



AIRPORTS COMPANY
SOUTH AFRICA

AIRPORTS COMPANY SOUTH AFRICA, CTIA

PROJECT NUMBER : [Abstract]

SCM Ref no. : [Category]

[PROJECT TITLE]

NEC 3: PROFESSIONAL SERVICES CONTRACT (PSC)

Between AIRPORTS COMPANY SOUTH AFRICA SOC LIMITED

Applicable at: KING SHAKA INTERNATIONAL AIRPORT

(Registration Number : 1993/004149/30)

and

(Professional Service Provider)

(Registration Number : _____)

for **STRUCTURAL INTEGRITY REMEDIATION / IMPROVEMENTS**

STRUCTURAL INTEGRITY REMEDIATION / IMPROVEMENTS

NEC 3: PROFESSIONAL SERVICES CONTRACT (PSC)

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Part C1: Agreement 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 the procurement of:

STRUCTURAL INTEGRITY REMEDIATION / IMPROVEMENTS.

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.

The tenderer, identified in the Offer signature block, has examined the draft contract as listed in the Acceptance section and agreed to provide this Offer.

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 **Consultant** 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:

(in words)Rands;

R including VAT (in figures)

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 **Consultant** in the *conditions of contract* identified in the Contract Data.

Signature(s)

Name(s)

Capacity

**For the
tenderer:**

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

Name &
signature of
witness

Date

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 **Consultants** 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 Scope of Work: Works 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.

Notwithstanding anything contained herein, this agreement comes into effect on the date when the tenderer receives one fully completed original copy of this document, including the Schedule of Deviations (if any). Unless the tenderer (now **Consultant**) 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

(Insert name and address of organisation)

Name & signature of witness

Date

Schedule of Deviations

1 Subject
Details
.....
.....
.....
.....

2 Subject
Details
.....
.....
.....
.....

3 Subject
Details
.....
.....
.....
.....

4 Subject
Details
.....
.....
.....
.....

5 Subject
Details
.....
.....
.....
.....

By the duly authorised representatives signing this agreement, the Employer and the Tenderer agree to 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.

Part C1.2 Contract Data

The Conditions of contract are selected from the NEC3 Professional Services Contract, April 2013.

Each item of data given below is cross-referenced to the clause in the NEC3 Professional Services Contract which requires it.

Part one - Data provided by the *Employer*

1 **General**

The *conditions of contract* are the core clauses and the clauses for Main Option: A- Lump Sum Contract with Activity Schedule

Dispute resolution Option clause : W1

Secondary Options

X7 Delay damages

X9 Transfer of rights

X10 *Employer's Agent*

X11 Termination by the Employer

X18: Limitation of liability

Z: *Additional conditions of contract*

of the NEC3 Professional Services Contract , April 2013.

The *project stages* are:

<i>project stage</i>		Key deliverable at end of each stage as described in the Scope and accepted by the <i>Employer</i>
No	Description	
1		
2		
3		
4		
5		
6		

10.1 The *Employer* is: Airports Company South Africa SOC, Cape Town International Airport

Airports Company South Africa SOC Limited

King Shaka International Airport,
La Mercy,
KwaZulu-Natal,
4407

11.2(9)	The <i>services</i> are: Professional Engineering Services for Structural Assessment at King Shaka International AirportIA	
11.2(10)	The following matters will be included in the Risk Register <ul style="list-style-type: none"> • Availability of As Built information • Access to Site • Statutory approvals and ACSA approvals • Site Constraints and Constructability • Notification of Claims • Financial and Procurement 	
11.2(11)	The Scope is in the document called Part 3: Scope of Work	
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 for reply</i> is 7 days	
13.6	The <i>period for retention</i> is 1 year following Completion or earlier termination	
2	The Parties' main responsibilities	
25.2	The <i>Employer</i> provides access to the following persons, places and things	
	access to	access date
	1 Any Information	Upon award of the project(s)
	2	Upon award of the project(s)
3	Time	
31.2	The <i>starting date</i> is upon signing of the contract by ACSA.	
11.2(3)	The <i>completion date</i> for the whole of the <i>services</i> is Six (6) Months from the start of the contract	
11.2(6)	The <i>key dates</i> and the <i>conditions</i> to be met are:	
	Condition to be met	key date
	1 <i>Comprehensive structural assessment report</i>	<i>Final report to be submitted six</i>
	2	
	3	
31.1	The <i>Consultant</i> is to submit a first programme for acceptance within 2 weeks of the Contract Date.	
32.2	The <i>Consultant</i> submits revised programmes at intervals of 4 weeks.	

4	Quality		
40.2	The quality policy statement and quality plan are provided within 2 weeks of the Contract Date.		
41.1	The <i>defects date</i> is 52 weeks after Completion of the whole of the <i>services</i> .		
5	Payment		
50.1	The <i>assessment interval</i> ends and starts at 12h00 on the 25 th day of each successive month.		
51.1	The period within which payments are made is 4 weeks, after the receipt of the tax invoice.		
51.2	The <i>currency of this contract</i> is the South African Rand (ZAR).		
51.5	The <i>interest rate</i> is the prime lending rate of Nedbank Bank as determined from time to time.		
6	Compensation events		
	No data required for this section of the <i>conditions of contract</i> .		
7	Rights to material		
	No data required for this section of the <i>conditions of contract</i> .		
8	Indemnity, insurance and liability		
	Refer to Annexure A - GENERIC CONDITIONS OF CONTRACT INSURANCE CLAUSES		
81.1	The amounts of insurance and the periods for which the <i>Consultant</i> maintains insurance are		
	Event	Cover	Period following Completion of the whole of the services or earlier termination
	death of or bodily injury to a person (not an employee of the <i>Consultant</i>) or loss of or damage to property resulting from an action or failure to take action by the <i>Consultant</i>	Consultant to submit Insurance Certificate of Insurance for Public Liability Insurance Cover for R10 Million	
	death of or bodily injury to employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with this contract	As prescribed by the Compensation for Occupational Injuries and Diseases Act 130 of 1993	
81.1	The <i>Employer</i> provides insurance cover for the project		
82.1	Deductibles: • In the event where the consultant defaults in its insurance obligations, the employer may take insurance on their own and then deduct the monthly premiums from the consultant.		
9	Termination		
	Refer to Secondary Clause X11.		
10	Data for main Option clause		
	.		
21.3	The <i>Consultant</i> prepares forecasts of the total of the <i>expenses</i> at intervals of no longer than 4 weeks.		
11	Data for Option W1		

W1.1	The <i>Adjudicator</i> is the person selected by the Parties as and when a dispute arises in terms of the relevant Z Clause, from the Panel of Adjudicators provided under the relevant Z clause
W1.2(3)	The <i>adjudicator nominating body</i> is the current Chairman of the Johannesburg Advocates' Bar Council.
W1.4(2)	The <i>tribunal</i> is Arbitration
W1.4(5)	The <i>arbitration procedure</i> is as set out in the XXXXXXXXXXXXXXXX Shortened rules of Arbitration.

The place where arbitration is to be held is *(Insert suitable location which is to be influenced by the particular area concerned with the works)*.

The person or organisation who will choose an arbitrator if the Parties cannot agree a choice or if the *arbitration procedure* does not state who selects an arbitrator, is the Chairman of the Association of Arbitrators (Southern Africa) or its successor body

12 Data for secondary Option clauses

X7 Delay Damages

Delay damages for each section of the work are calculated as 0.5% of the contract cost per week delayed

X10 The Employer's Agent

X10.1 The *Employer's Agent* is

Name: Matsobane Teffo

Address:
Airports Company South Africa SOC Limited

King Shaka International Airport,
 La Mercy,
 KwaZulu-Natal,
 4407

The authority of the *Employer's Agent* is Project Manager.

X11 Termination by Employer

X11.1 The Employer may terminate the Consultant's obligation to Provide the services for a reason not stated in this contract by notifying the Consultant.

X18 Limitation of liability

X18.1 The *Consultant's* liability to the *Employer* for indirect or consequential loss is Nil

The *Employer's* liability to the *Consultant* for indirect or consequential loss is Nil

The total Direct liability does not exceed 100% of the contract value cumulative total for either party

X18.2 The *Consultant's* liability to the *Employer* for Defects that are not found until after the *defects date* is capped at the total of the contract price.

X18.3 The *end of liability date* is 1 years after Completion of the whole of the *services*.

ADDITIONAL CONDITINS OF CONTRACT

Z1 Estimation of fees

It is specifically recorded that the fees charged by the consultant for services rendered in connection with and/or under this Contract shall be in terms of:

Z2 Tax invoices**The *Consultant's* invoice.**

Delete the first sentence of core clause 50.2 and replace with:

Invoices submitted by the *Consultant* to the *Employer* include

- the details stated in the Scope to show how the amount due has been assessed, and
- the details required by the *Employer* for a valid tax invoice.

Delete the first sentence of core clause 51.1 and replace with:

Each payment is made by the *Employer* within four weeks of receiving the *Consultant's* invoice showing the details which this contract requires or, if a different period is stated in the Contract Data, within the period stated.

Z3 Communications and Notices

Z3.1 Add to the end of the first sentence in core Clause 13.1:

All notices, notifications, requests, demands or other communications shall be deemed to have reached the other Party –

- if delivered by hand, on the date of delivery;
- if posted by ordinary mail or registered post, on the 5th (fifth) calendar day following the date of such posting;
- if transmitted by facsimile or any other electronic medium acceptable to both Parties, on the first Business Day following the date of transmission / publication / delivery.

Z4 Appointment of the *Adjudicator*

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 gbandi@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 ryneke@duma.nokwe.co.za
Mr. Emeka Ogbugo (Quantity Surveyor)	Pretoria	+27 12 349 2027 emeka@gosiame.co.za

Z4.1

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 rejected or accepted by the either 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. An appointed Arbitrator shall provide his written award no later than 30 days following the last day of closing arguments.

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 ryneke@duma.nokwe.co.za
Mr. Emeka Ogbugo (Quantity Surveyor)	Pretoria	+27 12 349 2027 emeka@gosiame.co.za

Z5

Interpretation of the law

Add to core clause 12.3: Any extension, concession, waiver or relaxation of any action stated in this contract by the Parties, the *Project Manager*, the *Supervisor*, or the *Adjudicator* 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.

Z6 **Providing the Works: Delete core clause 20.1 and replace with the following:**

The *Consultant* will supervise the works in accordance with the Works Information and warrants that the results of the Works done in accordance with the drawings and specifications, when complete, shall be fit for their intended purpose.

Z7 **Extending the defects date: add the following as a new core clause 46:**

Z7.1 If the *Employer* cannot use the *works* due to a Defect, which arises after Completion and before the *defects date*, the *defects date* is delayed by a period equal to that during which the *Employer*, due to a Defect, is unable to use the *works*.

Z7.2 If part of the *works* is replaced due to a Defect arising after Completion and before the *defects date*, the *defects date* for the part of the *works* which is replaced is delayed by a period equal to that between Completion and the date by when the part has been replaced.

Z7.3 The *Project Manager* notifies the *Consultant* of the change to a *defect date* when the delay occurs. The period between Completion and an extended *defects date* does not exceed twice the period between Completion and the *defects date* stated in the Contract Data.

Z8 **Termination**

Z8.1 **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”.

Z9 **Cession, delegation and assignment**

Z9.1 The *Consultant* shall not cede, delegate or assign any of its rights or obligations to any person without the written consent of the *Employer*, which consent shall not be unreasonably withheld.

Z9.2 The *Employer* may, on written notice to the *Consultant*, cede and delegate its rights and obligations under this contract to any person or entity.

Z10 **Ethics**

- Z10.1 The *Consultant* undertakes:
- Z10.1.1 not to give or cause 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 *Employer* is subject, including but not limited to the Prevention and Combating of Corrupt Activities Act, 12 of 2004.
- Z10.2 The *Consultant's* breach of this clause constitutes grounds for terminating the *Consultant's* obligation to Provide the Works or taking any other action as appropriate against the *Consultant* (including civil or criminal action). However, lawful inducements and rewards shall not constitute grounds for termination.
- Z10.3 If the *Consultant* 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 *Employer*, the *Employer* shall be entitled to terminate the contract in accordance with the procedures stated in core clause 92.2. The amount due on termination is A1.
- Z11. **Confidentiality**
- 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 *Consultant* 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 *Project Manager* or the *Employer*, which consent shall not be unreasonably withheld.
- Z11.2 If the *Consultant* is uncertain about whether any such information is confidential, it is to be regarded as such until otherwise notified by the *Project Manager*.
- Z11.3 This undertaking shall not apply to –
- Z11.3.1 Information disclosed to the employees of the *Consultant* for the purposes of the implementation of this agreement. The *Consultant* 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 *Consultant* is required by law to disclose, provided that the *Consultant* notifies the *Employer* prior to disclosure so as to enable the *Employer* to take the appropriate action to protect such information. The *Consultant* 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; and
- Z11.3.3 Information which at the time of disclosure or thereafter, without default on the part of the *Consultant*, enters the public domain or to information which was already in the possession of the *Consultant* 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 *works* or any portion thereof, in the course of Providing the Works and after Completion, requires the prior written consent of the *Project Manager*. All rights in and to all such images vests exclusively in the *Employer*.
- Z11.5 The *Consultant* ensures that all his Sub-Consultants abide by the undertakings in this clause.

Z12. **Employer's Step-in rights**

Z12.1 If the *Consultant* 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 *Project Manager*, the *Employer*, 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 sub-*Consultant* or supplier of the *Consultant*) to do so on his behalf. The reasonable costs of such remedial works shall be borne by the *Consultant*.

Z12.2 The *Consultant* co-operates with the *Employer* 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 *Consultant* under the contract or otherwise for and/or in connection with the *works*) and generally does all things required by the *Project Manager* to achieve this end.

Z13. **Intellectual Property**

Z13.1 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.

Z13.2 IP rights remain vested in the originator and shall not be used for any reason whatsoever other than carrying out the *works*.

Z13.3 The *Consultant* gives the *Employer* an irrevocable, transferrable, non-exclusive, royalty free licence to use and copy all IP related to the *works* for the purposes of constructing, repairing, demolishing, operating and maintaining the works.

Z13.4 The *Consultant* shall indemnify and hold the *Employer* harmless against and from any claim alleging an infringement of IP rights ("**the claim**"), which arises out of or in relation to:

Z13.4.1 the *Consultant's* design, manufacture, construction or execution of the Works;

Z13.4.2 the use of the *Consultant's* Equipment, or

Z13.4.3 the proper use of the Works.

Z13.5 The *Employer* shall, at the request and cost of the *Consultant*, assist in contesting the claim and the *Consultant* may (at its cost) conduct negotiations for the settlement of the claim, and any litigation or arbitration which may arise from it.

Z14 **Dispute resolution: The following amendments are made to Option W1:**

- Z14.1 **Under clause W1.3, in the fourth row of the first column of the adjudication table, the following words are added after the words “any other matter”:** “excluding disputes relating to termination of the contract”.
- Z14.2 **The following clauses are added at the end of clause W1.3:**
 - Z14.2.1 “The Adjudicator shall decide the dispute solely on the written submissions of the parties. No oral submissions shall be heard during adjudication.”
 - Z14.2.2 “Disputes relating to or arising from termination of the Contract shall not be determined by an adjudicator. Any such dispute shall be referred directly to arbitration.”

Part C1.2 Contract Data

The conditions of contract are the NEC3 Professional Service Contract, April 2013

Each item of data given below is cross-referenced to the clause in the NEC3 Professional Service Contract to which it mainly applies.

Part two - Data provided by the *Consultant*

Clause	Statement						
10.1	<p>The <i>Consultant</i> is (Name):</p> <p>Address:</p> <p>Tel No.:</p> <p>Fax No.:</p> <p>Email:</p>						
22.1	<p>The <i>Consultant's</i> key persons are:</p> <p>1 Name:</p> <p>Job:</p> <p>Responsibilities:</p> <p>Qualifications:</p> <p>Experience:</p> <p>2 Name:</p> <p>Job:</p> <p>Responsibilities:</p> <p>Qualifications:</p> <p>Experience:</p>						
11.2(3)	The <i>completion date</i> for the whole of the <i>services</i> is As required by ACSA						
11.2(10)	<p>The following matters (if any) will be included in the Risk Register</p> <ul style="list-style-type: none"> • Availability of As-Built Information • Access to Site • Progress vs Programme 						
11.2(13)	The <i>staff rates</i> are as stated in the Pricing Data						
25.2	<p>The <i>Employer</i> provides access to the following persons, places and things</p> <table border="0"> <tr> <td></td> <td style="border-left: 1px dashed black; border-right: 1px dashed black;">access to</td> <td style="border-left: 1px dashed black; border-right: 1px dashed black;">access date</td> </tr> <tr> <td style="border-left: 1px dashed black; border-right: 1px dashed black;">1</td> <td style="border-left: 1px dashed black; border-right: 1px dashed black;">All As-built Information & existing services</td> <td style="border-left: 1px dashed black; border-right: 1px dashed black;">Upon award of the project(s)</td> </tr> </table>		access to	access date	1	All As-built Information & existing services	Upon award of the project(s)
	access to	access date					
1	All As-built Information & existing services	Upon award of the project(s)					

2	Relevant Engineering, Operational and Maintenance Personnel of ACSA	Upon award of the project(s)
<hr/>		
A	Priced contract with activity schedule	
<hr/>		
11.2(14)	The <i>activity schedule</i> is in the Pricing Data	
<hr/>		
11.2(18)	The tendered total of the Prices is in the Form of Offer and Acceptance	
<hr/>		

PART C1: AGREEMENTS AND CONTRACT DATA

C1.3: 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 consultant/ subcontracted work may commence

The parties to this Agreement are:

<p>Name of Organisation:</p> <p>AIRPORTS COMPANY SOUTH AFRICA</p> <p>KING SHAKA INTERNATIONAL AIRPORT</p>
<p>Physical Address:</p> <p>Airports Company South Africa SOC Limited</p> <p>King Shaka International Airport,</p> <p>La Mercy,</p>

KwaZulu-Natal, 4407

Hereinafter referred to as “Client”

Name of organisation:
Physical Address

Hereinafter referred to as “the Mandatary/ Principal Contractor/Consultant”

MANDATORY'S MAIN SCOPE OF WORK

GENERAL INFORMATION FORMING PART OF THIS AGREEMENT

1. The Occupational Health & Safety Act comprises of SECTION 1-50, National Building regulations 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 Mandataries (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 Mandataries 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 Mandatory undertakes to comply with:

INSURANCE

1. The Mandatory 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 Mandatory 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 OHS Act 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 OHS Act 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 OHS Act 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 OHS Act 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

Part C2: Pricing Data

C2.1 Pricing Instructions

Remuneration for Professional Services

Remuneration for professional services will be on **Priced Contract with Activity Schedule** as outlined in the document below.

The Contract Data, Service information, drawings and any other documents relevant to this tender must be read in conjunction with the Bill of quantities

The Bill of quantities as completed by the Contractor shall be VAT exclusive prices and shall cover, "inter alia" all general risks, liabilities, obligations, 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 the works as set forth or as implied in the documents on which this Contract is based.

C2.2 Price Schedule

Pricing structure per activity, as per the proposal submitted (RFQ ref no. [Category])

Item	Service Description	Quantity (Hours)*	Rate	Amount
1	Condition assessment of the following Buildings:			
1.1	Petrol station			
1.2	Sky Tanking facilities X 3			
1.3	Security House and change rooms (South gate)			
1.4	Guard house (South gate & North gate) X2			
1.5	Waste ablution facility			
1.6	Multi Story Parking			
1.7	Multi Story Offices			
1.8	Terminal Building			
1.9	Gate Canopies X 4			
1.10	Car Rental Buildings			
1.11	Shed structures (fuel farm) X 2			
1.12	Admin building (fuel farm)			
1.13	Security House X 2			
1.14	Waste Sorting facility X 3 (incl. Admin building)			
1.15	Maintenance facilities (Workshop) X 2			
1.16	Washing bay X 2			
1.17	Attic Store			
1.18	Maintenance Engineering Buildings X 3			
1.19	AMS Building			
1.20	State Protocol Building (VIP Area)			
1.21	Dog canal			
1.23	Airport fire and rescue building			
1.24	Substations X 8			
1.25	Waste treatment plant (South) including X 4 SBR tanks			
1.26	3ML water reservoir including pump house			
1.27	Mechanical manager's office building			
1.28	Jet blast deflector			
2	Reporting			
	Service Description	Quantity	Rate	Amount
	Testing (If necessary)	1	Sum	150 000
	Provisional Sum			R 100 000
	Total			

DISBURSMENT SCHEDULE

- (a) Only project related costs listed below and presented to ACSA will be compensated by ACSA.
- (b) Any disbursement costs related to travelling to and from the airport or accommodation for the purpose of the project(s) is deemed to be inclusive in the agreed fee structure, unless otherwise agreed in writing by both parties. Disbursement costs not mentioned below (including under note (e)) may be brought to the attention of the ACSA project representative for approval and agreement on the recoverable amount, prior to incurring such cost.
- (c) All rates are exclusive of VAT
- (d) No mark-up on any disbursement cost will be paid.
- (e) No payment for disbursement will be made for the following:
 - Travelling and accommodation
 - Typing of correspondence, payment certificates, variation orders, progress reports or financial reports
 - Telephone calls
 - Cellular calls
 - Computer costs
 - Telefaxes (outgoing or incoming)
 - Email (sent or received)

Above expenses by the Tenderer are deemed to be inclusive in their rates.

Part C3: Scope of work

C3.1: EMPLOYER'S SCOPE

Description of the services

Executive overview

Background:

A service is required to conduct a structural condition assessment of all identified buildings at King Shaka International Airport. The aim of this requisition is to appoint a service provider with a background of structural condition assessments in order to determine the integrity of the structures, identify possible failures/dangers posed by the structural defects, recommend solutions and provide cost estimates for the recommended solutions.

Scope of work:

The condition assessment will entail the following:

- Service provider to conduct a visual inspection/ visual assessment of the airport buildings and structures.
- Survey the conditions of building/structures using non-destructive testing to identify structural defects and extent of damage.
- Service provider to provide a detailed structural assessment report of all areas assessed. The report shall also include analysis, conclusions and recommendations including the need for any immediate actions for repair work.

Structural analysis/assessments will address the following:

Structural Integrity

- Structural integrity of the existing buildings/structures and storage tanks
- Determination of the root cause for structural problems and recommended mitigating solutions.
- Costs estimates for repair work (Where applicable).

NB: Appointed Service provider will need to submit a separate quotation for any testing necessary which will be subject to ACSA approval.

Structural Assessment Report Requirements

The structural assessment reports shall be comprehensive with clear details indicating the following

- Structural defects,
- Risk relating to the defects,
- The root cause,
- Mitigating measures,
- Cost to repair, and
- The predicted remaining structural life.

The final reports shall be reviewed and approved by a Professionally Registered Structural Engineer

To be able to manage the contract, the Employer and Consultants will have various meetings, to proactively and jointly manage and minimise adverse risks to the project. The attendees shall have the necessary delegated authority to make decisions in respect of matters discussed at such meetings.

Regular meetings of a general nature may be convened and chaired by the *Employer's Agent* as follows:

Title and purpose	Approximate time & interval	Location	Attendance by:
Risk register and compensation events	Every four weeks	To be confirmed	<i>Employer's Agent, Consultant</i>
Overall contract progress and feedback	Monthly	To be confirmed	<i>Employer's Agent, Consultant</i>

Meetings of a specialist nature may be convened as specified elsewhere in this Scope or if not so specified by persons and at times and locations to suit the Parties, the nature and the progress of the *services*. Records of these meetings shall be submitted to the *Employer's Agent* by the person convening the meeting within seven days of the meeting.

All meetings shall be recorded using minutes or a register prepared and circulated by the person who convened the meeting. Such minutes or register shall not be used for the purpose of confirming actions or instructions under the contract as these shall be done separately by the person identified in the *conditions of contract* to carry out such actions or instructions.

Consultant's key persons

The *Consultant* is required to nominate a senior partner or director who will have overall responsibility for this project and other senior personnel responsible for the execution of the project. No change may be made without prior consultation with and approval by the *Employer*.

The *Consultant* is required to submit an organogram showing the key persons and their lines of authority / communication.

ISO Quality management System

All projects shall be managed in accordance with strict ISO 9001 quality system ensuring quality in design, administration, reports and site administration. Consultants must be accredited with ISO9001 compliance and each project shall be administrated with respect to quality and technical compliance, in accordance with these strict international Quality Procedures.

Programme and monthly feedback

A detailed programme for each project needs to be submitted within 14days of appointment and updated regularly/monthly.

Consultation and Client Feedback

Detailed consultation with the designated ACSA representative and on-going feedback and reporting during feasibility preliminary design, detailed design and construction stages will be essential in delivering optimal and acceptable solutions which are in line with ACSA specifications and budget allocations. A monthly progress and cost report shall be done from detail design stage onwards till construction ends.

Understanding the Works

The Employer is not responsible for the failure of the Consultant to understand the precise nature of his undertaking under this contract or for any erroneous interpretation concerning the conditions affecting his performance, it being recognized that the Employer provided the Consultant sufficient opportunity to ask the Employer for clarification of the terms and conditions of this contract prior to submission of his tender to provide the services.

Compliance with Laws

The Consultant keeps himself fully informed of, and complies with all laws which apply to the Works and/or Services and/or to Providing the Works and/or Services (including laws which apply to persons employed to provide the Services and/or Works). "Laws" includes all national and provincial legislation, statutes ordinances and other laws and regulations and by-laws, orders and decrees of government or other legally constituted public authority and the common law.

Compliance with Codes & Standards

The Services comply with the codes and standards stated in the Scope. To the extent not stated, the Services comply with internationally recognised codes and standards which are accepted by the Employer.

In case of conflict between national, international codes, standards or guidelines and/or the requirements specified in this Scope, and unless otherwise instructed by the Employer, the more onerous one takes precedence; provided always that the Services comply as a minimum and in any event, with applicable law and mandatory South African national codes, standards and guidelines.

Health and safety

The *Consultant* shall at all times comply with the health and safety requirements prescribed by law as they may apply to the *services*.

The *Consultant* shall comply with the Health and Safety requirements contained in Annexure C.

Working on the Employer's property

Work done on or near an active airport is subject to several special requirements and conditions to ensure the safe operation of the airport at all times. Various limitations and requirements are to be taken cognisance of during the preparation of the tender and construction programme.

This work will be on both the Airside and Landside area of the airport and the normal operations must be able to continue for the duration of the contract.

Please also refer to Annexure B: **SPECIAL REQUIREMENTS AT AN OPERATIONAL AIRPORT.**

People restrictions, hours of work, conduct and records

The work under this contract is to be carried out under operational conditions of the airport and is therefore subject to several special requirements and conditions to ensure the safe operation of the airport at all times.

The *Consultant* keeps records of his people working on the *Employer's* property, including those of his Sub-consultants, and the *Employer's Agent* shall have access to these records at any time.

Cooperating with and obtaining acceptance of Others

Whenever work being done by Others on the project is dependent on or adjacent or related to the Services, the interface and sequence of such works and the Services should be such that the least interference possible will result to the Consultant and to Others and such sequence is determined by the Employer. Cooperation is required between the *Consultant* and Others to ensure the completion of the Services and other project works within the programme for the project as a whole.

As may be required from time to time or as per statutory requirements, the *Consultant* will liaise with and obtain acceptance from statutory authorities and avail themselves for any inspections that would be required.

At the earliest possible date, detailed programmes prepared for all other project works having interfaces with the Services are discussed by the Employer with the Consultant in order that the phasing, duration, use of working areas, attendance work etc. can be drawn into overall programmes for the project works.

Things provided by the *Employer*

The *Employer* will issue to the *Consultant* available information that will assist in the carrying out of the services. This information may include Base plans to indicate existing services, Traffic Impact Assessments and other available information.

The providing of this information does not relieve the *Consultant* of their professional responsibility to verify information that will be used as a basis for their designs.

Part C4.1 : Site Information



Ref	Building	Description
A	Petrol Station	One storey Building
B	Sky Tanking Facility 1	One storey Building
C	Sky Tanking Facility 1	One storey Building
D	Sky Tanking Facility 1	One storey Building
E	Security house & change room (South Gate)	One Storey Building
F	Guard House (South Gate)	One storey Building
G	Waste Ablution facility	One storey Building



Ref	Building	Description
H	Multi Storey Package	Three Storeys building
I	Multi Storey Office	Five Storeys building
J	Terminal	Three storeys building
K	Gate Canopy 1 (Long stay shaded parking)	One storey
L	Gate Canopy 2 (Long stay shaded parking)	One storey
M	Gate Canopy (Long stay pick up zone)	One storey
N	Car rental Buildings	One storey building
O	Gate Canopy (Multi Storey Parking)	One storey building



Ref	Building	Description
A8	Shed structures X 2	One storey
A9	Admin Building (fuel farm)	One storey
A10	Security house	One storey
B1		



Ref	Building	Description
V	Waste-sorting facility 1	One storey building
W	Waste-sorting facility 2	One storey building
X	Waste-sorting facility 3 (Admin building)	One storey building
Y	SAA Maintenance Facilities (workshop)	Two storeys building
Z	Washing Bay	One storey building
A1	Artic store	One storey building
A2	Maintenance Building 2	One storey building
A3	Maintenance Building 1	One storey building
A4	BidAir Services Maintenance facility (Workshop)	Two storeys building
A5	Maintenance Building 3	One storey building
A6	Mechanical manager's office	One storey building
A7	AMS Building	Two storeys building



Ref	Building	Description
P	State Protocol Building (VIP area)	One storey building
Q	Washing Bay	One storey building
R	Dog Canal	One storey building
S	Airport Fire and Rescue building	Three storeys building
T	Gate canopy (Staff Parking)	One storey
U	Guard house (North Gate)	One storey building



Ref	Building	Description
B2	Wastewater treatment plant (South)	One Storey building & concrete tanks



Ref	Building	Description
B3	Substations X 8	One Storey building

