SANRAL
SOUTH AFRICAN NATIONAL ROADS AGENCY SOC LTD

Reg.No.1998/009584/30

BUILDING SOUTH AFRICA
THROUGH BETTER ROADS

THE SOUTH AFRICAN NATIONAL ROADS AGENCY SOC LIMITED

CONTRACT SANRAL N.011-130-2027/1

THE REHABILITATION OF NATIONAL ROUTE N11 SECTION 13 FROM R518 INTERSECTION (km 8,345) TO GROOTSANDSLOOT RIVER (km 24,0)

PROJECT DOCUMENT

BASE DATE: **OCTOBER 2026**

TENDER DOCUMENT
VOLUME 3
BOOK 2 OF 3:
AGREEMENTS AND CONTRACT DATA

CHIEF EXECUTIVE OFFICER
SOUTH AFRICAN NATIONAL ROADS AGENCY SOC LIMITED
48 TAMBOTIE AVENUE
VAL DE GRACE
PRETORIA, 0184

NAME OF TENDERER: .....

Set sequential number

CONTRACT SANRAL N.011-130-2027/1

FOR

THE REHABILITATION OF NATIONAL ROUTE N11 SECTION 13 FROM R518 INTERSECTION (km 8,345) TO GROOTSANDSLOOT RIVER (km 24,0)

PROJECT DOCUMENT

BASE DATE: **OCTOBER 2026**

TENDER DOCUMENT
VOLUME 3
BOOK 2 OF 3
AGREEMENTS AND CONTRACT DATA

THIS DOCUMENT COMPILED UNDER THE DIRECTION OF THE PROVINCIAL HEAD
THE SOUTH AFRICAN NATIONAL ROADS AGENCY SOC LIMITED

The Provincial Head (Limpopo)
The South African National Roads Agency SOC Ltd
12 Dimitri Crescent
Platinum Park
Polokwane, 0700

LIST OF CONTRACT DOCUMENTS

The following documents form part of this contract:

Volume 1: The Conditions of Contract for Construction for Building and Engineering Works Designed by the Employer (1999), published by the Federation Internationale des Ingenieurs-Conseils (FIDIC) which the tenderer shall purchase himself. (See note 1 below).

Volume 2: The COTO Standard Specifications for Road and Bridge Works for South African Road Authorities (Draft Standard October 2020 edition), issued by the Committee of Transport Officials which the tenderer shall obtain himself. (See Note 2 below).

Volume 3: The Project Document, containing the tender notice, Conditions of Tender, Tender Data, Returnable Schedules, general and particular conditions of contract, project specifications, Pricing Schedule, Form of offer and Project Information is issued by the Employer (see note 3 below). The Employer's Form of Acceptance and any correspondence from the selected tenderer, performance security-demand guarantee, and all addenda issued during the period of tender will also form part of this volume once a successful tenderer has been appointed.

The conditions of tender are the standard conditions of tender as indicated in Book 1.

Volume 4: The road works drawings.

Volume 5: The structural drawings.

Volume 6: Materials investigation and utilisation.

Volume 7: Environmental Management Plan report.

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C1.1 FORMS OF OFFER AND ACCEPTANCE

C1.1.1 FORM OF OFFER (Incorporating SBD7)

The South African National Roads Agency SOC Limited
PO Box 415
PRETORIA
0001

Sir,

CONTRACT SANRAL N.011-130-2027/1
THE REHABILITATION OF NATIONAL ROUTE N11 SECTION 13 FROM R518 INTERSECTION (km 8,345) TO GROOTSANDSLOOT RIVER (km 24,0)

1. I/we, by signing this part of the forms of offer and acceptance acknowledge they are the equivalent of the Letters of Tender and Acceptance as defined in clauses 1.1.1.3 and 1.1.1.4 in the "Conditions of Contract for Construction for Building and Engineering Works designed by the Employer" (1999), published by the Federation Internationale des Ingenieurs-Conseils (FIDIC).

2. I/we, confirm that I/we practise the principles of corporate governance that abhors corruption and fraud and that I/we have examined the documents listed in the tender data and addenda thereto as listed in the returnable schedules and am/are duly authorised to represent and commit the tenderer to the contractual obligations contained therein.

3. I/we further confirm that by submitting this offer the tenderer accepts the conditions of tender and 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 tender and the conditions of contract identified in the contract data.

4. **PRICE OFFERED**

   THE OFFERED TOTAL OF THE PRICES (INCLUSIVE OF VALUE ADDED TAX) BROUGHT FORWARD FROM PART C1 SECTION C2.3: PRICING SCHEDULE SUMMARY IS .....
   .....
   .....(in words)
   (R ..... in figures)

   I/we confirm that if any difference between the total of the Pricing Schedule Summary and the amounts stated above exists, the total in the Pricing Schedule Summary shall apply.

5. **PREFERENCE CLAIMED**

   I/we claim the following B-BBEE contributor status level ..... as per Returnable Schedule Form A12: Tenderer's B-BBEE Verification Certificate. In the event of any difference between the above stated B-BBEE contributor status level and the B-BBEE Verification Certificate attached to Form A12, the B-BBEE Verification Certificate shall apply.

6. You may accept this offer by signing and returning to the tenderer one copy of the Form of acceptance before the end of the period of validity stated in the tender data, (or at the end of any agreed extension thereof), whereupon the tenderer becomes the party named as the contractor in the conditions of contract identified in the contract data.

7. Notwithstanding anything contained in a covering letter to this tender, I/we declare this offer is submitted entirely without deviations or qualifications other than those stipulated in Form A10: Schedule of Deviations or Qualifications by the tenderer and that it is made free from any fraud, corruption, and misrepresentation.

Yours faithfully

SIGNATURE: ..... DATE:.....

NAME (IN CAPITALS): .....

CAPACITY: .....

Date and minute reference of Board resolution if different from returnable schedule Form A2:

Certificate of Authority for signature.....

NAME AND ADDRESS OF ORGANISATION: .....

.....

NAME AND SIGNATURE OF WITNESSES:

WITNESS 1:

SIGNATURE: .....

NAME (IN CAPITALS): .....

WITNESS 2:

SIGNATURE: .....

NAME (IN CAPITALS): .....

C1.1.2 FORM OF ACCEPTANCE (Incorporating SBD7)

To

Dear Sir,

CONTRACT SANRAL N.011-130-2027/1
FOR THE REHABILITATION OF NATIONAL ROUTE N11 SECTION 13 FROM R518 INTERSECTION (km 8,345) TO GROOTSANDSLOOT RIVER (km 24,0)

ACCEPTANCE OF OFFER

1. It is our pleasure to inform you that the South African National Roads Agency SOC Ltd (the Employer) accepts your ***select if applicable corrected/corrected alternative/alternative*** offer in the amount of R…….. (i.e. including VAT but excluding CPA, and any contingent sum not in the priced schedule) for a contract period of ..... months and with a Base date of .....(***28 days prior to the closing date of tender***)

2. The amount due may not be the accepted price but payment shall be made in accordance with the conditions of contract identified in the contract data.

3. This Form of Acceptance is the equivalent of the Letter of Acceptance as defined in clause 1.1.1.3 of the "Conditions of Contract for Construction for Building and Engineering Works designed by the Employer" (1999), published by the Federation Internationale des Ingenieurs-Conseils (FIDIC).

4. Acceptance shall form an agreement between us according to the terms and conditions contained in this form and in the contract that is comprised of:

   Part C1: Agreements and Contract Data (including this form of acceptance),
   Part C2: Pricing Data,
   Part C3: Scope of the Work,
   Part C4: Project Information, and
   Part C5: Annexures

   together with issued drawings and other documents, or parts thereof, which may be incorporated by reference into the Parts listed above.

5. There are no alternatives, deviations, qualifications or changes to the documents. Addenda issued during the tender period are deemed not to be deviations to the tender documents and schedules.

6. Notwithstanding the need to agree the mandate required by Section 37 of the Occupational Health and Safety Act (Act 85 of 1993), a proforma of which is attached for your reference, we hereby appoint you as the principal contractor in terms of Regulation 5(1)(k) of the Construction Regulations, GNR. 84 of 2014.

7. A SARS compliance check has been done on you and you are found to be ….. *(select: "*compliant*" or "*non-compliant*").* *Note to compiler: check SARS website for compliance. If not compliant add the following sentence:* "Within 7 calendar days of the date of this Form of Acceptance you shall provide proof that you are SARS compliant. Failure to fulfil this obligation shall constitute a repudiation of this agreement.*")*

8. At least 7 days prior to the Commencement Date you shall deliver to us:
   i. A Performance Security (per clause 4 of the FIDIC Conditions of Contract), a proforma of which is attached for your reference. The 10% calculation for the Performance Security shall be based on the accepted offer amount (excluding VAT) as contained in this form and there shall be no deviations from the wording of the proforma Performance Security.
   ii. Proof of insurance in terms of the information provided in the contract data and clause 18 of the FIDIC Conditions of Contract. Proof of currency of insured cover shall be provided on a monthly basis until contract completion.
   iii. Fully completed and signed Form C1.1.4.3 together with your Health and Safety plan (including Risk Assessment), proof of appointment of the Construction Manager (including CV and registration) proof of appointment of the Construction Health and Safety Officer

Proforma

(including proof of registration with SACPCMP), proof of appointment of Temporary works designer (if applicable) including ECSA registration, and Evidence of necessary competencies to carry out construction work safely viz. company profile, schedule of activities, relevant appointments and proofs of competency.

iv. Fully completed and signed Form C1.1.4.1 – Mandatary Agreement.
v. Fully completed and signed Form C1.1.4.9 – Appointment of Principal Contractor
vi. Proof that you are registered and in good standing with the compensation fund or with a licensed compensation insurer.
vii. A completed Form of Banking Details.
viii. Proof of registration on the Employer's Project Information Module (ITIS).
ix. Proof of notification to the Chief Inspector of Mines, of appointments as per Form C1.1.4.7 and C1.1.4.8.
x. Nominated DAB member details.
xi. Fully completed Form C1.1.3 Appendix to Form of Acceptance.
xii. Proof of registration on SAP Ariba. The link and information to register the Ariba account is provided on https://www.nra.co.za/sap-ariba/ , Contact : supplierenablement@nra.co.za or for queries regarding SAP Ariba registration.
xiii. A full breakdown of all rates (as per clause 14.1 of the FIDIC Conditions of Contract as amended).
xiv. A programme for the Mobilisation Period (as per clause 8.3 of the FIDIC Conditions of Contract as amended).

Failure to fulfil either of the obligations (i), (ii) and (iii) above shall constitute a repudiation of this agreement and we may at our discretion apply any rights of remedy including barring you from tendering on any of our future tenders for a period to be determined by us, but not less than twelve (12) months, from the date of tender closure.

9. The effective date of the contract shall be the date of this Form of Acceptance unless you, within four (4) calendar days of the effective date, notify us in writing of any justification why you cannot accept the contents of this agreement.

10. The Commencement Date shall be the day on which the commencement meeting is held, which shall not be later than …. *(Note to compiler: the commencement meeting date indicated above is usually within 28 calendar days after the date of this form, as circumstances demand and as agreed between tenderer and Employer. The above can also be amended by fixing the day on which the commencement meeting is held here. The compiler also to consider to only have the commencement meeting commence after the PLC is established else the Mobilisation Period will have to be extended)* All the requirements of the Mobilisation Period shall be complied with within …. *(Note to compiler: include the Mobilisation Period duration – typically 2, 3 or 4 months.* months of the Commencement Date.

11. Access to the Site shall be
Note to compiler: Option 1: For contracts where an application for a permit to do construction work is required from Department of Labour i.t.o. Construction Regulation 3(2), add the following wording: on the date stated on the Letter of Access to the Site, which date shall be after the Employer being in possession of the Construction Work Permit and after the requirements of the Mobilisation Period have been complied with.
Note to compiler: Option 2: For contracts where no application for a permit to do construction work is required from the Department of Labour i.t.o. Construction Regulation 3(2), add the following wording: on the date stated on the Letter of Access to the Site, which date shall be after the requirements of the Mobilisation Period have been complied with.

12. Notwithstanding that a full, original-signed copy of the contract document containing all contract data and schedules (including that of accepted deviations) will be delivered to you, this Form of Acceptance constitutes the binding contract between us.

13. Messrs …….. *Consulting Engineering Service Provider's company name* act as our appointee to fulfil the functions of the Engineer in the administration of the Contract. Please contact …… at ……. to make arrangements for the signing of the contract documents and commencement meeting.

SIGNATURE: ..... DATE:.....

Proforma

NAME (IN CAPITALS): .....

CAPACITY: Provincial Head (Limpopo)

EMPLOYER'S NAME AND ADDRESS:

The South African National Roads Agency SOC Ltd

12 Dimitri Crescent

Platinum Park

Polokwane, 0700

AUTHORITY TO ACT: SANRAL's Delegation of Powers Item 2.4.1.2

NAME & SIGNATURE OF WITNESSES:

WITNESS 1:

SIGNATURE: .....

NAME (IN CAPITALS): .....

WITNESS 2:

SIGNATURE: .....

NAME (IN CAPITALS): .....

C1.1.3 APPENDIX TO FORM OF ACCEPTANCE

CONTRACT SANRAL N.011-130-2027/1
FOR THE REHABILITATION OF NATIONAL ROUTE N11 SECTION 13 FROM R518 INTERSECTION (km 8,345) TO GROOTSANDSLOOT RIVER (km 24,0)

Schedule of deviations

The deviations listed below constitute agreed deviations/amendments to the tender document negotiated between the tenderer and employer based on information provided in Form A4: Schedule of Deviations or Qualifications by the tenderer or imposed conditions of award.

Addenda issued during the tender period are deemed not to be deviations to the tender.

1. Subject: .....

   Details: .....

2 Subject: .....

   Details: .....

3 Subject: .....

   Details: .....

4 Subject: .....

   Details: .....

Proforma

By the duly authorised representatives signing this agreement, the Employer and the tenderer agree to and accept the aforegoing 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 returnable 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.

SIGNATURE: ..... DATE: .....

NAME (IN CAPITALS): .....

CAPACITY: .....

NAME AND ADDRESS OF CONTRACTOR: .....

.....

.....

C1.1.4 OTHER STANDARD FORMS

C1.1.4.1 AGREEMENT IN TERMS OF THE OCCUPATION HEALTH AND SAFETY ACT 1993 (ACT NO. 85 OF 1993), MINE HEALTH AND SAFETY ACT, NO 29 OF 1996, AND ANY OTHER APPLICABLE REGULATIONS FOR THE CONTRACT

This AGREEMENT made at .....

on this the ..... day of ..... in the year .....

between THE SOUTH AFRICAN NATIONAL ROADS AGENCY SOC LIMITED (hereinafter called "the Employer") on the one part, herein represented by .....

in his capacity as .....

and delegate of the Employer in terms of the Employer's standard powers of delegation pursuant to the provisions of Act No. 7 of 1998, and .....

(hereinafter called "the Mandatary") on the other part, herein represented by .....

.....

in his capacity as .....

WHEREAS the Employer is desirous that certain works be constructed, viz. CONTRACT SANRAL N.011-130-2027/1 FORTHE REHABILITATION OF NATIONAL ROUTE N11 SECTION 13 FROM R518 INTERSECTION (km 8,345) TO GROOTSANDSLOOT RIVER (km 24,0)

and has accepted a tender by the Mandatary for the construction, completion & maintenance of such works and has appointed the Mandatary in terms of Regulation 5(1)(k) of the Construction Regulations 2014, and whereas the Employer and the Mandatary have agreed to certain arrangements and procedures to be followed in order to ensure compliance by the Mandatary with the provisions of the Occupational Health and Safety Act 1993 (Act 85 of 1993) Section 37(2);

NOW THEREFORE THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. The Mandatary shall execute the work in accordance with the contract documents pertaining to this contract.

2. This Agreement shall hold good from the Commencement Date, to either:

   a) the date of the Performance Certificate issued in terms of sub-clause 11.9 of the Conditions of Contract for Construction for Building and Engineering Works designed by the Employer (1999) published by Federation Internationale des Ingenieurs-Conseils (FIDIC), as contained in Volume 1 of the contract documents pertaining to this contract, or

   b) the date of termination of the contract in terms of clauses 15, 16 or 19 of the GCC.

3. The Mandatary declares himself to be conversant with the following:

   a) All the requirements, regulations and standards of the Occupational Health and Safety Act (Act 85 of 1993), hereinafter referred to as "The Act", together with its amendments and with special reference to the following Sections of The Act.
      i) Section 8: General duties of employers to their employees.
      ii) Section 9: General duties of employers and self-employed persons to persons other than employees.
      iii) Section 37: Acts or omissions by employees or mandataries and
      iv) Sub-section 37(2) relating to the purpose and meaning of this Agreement.

   b) The procedures and safety rules of the Employer as pertaining to the Mandatary and to all his subcontractors.
   c) The Mines Health and Safety Act (Act 29 of 1996) and Regulations
   d) The Environmental Management Programme pertaining to the operation and,
   e) National Environmental Management Act: Air Quality Act (39/2004); Biodiversity Act (10/2004) and Waste Act and Regulations (59/2008) – Air Quality Act and Regulations -

4. In addition to the requirements of sub-clause 4.8, 6.7 and 17.1 of the GCC and all relevant requirements of Volume 3 of the contract documents pertaining to this contract, the Mandatary agrees to execute all the works forming part of this contract and to operate and utilize all machinery, plant and equipment in accordance with The Act.

5. The Mandatary is responsible for the compliance with the Act by all his subcontractors, whether or not nominated and/or approved by the Employer.

6. The Mandatary warrants that all his and his subcontractors' workmen are covered in terms of the Compensation for Occupational Injuries and Diseases Act 1993, which cover shall remain in force whilst any such workmen are present on site. A current letter of good standing from the Compensation Commissioner to this effect must be produced to the Employer upon signature of the agreement.

7. The Mandatary undertakes to ensure that he and/or his subcontractors will provide a certificate of Public Liability Insurance from a recognised Financial Services Provider for an agreed amount and to cover the expected costs of damages that may be incurred by the Mandatory and / or his subcontractors.

8. The Mandatary undertakes to ensure that he and/or his subcontractors and/or their respective employees will at all times comply with the following conditions:

   a) The Mandatary shall assume the responsibility in terms of Section 16.1 of The Act. The Mandatary shall not delegate any duty in terms of Section 16.2 of The Act without the prior written approval of the Employer. If the Mandatary obtains such approval and delegates any duty in terms of section 16.2 a copy of such written delegation shall immediately be forwarded to the Employer.

   b) All incidents referred to in The Act and the Mines health and Safety Act (29/1996) shall be reported by the Mandatary to the Department of Labour, the Department of Minerals and Energy, the Department of Water and Sanitation, the Department of Forestry, Fisheries and the Environment, as required, as well as to the Employer. The Employer will further be provided with copies of all written documentation relating to any incident.

   c) The Employer hereby obtains an interest in the issue of any formal enquiry conducted in terms of section 32 of The Act , and Regulation 23 of the Mines Health and Safety Act, and into any incident involving the Mandatary and/or his employees and/or its subcontractors.

   d) The Mandatory shall assume the responsibility in terms of Section 2A (3) of the Mines Health and Safety Act (29/1996). The Mandatory shall make all necessary legal appointments as required by the Mines Health and Safety Act and confirm that the persons appointed have the appropriate competence to perform such duties.

   e) The Mandatory shall be required to commit to the health and safety requirements as required by the Mines Health and Safety Act.

   f) The Mandatory shall be required to conduct operations within the requirements of the Environmental Management Programme.

   g) The Mandatory shall be required to report to the Department of Mineral Resources and Energy the necessary reports pertaining to the healthy and safe operation of the mine.

In witness thereof the parties hereto have set their signatures hereon in the presence of the subscribing witnesses:

SIGNED FOR AND ON BEHALF OF EMPLOYER: .....

WITNESS 1: .....

NAME (IN CAPITALS) .....

WITNESS 2: .....

NAME (IN CAPITALS) .....

SIGNED FOR AND ON BEHALF OF THE MANDATARY .....

WITNESS 1: .....

NAME (IN CAPITALS): .....

WITNESS 2: .....

NAME (IN CAPITALS) .....

C1.1.4.2 PERFORMANCE SECURITY - DEMAND GUARANTEE

To:The South African National Roads Agency SOC Limited
PO Box 415
Pretoria
0001

Note to tenderer:
This pro forma is for information only. The successful tenderer's guarantor will need to reproduce the Performance Security without amendment, omission or addition for completion and lodgement with the Employer. A separate copy of this proforma will be issued to the successful tenderer with the letter of acceptance.

CONTRACT SANRAL N.011-130-2027/1
FOR THE REHABILITATION OF NATIONAL ROUTE N11 SECTION 13 FROM R518 INTERSECTION (km 8,345) TO GROOTSANDSLOOT RIVER (km 24,0)

1. I/We , the undersigned, ... and .....

   in our respective capacities as .....

   and .....

   and as such duly authorised to represent: .....
   (hereinafter referred to as "the Guarantor") *in the case of a company, a resolution to be attached*

   do hereby hold at your disposal the amount of .....

   (R……) , for the due fulfilment by .....
   insert the name of Contractor (hereinafter referred to as "**the Contractor**") of its obligations to The South African National Roads Agency SOC Limited (hereinafter referred to as "**SANRAL**") in terms of the above stated contract between the Contractor and SANRAL ("**the Contract**").

2. Notwithstanding anything to the contrary, the Guarantor hereby irrevocably undertakes and agrees to pay SANRAL the maximum sum of **R [●]** (excluding VAT) (the "**Guaranteed Sum**") on receipt of a written demand for payment, signed by an authorised representative of SANRAL whose authority need not be proved for purposes of a demand, stating that the Contractor has failed to comply with its obligations in respect of the Contract and specifying the amount to be paid by the Guarantor to SANRAL. The demand shall be binding on the Guarantor, and the Guarantor shall not be entitled to require SANRAL to establish a claim (or claims) under the guarantee but will pay the sum demanded immediately without any objection.

3. The Guarantor's liability under this guarantee is of a principal nature, unconditional and separately enforceable against the Guarantor, and this guarantee is not subject to the terms of the Contract or any other agreement. The Guarantor's liability hereunder shall not be reduced or in any way be affected by the release, cancellation or alteration of the terms of the Contract, or by any other arrangements between the Contractor and SANRAL other than as expressly contemplated under this guarantee.

4. The Guarantor will pay on demand under this guarantee without reference to the validity of the demand or the correctness or otherwise of the amount demanded up to and including the Guaranteed Sum, without becoming party to any claim or dispute of any nature which any party may allege.

5. Subject to the above and without in anyway detracting from your rights to adopt any of the procedures set out in the contract, the said demand can be made by you at any stage.

6. The Guaranteed Sum, or such portion as may be demanded, may be retained by SANRAL on condition that after completion of the service, as stipulated in the contract, SANRAL shall account to the Guarantor showing how this amount has been utilised, and refund to the Guarantor any balance due.

Proforma

7. This guarantee is neither negotiable nor transferable and:
   a) must be surrendered to the Guarantor at the time when SANRAL accounts to the Guarantor in terms of clause 6 above, or
   b) shall lapse after the Engineer has certified that the Contractor has executed and completed the Works and all defects have been remedied and the Performance Certificate has been issued in terms of the Conditions of Contract and
   c) shall not be interpreted as extending the Guarantor's liability to anything more than payment of the Guaranteed sum, and
   d) any reference in this guarantee to the above Contract/works 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

8. The cancellation of, or any change to the terms and/or conditions of this guarantee, must first be agreed to in writing by SANRAL, the Contractor and the Guarantor.

9. This guarantee shall be governed by South African Law and subject to the jurisdiction of South African Courts.

THUS DONE AND SIGNED AT .....

ON THIS ..... DAY OF ..... 20 .....

GUARANTOR: .....

ADDRESS:

.....

.....

.....

AS WITNESSES: 1 ..... 2 .....

NAMES (PRINT) 1 ..... 2 .....

Proforma

C1.1.4.3(b) FORM OF APPLICATION FOR A PERMIT TO DEPARTMENT OF LABOUR TO DO CONSTRUCTION WORK

CONTRACT SANRAL N.011-130-2027/1
FOR THE REHABILITATION OF NATIONAL ROUTE N11 SECTION 13 FROM R518 INTERSECTION (km 8,345) TO GROOTSANDSLOOT RIVER (km 24,0)

The following is a list of documents required by the Department of Labour to be submitted with the Application for a Construction Work Permit:

	Document to be submitted	***Legal Reference***
1	***Annexure 1 - Application for a permit to do construction work to be submitted by a Pr.CHS Agent or Candidate Pr.CHS Agent.***	***CR 3(1)***
2	***Baseline risk assessment***	***CR 3(5)(a) read with 5(1)(a)***
3	***Site specific health and safety specification (SSHSS)***	***CR 3(5)(a) read with 5(1)(b)***
4	***Proof of appointment of competent CHS Agent on Client letterhead plus proof of registration with SACPCMP. For a Candidate OHS Agent to include mentorship agreement and registration certificates of the mentor and candidate.***	***CR 3(5)(b)(i) read with CR 5(5)***
5	***Proof of receipt of SSHSS by the designer(s) (i.e. letter from designer)***	***CR 3(5)(b)(iii) read with 5(1)(c)***
6	***Approval of designs in accordance with the SSHSS (i.e. letter from designer)***	***CR 3(5)(b)(iii) read with CR 5(1)(d)***
7	***Designer's appointment on Client letterhead outlining duties in terms of CR 6(1) as have been agreed upon***	***CR 3(5)(b)(iii) read with CR 5(1)(e) and 6(1)***
7.1	***Structural Engineers: Appointment Letter plus proof of registration with ECSA***	
7.2	***Construction Monitoring Engineer (if different from Designers): Appointment letter***	***CR 6.1(g), (h) & (i)***
8	***Temporary works designer's appointment duties in terms of CR 6(2) as have been agreed upon plus proof of registration with ECSA***	***CR 3(5)(b)(iii) read with CR 5(1)(e) and 6(2)***
9	***Evidence that the SSHSS was included in the tender documents (Letter from Client confirming OHS Specification was included together with index of tender document reflecting OHS specification and Baseline Risk Assessment)***	***CR 3(5)(b)(iii) read with CR 5(1)(f)***
10	***Evidence that the contractor has made adequate provision for the cost of H&S i.e. Bill of quantities***	***CR 3(5)(b)(iii) read with CR 5(1)(g)***
11	***Evidence that the Principal Contractor has necessary competencies to carry out construction work safely viz. company profile, schedule of activities relevant appointments and proofs of competency (including proof of appointment of the Construction Manager (including CV and registration) and proof of appointment of the Construction Health and Safety Officer (including proof of registration with SACPCMP)***	***CR 5(1)(h)***
12	***Valid Letter(s) of Good Standing for the appointed Principal Contractor(s)***	***CR 3(5)(b)(ii) read with CR 5(1)(j)***
13	***Written appointment(s) of Principal Contractor(s) on Client letterhead including Forms C1.1.4.1 and C1.1.4.9.***	***CR 5(1)(k)***
14	***Principal Contractor's health and safety plan (including Risk Assessment) approved by the CHS Agent***	***CR 5(1)(l)***

Annexure 1

Occupational Health and Safety Act, 1993

(Regulation 3(2) of the Construction Regulations, 2014)

APPLICATION FOR A PERMIT TO DO CONSTRUCTION WORK

This application must be submitted with the following documents:
a) Health and Safety specification
b) Health and Safety plan
c) Baseline risk assessment.

1. Name, postal address and telephone numbers of the client:

   .....

   .....

2. Details of the Agent:

   (a) Title, Surname and Initials: .....

   (b) Identity number / Passport number: .....

   (c) Registration number with SACPCMP: .....

   (d) Office Tel. Number and/or Mobile number: .....

   (e) Postal address: .....

3. Name, postal address and telephone numbers of the appointed principal contractor:

   .....

   .....

4. Name, postal address and telephone numbers of the designer of the project:

   .....

   .....

5. Name, postal address and telephone numbers of the designer of the following persons:

   (a) Construction Manager:

   .....

   (b) Construction Health and Safety Manager:

   .....

   (c) Construction Health and Safety Officer:

   .....

5. Exact physical address of the construction and site office:

.....

.....

7. Nature of construction work:

.....

.....

8. Expected commencement date: .....

9. Expected completion date: .....

10. Estimated maximum number of persons on the construction site:

…… .....

11. Planned number of contractors on the construction site accountable to the principal contractor:

.....

12. Name(s) of contractors appointed:

.....

.....

.....

.....

_____

Signature of Client / Client's Agent

_____

Signature of the Principal Contractor

FOR OFFICE ONLY

Authorization / Unique No.	LABOUR CENTRE	OFFICE APPROVAL STAMP

1. Date of application: .....

2. Submitted documents prescribed in Construction Regulation 5(4) (Please tick ✓):

CR 5(1)(a)		CR 5(1)(b)		CR 5(1); (C-S)	

3. Result of the application (Please tick ✓) ____

Approved		Declined	

4. Reason for declining the application

_____

_____

_____

_____

_____
Signature of the Supervisor

_____
Signature of revoking officer / Inspector

C1.1.4.4(a) FORM OF RETENTION MONEY GUARANTEE

To:

The South African National Roads Agency SOC Limited
PO Box 415
Pretoria
0001

Note to tenderer:
This pro forma is for information only and only applicable if provided for under Clause 14.3. The successful tenderer's guarantor will need to reproduce it without amendment, omission or addition for completion and lodgement with the Employer. A separate copy of this pro forma will be issued to the successful tenderer with the letter of award.

CONTRACT SANRAL N.011-130-2027/1
FOR THE REHABILITATION OF NATIONAL ROUTE N11 SECTION 13 FROM R518 INTERSECTION (km 8,345) TO GROOTSANDSLOOT RIVER (km 24,0)

1. The guarantee is issued on behalf of …… Registration No. …… (hereinafter referred to as "the Contractor") in connection with the above-mentioned contract (hereinafter referred to as "the Contract"). Whereas you have agreed that the Contractor may provide a guarantee in lieu of the retention monies provided for under the Contract.

2. Now therefore we, the undersigned, …….. and …….. Acting in our respective capacities as …….. and …… and being duly authorised to represent ……..*full name of guarantor* registration number …….. (hereinafter referred to as "the Guarantor") undertake to pay you such amounts as you may from time to time demand from us, immediately upon receipt of a written demand from you, which demand may be made by SANRAL if, (in your opinion and at your sole discretion), the said Contractor for any reason fails and/or neglects to complete the services in accordance with the conditions of contract, or if he fails or neglects to refund to SANRAL any amount found to be due and payable to SANRAL, or if his estate is sequestrated or if he surrenders his estate in terms of the Insolvency Law in force within the Republic of South Africa.

3. Each demand shall be in writing and delivered to us via email at ..... or such other address as we shall in writing notify to you.

4. Our liability to make the payments herein referred to shall be unconditional and not be affected or diminished by any disputes, claims or counterclaims between you and the Contractor.

5. Our aggregate liability under this guarantee is limited to R .....

   (..... Rands) (excluding VAT) and is restricted to payment of monies only.

6. This guarantee shall expire on the date on which the last of the retention monies, which but for this guarantee would have been retained by you, becomes payable to the Contractor.

7. This guarantee is neither negotiable nor transferable and must be returned to us against final payment of our aggregate liability or on the date of the expiry of the guarantee in terms of Clause 6 (above), whichever is the earlier.

8. This guarantee shall be governed by South African Law and subject to the jurisdiction of South African Courts.

Signed at ..... for and on behalf of .....

on this the ..... day of ..... in the year .....

Guarantor's signatory (1):

.....

NAME: .....

CAPACITY: .....

.....

.....

Guarantor's signatory (2):

……..

NAME: .....

CAPACITY: .....

.....

.....

C1.1.4.4(b) FORM OF ADVANCE PAYMENT GUARANTEE

To:

The South African National Roads Agency SOC Limited
PO Box 415
Pretoria
0001

Note to tenderer:
This pro forma is for information only and only applicable if provided for under Clause 14.2. The successful tenderer's guarantor will need to reproduce it without amendment, omission or addition for completion and lodgement with the Employer. A separate copy of this pro forma will be issued to the successful tenderer with the letter of award.

CONTRACT SANRAL N.011-130-2027/1
FOR THE REHABILITATION OF NATIONAL ROUTE N11 SECTION 13 FROM R518 INTERSECTION (km 8,345) TO GROOTSANDSLOOT RIVER (km 24,0)

1. We have been informed that …… (hereinafter referred to as "the Contractor") is your contractor under the above-mentioned contract (hereinafter referred to as "the Contract") and wishes to receive an advance payment, for which the Contract requires him to obtain a guarantee.

2. At the request of the Contractor, we, the undersigned …….…….. and …… acting in our respective capacities as …….. and ……., being duly authorised to represent ……. ***insert full name of guarantor*** registration number …….. (hereinafter referred to as the "Guarantor") ***in the case of a company, a resolution to be attached*** hereby irrevocably undertake to pay you, The South African National Roads Agency SOC Limited (hereinafter referred to as "SANRAL"), any sum or sums not exceeding in total the amount of R…… (……***insert amount in words***)(hereinafter referred to as the "Guaranteed Amount"), upon receipt by the Guarantor of a written demand by SANRAL, which demand may be made by SANRAL if, (in the opinion and at the sole discretion of SANRAL), the said Contractor for any reason fails and/or neglects to repay the advance payment in accordance with the conditions of the Contract.

3. Each demand by SANRAL shall be in writing and delivered to the Guarantor via email at ..... or such other address as the Guarantor shall in writing notify to SANRAL. The written demand shall be signed by an authorised representative of SANRAL whose authority need not be proved for purposes of a demand and shall state:
   a) that the Contractor has failed to repay the advance payment in accordance with the conditions of the Contract; and
   b) the amount which the Contractor has failed to repay.

4. This guarantee shall become effective upon receipt of the advance payment by the Contractor.

5. This guarantee shall expire on the date on which the full Advance Payment, has been repaid to SANRAL.

6. The Guarantor's liability under this guarantee is of a principal nature, unconditional and separately enforceable against the Guarantor, and this guarantee is not subject to the terms of the Contract or any other agreement. The Guarantor's liability hereunder shall not be reduced or in any way be affected by the release, cancellation or alteration of the terms of the Contract, or by any other arrangements between the Contractor and SANRAL or diminished by any disputes, claims or counterclaims between SANRAL and the Contractor, other than as expressly contemplated under this guarantee.

7. This guarantee is neither negotiable nor transferable and must be returned to the Guarantor against final payment of the aggregate liability of the Guarantor or on the date of the expiry of the guarantee in terms of Clause 5 (above), whichever is the earlier.

Proforma

8. This guarantee shall be governed by South African Law and subject to the jurisdiction of South African Courts.

Signed at ..... for and on behalf of .....

on this the..... day of ..... in the year .....

Guarantor's signatory (1):	Guarantor's signatory (2):
.....	……..
NAME:	NAME: .....
CAPACITY:	CAPACITY: .....
.....	.....
.....	.....

Proforma

C1.1.4.5 FORM OF BANKING DETAILS

Notes to Contractor:

1. **The Employer applies an Electronic Funds Transfer system for all payments.**
2. **If you are already registered as a vendor with the Employer, you are required to confirm your banking details in the form below but are not required to submit the documentation as per note 3.1 and 3.2.**
3. **If you are not registered as a vendor with the Employer, you are required to supply:**
   - **3.1 a completed SANRAL Vendor Application Form (to be obtained from the relevant SANRAL Project Manager); or**
   - **3.2 an original cancelled cheque bearing your company name and account number; or**
   - **3.3 if you are unable to supply an original cancelled cheque, you are to provide a letter on your letterhead as per the pro forma below and return the original letter to the address as stated in clause 1.3 of C1.2.2 - Information provided by the Employer, delivered by hand or sent by post.**

To:
The South African National Roads Agency SOC Limited
(Limpopo)
12 Dimitri Crescent
Platinum Park
Polokwane, 0700.

Dear Sir

CONTRACT SANRAL N.011-130-2027/1 FOR THE REHABILITATION OF NATIONAL ROUTE N11 SECTION 13 FROM R518 INTERSECTION (km 8,345) TO GROOTSANDSLOOT RIVER (km 24,0)

BANKING DETAILS

By signing this document we accept the following:

- The banking details submitted are those of ~~*Note to SANRAL compiler: insert name of successful contractor*~~ and we take full responsibility for their correctness.
- We indemnify the Employer from any and all outcomes if an electronic transfer is made into an incorrect bank account using the banking details submitted.

Proforma

Account Name: .....

Bank: .....

Branch Name: .....

Branch Code: .....

Account Number:.....

Yours sincerely

.....
Authorised Signatory for
DATE:

C1.1.4.6 TAX COMPLIANCE PERMISSION DECLARATION

SOUTH AFRICAN NATIONAL ROADS AGENCY SOC LIMITED

CONTRACT SANRAL N.011-130-2027/1
FOR THE REHABILITATION OF NATIONAL ROUTE N11 SECTION 13 FROM R518 INTERSECTION (km 8,345) TO GROOTSANDSLOOT RIVER (km 24,0)

Note:
In terms of National Treasury Instruction No 9 of 2017/2018 with reference to the Public Finance Management Act, 1999 (Act No 1 of 1999) and Regulations, the contractor and subcontractors are required to provide the Employer with written confirmation to access the SARS Electronic Tax Compliance Status (TCS) System to verify and continuously track the tax compliance status of all persons conducting business with the State.

The Contractor shall complete the declaration below.

I, ... (name)

the undersigned in my capacity as ..... (position)

on behalf of .....

..... (name of company)

herewith grant consent that SARS may disclose to the South African National Roads Agency SOC Limited (SANRAL) our tax compliance status on an ongoing basis for the contract term.

For this purpose, our unique security personal identification number (PIN) is .....,

our tax reference number is ……..….. and our tax clearance certificate number is .....

In addition, the Contractor shall obtain written consent from each of its subcontractors, undisclosed principals and partners involved in this contract confirming that SARS may, on an ongoing basis during the contract term, disclose the subcontractors' tax compliance status to the Employer. For this purpose, the Contractor shall provide the Employer with the unique security personal identification number (PIN), tax reference number and tax clearance certificate for each of its subcontractors, undisclosed principals and partners involved in this contract.

SIGNATURE: .....

DATE: .....

C1.1.4.7 APPOINTMENT IN TERMS OF SECTION 2A (3) OF THE MINE HEALTH AND SAFETY ACT

CONTRACT SANRAL N.011-130-2027/1
FOR THE REHABILITATION OF NATIONAL ROUTE N11 SECTION 13 FROM R518 INTERSECTION (km 8,345) TO GROOTSANDSLOOT RIVER (km 24,0)

APPOINTMENT IN TERMS OF SECTION 2A (3) OF THE MINE HEALTH AND SAFETY ACT (ACT NO 29 OF 1996) AS AMENDED

I, ...

In my capacity as .....
of the Employer, The South African National Roads Agency SOC Limited, who is the owner of the Mines(s)
hereby appoint .....
of the Contractor who has contracted with the Employer to undertake the above-named contract, to perform all functions entrusted to the Employer by sections 2 and 3 of the Act, as amended.

Without minimizing the total scope of responsibility as a Responsible Person, your duties include but are not limited to the following:

1. Ensure as far as reasonably practicable, that the mine is designed, constructed and equipped to provide conditions for safe operation and healthy working environment.
2. Provide conditions for safe operation and healthy working environment with communication system, electrical, mechanical and other equipment as necessary to achieve those conditions.
3. Ensure as far as reasonably practicable that the mine is commissioned, operated, maintained and decommissioned in such a way that employees can perform their work without endangering the health and safety of themselves or of any other person.

Signed: .....

Date: .....

Witnesses: 1. ..... 2. .....

Name (print) ..... Name (print) .....

I hereby accept the above appointment

Signed: .....

Date: .....

Witnesses: 1. ..... 2. .....

Name (print) ..... Name (print) .....

C1.1.4.8 FORM OF APPOINTMENT AS MINE MANAGER IN TERMS OF SECTION 3.1(a) OF THE MINE HEALTH AND SAFETY ACT (ACT NO. 29 OF 1996) AS AMENDED

Notes to Contractor:

1. **The person appointed by the Employer in terms of section 2A (3) of the above Act, as amended, having accepted the appointment, is required under section 3 of the Act as amended to appoint one or more Managers to be responsible for the day-to-day management and operation of the Mines. The form of appointment, completed and signed, shall be submitted for the approval of the Employer before the Contract is signed.**
2. **An example of a suitable form of appointment follows below. This form is to be replaced by the submitted appointment forms**

I , ...
having been appointed in terms of section 2A (3) of the Act, as amended, to perform all functions entrusted to the Employer by sections 2 and 3 of the Act, as amended, hereby appoint .....
.....
in his capacity as .....
of the Contractor as Mine Manager, who, in terms of section 3.1 (a) of the Act, as amended, will be responsible for the day to day management and operation of the Mine(s).

In terms of this appointment, your attention is drawn to the fact that you are to ensure compliance with the legislation. Without derogating from your general duty in terms of compliance, I would however wish to draw your attention to the following duties taken from the legislation, and assigned to you in terms of Section 7(2):

1. Legal reference: Mine Health and Safety Act, 29 of 1996

The following duties/functions are assigned to you:

In terms of Section 7(2) of the Mine Health and Safety Act, 29 of 1996 you are responsible for compliance with the following functions and provisions which are entrusted to the employer by the Act:

- Sections: 2(1), 5(1) and (2), 6, 7(1)(4) and (5), 8(2) and (3), 9, 10, 11, 12, 13, 14, 15, 17, 19(1), 23(2), 29(4) and 32

- You must also ensure compliance with Chapter 3 of the Mine Health and Safety Act.

2. Legal reference: Minerals Act, 51 of 1991 (Regulations;) – in force in terms of Schedule 4 of the Mine Health and Safety Act, 29 of 1996

The following duties/functions are assigned to you:

- Your attention is specifically directed to the following Regulations:
  Chapters 2, 3, 4, 7, 21 and 22

3. Legal reference: Mine Health and Safety Act, 29 of 1996, Regulations;

The following duties/functions are imposed on/assigned to you:

Your attention is specifically directed to the following Regulations:

- That as far as reasonably practicable, you must provide and maintain a working environment that is safe and without undue risk to the Health & Safety of employees [Section 5(1)]
- The supply of all necessary Health and Safety equipment / facilities to employees and maintain as far as reasonably practicable that equipment and facilities in a serviceable and hygienic condition [Section 6(1)]
- That sufficient quantity of all necessary PPE is available and that employees are instructed in the proper use, the limitations and the appropriate maintenance of that equipment [Section 6(2;3)]
- That persons are appointed to maintain and enhance Health & Safety in the Mine [Section 7]
- That a system is established and maintained to ensure that an employee's training and capabilities are considered in respect of health and safety before a task is assigned to such an employee [Section 7(1)(b)]
- That a system is in place which ensures that work is performed under the general supervision of a person trained to understand the hazards associated with the work and who has the authority

to ensure that the precautionary measures laid down by the employer are implemented [Section 7(1)(e)].

- That the Health and Safety Policy is established and communicated [Section 8]
- That the relevant COPs are prepared and implemented as required by the Chief Inspector [Section 9]
- That all employees are provided with Health and Safety Training [Section 10]
- That safety information is communicated to all levels of staff. [Section 10,19]
- That a system to identify hazards and assessment of risks is implemented and that measures be instituted to eliminate, control and maintain risk [Section 11]
- That all incidents as required by law are recorded, reported and investigated. [Section 11]
- That occupational Hygiene measurements are conducted and documented [Section12]
- That a Medical surveillance program is implemented including the keeping of records/ reports to the Medical Inspector as and when required [Section 13, 14, 15, 16 & 17]
- Take all reasonable measures to ensure the Health and Safety of employees and ensure proper discipline in the workplace.
- That a suitably qualified person is appointed to relieve you if you will be absent from work and if absent for any period longer than 5 days, then a copy of the appointment must be submitted to the office of the DMRE.
- Ensure control over Emergency Procedures.
- Responsible for complying with all Environmental Regulations.
- You will ensure that all contractors performing work activities in your area of responsibility are properly trained and skilled in the services that they provide and that they are appointed in terms of the Act and Regulations.
- Liaise with competent authorities, including but not limited to the Department of Mineral Resources and Energy, Department of Environmental Affairs, and the Department of Water & Sanitation.
- In terms of Section 7.2, I hereby authorise you to appoint any persons to perform any functions as may be prescribed by the MHS Act on my behalf.
- That you must ensure adherence to the Environmental Management Programme for the mine in connection with the requirements of the following but are not limited to:
    - Mineral and Petroleum Development Act, Act 28 of 2002 and Regulations
    - National Water Act, Act 36 of 1998
    - Atmospheric Pollution Prevention Act 45 of 1965
    - National Environmental Management Act 107 of 1998
    - National Environmental: Air Quality Act, Act No. 39 of 2004
    - National Environmental Management: Waste Act, Act No. 59 of 2008
    - National Environmental: Biodiversity Act, Act No. 10 of 2004

Signed: .....

Date: .....

Witnesses: 1. ..... 2. .....

Name (print) ..... Name (print) .....

Proforma

I hereby accept the above appointment

Signed: .....

Date: .....

Witnesses: 1. ..... 2. .....

Name (print) ..... Name (print) .....

C1.1.4.9 APPOINTMENT OF PRINCIPAL CONTRACTOR IN TERMS OF SECTION 5.1(k) OF THE CONSTRUCTION REGULATIONS, 2014 INCORPORATED IN THE OCCUPATIONAL HEALTH AND SAFETY ACT, ACT 85 OF 1993

APPOINTMENT OF PRINCIPAL CONTRACTOR BY CLIENT (EMPLOYER)

This AGREEMENT made at .....

on this the ..... day of ..... in the year .....

between THE SOUTH AFRICAN NATIONAL ROADS AGENCY SOC LIMITED (hereinafter called "the Client") on the one part, herein represented by .....

in his/her capacity as .....

and delegate of the Client in terms of the Client's standard powers of delegation pursuant to the provisions of Act No. 7 of 1998, and .....

(hereinafter called "the Principal Contractor") on the other part, herein represented by .....

.....

in his capacity as .....

WHEREAS the Client is desirous that certain works be constructed, viz. CONTRACT SANRAL SANRAL N.011-130-2027/1 FOR THE REHABILITATION OF NATIONAL ROUTE N11 SECTION 13 FROM R518 INTERSECTION (km 8,345) TO GROOTSANDSLOOT RIVER (km 24,0) and has accepted a tender by the Principal Contractor for the construction, completion & maintenance of the works.

NOW THEREFORE THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. The Principal Contractor shall execute the work in accordance with the contract documents pertaining to this contract.

2. This Agreement shall hold good from the Commencement Date, to either:
   (i) the date of the Performance Certificate issued in terms of sub-clause 11.9 of the Conditions of Contract for Construction for Building and Engineering Works designed by the Employer (1999) published by Federation Internationale des Ingenieurs-Conseils (FIDIC), as contained in Volume 1 of the contract documents pertaining to this contract, or
   (ii) the date of termination of the contract in terms of clauses 15, 16 or 19 of the GCC.

3. The Principal Contractor declares himself to be conversant with all the requirements and standards of the Occupational Health and Safety Act (Act 85 of 1993) together with its amendments and incorporated Regulations, hereinafter referred to as "The Act", and with special reference to the Construction Regulation Section 7: Duties of Principal Contractor and Contractor.

4. The Principal Contractor is responsible for the compliance with the Act by all his subcontractors and suppliers when entering the construction site, whether or not nominated and/or approved by the Client.

5. The Principal Contractor warrants that all his and his subcontractors' workmen are covered in terms of the Compensation for Occupational Injuries and Diseases Act 1993, which cover shall remain in force whilst any such workmen are present on site. A letter of good standing from the Compensation Commissioner to this effect must be produced to the Employer upon signature of the agreement.

6. The Principal Contractor warrant that adequate provision has been made for the cost of health and safety measures during the execution of the project, and that sufficient resources (including competent personnel) are available to carry out the construction work safely.

7. The Principal Contractor warrants that that the Employer/Client has carried out his duties in terms of Construction Regulation 5.1(a)(b)(f):

(i) Section 5.1(a): A baseline risk assessment for the intended construction work was prepared by the client and included in the tender documentation.

(ii) Section 5.1(b) & (f): A suitable, sufficiently documented and coherent site-specific health and safety specification for the intended construction work based on the baseline risk assessment was included in the tender documentation.

In witness thereof the parties hereto have set their signatures hereon in the presence of the subscribing witnesses:

SIGNED FOR AND ON BEHALF OF EMPLOYER: .....

WITNESS 1: .....

NAME (IN CAPITALS) .....

WITNESS 2: .....

NAME (IN CAPITALS) .....

SIGNED FOR AND ON BEHALF OF THE PRINCIPAL CONTRACTOR.....

WITNESS 1: .....

NAME (IN CAPITALS): .....

WITNESS 2: .....

NAME (IN CAPITALS) .....

C1.2 CONTRACT DATA

C1.2.1 CONDITIONS OF CONTRACT

Note to tenderer:

1. The Conditions of Contract for Construction (1999 edition) published by the Federation Internationale des Ingenieurs-Conseils (FIDIC), as amended, shall apply to this contract. The amendments are those published by FIDIC and reproduced hereafter, together with additional amendments (particular conditions of contract) as prescribed by the South African National Roads Agency SOC Limited

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PART A: GENERAL CONDITIONS - FIDIC AMENDMENTS

Up to OCTOBER 2026 the following amendments have been issued by FIDIC.

ERRATA to the First Edition, 1999

The following significant errata are corrected in this reprinting of the First Edition of the Construction Contract. Several minor typographical errors and layout irregularities have also been corrected.

GENERAL PROVISIONS

Foreword	In figure "Typical sequence of Payment Events envisaged in Clause 14", change "14.11 Contractor issues Final Statement ..." to "Contractor submits Final Statement ...".
Page 2	In the middle of the third line of Sub-Clause 1.1.2.9, delete "under".
Page 26	In the title of Sub-Clause 8.1, substitute "Works" for "Work".
Page 56	In the penultimate line, delete the parentheses "(" and ")".
Page 60	Sub-Clause 20.3, in the line following sub-paragraph (d), delete "Particular Conditions" and substitute "Appendix to Tender".
Page 68	In the third line of Clause 9, delete the two words "notice to".

GUIDANCE FOR THE PREPARATION OF PARTICULAR CONDITIONS

Page 14	Under Sub-Clause 14.9, delete "EXEMPTION" and substitute "RETENTION".
Annexes	Delete "© FIDIC".

PART B: PARTICULAR CONDITIONS OF CONTRACT

The following amendments are the South African National Road Agency SOC Limited's standard amendments to the FIDIC General Conditions and shall apply to this contract.

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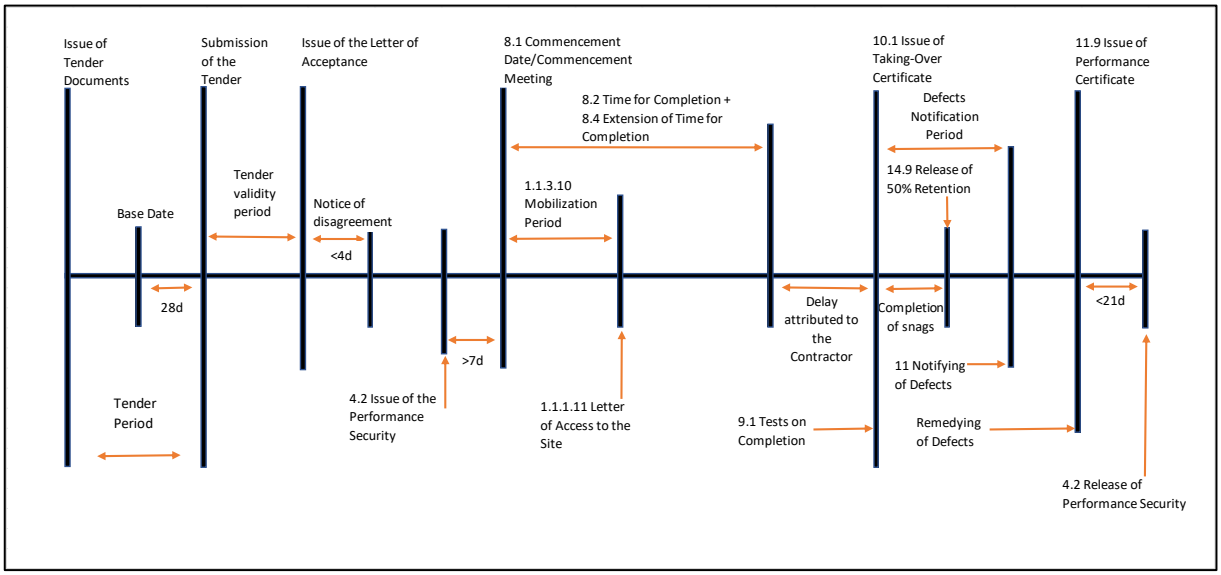
PARTICULAR CONDITIONS AMENDING THE GENERAL CONDITIONS OF FIDIC

FOREWORD

Replace the illustrative chart titled "Typical sequence of Principal Events during Contracts for Construction" with the following illustrative chart as a clarification of the sequence of the Contract activities as amended in this Particular Conditions:

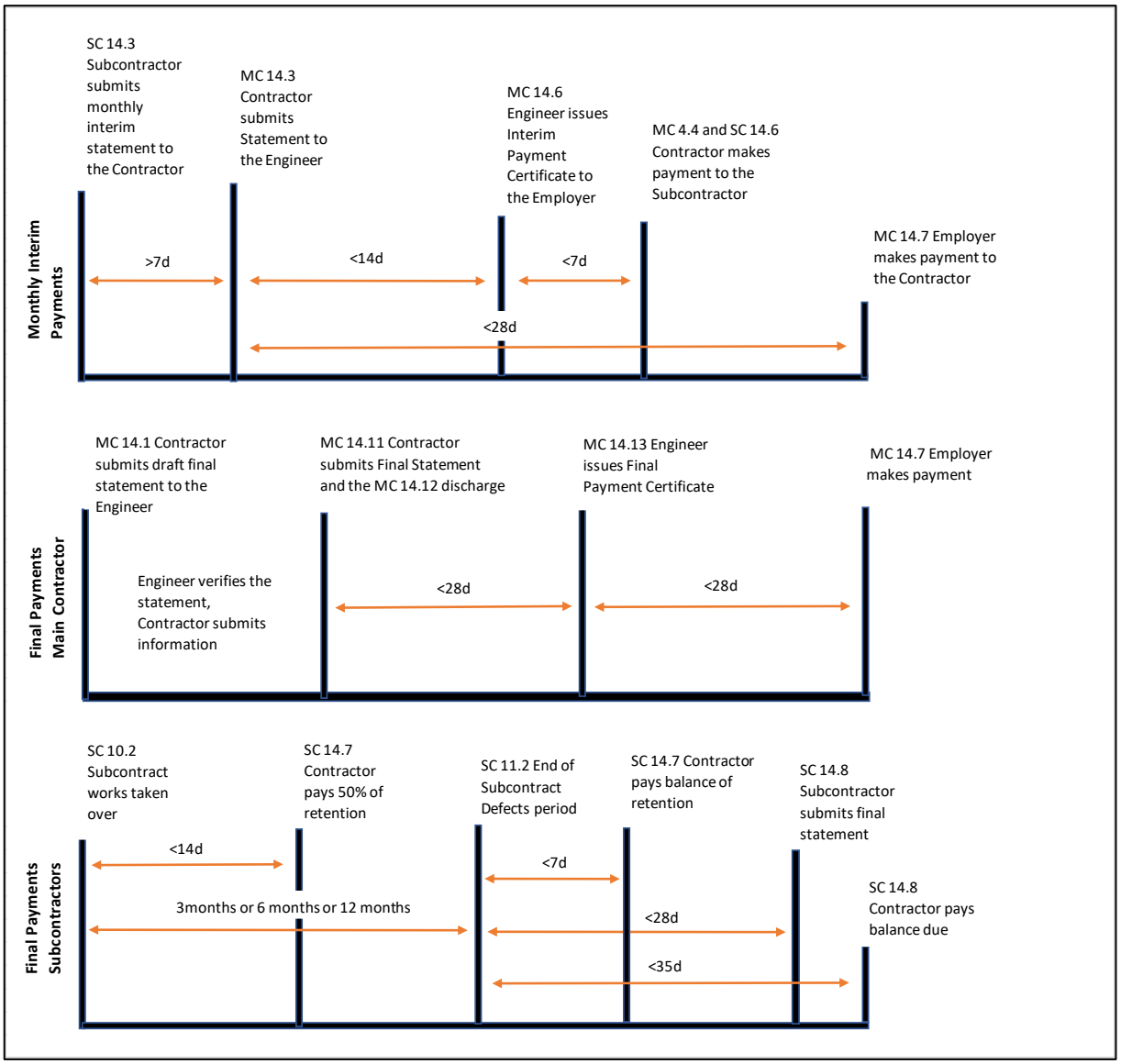
"



Typical sequence of Principal Events during Contracts for Construction as amended"

Replace the illustrative chart titled "Typical sequence of Payment Events envisaged in Clause 14" with the following illustrative chart as a clarification of the Payment Events for the Main Contractor and Subcontractors as amended in this Particular Conditions:

"



Typical sequence of Payment Envisaged in Clause 4.4 and Clause 14 as amended"

1.1 Definitions

1.1.1 The Contract

Replace 1.1.1.1 with:

" "**Contract**" means the Form of Offer and Acceptance, Contract Data, these Conditions, the Specifications, the Drawings, the Schedules, and the further documents (if any), which are listed in the Form of Offer and Acceptance, and further includes drawings and documents or parts thereof, which any of the aforesaid documents incorporate by reference."

Replace 1.1.1.3 with:

" "**Letter of Acceptance**" means the Form of Acceptance as contained in part C1.1.2 of the contract documents."

Replace 1.1.1.4 with:

" "**Letter of Tender**" means the Form of Offer as contained in part C.1.1.1 of the contract document."

Replace 1.1.1.5 with:

“ “**Specification**” means the document entitled Scope of Work, as included in the Contract, and any additions and modifications to the Scope of Work in accordance with the Contract. Such document specifies the Works.”

Replace 1.1.1.7 with:

“ “**Schedules**” means the document(s) completed by the Contractor and submitted with his tender offer, as included in the Contract. Such document(s) may include the Bill of Quantities, data lists and schedules of rates and/or prices.”

Replace 1.1.1.8 with:

" "**Tender**" means that section of the Form of Offer and Acceptance called 'Offer' and all other documents which the Contractor submitted as Returnable Documents, as included in the Contract."

Replace 1.1.1.9 with:

" "**Appendix to Tender**" means the completed section in Part C1 entitled C1.2.2 Contract Data – Information provided by the Employer included in the Contract Data:"

1.1.1.10 - Add the following:

" "**Bill of Quantities**" shall also mean the Pricing Schedule as contained in Part C2 section C2.2 of the contract document."

Add the following:

"1.1.1.11 "**Letter of Access to the Site**" means a letter issued by the Employer giving the Contractor right of access to the Site in accordance with Sub-Clause 2.1 [Right of Access to the Site]"

1.1.2 **Parties and Persons**

Add the following:

"1.1.2.11 "**Targeted Enterprise**" means an enterprise defined in Section D of Part C3 Scope of Work."

1.1.3 **Dates, Tests, Periods and Completions**

Replace 1.1.3.9 with:

"A "**day**" means a calendar day, except if otherwise indicated in the contract. A "**year**" means 365 calendar days".

Add the following:

"1.1.3.10 "**Mobilisation Period**" means the period between the Commencement Date and the date of Access to Site as defined in Clause D1002.01(m) in the Scope of Works (Part C3): Section D1000. The requirements of the Mobilisation Period is specified in the Scope of Works (Part C3): Section D1000: Stakeholder and Community Liaison, and Targeted Labour and Targeted Enterprises Utilisation and Development".

1.1.4 **Money and Payments**

Replace 1.1.4.3 with:

" "**Cost**" (unless otherwise indicated) means all expenditure reasonably incurred (or to be incurred) by the Contractor, whether on or off the Site, including overhead and similar charges, but does not include profit. However, where an extension of time for completion is determined, and Cost is payable, then Cost means the amount calculated in accordance with Clause A20.1 in Part C.1.2.2 – Contract Data."

1.3 Communications

Add the following before the last paragraph:

"However, such notice, instruction, consent or request is not deemed to have been delivered by virtue of its appearance in the minutes of meetings."

1.5 Priority of Documents

Insert the following at the end of the 1st paragraph before the colon:

"… unless specifically stated otherwise in the contract:".

Replace sub-paragraphs items (a) to (h) with:

"(a) the Forms of Offer and Acceptance
(b) the Appendix to Tender within the Contract data
(c) the Particular Conditions of Contract
(d) the General Conditions
(e) the project Specifications (Scope of Works (Part C3))
(f) the project Drawings,
(g) the Employer's typical Drawings
(h) the standard Specifications,
(i) the Bill of Quantities (Pricing Data (Part C2)); and
(j) the Schedules and any other documents forming part of the Contract."

1.6 Contract Agreement

Replace the 1st two sentences with the following:

"The Parties shall enter into a Contract Agreement when the Employer issues the Form of Acceptance (see Particular Condition 1.1.1.3). The Contract Agreement shall be in the form prescribed in the tender documents"

1.8 Care and Supply of Documents

In the 1st paragraph, 2nd line, change "two copies" to "one copy".

In the 2nd paragraph, 3rd line, change "six" to "two".

1.11 Contractor's Use of Employer's Documents

At the end of the 1st sentence add:

"as well as any research, innovation, industry cutting edge technology and any form of trials undertaken as part of the Contract."

1.14 Joint and Several Liability

In sub-clause (c), add the following at the end:

"This shall include the composition utilised to obtain the Joint Venture B-BBEE status level as submitted at time of tender."

2.1 Right of Access to the Site

At the end of the 1st paragraph add:

"In addition to the Performance Security, there are conditions pertaining to Permits from the Department of Labour, and to the requirements of the Mobilisation Period, which may result in access to the site being withheld as stated in the Form of Acceptance. Delayed access to part(s) of the Site is as stated in the Appendix to Tender."

2.5 Employer's Claims

Add the following at the end of the 1st paragraph:

*"*In addition, notice and particulars is not required for payments due under Sub-Clause 8.7 *[Delay Damages]."*

3.1 Engineer's Duties and Authority

After the 3rd paragraph insert the following:

"In addition to the actions stipulated in the General Conditions whereby the Engineer shall first obtain the approval of the Employer, the Employer's approval shall also be obtained before taking any action under Sub-Clauses 8.1, 10.1, 11.9, 13.1 (excluding request for a proposal), 13.2 and 13.3 as amended in these Particular Conditions, as well as before instructing the Contractor to suspend progress of all of

the Works under sub-clause 8.8 [Suspension of Work] as well as before acceptance of reduced payment for substandard work as per Clause C1.1.3.9 [Reduced payments for substandard work] of the project Specifications."

Add the following new sixth paragraph:

"If the Engineer is a legal entity, a natural person employed by the Engineer and approved by the Employer shall be appointed and authorised to act as the Engineer under the Contract."

3.5 Determinations

Add the following at the end of the 1st paragraph:

"The Engineer shall act impartially when making these determinations."

4.1 Contractor's General Obligations

Add the following sentence below the 4th paragraph:

"With regard to the Contractor's proposals submitted under the item of the Scope of Works titled "Section D: Stakeholder and Community Liaison and Targeted Labour and Targeted Enterprise utilisation and development", if the Contractor fails to provide the employment or training to the extent proposed, the Employer may impose penalties as set out in the above-mentioned Scope of Works."

Add the following as a final paragraph:

"The Contractor shall obtain Mining Authorisation for all sites where mining activities, as defined in the Mines Health and Safety Act (Act 29 of 1996) as amended, are to be conducted and shall assume responsibility for the Environmental Management Plan (EMP) in respect of the site(s) and shall ensure that the site(s) is/are rehabilitated at the conclusion of the contract."

In sub-clause (c), add the following after ".. as are specified in the Contract*" :*

"(or, where no purpose(s) are so defined and described, fit for their ordinary purpose(s))"

4.2 Performance Security

Delete the 2nd paragraph and replace with the following:

"The Contractor shall deliver the Performance Security (as stated in the Appendix to Tender) to the Employer at least 7 days prior to the Commencement Date and shall send a copy to the Engineer. The Performance Security shall be issued by an insurance company duly registered in terms of the Insurance Act (Long Term Insurance Act No 52 of 1998 or Short Term Insurance Act No 53 of 1998) or by a bank duly registered in terms of the Banks Act (No 94 of 1990) and approved by the Employer and having an office or banking facility in the Republic of South Africa. The Performance Security shall be subject to approval by the Employer and shall be in the form prescribed in the tender documents or in another form approved by the Employer."

Delete the last sentence of the 3rd paragraph without replacement.

Delete the 4th paragraph and replace with the following:

"The Employer shall not make a claim under the Performance Security, except for amounts to which the Employer is entitled under the Contract."

Delete the last paragraph and replace with the following:

*"*The Employer shall return the Performance Security (as stated in the Appendix to Tender) within 21 days after issuing the Performance Certificate."

4.4 Subcontractors

In the 1st paragraph delete the phrase "the whole of the Works" *and replace with* "more than the percentage of the Works as stated in the Appendix to Tender without the express approval of the Employer".

Add the following after the 1st paragraph:

"Where reference is made to subcontractors, suppliers, service providers, Targeted Enterprises, or agents in the Contract, they are deemed as to be Subcontractors, unless specifically indicated otherwise."

Replace sub-clause (d) with the following:

"(d) the Contractor shall enter into a written subcontract agreement with the Subcontractor, based on the standard FIDIC subcontract agreement (version 2011), where applicable. Each subcontract shall include provisions which would entitle the Employer to require the subcontract to be assigned to the Employer under Sub-Clause 4.5 [assignment of Benefit of subcontract] (if or when applicable) or in the event of termination under Sub-Clause 15.2 [Termination by Employer];

Add the following sub-clauses:

"(e) the subcontract agreement with a Targeted Enterprise shall be the Employer's proforma tender and contract document for Targeted Enterprise sub-contracting based on the standard FIDIC subcontract agreement (version 2011) and shall include the provisions of sub-clause (d);

(f) if the Contractor is required to employ one or more Targeted Enterprises, then the provisions of Sub-Clause 5.4 [*Evidence of Payments*] shall apply as if such Targeted Enterprises are Nominated Subcontractors;

(g) the Targeted Enterprise shall invoice the Contractor for the work completed, without any deduction for plant, equipment, materials or fuel supplied by the Contractor. Any assistance that the Contractor may have made to the Targeted Enterprise that requires recovery from the Targeted Enterprise, will be reflected in a credit note issued by the Targeted Enterprises. No mark-up for supply of plant, equipment, materials or fuel supplied by the Contractor, shall be allowed or included in the credit note;

(h) the Contractor shall make payment to the Subcontractors within 7days after the date on which the Engineer has issued the Main Contractor's Payment Certificate;

(i) the Contractor shall disclose all subcontracting arrangements;

(j) the total retention money held for all Subcontractors shall not exceed the maximum value of the retention money as specified under Sub-Clause 14.3(c) and shall be held pro-rata per subcontractor;

(k) the total value of retention money held from Targeted Enterprises shall not exceed 5 percent of the tendered CPG value (for Targeted Enterprises);

(l) 50% of the retention money held for each Subcontractor shall be released on completion of the subcontract works. The remainder of the Subcontractor's retention money shall be released when a Subcontractor's work does not show any defect within 12 (twelve) months after the completion of the subcontract. However, the Subcontractor's retention money may be withheld but only if the Performance Certificate is unable to be issued because of defective workmanship attributable to the Subcontractor;

(m) no performance security shall be required for Targeted Enterprises;

(n) penalties for Subcontractors shall be limited to 10% of the accepted subcontract amount;

(o) all Subcontractors shall be registered on the National Treasury's Central Supplier Database (CSD);

(p) all Subcontractors shall be in good standing in terms of COIDA and shall (where applicable) be registered with the Bargaining Council for the Civil Engineering Industry (Government Notice R.490 – Part III contained in Government Gazette No. 37750) or other relevant Bargaining Council;

(q) all Subcontractors (where applicable) shall be registered with the CIDB in the appropriate category for the class of work to be performed;

(r) where portions of an item of work with a tendered rate (and not the whole priced item) are sublet to Targeted Enterprises, payments will be made from the portion of the tendered rate and not be made under the allowance for CIDB 1 and 2 under Section D1000."

Add the following after the 2nd paragraph:

"If the Contractor fails to disclose all subcontracting agreements, or fails to comply with the requirements of this clause he shall be given 14 days to make representation as to why:

(i) the Contract shall not be terminated;

(ii) the Contractor shall not be penalised up to 10% of the value of the Contract."

4.7 Setting Out

Amend the 2nd line of the 2nd paragraph to read:

"… reference, provided that the Contractor shall provide proof of their inaccuracy before they are used."

4.10 Site Data

In the 1st paragraph, 1st sentence, replace "prior to the Base Date" *with* "either as part of or by reference in the Tender Documents or, otherwise, not later than 7 days before the latest date for submission of the Tender Documents", *and delete the 2nd sentence*.

4.17 Contractor's Equipment

Add the following paragraphs:

"The Contractor shall notify the Engineer, in writing, of the names and addresses of the owners of all major items of equipment not owned by the Contractor."

4.19 Electricity, Water and Gas

In the 1st paragraph, 1st line, delete "except as stated below", *and delete the 2nd and 3rd paragraphs*.

4.21 Progress Reports

In the 1st paragraph, 2nd line, delete "in six copies".

Add the following at the end of the 3rd paragraph:

"(i) Comparison of estimated final Contract Price and the accepted offer amount as stated in the Form of Acceptance, with details of any events or circumstances which may result in the accepted offer amount to be exceeded, and the measures being (or to be) adopted to prevent this (if any).

(j) SHE audits, SHE incidents, traffic accidents, Environmental management report, training, empowerment, capacity building, small contractor development, labour and staff employment and any such aspects (extracted from the Employer's Integrated Transportation Information System (ITIS)), training plan, communication plan, media information, site memos, drawings issued, mix designs, work authorisations, daywork, programme, sub-standard work, cashflow and expenditure, claims, risk report and penalties.

(k) The South African Road Design System (SARDS) platform and updated Construction Quality Assurance module report."

4.22 Security of the Site

Replace the fullstop at the end of subclause (b) with a comma and continue this clause as follows:

"and authorised utility or service owners whom the Employer or the Engineer identifies as having also been authorised. Without said notice, the Contractor may refuse access to such utility or service owners."

4.24 Fossils

In the 1st paragraph, 1st sentence after "fossils" *insert* "and graves" *and in the 2nd sentence, add* "and shall indemnify the Employer against any liability arising from such loss or damage."

5.4 Evidence of Payments

*Add "*or Targeted Enterprise*" after "*nominated Subcontractor*" in the whole sub-clause where the term "*nominated Subcontractor*" appears.*

Delete the last sentence of the last paragraph and replace with the following:
"The Employer shall set-off the amounts the Employer directly paid to each nominated Subcontractor or Targeted Enterprise, by deducting from the Payment Certificate issued, these amounts, or if not so deducted, the Contractor shall then repay, to the Employer, the amount which the nominated Subcontractor or Targeted Enterprise was directly paid by the Employer."

6.1 Engagement of Staff and Labour

Add the following:

"Transport of labour shall be arranged through the use of local public transport service providers."

6.2 Rates of Wages and Conditions of Labour

Add the following:

"The conditions as stated in the Appendix to Tender shall also apply."

6.5 Working Hours

Replace the 1st sentence with the following:

"No work shall be carried out on Site on any special non-working day or within the non-working hours of any day as stated in the Appendix to Tender, unless:"

6.7 Health and Safety

In the 1st paragraph delete the 2nd sentence.

Add the following as a new 4th paragraph:

"The Contractor and his Subcontractors shall be in good standing in terms of the Compensation for Occupational Injuries and Disease Act (COIDA) and have a letter as proof.

Add the following as a new 5th paragraph:

"The Contractor shall also comply to the requirements of the Scope of Works titled: Section E: Requirements of the Occupational Health and Safety Act and Regulations."

6.9 Contractor's Personnel

Add the following after the 1st sentence in the 1st paragraph:

"The number of black people employed full-time by the Contractor on site and who are not paid an hourly wage, shall exceed the minimum percentage as stated in the Appendix to Tender."

Add the following new subparagraphs to the 1st paragraph:

"(e) is found, based on reasonable evidence, to have engaged in corrupt, fraudulent, collusive or coercive practice; or
(f) has been recruited from the Employer's Personnel in breach of sub-clause 6.3 [Persons in the Service of Employer]."

Add the following as a final paragraph:

"The requirements for key personnel as stated in the Appendix to Tender shall also apply for the duration of the contract."

7.5 Rejection

Add the following in the 1st paragraph in the 1st sentence after ".. found to be defective*":*

"(or, where not so defined and described, fit for their ordinary purpose(s))"

7.6 Remedial Work

Add the following to sub-clause (a) before the full stop:

"(or, where not so defined and described, fit for their ordinary purpose(s))"

Add the following to sub-clause (b) before the full stop:

"(or, where not so defined and described, fit for their ordinary purpose(s))"

8.1 Commencement of Work

Delete the 1st paragraph and replace with "The Commencement Date shall be as stated in the Form of Acceptance."

In the 2nd line of the 2nd paragraph, after the words "Commencement Date", *insert* "but within the period stated in the Appendix to Tender."

8.3 Programme

Delete the contents in its entirety and replace with the following:

"The Contractor shall submit a programme for the Mobilisation Period to the Engineer at least 7 days prior to the Commencement Date. This programme shall be prepared using programming software stated in the Specification (if not stated, the programming software acceptable to the Engineer). The Mobilisation Period programme shall include (but not limited to):

(a) the Commencement Date and the period for Mobilisation
(b) all Mobilisation Period activities and key deliverables (as stated in Section D1000 of the Specification), logically linked and showing the earliest and latest start and finish dates for each activity, the float, and the critical path(s);
(c) all activities and key deliverables (other than stated in Section D1000 of the Specification) such as pertaining to Permits from the Department of Labour, required for access to the site to be obtained.

The Contractor shall submit an initial programme for the execution of the Works to the Engineer within 28 days after the Commencement Date. This programme shall be prepared using programming software stated in the Specification (if not stated, the programming software acceptable to the Engineer). The Contractor shall incorporate the Mobilisation Period programme into the initial programme. The Contractor shall submit an updated programme that accurately reflects the actual progress of the Works, every month. The Contractor shall submit a revised programme whenever instructed to do so by the Engineer, or when the current Programme becomes inconsistent with the Contractor's contractual obligations or with the Contractor's stated intentions to execute the work.

The initial programme and each revised programme shall be submitted to the Engineer in one paper copy, one electronic copy and additional paper copies (if any) as stated in the Appendix to Tender, and shall include (but not limited to):

(a) the Commencement Date and the Time for Completion, of the Works and of each Section (if any);
(b) the date right of access to and possession of (each part of) the Site is to be given to the Contractor in accordance with the time (or times) stated in the Appendix to Tender. If not so stated, the dates the Contractor requires the Employer to give right of access to and possession of (each part of) the Site;
(c) the order in which the Contractor intends to carry out the Works, including the anticipated timing of each stage of design (if any), preparation and submission of Contractor's Documents, procurement, manufacture, inspection, delivery to Site, construction, erection, installation, work to be undertaken by any nominated Subcontractor (as defined in Sub-Clause 5.1) [*Nominated Subcontractors*] and testing;
(d) the Review periods for any submissions or mix designs stated in the Specification or required under these Conditions;
(e) the sequence and timing of inspections and tests specified in, or required by, the Contract;

(f) for a revised programme: the sequence and timing of the remedial work (if any) to which the Engineer has given a notice to the Contractor under Sub-Clause 7.5 [Rejection] and/or the remedial work (if any) instructed under Sub-Clause 7.6 [Remedial Work];
(g) all activities (to the level of detail stated in the Specification), logically linked and showing the earliest and latest start and finish dates for each activity, the float, and the critical path(s);
(h) the dates of all locally recognized days of rest and holiday periods and special non-working days defined in the Appendix to Tender (if any);
(i) all key delivery dates of Plant and Materials;
(j) for a revised programme and for each activity: the actual progress to date, any delay to such progress and the effects of such delay on other activities (if any);
(k) the expected delays as specified in the specification, resulting from inclement weather, as a terminal float;
(l) embargo hours and days as specified in the specifications and Appendix to Tender;
(m) any restricted working conditions as specified in the specifications and Appendix to Tender;
(n) requirements of the EMP and OHS; and
(o) a support report which includes:
    (i) a description of all the major stages of the execution of the Works;
    (ii) a general description of the methods which the Contractor intends to adopt in the execution of the Works;
    (iii) details showing the Contractor's reasonable estimate of the number of each class of Contractor's Personnel, and Sub-contractors, and of each type of Contractor's Equipment, required on the Site, for each major stage of the execution of the Works;
    (iv) the forecast cashflow within the defined contract period relative to the programme;
    (v) if a revised programme, identification of any significant change(s) to the previous programme submitted by the Contractor; and
    (vi) the Contractor's proposals to overcome the effects of any delay(s) on progress of the Works.

The Engineer shall Review the initial programme and each revised programme submitted by the Contractor and may give a Notice to the Contractor stating the extent to which it does not comply with the Contract or ceases to reflect actual progress or is otherwise inconsistent with the Contractor's obligations. If the Engineer gives no such Notice:
- within 21 days after receiving the initial programme; or
- within 14 days after receiving a revised programme,

the initial programme or revised programme (as the case may be) shall be the Programme.

The Contractor shall proceed in accordance with the Programme, subject to the Contractor's other obligations under the Contract. The Employer's Personnel shall be entitled to rely on the Programme when planning their activities.

Nothing in any programme, the Programme or any supporting report shall be taken as, or relieve the Contractor of any obligation to give, a Notice under the Contract.

Each Party shall advise the other and the Engineer, and the Engineer shall advise the Parties, in advance of any known or probable future events or circumstances which may adversely affect the work; adversely affect the performance of the Works when completed; increase the Contract Price; and/or delay the execution of the Works or a Section (if any).

The Engineer may request the Contractor to submit a proposal under Sub-Clause 13.3 [Variation Procedure] to avoid or minimise the effects of such event(s) or circumstance(s)."

8.4 Extension of Time for Completion

In the 1st paragraph after "… will be delayed by any of the following causes*" add "*and all float (except for inclement weather provision) has been utilised".

Amend sub sub clause (c) to the following:

"(c) exceptionally adverse climatic conditions, which for the purpose of these Conditions shall mean an adverse climatic event at the Site which are exceptional having regard to climatic data made available by the Employer and/or climatic data published in the Country for the geographical location of the Site, and calculated as stated in the Appendix to Tender,"

Add the following new sub sub clause (f):

"(f) rain delays in terms of the Specification Data Clause A1.2.3.4 [*Extension of time for delays caused by rainfall*]. Claim for rain delays shall not be subject to Sub-Clause 20.1 [*Contractor's Claims*]. The Cost payable for extension of time due to rain delays, shall be the amount calculated in accordance with Clause A20.1 in part C.1.2.2 Contract Data."

Add the following as a 3rd paragraph:

"If a delay caused by a matter which is the Employer's responsibility is concurrent (that is the effect of the events are felt at the same time) with a delay caused by a matter which is the Contractor's responsibility, the Contractor's entitlement to Extension of Time shall be assessed after taking into account any contribution to the delay caused by a matter which is the Contractor's responsibility and the Contractor shall only be entitled to Extension of Time if the Employer delay exceeds the Contractor delay."

8.7 Delay Damages

Change the marginal heading of this clause to read "Delay Damages and Other Non-compliance Charges" *and insert the following as a 1st paragraph to this clause:*

"Delay damages (or Penalties in terms of the Conventional Penalties Act, 1962), and other payments to the Employer for late delivery, failure to achieve intra-programme due dates or non-compliance events shall apply as follows:"

*Number the existing two paragraphs as subclause (a) and in the 1st sentence of the 1st paragraph of subclause (a), delete "*subject to Sub-Clause 2.5 *[Employer's Claims]" and at the end of the 1st paragraph of subclause (a); add "The delay damages shall be paid monthly and the 1st payment shall be made within 30 days after the Contractor failed to comply with Sub-clause 8.2 [Time for Completion]".*

Add the following subclause relating to other non-compliance charges:

"(b) If the Contractor fails to comply with the requirements detailed in the Specification regarding duration of accommodation of traffic closures, meeting intra-programme dates, Accommodation of Traffic restrictions during the Contractor's annual shutdown period, Accommodation of Traffic requirements, overloading, Contract Participation Targets, Contract Skills Developments Goals Targets, subcontracting, quality of work, submission of information and performance criteria, the Contractor shall pay non-compliance charges to the Employer for this default. These non-compliance charges shall be calculated at the rates stated in the Appendix to Tender, which shall be applied for each incident of non-compliance or period of non-compliance.

These non-compliance charges shall be the only charges due from the Contractor for such default, other than in the event of termination under Sub-Clause 15.2 [*Termination by Employer*] prior to completion of the Works. These charges shall not relieve the Contractor from his obligation to complete the Works, or from any other duties, obligations or responsibilities which he may have under the Contract."

9.4 Failure to Pass Tests on Completion

*Add the following in the 1st paragraph in the 1st sentence after "*If the works, or a Section,*":*

"is defective (or, where not so defined and described, fit for their ordinary purpose(s)), or"

10.1 Taking Over of the Works and Sections

Add the following to the end of the 2nd paragraph:

"Notwithstanding that there might be natural or programmed sections of the works that will result in them being completed in their entirety before other sections, no consideration shall be given to the issuing of Taking-Over Certificates for parts or sections of the works. The use of any completed roadway, section or parts of the work, whether for unhindered use by the public or for accommodation of traffic while other parts are being constructed, shall not constitute use or occupation by the Employer. The notice to the Engineer, shall include the Contractor's own list of what it considers to be the minor outstanding works that do not substantially affect the use of the Works. As justification that the issue of a Taking-Over Certificate is warranted the Contractor shall take note that the following activities are to be completed to the satisfaction of the Engineer, and shall not be considered to be minor outstanding work:

(i) The wearing course, gravel, seals, asphalt or concrete pavement;

(ii) All above-ground and subsoil drainage structures;
(iii) All fencing;
(iv) The finishing-off of medians and slopes of cuts and fills;
(v) All the necessary road signs and road-surface marking and road studs;
(vi) All guardrails;
(vii) All structures;
(viii) All lighting (street or area);
(ix) The finishing-off of all borrowpits; and
(x) The estimated cost to complete the listed outstanding work is less than 2% of the tendered value of work plus the cost of any variation or extra work orders, but excluding CPA and VAT.
(xi) The written lists of outstanding items of work can be completed within 28 days of the lists having been issued.
(xii) Any information in the Contractor's possession, which is required by the Engineer and has been requested in writing, has been supplied.
(xiii) The Department of Mineral Resources (DMR) (or its successor) has issued written confirmation to the Contractor that they are satisfied with the final shaping to all quarries, borrow pits, stockpile areas, and spoil sites used or intended to be used under this contract. In the event this written confirmation is not obtained from DMR, acceptance by the Environmental Assessment Practitioner (EAP) will be sufficient for the issuing of the Taking-Over Certificate.
(xiv) The Contractor has supplied reasonable evidence that all the labourers have been paid and Subcontractors have received all amounts due in terms of the subcontract agreement provisions, and all Targeted Enterprise Declaration Affidavits as well as a final contract compliance training report and final CPG report, have been submitted."

10.2 Taking Over of Parts of the Works

Delete the 2nd paragraph.

Between the 3rd and 4th paragraphs insert the following paragraph:

"The Employer may make use of any part of the Permanent Works prior to the issue of a Taking-Over Certificate."

Delete the 5th paragraph.

11.2 Cost of Remedying Defects

Add the following in sub-clause (b) after ".. in accordance with the Contract*":*

"or is defective (or, where not so defined and described, fit for their ordinary purpose(s)),"

11.8 Contractor to Search

Add the following after the 1st sentence:

"The programme, methods of investigation, involvement of specialists and estimated cost, for the search for the cause of the defect, shall be determined under the direction of the Engineer in consultation with the Employer and Contractor. The work required to undertake the search shall commence within 28 days of the need for the search being notified to the Contractor (or as otherwise agreed). The method to search for the cause of the defect and the report to be submitted, shall be performed and compiled in terms of the Employer's Framework for Forensic Investigation guideline document, and international best practise. On completion and submission of the Report, the Engineer shall determine in accordance with Clause 3.5 the responsibility and liability for rectifying the defect. The Engineer shall also determine the scope of the remedial measures to be carried out to ensure that the completed work meets the requirements of the Contract."

11.9 Performance Certificate

In the 1st paragraph, 2nd line and in the 2nd paragraph, 1st line, replace the word "Engineer" *with* "Employer".

Delete the last sentence of the 2nd paragraph.

11.11 Clearance of Site

Replace the 1st paragraph with the following:

"With the exception of Plant, Materials and Contractor's Equipment required to complete any outstanding work or to remedy defects or damage as notified by, or on behalf of, the Employer and which Plant, Materials and Contractor's Equipment have been agreed by the Engineer and the Contractor, the Contractor shall, upon receipt of the Taking-Over Certificate, remove all Contractor's Equipment and surplus material, wreckage, rubbish and Temporary Works, from the Site unless otherwise instructed by the Engineer."

In the 2nd paragraph, replace "after the Employer receives a copy of the Performance Certificate" *with* "after the issue of the Taking-Over Certificate".

12.3 Evaluation

Replace the 2nd sentence of the 2nd paragraph with the following:

"However a new rate or price shall be appropriate for an item of work only if notice has been given and if ..."

In sub-paragraph (a)(iv) replace the word "Contract" *with* "Appendix to Tender".

13.1 Right to Vary

Add the following after the 1st paragraph:

"The Engineer shall obtain the approval of the Employer prior to issuing an instruction to execute a Variation with a Cost or Time for Completion effect.

Each instruction issued by the Engineer to the Contractor to execute a Variation, unless the Variation is to be executed on a Daywork basis, shall be a written instruction presented in the form of a Works Authorisation (WA). The Works Authorisation Form (WAF) shall be presented by the Engineer to the Employer, who shall signify his approval (if the Variation has a Cost or Time for Completion effect) before the order is signed by the Engineer and issued to the Contractor, who shall acknowledge his acceptance by signing the order. The Contractor shall not accept a Works Authorisation with a Cost or Time for Completion effect that is not approved and signed by the Employer

If the Contractor considers that an instruction constitutes a Variation, the Contractor shall immediately, and before commencing any work related to an instruction, give a notice to the Engineer with reasons. If the Engineer does not respond within seven days confirming, revoking or varying the instruction, the Engineer shall be deemed to have revoked the instruction."

13.2 Value Engineering

Add the following after the 2nd paragraph:

"The Engineer shall obtain the approval of the Employer prior to approving the proposal.

Each approval by the Engineer shall be a written instruction presented in the form of a Works Authorisation (WA). The Works Authorisation Form (WAF) shall be presented by the Engineer to the Employer, who shall signify his approval before the order is signed by the Engineer and issued to the Contractor, who shall acknowledge his acceptance by signing the order. The Contractor shall not accept a Works Authorisation that is not approved and signed by the Employer."

13.3 Variation Procedure

Add the following after the 3rd paragraph:

"The Engineer shall obtain the approval of the Employer prior to issuing an instruction to execute a Variation with a Cost or Time for Completion effect.

Each instruction issued by the Engineer to the Contractor to execute a Variation, unless the Variation is to be executed on a Daywork basis, shall be a written instruction presented in the form of a Works Authorisation (WA). The Works Authorisation Form (WAF) shall be presented by the Engineer to the

Employer, who shall signify his approval (if the Variation has a Cost or Time for Completion effect) before the order is signed by the Engineer and issued to the Contractor, who shall acknowledge his acceptance by signing the order. The Contractor shall not accept a Works Authorisation with a Cost or Time for Completion effect that is not approved and signed by the Employer

If the Contractor considers that an instruction constitutes a Variation, the Contractor shall immediately, and before commencing any work related to an instruction, give a notice to the Engineer with reasons. If the Engineer does not respond within seven days confirming, revoking or varying the instruction, the Engineer shall be deemed to have revoked the instruction."

13.5 Provisional Sums

In the 1st paragraph, add the following to the end (and part of) the 2nd sentence ", and no mark-up shall be payable on a Provisional Sum, unless otherwise indicated."

In the 1st line of sub-paragraph (b) after "services" *insert* "and including items for which a prime cost sum has been provided in the Bill of Quantities".

Add the following after the last paragraph:

"The Contractor and Engineer shall follow the procedure as specified in the Specification for each Provisional Sum and Prime Cost Sum, prior to any work being performed under a Provisional Sum or Prime Cost Sum."

13.8 Adjustments for Changes in Costs

Delete from the 3rd sentence of the 3rd paragraph until the end of the sub-clause and substitute:

"The formula shall be as follows:

$$Pt = (1 - x) [(a\ Lt/Lo) + (b\ Et/Eo) + (c\ Mt/Mo) + (d\ Ft/Fo) - 1]$$

where:

"Pt" is the adjustment multiplier, rounded to the sixth decimal place, to be applied to the estimated contract value of the work carried out in period "t", this period being a month unless otherwise stated in the Appendix to Tender;

"x" is a fixed coefficient, stated in the relevant table of adjustment data, representing the non-adjustable portion in contractual payments;

"a", "b", "c" and "d" are coefficients representing the estimated proportion of each cost element related to the execution of the Works, as stated in the relevant table of adjustment data; such tabulated cost elements may be indicative of resources such as labour (L), equipment (E), materials (M) and fuel (F);

"Lt", "Et", "Mt" and "Ft" are the current cost indices for period "t", each of which is applicable to the relevant tabulated cost element on the last day of the period (to which the particular Payment Certificate relates); and

"Lo", "Eo", "Mo" and "Fo" are the base cost indices, each of which is applicable to the relevant tabulated cost element on the Base Date.

The base cost indices stated in the table of adjustment data shall be used. If their source is in doubt, it shall be determined by the Engineer.

Until such time as each current cost index is available, the Engineer shall determine a provisional index for the issue of Interim Payment Certificates. When a current cost index is available, the adjustment shall be recalculated accordingly.

If more than one month intervenes between the month applicable to any Interim Payment Certificate and the month applicable to the immediately succeeding Interim Payment Certificate, then the cost indices "Lt", "Et", "Mt" and "Ft" applicable to the succeeding Interim Payment Certificate shall each be taken as the arithmetic mean, rounded off to one decimal place, of the relevant indices applicable to the month of measurement and to such intervening months.

The value of the relevant Interim Payment Certificate to which the adjustment is to be applied shall be determined by the formula:

$$Ac = T – S – R – G – Ap$$

where:

"Ac" is the value of work carried out in period "t" to which the adjustment is to be applied;

"T" is the summation of the total value of the preliminary and general items, and other scheduled items of work done, as certified in the Interim Payment Certificate under consideration (including 100% of Materials on site and extra work and new rates all de-escalated to the Base Date of the indices) without any deduction whatsoever and before any adjustment made in terms of this Sub-Clause.

"S" is the aggregate of (i), (ii) and (iii), referred to below, and included in "T" where special arrangements for price adjustments in respect of these amounts were made and recorded at the time the work was ordered:
(i) the amounts actually expended and substituted for any prime cost sums,
(ii) the value of any work done by Nominated Subcontractors, and
(iii) the value of any work done against Provisional Sums,

"R" is the value of reduced payments.

"G" is the amount included in "T" for Materials classified and dealt with as Special Materials.

"Ap" is the summation of all "Ac" amounts determined for all Payment Certificates preceding in time the Payment Certificate under consideration.

Save only for Variations ordered to be carried out after the Time for Completion has expired, the Contract Price adjustment factor to be applied to certificates relating to work done or materials supplied after the expiry of the Time for Completion shall be calculated by inserting in the formula referred to in this Sub-Clause the cost indices Lt, Et, Mt and Ft applicable either (i) 49 days prior to the date of expiry of the Time for Completion, or (ii) for the current month: whichever is more favourable to the Employer.

Special Materials

The price of each Special Material specified in the Appendix to Tender shall be increased or decreased by the net amount of any change in price incurred after the Base Date, provided that any claim for adjustment in terms hereof shall be substantiated by the submission of acceptable invoices, letters from the supplier and any other supporting documents which the Engineer considers necessary for that purpose. However, except for Variations ordered in terms of Clause 13 [*Variations and Adjustments*] all adjustments after expiry of the Time for Completion shall be based on the price of each Special Material either (i) 49 days prior to the date of expiry of the Time for Completion, or (ii) for the current month: whichever is more favourable to the Employer.

For the purpose of this Sub-Clause, "the net amount of any change in price" in respect of a particular Material referred to as a Special Material, shall be calculated by multiplying the difference between the rate or price from the supplier entered in the Contract by the Contractor for that Special Material in Form B2: *Schedule of Special Materials* and the equivalent rate or price paid to the supplier for the Special Material by the quantity of the Special Material in question.

For the purpose of this Sub-Clause, a "supplier" is as specified in the Appendix to Tender. A change of supplier from that indicated in Form B2: *Schedule of Special Materials*, may be permitted, but only upon application to the Engineer with the appropriate letters from the supplier, and approval thereof.

For the purpose of this Sub-Clause "letters from the supplier" to substantiate any claim for adjustment of the price of a particular Material referred to as a Special Material, shall comply with the following requirements:
- the supplier's company registration and address details; and
- the product range available including information from where the product's Special Material base components are obtained; and
- the base component type and content for each product; and

- the supply price (excluding VAT and any discounts but including all other obligatory taxes and levies) to the contractor for the base material content of each product; and
- the date from which the supply prices apply.

Non-disclosure of reduction in supply prices shall be deemed a Contractor's deliberate action to defraud the Employer and grounds for the Employer, at its sole discretion, to terminate the Contract."

14.1 The Contract Price

Add the following new clause (e):

"(e) the Contractor shall submit to the Engineer at least 7 days prior to the Commencement Date a full breakdown of all rates. The Engineer may take account of the breakdown when evaluating claims and making Determinations."

14.2 Advance Payment

In the 3rd paragraph delete the last two sentences starting with "(ii)" and replace with the following:

"(ii) a guarantee in the amount equal to the advance payment. This guarantee shall be issued by an insurance company duly registered in terms of the Insurance Act (Long Term Insurance Act No 52 of 1998 or Short Term Insurance Act No 53 of 1998) or by a bank duly registered in terms of the Banks Act (No 94 of 1990) and approved by the Employer and having an office or banking facility in the Republic of South Africa. The guarantee shall be subject to approval by the Employer and shall be in the form prescribed in the tender documents or in another form approved by the Employer."

Delete the 4th paragraph and replace with the following:

"The Contractor shall ensure that the guarantee is valid and enforceable until the advance payment has been repaid."

In the 5th paragraph add the following to the end of sub-clause (b):

"Deductions in excess of the above may be made, if so selected by the contractor."

14.3 Application for Interim Payment Certificates

In the 1st line of the 1st paragraph, delete "in six copies."

In the 4th line of the 1st paragraph, change "the report" *to* "reports."

In the 2nd paragraph, sub-paragraph (c), after "above amounts" *insert* "and 80% of the value of Materials on Site"

Add the following as a final paragraph:

"If, as stated in the Appendix to Tender, a Retention Money Guarantee is permitted and the Contractor elects to furnish it, the guarantee shall be issued by an insurance company duly registered in terms of the Insurance Act (Long Term Insurance Act No 52 of 1998 or Short Term Insurance Act No 53 of 1998) or by a bank duly registered in terms of the Banks Act (No 94 of 1990) and approved by the Employer and having an office or banking facility in the Republic of South Africa. The guarantee shall be subject to approval by the Employer and shall be in the form prescribed in the tender documents or in another form approved by the Employer..

The aggregate liability under the guarantee shall be the maximum amount of retention monies to be retained by the Employer, which amount shall be as stated in the Appendix to Tender.

Other conditions, if any, additional to the above standard conditions shall be as stated in the Appendix to Tender.

The guarantee shall expire on the date on which the last of the retention monies (which, but for the guarantee, would have been retained by the Employer) becomes payable to the Contractor.

The guarantee shall be returned to the guarantor upon final payment of the aggregate liability or on the date of expiry, whichever is the earlier."

14.5 Plant and Materials intended for the Works

In the 1st paragraph delete "If this Sub-Clause applies".

In the 1st paragraph, after the words, "… sent to the Site for incorporation in the Permanent Works," *add* "or if so agreed in writing by the Employer, Plant and Materials intended for incorporation in the Permanent Works and stored at places other than the Site, and clearly demarcated and identified it as the Employer's property,"

Delete the 2nd paragraph.

In the existing 3rd paragraph add under sub-paragraph (a):

"(iii) ensured that the relevant Plant and Materials have been delivered to and are properly stored on the Site, are protected against, loss, damage, deterioration, and appear to be in accordance with the Contract; and

(iv) provided proof of ownership of the Plant and Materials; and

(v) for Plant and Materials kept off-site, clearly demarcated and identified it as the Employer's property."

In the existing 3rd paragraph, delete sub-paragraphs (b) and (c)

14.6 Issue of Interim Payment Certificates

In the 2nd line of the 1st paragraph replace "28" *with* "14".

Add the following new sentences at the end of the 1st paragraph:

"No Interim Payment Certificate will be issued or paid unless the monthly progress reports in accordance with amended Sub-Clause 4.21 [*Progress Reports*] are submitted, and all the supporting documents are submitted. After the Engineer has certified the Interim Payment Certificate, the Contractor shall issue a tax invoice to accompany the certified Interim Payment Certificate."

14.7 Payment

In sub-paragraphs (b) and (c) of the 1st paragraph replace "56" *with* "28".

In sub-paragraphs (b) of the 1st paragraph replace "supporting documents" *with* "all supporting documents required in terms of the Contract;"

Delete the 2nd paragraph.

14.8 Delayed Payment

Replace the 2nd paragraph with the following:

"These financing charges shall be calculated at the simple annual rate of two percentage points above the prime lending rate of the South African Reserve Bank.".

In the 3rd paragraph, replace "… entitled to this payment without formal notice *…" with the following:*

"… entitled to this payment with formal notice …"

14.9 Payment of Retention Money

In the 1st sentence of the 1st paragraph, after the word "Works", add the following:

"and all outstanding work and defects as stated in the Taking-Over Certificate have been completed"

14.10 Statement at Completion

In the 2nd line of the 1st paragraph delete "six" and replace with "three".

14.11 Application for Final Payment Certificate

In the 2nd line of the 1st paragraph delete "six" and replace with "three".

15.1 Notice to Correct

Add the following at the end of the paragraph:

"The Notice to correct shall:
(a) describe the Contractor's failure;
(b) state the Sub-clause and/or provisions of the Contract under which the Contractor has the obligation; and
(c) specify the time within which the Contractor shall remedy the failure, which shall be reasonable, taking due regard of the nature of the failure and the work and/or other action required to remedy it.

After receiving a Notice to Correct the Contractor shall immediately respond by giving a Notice to the Engineer describing the measures the Contractor will take to remedy the failure and stating the date on which such measures will be commenced in order with the time specified in the Notice to correct.

The time specified in the Notice to Correct shall not imply any extension of Time for Completion."

15.2 Termination by the Employer

In the 1st paragraph replace the 1st sentence with the following:

"The Employer shall be entitled to give a Notice to Terminate to the Contractor of the Employer's intention to terminate the Contract or, in the case of sub-paragraph e), f), g), h) or i) below, a Notice of Termination and to assert all legal recourse available to it, if the Contractor:"

In sub-paragraph (d), after the words "…the required agreement," *add the following* "fails to disclose its subcontractor agreements,"

In sub-paragraph (e), after the words "… or carries on business under a receiver," *add the following* "or under a business rescue practitioner,"

Delete the word "or" *at the end of sub-paragraph (e) and replace sub-paragraph (f) with the following*:

"(f) gives or has given, offers to give or has offered to give (directly or indirectly) to any person any bribe, gift, gratuity, commission or other thing of value, as an inducement or reward:
  (i) for doing or forbearing to do any action in relation to the Contract or any other contract with the Employer or State Department or Organ of State, or
  (ii) for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other contract with the Employer or State Department or Organ of State,

  or if any of the Contractor's Personnel, agents or Subcontractors gives or has given, offers to give or has offered to give (directly or indirectly) to any person any such inducement or reward as is described in this sub-paragraph (f). However, lawful inducements and rewards to Contractor's Personnel shall not entitle termination,"

Add the following sub-paragraphs:

"(g) misrepresented, whether innocently, negligently or fraudulently, the true facts requested in the tender documents;

(h) acts in such a way, on this contract or any other contract with the Employer, that a statute relating to the combating of fraud, corruption, uncompetitive practice and the like can be invoked; or

(i) any of its directors are found guilty by a Court of Law on the counts of fraud charges against them"

Replace the 2nd paragraph with the following:

"Unless the Contractor remedies the matter described in the Notice to Terminate above within 14 days of receiving the Notice to Terminate, the Employer may by giving a Notice of Termination to the

Contractor immediately terminate the Contract. The date of termination shall be the date stated in the Notice of Termination.

In the case of sub-paragraph e), f), g) h) or i) the Employer may by giving a Notice of Termination, immediately terminate the Contract and the date of termination shall be the date of the Notice of Termination."

17.1 Indemnities

In the 1st paragraph delete "and" *at the end of sub-paragraph (b)(i).*

Delete the full stop at the end of sub-paragraph (b)(ii) and substitute "," *and insert the following sub-paragraphs:*

"(c) the loss of output and delay caused by the slowing down or partial or total stoppage of work caused by:
  (i) all or any of the Contractor's Personnel or ex-Personnel as a result of a dispute between all or any of the Contractor's Personnel or dismissed Contractor's Personnel and the Contractor, or all or any of the Subcontractor's Personnel and the Subcontractor, and
  (ii) all or any of the Contractor's Suppliers' difficulty or impossibility to deliver goods or materials needed to perform the Works,

(d) any unlawful, riotous or disorderly conduct by or amongst the Contractor's Personnel or dismissed Contractor's Personnel,

(e) any liability for damage incurred to, or loss of, property within the site identified in the contract documents as not belonging to the Employer regardless of whether or not such damage or loss is caused by the Contractor's equipment,

(f) all damages, losses and expenses (including legal fees and expenses) resulting from the loss of output and delay caused by the slowing down or partial or total stoppage of work caused by:
  (i) all or any of the Contractor's workforce (or dismissed Contractor's Personnel) as a result of a dispute between all or any of the Contractor's Personnel (or dismissed contractor's Personnel) and the Contractor; or
  (ii) all or any of the Contractor's suppliers' difficulty or impossibility to deliver goods or materials needed to perform the Works, and

(g) harm or damage to the environment caused in the performance of the Works."

(h) The Contractor hereby indemnifies and holds blameless the Employer against any and all losses that may be incurred by the Employer as Owner of the Mine(s) as a result of any act or omission by the Contractor, its employees or subcontractors in contravention of the Mines Health and Safety Act, 1996 (Act No 29 of 1996), as amended."

Add the following final paragraphs:

"To the extent, if any, that the Contractor is responsible for the design of part of the Permanent Works under Sub-Clause 4.1 [*Contractor's General Obligations*], and/or any other design under the Contract, the Contractor shall also indemnify and hold harmless the Employer against all acts, error or omissions by the Contractor in carrying out the Contractor's design obligations that result in the Works (or Section or Part or major item of Plant, if any), when completed, not being fit for the purpose(s) for which they are intended under Sub-Clause 4.1 [*Contractor's General Obligations*].

The Contractor shall indemnify the Employer against any liability for physical damage incurred to, or loss of, property within the Site identified in the Contract as not belonging to the Employer regardless of whether or not such damage or loss is caused by the Contractor's equipment."

17.4 Consequences of Employer's Risks

*In the 1st sentence of the 2nd paragraph, insert "*to the Works, Good or Contractor's Documents*" after the word "*damage*".*

17.6 Limitation of liability

In the 3rd line of the 1st paragraph delete the remainder of the sentence after the comma and substitute:

"other than as specifically provided for in Sub-Clause 8.7 [*Delay Damages*]; Sub-Clause 11.2 [*Cost of Remedying Defects*]; Sub-Clause 12.5 [*Non-compliance Damages*]**;** Sub-Clause 15.4 [*Payment after Termination*]; Sub-Clause 16.4 [*Payment on Termination*]; Sub-Clause 17.1 [*Indemnities*]; Sub-Clause

17.4 [*Consequences of Employer's Risks*] and Sub-Clause 17.5 [*Intellectual and Industrial Property Rights*]."

18.2 Insurance for Works and Contractor's Equipment

In the 4th paragraph, delete the wording of sub-paragraph (d) and replace with the following:

"(d) shall also cover loss or damage to a part of the Works which is attributable to the use or occupation by the Employer of another part of the Works, and loss or damage from the risks listed in sub-paragraphs (g) and (h) of Sub-Clause 17.3 [*Employer's Risks*], and shall include insurance with the South African Special Risks Insurance Association (SASRIA) that cover loss or damage from the risks listed in sub-paragraph (c) of Sub-Clause 17.3 [*Employer's Risks*], and"

19.1 Definition of Force Majeure

In the 3rd line of sub-paragraph 19.1(iii) insert "or suppliers," *after the word* "Subcontractors".

19.3 Duty to Minimise Delay

Insert the following after the 1st paragraph:

"If, the Contractor is prevented from performing any of his obligations under the Contract by Force Majeure events of the kind listed in clause 19.1 sub-paragraph (iii), the Contractor shall use the following reasonable endeavours to minimise any delay:

(a) engage with the persons responsible for the riot, commotion, disorder, strike or lockout; and meet with the persons or leaders; and record the persons or leaders details, their grievances, the organisations involved, all threats made; and request the persons or leaders to cease all unlawful conduct;
(b) obtain proof of the riot, commotion, disorder, strike or lockout, and of any unlawful conduct;
(c) report all threats and unlawful conduct to the South African Police Service;
(d) bring an urgent application to the court on an ex parte basis that correctly identify the respondents and define the unlawful conduct to be interdicted; and
(e) exhaust all available legal remedies to ensure that the court order is enforced."

19.4 Consequences of Force Majeure

Insert the following in the 1st sentence of the 1st paragraph after ".. notice has been given under Sub-Clause 19.2 *[Notice of force Majeure]"*:

"and all reasonable endeavours to minimise any delay used under Sub-Clause 19.3 [Duty to Minimise Delay]".

19.5 Force Majeure Affecting Subcontractor

Amend the title to read "Force Majeure Affecting Subcontractor and supplier".

In the 1st line insert "or supplier" *after the word* "Subcontractor"

20.1 Contractor's Claims

Insert the following prior to the 1st paragraph:

"Where any period stated within clause 20.1, 20.2, 20.3 or 20.4 falls over the annual shut-down period between December and January, then an additional 28 days is to be added to the period stated."

*Insert the following in the 2nd paragraph after "*28 days*"*:

"….. and (a) there are no circumstances which justify such failure; or (b) the Employer suffers material prejudice as a result of such failure …"

Insert the following at the end of the 5th paragraph:

"The Time for Completion shall not be extended, and the Contractor shall not be entitled to additional payment, and the Employer shall be discharged from all liability in connection with the claim, in the event

that the Contractor fails to submit a fully detailed claim within 42 days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as approved by the Engineer, and (a) there are no circumstances which justify such failure; or (b) the Employer suffers material prejudice as a result of such failure,
and in the event of the claim having a continuing effect; (a) fails to submit monthly interim claims; or (b) fails to submit a final claim within the 28 days after the end of the effects resulting from the event or circumstance; and (a) there are no circumstances which justify such failure; or (b) the Employer suffers material prejudice as a result of such failure."

*In the 1st sentence in the 6th paragraph, add "*fully detailed*" before the wording "*claim or any further particulars*…" and add "*or (in the event of a claim with a continuing effect) within 42 days after receiving the fully detailed interim claim,*" before the wording "*or within such other period as may be proposed by the Engineer …*"*

Insert the following after the 6th paragraph:

"If the Engineer does not respond within the timeframe defined in this Sub-Clause, the claim is deemed to be disapproved by the Engineer. If a Party wants to dispute the Engineer's approval or disapproval, the Party shall notify the other Party of its intention to dispute within 56 days after the timeframe has expired. If the other Party is not notified within the required period or within such other period as may be proposed by the one Party and approved by the other Party, the Parties shall be deemed to have agreed with the Engineer's approval or disapproval and the Parties shall have no further claim regarding the same event or circumstance."

Insert the following as the beginning of the 8th paragraph:

"Within the period of 42 days defined in the 6th paragraph or (in the event of a claim with a continuing effect) within 42 days from receiving the final claim, or within such other period as may be proposed by the Engineer and approved by the Contractor, ..."

20.2 Appointment of the Dispute Adjudication Board

In the 2nd paragraph, replace the full stop at the end of the 1st sentence with a comma and add the following:

", each of whom shall be fluent in the language for communication defined in the Contract and shall comply to the requirements as Stated in the Appendix to Tender."

20.3 Failure to Agree Dispute Adjudication Board

In the 1st paragraph under b), insert a comma after the trailing bracket and insert the following:

"...), or fails to approve a member nominated by the other Party,"

20.4 Obtaining Dispute Adjudication Board's Decision

Add the following three new paragraphs before the 1st paragraph:

"If the Parties so agree, and there is a standing DAB, they may jointly request (in writing, with a copy to the Engineer) the DAB to provide assistance and/or informally discuss and attempt to resolve any issue or disagreement that may have arisen between them during the performance of the Contract. If the DAB becomes aware of an issue or disagreement, it may invite the Parties to make such a joint request.

Such joint request may be made at any time, except during the period that the Engineer is carrying out his/her duties under Sub-Clause 3.5 [*Determination*] on the matter at issue or in disagreement unless the Parties agree otherwise.

Such informal assistance may take place during any meeting, site visit or otherwise. However, unless the Parties agree otherwise, both Parties shall be present at such discussions. The Parties are not bound to act on any advice given during such informal meetings, and the DAB shall not be bound in any future dispute resolution process, or decision by any views or advice given during the informal assistance, whether provided orally or in writing."

Add the following after the 1st paragraph:

"If a Party wants to dispute the Engineer's Determination given in accordance with Sub-Clause 3.5 [Determinations], the Party shall notify the other Party of its intention to dispute within 56 days of the Engineer's Determination. If the other Party is not notified within this period or within such other period as may be proposed by the one Party and approved by the other Party, the Parties shall be deemed to have agreed with the Engineer's Determination and the Parties have no further right to dispute the Determination.

If there is a DAB appointed, the dispute details and supporting information shall be submitted to the DAB within 84 days after the Engineer has made the Determination. If the dispute details and supporting information is not submitted within this period or within such other period as may be proposed by the one Party and approved by the other Party, it shall be deemed that the DAB gave a decision supporting the Engineer's Determination.

If there is no DAB appointed, the Parties shall proceed to appoint a DAB in terms of Sub-Clause 20.2 [*Appointment of the Dispute Adjudication Board*]. The dispute details and supporting information shall be submitted to the DAB within 56 days after the DAB is appointed. If the dispute details and supporting information is not submitted within this period or within such other period as may be proposed by the one Party and approved by the other Party, it shall be deemed that the DAB gave a decision supporting the Engineer's Determination."

*In the 1st sentence of the 4th paragraph, after "*84 days after receiving such reference*", add the following:*

"or for disputes on the Engineer's Determination, after receiving full details and supporting information,"

20.5 Amicable Settlement

*In the 1st and 2nd sentence, replace the word "*arbitration*" with "*litigation*"*

20.6 Arbitration

Replace this Sub-Clause with the following:

"**20.6 Litigation**

Unless settled amicably, any dispute in respect of which the DAB's decision (if any) has not become final and binding shall be settled by litigation in the High Court having jurisdiction over the dispute.

Unless otherwise agreed by both Parties:

(a) nothing herein contained shall deprive the Contractor of the right to institute immediate court proceedings in respect of failure by the Employer to pay the amount of a payment certificate on its due date or to refund any amount of retention money on its due date for refund,

(b) nothing shall disqualify the Engineer from being called as a witness and giving evidence before the court on any matter whatsoever relevant to the dispute concerned, and

(c) the court shall have full power to open up, review, and revise any determination, decision, order, instruction, certificate or valuation of the Engineer, and any decision of the DAB, relevant to the dispute."

20.7 Failure to comply with Dispute Adjudication Boards' Decision

*Replace "*arbitration*" in the last paragraph with "*litigation"

20.8 Expiry of Dispute Adjudication Board's Appointment

*Replace "*arbitration*" in subparagraph (b) with "*litigation"

APPENDIX General Conditions of Dispute Adjudication Agreement

Add the following as a 1st paragraph:

"The "Dispute Adjudication Agreement" shall be in the form of the Dispute Adjudication Agreement contained in the Appendix to Part C4 of the Specifications, and the Conditions of the Dispute Adjudication Agreement contained in the Appendix to Part C4 of the Specifications, shall apply."

Annex PROCEDURAL RULES

Add the following as a 1st paragraph:

"The Procedural Rules as contained in the Dispute Adjudication Agreement contained in the Appendix to Part C4 of the Specifications, shall apply."

C1.2.2 APPENDIX TO TENDER: CONTRACT DATA - INFORMATION PROVIDED BY THE EMPLOYER

Notes to tenderer:

1. This form is the equivalent of the Appendix to Tender as defined in Sub-Clause 1.1.1.9 of the FIDIC Conditions of Contract.

2 Clause numbers (Cl. No.) refer to the FIDIC Conditions of Contract. The prefix A refers to an amendment to these conditions.

Item	***Cl No***	***Data***
Employer	1.1.2.2	means the South African National Roads Agency SOC Limited instituted in terms of the South African National Roads Agency Limited and National Roads Act (Act No. 7 of 1998) or a person delegated by the South African National Roads Agency SOC Limited to act on its behalf. The Employer's address is: The South African National Roads Agency SOC Limited 48 Tambotie Avenue Val De Grace Pretoria, 0184
Engineer	1.1.2.4	means TBA The engineer's address to be used for this contract is *Physical address*: TBA *Postal address:* TBA *Email address:* TBA
Time for Completion	1.1.3.3.	Twenty-seven (27) months (including the contractor's holidays in December and January), of which three (3) months will be the Mobilisation Period
Defects for notification period	1.1.3.7	12 calendar months
Mobilisation Period	A1.1.3.10	Three (3) months commencing on the Commencement Date.
Electronic transmission system	1.3	Email
Communications	1.3	The addresses for communication between the parties shall be: Employer: SANRAL (Limpopo) Physical address: 12 Dimitri Crescent Platinum Park Polokwane, 0700 Postal address: Private Bag X17 Lynnwood Ridge Pretoria. 0040 Email address: TBA

Item	***Cl No***	***Data***
Law and Language	1.4	The law governing this Contract is South African law.
Access to the site	A2.1	As stated in the Form of Acceptance.
Performance Security	A4.2	One Performance Security in an amount calculated as 10% of the accepted offer amount (excluding VAT) as stated in the Form of Acceptance, is required.
Contractor's Representative	4.3	The Construction Manager shall be; employed full time on the Works, the single point accountability and responsible for the management of the construction works and shall be registered with SACPCMP as PrCM or PrCPM or ECSA as PrEng or PrTechEng with minimum experience of 8 years
Subcontractors	A4.4	The percentage of the Final Contract Value (as defined in D1003.04 for purposes of this clause) that may be sublet is dependent on the Minimum Targeted Enterprise subletting targets and shall not exceed the Maximum Subcontracting allowed % as per the following table:

Minimum Targeted Enterprise (TE) subletting (%)	Maximum Subcontracting allowed (%)
≤30	50
>30 to <40	60
>40 to <45	65
≥45 to <50	70
≥50	80

Rates of Wages and Conditions of Labour	A6.2	The Contractor and his civil engineering Subcontractors shall be registered with the Bargaining Council for the Civil Engineering Industry (Government Notice R.490 – Part III contained in Government Gazette No. 37750) Rates for wages and conditions of labour as gazetted by the Bargaining Council for the Civil Engineering Industry shall apply to the Contractor and all his Subcontractors. Only in the event that the majority of the Contract does not fall under the Civil Engineering Industry, shall a specific industry's published wage rates and conditions of labour different from that of the Bargaining Council for the Civil Engineering Industry, apply.
Special non-working hours/days	A6.5	(a) All designated public holidays (including all foreseeable statutory declared election days) (b) The annual shut-down period between December and January (c) Day before Easter Weekend (d) Day of State school term closure and day prior to State school term start

Item	***Cl No***	***Data***
		(e) Other non-working days and restricted working hours: specified in section A1.2, clause A1.2.7 (f) Sundays (g) Between sunset and sunrise
Black Contractor's Personnel employed on the Site	A6.9	The number of black people employed full-time by the Contractor on Site and who are not paid an hourly wage, shall exceed 40% of the total number of Contractor's Personnel employed full-time by the Contractor on Site and who are not paid an hourly wage.
Contractor's key Personnel	A6.9	The Contractor shall provide the key personnel (as indicated in form C1.2.3 - Appendix to Tender: Contract Data – Information Provided by the Tenderer). Where the key personnel are no longer available to undertake the necessary work after the award of the contract, the Contractor shall within a period of 14 days replace the key personnel stated in the Appendix to Tender with personnel with equivalent (or better) competencies and years of relevant experience and subject to approval by the Employer. Such approval shall not be unreasonably withheld.
Period in which Works must commence	A8.1	Not prior to the date of Access to Site and not later than 1Month after the end of Mobilisation Period
Programme submission	A8.3	One paper copy and one electronic copy
Date(s) of access	A8.3(b)	As per clause 2.1 Access to site
Special non-working days	A8.3(h)	As per clause 6.5 Working hours
Embargo hours and days	A8.3(l)	Embargo period for seal work as defined in Part C3: Scope of Works, clause A10.1.3.2 Embargo hours and days as listed in A10.1.3.2
Restricted working conditions	A8.3(m)	Accommodation of traffic restrictions During the contractor's annual shutdown period between December and January, the contractor shall maintain two-way traffic within the contract limits. Additional restricted working conditions as listed in Part C3: Scope of Works, clause(s) A1.5.7.3, Accommodation of traffic restrictions: - Maintaining 2-way traffic at all times with minimum lane widths of 3,2m. - Work areas restricted to a maximum of two (2), each with a maximum length of 4,0km and with 4,0km minimum length between work areas. The minimum length between work areas may be relaxed by the Engineer to accommodate local conditions.

Item	***Cl No***	***Data***
		- Full road width within a work area must be fully completed before a new work area can be occupied. - One-way Stop/Go traffic accommodation may be required for the Short-term Rehabilitation of the existing road between km 19,171 and km 20,204 (forming part of the future N11-13X Bypass construction). - One-way Stop/Go traffic accommodation may be required for construction of the bridge approaches at the Grootsandsloot Bridge (km 24,25) during the first construction phase. -During the contractor's annual shutdown period between December and January, the contractor shall maintain two-way traffic within the contract limits
Extension of time for completion	A8.4	An exceptional adverse climatic event shall be considered where the return period of the climatic event exceed a return period of 1:12
Delay damages	A8.7(a)	Delay Damages – R65 000 /day
Other Non-compliance Charges	A8.7(b)	Other Non-compliance charges: i. Intra-programme dates are not applicable to this contract. ii. Lane occupation levy (Occupation beyond completion dates and times for lanes, ramps and cross roads not included in the activities specified in Part C3 Section B clause A1.2.7.1(e), as well as for remedial work after completion of the Works) – R50 000 /day – The principle of penalties being imposed for late occupation of lanes, ramps or cross roads is as specified in Part C3 clause A1.5.3.4 iii. Non-compliance to requirements of clause A8.3(m) for Accommodation of traffic restrictions during the contractor's annual shutdown period between December and January – R20 000 /day iv. Accommodation of traffic non-compliance as specified in Part C3 clause A1.5.3.7. (i) Fixed penalty – R20 000.00/occurrence (ii) Time related penalty – R2000.00/hour v. Overloading – 2 x Unit Rate of material hauled x overload factor x distance hauled as specified in Part C3 clause A1.7.7. The overload factor is the difference between the Actual loaded vehicle mass and the Gross vehicle mass vi. Contract Participation Performance Penalty – Calculated as per D1003.05 vii. Contract Skills Development Goal Penalty – Calculated as per D1010.02 viii. Subcontracting without disclosure or non-compliance to Subcontract requirements in terms of Sub- Clause 4.4, or failure to comply with responsibilities towards Targeted Enterprises (as per D1008(b) – up to 10% of the Contract Price ix. Layer irregularities (i) Asphalt – quantity/100m x unit rate x payment adjustment factor

Item	***Cl No***	***Data***
		(ii) Concrete – quantity/100m x unit rate x payment adjustment factor (iii) Base – quantity/100m x unit rate x payment adjustment factor
Evaluation	A12.3	The term "fixed rate item" shall apply to all items of work listed in the Pricing Schedule (Including agreed items of work listed in Works Authorisations).
Provisional Sums	A13.5	5%
Daywork allowances	13.6	Not required (Dayworks provided for in the pricing schedule)
Special materials	A13.8	None (There is no material specified as Special Material)
Adjustments for Changes in Cost	A13.8	Statistical Releases published by Statistics South Africa Base date for this contract is 28 days prior to the closing date of tender

TABLE OF ADJUSTMENT DATA

x=	0.15
a= L=	0.20 "Labour Index" and shall be the price index for "Consumer Price Index" for the Limpopo Province, as published in the Statistical Release P0141, Table A, of Statistics South Africa.
b= E=	0.35 "Equipment Index" and shall be the price index for "Plant and Equipment", as published in the Statistical Release P0151.1, Table 4, of Statistics South Africa.
c= M=	0.35 "Materials Index" and shall be the price index for the "Civil Engineering Material" product Roads, General, (incl. Bitumen) as published in the Statistical Release P0151.1, Table 6, of Statistics South Africa. "Materials Index" and shall be the price index for the "Electrical engineering" product as published in the Statistical Release P0151.1, Table 5, of Statistics South Africa
d= F=	0.10 "Fuel Index" and shall be the price index for "Coal and Petroleum Products", for "Diesel", as published in the Statistical Release P0142.1,

Item	***Cl No***	***Data***
		Table 1, of Statistics South Africa.
Advance Payment		
- Total advance payment	A14.2	Value determined as 20% of the accepted offer amount (excluding VAT) as stated in the Form of Acceptance
- Number of Instalments	A14.2	One instalment
Retention money:		
- Percentage	A14.3(c)	10%
- Limit	A14.3(c)	Value determined as 5% of the accepted offer amount (excluding VAT) as stated in the Form of Acceptance
- Guarantee	A14.3(c)	This will not be considered
Minimum amount of interim payment certificate	A14.6	R3,700,000.00 excluding payments during the Mobilisation Period
Time period for submission of evidence of insurance and copies of insurance	18.1	As stated in the Form of Acceptance
Minimum Insurance cover for Injury to persons and Damage to Property	18.3	R20,000,000.00
Payment items for calculation of Cost for Extension of Time	A20.1	The Cost for delays as a result of Suspension of Work instructed under Sub-Clause 8.8 [*Suspension of Work*] shall be based only on the Suspension cost calculated in pay item C1.3.1.4, as appropriate having regard to any other compensation which may already have been granted in respect of the circumstances concerned. The Cost for delays as a result of approved extensions of time granted in terms of the Conditions of Contract for delays during the Mobilisation Period shall be based only on the Mobilisation Period cost calculated in pay item C1.3.1.3(a), as appropriate having regard to any other compensation which may already have been granted in respect of the circumstances concerned. The Cost for delays as a result of approved extensions of time for inclement weather granted in terms of amended Sub-Clause 8.4(f) of the Conditions of Contract shall be based only on the applicable payment items for which the unit of measurement is “month” for the period of the delay (excluding payment items with negative rates and non-applicable payment items). The Cost for approved extensions of time granted in terms of the Conditions of Contract (other than for delays as a result of Suspension of Work, or delays during the Mobilisation Period, or delays as a result of inclement weather), shall be based on the

		applicable payment items for which the unit of measurement is “month” for the period of the delay (excluding payment items with negative rates and non-applicable payment items), except in specific circumstances where progress on all activities on the accepted Works programme is prevented and audited statements for proven cost is provided and it is proven that the payment items for which the unit of measurement is “month” does not include for any of the proven costs.
Appointment of DAB	A 20.2	The DAB shall comprise of 3 (three) Members and its appointment to be not later than 60 days after Access to Site, or in the event that a dispute arises prior to Access to Site, not later than 30 days after a dispute arises between the Parties The minimum requirements for the DAB members are as follows: For a 3-Member DAB: DAB Chairperson to comply with the following minimum requirements: •Senior Counsel / Attorney; and •More than 15 years’ experience in commercial, construction, administrative and contract law •Experience in the application FIDIC Conditions of Contract not required but preferred OR •Pr.Eng / Pr.TechEng with 25 years’ experience; and •Formal qualification in adjudication, arbitration and/or experience mediation; and •15 years’ experience in Contract Management (as the Engineer to the Contract) and Dispute Resolution as per the FIDIC Conditions of Contract.
Appointment (if not agreed) to be made by	A 20.3	The President of SAICE or a person appointed by the SAICE President

C1.2.3 APPENDIX TO TENDER: CONTRACT DATA – INFORMATION PROVIDED BY THE TENDERER

CONTRACT SANRAL N.011-130-2027/1
FOR THE REHABILITATION OF NATIONAL ROUTE N11 SECTION 13 FROM R518 INTERSECTION (km 8,345) TO GROOTSANDSLOOT RIVER (km 24,0)

Note to tenderer:
This form is the equivalent of the Appendix to Tender as defined in Sub-Clause 1.1.1.9 of the FIDIC Conditions of Contract

1. FIDIC CONDITIONS OF CONTRACT

1.a Clause 1.3: Communications

The Contractor is .....

Physical Address: .....

.....

Telephone: .....

Facsimile: .....

Email: .....

1.b Clause 4.3: Contractor's representative

The authorised and designated representative of the Contractor is:

Name: ..... Name: .....

Professional Registration: ..... Professional Registration: .....

Years' relevant experience: ..... Years' relevant experience: .....

1.c Clause A6.9: Contractor's Personnel

The Contracts Manager of the Contractor is:

Name: ..... Name: .....

Professional Registration: ..... Professional Registration: .....

Years' relevant experience: ..... Years' relevant experience: .....

The Construction Manager of the Contractor is:

Name: ..... Name: .....

Professional Registration: ..... Professional Registration: .....

Years' relevant experience: ..... Years' relevant experience: .....

2. OTHER CONTRACT INFORMATION

2.a .....

2.b .....

3. INFORMATION REQUIRED FOR THE PUBLICATION OF TENDER RESULTS AS PER NATIONAL TREASURY NOTE

Name of Directors	Appointment Date	Designation

SIGNED BY TENDERER: .....