

**Z3.1** The *Contractor* shall have satisfied himself, prior to the *starting date*, as to the completeness, sufficiency and accuracy of all information and drawings provided to him as at the *starting date*.

**Z3.2** The *Contractor* shall be responsible for the correct setting out or carrying out of the *service* in accordance with the original points, lines and levels stated in the *Service Information* or notified by the *Service Manager*. Any errors in the setting or carrying out of the *service* shall be rectified by the *Contractor* at the *Contractor's* own costs.

#### **Z4. Termination**

**Z4.1** Add the following to core clause 91.1, at the second main bullet, fourth sub-bullet point, after the words “assets or”: “business rescue proceedings are initiated or steps are taken to initiate business rescue proceedings”.

#### **Z5.**

**Z5.1** Ambiguities and inconsistencies: Delete core clause 17 and replace with the following:

If there is any ambiguity or inconsistency in or between the documents which are part of this contract, the priority of the documents is in accordance with the following sequence:

- The additional conditions of contract under these Z clauses
- The conditions of contract and
- The other documents.

#### **Z5.2**

The Service Manager or the Contractor notifies the other as soon as either becomes aware of any such ambiguity or inconsistency in or between the documents which are part of this contract. The Service Manager gives an instruction resolving the ambiguity or inconsistency. Notwithstanding any other provision of this contract, any such ambiguity, inconsistency and/or instruction does not automatically result in any increase to the Price List or any delay to the end of the service period.

#### **Z6.**

**Payment: Add the following at the end of core clause 51:**

**51.5** The Employer does not pay interest to the Contractor on a late payment resulting from the Contractor's failure to provide the Employer with a correctly rendered VAT invoice within the period stated in clause 51.1 above.

**51.5** The Employer is entitled to deduct from or set off against any money due to the Contractor

- any sum due to the Employer from the Contractor or
- any amount for which the Contractor is liable to pay to the Employer (whether liquidated or otherwise) arising under this contract.

#### **AMENDMENTS TO THE SECONDARY OPTION CLAUSES**

**Z7. Changes in Law: Add the following clause to secondary option X2 as X2.2:**

**Z7.1** A change in law is defined as:

**Z7.1.1** the adoption, enactment, promulgation, coming into effect, repeal, amendment, reinterpretation, change in application or other modification after the starting date of any law, excluding (i) the promulgation of any bill, unless such bill is enacted into the *law of the country*, and (ii) any such modification in law relating to any taxes, charges, imposts, duties, levies or deductions that are assessed in relation to a person's income;

**Z7.1.2** any permit being terminated, withdrawn, amended, modified or replaced, other than (i) in accordance with the terms upon which it was originally granted, (ii) as a result of the failure by the *Contractor* to comply with any condition set out therein, or (iii) as a result of any act or omission of the *Contractor*, any Subcontractor or any affiliate to the *Contractor*.

**Z8. Performance Bond: Insert the following clause as Option X13:**

- Z8.1.** **Insert the first sentence of clause X13.1 to read as follows:** The *Contractor* gives the *Employer* an unconditional, on-demand performance bond, provided by a bank or insurer which the *Service Manager* has accepted in his or her discretion, for the amount stated in the Contract Data and in the form set out in Annexure C1.5 of this Contract Data.
- Z8.2.** **Add the following new clause as Option X13.2:** The *Contractor ensures* that the performance bond is valid and enforceable until the end of the *service period*. If the terms of the performance bond specify its expiry date and the end of the *service period* does not coincide with such expiry date, four weeks prior to the said expiry date, the *Contractor* extends the validity of the performance bond until the end of the *service period*. If the *Contractor* fails to so extend the validity of the performance bond, the *Employer* may claim the full amount of the performance bond and retain the proceeds as cash security
- Z9.** **Limitation of liability: Insert the following new clause as Option X18.6:**
- Z8.1** The *Employer's* liability to the *Contractor* for the *Contractor's* indirect or consequential loss or damage of any kind is limited to R0.00.
- Z8.2** Notwithstanding any other clause in this contract, any proceeds received from any insurances or any proceeds which would have been received from any insurances but for the conduct of the *Contractor* shall be excluded from the calculation of the limitations of liability listed in the contract.

#### ADDITIONAL Z CLAUSES

- Z10.** **Cession, delegation and assignment**
- Z10.1.** The *Contractor* shall not cede, delegate or assign any of its rights or obligations to any person without the written consent of the *Employer*, which consent shall not be unreasonably withheld. This clause shall be binding on the liquidator/business rescue practitioner /trustee (whether provisional or final) of the *Contractor*.
- Z10.2.** The *Employer* may, on written notice to the *Contractor*, cede and delegate its rights and obligations under this contract to any person or entity.
- Z11.** **Joint and several liability**
- Z11.1.** If the *Contractor* constitutes a joint venture, consortium or other unincorporated grouping of two or more persons, these persons are deemed to be jointly and severally liable to the *Employer* for the performance of this Contract.
- Z11.2.** The *Contractor* shall, within 1 week of the starting date, notify the *Service Manager* and the *Employer* of the key person who has the authority to bind the *Contractor* on its behalf.
- Z11.3.** The *Contractor* does not materially alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without prior written consent of the *Employer*.
- Z12.** **Ethics**
- Z12.1.** The *Contractor* undertakes:
- Z12.1.1.** not to give any offer, payment, consideration, or benefit of any kind, which constitutes or could be construed as an illegal or corrupt practice, either directly or indirectly, as an inducement or reward for the award or in execution of this contract;
- Z12.1.2.** to comply with all laws, regulations or policies relating to the prevention and combating of bribery, corruption and money laundering to which it or the *Employer* is subject, including but not limited to the Prevention and Combating of Corrupt Activities Act, 12 of 2004.
- Z12.2.** The *Contractor's* breach of this clause constitutes grounds for terminating the *Contractor's* obligation to provide the service in accordance with the procedures stated P2, P3 or P4 in core clause 92.2 or taking any other action as appropriate against the *Contractor* (including civil or criminal action). However, lawful inducements and rewards shall not constitute grounds for termination.
- Z12.3.** If the *Contractor* is found guilty by a competent court, administrative or regulatory body of participating in illegal or corrupt practices, including but not limited to the making of offers (directly or indirectly), payments, gifts, gratuities, commission or benefits of any kind, which are in any way whatsoever in connection with the contract with the *Employer*, the *Employer* shall be entitled to terminate the contract in accordance with the procedures stated in core clause 92.2, the amount due on termination is A1.