

The Joint Building Contracts Committee® - NPC

CONTRACT DATA

For use by *ORGANS OF STATE* and other *PUBLIC SECTOR Bodies*

Principal Building Agreement

Edition 6.2 - May 2018

JBCC®

The Joint Building Contracts Committee® NPC (JBCC®) is representative of building owners and developers, professional consultants and general and specialist contractors who contribute their knowledge and experience to the compilation of the JBCC® documents. The JBCC® documents portray the consensus view of the constituent members and are published in the interests of standardisation and good practice with an equitable distribution of contractual risk

Application of JBCC® agreements

The definitions contained in the JBCC® Principal Building Agreement apply to this document. A word or phrase in bold type in the text has the same meaning assigned to it in the definitions of such agreement. Where a word or phrase is not in bold type it has the meaning consistent with the context of its use

This contract data contains changes made to the JBCC® Principal Building Agreement to suit Organs of State and other Public Sector Bodies' requirements, as well as unique requirements applicable to the project and variables referred to in the JBCC® Principal Building Agreement and the JBCC® General Preliminaries. The information provided in this document is complete and accurate at the time of calling for tenders. Where additional information becomes available, all tenderers will be informed in writing. Reference to clause numbers in the JBCC® Principal Building Agreement are shown in [square brackets] in this contract data eg [3.2.1]. Spaces requiring information must be filled in, or marked as 'not applicable' but not left blank

Where the contractor is appointed, the contract documents comprise the completed and signed Form of Offer and Acceptance, the signed JBCC® Principal Building Agreement, this completed contract data, the priced document, drawings and other listed documents

Endorsement of JBCC® agreements

The JBCC® Edition 6.2 agreements have been endorsed by the Construction Industry Development Board (CIDB) for use by Organs of State and other Public Sector Bodies

Warning!

The JBCC® Principal Building Agreement Edition 6.2 has been coordinated with the JBCC® Nominated/Selected Subcontract Agreement Edition 6.2, the JBCC® General Preliminaries and the JBCC® certificate forms and support documents. Forms from previous editions are not compatible with the JBCC® Principal Building Agreement Edition 6.2

Persons entering into or preparing contracts using the JBCC® suite of contract agreements and support documents are warned of the dangers inherent in modifying any part of it

Experience has shown that changes drafted by others, including members of the building professions, often have unintended results that may be prejudicial to either, or both, parties

Disclaimer

While the JBCC® aims to ensure that its publications represent best practice it does not accept or assume any liability or responsibility for any events or consequences which derive from the use of JBCC® documents

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A PROJECT INFORMATION

A 1.0 Works [1.1]

Project name	
Reference number	
Works description	

A 2.0 Site [1.1]

Erf / stand number	
Township / Suburb	
Site address	
Local authority	

A 3.0 Employer [1.1]

Official Name of Organ of State / Public Sector Body			
Business registration number			
VAT/GST number			
Country			
Employer's representative: Name			
E-mail		Telephone number	
Mobile number			
Postal address			Postal code
Physical address			Postal code

A 4.0 Principal agent [1.1]

Name			
Legal entity of above		Contact person	
Practice number		Telephone number	
		Mobile number	
Country		E-mail	
Postal address			Postal code
Physical address			Postal code

A 5.0 Agent [1.1; 6.2]

Discipline	
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Name			
Legal entity of above		Contact person	
Practice number		Telephone number	
		Mobile number	
Country		E-mail	
Postal address			
		Postal code	
Physical address			
		Postal code	

A 6.0 Agent [1.1; 6.2]

Discipline	
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Name			
Legal entity of above		Contact person	
Practice number		Telephone number	
		Mobile number	
Country		E-mail	
Postal address			
		Postal code	
Physical address			
		Postal code	

A 7.0 Agent [1.1; 6.2]

Discipline	
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Name			
Legal entity of above		Contact person	
Practice number		Telephone number	
		Mobile number	
Country		E-mail	
Postal address			
		Postal code	
Physical address			
		Postal code	

A 8.0 Agent [1.1; 6.2]

Discipline	
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Name			
Legal entity of above		Contact person	
Practice number		Telephone number	
		Mobile number	
Country		E-mail	
Postal address			
		Postal code	
Physical address			
		Postal code	

A 9.0 Agent [1.1; 6.2]

Discipline	
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Name			
Legal entity of above		Contact person	
Practice number		Telephone number	
		Mobile number	
Country		E-mail	
Postal address			
		Postal code	
Physical address			
		Postal code	

A 10.0 Agent [1.1; 6.2]

Discipline	
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Name			
Legal entity of above		Contact person	
Practice number		Telephone number	
		Mobile number	
Country		E-mail	
Postal address			
		Postal code	
Physical address			
		Postal code	

A 11.0 Agent [1.1; 6.2]

Discipline	
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Name			
Legal entity of above		Contact person	
Practice number		Telephone number	
		Mobile number	
Country		E-mail	
Postal address			
		Postal code	
Physical address			
		Postal code	

A 12.0 Agent [1.1; 6.2]

Discipline	
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Name			
Legal entity of above		Contact person	
Practice number		Telephone number	
		Mobile number	
Country		E-mail	
Postal address			
		Postal code	
Physical address			
		Postal code	

and/or

Insurances by contractor			Amount including tax	Deductible amount including tax
Yes/no?				
	New works [10.1.1] (contract sum or amount)			
or	Works with practical completion in sections [10.2] (contract sum or amount)			
or	Works with alterations and additions [10.3] (reinstatement value of existing structures with or including new works)			
	Direct contractors [10.1.1; 10.2] where applicable, to be included in the contract works insurance			
	Free issue [10.1.1; 10.2] where applicable, to be included in the contract works insurance			
	Escalation, professional fees and reinstatement costs if not included above			
Total of the above contract works insurance amount				
Supplementary insurance [10.1.2]				
Public liability insurance [10.1.3]				
Removal of lateral support insurance [10.1.4]				
Other insurances [10.1.5]: Refer B17.0				
Yes/no?	Yes	If yes, description 1		
Hi Risk Insurance [10.1.5.1]				
Yes/no?		If yes, description 2		

B 7.0 Obligations of the employer [12.1]

Existing premises will be in use and occupied [12.1.2]		Yes/no?	
If yes, description			
Restriction of working hours [12.1.2]		Yes/no?	
If yes, description			
Natural features and known services to be preserved by the contractor [12.1.3]		Yes/no?	
If yes, description			
Restrictions to the site or areas that the contractor may not occupy [12.1.4]		Yes/no?	
If yes, description			
Supply of free issue [12.1.10]		Yes/no?	
If yes, description			

B 8.0 Nominated subcontractors [14.0]

Yes/no?		If yes, description of specialisation
	Specialisation 1	
	Specialisation 2	
	Specialisation 3	
	Specialisation 4	
	Specialisation 5	

B 9.0 Selected subcontractors [15.0]

Yes/no?		If yes, description of specialisation
	Specialisation 1	
	Specialisation 2	
	Specialisation 3	
	Specialisation 4	
	Specialisation 5	

B 10.0 Direct contractors [16.0]

Yes/no?		If yes, description of extent of work
	Extent of work [12.1.11]	

B 11.0 Description of sections [20.1]

Section 1	
Section 2	
Section 3	
Section 4	
Section 5	
Section 6	
Section	Remainder of the works

B 12.0 Possession of site [12.1.5], practical completion [19.0; 20.0] and penalty [24.0]

Practical completion for the works as a whole	Intended date of possession of the site Refer B17.0 [12.1.5; 12.2.22]	Period for inspection by the principal agent [19.3]	The date for practical completion shall be the period as indicated below from the date of possession of the site by the contractor [12.2.7; 24.1]	Penalty for late completion [24.1]
	 	 	 	
		working days	Period in months	Penalty amount per calendar day

or where **sections** are applicable

Practical completion of a section of the works	Intended date of possession of a section Refer B17.0 [12.1.5; 12.2.22]	Period for inspection by the principal agent [19.3]	The date for practical completion shall be the period as indicated below from the date of possession of the site by the contractor [12.2.7; 24.1]	Penalty for late completion [24.1]
	 	 	 	
		working days	Period in months	Penalty amount per calendar day
Section 1				
Section 2				
Section 3				
Section 4				
Section 5				
Section 6				
Section 7				
Section 8				
Remainder of the works				

Criteria to achieve practical completion not covered in the definition of practical completion

B 13.0 Defects liability period [21.0]

Extended defects liability period: Refer B17.0 [21.13]	Yes/no?
If yes, description of applicable elements	eg: Electrical reticulation / Air conditioning system / Landscaping 13.1 13.2 13.3 13.4 13.5 13.6

B 14.0 Payment [25.0]

Date of month for issue of regular payment certificates [25.2]			
Contract price adjustment / Cost fluctuations [25.3.4; 26.9.5]	Yes/no?		
If yes, method to calculate			
Employer shall pay the contractor within: [25.10]	Twenty-one (21) calendar days		

B 15.0 Dispute resolution [30.0]

Adjudication [30.6.1; 30.10] Name of nominating body			
Applicable rules for adjudication [30.6.2]			
Arbitration [30.7.4; 30.10] If Yes, name of nominating body * If No, then dispute will be referred to litigation	Yes/no? *		
Applicable rules for arbitration [30.7.5]			

B 16.0 JBCC® General Preliminaries - selections

Provisional bills of quantities [P2.2]	Yes/no?		
Availability of construction information [P2.3]	Yes/no?		
Previous work - dimensional accuracy - details of previous contract(s) [P3.1]			
Previous work - defects - details of previous contract(s) [P3.2]			
Inspection of adjoining properties - details [P3.3]			
Handover of site in stages - specific requirements [P4.1]			
Enclosure of the works - specific requirements [P4.2]			
Geotechnical and other investigations - specific requirements [P4.3]			
Existing premises occupied - details [P4.5]			
Services - known - specific requirements [P4.6]			
Water [P8.1]	By contractor	Yes/no?	
	By employer	Yes/no?	
	By employer - metered	Yes/no?	
Electricity [P8.2]	By contractor	Yes/no?	
	By employer	Yes/no?	
	By employer - metered	Yes/no?	
Ablution and welfare facilities [P8.3]	By contractor	Yes/no?	
	By employer	Yes/no?	

Communication facilities - specific requirements [P8.4]	
Protection of the works - specific requirements [P11.1]	
Protection / isolation of existing works and works occupied in sections - specific requirements [P11.2]	
Disturbance - specific requirements [P11.5]	
Environmental disturbance - specific requirements [P11.6]	

B 17.0 Changes made to JBCC® documentation

Reference may be made to other documents forming part of this agreement
<p>1.1 Definitions</p> <p>AGREEMENT: The completed Form of Offer and Acceptance, the completed JBCC® Principal Building Agreement and JBCC® contract data for organs of state and other public sector bodies, the contract drawings, the priced document and any other documents reduced to writing and signed by the authorised representatives of the parties</p> <p>CONSTRUCTION PERIOD: The period commencing on the date of possession of the site by the contractor and ending on the date of practical completion</p> <p>CONTRACT DATA FOR ORGANS OF STATE AND OTHER PUBLIC SECTOR BODIES: The document listing the Organs of State and other Public Sector Bodies' requirements and the project specific information</p> <p>INTEREST: The interest rates applicable on this contract, whether specifically indicated in the relevant clauses or not, will be the rate as determined by the Minister of Finance from time to time, in terms of section 80(1)(b) of the Public Finance Management Act, 1999 (Act No 1 of 1999), calculated as simple interest, in respect of debts owing to the State, and will be the rate as determined by the Minister of Justice and Constitutional Development from time to time, in terms of section 1(2) of the Prescribed Rate of Interest Act, 1975 (Act No 55 of 1975), calculated as simple interest, in respect of debts owing by the State</p> <p>PRINCIPAL AGENT: The person or entity appointed by the employer and named in the contract data for organs of state and other public sector bodies. In the event of a principal agent not being appointed, then all the duties and obligations of a principal agent as detailed in the agreement shall be fulfilled by the employer's representative as named in the contract data for organs of state and other public sector bodies</p>

3.0 Offer and Acceptance

Amend 3.3 to read as follows:

This **agreement** shall come into force on the date as stated on the Form of Offer and Acceptance and continue to be of force and effect until the end of the **latent defects** liability period [22.0] notwithstanding termination [29.0] or the certification of **final completion** [21.0] and final payment [25.0]

6.0 Employer's Agents

Add the following as 6.7:

In terms of the clauses listed hereunder, the **employer** has retained its authority and has not given a mandate to the **principal agent**. The **employer** shall sign all documents in relation to clauses 4.2, 14.1.2, 14.1.4, 14.4.1, 14.6, 23.1, 23.2, 23.3, 23.7, 23.8, 26.1, 26.7, 26.12 and 28.4

9.0 Indemnities

9.2.7: Add the following to the end of the first sentence: " due to no fault of the **contractor**"

10.0 Insurances

Add the following as 10.1.5.1:

Hi Risk Insurance

In the event of the project being executed in a geological area classified as a "High Risk Area", that is an area which is subject to highly unstable sub-surface conditions that might result in catastrophic ground movement evident by sinkhole or doline formation the following will apply:

10.1.5.1.1 Damage to the works

The contractor shall, from the date of possession of the **site** until the date of the **certificate of practical completion**, bear the full risk of and hereby indemnifies and holds harmless the **employer** against any damage to and/or destruction of the **works** consequent upon a catastrophic ground movement as mentioned above. The **contractor** shall take such precautions and security measures and other steps for the protection of the **works** as he may deem necessary

When so instructed to do so by the **principal agent**, the **contractor** shall proceed immediately to remove and/or dispose of any debris arising from damage to or destruction of the **works** and to rebuild, restore, replace and/or repair the **works**, at the **contractor's** own costs

10.1.5.1.2 Injury to persons or loss of or damage to property

The **contractor** shall be liable for and hereby indemnifies and holds harmless the **employer** against any liability, loss, claim or proceeding arising at any time during the period of the contract whether arising in common law or by statute, consequent upon personal injuries to or the death of any person whomsoever resulting from, arising out of or caused by a catastrophic ground movement as mentioned above

The **contractor** shall be liable for and hereby indemnifies the **employer** against any and all liability, loss, claim or proceeding consequent upon loss of or damage to any moveable, or immovable property, or personal property, or property contiguous to the **site**, whether belonging to or under the control of the **employer** or any other body or person whomsoever arising out of or caused by a catastrophic ground movement, as mentioned above, which occurred during the period of the contract

10.1.5.1.3

It is the responsibility of the **contractor** to ensure that he has adequate insurance to cover his risk and liability as mentioned in 10.1.5.1.1 and 10.1.5.1.2. Without limiting the **contractor's** obligations in terms of the contract, the **contractor** shall, within twenty-one (21) **calendar days** of the date of possession of the site, but before commencement of the **works**, submit to the **employer** proof of such insurance policy, if requested to do so

10.1.5.1.4

The **employer** shall be entitled to recover any and all losses and/or damages of whatever nature suffered or incurred consequent upon the **contractor's** default of his obligations as set out in 10.1.5.1.1; 10.1.5.1.2 and 10.1.5.1.3. Such losses or damages may be recovered from the **contractor** or by deducting the same from any amounts still due under this contract or under any other contract presently or hereafter existing between the **employer** and the **contractor** and for this purpose all these contracts shall be considered one indivisible whole

11.0 Securities

Amend 11.10 to read as follows:

There shall be no lien or right of retention held by any **contractor** in respect of the **works** executed on **site**

12.0 Obligations of the Parties

Amend 12.1.5 to read as follows:

Give possession of the **site** to the **contractor** within ten (10) **working days** of the **contractor** complying with the terms of 12.2.22

12.2.2: Not applicable

Add the following as 12.2.22:

Within fifteen (15) **working days** of the date of the **agreement** submit to the **principal agent** an acceptable health and safety plan, required in terms of the Occupational Health and Safety Act, 1993 (Act No 85 of 1993)

19.0 Practical Completion

19.5: Delete the words "subject to the **contractor**'s lien or right of continuing possession of the **works** where this has not been waived"

21.0 Defects Liability Period and Final Completion

Add the following as 21.13:

The ninety (90) **calendar days** defects liability period for the **works** [21.1] is replaced with a period of three hundred and sixty five (365) **calendar days** in respect of the listed applicable elements

25.0 Payment

25.7.5: Not applicable

25.10: Delete the words "and/or **compensatory interest**"

25.14.2: Not applicable

27.0 Recovery of Expense and/or Loss

27.1.5: Not applicable

29.0 Termination

Add the following after 29.1.3:

or where ...

29.1.4: The **contractor** is, other than for the purposes of a *bona fide* reconstruction or amalgamation, placed under voluntary or compulsory liquidation (whether provisional or final), or under judicial management, receivership, sequestration or business rescue, or under the equivalent of any of the foregoing

29.1.5: The **contractor** has engaged in corrupt or fraudulent practices in competing for or in executing the contract

C TENDERER'S SELECTIONS

C 1.0 Securities [11.0]

Guarantee for construction: Select Option A or B

Option A	Guarantee for construction (variable) by contractor [11.1.1]
Option B	Guarantee for construction (fixed) by contractor [11.1.2]
Guarantee for payment by employer [11.5.1; 11.10]	Not applicable
Advance payment, subject to a guarantee for advance payment [11.2.2; 11.3]	Not applicable

C 2.0 Contractor's annual holiday periods during the construction period

Year 1 contractor's annual holiday period	start date		end date	
Year 2 contractor's annual holiday period	start date		end date	
Year 3 contractor's annual holiday period	start date		end date	

C 3.0 Payment of preliminaries [25.0]

Contractor's selection

Select Option A or B

Where the contractor does not select an option, Option A shall apply

Payment methods

Option A	The preliminaries shall be paid in accordance with an amount prorated to the value of the works executed in the same ratio as the amount of the preliminaries to the contract sum, which contract sum shall exclude the amount of preliminaries. Contingency sum(s) and any provision for cost fluctuations shall be excluded for the calculation of the aforesaid ratio
Option B	The preliminaries shall be paid in accordance with an amount agreed by the principal agent and the contractor in terms of the priced document to identify an initial establishment charge, a time-related charge and a final dis-establishment charge. Payment of the time-related charge shall be assessed by the principal agent and adjusted from time to time as may be necessary to take into account the rate of progress of the works

Lump sum contract

Where the amount of preliminaries is not provided it shall be taken as 7.5% (seven and a half per cent) of the contract sum, excluding contingency sum(s) and any provision for cost fluctuations

C 4.0 Adjustment of preliminaries [26.9.4]

Contractor's selection

Select Option A or B

Where the contractor does not select an option, Option A shall apply

Provision of particulars

The contractor shall provide the particulars for the purpose of the adjustment of preliminaries in terms of his selection. Where completion in sections is required, the contractor shall provide an apportionment of preliminaries per section

Option A	An allocation of the preliminaries amounts into Fixed, Value-related and Time-related amounts as defined for adjustment method Option A below, within fifteen (15) working days of the date of acceptance of the tender
Option B	A detailed breakdown of the preliminaries amounts within fifteen (15) working days of possession of the site . Such breakdown shall include, inter alia, the administrative and supervisory staff, the use of construction equipment , establishment and dis-establishment charges, insurances and guarantees, all in terms of the programme

Adjustment methods

The amount of **preliminaries** shall be adjusted to take account of the effect which changes in time and/or value have on **preliminaries**. Such adjustment shall be based on the particulars provided by the **contractor** for this purpose in terms of Options A or B, shall preclude any further adjustment of the amount of **preliminaries** and shall apply notwithstanding the actual employment of resources by the **contractor** in the execution of the **works**

Option A	<p>The preliminaries shall be adjusted in accordance with the allocation of preliminaries amounts provided by the contractor, apportioned to sections where completion in sections is required</p> <p>Fixed - An amount which shall not be varied</p> <p>Value-related - An amount varied in proportion to the contract value as compared to the contract sum. Both the contract sum and the contract value shall exclude the amount of preliminaries, contingency sum(s) and any provision for cost fluctuations</p> <p>Time-related - An amount varied in proportion to the number of calendar days extension to the date of practical completion to which the contractor is entitled with an adjustment of the contract value [23.2; 23.3] as compared to the number of calendar days in the initial construction period [26.9.4]</p>
Option B	<p>The adjustment of preliminaries shall be based on the number of calendar days extension to the date of practical completion to which the contractor is entitled with an adjustment of the contract value [23.2; 23.3] as compared to the number of calendar days in the initial construction period [26.9.4]</p> <p>The adjustment shall take into account the resources as set out in the detailed breakdown of the preliminaries for the period of construction during which the delay occurred</p>

Failure to provide particulars within the period stated

Option A	<p>Where the allocation of preliminaries amounts for Option A is not provided, the following allocation of preliminaries amounts shall apply:</p> <p>Fixed - Ten per cent (10%) Value-related - Fifteen per cent (15%) Time-related - Seventy-five per cent (75%)</p> <p>Where the apportionment of the preliminaries per section is not provided, the categorised amounts shall be prorated to the cost of each section within the contract sum as determined by the principal agent</p>
Option B	Where the detailed breakdown of preliminaries amounts for Option B is not provided, Option A shall apply

Lump sum contract

Where the amount of **preliminaries** is not provided it shall be taken as 7.5% (seven and a half per cent) of the **contract sum**, excluding contingency sum(s) and any provision for cost fluctuations