

AIRPORTS COMPANY SOUTH AFRICA SOC LIMITED

PROJECT NAME: Drainage Maintenance at King Shaka International Airport

PROJECT NUMBER: RFQ 30243

NEC 3: TERM SERVICE CONTRACT (TSC 3)

Between AIRPORTS COMPANY SOUTH AFRICA SOC LIMITED

Applicable at King Shaka International Airport

(Registration Number: 1993/004149/30)

and _____

(Registration Number: _____)

for **Drainage Maintenance at King Shaka International Airport for a period of 8 months**

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Part C1: Agreements and Contract Data
C1.1: Form of Offer and Acceptance

OFFER

The Employer, identified in the Acceptance signature block, has solicited offers to enter into a contract for
Drainage Maintenance for a period of 8 months at King Shaka International Airport

The tenderer, identified in the Offer signature block, has examined the documents listed in the Tender Data and addenda thereto as listed in the Returnable Schedules, and by submitting this Offer has accepted the Conditions of Tender.

By the representative of the tenderer, deemed to be duly authorised, signing this part of this Form of Offer and Acceptance the tenderer offers to perform all of the obligations and liabilities of the **Contractor** under the contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the conditions of contract identified in the Contract Data.

THE OFFERED TOTAL OF THE PRICES INCLUSIVE OF VAT IS:

R..... (in figures)

.....

..... (in words);

THE OFFERED PRICES ARE AS STATED IN THE PRICING SCHEDULE

This Offer may be accepted by the Employer by signing the Acceptance part of this Form of Offer and Acceptance and returning one copy of this document including the Schedule of Deviations (if any) to the tenderer before the end of the period of validity stated in the Tender Data, or other period as agreed, whereupon the tenderer becomes the party named as the **Contractor** in the conditions of contract identified in the Contract Data.

Signature(s)

Name(s)

Capacity

**For the
Bidder:**

.....
(Insert name and address of organisation)

Date

Name &
signature of
witness

.....

ACCEPTANCE

By signing this part of this Form of Offer and Acceptance, the Employer identified below accepts the tenderer's Offer. In consideration thereof, the Employer shall pay the **Contractor** the amount due in accordance with the conditions of contract identified in the Contract Data. Acceptance of the tenderer's Offer shall form an agreement between the Employer and the tenderer upon the terms and conditions contained in this agreement and in the contract that is the subject of this agreement.

The terms of the contract, are contained in:

Part C1	Agreements and Contract Data, (which includes this Form of Offer and Acceptance)
Part C2	Pricing Data
Part C3	Service Information
Part C4	Site Information

and drawings and documents (or parts thereof), which may be incorporated by reference into the above listed Parts.

Deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Returnable Schedules as well as any changes to the terms of the Offer agreed by the tenderer and the Employer during this process of offer and acceptance, are contained in the Schedule of Deviations attached to and forming part of this Form of Offer and Acceptance. No amendments to or deviations from said documents are valid unless contained in this Schedule.

The tenderer shall within two weeks of receiving a completed copy of this agreement, including the Schedule of Deviations (if any), contact the Employer's agent (whose details are given in the Contract Data) to arrange the delivery of any securities, bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the conditions of contract identified in the Contract Data. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this agreement.

Unless the tenderer (now **Contractor**) within five working days of the date of such receipt notifies the Employer in writing of any reason why he cannot accept the contents of this agreement, this agreement shall constitute a binding contract between the Parties.

Signature(s)

Name(s)

Capacity

for the
Employer

Airports Company South Africa SOC Limited,
King Shaka International Airport,
La Mercy,
KwaZulu-Natal,
4407

Name &
signature of
witness

Date

Schedule of Deviations

1 Subject	.....
Details	.....
	
	
2 Subject	.....
Details	.....
	
	
3 Subject	.....
Details	.....
	
	
	
4 Subject	.....
Details	.....
	
	
	
	

By the duly authorised representatives signing this agreement, the Employer and the Tenderer agree and accept the foregoing schedule of deviations as the only deviations from and amendments to the documents listed in the Tender Data and addenda thereto as listed in the 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.

	<u>For the Employer</u>	<u>For the Bidder</u>
Signature (s)	.....	.....
Name (s)	.....	.....
Capacity	.....	.....
Name and Address	.....	.....
	<i>(Insert name and address of organisation)</i>	<i>(Insert name and address of organisation)</i>
Name & Signature of witness	.....	.....
Date	.....	.....

Part C1.2a Contract Data**Part one – Data provided by the Employer**

The Conditions of contract are selected from the NEC3 Terms Service Contract, April 2013.

Each item of data given below is cross-referenced to the NEC3 Term Service Contract which requires it.

Clause	Statement	Data
1	General	
	The <i>conditions of contract</i> are the core clauses and the clauses for Main Option	
	Main Option Dispute resolution Option	A: Priced contract with price list W1: Dispute resolution procedure
	Secondary Options (incorporating amendments)	X1: Price Adjustment X2: Changes in the law X17: Low service damages X19: Task order Z: Additional conditions of contract of the NEC3 Term Service Contract, April 2013
10.1	The <i>Employer</i> is (Name)	Airports Company South Africa SOC Limited, applicable at King Shaka International Airport
	Address	Airports Company South Africa SOC Limited, King Shaka International Airport, La Mercy, KwaZulu-Natal, 4407
10.1	The <i>Service Manager</i> is	Siphiwe Msimango
	Address	Airports Company South Africa SOC Limited, King Shaka International Airport, La Mercy, KwaZulu-Natal, 4407
	Telephone	
	E-mail address	
11.2	The <i>services</i> are	Drainage Maintenance at King Shaka International Airport as fully detailed in the Scope of Work Part C3.
11.2	The following matters will be included in the Risk Register	• Access to Site • Statutory approvals and ACSA approvals
11.2	The <i>service Information</i> is in	Part C3 'Service information' section of this contract
11.2	The <i>Site Information</i> is in	Part C4 'Site Information' section of this contract

11.2	The <i>boundary of the site</i> is	King Shaka International Airport
12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa
13.1	The <i>language of this contract</i> is	English
13.3	The <i>period of reply</i> is	7(seven) business days
3	Time	
30.1	The <i>starting date</i> is	on signing of contract by ACSA
11.2	The <i>completion date</i> is	8 (eight) months after the starting date
30.1	The <i>access date</i> is	to be agreed with Employer before contract start date.
32.2	The <i>Contractor</i> submits revised programmes at intervals no longer than	1 (one) months
4	Testing and Defects	
42.2	The <i>defects date</i> is	<i>4 (four) weeks after completion of service</i>
43.1	The <i>defects correction period</i> is	2 (two) weeks
5	Payment	
50.1	The <i>assessment interval</i> is	Last day of every month.
50.1	The <i>currency of this contract</i> is the	South African Rand
51.2	The period within which payment is made is	4 (four) weeks upon receipt of a valid tax invoice.
8	Risks and Insurance	
83.1	The <i>Employer</i> provides these insurances	Refer to the Insurance Clauses which is attached at the end of the Contract Data
83.2	The <i>Contractor</i> provides the insurance stated in	The Insurance Clauses which is attached at the end of the Contract Data. The insurances are in the joint names of the Parties and provide cover for events which are at the Contractor's risk from the starting date until the Defects Certificate or a termination certificate has been issued.
	The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with this contract for any one event is:	As prescribed by the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993
9	Termination	There is no reference to Contract Data in this section of the core clauses and terms in italics used in this section are identified elsewhere in this Contract Data.
Data for Main Option clause		
A	Priced contract with Price list	as detailed in Part C2

20.5	The <i>Contractor</i> prepares forecasts of the final total of the Prices for the whole of the <i>service</i> at intervals no longer than	1 month.
11	Data for Option W1	
W1.1	The <i>Adjudicator</i> is	The person appointed jointly by the parties from the list of adjudicators contained below
W1.2	The <i>Adjudicator nominating body</i> is	The current Chairman of Johannesburg Advocate's Bar Council
W1.4	The <i>tribunal</i> is	Arbitration
W1.4	If the <i>tribunal</i> is arbitration, the arbitration procedure is	The <i>arbitration procedure</i> is set out in The Rules for the Conduct of Arbitrations 2013 Edition, 7th Edition, published by The Association of Arbitrators, (Southern Africa)
W1.4	The place where arbitration is to be held is	Johannesburg, South Africa.
W1.4	The person or organisation who will choose an arbitrator	The Arbitrator is the person selected by the Parties as and when a dispute arises in terms of the relevant Z Clause, from the Panel of Arbitrators provided under the relevant Z clause if the arbitration procedure does not state who selects an arbitrator. The Arbitrator nominating body is the Chairman of the Johannesburg Advocates Bar Council.
12	Data for Secondary Option Clauses	
X1	Price Adjustment	The index referred to in this clause shall be deemed to refer to the CPI index on the contract starting date. Price adjustment for inflation shall only take place on contract anniversary date once a year.
X 1.3	Compensation events	- Defined Cost current at the time of assessing the compensation event adjusted to base date by dividing by one plus the Price Adjustment. Factor for the last assessment of the amount due and - Defined Cost at base date levels for amounts calculated from rates and prices in the Price List.
X17	Low Service Damages	
	Low service damages of the <i>services</i> are	Refer C3 employers service information
X18	Limitation of Liability	
X18.1	The <i>Contractor's</i> liability to the <i>Employer</i> for indirect or consequential loss is limited to	Nil - Neither Party is liable to the other for any consequential or indirect loss, including but not limited to loss of profit, loss of income or loss of revenue
X18.2	For any one event, the <i>Contractor's</i> liability to the <i>Employer</i> for loss of or damage to the <i>Employer's</i> property is limited to	Total of the losses incurred and/or repairs to the damages caused
X18.3	The <i>Contractor's</i> total liability to the Employer for defects due to his design which are not listed on the Defects Certificate is limited to	Total of the losses incurred and/or repairs to the damages caused

X18.4	The <i>Contractor's</i> total liability to the <i>Employer</i> for all matters arising under or in connection with this contract, other than excluded matters, is limited to	The Contractor's total direct liability to the Employer for all matters arising under or in connection with this contract, other than the excluded matters, is limited to the total of the losses incurred and/or repairs to the damages caused and applies in contract, tort or delict and otherwise to the extent allowed under the law of the contract. The e excluded matters are amounts payable by the Contractor as stated in this contract for - Loss of or damage to the Employer's property, - Delay damages, - Defects liability, - Insurance liability to the extent of the Contractor's risks - loss of or damage to property (other than the <i>works</i>, Plant and Materials), - death of or injury to a person; - damage to third party property; and - infringement of an intellectual property right
X19	Task Order	
X19.1	Identified and Defined terms	(1) A Task is work within the service which the Service Manager may instruct the Contractor to carry out within a stated period of time. (2) A Task Order is the Service Manager's instruction to carry out a Task. (3) Task Completion is when the Contractor has done all the work in the Task and corrected Defects which would have prevented the Employer or Others from using the Affected Property and Others from doing their work. (4) Task Completion Date is the date for completion stated in the Task Order unless later changed in accordance with this contract
X19.2	Providing the service	X19.2 A Task Order includes: • a detailed description of the work in the Task, • a priced list of items of work in the Task in which items taken from the Price List are identified, • the starting and completion dates for the Task, • the amount of delay damages for the late completion of the Task and • the total of the Prices for the Task which is Option A used,
X 19.3		The delay damages in a Task Order, if any, are not more than the estimated cost to the Employer of late completion of the Task. If Task Completion is later than the Task Completion Date, the Contractor pays delay damages at the rate stated in the Task Order from the Task Completion Date until Task Completion. The Prices for items in the Task price list which are not taken from the Price List are assessed in the same way as compensation events
X19.4	Time	The Contractor does not start any work included in the Task until the Service Manager has instructed him to carry out the Task and does the work so that Task Completion is on or before the Task Completion Date. No Task Order is issued after the end of the service period.
X19.5	Task Order Programme	The Contractor submits a Task Order programme to the Service Manager for acceptance within the period stated in the Contract Data.

Z	The Additional conditions of contract are	Z1 – Z20
	Amendments to the Core Clauses	
Z1	Interpretation of the law	
Z1.1	Add to core clause 12.3: Any extension, concession, waiver or relaxation of any action stated in this contract by the Parties, the <i>Project Manager</i> , the <i>Supervisor</i> , or the <i>Adjudicator</i> does not constitute a waiver of rights and does not give rise to an estoppel unless the Parties agree otherwise and confirm such agreement in writing.	
Z2	Disallowed Cost	
Z2.1	Add the following before the full stop at the end of clause 11.2(8) (definition of "Fee") ", in each case excluding the Defined Cost of correcting Defects (where the cost is not a Disallowed Cost)	
Z2.2	Amend clause 11.2(6) (definition of "Disallowed Cost") to read as follows	
Z2.2.1	"Disallowed Cost is cost which the Service Manager decides	
Z2.2.1.1	is not justified by the <i>Contractor's</i> accounts and records,	
Z2.2.1.2	should not have been paid to a Subcontractor or supplier in accordance with his contract or	
Z2.2.1.3	was incurred only because the <i>Contractor</i> did not	
Z2.2.1.3.1	follow an acceptance or procurement procedure stated in the Service Information	
Z2.2.1.3.2	comply with a procedure set out in his quality plan or	
Z2.2.1.3.3	give an early warning which this contract required him to give; and the cost of	
Z2.2.1.4	correcting Defects after Completion;	
Z2.2.1.5	correcting Defects caused by the <i>Contractor</i> not complying with a constraint on how he is to Provide the Services stated in the Service Information;	
Z2.2.1.6	correcting Defects caused by the <i>Contractor</i> not exercising reasonable skill, care and diligence in the design of Equipment;	
Z2.2.1.7	correcting Defects caused by the <i>Contractor's</i> failure to comply with a procedure set out in his quality plan;	
Z2.2.1.8	correcting Defects which the <i>Contractor</i> has previously corrected;	
Z2.2.1.9	Plant and Materials not used to Provide the Service (after allowing for reasonable wastage) unless resulting from a change in the Service Information;	
Z2.2.1.10	resources not used to Provide the Services (after allowing for reasonable availability and utilisation); and	
Z2.2.1.11	preparation for and conduct of an adjudication or proceedings of the tribunal."	
Z4	Extending the defects date:	
Z4.1	Providing the Service: Delete core clause 20.1 and replace with the following:	
	The <i>Contractor</i> provides the <i>Services</i> in accordance with the <i>Service Information</i> and warrants that the results of the <i>Services</i> , when complete, shall be fit for their intended purpose.	
Z5	Termination	
Z5.1	Add the following to core clause 91.1, at the second main bullet, fifth sub-bullet point, after the words "assets or": "business rescue proceedings are initiated, or steps are taken to initiate business rescue proceedings".	
	Amendment to the Secondary Option Clauses	
Z7	Limitation of liability:	
Z7.1	Insert the following new clause as Option X18.6: The <i>Employer's</i> liability to the <i>Contractor</i> for the <i>Contractor's</i> indirect or consequential loss is limited to R0.00	

Z7.2	Notwithstanding any other clause in this contract, any proceeds received from any insurances or any proceeds which would have been received from any insurances but for the conduct of the <i>Contractor</i> shall be excluded from the calculation of the limitations of liability listed in the contract
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	Additional Z Clauses
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Z8	Cession, delegation and assignment
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Z8.1	The <i>Contractor</i> shall not cede, delegate or assign any of its rights or obligations to any person without the written consent of the <i>Employer</i> , which consent shall not be unreasonably withheld. This clause shall be binding on the liquidator/business rescue practitioner /trustee (whether provisional or not) of the <i>Contractor</i>
Z8.2	The <i>Employer</i> may cede and delegate its rights and obligations under this contract to any person or entity

Z9	Joint and several liabilities
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Z9.1	If the <i>Contractor</i> constitutes a joint venture, consortium or other unincorporated grouping of two or more persons, these persons are deemed to be jointly and severally liable to the <i>Employer</i> for the performance of the Contract.
Z9.2	The <i>Contractor</i> shall, within 1 week of the Contract Date, notify the <i>Project Manager</i> and the <i>Employer</i> of the key person who has the authority to bind the <i>Contractor</i> on their behalf.
Z9.3	The <i>Contractor</i> does not materially alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without prior written consent of the <i>Employer</i> .

Z10	Ethics
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Z10.1	The <i>Contractor</i> undertakes:
Z10.1.1	not to give any offer, payment, consideration, or benefit of any kind, which constitutes or could be construed as an illegal or corrupt practice, either directly or indirectly, as an inducement or reward for the award or in execution of this contract;
Z10.1.2	to comply with all laws, regulations or policies relating to the prevention and combating of bribery, corruption and money laundering to which it or the <i>Employer</i> is subject, including but not limited to the Prevention and Combating of Corrupt Activities Act, 12 of 2004.
Z10.2	The <i>Contractor's</i> breach of this clause constitutes grounds for terminating the <i>Contractor's</i> obligation to Provide the Works or taking any other action as appropriate against the <i>Contractor</i> (including civil or criminal action). However, lawful inducements and rewards shall not constitute grounds for termination.
Z10.3	If the <i>Contractor</i> is found guilty by a competent court, administrative or regulatory body of participating in illegal or corrupt practices, including but not limited to the making of offers (directly or indirectly), payments, gifts, gratuity, commission or benefits of any kind, which are in any way whatsoever in connection with the contract with the <i>Employer</i> , the <i>Employer</i> shall be entitled to terminate the contract in accordance with the procedures stated in core clause 92.2. the amount due on termination is A1.

Z11	Confidentiality
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Z11.1	All information obtained in terms of this contract or arising from the implementation of this contract shall be treated as confidential by the <i>Contractor</i> and shall not be used or divulged or published to any person not being a party to this contract, without the prior written consent of the <i>Project Manager</i> or the <i>Employer</i> , which consent shall not be unreasonably withheld.
Z11.2	If the <i>Contractor</i> is uncertain about whether any such information is confidential, it is to be regarded as such until otherwise notified by the <i>Project Manager</i> .
Z11.3	This undertaking shall not apply to –
Z11.3.1	Information disclosed to the employees of the <i>Contractor</i> for the purposes of the implementation of this agreement. The <i>Contractor</i> undertakes to procure that its employees are aware of the confidential nature of the information so disclosed and that they comply with the provisions of this clause;
Z11.3.2	Information which the <i>Contractor</i> is required by law to disclose, provided that the <i>Contractor</i> notifies the <i>Employer</i> prior to disclosure so as to enable the <i>Employer</i> to take the appropriate action to protect such information. The <i>Contractor</i> may disclose such information only to the extent required by law and shall use reasonable efforts to obtain assurances that confidential treatment will be afforded to the information so disclosed;

Z11.3.3	Information which at the time of disclosure or thereafter, without default on the part of the <i>Contractor</i> , enters the public domain or to information which was already in the possession of the <i>Contractor</i> at the time of disclosure (evidenced by written records in existence at that time);
Z11.4	The taking of images (whether photographs, video footage or otherwise) of the <i>works</i> or any portion thereof, in the course of Providing the Works and after Completion, requires the prior written consent of the <i>Project Manager</i> . All rights in and to all such images vests exclusively in the <i>Employer</i>
Z11.5	The <i>Contractor</i> ensures that all his Subcontractors abide by the undertakings in this clause.
Z12	<i>Employer's Step-in rights</i>
Z12.1	If the <i>Contractor</i> defaults by failing to comply with his obligations and fails to remedy such default within 2 weeks of the notification of the default by the <i>Project Manager</i> , the <i>Employer</i> , without prejudice to his other rights, powers and remedies under the contract, may remedy the default either himself or procure a third party (including any subcontractor or supplier of the <i>Contractor</i>) to do so on his behalf. The reasonable costs of such remedial works shall be borne by the <i>Contractor</i>
Z12.2	The <i>Contractor</i> co-operates with the <i>Employer</i> and facilitates and permits the use of all required information, materials and other matter (including but not limited to documents and all other drawings, CAD materials, data, software, models, plans, designs, programs, diagrams, evaluations, materials, specifications, schedules, reports, calculations, manuals or other documents or recorded information (electronic or otherwise) which have been or are at any time prepared by or on behalf of the <i>Contractor</i> under the contract or otherwise for and/or in connection with the <i>works</i>) and generally does all things required by the <i>Project Manager</i> to achieve this end.
Z13	<i>Liens and Encumbrances</i>
Z13.1	The <i>Contractor</i> keeps the Equipment used to Provide the Services free of all liens and other encumbrances at all times. The <i>Contractor</i> , vis-a-vis the <i>Employer</i> , waives all and any liens which he may from time to time have, or become entitled to over such Equipment and any part thereof and procures that his Subcontractors similarly, vis-a-vis the <i>Employer</i> , waive all liens they may have or become entitled to over such Equipment from time to time
Z14	<i>Intellectual Property</i>
Z14.1	Intellectual Property ("IP") rights means all rights in and to any patent, design, copyright, trade mark, trade name, trade secret or other intellectual or industrial property right relating to the Works.
Z14.2	IP rights remain vested in the originator and shall not be used for any reason whatsoever other than carrying out the <i>works</i> .
Z14.3	The <i>Contractor</i> gives the <i>Employer</i> an irrevocable, transferrable, non-exclusive, royalty free licence to use and copy all IP related to the <i>works</i> for the purposes of constructing, repairing, demolishing, operating and maintaining the works
Z14.4	The written approval of the <i>Contractor</i> is to be obtained before the <i>Contractor's</i> IP made available to any third party which approval will not be unreasonably withheld or delayed. Prior to making any <i>Contractor's</i> IP available to any third party the <i>Employer</i> shall obtain a written confidentiality undertaking from any such third party on terms no less onerous than the terms the <i>Employer</i> would use to protect its IP
Z14.5	The <i>Contractor</i> shall indemnify and hold the <i>Employer</i> harmless against and from any claim alleging an infringement of IP rights (" the claim "), which arises out of or in relation to:
Z14.5.1	the <i>Contractor's</i> design, manufacture, construction or execution of the Works
Z14.5.2	the use of the <i>Contractor's</i> Equipment, or
Z14.5.3	the proper use of the Works.
Z14.6	The <i>Employer</i> shall, at the request and cost of the <i>Contractor</i> , assist in contesting the claim and the <i>Contractor</i> may (at its cost) conduct negotiations for the settlement of the claim, and any litigation or arbitration which may arise from it.
Z16	<i>Dispute resolution:</i>
Z16.1	<i>Appointment of the Adjudicator</i>

An *Adjudicator* is appointed when a dispute arises, from the Panel of Adjudicators below. The referring party nominates an Adjudicator, which nomination is either accepted or rejected by the other party. In the instance of a rejection of the nominated *Adjudicator*, the referring Party refers the appointment deadlock to the Chairman of the Johannesburg Bar Council, who appoints an *Adjudicator* listed in the Panel of Adjudicators below

The Parties appoint the *Adjudicator* under the NEC3 Adjudicator's Contract, April 2013

Panel of Adjudicators

Name	Location	Contact details (phone & e mail)
Adv. Ghandi Badela	Gauteng	+27 11 282 3700 ghandi@badela.co.za
Mr. Errol Tate Pr. Eng.	Durban	+27 11 262 4001 Errol.tate@mweb.co.za
Adv. Saleem Ebrahim	Gauteng	+27 11 535-1800 salimebrahim@mweb.co.za
Mr. Sebe Msutwana Pr. Eng.	Gauteng	+27 11 442 8555 sebe@civilprojects.co.za
Mr. Sam Amod	Gauteng	sam@samamod.com
Adv. Sias Ryneke SC	Gauteng	083 653 2281 reyneke@duma.nokwe.co.za
Mr. Emeka Ogbugo (Quantity Surveyor)	Pretoria	+27 12 349 2027 emeka@gosiame.co.za

Z16.2 Appointment of the Arbitrator

An *Arbitrator* is appointed when a dispute arises from the Panel of Arbitrators below. The referring party nominates an Arbitrator, which nomination is either accepted or rejected by the other party. In the instance of a rejection of the nominated *Arbitrator*, the referring Party refers the appointment deadlock to the Chairman of the Johannesburg Bar Council, who appoints an *Arbitrator* listed in the Panel of Arbitrators below

Panel of Arbitrators

Name	Location	Contact details (phone & e mail)
Adv. Ghandi Badela	Gauteng	+27 11 282 3700 ghandi@badela.co.za
Mr. Errol Tate Pr. Eng.	Durban	+27 11 262 4001 Errol.tate@mweb.co.za
Adv. Saleem Ebrahim	Gauteng	+27 11 535-1800 salimebrahim@mweb.co.za
Mr. Sebe Msutwana Pr. Eng.	Gauteng	+27 11 442 8555 sebe@civilprojects.co.za
Mr. Sam Amod	Gauteng	sam@samamod.com
Adv. Sias Ryneke SC	Gauteng	083 653 2281 reyneke@duma.nokwe.co.za
Mr. Emeka Ogbugo (Quantity Surveyor)	Pretoria	+27 12 349 2027 emeka@gosiame.co.za

Z17 Notification of a compensation event

- Z17.1** Delete "eight weeks" in clause 61.3 and replace with "four weeks". Delete the words "unless the event arises from the Project Manager or the Supervisor giving an instruction, issuing a certificate, changing an earlier decision or correcting an assumption."

Z18 BBBEE Certificate

- Z18.1** The *Contractor* shall be expected to annually present a compliant BEE Certificate. Failure to do adhere to these requirements shall be considered a material breach of the conditions of this Contract, the sanction for which may be a cancellation of this Contract.

Z19 Communication

- Z19.1** **Add a new Core Clause** 14.5 and 14.6 to read as follows:
The *Service Manager* requires the written consent of the Employer if an action will result in a change to the design, scope, and Works information that is 5% or more
- Z19.2** The *Service Manager* requires the written consent of the Employer if an action will result in the Completion Date being extended by more than 30 days.

Z20 Delegation

	As stipulated by Section 37(2) of the Occupational Health and Safety Act No. 85 of 1993 as amended the <i>Contractor</i> agrees to the following:
Z20.1	As part of this contract the <i>Contractor</i> acknowledge that it (mandatory) is an employer in its own right with duties as prescribed in the Occupational Health and Safety Act No 85 of 1993 as amended and agree to ensure that all work being performed, or Equipment, Plant and Materials being used, are in accordance with the provisions of the said Act, and in particular with regard to the Construction Regulations
Z21	Health, safety and the environment
Z21.1	The <i>Contractor</i> undertakes to take all reasonable precautions to maintain the health and safety of persons in and about the execution of the <i>works</i> and shall complete the "S37(2) Appointment in terms of the Occupational Health & Safety Act 85 of 1993, attached to this contract as Annexure D.
Z21.2	Without limitation, the <i>Contractor</i> :
Z21.2.1	accepts that the <i>Employer</i> may appoint him as the "Principal Contractor" (as defined and provided for under the Construction Regulations 2003 (promulgated under the Occupational Health & Safety Act 85 of 1993) (" the Construction Regulations ") for the Site;
Z21.2.2	undertakes, in and about the execution of the <i>Services</i> , to comply with the Construction Regulations and with all applicable health & safety laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his Subcontractors, employees and others under the <i>Contractor's</i> direction and control, likewise observe and comply with the foregoing.
Z21.3	The <i>Contractor</i> , in and about the execution of the <i>Services</i> , complies with all applicable environmental laws and regulations and rules, guidelines and procedures otherwise provided for under this contract and ensures that his Subcontractors, employees and others under the <i>Contractor's</i> direction and control, likewise observe and comply with the foregoing.

PART C1.2b CONTRACT DATA

PART TWO – DATA PROVIDED BY THE CONTRACTOR

Clause	Statement	Data
10.1	The Contractor is (Name): Address: Telephone No. Fax No.	
11.2	The <i>Service areas</i> are	Drainage Maintenance at King Shaka International Airport
24.1	The <i>Contractor's Key people</i> are:	N/a
	Name:	
	Job Tittle for this Project:	Contract Manager/Operations Manager
	Responsibility:	
	Qualifications:	
	Experience:	
	Name:	
	Job Tittle for this Project:	Supervisor
	Responsibility:	
	Qualifications:	
	Experience:	
	Name:	
	Job Tittle for this Project:	Safety officer
	Responsibility:	
	Qualifications:	
	Experience:	
	Name:	
	Job Tittle for this Project:	
	Responsibility:	
	Qualifications:	
	Experience:	

PART C1: AGREEMENTS AND CONTRACT DATA

C1.4 Insurance Schedule

Summary of Terms and other Matters Applicable to Employer Provided Insurance

Part 1:

Notes to Schedule:

- The provision of insurance by the *Employer* does not limit the obligations, liabilities or responsibilities of the *Contractor* under this contract in any way whatsoever (including but not limited to any requirement for the provision by the *Contractor* of any other insurances).
- Unless specifically otherwise stated, capitalised terms in this schedule (other than *Employer*, *Contractor* and *works* where written in italics) have the meaning assigned to them in the relevant policy of insurance.
- This Insurance Schedule is a generic term sheet generally applicable to the *Employer's* projects. In the circumstances:
 - If this Insurance Schedule reflects the amount of any cover provided by the *Employer* to be higher than the amount required in the Contract Data, the *Employer's* obligation under this Contract is limited to the lower amount; and
 - If this Insurance Schedule provides for any cover which is not stated to be provided by the *Employer* in the Contract Data, the *Employer's* obligation under this Contract is limited to the cover stated in the Contract Data.
- [The terms governing the Employer provided policies of insurance are the terms detailed in the policies themselves. This schedule is merely a summary of the key terms. It is the responsibility of the tenderer to obtain copies of the policies and satisfy itself of the actual terms as required by the tenderer.]

Part 2 :

ACSA Maintenance Contracts Insurance Clause. **Insurance Affected by the Employer.**

Notwithstanding anything elsewhere contained in the Contract and without limiting the obligations liabilities or responsibilities of the Contractor in any way whatsoever (including but not limited to any requirement for the provision by the Contractor of any other insurances) the Employer shall effect and maintain as appropriate in the joint names of the Employer , Contractors and Sub-Contractors, Consultants and Sub-Consultants the following insurances which are subject to the terms, limits, exceptions and conditions of the Policy:

- (a) **PUBLIC LIABILITY Insurance** – which will provide indemnity against the insured parties legal liability in the event of accidental death of or injury to third party persons and/or accidental loss of or damage to third party property arising directly from the execution of the contract with a limit of indemnity of **R 100 million** in respect of all claims arising from any one occurrence or series of occurrences consequent on or attributable to one source or original cause. The policy will be subject to a Deductible of **R25 000** for Property Damage claims only but **R250 000** where Loss or Damage involves Aircraft.
 - (i) The Employer shall pay any premium due in connection with the insurance affected by the Employer.
 - (ii) The Contractor shall not include any premium charges for this insurance except to the extent that he may deem necessary in his own interests to effect supplementary insurance to the insurance effected by the Employer. The Employer reserves the right to call for full information regarding insurance costs included by the Contractor.
 - (iii) Any further clarification of the scope of cover provided by the Policies arranged by the Employer should be obtained from the Employer ..
 - (iv) In the event of any occurrence which is likely to or could give rise to a claim under the insurances arranged by the Employer the Contractor shall:

- (A) in addition to any statutory requirement or other requirements contained in the Contract immediately notify the Employer's Insurance Broker or the Insurers by telephone or telefax giving the circumstances nature and an estimate of the loss or damage or liability
- (B) complete a Claims Advice Form available from the Insurance Brokers to whom the form must be returned without delay.
- (C) negotiate the settlement of claims with the Insurers through the Employer's Insurance Brokers and shall when required to do so obtain the Employer's approval of such settlement.

The Employer and Insurers shall have the right to make all and any enquiries to the site of the Works or elsewhere as to the cause and results of any such occurrence and the Contractor shall co-operate in the carrying out of such enquiries.

- (v) The Contractor will be liable for the amount of the Deductible (First Amount Payable in respect of any claim made by or against the Contractor or Sub-Contractors under the insurances effected by the Employer..
Where more than one Contractor is involved in the same claim the Deductible will be borne in pro-rata amounts by each Contractor in proportion to the extent of each Contractor's admitted claim.

- (vi) Any amount which becomes payable to the Contractor or any of his Sub-Contractors as a result of a claim under the Contact Works Insurance shall if required by the Employer be paid net of the Deductible to the Employer who shall pay the Contractor from the proceeds of such payment upon rectification repair or reinstatement of the loss or damage but this provision shall not in any way affect the Contractor's obligations liabilities or responsibilities in terms of the Contract.

In respect of any amount which becomes payable as a result of a claim under any Public Liability Insurance the Contractor or his Sub-Contractors shall be required to pay the amount of the Deductible to the Insurer to facilitate settlement of such claim.

Insurance Affected by the Contractor.

Without in any way detracting from any requirements contained elsewhere in this contract the Contractor and Sub-Contractors shall where applicable, provide as a minimum the following:

- (a) INSURANCE OF CONTRACTORS EQUIPMENT (including tools offices and other temporary structures and contents) and other things (except those intended for incorporation into the Works) brought onto the Site for a sum sufficient to provide for their replacement.
- (b) Insurance in terms of the provisions of the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 as may be amended or in terms of any similar Workers Compensation and Unemployment Insurance enactment's in the Suppliers' or Sub Supplier's operational, manufacturing or assembly locations.
- (c) Motor Vehicle Liability Insurance comprising (as a minimum) "Balance of Third Party" Risks including Passenger Liability indemnity.
- (d) Public Liability Insurance for an amount sufficient to cover the Contractors obligations in terms of the Deductible of **R25 000** or **R250 000** as stated above.

- (i) The insurances to be provided by the Contractor and his Sub-Contractors shall:
 - (A) be effected with Insurers and on terms approved by the Employer.
 - (B) be maintained in force for whatever period the perils to be insured by the Contractor are at risk (including any defects liability period during which the Contractor is responsible for the care of the Works)
 - (C) submit to the Employer the relevant Policy or Policies of Insurance or evidence acceptable to the Employer that such insurances have been effected.
- (ii) In the event that the Contractor or his Sub-Contractor receives any notice of cancellation or restrictive modification to the insurance provided to them they shall immediately notify the Employer in writing of such cancellation or restriction and shall advise what action the Contractor or his Sub-Contractor will take to remedy such action.

If the Contractor fails to effect and keep in force the insurances referred to then the Employer may effect and keep in force any such insurances and pay such premium or premiums as may be necessary for that purpose and from time to time deduct the amount paid by the Employer from any monies due or which may become due to the Contractor or recover same as a debt from the Contractor.

- (D) The service provider must secure the following insurance upon appointment:
 - a) Assets All Risk insurance for a limit of R25 000 (twenty-five thousand rands) for each and every claim, to cover the following
 - Theft
 - Assets in-transit
 - b) Aviation liability insurance cover for an indemnity limit not less than R300 000 (three hundred thousand rands).

Proof of insurance to be submitted upon appointment of the service provider.

Sub-Contractors

The Contractor shall:

- (a) ensure that all potential and appointed Sub-Contractors are aware of the whole contents of this clause, and
- (b) enforce the compliance by Sub-Contractors with this clause where applicable.”

Part C2: Pricing Data
TSC3 Option A

Document reference	Title	No of page
C2.1	Pricing assumptions: Option A	[19]
C2.2	Pricing Instructions	[19]
C2.3	The price list	[22]

C2.1. Pricing Assumptions: Option A

Option A is a priced contract where the Prices are derived from a list of items of service which can be priced as lump sums or as expected quantities of service multiplied by a rate or a mix of both. Quantity of 1 is not the actual quantity of product/service required by this contract but intended to obtain rate for each item. Quantities will vary according to service requirements in the course of this contract.

C2.1.1 Identified and Defined terms

11

11.2 (12) The Price List is the *price list* unless later changed in accordance with this contract.

(17) The Price for Services Provided to Date is the total of

- the Price for each lump sum item in the Price List which the *Contractor* has completed and
- where a quantity is stated for an item in the Price List, an amount calculated by multiplying the quantity which the *Contractor* has completed by the rate.

(19) The Prices are the amounts stated in the Price column of the Price List. Where a quantity is stated for an item in the Price List, the Price is calculated by multiplying the quantity by the rate.

C2.2. Pricing Instructions

C2.2.1 Measurement and payment shall be in accordance with the quantity of service rendered and the corresponding price from price list.

C2.2.2 The units of measurement described in the Pricing Schedule are metric units. Abbreviations used in the Pricing Schedule are as follows:

%	=	percent
m ²	=	square metre
No.	=	number
Prov sum	=	Provisional sum
PC Sum	=	Prime Cost sum
R/only	=	Rate only
sum	=	lump sum

C2.2.3 For the purpose of the Price list, the following words shall have the meanings assigned to them:

Unit: The unit of measurement for each item of service

Quantity: The number of units of work for each item.

Rate: The payment per unit of work for which the Service Provider tenders to do the work.

Amount: The product of the quantity and the rate tendered for an item.

Lump Sum: An amount tendered for an item, the extent of which is described in the Pricing Schedule, the Service Information or elsewhere, but of which the quantity of work is not measured in units.

C2.2.4 Unless otherwise stated, items are measured net in accordance measurements agreed with the service manager, and no allowance is made for waste.

C2.2.5 It will be assumed that prices included in the price list are based on Acts, Ordinances, Regulations, By-laws, International Standards and National Standards that were published 28 days before the closing date for tenders. (Refer to www.stanza.org.za or www.iso.org for information standards)

C2.2.6 The prices and rates in the Price list are fully inclusive prices for the work described under the items. Such prices and rates cover all costs and expenses that may be required in and for the execution of the work described in accordance with the provisions of the Service Information, and shall cover, "inter alia" all general, profit, expenses, costs, bonuses, all allowances such as shift and standby allowances, sick-leave, other leave, brackets, fixings, incidentals, consumables etc. that will be required to successfully complete this contract as set forth or as implied in the documents on which this Contract is based. These prices will be used as a basis for assessment of payment for additional work that may have to be carried out.

C2.2.7 The contractor must plan the work in this contract as a set of activities. These should be the same activities as he shows on his programme.

C2.2.8 The contractor is to take note that payment is made for each activity only when it is complete. "Complete" as it is used in this schedule means the complete system or unit as specified in the particular document.

- C2.2.8 Unless a separate rate for the supply and for the installation of any item is specifically called for, the supply and installation costs of any item shall be fully included in the price.
- C2.2.9 The description of each item shall, unless otherwise stated herein, be held to include making, conveying and delivering, unloading, storing, unpacking, hoisting, setting, fitting and fixing in position, cutting and waste, patterns, models and templates, plant, temporary works, return of packaging, establishment charges, profit and all other obligations arising out of the contractual conditions.
- C2.2.10 No alterations to the original text shall be allowed. If any alterations are made, it shall be ignored, and the original wording will apply.
- C2.2.11 Variations in the scope and extent of the service shall be allowed to meet the Employer's requirements and shall be measured and priced at the rates entered in the Price list, where appropriate, and shall form an addition to or deduction from the total of the Accepted Contract Amount. Any items or variations for which rates have not been included in the Price list shall be agreed and priced as non-scheduled items.
- C2.2.12 All provisional sums and contingency amounts shall be expended as directed by the Employer and any balance remaining shall be deducted from the contract sum.
- C2.2.13 All items described as "provisional" shall be measured as executed and paid for according to prices in the Price list and any amounts not spent shall be deducted from the contract price. No work for which "provisional" items are provided shall, be commenced without written instructions from the Service Manager.
- C2.2.14 No commitment to expending any portion of the contingency amounts and/or provisional sums are made or implied by the Employer.
- C2.2.15 The Contractor shall not be entitled to any claim in instances where provisional sums are partially or in total removed from the contract.
- C2.2.16 An item against which no price is entered will be considered to be covered by the other prices or rates in the Price list. A single lump sum will apply should a number of items be grouped together for pricing purposes.
- C2.2.17 The quantities set out in the Price list are approximate and do not necessarily represent the actual amount of work to be done. The quantities of work accepted and certified for payment will be used for determining payments due and not the quantities given in the Pricing Schedule.
- C2.2.18 The short descriptions of the items of payment given in the Pricing list are only for the purposes of identifying the items. More details regarding the extent of the work entailed under each item appear in the Service information.
- C2.2.19 All prices and rates entered in the Price Schedule must be excluding VAT. VAT will be added last on the summary page of the Price list.

PART C2 Pricing Schedule (Rates to include all overhead costs)

NO.	Description	UoM	Area (m ²) A	Frequency B	Grass cutting, Debris/F.O.D clearing and disposal B (Rate) C	Amount A x B X C
1	South Outfall (M65)					
	1.1a) Southern Robot leaving airport (on the left)	m ²	6900	8		
	1.1b) Southern Robot leaving airport - Across main road	m ²	900	8		
	1.2 Concrete canals on both side of the main road	m ²	1430	8		
	1.3 South Eastern Outfall	m ²	3600	8		
	1.4 Channels along the road leading to south water treatment plant and around inlets	m ²	4500	8		
2	Channel 1736 from the fence	m ²	2160	8		
3	North Outfall	m ²	600	8		
4	3 x Dams(grass)					
	4.1 Opposite Charlie Apron	m ²	7225	8		
	4.2 Near Car Rental depot	m ²	7225	8		
	4.3 Near ATNS	m ²	2600	8		
5	3 x Concrete Dams					
	5.1 Fuel Farm (Agri zone)	m ²	745	8		
	5.2 Forward Fuel Depot	m ²	5200	8		
	5.3 Opposite ATNS Tower	m ²	3250	8		
6	Hlawe Attenuation Dam	m ²	1860	8		
7	Agrizone Fuel line	m ²	2400	8		
8	Rentals Depot Road	m	750	8		
9	Reservoir	m ²	10 106	8		
10	ADHOC Airfield (4x4 Tractors) <i>Not guaranteed</i>	m ²	2 005 300	4		
11	OHS Compliance (Lump Sum)					
12	Permit costs provisional sum (Proven costs, no handling fees)					R 200 000
13	Discarding of existing waste provision					R 40 000
14	3 rd Party procurement provision					R 200 000
15	Contingency					R 500 000
16					Total	
17					VAT	
18					SUB-TOTAL	

Markup Rate for 3rd party Procurement

19	Markup percentage to 3 rd party procurement services	%
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PART C3: SERVICE INFORMATION

Document reference	Title	No of pages
C3.1	<i>Employer's Service Information Information</i>	1
C3.2	<i>Contractor's Works Information</i> ¹	1
	Total number of pages	

C3.1: EMPLOYER'S SERVICE INFORMATION

The project will entail the following but not limited to:

- Grass cutting using brush cutters
- Grass cutting using 4x4 tractors
- Removing and clearing debris/FOD from outfall plinths and concrete dams
- Disposing of debris/FOD
- Supply and delivery of 3rd party procurement vegetation maintenance equipment spares
- Repairs and maintenance of vegetation maintenance equipment via ACSA approved service provider/agents for agricultural equipment

List of Canals and Dams:

- **South outfall**
- Southern Robot leaving the airport on the left: Gabion Baskets & Concrete Canals – Clean inside & cut vegetation 3m on either side. Cut grass on the bed of the gabion basket and remove vegetation from the walls. (East of Sky tanking)
- Southern Robot leaving the airport – across the main road:
- Concrete canals on both side of the main road: Cut 3 m along the canals, clean and remove all vegetation from the canal.
- South out fall (East of water treatment plant): Clean gabion baskets, banks & canal. Sediment at the base must be removed and disposed of over the barriers.
- Channels along the road leading to South water treatment plant and around inlets: Cut 3m wide along the road and 10m around the inlets.

Channel 1736 from the fence

- Cut and clean Bank, inside the channel, 3 m on top & either side including gabion baskets.

West Outfall

- Concrete area must always be free of debris and sediment.

North Outfall (100x100m)

- Clean and remove vegetation on both sides of the canal /gabion baskets.

There are three grass dams, located as follows:

- Opposite Charlie Apron
- Near Car rental Depot
- Near ATNS

The grass is to be cut inside the dam, on the banks & 3 m around. Grass and debris must be removed and safely disposed off-site.

There are three concrete dams, located as follows:

- Fuel Farm
- Forward Fuel Depot
- Opposite ATNS Tower

The grass is to be cut inside the fenced areas and 3 m around the fence (outside).

Any form of debris that might have gotten into the dams must be removed.

Hlawe attenuation Dam

The dam is to be kept free of debris, remove vegetation & cut grass around the dam and the access road must be maintained (cut grass). The service provider will be required to remove debris from the grid.

The grass on banks of Hlawe dam are to be cut.

Overall description of scope of service.

- To cut the grass down to 10 mm
- To cut vegetation 3m strip along both sides of the canals
- To cut vegetation on banks and on the bed and remove the cuttings out of canal.
- To perform cleaning duties, including removal of all debris and litter
- To spray and remove vegetation from the gabion baskets.
- Refuse must be removed from site after the service is completed.

Agrizone Fuel line

- the fuel line chambers are to be kept free of debris, remove vegetation & cut grass around the chambers along the subsoil drainage.
- cut grass along the fuel line road verges for 1m along both sides.
- cut grass around all water outlets and drainage points along fuel line.
- spray herbicide along all subsoil drains and water outlets/drains.

Reservoir

- To cut the grass down to 10mm
- Cut 3m perimeter verge outside the palisade fence
- Remove and clean all dirt/debris in the v-drain channels
- Discard all waste

Car Rentals Depots

- To cut the grass down to 10mm
- Cut 3m perimeter verge outside the palisade fence
- Remove and clean all dirt/debris in the v-drain channels
- Discard all waste

ADHOC Airfield (4x4 Tractors)

- To cut the grass down to below 100mm

To cut the grass down to 400mm

Low service damages

Performance management on the contract shall be conducted as per the table below.

Below is the performance rating with associated low service damages.

Key Performance Area	When	Target	Low Service Damage / Penalties
The contractor will comply with OHS&E audits that are performed periodically and rectify/attend to any findings within the stipulated timeframe (as will be detailed in the audit).	All times	100% must be achieved	First incident: R 5000 for failure to rectify/attend to any findings. Second incident: R 7000 for failure to rectify after initial fine is paid. Third incident: Withhold payment of invoices until findings are rectified.
The contractor will ensure no repeat findings from OHS&E audits	All times	100% must be achieved	R 5000 for per repeat finding
The contractor will comply with OHS&E regulations during performing of service (eg Display relevant notices per section during activities)	All times	100% must be achieved	R 1000 per non compliance
Meeting & Maintaining Standards and frequencies as detailed in the specifications	All times	100% must be achieved	R 1000 per deviation
The contractor fails to/neglects to disclose correct staffing levels and shortages to the Service Manager. (misrepresentation of information)	All times	100% must be achieved	R 1000 per day of staff shortage
Contractor Fails to provide a reliever for a post and leaves the post unmanned	All times	100% must be achieved	R2000 per incident
A staff member's uniform/PPE does not meet the agreed upon standards and specification requirements.	All times	100% must be achieved	First incident: R 1000 immediate claim – must be rectified within 7 days Second incident: if not rectified a claim of R 5000 will apply Third incident: the permit is confiscated for a week. Contractor to make own arrangements at own cost for delays in work and replacement of employee
The contractor to start execution of the works within the agreed timeframe in the Task Order	per task order	100% must be achieved	R 5000 for works not commenced in specified timeframe
Work specified in the task order must be completed within the agreed time frame and reported to the Service manager	All times	100% must be achieved	R 5000 for works not completed in specified timeframe
A 3m Fire break around Perimeter fence must be maintained	Monthly	100% must be achieved	R 1000 per incident reported of overgrown vegetation (above 200mm in height) within 3m from the perimeter fence

waste must be removed from the Airport premises after every service	All times	100% must be achieved	R 1000 for every day not removed
Proof of dumping from an approved BCMM site shall be submitted quarterly in the form of a certificate	quarterly	100% must be achieved	R 3000
Contractor personnel who can make decisions on behalf of the Contractor to attend the monthly meetings	monthly	100% must be achieved	R 1500 per scheduled meeting not attended
Airport permits must always be displayed by the staff and to be used as per the airports permit regulations	All times	100% must be achieved	First incident: R 500 per person Second incident: if not rectified a claim of R 1000 will apply Third incident: the permit is confiscated for a week. Contractor to make own arrangements at own cost for delays in work and replacement of employee
Contractor to protect and guard against damage of existing services and infrastructure	All times	100% must be achieved	Damage to existing services and infrastructure shall be repaired by the Contractor at their cost. The cost of business impact to also be passed onto the Contractor

ANNEXURE A:

OCCUPATIONAL HEALTH AND SAFETY AGREEMENT

OCCUPATIONAL HEALTH AND SAFETY AGREEMENT

AGREEMENT IN TERMS OF SECTION 37(2) OF THE OCCUPATIONAL HEALTH & SAFETY ACT (ACT 85 OF 1993) & CONSTRUCTION REGULATION 5.1(k)

OBJECTIVES

To assist Airport Company South Africa (ACSA) in order to comply with the requirements of:

1. The Occupational Health & Safety (Act 85 of 1993) and its regulations and
2. The Compensation for Occupational Injuries & Diseases Act (Act 130 of 1993) also known as the (COID Act).

To this end an Agreement must be concluded before any contractor/ subcontracted work may commence

The parties to this Agreement are:

Name of Organisation: AIRPORTS COMPANY SOUTH AFRICA SOC LIMITED AIRPORT
Physical Address: Airport Company South Africa SOC Limited Airport

Hereinafter referred to as "Client"

Name of organisation:
Physical Address

Hereinafter referred to as "the Mandatory/ Principal Contractor"

MANDATORY'S MAIN SCOPE OF WORK

GENERAL INFORMATION FORMING PART OF THIS AGREEMENT

1. The Occupational Health & Safety Act comprises of SECTION 1-50 and all unrepealed REGULATIONS promulgated in terms of the former Machinery and Occupational Safety Act No.6 of 1983 as amended as well as other REGULATIONS which may be promulgated in terms of the Act and other relevant Acts pertaining to the job in hand.
2. "Mandatory" is defined as including as agent, a principal contractor or a contractor for work, but WITHOUT DEROGATING FROM HIS/HER STATUS IN HIS/HER RIGHT AS AN EMPLOYER or user of the plant
3. Section 37 of the Occupational Health & Safety Act potentially punishes Employers (PRINCIPAL CONTRACTOR) for unlawful acts or omissions of Mandatories (CONTRACTORS) save where a Written Agreement between the parties has been concluded containing arrangements and procedures to ensure compliance with the said Act BY THE MANDATARY.
4. All documents attached or refer to in the above Agreement form an integral part of the Agreement.
5. To perform in terms of this agreement Mandatories must be familiar and conversant with the relevant provisions of the Occupational Health & Safety Act 85 of 1993 (OHS Act) and applicable Regulations.
6. Mandatories who utilise the services of their own Mandatories (contractors) must conclude a similar Written Agreement with them.
7. Be advised that this Agreement places the onus on the Mandatory to contact the CLIENT in the event of inability to perform as per this Agreement.
8. This Agreement shall be binding for all work the Mandatory undertakes for the client.
9. All documentation according to the Safety checklist including a copy of the written Construction Manager appointment in terms of construction regulation 8, must be submitted 7 days before work commences.

THE UNDERTAKING

The Mandatary undertakes to comply with:

INSURANCE

1. The Mandatary warrants that all their employees and/or their contractor's employees if any are covered in terms of the COID Act, which shall remain in force whilst any such employees are present on the Client's premises. A letter is required prior commencing any work on site confirming that the Principal contractor or contractor is in good standing with the Compensation Fund or Licensed Insurer.
2. The Mandatary warrants that they are in possession of the following insurance cover, which cover shall remain in force whilst they and /or their employees are present on the Client's premises, or which shall remain in force for that duration of their contractual relationship with the Client, whichever period is the longest.
 - a. Public Liability Insurance Cover as required by the Subcontract Agreement.
 - b. Any other Insurance cover that will adequately makes provision for any possible losses and/or claims arising from their and /or their Subcontractors and/or their respective employee's acts and/or omissions on the Client's premises.

COMPLIANCE WITH THE OCCUPATIONAL HEALTH & SAFETY ACT 85 OF 1993

The Mandatary undertakes to ensure that they and/or their subcontractors if any and/or their respective employees will at all times comply with the following conditions:

1. All work performed by the Mandatary on the Client's premises must be performed under the close supervision of the Mandatary's employees who are to be trained to understand the hazards associated with any work that the Mandatary performs on the Client's premises.
2. The Mandatary shall be assigned the responsibility in terms of Section 16(1) of the OHSAct 85 of 1993, if the Mandatary assigns any duty in terms of Section 16(2), a copy of such written assignment shall immediately be forwarded to the Client.
3. The Mandatary shall ensure that he/she familiarise himself/herself with the requirements of the OHSAct 85 of 1993 and that s/he and his/her employees and any of his subcontractors comply with the requirements.
4. The Mandatary shall ensure that a baseline risk assessment is performed by a competent person before commencement of any work in the Client's premises. A baseline risk assessment document will include identification of hazards and risk, analysis and evaluation of the risks and hazards identified, a documented plan and safe work procedures to mitigate, reduce or control the risks identified, and a monitoring and review plan of the risks and hazards.
5. The Mandatary shall appoint competent persons who shall be trained on any Occupational Health & Safety aspect pertaining to them or to the work that is to be performed.
6. The Mandatary shall ensure that discipline regarding Occupational Health & Safety shall be strictly enforced.
7. Any personal protective equipment required shall be issued by the Mandatary to his/her employees and shall be worn at all times.
8. Written safe working practices/procedures and precautionary measures shall be made available and enforced and all employees shall be made conversant with the contents of these practises.
9. No unsafe equipment/machinery and/or articles shall be used by the Mandatary or contractor on the Client's premises.
10. All incidents/accidents referred to in OHSAct shall be reported by the Mandatary to the Provincial Director: Department of Labour as well as to the Client.
11. No user shall be made by the Mandatary and/or their employees and or their subcontractors of any of the Client's machinery/article/substance/plant/personal protective equipment without prior written approval.
12. The Mandatary shall ensure that work for which the issuing of permit is required shall not be performed prior to the obtaining of a duty completed approved permit.
13. The Mandatary shall ensure that no alcohol or any other intoxicating substance shall be allowed on the Client's premises. Anyone suspected to be under the influence of alcohol or any other intoxicating substance shall not be allowed on the premises. Anyone found on the premises suspected to be under the influence of alcohol or any other intoxicating substance shall be escorted off the said premises immediately.
14. Full participation by the Mandatary shall be given to the employees of the Client if and when they inquire into Occupational Health & Safety.

FURTHER UNDERTAKING

1. Only a duly authorised representative appointed in terms of Section 16.2 of the OHS Act is eligible to sign this agreement on behalf of the Mandatary. The signing power of this representative must be designated in writing by the Chief Executive Officer of the Mandatary. A copy of this letter must be made available to the Client.
2. The Mandatary confirms that he has been informed that he must report to the Client's management, in writing anything he/she deems to be unhealthy and /or unsafe. He has versed his employees in this regard.
3. The Mandatary warrants that he/she shall not endanger the health & safety of the Client's employees and other persons in any way whilst performing work on the Client's premises.
4. The Mandatary understands that no work may commence on the Client's premises until this procedure is duly completed, signed and received by the Client.
5. Non-compliance with any of the above clauses may lead to an immediate cancellation of the contract.

ACCEPTANCE BY MANDATARY

In terms of section 37(2) of the Occupational Health & Safety Act 85 of 1993 and section 5.1(k) of the Construction Regulations 2014,

Ia duly authorised 16.2 Appointee acting for and on behalf of(company name) undertake to ensure that the requirements and the provision of the OHSAct 85 of 1993 and its regulations are complied with.

Mandatary – WCA/ Federated Employers Mutual No.....

Expiry date

SIGNATURE ON BEHALF OF MANDATARY
 (Warrant his authority to sign)

DATE

SIGNATURE ON BEHALF OF THE CLIENT
AIRPORT COMPANY SOUTH AFRICA

DATE

ENVIRONMENTAL TERMS AND CONDITIONS - EMS 048

The following Environmental Terms and Conditions shall be strictly adhered to by all contractors when conducting works for ACSA. ACSA shall audit contractor activities, products and services on an ad hoc basis to ensure compliance to these environmental conditions. Any pollution clean-up costs shall be borne by the contractor.

ISSUE	REQUIREMENT
Environmental Policy	ACSA's Environmental Policy shall be communicated, comprehended and implemented by all ACSA appointed contractor staff.
Storm water, Soil and Groundwater Pollution	- No solid or liquid material may be permitted to contaminate or potentially contaminate storm water, soil or groundwater resources. - Any pollution that risks contamination of these resources must be cleaned-up immediately. Spills must be reported to ACSA immediately. Contractors shall supply their own suitable clean-up materials where required. - Washing, maintenance and refuelling of equipment shall only be allowed in designated service areas on ACSA property. It is the contractor's responsibility to determine the location of these areas. - No leaking equipment or vehicles shall be permitted on the airport.
Air Pollution	- Dust: Dust resulting from work activities that could cause a nuisance to employees or the public shall be kept to a minimum. - Odours and emissions: All practical measures shall be taken to reduce unpleasant odours and emissions generated from work related activities. - Fires: No open fires shall be permitted on site.
Noise Pollution	- All reasonable measures shall be taken to minimize noise generated on site due to work operations. - The Contractor shall comply with the applicable regulations regarding noise.
Waste Management	- Waste shall be separated as general or hazardous waste. - General and hazardous waste shall be disposed of appropriately at a permitted landfill site should recycling or re-use of waste not be feasible. - Under no circumstances shall solid or liquid waste be dumped, buried or burnt. - Contractors shall maintain a tidy, litter free environment always in their work area. - Contractors must keep on file: - The name of the contracting waste company - Waste disposal site used - Monthly reports on quantities – separated into general, hazardous and recycled - Maintained file of all Waste Manifest Documents and Certificates of Safe Disposal - Copy of waste permit for disposal site This information must be available during audits and inspections.
Handling & Storage of Hazardous Chemical Substances (HCS)	- All HCS shall be clearly labelled, stored and handled in accordance to Materials Safety Data Sheets. - Materials Safety Data Sheets shall be stored with all HCS. - All spillages of HCS must be cleaned-up immediately and disposed of as hazardous waste. (HCS spillages must be reported to ACSA immediately). - All contractors shall be adequately informed with regards to the handling and storage of hazardous substances. - Contractors shall comply with all relevant national, regional and local legislation regarding the transport, storage, use and disposal of hazardous substances.
Water and Energy Consumption	ACSA promotes the conservation of water and energy resources. The contractor shall identify and manage those work activities that may result in water and energy wastage.
Training & Awareness	The conditions outlined in this permit shall be communicated to all contractors and their employees prior to commencing works at the airport.

Penalties

Penalties shall be imposed by ACSA on Contractors who are found to be infringing these requirements and/or legislation. The Contractor shall be advised in writing of the nature of the infringement and the amount of the penalty. The Contractor shall take the necessary steps (e.g. training/remediation) to prevent a recurrence of the infringement and shall advise ACSA accordingly.

The Contractor is also advised that the imposition of penalties does not replace any legal proceedings, the Council, authorities, land owners and/or members of the public may institute against the Contractor.

Penalties shall be between R200 and R20 000, depending upon the severity of the infringement. The decision on how much to impose will be made by ACSA's Airport Environmental Management Representative in consultation with the Airport Manager or his/her designate, and will be final. In addition to the penalty, the Contractor shall be required to make good any damage caused due to the infringement at his/her own expense.

I, of agree to the above conditions and acknowledge ACSA's right to impose penalties should I or any of my employees or sub-contractors fail to comply with these conditions.

Signed: _____ on this date: _____ (dd/mm/yyyy)

at:

C3.2 CONTRACTOR'S WORKS INFORMATION

The Contractor should include information such as the Contractor's design and Plant and Materials specifications and schedules etc

(Approach paper)

