.4	Blasting Indemnity	F.9

The forms will be completed by the Contractor who will be instructed to do so in the Form of Acceptance. The completed forms will become part of the Contract.

The Form of Guarantee is a pro forma document. An original document, from a financial institution, with the same text will be provided by the Contractor within the time stated in the Contract Data. Only a Bank or approved Insurance Company or Guarantee Corporation is acceptable as Guarantor.

PRO FORMA

C1.3.1 Form of Guarantee

For use with the General Condition for Contract for Construction Works, Third Edition, 2015

GUARANTOR DETAILS AND DEFINITIONS

"Guarantor" means:

Physical address:

"Employer" means:

"Contractor" means:

"Engineer" 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:

"Expiry Date" means:

CONTRACT DETAILS

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

PERFORMANCE GUARANTEE

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

any reference in this Performance Guarantee to the Contract is made for the purpose of convenience and shall not be construed as any intention whatsoever to create an accessory obligation or any intention whatsoever to create a suretyship;
- 3.1 its obligation under this Performance Guarantee is restricted to the payment money.
4. Subject to the Guarantor's maximum liability refer to in 1, the Guarantor hereby undertakes to pay the Employer the sum certified upon receipt of the documents identified in 4.1 to 4.3:
 - 4.1 A copy of first written demand issued by the Employer to the Contractor stating that payment of a sum certified by the Engineer in an Interim or Final Payment Certificate has not been made in terms of Contract and failing such payment within seven (7) calendar days, the Employer intends to call upon the Guarantor to make payment in terms of 4.2;
 - 4.2 A first written demand issued by the Employer to the Guarantor at the Guarantor's physical address with a copy to the Contractor stating that a period of seven (7) days has elapsed since the first written demand in terms of 4.1 and the sum certified has still not been paid;
 - 4.3 A copy of the aforesaid payment certificate which entitles the Employer to receive payment in terms of the Contract of the sum certified in 4.
5. Subject to the Guarantor's maximum liability referred to in 1, the Guarantor undertakes to pay to the Employer the Guaranteed Sum or the full outstanding balance upon receipt of a first written demand from the Employer to the Guarantor at the Guarantor's physical address calling up this Performance Guarantee, such demand stating that:
 - 5.1 the Contract has been terminated due to the Contractor's default and that this Performance Guarantee is called up in terms of 5; or
 - 5.2 a provisional or final sequestration or liquidation court order has been granted against the Contractor and that the Performance Guarantee is called up in terms of 5; and
 - 5.3 the aforesaid written demand is accompanied by a copy of the notice of termination and/or provisional/final sequestration and/or the provisional liquidation court order.
6. It is recorded that the aggregate amount of payments required to be made by Guarantor in terms of 4 and 5 shall not exceed the Guarantor's maximum liability in terms of 1.

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7. Where the Guarantor has made payment in terms of 5, the Employer shall upon the date of issue of the Final Payment Certificate submit an expense account to the Guarantor showing how all monies received in terms of this Performance Guarantee have been expended and shall refund to the Guarantor any resulting surplus. All monies refunded to the Guarantor in terms of this Performance Guarantee shall bear interest at the prime overdraft rate of the Employer's bank compounded monthly and calculated from the date payment was made by the Guarantor to the Employer until the date of refund.
8. Payment by the Guarantor in terms of 4 or 5 shall be made within seven (7) calendar days upon receipt of the first written demand to the Guarantor.
9. Payment by the Guarantor in terms of 5 will only be made against the return of original Performance Guarantee by Employer.
10. The Employer shall have the absolute right to arrange his affairs with the Contractor in any manner which the Employer may deem fit and the Guarantor shall not have the right to claim his release from this Performance Guarantee on account of any conduct alleged to be prejudicial to the Guarantor.
11. The Guarantor chooses the physical address as stated above for the service of all notices for all purposes in connection herewith.
12. This Performance Guarantee is neither negotiable nor transferable and shall expire in terms of 2, where after no claims will be considered by the Guarantor. The original of this Guarantee shall be returned to the Guarantor after it has expired.
13. This Performance Guarantee, with the required demand notices in terms of 4 or 5, shall be regarded as a liquid document for the purposes of obtaining a court order.
14. Where this Performance Guarantee is issued in the Republic of South Africa the Guarantor hereby consents in terms of Section 45 of the Magistrate's Courts Act No 32 of 1944, as amended, to the jurisdiction of the Magistrate's Court of any district having jurisdiction in terms of Section 28 of the said Act, notwithstanding that the amount of the claim may exceed the jurisdiction of the Magistrate's Court.

Signed at.....

Date.....

Guarantor's signatory (1).....

Capacity.....

Guarantor's signatory (2).....

Capacity.....

Witness signatory (1).....

Witness signatory (2).....

C1.3.2: AGREEMENT WITH ADJUDICATOR

This agreement is made on the.....day of 20.....between: the Employer
(*name of company / organisation*).....
of (*address*).....
.....and the
Contractor
(*name of company / organisation*)
of (*address*).....
.....
(hereinafter called **the Parties**)

and
(*name*).....
of (*address*)
.....
(hereinafter called **the Adjudicator**)

Disputes or differences may arise/have arisen* between the Parties under a Contract dated.....
and known as Contract No.....
(*Contract title*).....

and these disputes or differences shall be/have been* referred to adjudication in accordance with the
CIDB Adjudication Procedure, (hereinafter called "**the Procedure**") and the Adjudicator may be or has
been requested to act. (* *Delete as necessary*)

IT IS NOW AGREED as follows:

1. The rights and obligations of the Adjudicator and the Parties shall be as set out in the Procedure.
2. The Adjudicator hereby accepts the appointment and agrees to conduct the adjudication in accordance with the Procedure.
3. The Parties bind themselves jointly and severally to pay the Adjudicator's fees and expenses in accordance with the Procedure as set out in the Contract Data.
4. The Parties and the Adjudicator shall at all times maintain the confidentiality of the adjudication and shall endeavour to ensure that anyone acting on their behalf or through them will do likewise, save with the consent of the other Parties which consent shall not be unreasonably refused.
5. The Adjudicator shall inform the Parties if he intends to destroy the documents which have been sent to him in relation to the adjudication and he shall retain documents for a further period at the request of either Party.

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SIGNED by:

(Signature): (Signature): (Signature):

Name: **Name:** **Name:**

who warrants that he/ she is authorised to sign for and **Party** in the presence of

who warrants that he/ she is duly authorised to sign for and on behalf of the **Second Party** in the presence of

the **Adjudicator** in the duly presence of on behalf of the **First**

Witness:
(Signature)..... **Witness:**
(Signature)..... **Witness:**
(Signature).....

Name: **Name:** **Name:**.....

Address: Address: Address:

.....

.....

Date: Date: Date:

C1.3.3: AGREEMENT IN TERMS OF SECTION 37(2) OF THE OCCUPATIONAL HEALTH AND SAFETY ACT No 85 OF 1993

THIS AGREEMENT is made between **Molemole Local Municipality**

(hereinafter called the **EMPLOYER** of the one part, herein represented by:

.....
in his capacity as:

AND:

(hereinafter called the **CONTRACTOR**) of the other part, herein represented by

.....
in his capacity as:

duly authorised to sign on behalf of the Contractor.

WHEREAS the **CONTRACTOR** is the Mandatory of the **EMPLOYER** in consequence of an agreement between the **CONTRACTOR** and the **EMPLOYER** in respect of

BID No:.....

AND WHEREAS the **EMPLOYER** and the **CONTRACTOR** have agreed to enter into an agreement in terms of the provisions of Section 37(2) of the Occupational Health and Safety Act No 85 of 1993, as amended by OHS Act Amendment Act No 181/1993 (hereinafter referred to as the **ACT**);

NOW THEREFORE the parties agree as follows:

1. **The CONTRACTOR undertakes to acquaint the appropriate officials and employees of the CONTRACTOR with all relevant provisions of the ACT and the regulations promulgated in terms thereof.**
2. The **CONTRACTOR** undertakes to fully comply with all relevant duties, obligations and prohibitions imposed in terms of the **ACT** and Regulations: Provided that should the **EMPLOYER** have prescribed certain arrangements and procedures that same shall be observed and adhered to by the **CONTRACTOR**, his officials and employees. The **CONTRACTOR** shall bear the onus of acquainting himself/herself/itself with such arrangements and procedures.
3. The **CONTRACTOR** hereby accepts sole liability for such due compliance with the relevant duties, obligations, prohibitions, arrangements and procedures, if any, imposed by the **ACT** and Regulations, and the **CONTRACTOR** expressly absolves the **EMPLOYER** and the Employer's **CONSULTING ENGINEERS** from being obliged to comply with any of the aforesaid duties, obligations, prohibitions, arrangements and procedures in respect of the work included in the contract.

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4. The CONTRACTOR agrees that any duly authorised officials of the EMPLOYER shall be entitled, although not obliged, to take such steps as may be necessary to ensure that the CONTRACTOR has complied with his undertakings as more fully set out in paragraphs 1 and 2 above, which steps may include, but shall not be limited to, the right to inspect any appropriate site or premises occupied by the CONTRACTOR, or to take such steps it may deem necessary to remedy the default of the CONTRACTOR at the cost of the CONTRACTOR.
5. The CONTRACTOR shall be obliged to report forthwith to the EMPLOYER any investigation, complaint or criminal charge which may arise as a consequence of the provisions of the ACT and Regulations, pursuant to work performed in terms of this agreement, and shall, on written demand, provide full details in writing of such investigation, complaint or criminal charge.

Thus signed atfor and on behalf of the **CONTRACTOR**

on this the day of 20.....

SIGNATURE:

NAME AND SURNAME:

CAPACITY:

WITNESSES: 1.

2.

Thus signed at for and on behalf of the **EMPLOYER** on

the day of 20.....

SIGNATURE:

NAME AND SURNAME:

CAPACITY:

WITNESSES: 1.

2.

C.1.3.4 BLASTING INDEMNITY

Contract No. _____ Given by _____

*Company Registration No. _____

Address _____

a *Company incorporated with limited liability according to the company laws of the Republic of South Africa, *Partnership, *Close Corporation, *Public Company (hereinafter called the Contractor),

represented herein by _____ in his capacity as the Contractor's _____ duly authorised hereto by a resolution of the Contractor dated _____ a certified copy of which resolution is attached to this Indemnity.

WHEREAS the Contractor has entered into a Contract with the Molemole Local Municipality (hereinafter called the Company) for,

_____ and the Company requires this Indemnity from the Contractor

NOW THEREFORE THIS DEED WITNESSETH that the Contractor does hereby indemnify and hold harmless the Company in respect of all loss or damage that may be incurred or sustained by the Company by reason of or in any way arising out of or caused by blasting operations that may be carried out by the Contractor in connection with the aforementioned Contract and also in respect of all claims that may be made against the Company in consequence of such blasting operations, by reason of or in any way arising out of any accidents or damage to persons, life or property or any other cause whatsoever, and also in respect of all legal or other expenses that may be incurred by the Company in examining, resisting or settling any such claims; for the due performance of which the Contractor binds itself according to law.

THUS DONE AND SIGNED for and on behalf of the Contractor at _____ on the _____ day of _____ 20____ in the presence of the subscribing witnesses.

AS WITNESSES

- 1. _____
SIGNATURE
- 2. _____
DESIGNATION OF SIGNATORY

*Delete which does not apply

PART C2: PRICING DATA

PRICING INSTRUCTIONS 1
BILL OF QUANTITIES 4

PRICING INSTRUCTIONS

- 1 For the purposes of this bill of quantities, the following words shall have the meanings hereby assigned to them:

Unit: The unit of measurement for each item of work as defined in the standard specifications or the project specifications.

Quantity: The number of units of work for each item.

Rate: The payment per unit of work for which the tenderer tenders to do the work.

Amount: The product of the quantity and the rate tendered for an item.

Lump Sum: An amount tendered for an item, the extent of which is described in the bill of quantities, the specifications or elsewhere, but of which the quantity of work is not measured in units.

- 2 This bill of quantities forms part of the contract documents and must be read in conjunction with all the other documents comprising the contract documents.

- 3 The quantities set out in the bill of quantities are only approximate quantities. The quantities of work finally accepted and certified for payment, and not the quantities given in the bill of quantities, will be used to determine payments to the contractor.

The validity of the contract shall in no way be affected by differences between the quantities in the bill of quantities and the quantities finally certified for payment. Work is valued at the rates or lump sums tendered

- 4 The tenderer shall fill in a rate or a lump sum for each item where provision is made for it even where no quantities are given. Items against which no rate or lump sum has been entered in the tender will not be paid for when the work is executed, as payment for such work will be regarded as being covered by other rates or lump sums in the bill of quantities. The tenderer shall fill in a rate against all items where the words "rate only" appears in the amount column. Although no work is foreseen under such item and no quantities are consequently given in the quantity column, the tendered rate shall apply should work under this item actually be required. Tenders should note the provisions of paragraph 12 of this preamble.

If the tender should group a number of items together and tender one lump sum for each group of items, this single tendered lump sum shall apply to that group of items and not to each individual item, or should he indicate that full compensation for any item has

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been included in the rate for another item, the rate for the item included in another item shall be deemed to be nil.

The tendered lump sums and rates shall be valid irrespective of any change in the quantities during the execution of the contract.

- 5 The amount of work or the quantities of material stated in the bill of quantities shall not be considered as restricting or extending the amount of work to be done or quantity of material to be supplied by the contractor.
- 6 The statement of quantities of material or the amount of work in the bill of quantities shall not be regarded as authorisation for the contractor to order material or to execute work. The contractor shall obtain the engineer's detailed instructions for all work before ordering any materials or executing work or making arrangements in this regard.
- 7 The short descriptions of the payment items in the bill of quantities are only given to identify the items and to provide specific details. Reference shall, inter alia, be made to the drawings, standard specifications, project specifications, general conditions of contract and special conditions of contract for more detailed information regarding the extent of work entailed under each item.
- 8 The provisions of clause of the general conditions of contract Third Edition 2015 shall apply to provisional sums and prime cost sums.
- 9 Subject to the conditions stated in paragraph 10 below, the rates and lump sums filled in by the tenderer in the bill of quantities shall be final and binding with regard to submitting the tender, and may not be adjusted should there be any mistakes in the extensions thereof and in the total sums appearing in the tender. Should there be any discrepancies between the tender sum and the correctly extended and totalled bill of quantities, the rates will be regarded as being correct, and the employer shall have the right to make adjustments to the tender sum to reconcile the tender sum with the total of the bill of quantities. In such an event the contractor will be consulted but, failing agreement between the parties, the decision of the employer shall be final and binding. Adjustment of the tender sum will take place prior to the signing of the contract. In their own interest tenderers must make doubly sure of the correctness of their tendered rates, the extensions and the tender sum.
- 10 A tender may be rejected if the unit rates or lump sums for some of the items in the bill of quantities are, in the opinion of the employer, unreasonable or out of proportion.

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- 11 The units of measurement indicated in the bill of quantities are metric units

The following abbreviations are used in the bill of quantities:

mm	=	millimetre
m	=	metre
km	=	kilometre
km-pass	=	kilometre-pass
m ²	=	square metre
m ² -pass	=	square metre pass
ha	=	hectare
m ³	=	cubic metre
m ³ km	=	cubic metre kilometre
l	=	litre
kl	=	kilolitre
kg	=	kilogram
t	=	ton (1000 kg)
No	=	number
mn	=	meganewton
mn-m	=	meganewton-metre
%	=	per cent
kW	=	kilowatt
Kn	=	kilonewton
PC sum	=	prime cost sum
Prov sum	=	provisional sum

- 12 All rates and sums of money quoted in the bill of quantities shall be in rands and whole cents. Fractions of a cent shall be discarded

BILL OF QUANTITIES