**PART C1 AGREEMENT AND CONTRACT DATA**

**EMFULENI LOCAL MUNICIPALITY**

**C1.1FORM OF OFFER AND ACCEPTANCE (TO BE COMPLETED BY TENDERER)**

**OFFER**

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

***Tender No.: 11/2016/07/NO7/2016: TARRING OF BIKITSHA STREET IN ZONE 12.***

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 . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . Date . . . . . . . . . . . . . . . . . . .

Name . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Capacity . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

**For The Tenderer**

(Name and . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

address of . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

organization . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Name and

signature

of witness . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .. . . . . . . . . . . . . . . . . .

**ACCEPTANCE (TO BE COMPLETED BY EMPLOYER)**

By signing this part of this form of offer and acceptance, the Employer identified belowaccepts 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 drawings and documents or parts thereof, which may be incorporated by reference into Parts C1 to C4 above.

Deviations from and amendments to the documents listed in the Tender Data and any addenda thereto as 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.

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 Contract Data) to arrange the delivery of any bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the Conditions of Contract identified in the Contract Data. Failure to fulfill 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 contractor**)** within five working days of the date of such receipt notifies the Employer in writing of any reason why he cannot accept the contents of this agreement, this agreement shall constitute a binding contract between the parties.

Signature . . . . . . . . . . . . . . . . . . . . . . . . . . . . . Date . . . . . . . . . . . . . . . . .

Name . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Capacity . . . . . . . . . . . . . . . . . . . . . . . . . . . .

**for the**

**Employer**

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 is agreed by the Parties becomes an obligation of the Contract and shall also be recorded here.

4. Any change or addition to the Tender Documents arising from the above agreements and recorded here, shall also be incorporated into the final draft of the Contract.

1 Subject . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Details . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

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

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

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

2 Subject . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Details . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

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

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

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

3 Subject . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Details . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . ..

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

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

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

4 Subject . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Details . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

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

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

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

5 Subject . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Details . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

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

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

By the duly authorized representatives signing this agreement, 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 changes 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 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 ……………………………………

**EMFULENI LOCAL MUNICIPALITY**

**TARRING OF BIKITSHA STREET IN ZONE 12.**

**C1.2 CONTRACT DATA**

**PART 1: DATA PROVIDED BY THE EMPLOYER**

**CONDITIONS OF CONTRACT**

The *General Conditions of Contract for Construction Works,* Third Edition, 2015, published by the South African Institution of Civil Engineering, is applicable to this Contract and is obtainable from [www.saice.org.za](http://www.saice.org.za)

Copies of these Conditions of Contract may be obtained from the South African Institution of Civil Engineering, tel. 011 805 5947.

**CONTRACT SPECIFIC DATA**

The following contract specific data are applicable to this Contract:

**Clause**

1.1.1.13 The Defects Liability Period is **365** days *(measured from the date of the Certificate of Completion).*

1.1.1.14 The time for achieving Practical Completion is **12 months** *(measured from the Commencement Data).*

1.1.1.15 The name of the Employer is Emfuleni Local Municipality

1.2.1.2 The Employer's address for receipt of communications is:

Physical address: Postal address:

Cnr Klasie Havenga Street PO Box 3

and Frikkie Meyer Boulevard Vanderbijlpark

Vanderbijlpark 1900

1911

1.1.1.16 The Engineer is Onboard Consulting Engineers (Pty) Ltd (hereinafter referred to as ONBD) represented by an Employee duly authorised thereto in writing.

**Clause**

1.2.1.2 The Engineer's address for receipt of communications is:

Physical/ Postal Address:

Unit 104B Metropolitan Life Building

1064 Arcadia Street

HATFIELD

0083

Telephone: 012 342 3011

Fax: 012 342 0136/ 086 613 7559

E-mail: [onboard@ctecg.co.za](mailto:onboard@ctecg.co.za)

1.1.1.26 The Pricing Strategy is: Re-measurable Contract

3.1.3 The Engineer shall obtain the specific approval of the Employer before executing any of his functions or duties according to the following Clauses of the General Conditions of Contract:

1 Clause 6.3: Variations

2 Clause 5.12: Extension of Time for Practical Completion

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)

5.3.2 The time to submit the documentation required before commencement with Works execution is **Fourteen (14) days**.

5.4.2 The access and possession of Site shall not be exclusive to the Contractor but as set out in the Site Information.

5.8.1 The non-working days are Sundays and special non-working days are as follows:

1 Public holidays and voting days.

2 The year end break commencing and ending on dates as specified by SAFCEC.

5.13.1 The penalty for failing to complete the Works in time shall be the **R6000.00 (Excl. VAT)** per Calendar Day.

5.16.3 The latent defect period is **Ten (10)** years for civil engineering works.

6.8.2 Contract Price Adjustment: Is **NOT** Applicable under this Contract.

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

The value of "x" is 0,1.

The values of the coefficients are:

a = 0,21 Labour

b = 0,42 Contractor's equipment

c = 0,27 Material

d = 0,10 Fuel

The urban area nearest the Site is **Vereeniging** (Stats SA – Ekurhuleni).

The applicable industry for the Producer Price Index for material is **Civil Engineering**.

The area for the Producer Price Index for fuel is **Witwatersrand**.

The base month is the month prior to closing of the Tender.

6.10.1.5 The percentage advance on materials not yet built into the Permanent Work is **80%**.

6.10.3 The limit of retention money is **10%** of the contract amount.

7.8 The Defects Liability Period is **Twelve (12) months** after Final Completion.

8.6.1.1.2 The value of Plant and materials supplied by the Employer to be included in the insurance sum is **Nil**.

8.6.1.1.3 The amount to cover professional fees for repairing damage and loss to be included in the insurance sum is **Nil**.

8.6.1.2 A Coupon Policy for Special Risks Insurance issued by the South African Special Risks Insurance Association is required.

8.6.1.3 The limit of indemnity for liability insurance is R10 000 000,00 for any single claim, the number of claims to be unlimited during construction and Defects Liability Period.

10.7.1 The determination of disputes shall be by arbitration.

**PART 2: DATA PROVIDED BY THE CONTRACTOR**

**Clause**

1.1.1.9 The Contractor is ………………………………………………….………………

1.2.1.2 The Contractor's address for receipt of communications is:

Physical address: Postal address:

……………………………………. ...........................................................

……………………………………. ...........................................................

……………………………………. ...........................................................

Telephone: .............................................

Fax: ..............................................

E-mail: …………………………………………….……….

**Price variation of special materials**

|  |  |  |
| --- | --- | --- |
| **SPECIAL**  **MATERIAL \***  **(please indicate)** | **METHOD BY WHICH VARIATIONS SHALL BE DETERMINED \*** | **RATE OR PRICE**  **FOR BASE MONTH** |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

\*Rise and fall will be allowed on bituminous products only

\*Indicate whether the material will be delivered in bulk or in containers and price to be “factory” based.

\*When requested, the Contractor must be able to provide documented evidence of aforesaid rates or prices­.

Signed on behalf of Tenderer : …………………………………………………….**VARIATIONS TO THE CONDITIONS OF CONTRACT ARE:**

**Clause**

5.3.3 Add the following to Clause 5.3.3 after the last sentence:

"The Contractor shall not commence working until they have an approved project specific health and safety plan in terms of the Occupational Health and Safety Act 1993: Construction Regulations 2003 and complied with the initial requirements thereof."

5.12.2.2 Extension of time for completion

In general, extension of time for the completion of Works will, in terms of the General conditions of Contract, be granted only for additional work and for circumstances which could not have been foreseen, and are beyond the control of the Contractor.

No extension of time for completion will be granted on account of normal inclement weather, but extension of time shall be determined for abnormal rainfall or wet conditions in accordance with the formula given below, separately for each calendar month or part thereof. It shall be calculated for the full period for the completion of the Contract including any extension thereof by the formula:

*V = (Nw – Nn} +* 

The symbols shall have the following meanings:

*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 Ymm or more has been recorded.

*Nn* = Average number of days, as derived from existing rainfall records provided in the table below on which a rainfall of Ymm or more has been recorded for the calendar month

*Rn* = Average rainfall in mm for the calendar month, as derived from the rainfall records supplied in the table below.

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

*X* = 20

*Y* = 10

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 the monthly totals for the period of construction, but if the grand total is negative the time for completion shall not be reduced due to abnormal low rainfall. Extensions of time for part of a month shall be calculated using pro rata values of Nn and Rn.

The factor *(Nw – Nn)* shall be considered to represent a fair allowance for variations from the average number of days during which rainfall exceeds *Ymm*.

The factor  shall be considered to represent a fair allowance for variations from the average in the number of days during which rainfall had not exceeded Ymm, but wet conditions had prevented or had disrupted work. The formula does not take into account flood damage which could cause further or concurrent delays, and which should be treated separately as far as extension of time is concerned.

Accurate rain gauging shall be taken at a suitable point on Site. This information shall be regarded as the actual rainfall for this contract. The readings will be done by the Employer and the Contractor may attend this readings and shall at his own expense take all necessary precautions to ensure that the rain gauge can not be interfered with by unauthorized persons.

5.14.1 Practical Completion

Replace the last sentence of the second paragraph:

"Should the Engineer … on the Due Completion Date."

with the following:

"Should the Engineer not issue such a list within 14 days, Practical Completion shall be deemed to have been achieved on the said fourteenth day."

5.14.2 Issue of Certificate of Practical Completion

Replace "the Engineer" in the second line with the following:

", the Contractor shall notify the Engineer, who shall inspect the works and the Engineer"

5.14.4 Certificate of Completion

Replace "the Engineer" in the second and third line of the first paragraph with:

", the Contractor shall notify the Engineer, who shall inspect the works and the Engineer"

**EMFULENI LOCAL MUNICIPALITY**

**TARRING OF BIKITSHA STREET IN ZONE 12**

**C1.3 Form of Guarantee**

Contract No 11/2016/07/NO7/2016

WHEREAS **Emfuleni Local Municipality** (hereinafter referred to as the Employer”) entered into, a Contract with:

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

(hereinafter called “the Contractor”) on the . . . . . . . . . day of . . . . . .. . . . . . . . . . . . . . . . . .20. . .,

for:  **TARRING OF BIKITSHA STREET IN ZONE 12**

AND WHEREAS it is provided by such Contract that the Contractor shall provide the Employer with security by way of a guarantee for the due and faithful fulfillment of such Contract by the Contractor;

AND WHEREAS . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . has / have at the request of the Contractor, agreed to give such guarantee;

NOW THEREFORE WE . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . do hereby guarantee and bind ourselves jointly and severally as Guarantor and Co-principal Debtors to the Employer under renunciation of the benefits of division and excursion for the due and faithful performance by the Contractor of all the terms and conditions of the said Contract, subject to the following conditions:

1. The Employer shall, without reference and / or notice to us, have complete liberty of action to act in any manner authorized and/or contemplated by the terms of the said Contract, and/or to agree to any modifications, variations, alterations, directions or extensions of the completion date of the works under the said Contract, and that its rights under this guarantee shall in no way be prejudiced nor our liability hereunder be affected by reason of any steps which the Employer may take under such Contract, or of any modification, variation, alterations of the completion date which the Employer may make, give, concede or agree to under the said Contract.

2. This guarantee shall be limited to the payment of a sum of money.

3. The Employer shall be entitled, without reference to us, to release any guarantee held by it, and to give time to or compound or make any other arrangement with the Contractor.

4. This guarantee shall remain in full force and effect until the issue of the Certificate of Completion in terms of the Contract, unless we are advised in writing by the Employer before the issue of the said Certificate of his intention to institute claims, and the particulars thereof, in which event this guarantee shall remain in full force and effect until all such claims have been paid or liquidated.

5. Our total liability hereunder shall not exceed the Guaranteed Sum of . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .. . . . . . . . . . . . . . . .Rand (in words); R . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . (in figures)

6. The Guarantor reserves the right to withdraw from this guarantee by depositing the Guaranteed Sum with the beneficiary, whereupon our liability hereunder shall cease.

7. We hereby choose our address for the serving of all notices for all purposes arising here from as

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

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

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

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

IN WITNESS WHEREOF this guarantee has been executed by us at . . . . . . . . . . . . . . . . . . . . . . .

on this . . . . . . . . . day of . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 20 . . . . . . . .

Signature . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Duly authorized to sign on behalf of . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Address . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

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

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

As witnesses:

1 . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

2 . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

**EMFULENI LOCAL MUNICIPALITY**

**TARRING OF BIKITSHA STREET IN ZONE 12**

**C1.4 ADJUDICATOR’S AGREEMENT**

**(Pro Forma only)**

**To be entered into when required**

This agreement is made on the . . . . . . . . day of . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . between:

. . . . . . . . .. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . (name of company / organisation)

of . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .. . . . . . . . . . (address) and . . . . . . . . . . .. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . (name of company / organisation)

of . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . (address)

(the Parties) and

. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . (name)

of . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

. . . . . . . . . . . . . . . . . .. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . (address)

(the Adjudicator).

Disputes or differences may arise/have arisen\* between the Parties under a Contract dated  
. . . . . . . . . . . . . . .. . . . . . . . and known as. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

and these disputes or differences shall be/have been\* referred to adjudication in accordance with Clause 10.5 of the General Conditions of Contract, and the Adjudicator may be / has been\* requested to act.

\* Delete as necessary

**IT IS NOW AGREED** as follows:

1. The adjudication shall be conducted in accordance with the rights and obligations of the Adjudicator and the Parties as set out in the Procedure as per Clause 10.5 of the General Conditions of Contract.

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.

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.

6. The Adjudicator shall be paid at the hourly rate of R1600 (One Thousand Six Hundred) in respect of all time spent upon, or in connection with, the adjudication including time spent traveling.

7. The Adjudicator shall be reimbursed in respect of all disbursements properly made including, but not restricted to:

(a) Printing, reproduction and purchase of documents, drawings, maps, records and photographs.

(b) Telegrams, telex, faxes, and telephone calls.

(c) Postage and similar delivery charges.

(d) Travelling, hotel expenses and other similar disbursements.

(e) Room charges.

(f) Charges for legal or technical advice obtained in accordance with the Procedure.

8. The Adjudicator shall be paid an appointment fee of R 1600 (One thousand Six Hundred). This fee shall become payable in equal amounts by each Party within 14 days of the appointment of the Adjudicator, subject to an Invoice being provided. This fee will be deducted from the final statement of any sums which shall become payable under item 6 and/or item 7. If the final statement is less than the appointment fee the balance shall be refunded to the Parties.

9. Where the Adjudicator is registered for VAT it shall be charged additionally in accordance with the rates current at the date of invoice.

10. All payments, other than the appointment fee (item 8) shall become due 7 days after receipt of invoice, thereafter interest shall be payable at 5% per annum above the Reserve Bank base rate for every day the amount remains outstanding.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| SIGNED by: |  |  | SIGNED by: |  |  | SIGNED by: |  |
| Name: | |  | Name: | |  | Name: | |
| who warrants that he / she is duly authorized to sign for and on behalf of the first Party in the presence of | |  | who warrants that he / she is duly authorized to sign for and behalf of the second Party in the presence of | |  | the Adjudicator in the presence of | |
|  | |  |  | |  |  | |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Witness |  |  | Witness: |  |  | Witness: |  |
| Name: |  |  | Name |  |  | Name: |  |
| Address: | |  | Address: | |  | Address: | |
|  |  |
|  |  |
| Date: |  |  | Date: |  |  | Date: |  |