

PART C1.3: FORMS OF SECURITIES

PRO FORMAS FOR BONDS & GUARANTEES

The conditions of contract stated in the Contract Data Part 1 include the following Secondary Options:

- Option X13: Performance Bond
- Option X14: Advanced payment to the Contractor

Each of these secondary Options requires a bond or guarantee “in the form set out in the Works Information”. Pro forma documents for these bonds and guarantees are provided here for convenience but are to be treated as part of the Works Information.

The organisation providing the bond / guarantee does so by copying the pro forma document onto his letterhead without any change to the text or format and completing the required details. The completed document is then given to the Employer within the time stated in the contract.

NDOHF02-2025/2026: THE APPOINTMENT OF A SERVICE PROVIDER FOR A FIXED AND FIRM TURNKEY PRICED CONTRACT FOR THE CONSTRUCTION OF THE MSUKALIGWA COMMUNITY HEALTH CENTRE LOCATED IN THE GERT SIBANDE DISTRICT MUNICIPALITY IN THE MPUMALANGA PROVINCE

PRO FORMA PERFORMANCE BOND – DEMAND GUARANTEE (FOR USE WITH OPTION X13)

(to be reproduced exactly as shown below on the letterhead of the guarantor)

Date: _____

National Department of Health
1112 Voortrekker Rd,
Pretoria Townlands 351-Jr,
Pretoria,
0187

Dear Sir/Madam

Reference No. [●] [Drafting Note: Bank reference number to be inserted]

Performance Bond – Demand Guarantee: [Drafting Note: Name of Contractor to be inserted]

Project [] Contract Reference: [Drafting Note: Contractor contract reference number to be inserted]

1 In this Guarantee the following words and expressions shall have the following meanings:-

1.1 “Bank” - means [●], [●] Branch, (Registration No. [●]); [Drafting Note: Name of Bank to be inserted]

1.2 “Bank’s Address” - means [●]; [Drafting Note: Bank’s physical address to be inserted]

1.3 “Contract” – means the written agreement relating to the Project, entered into between the NDoH and the Contractor, on or about the [●] day of [●] 20[●] (Contract Reference No. [.]as amended, varied, restated, novated or substituted from time to time; [Drafting Note: Signature Date and Contract reference number to be inserted]

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- 1.4 “Contractor” – means [●] a company registered in accordance with the laws of [●] under Registration Number [●]. [Drafting Note: Name and details of Contractor to be inserted]
- 1.5 “NDoH” - means the National Department of Health, an Organ of State within the Republic of South Africa.
- 1.6 “Expiry Date” - means the date on which the Defects Certificate is issued in terms of the Contract.
- 1.7 “Guaranteed Sum” - means the sum of R [●] ([●] Rand);
- 1.8 “Project” - means [insert if applicable.].
- 2 At the instance of the Contractor, we the undersigned _____ and _____, in our respective capacities as _____ and _____ of the Bank, and duly authorized thereto, confirm that we hold the Guaranteed Sum at the disposal of the NDoH, as security for the proper performance by the Contractor of all of its obligations in terms of and arising from the Contract and hereby undertake to pay to the NDoH, on written demand from the NDoH received prior to the Expiry Date, any sum or sums not exceeding in total the Guaranteed Sum.
- 3 A demand for payment under this guarantee shall be made in writing at the Bank’s address and shall:
- 3.1 be signed on behalf of the NDoH by the Director: Project Management, Health Facilities and Infrastructure Management, NDoH;
- 3.2 state the amount claimed (“the Demand Amount”);
- 3.3 state that the Demand Amount is payable to the NDoH in the circumstances contemplated in the Contract.

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4 Notwithstanding the reference herein to the Contract the liability of the Bank in terms hereof is as principal and not as surety and the Bank's obligation/s to make payment:

4.1 is and shall be absolute provided demand is made in terms of this bond in all circumstances; and

4.2 is not, and shall not be construed to be, accessory or collateral on any basis whatsoever.

5 The Bank's obligations in terms of this Guarantee:

5.1 shall be restricted to the payment of money only and shall be limited to the maximum of the Guaranteed Sum; and

5.2 shall not be discharged and compliance with any demand for payment received by the Bank in terms hereof shall not be delayed, by the fact that a dispute may exist between the NDoH and the Contractor.

6 The NDoH shall be entitled to arrange its affairs with the Contractor in any manner which it sees fit, without advising us and without affecting our liability under this Guarantee. This includes, without limitation, any extensions, indulgences, release or compromise granted to the Contractor or any variation under or to the Contract.

7 Should the NDoH cede its rights against the Contractor to a third party where such cession is permitted under the Contract, then the NDoH shall be entitled to cede to such third party the rights of the NDoH under this Guarantee on written notification to the Bank of such cession.

8 This Guarantee:

8.1 shall expire on the Expiry Date until which time it is irrevocable;

8.2 is, save as provided for in 7 above, personal to the NDoH and is neither negotiable nor transferable;

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- 8.3 shall be returned to the Bank upon the earlier of payment of the full Guaranteed Sum or expiry hereof;
- 8.4 shall be regarded as a liquid document for the purpose of obtaining a court order; and
- 8.5 shall be governed by and construed in accordance with the law of the Republic of South Africa and shall be subject to the jurisdiction of the Courts of the Republic of South Africa.
- 8.6 Any claim which arises or demand for payment received after expiry date will be invalid and unenforceable.
- 9 The Bank chooses domicilium citandi et executandi for all purposes in connection with this Guarantee at the Bank's Address.

1.

Signed at

Date

For and behalf of the Bank

Bank Signatory

Bank Signatory

Witness

Witness

Bank's seal or stamp

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(to be reproduced exactly as shown below on the letterhead of the guarantor)

Date: _____

National Department of Health
1112 Voortrekker Rd,
Pretoria Townlands 351-Jr,
Pretoria,
0187

Dear Sir/Madam

9.1

Advanced Payment Bond for Contract No.

With reference to the above numbered contract made or to be made between

National Department of Health	(the <i>Employer</i>) and
{Insert registered name and address of the <i>Contractor</i> }	(the <i>Contractor</i>), for
The appointment of a service provider for a fixed and firm turnkey priced contract for (the <i>works</i>).	
the construction of the Msukaligwa Community Health Centre located near Ermelo In	
Mpumalanga Province	

I/We the undersigned	_____
on behalf of the Surety	_____
of physical address	_____

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and duly authorised thereto do hereby bind ourselves as Surety and co-principal debtors in solidum for the due and proper repayment by the Contractor to the Employer of the advanced payment made by the Employer to the Contractor under the Contract, and for all losses and expenses that may be suffered or incurred by the Employer as a result of non-payment by the Contractor, subject to the following conditions

- 1 The terms *Employer*, *Contractor*, and the *works* have the meaning as assigned to them by the *conditions of contract* listed in the Contract Data for the aforesaid Contract.
- 2 We renounce all benefits from the legal exceptions "Benefit of Excussion and Division", "No value received" "Revision of Accounts", "Cession of Action" and any other exceptions which might or could be pleaded against the validity of this bond, with the meaning and effect of which exceptions we declare ourselves to be fully acquainted.
- 3 The *Employer* has the absolute right to arrange his affairs with the *Contractor* in any manner which the *Employer* deems fit and without being advised thereof the Surety shall not have the right to claim his release on account of any conduct alleged to be prejudicial to the Surety. Without derogating from the foregoing compromise, extension of the construction period, indulgence, release or variation of the *Contractor's* obligation shall not affect the validity of this Advance Payment bond.
- 4 This bond expires on the date when the Surety receives a notice from the *Project Manager* stating that the advanced payment has been repaid to the *Employer* in terms of the Contract, or liquidated by deductions from other payments due to the *Contractor*.
- 5 The amount of the bond shall be payable to the *Employer* upon the *Employer's* demand and no later than 7 days following the submission to the Surety of a certificate signed by the *Project Manager* stating the amount of the *Employer's* losses, damages and expenses incurred as a result of the non-performance aforesaid. The signed certificate shall be deemed to be conclusive proof of the extent of the *Employer's* loss, damage and expense.

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- 6 Our total liability hereunder shall not exceed the sum of (R) which is equal to the advance payment.
- 7 This Advanced Payment Bond is neither negotiable nor transferable and is governed by the laws of the Republic of South Africa.

Signed at	on this	day of	20__
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Signature(s)			
Name(s) (printed)			
Position in Surety company			
Signature of Witness(s)			
Name(s) (printed)			