



# **CONTRACT FOR JOINT MONITORING TEAM (JMT) SERVICES FOR THE REPLACEMENT OF HVAC EQUIPMENT AT OR TAMBO INTERNATIONAL AIRPORT**

## TENDERER'S DETAILS

|     |  |  |
|-----|--|--|
| 1.  | NAME OF<br>TENDERER<br>(BIDDING ENTITY)            |  |
|     |  | (FULL NAME, i.e. (CC, (Pty) Ltd, JV, SOLE PROPRIETOR |
| .2. | TEL NUMBER   |  |
| .3. | FAX NUMBER   |  |
| .4. | EMAIL  |  |
| 5.  | NAME OF CONTACT                                    |  |
| 6.  | NATIONAL<br>TREASURY CSD<br>REGISTRATION<br>NUMBER |  |

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| C4 | Site Information |
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## 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

#### **JOINT MONITORING TEAM (JMT) SERVICES FOR THE REPLACEMENT OF HVAC EQUIPMENT AT OR TAMBO 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.

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 exclusive of VAT is |  |
| Value Added Tax @ 15% is                            |  |
| The total offered amount due inclusive of VAT is    |  |
| (in words)  |  |

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 *Consultant* 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   |
| 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.

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.

Notwithstanding anything contained herein, this agreement comes into effect two working days after the submission by the employer of one fully completed original copy of this document including the schedule of deviations (if any), to a courier-to-counter delivery / counter-to-counter delivery / door-to-counter delivery /door-to-door delivery /courier service (delete that which is not applicable), provided that the employer notifies the tenderer of the tracking number within 24 hours of such submission. Unless the tenderer (now **Consultant**) within seven working days of the date of such submission 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

(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.**

Signature(s)

Name(s)

Capacity

for the *Employer*

For the *Consultant*

(Insert name and address of organisation)

Name & signature  
of witness

Date

## C1.2 Contract Data

The Conditions of Contract are selected from the NEC3 Professional Services Contract (Third edition of June 2005 with amendments June 2006 – see [www.neccontract.com/useful\\_downloads/ NEC Amendments June 2006.asp](http://www.neccontract.com/useful_downloads/NEC_Amendments_June_2006.asp)) published by the Institution of Mechanical Engineers, copies of which may be obtained from Engineering Contract Strategies (telephone 011-803 3008)

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

#### General

The *conditions of contract* are the core clauses and the clauses for main Option:

**A: Priced contract with activity schedule**

dispute resolution Option W1: Dispute resolution procedure

and secondary Options

**X2: Changes in the law**

**X5: Sectional Completion**

**X7: Delay damages**

**X9: Transfer of rights**

**X10: Employer's Agent**

**X11: Termination by the Employer**

**X13: Performance Bond**

**X18: Limitation of liability**

**Z: Additional conditions of contract**

of the NEC3 Professional Services Contract June 2005 (with amendments June 2006)

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          |  |
| 3                    | Design development   | Design development report  |
| 4                    | Design Documentation | Design Documentation Report  |
| 5                    | Works                | Works Completion Report  |
| 6                    | Handover             | Handover/Record Information Report   |
| 7                    | Close-out            | Close-out Report   |

10.1 The *Employer* is (Name):



Airports Company South Africa SOC Ltd (Reg. no: 1993/004149/06), a juristic person incorporated in terms of the company laws of the Republic of South Africa

Address:

Aiports Company South Africa  
O R Tambo International Airport  
ACSA Admin. Building  
4<sup>th</sup> Floor North Wing Offices  
Kempton Park  
1627

|          |   |   |
|----------|---|---|
| 11.2(9)  | The <i>services</i> are                                     | Professional Construction Project Management Services for Replacement of HVAC Equipment   |
| 11.2(10) | The following matters will be included in the Risk Register | <ol style="list-style-type: none"> <li>1. The service and the works will be conducted in the vicinity of the Airport Terminal</li> <li>2. Availability of As Built information</li> <li>3. Access to Site</li> <li>4. Statutory approvals and ACSA approvals</li> <li>5. Site Constraints and Constructability</li> <li>6. Financial and Procurement</li> </ol> |
| 11.2(11) | The Scope is in the document called Part C3: Scope of Work  |   |
| 12.2     | The <i>law of the contract</i> is                           | the law of the Republic of South Africa subject to the jurisdiction of the Courts of South Africa   |
| 13.1     | The <i>language of this contract</i> is                     | English   |
| 13.3     | The <i>period for reply</i> is                              | 3 working days  |
| 13.6     | The <i>period for retention</i> is                          | N/A   |

## 2 The Parties' main responsibilities

25.2 The *Employer* provides access to the following persons, places and things

| access to Site  | Access date                          |
|---|--------------------------------------|
| The site (the Consultant must obtain a permit at own cost)                          | Upon signing of the contract by ACSA |
| The contractor responsible for Construction Health and Safety Professional Services | Upon signing of the contract by ACSA |
| The contractor responsible for the (EPC) Replacement of HVAC Equipment              | Upon signing of the contract by ACSA |

## 3 Time

|         |   |   |
|---------|---|---|
| 31.2    | The <i>starting date</i> is                                   | Upon signing of the contract by ACSA    |
| 11.2(3) | The completion date for the whole of the services is          | 24 Months from the <i>starting date</i> |
| 11.2(6) | The <i>key dates</i> and the <i>conditions</i> to be met are: |   |
|         | <b>Condition to be met</b>                                    | <b>key date</b>                         |



|                  |   |  |
|------------------|---|--|
| 1                | Coordinating all statutory notifications, requirements and effecting all necessary submissions in terms of the Construction Regulations | As and when required   |
| 2                | Coordinating Design Development and Report submission to Employer for Acceptance  | As per accepted program  |
| 3                | Coordinating, Design Documentation and Report submission to Employer.   | As per accepted program  |
| 4                | Works Completion Report submission to Employer.   | As per accepted program  |
| 5                | Handover/Record Information Report submission to Employer.  | As per accepted program  |
| 6                | Close-out Report submission to Employer.  | As per accepted program  |
| 7                | Preparing, submitting, and presenting project board reports   | As and when required   |
| 31.1             | The <i>Consultant</i> is to submit a first programme for acceptance   | within 1 week of the Contract Date.  |
| 32.2             | The <i>Consultant</i> submits revised programmes at intervals no longer than  | 4 weeks  |
| <b>4 Quality</b> |   |  |
| 40.2             | The quality policy statement and quality plan are provided within   | 4 weeks of the Contract Date.  |
| 41.1             | The <i>defects date</i> is  | 1 year after Completion of the whole of the services.  |
| <b>5 Payment</b> |   |  |
| 50.1             | The <i>assessment interval</i> is   | 4 weeks  |
| 51.1             | The period within which payments are made is.   | 4 weeks from date of invoice   |
| 51.2             | The <i>currency of this contract</i> is the   | South African Rand.  |
| 51.5             | The <i>interest rate</i> is   | The publicly quoted prime rate of interest (calculated on a 365-day year) charged by Nedbank of South Africa, from time to time, as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove. |

## 6 Compensation events

No data required for this section of the *conditions of contract*.

|         |  |   |
|---------|--|---|
| 7       | <b>Rights to material</b>  |   |
|         | No data required for this section of the conditions of contract.   |   |
| 8       | <b>Indemnity, insurance and liability</b>  |   |
| 81.1    | <b>The amounts of insurance and the periods for which the <i>Consultant</i> maintains insurance are</b>  |   |
| 81.1    | The <i>Employer</i> provides the following insurances  | Refer to Insurance Schedule, Section C1.4   |
| 82.1    | The <i>Consultant's</i> total liability to the <i>Employer</i> for all matters arising under or in connection with this contract, other than the excluded matters, is limited to | Refer to Insurance Schedule, Section C1.4   |
|         | The <i>Consultant</i> provides these additional insurances.  | Refer to Insurance Schedule, Section C1.4   |
| 9       | <b>Termination</b>   | Refer to Secondary Clause X11.  |
| 10      | <b>Data for main Option clauses</b>  |   |
| A       | <b>Priced contract with activity schedule</b>  |   |
| 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      | <b>Data for Option W1</b>  |   |
| W1.1    | The <i>Adjudicator</i> is  | To be jointly appointed by the <i>Employer</i> and the <i>Consultant</i> in terms of the NEC Adjudicators Contractors when a dispute arises   |
|         | Address  | N/A   |
|         | Tel No.  | N/A   |
|         | Fax No.  | N/A   |
|         | e-mail   | <a href="http://www.jointcivils.co.za">www.jointcivils.co.za</a>  |
| W1.2(3) | The <i>adjudicator nominating body</i> is  | The Chairman of the time being of the Joint Civils Divisions of the South African Institution of Civil Engineering (or his successor) or his nominee (see <a href="http://www.jointcivils.co.za">www.jointcivils.co.za</a> ). |
| W1.4(2) | The <i>tribunal</i> is   | Arbitration.  |
| W1.4(5) | The <i>arbitration procedure</i> is  | The Rules for the Conduct of Arbitrations published by the Arbitration Foundation of South Africa (AFSA) (or its successor).  |
|         | The place where arbitration is to be held is   | Johannesburg, South Africa.   |

The person or organisation who will choose an arbitrator

- if the Parties cannot agree on a choice or
- if the *arbitration procedure* does not state who selects an arbitrator,

is

**The Chairman for the time being of the Arbitration Foundation of South Africa (AFSA) (or its successor) or his nominee.**

## **12 Data for secondary Option clauses**

### **X2 Changes in the law**

X2.1 The *law of the project* is **the law of the Republic of South Africa subject to the jurisdiction of the Courts of South Africa.**

### **X5 Sectional Completion**

X5.1 The *completion date* for each *section* of the *services* is:

| <b>section</b> | <b>description</b>  | <b>completion date</b>         |
|----------------|---|--------------------------------|
| <b>1</b>       | Coordinating all statutory notifications, requirements and effecting all necessary submissions in terms of the Construction Regulations | <b>As and when required</b>    |
| <b>2</b>       | Coordinating Design Development and Report submission to Employer for Acceptance  | <b>As per accepted program</b> |
| <b>3</b>       | Coordinating, Design Documentation and Report submission to <i>Employer</i> .   | <b>As per accepted program</b> |
| <b>4</b>       | Works Completion Report submission to Employer.   | <b>As per accepted program</b> |
| <b>5</b>       | Handover/Record Information Report submission to Employer.  | <b>As per accepted program</b> |
| <b>6</b>       | Close-out Report submission to Employer.  | <b>As per accepted program</b> |
| <b>7</b>       | Preparing, submitting, and presenting project board reports   | <b>As per accepted program</b> |

### **X5 and X7 Sectional Completion and delay damages used together**

X7.1 Delay damages for late Completion of each *section* of the *services* are:

X5.1

| <b>section</b> | <b>description</b>  | <b>amount per day</b>  |
|----------------|---|--|
| <b>1</b>       | Coordinating all statutory notifications, requirements and effecting all necessary submissions in terms of the Construction Regulations | <b>Amount per day is 0.05% of the contract value, up to the maximum of 10% of the contract value</b> |

|            |  |   |   |
|------------|--|---|---|
| 2          | Coordinating Design Development and Report submission to Employer for Acceptance             |   | Amount per day is 0.05% of the contract value, up to the maximum of 10% of the contract value |
| 3          | Coordinating, Documentation and submission to Employer.                                      | Design Report   | Amount per day is 0.05% of the contract value, up to the maximum of 10% of the contract value |
| 4          | Works Completion submission to Employer.   | Report  | Amount per day is 0.05% of the contract value, up to the maximum of 10% of the contract value |
| 5          | Handover/Record Information Report submission to Employer                                    |   | Amount per day is 0.05% of the contract value, up to the maximum of 10% of the contract value |
| 6          | Close-out Report submission to Employer.   |   | Amount per day is 0.05% of the contract value, up to the maximum of 10% of the contract value |
| 7          | Preparing, submitting, and presenting project board reports                                  |   | Amount per day is 0.05% of the contract value, up to the maximum of 10% of the contract value |
| <b>X7</b>  | <b>Delay damages</b>   |   |   |
| X7.1       | Delay damages for late Completion of the whole of the services are <b>R 2,000.00 per day</b> |   |   |
| <b>X10</b> | <b>The Employer's Agent</b>  |   |   |
| X10.1      | The Employer's Agent is  |   |   |
|            | Name:  | TBD   |   |
|            | Address  | O R Tambo International Airport<br>International Terminal Building<br>Mezzanine Floor ACSA Maintenance<br>Offices<br>Kempton Park<br>1627 |   |



The authority of the *Employer's Agent*

includes but is not limited to the following:

1. To assess and process all invoices payable by the *Employer*
2. To manage this contract on behalf of the *Employer* in terms of meeting with and giving lawful instructions to the *Consultant*.

It is the *Employer's* sole discretion to amend the authority of the *Employer's Agent* under this contract through prior written communication to the *Consultant*.

|            |  |   |
|------------|--|---|
| <b>X13</b> | <b>Performance bond</b>  |   |
|            | The form of the performance bond is in terms of the NEC PSC3: Performance Bond published on the website <a href="http://www.jointcivils.co.za">www.jointcivils.co.za</a> |   |
| X13.1      | The amount of the performance bond is  | N/A   |
| <b>X18</b> | <b>Limitation of liability</b>   |   |
| X18.1      | The <i>Consultant's</i> liability to the Employer for indirect or consequential loss is limited to   | R 0.00  |
| X18.2      | The <i>Consultant's</i> liability to the Employer for Defects that are not found until after the defects date is limited to  | R 0.00  |
| X18.3      | The end of liability date is   | 1 year after Completion of the whole of the services. |

## 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 *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.

### Z2 Providing the Works: Delete core clause 20.1 and replace with the following:

- Z2.1** The *Consultant* provides the works in accordance with the Works Information and warrants that the results of the Works, when complete, shall be fit for their intended purpose.

### Z3. Other responsibilities: add the following at the end of core clause 27:

- Z3.1** The *Consultant* shall have satisfied himself, prior to the Contract Date, as to the completeness, sufficiency and accuracy of all information and drawings provided to him as at the Contract Date.
- Z3.2** The *Consultant* shall be responsible for the correct setting out of the Works in accordance with the original points, lines and levels stated in the Works Information or notified by the Project Manager, Supervisor or the Employer. Any errors in the positioning of the Works shall be rectified by the *Consultant* at the *Consultant's* own costs.

### Z4. Extending the defects date: add the following as a new core clause 46:

- Z4.1** 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.
- Z4.2** 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.
- Z4.3** 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.

### Z5. Termination

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".

## AMENDMENTS TO THE SECONDARY OPTION CLAUSES

### Z6. Changes in Law: Add the following clause to secondary option X2 as X2.2:

- Z6.1** A change in law is defined as:
- Z6.1.1** the adoption, enactment, promulgation, coming into effect, repeal, amendment, reinterpretation, change in application or other modification after the Contract Date of any law, excluding (i) the enactment of any bill inside the country, but only if such bill is enacted without any material changes being made to the contents of such bill from the form published in the Gazette (as defined in the Interpretation Act, 1957) as at the Contract Date, and (ii) any such modification in law relating to any taxes, charges, imposts, duties, levies or deductions that are assessed in relation to a person's income

**Z6.1.2** any permit being terminated, withdrawn, amended, modified or replaced, other than (i) in accordance with the terms upon which it was originally granted, (ii) as a result of the failure by the *Consultant* to comply with any condition set out therein, or (iii) as a result of any act or omission of the *Consultant*, any Sub-Consultant or any affiliate to the *Consultant*.

**Z7. Performance Bond**

Amend the first sentence of clause X13.1 to read as follows: The *Consultant* gives the *Employer* an unconditional, on-demand performance bond, provided by a bank or insurer which the *Employer's Agent* and the *Employer* have accepted, for the amount stated in the Contract Data and in the form set out in Section C1.3 – Sureties of this Contract Data.

Add the following new clause as Option X13.2: The *Consultant ensures* that the performance bond is valid and enforceable until the end of the *contract period*. If the terms of the performance bond specify its expiry date and the end of the *contract period* does not coincide with such expiry date, four weeks prior to the said expiry date, the *Consultant* extends the validity of the performance bond until the end of the *contract period*. If the *Consultant* fails to so extend the validity of the performance bond, the *Employer* may claim the full amount of the performance bond and retain the proceeds as cash security

**Z8. Limitation of liability: Insert the following new clause as Option X18.6:**

**Z8.1** The Employer's liability to the *Consultant* for the *Consultant's* indirect or consequential loss is limited to R0.00.

**Z8.2** Notwithstanding any other clause in this contract, any proceeds received from any insurances or any proceeds which would have been received from any insurances but for the conduct of the *Consultant* shall be excluded from the calculation of the limitations of liability listed in the contract.

**ADDITIONAL Z CLAUSES**

**Z9. Cession, delegation and assignment**

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. This clause shall be binding on the liquidator/business rescue practitioner /trustee (whether provisional or not) of the *Consultant*.

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. Joint and several liability**

If the *Consultant* constitutes a joint venture, consortium or other unincorporated grouping of two or more persons, these persons are deemed to be jointly and severally liable to the Employer for the performance of the Contract.

The *Consultant* shall, within 1 week of the Contract Date, notify the Project Manager and the Employer of the key person who has the authority to bind the *Consultant* on their behalf.

The *Consultant* does not materially alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without prior written consent of the Employer.

**Z11. Ethics**

The *Consultant* undertakes:

**Z11.1.1.** 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;

**Z11.1.2.** 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.

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.

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.

## **Z12. Confidentiality**

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.

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.

This undertaking shall not apply to –

**Z12.3.1.** 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;

**Z12.3.2.** 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;

**Z12.3.3.** 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);

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.

The *Consultant* ensures that all his Sub-Consultants abide by the undertakings in this clause.

## **Z13. Employer's Step-in rights**

If the *Consultant* defaults by failing to comply with his obligations and fails to remedy such default within [•] 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*.



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.

#### **Z14. Liens and Encumbrances**

The *Consultant* keeps the Equipment used to Provide the Services free of all liens and other encumbrances at all times. The *Consultant*, vis-a-vis the Employer, 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 Sub-Consultants similarly, vis-a-vis the Employer, waive all liens they may have or become entitled to over such Equipment from time to time

#### **Z15. Intellectual Property**

**Z15.1** 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.

**Z15.2** IP rights remain vested in the originator and shall not be used for any reason whatsoever other than carrying out the works.

**Z15.3** 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.

**Z15.4** The written approval of the *Consultant* is to be obtained before the *Consultant's* IP made available to any third party which approval will not be unreasonably withheld or delayed. Prior to making any *Consultant's* IP available to any third party the Employer shall obtain a written confidentiality undertaking from any such third party on terms no less onerous than the terms the Employer would use to protect its IP.

**Z15.5** 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:

**Z15.5.** the *Consultant's* design, manufacture, construction or execution of the Works;

**Z15.5.** the use of the *Consultant's* Equipment, or

**Z15.5.** the proper use of the Works.

**Z15.6** 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.

#### **Z16. Dispute resolution: The following amendments are made to Option W1:**

**Z16.1** 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".

**Z16.2** The following clauses are added at the end of clause W1.3:

**Z16.2.** "The Adjudicator shall decide the dispute solely on the written submissions of the parties. No oral submissions shall be heard during adjudication."



**Z16.2.** “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 two - Data provided by the *Consultant*

The *Consultant* is advised to read the NEC3 Professional Service Contract (Third edition of June 2005 with amendments June 2006 – see [www.neccontract.com/useful\\_downloads/NEC\\_Amendments\\_June\\_2006.asp](http://www.neccontract.com/useful_downloads/NEC_Amendments_June_2006.asp)) and the associated Guidance notes and flow charts, published by the Institution of Civil Engineers, in order to understand the implications of this Data which is required to be completed. Copies of these documents may be obtained from the South African Institution of Civil Engineering (telephone 011-805 5947) or Engineering Contract Strategies (telephone 011-803 3008).

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

| 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> <p>3 Name:.</p> <p>Job:</p> <p>Responsibilities:</p> <p>Qualifications:</p> <p>Experience:</p> |
| 11.2(3) | <p>The completion date for the whole of the services is</p> <p style="text-align: right;"><b>As required by ACSA</b></p>   |

|          |  |                                      |
|----------|--|--------------------------------------|
| 11.2(10) | The following matters (if any) will be included in the Risk Register                   | 1.                                   |
| 11.2(13) | The <i>staff rates</i> are in the Pricing Data   |                                      |
| 25.2     | The <i>Employer</i> provides access to the following persons, places and things        |                                      |
|          | <b>access to</b>   | <b>access date</b>                   |
| 1        | Relevant Engineering, Operational and Maintenance Personnel of ACSA                    | Contractors                          |
| 2        | The site (the Consultant must obtain a permit at own cost)                             | Upon signing of the contract by ACSA |
| 3        | The contractor responsible for Construction Health and Safety Professional Services    | Upon signing of the contract by ACSA |
| 4        | The contractor responsible for the (EPC) Replacement of HVAC Equipment                 | Upon signing of the contract by ACSA |
| 31.1     | The programme identified in the Contract Data is Contained in the Returnable Documents |                                      |
| 50.3     | The <i>expenses</i> stated by the <i>Consultant</i> are in the Pricing Data            |                                      |
| <b>A</b> | <b>Priced contract with activity schedule</b>  |                                      |
| 11.2(14) | The <i>activity schedule</i> is in the Pricing Data                                    |                                      |
| 11.2(18) | The tendered total of the Prices is in the Form of Offer and Acceptance                |                                      |

## C1.3 Sureties

### Pro forma Performance Bond – Demand Guarantee (for use with Option X13) – Not Applicable

(to be reproduced exactly as shown below on the letterhead of the Bank providing the Bond / Guarantee)

[Insert *Employer's* name and registered address]

Bank reference No.

Date:

Dear Sirs,

### Performance Bond – Demand Guarantee for [insert name of *Consultant*] required in terms of contract [insert *Consultant's* contract reference number or title]

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

|     |                             |   |
|-----|-----------------------------|---|
| 1.1 | "Bank" means                | [Insert name of Bank], [●] Branch, Registration No. [●]   |
| 1.2 | "Bank's Address" means      | [Insert physical address of Bank]   |
| 1.3 | "Contract" means            | the written agreement relating to the Services, entered into between the Employer and the <i>Consultant</i> , on or about the [●] day of [●] 200[●] (Contract Reference No. [●]) as amended, varied, restated, novated or substituted from time to time;  |
| 1.4 | " <i>Consultant</i> " means | [●] a company registered in accordance with the laws of [●] under Registration No [●].  |
| 1.5 | "Employer" means            | [●] a company registered in accordance with the laws of the Republic of South Africa under Registration Number [●]  |
| 1.6 | "Expiry Date" means         | the earlier of <ul style="list-style-type: none"> <li>the date that the Bank receives a notice from the Employer stating that all amounts due from the <i>Consultant</i> as certified in terms of the contract have been received by the Employer and that the <i>Consultant</i> has fulfilled all his obligations under the Contract, or</li> <li>the date that the Bank issues a replacement Bond for such lesser or higher amount as may be required by the Employer.</li> </ul> |
| 1.7 | "Guaranteed Sum" means      | the sum of R[●], ([●] Rand)   |
| 1.8 | "Services" means            | [●]   |

2. At the instance of the *Consultant*, we the undersigned \_\_\_\_\_ and \_\_\_\_\_, in our respective capacities as \_\_\_\_\_ and \_\_\_\_\_ of the Bank, and duly authorized thereto, confirm that we hold the Guaranteed Sum at the disposal of the Employer as security for the proper performance by the *Consultant* of all of its obligations in terms of and arising from the Contract and hereby undertake to pay to the Employer, on written demand from the Employer received prior to the Expiry Date, any sum or sums not exceeding in total the Guaranteed Sum.

3. A demand for payment under this guarantee shall be made in writing at the Bank's address and shall:

- be signed on behalf of the Employer by a director of the Employer;
- state the amount claimed ("the Demand Amount");
- state that the Demand Amount is payable to the Employer in the circumstances contemplated in the Contract.



4. Notwithstanding the reference herein to the Contract the liability of the Bank in terms hereof is as principal and not as surety and the Bank's obligation/s to make payment:
- is and shall be absolute provided demand is made in terms of this bond in all circumstances; and
  - is not, and shall not be construed to be, accessory or collateral on any basis whatsoever.
5. The Bank's obligations in terms of this Guarantee:
- shall be restricted to the payment of money only and shall be limited to the maximum of the Guaranteed Sum; and
  - shall not be discharged and compliance with any demand for payment received by the Bank in terms hereof shall not be delayed, by the fact that a dispute may exist between the Employer and the *Consultant*.
6. The Employer shall be entitled to arrange its affairs with the *Consultant* in any manner which it sees fit, without advising us and without affecting our liability under this Guarantee. This includes, without limitation, any extensions, indulgences, release or compromise granted to the *Consultant* or any variation under or to the Contract.
7. Should the Employer cede its rights against the *Consultant* to a third party where such cession is permitted under the Contract, then the Employer shall be entitled to cede to such third party the rights of the Employer under this Guarantee on written notification to the Bank of such cession.
8. This Guarantee:
- shall expire on the Expiry Date until which time it is irrevocable;
  - is, save as provided for in 7 above, personal to the Employer and is neither negotiable nor transferable;
  - shall be returned to the Bank upon the earlier of payment of the full Guaranteed Sum or expiry hereof;
  - shall be regarded as a liquid document for the purpose of obtaining a court order; and
  - shall be governed by and construed in accordance with the law of the Republic of South Africa and shall be subject to the jurisdiction of the Courts of the Republic of South Africa.
  - will be invalid and unenforceable if any claim which arises or demand for payment is received after the Expiry Date.
9. The Bank chooses domicilium citandi et executandi for all purposes in connection with this Guarantee at the Bank's Address.

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

For and on behalf of the Bank

Bank Signatories(s)

Name(s) (printed)

Witness(s)

Bank's seal or stamp

## 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 *Consultant* under this contract in any way whatsoever (including but not limited to any requirement for the provision by the *Consultant* of any other insurances).
- Unless specifically otherwise stated, capitalised terms in this schedule (other than *Employer*, *Consultant* 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:

##### **Insurance to be arranged by the Employer.**

Notwithstanding anything contained elsewhere in the Contract and without limiting the obligations, liabilities or responsibilities of the *Consultant* in any way whatsoever (including but not limited to any requirement for the provision by the *Consultant* 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) **CONTRACT WORKS Insurance** – which will provide cover against physical loss of or damage to the Works including Temporary Works, plant and materials intended to form part of the Permanent Works. Blanket cover for Projects below R 50,000,000 and certificates for Projects above R 50,000,000
- (b) **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 not less than **R 1,000,000,000** in respect of all claims arising from any one occurrence or series of occurrences consequent upon or attributable to one source or original cause.
- (c) **PROFESSIONAL INDEMNITY Insurance** – which shall be procured on a Project by Project basis covering the Employer, Contractor, Sub-Contractors, Consultants and all other Consultants providing their own services to the project and where relevant Suppliers and Vendors for an amount not less than **R 250,000,000** any one claim but **R 500,000,000** in total for the Project. This insurance will provide indemnity against claims arising out of negligent acts, errors or omissions by the Employer, Consultants, Sub-Consultants, Contractors and Sub-Contractors, and all other Consultants engaged in the Project as designers of the Works and as the parties responsible for the provision of the Services under the Contract and any other services for other aspects of the Project.

*“DN” (2): The period of cover need not be for the maximum period but must be aligned with the requirement of the specific contract being entered into. If the contract is a short period, **ACSA** might elect to have the cover in place for the shorter Period i.e. reduced Liability period. Also **ACSA** may choose to transfer design risk to the Consultants at the Consultants Cost. This must be reviewed for each contract at tender stage and the Period amended in accordance with **ACSA'S** contracting and risk philosophy.*

The Employer shall maintain such Professional Indemnity insurance for the period of the construction subject to a maximum of 48 (forty-eight) months commencing on the date of award of the Construction Contract. The insurance shall include Retroactive cover to the date of Conceptual Design commencement, maximum 3 (three) years.

- (d) **SASRIA (Riot & Strike) Insurance** – which will provide cover against Riot, Strike and associated risks for physical damage to the Works, including Temporary Works, Plant and Materials intended to form part of the Permanent Works.

*“DN” (3): This cover is unique to RSA, in Namibia it is known as NASRIA which carries separate agreement. If the contract is outside of the Territorial Limits of RSA, **ACSA** will need to purchase separate Political Risks & Terrorism cover. This clause will then be voided and amended accordingly.*

- (e) **MARINE AND AIR CARGO Insurance** – which will provide cover in respect of all materials, equipment, machinery, spares and other items for incorporation into the Works against all risks of physical loss or damage while in transit by sea or air (and ongoing transit by road or rail) from country of origin anywhere in the world to the site in the Republic of South Africa.

*“DN” (4): The Marine Cargo cover is a unique policy outside of the **ACSA** annual Contract Works, SASRIA, Third Party Liability and Professional Indemnity insurances. The provision of Marine and Air Cargo Insurance must be deleted if the Contract does not have this requirement.*

**If the Contract has a Marine Cargo component and it is not an accepted Insurance responsibility of ACSA, then this clause (e) must be moved down to the section below that addresses “Insurance to be arranged by the Contractor as clause (e).**

*In the event that the insuring responsibility is transferred to the Constructor or Supplier, the following additional wording must also be included in addition to the clause as it stands in (e) above.*

*“The Contractor shall ensure that the following clause is included in any Marine Insurance policy covering plant, material, equipment and other things to be incorporated into the works imported in terms of the Contract;*

#### **Contribution**

*Notwithstanding anything contained herein to the contrary, it is hereby agreed that in the event of loss or damage to property otherwise insured by any Contract Works or engineering erection policies where such loss or damage is discovered after the termination of the voyage or transit in respect of which this insurance applies, and it is not possible to ascertain whether the cause of such loss or damage happened prior or subsequent to the termination of such voyage or transit, this insurance shall contribute 50 % (fifty percent) to any properly adjusted claim. The Contract Works or engineering erection policies shall likewise contribute 50 % (fifty percent) in the same manner.*

*Provided that any such Contract Works or engineering erection policies shall contain a contribution clause in like manner to that hereby expressed.*

*In the event of the Contractor being unable or unwilling to ensure that the above clause is included in any marine insurance policy covering the Works, the Contractor shall be liable to contribute 50 % (fifty percent) of any properly adjusted loss and the Contract Works or engineering erection policies shall contribute 50 % (fifty percent) in like manner.*

*It being understood that any such contribution made by the Contractor shall not be recoverable under insurance held by the Employer on the Contractor's and its behalf, and that compliance with this condition shall not derogate from any obligation or liability of the Contractor under Contract.”*

#### **Applicable to Clauses (a) to (e) above**

- The Employer shall pay any premium due in connection with the insurance effected by the Employer.
  - (i) 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.
  - (ii) Any further clarification in the scope of cover provided by the Policies arranged by the Employer should be obtained from the Employer.
  - (iii) 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 and the Employer's Insurance Broker or the Insurers by e-mail, telephone or telefax giving the circumstances nature and an estimate of the loss or damage or liability – Ref: **Annexure “B” (and copy in The Employer).**





- (b) complete a Claims Advice Form available from the Insurance Brokers to whom the form must be returned without delay. – Ref: **Annexure “B” (and copy in the Employer).**
- (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.

- (iv) The Contractor shall be liable for the amount of the Deductible (First Amount Payable) in respect of any claim made by or against the Contractor or his 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.

The Deductible for which the Contractors are responsible and which are applicable in respect of each and every occurrence or series of occurrences attributable to one source or original cause giving rise to a loss or damage or liability indemnifiable are as stated in **Annexure “A”**.

- (v) 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 to be arranged by the *Consultant*

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

- (a) Insurance of Contractor's 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.

*"DN"(5): on (a) to (c) above - These covers are unique to RSA however in Territories outside of RSA it is legislated and regulated by local authorities which have separate requirements. If the contract is outside of the Territorial Limits of RSA, **ACSA** will need to review these requirements and advise their contractors on the specific new requirements and the clauses amended accordingly.*

- (d) Where the Contract involves manufacturing and/or fabrication of the Works or parts thereof at premises other than at the site, the Supplier shall satisfy the Employer that all Plant and Materials for incorporation in the Works are adequately insured during manufacture and/or fabrication. In the event of the Employer having an insurable interest in such works during manufacture or fabrication then such interest shall be noted by endorsement to the relevant Policies of Insurance of the Supplier.

Imported equipment or component parts or materials to be supplied in terms of this Contract which require any process of assembly or finishing in South Africa prior to delivery to the Site are to be insured by the Contractor up to the commencement of transit to Site of the assembled or finished equipment component parts or materials unless special arrangements are made by the Employer

*"DN" (6): Per "DN" (4) above, **if the Contract has a Marine Cargo insurance requirement and is not an accepted insurance responsibility of ACSA, then clause (e) MARINE AND AIR CARGO Insurance must be included as part of the Insurance to be arranged by the Contractor as clause (e).***

*This is in the event that the Marine Cargo insurance responsibility is transferred to the Contractor or Supplier and remember to add the **"50/50 Contribution"** clause as quoted in "DN" (4) on page 4 of this document.*

- (i) The insurances to be provided by the Contractor and his Sub-Contractors shall:
  - (a) be affected 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 affected.
- (ii) In the event that the Contractor or any of his Sub-Contractors 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 in this Contract, 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.



### **Sub-Contractors and Sub-Consultants**

The *Consultant* shall:

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

## DEDUCTIBLES

### 1) Contract Works Insurance

- With regards to contract works claims, the *Consultant* is responsible for a deductible (excess) of R250 000.
- Contractors / consultants may re-insure the deductible

### 2) Public Liability

- In the event of a claim brought against the contractor / Consultant for 3rd party property damage the contractor / Consultant will be responsible for a deductible (excess) of R525 000
- In the event of a claim brought against the contractor / Consultant for removal of lateral support, the contractor / Consultant will be responsible for a deductible (excess) of R750 000
- In the event of a claim brought against the contractor / consultant for damage to aircraft, the contractor / consultant will be responsible for a deductible (excess) of R750 000
- Contractors / consultants may re-insure the deductibles

### 3) Professional Indemnity

- All consultants are responsible for Professional Indemnity cover of R5million
- Contractors who have a material design element, excluding typical P & G related work, as part of their scope, are responsible for a Professional Indemnity cover of R5million.
- In the event of a claim above R5million, the ACSA PI cover will kick in for the amount in excess of R5million.
- Proof of cover in the form of a certificate of insurance should be provided to ACSA before a contract is signed between ACSA and the contractor and/or consultant.

### 4) SASRIA (Riot & Strike)

0,100% of Contract Value, minimum R 2,500 and maximum R 25,000 in respect of theft claims only.

### 5) Marine and Air Cargo - cover is not automatically arranged unless by special request. Refer to ACSA for additional information.

*“DN” (7): this section would need to be deleted if not applicable – read “DN” (4) & “DN” (6).*

## INCIDENT ADVICE FORM

**NOTE:** PLEASE SEND A COPY HEREOF TO ACSA HEAD OFFICE

Send to: .....

\*From: .....

**Aon South Africa (Pty) Ltd - Construction & Engineering**

Attention: Priscilla Hart

1 Sandton Drive

Sandhurst, Sandton

2196

Tel No: +27 (11) 944 7974

E- mail: [priscilla.hart@aon.co.za](mailto:priscilla.hart@aon.co.za)

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\*Please provide name of contracting company, site address, telephone, fax numbers and e-mail.

---

DATE OF LOSS:

---

REPORTED TO SITE AGENT BY:

DATE

---

REPORTED TO AON SOUTH AFRICA BY:

DATE

---

Locality of Incident:

---

How did the loss /damage/injury/death occur (cause)?  

---

---

---



Details and nature of loss /damage/injury/death:

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Names and address of witnesses:

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Estimated cost of repairs, if applicable (Separate records of all costs must be kept):

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Who or what appears to be responsible for the loss /damage/injury/death:

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---

---

---

---

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---

---



Person whom assessor should contact:

---

Telephone, fax number and e-mail:

---

SIGNED BY: ..... SIGNATURE: .....

COMPANY: ..... DATE: .....

## C2.1 Pricing assumptions: Option A

### How work is priced and assessed for payment

Clause 11 in NEC3 Professional Services Contract, June 2005 (PSC3) Option A states:

|                                     |      |  |
|-------------------------------------|------|--|
| <b>Identified and defined terms</b> | 11   |  |
|                                     | 11.2 | (14) The Activity Schedule is the <i>activity schedule</i> unless later changed in accordance with this contract.  |
|                                     |      | (15) The Price for Services Provided to Date is the total of the Prices for the activities which have been completed. A completed activity is one which is without Defects which would delay immediately following work. |
|                                     |      | (18) The Prices are the lump sum prices for each of the activities on the Activity Schedule unless later changed in accordance with this contract.   |

This confirms that Option A is a lump sum form of contract where the work is broken down into activities, each of which is priced by the tendering consultant as a lump sum. Only completed activities are assessed for payment at each assessment date; no part payment is made if the activity is not completed by the assessment date.

### Function of the Activity Schedule

Clause 53.1 in Option A states: "Information in the Activity Schedule is not Scope." This confirms that instructions to do work or how it is to be done are not included in the Activity Schedule but in the Scope. This is further confirmed by Clause 21.1 which states, "The *Consultant* Provides the Services in accordance with the Scope". Hence the *Consultant* does **not** Provide the Services in accordance with the Activity Schedule. The Activity Schedule is only a pricing document.

### Link to the programme

Clause 31.4 states that "The *Consultant* provides information which shows how each activity on the Activity Schedule relates to the operations on each programme which he submits for acceptance". Hence when compiling the *activity schedule*, the tendering consultant needs to show each activity on the programme he submits with his tender.

### Preparing the activity schedule

The tendering consultant prepares the *activity schedule* and should study the PSC3 Guidance Notes pages 2 and 24 before doing so. The *Employer* may have instructed the tendering consultant to include particular activities which he has specified and requires the *Consultant* to identify them in his *activity schedule*.

1 Generally, it is the *Consultant* who prepares the Activity Schedule as part of his tender by breaking down the work described within the Scope into suitable activities which can be well defined, priced as a lump sum and shown on the programme. The *Employer*, in his Conditions of Tender or in a Tender Schedule, may have listed some items that he requires the *Consultant* to include in his *activity schedule* and be priced accordingly.

2 The Prices are defined in clause 11.2(18) as the lump sum for each activity in the activity schedule and the Price for Services Provided to Date (PSPD) (the amount due to the *Consultant*) is defined in clause 11.2(15) as the total of the Prices for each activity that has been completed. Hence activities in the activity schedule should be structured so as to provide an acceptable monthly cash flow as they are only assessed for payment on the assessment date if they have been completed.

3 As the *Consultant* has an obligation to correct Defects (core clause 41) the lump sum Prices must also include for the correction of Defects except if the Defect is one for which the *Consultant* is not liable which is compensation event 60.1(12).

4 If the *Consultant* has decided not to identify a particular activity, the cost to the *Consultant* of doing the work must be included in, or spread across, the other Prices in order to fulfil the obligation to complete the *services* for the tendered total of the Prices.





5 There is no adjustment to the lump sum activity schedule price if the amount, or quantity, of work within that activity later turns out to be different to that which the *Consultant* estimated at time of tender. The only basis for a change to the Prices is as a result of a compensation event. See Clause 60.1.

6 Hence the Prices tendered by the *Consultant* in the *activity schedule* are inclusive of everything necessary and incidental to Providing the Services in accordance with the Scope, as it was at the time of tender, as well as correct any Defects except those for which he is not liable.

7 However, the *Consultant* does not have to allow in his Prices for matters that may arise as a result of a compensation event.

### **Expenses**

*Expenses* are not included in the activity schedule items and are assessed separately at each assessment date.

*Expenses* associated with employing a staff member in Providing the Services are listed separately either by the *Employer* in Contract Data provided by the *Employer* or by the *Consultant* in Contract Data provided by the *Consultant*. As only the *expenses* listed may be claimed by the *Consultant*, all other cost to the *Consultant* associated with Providing the Services must be included within the activity schedule or *staff rates*.

Rate adjustment for inflation of *expenses* is explained on page 13 of the Guidance Notes.

### **Staff rates**

When a compensation event occurs changes to the affected Activity Schedule item or new priced items in the Activity Schedule are assessed as the actual Time Charge for work already done and the forecast Time Charge for work not yet done. (See clause 63.1 and 63.14 in Option A)

The Time Charge is the sum of the products of each of the *staff rates* multiplied by the total staff time appropriate to that rate properly spent on work in this contract. (Clause 11.2(13))

Tendering consultants are advised to consult the NEC3 Professional Services Contract (June 2005) Guidance Notes and Flow Charts page 28 before entering *staff rates* into Contract Data, or in C2.2 below.

This is because *staff rates* can be established in one of three ways:

rates for named staff,  
rates for categories of staff or  
rates related to salaries paid to staff.

Rate adjustment for inflation, if necessary, can be based either on actual salary adjustments or by using Option X1: Price adjustment for inflation. See pages 13, 14 and 28 of the Guidance Notes.

## C2.2 The *activity schedule*

Use this page as a cover page to the *Consultant's activity schedule* or include here in this format:

### REPLACEMENT OF HVAC EQUIPMENT BOQ

| Item No. | Programme Reference | Activity description  | Price (excl. VAT) | Quantity | Subtotal Price (excl. VAT) |
|----------|---------------------|---|-------------------|----------|----------------------------|
| 1        |                     | Induction, parking fees, and permits (Reimbursable at Cost)   | 25 000            | 1        | 25 000                     |
| 2        |                     | all required Travelling (Monthly)   |                   | 24       |                            |
| 3        |                     | Design Development Report submission to Employer for Acceptance   |                   | 1        |                            |
| 4        |                     | Design Documentation Report submission to Employer.   |                   | 1        |                            |
| 5        |                     | Works Completion Report submission to Employer  |                   | 1        |                            |
| 6        |                     | Handover/Record Information report submission to Employer   |                   | 1        |                            |
| 7        |                     | Close-out report  |                   | 1        |                            |
| 8        |                     | Preparing, submitting, and presenting project board reports   |                   | 24       |                            |
| 9        |                     | Coordinating all internal resources and third parties/vendors for the flawless execution of projects (Monthly)                            |                   | 24       |                            |
| 10       |                     | Develop a detailed project plan to track progress, Measure project performance using appropriate systems, tools, and techniques (Monthly) |                   | 24       |                            |

|                                |  |   |  |    |  |
|--------------------------------|--|---|--|----|--|
| 11                             |  | Manage relationships with the Employer and all stakeholders including all meetings (a minimum of 1 meetings per week) (Monthly)                   |  | 24 |  |
| 12                             |  | Perform all risk management to minimise project risks, report and escalate when required (Monthly)  |  | 24 |  |
| 13                             |  | Ensure that the project is delivered on quality, on time, within scope and within budget (Monthly)  |  | 24 |  |
| 14                             |  | Ensure the project is delivered according to national treasury FIPDM (Framework for Infrastructure Delivery and Procurement Management) (Monthly) |  | 24 |  |
| 15                             |  | Create and maintain comprehensive project documentation including safety (Monthly)  |  | 24 |  |
| 16                             |  | Close out the project and hand over close out documentation   |  | 1  |  |
| <b>Sub Total A (excl. VAT)</b> |  |   |  |    |  |

| Activity Number  | Activity Description | Total Price (Excl. VAT) [ZAR] |
|--|----------------------|-------------------------------|
| <b>Works</b>   |                      |                               |
| 1  | Sub-total A          |                               |
| <b>*Grand Total A (All amounts to entered exclusive of VAT. Grand Total A to be carried over to Form of Offer)</b> |                      | <b>R</b>                      |

## C3.1 *Employer's Scope*

### 1. Scope of Services

The Scope of Services is formulated to provide an integrated technical support in the form of an “Owner’s Engineering Service” in support of the Client’s management of the NEC ECC construction contract undertaken by others.

### 2. Scope of Work

The scope of work involves JMT professional services for the replacement of air handling units in support of the Client’s management of the NEC ECC construction contract undertaken by others.

The scope may include capacity upgrade, design verification of but not limited to motors and VSDs. The Employer has identified the following air handling units in the following areas that will for part of the scope:

| Activity Number | Activity Description               |
|-----------------|------------------------------------|
| 1               | Boarding Gate A5                   |
| 2               | Boarding Gate A4                   |
| 3               | Boarding Gate A3                   |
| 4               | Boarding Gate A2                   |
| 5               | Boarding Gate A1                   |
| 6               | Boarding Gate A0                   |
| 7               | Mugg And Bean                      |
| 8               | Mugg And Bean                      |
| 9               | Jackson                            |
| 10              | Jackson                            |
| 11              | T6 Corridor                        |
| 12              | T6 Corridor                        |
| 13              | T6 Arrivals Corridor               |
| 14              | T6 Arrivals Corridor               |
| 15              | Big Five Shop                      |
| 16              | Arrivals International Immigration |
| 17              | Arrivals International Immigration |
| 18              | Arrivals International Immigration |
| 19              | Arrivals Transit International     |

|    |                                |
|----|--------------------------------|
| 20 | Arrivals Transit International |
| 21 | Arrivals Transit International |
| 22 | Arrivals Transit International |
| 23 | Domestic Arrivals              |
| 24 | Domestic Arrivals              |
| 25 | E Gate                         |
| 26 | Domestic Departures Airside    |
| 27 | Domestic Departures Airside    |
| 28 | Domestic Departures Airside    |
| 29 | Domestic Departures Airside    |
| 30 | Domestic Departures Airside    |
| 31 | Domestic Departures Landside   |
| 32 | Domestic Departures Landside   |
| 33 | Domestic Departures Landside   |
| 34 | Domestic Departures Landside   |
| 35 | Domestic Departures Landside   |

### 3. Summary of Scope of Services

- Review designs, design and all other reports submitted by the Design and Build Contractor on behalf of the Employer for Employer acceptance and approval.
- The JMT shall provide project administration, supervision and oversight on the project implemented through a design and build contract required to complete the project.
- Manage, administer and monitor the construction contracts and processes including preparation and coordination of procedures and documentation to facilitate completion of the works.
- Fulfil and complete the project close-out including necessary documentation to facilitate effective completion, handover and operation of the project.
- JMT will carry out the role of the NEC Project Manager and will be responsible for reviewing designs produced by the Design and Build Contractor.
- The JMT will be responsible for the review of commissioning and flight-testing plans/protocols developed by the Contractor and ensuring these comply with relevant standards and meet all stakeholder requirements.
- Manage and witness the commissioning and testing ensuring that the project is successfully completed.

### **C3.2 Detailed scope of services**

#### **1. Project Management**

The project management activities shall include, but not limited to the following;

- Develop and submit the project execution plan to the employer.
- Monitor the project deliverables and ensure critical milestones are met from project concept and viability to close-out.
- Monitor the project scope and minimise scope creep.
- Manage project risks and maintain updated risk register.
- Manage project schedule and budget and ensure project is delivered on time and within allocated budget.
- Liaise with relevant stakeholders to ensure minimal disruptions to airport operations during project execution.
- Review the contractor quality plan and ensure project quality requirements are met.
- Prepare and submit relevant project status reports for review by the employer and others.
- Maintain and keep track of all project documentation, drawings, reports and any other permit obtained during the execution.

#### **2. Civil Engineering**

The civil engineering activities shall include, but not limited to the following;

- Supervise the development of the civil engineering designs, technical specifications and drawings for the project.
- Supervise the installation of the air handling units.
- Approve and sign-off the as-built drawings.

#### **3. Mechanical Engineering**

The mechanical engineering activities shall include, but not limited to the following;

- Supervise the development of the mechanical engineering designs, technical specifications and drawings for the project.
- Supervise the installation of the air handling units.
- Approve and sign-off the as-built drawings.

#### **4. Construction Health and Safety Agent**

The construction health and safety agent's activities shall include, but not limited to the following;

- Acts as a representative for the employer in managing health and safety on a construction site.
- Identify the construction health and safety risk profile.

- Provide necessary construction health and safety information to other professional consultants
- Review and evaluate design concepts and advise on construction health and safety in conjunction with other professional consultants.
- Advise on cost estimates/budgets for construction health and safety.
- Monitor the implementation of necessary construction health and safety plans, including periodic audits for works.
- Ensure the identification of the hazards and risks relevant to the construction through site inspections, submit report and enforce resolution report.
- Prepare and maintain the consolidated health and safety file.

## 5. Other Requirements

- The airport is a live operational environment and disruptions to operations must be kept at minimum.
- Continuous operation of the airport requires a staged approach to be followed when performing construction work.
- Waiting periods between construction activities must be minimised to limit delays and cost overruns, due to time related costs.
- Proper planning will be required to keep cost down and to ensure minimal disruptions to airport operations.
- Performing certain construction activities may be difficult to perform during the day and may have to be carried-out afterhours or over the weekends.
- Proper isolation and safe-working procedures of the airports must be implemented.

### C3.3 General Matters & Requirements

#### 1. Providing the Services

The Consultant ensures that the Services are fit for the purposes intended and are engineered, procured and managed in accordance with this contract and Good Engineering and safety practices.

The Consultant exercises due skill, care and diligence in providing the Services. The standard of skill, care and diligence required is that of a Consultant seeking in good faith to perform his contractual obligations and in so doing and in the general conduct of his undertakings observing and/or exercising the degree of skill, care, diligence, prudence and foresight which would reasonably and ordinarily be exercised by a skilled and experienced international Consultant in relation to his practices, methods, techniques, specifications and/or standards (whether in respect of design, engineering, construction, performance, safety, workmanship, equipment, components or otherwise) engaged in the same type of undertaking under the same or similar circumstances and conditions to the Services.





The Consultant uses a sufficient number of appropriately qualified professionals and other individuals who are suitably skilled, competent and experienced in their respective professions or occupations and provides all necessary supervision to plan, arrange, direct, manage and inspect the Services and generally for the satisfactory and safe execution of the Services. Without limitation, supervision is carried out by a sufficient number of appropriately qualified persons who are suitably skilled, competent and experienced in the operations to be carried out (including the methods and techniques required, the hazards likely to be encountered and methods of preventing accidents).

The Consultant represents that he is and ensures that he is at all times fully experienced, properly qualified, registered, licensed, equipped, organized and financed to perform the Services in terms of this contract.

Except to the extent otherwise expressly stated in this contract:

- 1.1 the Consultant is considered to have satisfied himself, prior to the Contract Date, as to the completeness and sufficiency of all information and drawings provided to him as at the Contract Date;
- 1.2 the Consultant is considered to have satisfied himself as to the precise nature and exact location of the Services, the type of Equipment and facilities and other items and matters required to Provide the Services (and the Consultants failure to so satisfy himself with all such data and information does not relieve his responsibility for properly estimating the difficulty or cost to successfully Provide the Services and he is not by reason thereof entitled to any extension of the Completion Date, adjustment to the Prices or other compensation); and
- 1.3 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.

## **2. 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.



### **3. 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.

### **4. Services of the Employer and Others**

The Services are part of a project at O.R. Tambo International Airport. During design or the project works there are interfaces with Other's for which appropriate levels of planning and liaison will be required. These interfaces include design, construction and programme activities.

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 is such that the least interference reasonably possible will result to the Consultant and to Others and such sequence is determined by the Employer.

The Consultant is considered to have allowed for reasonably anticipated delays and interference to the Services for these interfaces. Cooperation is required between the Consultants and Others to ensure the completion of the Services and other project works within the programme for the project as a whole.

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.

Co-ordination meetings are held as required by the Consultant with such other Consultants and/or Contractors to monitor progress and co-ordinate the installation operations.

### **5. Consultant's Organisation**

Unless included in this contract, the Consultant submits to the Employer, within four weeks of the starting date, a chart showing the organization for Providing the Services. The chart includes the identities of the key personnel to be employed. The Consultant also includes the curricula vitae of the key personnel.



The Consultant promptly informs the Employer in writing of any revision or alteration of such organization chart. The appointment or replacement of key personnel is subject to core clause 22.1 of this contract.

## **6. Personnel**

The Employer may, having stated his reasons, instruct the Consultant to remove any person engaged by the Consultant or any Subcontractor (whether or not an employee). The Consultant then arranges that, after one day, that person has no further connection with the work included in this contract.

The Consultant takes all necessary precautions to prevent any unlawful, riotous or disorderly conduct or behaviour by or among his and his Subcontractors employees, agents or invitees or any other person for whom the Consultant is responsible whether under this contract or in law.

The Consultant, in the execution of the Services, maximises the use of local persons,- Local persons are persons ordinarily resident within a 50 km radius of the Site.

## **7. Order of Services**

In those parts of the Services where interference is likely to occur between items being provided under this Contract and items provided by the Employer or by Others, work shall not be commenced until the Employer has given his acceptance.

## **8. Methods of Working**

The Consultant may execute the contract in accordance with his own standard work execution plans and procedures to the extent that they do not conflict with the provisions of this contract.

The Consultants methods of work are at all times such that the Employer can be reasonably satisfied that the results will be acceptable and achieved without undue risk.

Notwithstanding any omission from the Scope, the Services are performed and completed in a proper and workman like manner, by professionals skilled in their respective professions.

## **9. Method and Resources Statements**

The Consultant, whenever required by the Employer, submits details of the resources, arrangements and methods which the Consultant proposes to adopt for providing the Services.

No significant alteration to these resources, arrangements and/or methods is made unless it is first accepted by the Employer.

## **10. Change Control**

The Consultant does not change or substitute a design which is required by this contract or has previously been accepted by the Employer unless the Employer has accepted the change or substitution. The Employer is under no obligation to accept the change or substitution and no claim will be considered if the change or substitution is not accepted.

## **11. Notice Boards**

The Consultant is permitted to display two notice boards advertising this contract on or near the Site or access points to the project area. The notices are of a form and in a position accepted by the Employer and include details of other parties involved (including the Employer) as well as the Contractor. No advertisement shall be displayed without the approval of the Employer.

## **12. Invoicing and Payment**

The Consultant submits claims to the Employer's Representative by the 21st of the month with supporting documentation (detailed time sheets that show the time spent on activities in the programme, detailed site diaries, inspection records, etc.) to substantiate the claim.

The Employer's Representative issues a payment certificate for the amount which he assesses by the 25<sup>th</sup>.

The Consultant thereafter submits the invoice with payment certificate attached to [Invoices.Acsa@airports.co.za](mailto:Invoices.Acsa@airports.co.za) by the 30th of the month. Invoices received after the 30th will be processed for the following month, i.e. 45 — 60 day payment.

The Consultant ensures that the following are shown the claim and invoice:

- Employer's purchase order number;
- the contract number and title; and
- the total amount claimed excluding VAT, the VAT and the invoiced amount including VAT.

### **C3.3.2 Quality Control & Assurance**

The Consultant has a well-organized quality control and assurance system based on ISO 9000 Series (or equivalent acceptable to the Employer) to assure that Services, including subcontracted Services, comply with the Scope.

Within the period stated in the Contact Data, the Consultant submits his complete quality control and assurance system (with all quality control and assurance procedures and manuals) for review and acceptance by the Employer. The manual includes pro-forma checklists for all requirements of the Consultants quality control and assurance program and those called for in the Scope.



Acceptance by the Employer of the Consultants quality assurance programme, quality plans and/or inspection and/or test plans, or of those- of his Subcontractors will not relieve the Consultant of his obligation to provide services which meet the requirements of the Contract.

### **C3.3.3 Drawings & Documents**

#### **1. Comments on Consultant's Drawings and Other Documents**

The Consultant takes due account of any comments made by the Employer and/or Others on the Consultants drawings or other documents. Unless otherwise expressly provided for in this contract, however, none of the Employer and/or Others is bound to comment on the Consultants drawings or other documents.

None of the Employer and/or Others is bound to check the Consultants drawings or other documents for any errors, omissions, ambiguities or discrepancies or compliance with the requirements of this contract. The Employer's and/or Others acceptance, receipt of, or review of, or comment on the Consultants drawings or other documents or other matter does not relieve the Consultant from responsibility for the Consultants errors or omissions.

#### **2. Drawing Requirements**

All drawings bear accepted contract references using a project title block which is accepted by the Employer. Detailed revision blocks and drawing numbers are suffixed accordingly. All drawings, particularly layout drawings, submitted for acceptance are to a scale acceptable to the Employer. All drawings are made to scale and fully detailed and dimensioned. All dimensions marked on the drawings are to be considered correct, although measurements by scale may differ therefrom. The material from which each part is to be made shall be indicated.

The drawings include tolerances for manufacture and installation. The tolerances are suitable and of sufficient accuracy to provide safe and trouble free construction and operation over the life of the component.

All copies of drawings submitted to the Employer are provided in the form of 4 prints on white paper with black lines. The drawing size is A3 unless the use of another size is unavoidable. All native electronic format documents are also provided.

All drawings are dimensioned in metric units unless the use of another unit is required and/or recommended, e.g. imperial sizes for flange holes, studs, etc. Where applicable, drawings show a graphic scale key plan and north arrow. Dates on drawings are reflected in the following format: dd/mmm/ccyy. Revisions are designated RO, RI, R2, R3, etc., commencing with the first issue. All revisions are clearly described in the revision column bearing the revision number.

All drawings additionally comply with the latest revision of the ACSA Cad Specification and Good Practice Guideline.

**3. Document Tracking System**

The Consultant establishes a document tracking system to record the dates for the supply and receipt of all drawings, calculations, correspondence and requests for information to/from the Employer and/or Others.

**4. Submission Schedule**

The Consultant submits to the Employer a schedule, within 4 weeks of the starting date and monthly thereafter, of all documents for acceptance. This schedule provides individual titles of drawings and calculations, and their proposed submittal dates, for requested in the Scope and as necessary for the review by the Employer means of compliance by the Consultant with all aspects of the requirements of this contract.

The scheduled date of first submittal, time allowed for acceptance and expected date of issue after acceptance is shown for each document.

**5. Document Submissions**

The Consultant submits his drawings, designs and calculations for acceptance prior to the start of procurement, as required by the Employer. All such material becomes the property of the Employer.

All correspondence and submissions are prominently identified as relating to the Services and are submitted under the cover of appropriate letters or transmittal notes in accordance with the correspondence procedures which will be advised by the Employer after the signing of the Contract. All documentation supplied by the Consultant to the Employer and/or Others in hard copy is also supplied in electronic format. Unless otherwise specified this is MicroStation or AutoCAD format for drawings and MS Office for all other documents.

The Employer has the right at all times to inspect the Consultant or Subcontractors drawings of any portion of the Services.

The Consultant submits his drawings and other documents to the Employer and/or Others for acceptance in sufficient time to permit modifications to be made and for the document to be resubmitted for acceptance to the Employer without delaying the initial deliveries or the completion of the Services.

Drawings and samples that have been accepted are not departed from in any way whatsoever except as may be provided in the Contract.

If the Consultant requires early acceptance of any documents in order to avoid delay in the completion of the Services, he advises the Employer and/or Others to such effect when submitting the documents.

**6. Time Required for Acceptance of Designs & Calculations by the Employer**



Not later than one month after receipt, the Employer returns one copy of the document marked "Accepted", "Accepted as Noted" or "Not Accepted", as may be appropriate.

The notations "Accepted" and "Accepted as Noted" authorize the Consultant to proceed with the procurement of the part of the Services and/or Works covered by such documents subject to the corrections, if any, indicated thereon. Where documents, prints or drawings have been "Not Accepted" the Consultant makes the necessary revisions on the document and submits further copies for acceptance in the same procedure as for the original submission of drawings. Every revision is shown by number, date and subject in the revision block on the drawing.

## **7. Format for Retention**

The Consultant retains original documents.

### **C3.3.4 Programme, Progress Reporting & Meetings**

#### **1. Programme**

##### **1.1 General Requirements**

The programme is submitted in Microsoft Project. The level of detail required is sufficient to enable detailed resource planning, unless otherwise accepted or directed by the Employer.

The programme includes 100% of the work defined by the Contract and captures all deliverables - internal, external, and interim - in terms of the work to be completed, including project management and the work of Others.

The Consultant allows for public holidays and weekends (as non-working days) in his programme and allows 4 weeks of float for each 12 month period. The programme will take cognisance of the legal requirements relating to working hours. The Consultant allows 1 week buffers strategically to facilitate project contingency to mitigate delays in project completion and/or delays to Others and/or delays to the Consultant.

Activities are scaled in week units except for operational disruptions or similar detailed programmes for which activities are specified in days. Activities for which multiple shift working is intended are clearly defined.

Method and resources statements are submitted for critical items to demonstrate that the period allocated fits the overall programme and that the Consultants resources are consistent with the time allowed.

##### **1.2 Other Information to be Shown on the Programme**

The other information to be shown on the programme (in addition to the requirements of core clause 31, as applicable), is:

###### **1.2.1 Dates for issue and acceptance of drawings;**

###### **1.2.2 Dates for submission of all documents to internal and external stakeholders;**

## **2. Reporting**

### **2.1 Monthly Progress Reports**

The Consultant submits monthly progress reports to the Employer. Each report covers a period of a calendar month save that the first report covers the period up to the end of the first calendar month following the starting date. Reports are submitted within one week of the end of every calendar month.

Each report includes:

- 2.1.1 an executive summary,
- 2.1.2 charts and detailed descriptions of the status of the Services in narrative format including each stage of design, drawings and other documents, procurement, manufacture; delivery to Site, construction, erection, commissioning and testing and are related to key dates identified in the Accepted Programme,
- 2.1.3 for the procurement, manufacture and/or fabrication of each main item of Plant & Equipment and/or Works, the name of the Contractor, Contractor's location, percentage progress and the actual or expected dates of commencement of manufacture, inspections, pre-delivery tests and delivery to Site;
- 2.1.4 4 week look-ahead schedule;
- 2.1.5 comparisons of actual and planned progress;
- 2.1.6 colour photographs in digital format showing progress of the Services in the course of manufacture and on the Site, with each set comprising at least 20 colour photographs, individually marked with the date taken, a description of the subject and the direction of view;
- 2.1.7 details of actual and planned resources;
- 2.1.8 updated cash flow showing actuals for the period being reported on and a revised forecast;
- 2.1.9 details of number of each class of the Consultants and each Contractor's and/or Subcontractor's personnel and of each type of the Equipment at the Site for the relevant period;
- 2.1.10 a report on quality including a schedule identifying all quality control and assurance documents, test results and certificates issued during the reporting period;
- 2.1.11 a list of proposed changes to the Scope and the status thereof;
- 2.1.12 a list of instructions from the Employer changing the Scope during the reporting period, detailing their reference numbers;
- 2.1.13 a list of instructions received by the Consultant (other than instructions from the Employer changing the Scope) during the reporting period listing the date of receipt and the nature of the instruction;
- 2.1.14 an updated risk register;
- 2.1.15 a list of all notified compensation events detailing their reference numbers, the date on which the underlying cause, circumstance or event arose and when it first came to attention of the Consultant, the compensation



claimed by the Consultant and/or Contractor, the date on which notice and the details thereof were given to the Employer and the status thereof;

- 2.1.16 details and assessment of all areas of concern including details of all notified early warnings and details and assessment of other events and circumstances which may have an adverse cost impact and/or cause delays and details of the corrective or other measures being adopted, or to be adopted to mitigate or overcome such cost impact and/or delay;
- 2.1.17 a current register of drawings and other documents submitted to the Employer or Contractor during the reporting period and the prior reporting period, detailing the date of issue to the Employer or Contractor and, if applicable, the date by which the Employers acceptance is required;
- 2.1.18 a current list of all drawings and documents issued to the Consultant (including the applicable revision) detailing the date of issue and transmittal thereof;
- 2.1.19 a report on health & safety and environmental matters;
- 2.1.20 a report on industrial relations relevant to the Services including industrial relations at the Site and at places of manufacture;
- 2.1.21 details of the financial status of this contract (by way of updated S curves and spread sheets) including status report on payments made and outstanding applications for payment; and
- 2.2.22 such other matters and information (including schedules and charts) as the Employer may require being included in the progress report from time to time.

An electronic copy and 4 hard copies of each progress report are submitted to the Employers Representative on the first Wednesday of each month.

## 2.2 Additional Weekly and Daily Reports

Following mobilization at the Site the Consultant, in addition, submits to the Employer (in electronic copy and 4 hard copies):

- 2.2.1 weekly reports detailing projected activities for at least 2 weeks ahead of those being reported on and summarising Site activities, indicating numbers of each class of the Consultants and each Contractors personnel on Site (foreign and local), each type of Equipment on the Site, the Plant and Materials on the Site and recording any areas of concern and details of corrective action being taken;
- 2.2.2 daily activity reports summarizing the main activities to be undertaken each day, noting any special activities that require witnessing, together with full particulars and details of obstructions, modified or additional work, incidents, health and safety matters and the number of the Consultants and each Contractors personnel employed in each of the several portions of the work in progress.

## 2.3 Reports on Disputed Work



For work in respect of which the entitlement of the Consultant and/or Contractor is disputed or of an uncertain nature, the Employer may require the Consultant to submit work detail sheets, for the approval of the Employer, as a record of work done. The sheets are "For record purposes only" and do not give rise to or evidence any compensation event.

#### 2.4 Additional Reports

The Employer is entitled to request the Consultant to provide additional reports when in his opinion they are warranted to monitor the progress of the Works.

### 3. Meetings

The Consultant attends regular formal meetings as required by the Employer. Meetings may involve Others so that the progress of the Services and/or Works on Site and other works may be reviewed. Such meetings may be held fortnightly or at other intervals as required by the Employer.

The Consultant records these meetings and issues detailed minutes within 1 week.

The Consultant also attends informal weekly meetings on Site as required by the Employer and/or the Contractor.

The Consultant's key persons attend all meetings. There is an average of four meetings per month.

## C3.2 *Consultant's* Scope

The Consultant confirms that the Employer's scope is a full and accurate representation of the scope of work



## C4 Site Information

### C4.1: Information about the *site* at time of tender which may affect the work in this contract

The Works are located at OR Tambo International Airport, which is a restricted and access controlled area. It is crucial for the Contractor to note that OR Tambo International Airport is a National Key Point and governed as such. The contractor will have to adhere to all airport requirements regarding access control, security, fire, health and safety.

#### 4.1.1 Access limitations

##### a. General

- The works is within the security area of the Airports Company South Africa (ACSA) and access to the site is governed by the terms and conditions laid down by ACSA Security Officials from time to time. The *Contractor* shall satisfy himself as to these terms and conditions.
- The *Contractor* shall liaise with the ACSA Security Staff in order to obtain access permits for his staff and vehicle, which will be working within the airport. Personnel and vehicles entering and leaving the site are subject to routine searches.
- The *Contractor* will have to obtain a “gate permit” from the *Project/Service Manager*, before materials and equipment can be removed from the site. The “gate permit” gives an itemized list of materials and equipment to be removed from site.
- The *Contractor* shall make his own assessment of, and shall allow in his rates for those access problems which may be encountered and no extra payment or claim of any kind will be allowed on account of difficulties of access to the Works.

##### b. Permits

- The Contractor shall ensure that he/she is, at all times, familiar with ACSA's safety and security requirements relating to permits in order prevent work delay as a result thereof.
- This shall include the permit application process.
- The Contractor shall have no claim against ACSA in the event that a permit request is refused.
- The following table is not all inclusive, but is provided for illustration purposes:

| Permit                                 | Required by/for                                     | Department    |
|--|---|---------------|
| AVOP – Airside Vehicle Operator permit | All drivers of vehicles on airside                  | ACSA Safety   |
| Airside Vehicle Permit                 | All vehicles that enter airside                     | ACSA Safety   |
| Basement Parking permit                | All vehicles allowed to enter the delivery basement | ACSA Parking  |
| Personal permit                        | All persons employed on the airport                 | ACSA Security |
| Cell phone permit                      | All persons taking cell phones to                   | ACSA Security |



|                                    |  |                                |
|------------------------------------|--|--------------------------------|
|                                    | airside  |                                |
| Tools permit                       | All persons taking cell phones to airside                  | ACSA Security                  |
| Lap top permit                     | All persons taking lap top computers to airside            | ACSA Security                  |
| Camera permit                      | All persons taking cameras or camera equipment to airside  | ACSA Security                  |
| Hot Works Permit                   | All welding and/metal cutting work                         | ACSA Safety                    |
| Airside Projects/Works Permit      | For All projects on the Airside                            | ACSA Airport Operations/Safety |
| Low /Medium Voltage Permit to Work | For all work on Substation, Distribution Boards and Cables | ACSA Electrical Maintenance    |

- Proof of having attended the airside induction training course is required for all personal permit applications.
- Persons applying for an AVOP must provide proof of having attended an AVOP course.
- Fees are levied for these courses. Fees are further levied for all permit renewals and refresher courses - where applicable.
- No work shall be done without a written permission in the form of a permit/works order, displayed on the wall or in a visible area in the work area.

#### c. Cell phones and two-way radios

- Use of cell phones on airside is **not** permitted unless the user is in possession of an appropriate Airport permit for the device.
- Cell phone permit issuing authority lies with the ACSA Security department.
- The Contractor will **not** be allowed to use two-way radios at the Airport unless these radios are of the type, model and frequency range as approved by the ACSA IT department.
- Approved radios may be arranged via said department - payment will be for the account of the Contractor.

#### 4.1.2 Ground conditions in areas affected by work in this contract

There are no excavations activities in this project.

#### 4.1.3 Hidden and other services within the site

There might be water and sewer pipes crossing under or above the substation. Also there are a lot of other cables going through the substation 5 to other substations and these must be treated as live cables. There are also communication cables connecting the substation with the other substations.

#### 4.1.4 Safety Management

- The *Contractor* must be registered with the Occupational Health and Safety Commission.



- The *Contractor* submits a Health and Safety Plan to the *Employer* for work to be performed.
- The Health and Safety plan must include a Risk Assessment of the activities with mitigating methods that will be used to prevent accidents.
- The Health and Safety plan must be implemented and monitored to ensure its integrity.
- Details of *Contractor's* appointed Health and Safety Committee members must be included and appointed in writing.
- The *Contractor* in writing must appoint all competent person/s.