

**EMALAHLENI LOCAL MUNICIPALITY**

**PROJECT NO.: ELM/2/06/2022T**

**THE CONSTRUCTION OF INDWE PUBLIC ABLUTION FACILITIES**

|                                             |
|---------------------------------------------|
| <b>C1      AGREEMENTS AND CONTRACT DATA</b> |
|---------------------------------------------|

C1.1    Form of Offer and Acceptance

C1.2    Contract Data

C1.3    Special Condition

C1.4    Occupational Health and Safety Specification

C1.5    Supply Chain Management Policy

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C1.1

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| Contractor  | Witness 1   | Witness 2   | Employer    | Witness 1   | Witness 2   |

**FORM C1.1**

**FORM OF OFFER AND ACCEPTANCE**

**OFFER**

The Employer, identified in the Acceptance signature block, has solicited offers to enter into a contract in respect of the following works:

**PROJECT NO.: ELM/2/06/2022T: THE CONSTRUCTION OF INDWE PUBLIC ABLUTION FACILITIES**

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

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

**THE OFFERED TOTAL OF THE PRICES INCLUSIVE OF VALUE ADDED TAX IS**

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..... Rand (in words); R ..... (in figures).

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 to the Tenderer before the end of the period of validity stated in the Tender Data, whereupon the Tenderer becomes the party named as the Contractor in the Conditions of Contract identified in the Contract Data.

Signature(s) \_\_\_\_\_

Name(s) \_\_\_\_\_

Capacity \_\_\_\_\_

For the tenderer \_\_\_\_\_

(Name and address of organisation)

Name & Signature  
Of Witness

\_\_\_\_\_

Name

\_\_\_\_\_

Date

**ACCEPTANCE**

C1.2

Contractor

Witness 1

Witness 2

Employer

Witness 1

Witness 2

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

The terms of the contract are contained in:

- Part 1 Agreements and Contract Data (which includes this Agreement)
- Part 2 Pricing Data
- Part 3 Scope of Work
- Part 4 Site information
- Part 5 Additional Relevant Documentation
- Part 6 Contract Drawings

And drawings and documents or parts thereof, which may be incorporated by reference into Parts 1 to 6 above.

Deviations from and amendments to the documents listed in the Tender Data, including the proposed key personnel and any addenda thereto listed in the Tender 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 Agreement. No amendments to or deviations from said documents are valid unless contained in this Schedule, which must be duly signed by the authorised representative(s) of both parties.

The Tenderer shall within two weeks after 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 bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the Conditions of Contract identified in the Contract Data at or just after the date this Agreement comes into effect. 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 Contractor) within five days of the date of such receipt notifies the Employer in writing of any reason why he cannot accept the contents of this Agreement, this Agreement shall constitute a binding contract between the parties.

Signature(s) \_\_\_\_\_

Name(s) \_\_\_\_\_

Capacity \_\_\_\_\_

For the tenderer \_\_\_\_\_  
(Name and address of organisation)

Name & Signature

Of Witness \_\_\_\_\_  
Name Date

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C1.3

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Contractor

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Witness 1

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Witness 2

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Employer

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Witness 1

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Witness 2

## SCHEDULE OF DEVIATIONS

### Notes:

1. The extent of deviations from the tender documents issued by the Employer prior to the tender closing date is limited to those permitted in terms of the Conditions of Tender.
2. A Tenderer's covering letter shall not be included in the final contract document. Should any matter in such letter, which constitutes a deviation as aforesaid becomes the subject of agreements reached during the process of Offer and Acceptance; the outcome of such agreement shall be recorded here.
3. Any other matter arising from the process of offer and acceptance either as a confirmation, clarification or change to the tender documents and which it is agreed by the Parties becomes an obligation of the contract, shall also be recorded here.
4. Any change or addition to the tender documents arising from the above agreements and recorded here shall also be incorporated into the final draft of the Contract.

### 1 Subject

Details

### 2 Subject

Details

### 3 Subject

Details

### 4 Subject

Details

### 5 Subject

Details

### 6 Subject

Details

C1.4

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Contractor

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Witness 1

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Witness 2

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Employer

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Witness 1

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Witness 2

By the duly authorised representatives signing this Schedule of Deviations, 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 Tender Schedules, as well as any confirmation, clarification or change 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.

**FOR THE TENDERER:**

Signatures (s) \_\_\_\_\_

Name(s) \_\_\_\_\_

Capacity \_\_\_\_\_

\_\_\_\_\_  
(Name and address of Organisation)

Name & Signature  
Of Witness \_\_\_\_\_ Date \_\_\_\_\_

**FOR THE EMPLOYER**

Signatures (s) \_\_\_\_\_

Name(s) \_\_\_\_\_

Capacity \_\_\_\_\_

\_\_\_\_\_  
(Name and address of Organisation)

Name & Signature  
Of Witness \_\_\_\_\_ Date \_\_\_\_\_

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C1.5

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*Contractor*

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*Witness 1*

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*Witness 2*

\_\_\_\_\_  
*Employer*

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*Witness 1*

\_\_\_\_\_  
*Witness 2*

## FORM C1.2

## CONTRACT DATA

### **PART 1: DATA PROVIDED BY THE EMPLOYER**

The contract data of this contract are:

C1.2.1 Conditions of Contract

C1.2.2 Data provided by the Employer

C1.2.3 Data provided by the Contractor

#### **C1.2.1 Conditions of Contract**

**The General Conditions of Contract for Construction Works 3<sup>rd</sup> Edition (2015) published by the South African Institution of Civil Engineering, is applicable to this contract. Copies of these conditions of contract may be obtained from the South African Institution of Civil Engineering [www.saice.org.za](http://www.saice.org.za)**

The General Conditions of Contract for Construction Works make several references to the Contract Data for specific data, which together with these conditions collectively describe the risks, liabilities, and obligations of the contracting parties and the procedures for the administration of the Contract. The Contract Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the general conditions of contract.

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Contractor

Witness 1

Witness 2

Employer

Witness 1

Witness 2

## C1.2.2 Data provided by the employer

Each item of data given below is cross-referenced to the clause in the General Conditions of Contract for Construction Works to which it mainly applies.

The following contract specific data are applicable to this Contract:

### CONTRACT SPECIFIC DATA

The following contract specific data, referring to the General Conditions of Contract for Construction Works, Third Edition, 2015, are applicable to this Contract:

Clause 1.1.1.13:

The Defects Liability Period is **12 months**.

Clause 1.1.1.14:

The time for achieving Practical Completion is **5 Months**.

Clause 1.1.1.15:

The name of the Employer is **EMALAHLENI LOCAL MUNICIPALITY**

Clause 1.1.1.26:

The Pricing Strategy is a Re-measurement

Clause 1.2.1.2:

The address of the Employer is: **37 Indwe Road  
Cacadu  
5410**

Tel: **(047) 878 0020**

Clause 1.1.1.16:

The name of the Engineer is **Black Mountain Ziinzame JV**.

Clause 1.2.1.2:

The address of the Engineer is **Postal: 15 Intsasa Street  
Southernwood  
Mthatha  
5100**

Clause 5.3.1:

The documentation required before commencement with Works execution are:

Approved Health and Safety Plan (Refer to Clause 4.3)

Initial programme (Refer to Clause 5.6)

Accepted security (Refer to Clause 6.2)

Insurance (Refer to Clause 8.6)

Clause 5.3.2:

The time to submit the documentation required before commencement with Works execution is **14 days**.

Clause 5.7.1:

Where the Rate of Progress falls behind the approved Programme of Works by three months, the Employer may terminate the contract giving a five days' notice

Clause 5.8.1:

The non-working days are Sundays and Saturdays

The special non-working days are:

(1) public holidays

(2) The year-end break commencing on **15 December 2021 and ending on 10 January 2022**.

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C1.7

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Contractor

Witness 1

Witness 2

Employer

Witness 1

Witness 2

Clause 5.11.1

In the event that the performance of the services has to be suspended on the grounds of Force Majeure, the period of performance shall be extended by the extent of the delay at no extra cost.

Clause 5.11.2

During the period of his inability to perform services as a result of an event of Force Majeure, the service provider shall not be entitled to any payment in terms of the contract.

Clause 5.13.1:

The penalty for failing to complete the Works is **R 5 000.00** per calendar per day.

Clause 5.16.3:

The latent defect period is **10 years**.

Clause 6.8.2

There is no contract price adjustment

Clause 6.10.1.5:

The percentage advance on materials not yet built into the Permanent Works is **80%**

Clause 6.10.3:

The limit of retention money is **10%**

Clause 8.6.1.1.2:

The value of Plant and materials supplied by the Employer to be included in the insurance sum is **NIL**

Clause 8.6.1.1.3:

The amount to cover professional fees for repairing damage and loss to be included in the insurance sum is **15%** of the value.

Clause 8.6.1.3:

The limit of indemnity for liability insurance is **R5 million**.

Clause 9.2.1

The Employer may terminate the contract:

- a) Where the services are no longer required
- b) Where the funding for the services is no longer available
- c) If the service provider does not remedy a failure in the performance of his obligations under the Contract within 7 days after having been notified thereof by the employer.
- d) If the service provider becomes insolvent or liquidated; or
- e) If as a result of Force Majeure, the Service Provider is unable to perform part or the whole service for a period of thirty (30) days.
- f) Where the Rate of Progress falls behind the approved Programme of Works by three months, the Employer may terminate the contract giving a five days' notice.

Clause 10.5.3

The number of Adjudication Board Members to be appointed is **one**.

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C1.8

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Contractor

Witness 1

Witness 2

Employer

Witness 1

Witness 2

### C1.2.3 Data to be provided by the contractor

Clause 1.1.1.9 The name of the contractor is: (insert legal name)

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Clause 1.2.1.2 The address of the contractor is:

Physical address \_\_\_\_\_

\_\_\_\_\_

Postal Address \_\_\_\_\_

\_\_\_\_\_

Telephone \_\_\_\_\_

Fax \_\_\_\_\_

Email \_\_\_\_\_

Clause 6.2.1 The security to be provided by the contractor shall be one of the following

| Type of security: Note VAT is included in the contract sum and Value of works for calculating percentages        | Contractor's choice. Indicate "Yes" or "no" |
|------------------------------------------------------------------------------------------------------------------|---------------------------------------------|
| ( 1 ) Cash deposit of 10% of the Contract Sum plus retention of 10% of the value of the works.                   |                                             |
| ( 2 ) Performance guarantee (note A) of 10% of the Contract Sum plus retention of 10% of the value of the works. |                                             |

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Tenderer's signature

Note A

The Performance Guarantee shall be of an Insurance Company listed on the Johannesburg Stock Exchange or owned by such a company, a Registered South African Bank or a recognised government sponsored, provincial or national development agency.

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C1.9

Contractor

Witness 1

Witness 2

Employer

Witness 1

Witness 2

### C1.3 FORM OF GUARANTEE

#### PERFORMANCE GUARANTEE

For use with the General Conditions of Contract for Construction Works, Third Edition, 2015.

#### GUARANTOR DETAILS AND DEFINITIONS

“Guarantor” means:.....

Physical Address:.....

“Employer” means:.....

“Contractor” means:.....

“Engineer” means:.....

“Works” means:.....

“Site” means:.....

“Contract” means: The Agreement made in terms of the Form of Offer and Acceptance and such amendments or additions to the Contract as may be agreed in writing between the parties.

“Contract Sum” means: The accepted amount inclusive of tax of R.....

Amount in words:.....

“Guaranteed Sum” means: The maximum aggregate amount of R.....

Amount in words:.....

“Expiry Date” means:.....

#### CONTRACT DETAILS

Engineer issues: Interim Payment Certificates, Final Payment Certificate, and the Certificate Completion of the Works as defined in the Contract.

#### PERFORMANCE GUARANTEE

1. The Guarantor’s liability shall be limited to the amount of the Guaranteed Sum.
2. The Guarantor’s period of liability shall be from and including the date of issue of this Performance Guarantee and up to and including the Expiry Date or the date of issue by the Engineer of the Certificate of Completion of the Works or the date of payment in full of the Guaranteed Sum, whichever occurs first. The Engineer and/or the Employer shall advise the Guarantor in writing of the date on which the Certificate of Completion of the Works has been issued.
3. The Guarantor hereby acknowledges that:
  - 3.1 any reference in this Performance Guarantee to the Contract is made for the purpose of convenience and shall not be construed as any intention whatsoever to create an accessory obligation or any intention whatsoever to create a suretyship;
  - 3.2 its obligation under this Performance Guarantee is restricted to the payment of money.

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Contractor

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Witness 1

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Witness 2

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Employer

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Witness 1

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Witness 2

4. Subject to the Guarantor's maximum liability referred to in 1, the Guarantor hereby undertakes to pay the Employer the sum certified upon receipt of the documents identified in 4.1 to 4.3:
  - 4.1 A copy of a first written demand issued by the Employer to the Contractor stating that payment of a sum certified by the Engineer in an Interim or Final Payment Certificate has not been made in terms of the Contract and failing such payment within seven (7) calendar days, the Employer intends to call upon the Guarantor to make payment in terms of 4.2;
  - 4.2 A first written demand issued by the Employer to the Guarantor at the Guarantor's physical address with a copy to the Contractor stating that a period of seven (7) days has elapsed since the first written demand in terms of 4.1 and the sum certified has still not been paid;
  - 4.3 A copy of the aforesaid payment certificate which entitles the Employer to receive payment in terms of the Contract of the sum certified in 4.
5. Subject to the Guarantor's maximum liability referred to in 1, the Guarantor undertakes to pay to the Employer the Guaranteed Sum of the full outstanding balance upon receipt of a first written demand from the Employer to the Guarantor at the Guarantor's physical address calling up this Performance Guarantee, such demand stating that:
  - 5.1 the Contract has been terminated due to the Contractor's default and that this Performance Guarantee is called up in terms of 5; or
  - 5.2 a provisional or final sequestration of liquidation court order has been granted against the Contractor and that the Performance Guarantee is called up in terms of 5; and
  - 5.3 the aforesaid written demand is accompanied by a copy of the notice of termination and/or the provisional/final sequestration and/or the provisional liquidation court order.
6. It is recorded that the aggregate amount of payments required to be made by the Guarantor in terms of 4 and 5 shall not exceed the Guarantor's maximum liability in terms of 1.
7. Where the Guarantor has made payment in terms of 5, the Employer shall upon the date of issue of the Final Payment Certificate submit an expense account to the Guarantor showing how all monies received in terms of this Performance Guarantee have been expended and shall refund to the Guarantor any resulting surplus. All monies refunded to the Guarantor in terms of this Performance Guarantee shall bear interest at the prime overdraft rate of the Employer's bank compounded monthly and calculated from the date payment was made by the Guarantor to the Employer until the date of refund.
8. Payment by the Guarantor in terms of 4 or 5 shall be made within seven (7) calendar days upon receipt of the first written demand to the Guarantor.
9. Payment by the Guarantor in terms of 5 will only be made against the return of the original Performance Guarantee by the Employer.
10. The Employer shall have the absolute right to arrange his affairs with the Contractor in any manner which the Employer may deem fit and the Guarantor shall not have the right to claim his release from this Performance Guarantee on account of any conduct alleged to be prejudicial to the Guarantor.
11. The Guarantor chooses the physical address as stated above for the service of all notices for all purposes in connection herewith.
12. This Performance Guarantee is neither negotiable nor transferable and shall expire in terms of 2, where after no claims will be considered by the Guarantor. The original of this Guarantee shall be returned to the Guarantor after it has expired.
13. This Performance Guarantee, with the required demand notices in terms of 4 or 5, shall be regarded as a liquid document for the purposes of obtaining a court order.

C1.11

Contractor

Witness 1

Witness 2

Employer

Witness 1

Witness 2

14. Where this Performance Guarantee is issued in the Republic of South Africa the Guarantor hereby consents in terms of Section 45 of the Magistrate's Courts Act No 32 of 1944, as amended, to the jurisdiction of the Magistrate's Court of any district having jurisdiction in terms of Section 28 of the said Act, notwithstanding that the amount of the claim may exceed the jurisdiction of the Magistrate's Court.

Signed at .....

Date .....

Guarantor's signatory (1) .....

Capacity .....

Guarantor's signatory (2) .....

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C1.12

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Contractor

Witness 1

Witness 2

Employer

Witness 1

Witness 2

## FORM C1.3 SPECIAL CONDITION

### Payment for the labour-intensive component of the works

Payment for works identified in the Scope of Work as being labour-intensive shall only be made in accordance with the provisions of the Contract if the works are constructed strictly in accordance with the provisions of the Scope of Work. Any non-payment for such works shall not relieve the Contractor in any way from his obligations either in contract or in delict.

### Minimum number of labour Employment for this Contract

Based on this contract and by the requirement of the Client, the minimum number of local Labourers is no less than **15** including contractors and subcontractors and shall be paid monthly based on a daily Rate of not less than **R150.00**

### Applicable labour laws

The Ministerial Determination, Special Public Works Programmes, issued in terms of the Basic Conditions of Employment Act of 1997 by the Minister of Labour in Government Notice N° R63 of 25 January 2002, as reproduced below, shall apply to works described in the scope of work as being labour intensive and which are undertaken by unskilled or semi-skilled workers.

## 1 Introduction

1.1 This document contains the standard terms and conditions for workers employed in elementary occupations on a Special Public Works Programme (SPWP). These terms and conditions do NOT apply to persons employed in the supervision and management of a SPWP.

1.2 In this document –

- (a) "**Department**" means any department of the State, implementing agent or contractor;
- (b) "**Employer**" means any department, implementing agency or contractor that hires workers to work in elementary occupations on a SPWP;
- (c) "**Worker**" means any person working in an elementary occupation on a SPWP;
- (d) "**Elementary** occupation" means any occupation involving unskilled or semi-skilled work;
- (e) "**Management**" means any person employed by a department or implementing agency to administer or execute an SPWP;
- (f) "**Task**" means a fixed quantity of work;
- (g) "**task-based work**" means work in which a worker is paid a fixed rate for performing a task;
- (h) "**task-rated worker**" means a worker paid on the basis of the number of tasks completed;
- (i) "**time-rated worker**" means a worker paid on the basis of the length of time worked.
- (j) "**Task rate or daily rate**" = *As per Government Gazette*

## 2 Terms of Work

- 2.1 Workers on a SPWP are employed on a temporary basis.
- 2.2 A worker may NOT be employed for longer than 24 months in any five-year cycle on a SPWP.

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Witness 2

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Employer

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Witness 1

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Witness 2

- 2.3 Employment on a SPWP does not qualify as employment as a contributor for the purposes of the Unemployment Insurance Act 30 of 1966.

### 3 Normal Hours of Work

- 3.1 An employer may not set tasks or hours of work that require a worker to work–
- (a) More than forty hours in any week
  - (b) On more than five days in any week; and
  - (c) For more than eight hours on any day.
- 3.2 An employer and worker may agree that a worker will work four days per week. The worker may then work up to ten hours per day.
- 3.3 A task-rated worker may not work more than a total of 55 hours in any week to complete the tasks allocated (based on a 40-hour week) to that worker.

### 4 Meal Breaks

- 4.1 A worker may not work for more than five hours without taking a meal break of at least thirty minutes duration.
- 4.2 An employer and worker may agree on longer meal breaks.
- 4.3 A worker may not work during a meal break. However, an employer may require a worker to perform duties during a meal break if those duties cannot be left unattended and cannot be performed by another worker. An employer must take reasonable steps to ensure that a worker is relieved of his or her duties during the meal break.
- 4.4 A worker is not entitled to payment for the period of a meal break. However, a worker who is paid on the basis of time worked must be paid if the worker is required to work or to be available for work during the meal break.

### 5 Special Conditions for Security Guards

- 5.1 A security guard may work up to 55 hours per week and up to eleven hours per day.
- 5.2 A security guard who works more than ten hours per day must have a meal break of at least one hour or two breaks of at least 30 minutes each.

### 6 Daily Rest Period

Every worker is entitled to a daily rest period of at least eight consecutive hours. The daily rest period is measured from the time the worker ends work on one day until the time the worker starts work on the next day.

### 7 Weekly Rest Period

Every worker must have two days off every week. A worker may only work on their day off to perform work which must be done without delay and cannot be performed by workers during their ordinary hours of work ("emergency work").

### 8 Work on Sundays and Public Holidays

- 8.1 A worker may only work on a Sunday or public holiday to perform emergency or security work.
- 8.2 Work on Sundays is paid at the ordinary rate of pay.
- 8.3 A task-rated worker who works on a public holiday must be paid –

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Witness 1

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Witness 2

- (a) The worker's daily task rate, if the worker works for less than four hours;
- (b) Double the worker's daily task rate, if the worker works for more than four hours.

8.4 A time-rated worker who works on a public holiday must be paid –

- (a) The worker's daily rate of pay, if the worker works for less than four hours on the public holiday;
- (b) Double the worker's daily rate of pay, if the worker works for more than four hours on the public holiday.

## 9 Sick Leave

9.1 Only workers who work four or more days per week have the right to claim sick-pay in terms of this clause.

9.2 A worker who is unable to work on account of illness or injury is entitled to claim one day's paid sick leave for every full month that the worker has worked in terms of a contract.

9.3 A worker may accumulate a maximum of twelve days' sick leave in a year.

9.4 Accumulated sick-leave may not be transferred from one contract to another contract.

9.5 An employer must pay a task-rated worker the worker's daily task rate for a day's sick leave.

9.6 An employer must pay a time-rated worker the worker's daily rate of pay for a day's sick leave.

9.7 An employer must pay a worker sick pay on the worker's usual payday.

9.8 Before paying sick-pay, an employer may require a worker to produce a certificate stating that the worker was unable to work on account of sickness or injury if the worker is –

- (a) Absent from work for more than two consecutive days; or
- (b) Absent from work on more than two occasions in any eight-week period.

9.9 A medical certificate must be issued and signed by a medical practitioner, a qualified nurse or a clinic staff member authorised to issue medical certificates indicating the duration and reason for incapacity.

9.10 A worker is not entitled to paid sick-leave for a work-related injury or occupational disease for which the worker can claim compensation under the Compensation for Occupational Injuries and Diseases Act.

## 10 Maternity Leave

10.1 A worker may take up to four consecutive months' unpaid maternity leave.

10.2 A worker is not entitled to any payment or employment-related benefits during maternity leave.

10.3 A worker must give her employer reasonable notice of when she will start maternity leave and when she will return to work.

10.4 A worker is not required to take the full period of maternity leave. However, a worker may not work for four weeks before the expected date of birth of her child or for six weeks after the birth of her child, unless a medical practitioner, midwife, or qualified nurse certifies that she is fit to do so.

10.5 A worker may begin maternity leave –

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- (a) four weeks before the expected date of birth; or
- (b) On an earlier date –
  - (i) If a medical practitioner, midwife or certified nurse certifies that it is necessary for the health of the worker or that of her unborn child; or
  - (ii) if agreed to between employer and worker; or
- (c) on a later date, if a medical practitioner, midwife or certified nurse has certified that the worker is able to continue to work without endangering her health.

10.6 A worker who has a miscarriage during the third trimester of pregnancy or bears a stillborn child may take maternity leave for up to six weeks after the miscarriage or stillbirth.

10.7 A worker who returns to work after maternity leave has the right to start a new cycle of twenty-four months employment, unless the SPWP on which she was employed has ended.

## 11 Family responsibility leave

11.1 Workers, who work for at least four days per week, are entitled to three days paid family responsibility leave each year in the following circumstances -

- (a) When the employee's child is born;
- (b) When the employee's child is sick;
- (c) In the event of a death of –
  - (i) The employee's spouse or life partner;
  - (ii) The employee's parent, adoptive parent, grandparent, child, adopted child, grandchild, or sibling.

## 12 Statement of Conditions

12.1 An employer must give a worker a statement containing the following details at the start of employment –

- (a) The employer's name and address and the name of the SPWP;
- (b) The tasks or job that the worker is to perform; and
- (c) the period for which the worker is hired or, if this is not certain, the expected duration of the contract;
- (d) The worker's rate of pay and how this is to be calculated;
- (e) The training that the worker will receive during the SPWP.

12.2 An employer must ensure that these terms are explained in a suitable language to any employee who is unable to read the statement.

12.3 An employer must supply each worker with a copy of these conditions of employment.

## 13 Keeping Records

13.1 Every employer must keep a written record of at least the following –

- (a) The worker's name and position;
- (b) In the case of a task-rated worker, the number of tasks completed by the worker;
- (c) In the case of a time-rated worker, the time worked by the worker;
- (d) Payments made to each worker.

13.2 The employer must keep this record for a period of at least three years after the completion of the SPWP.

## 14 Payment

14.1 An employer must pay all wages at least monthly in cash or by cheque or into a bank account.

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- 14.2 A task-rated worker will only be paid for tasks that have been completed.
- 14.3 An employer must pay a task-rated worker within five weeks of the work being completed and the work having been approved by the manager or the contractor having submitted an invoice to the employer.
- 14.4 A time-rated worker will be paid at the end of each month.
- 14.5 Payment must be made in cash, by cheque or by direct deposit into a bank account designated by the worker.
- 14.6 Payment in cash or by cheque must take place –
- (a) At the workplace or at a place agreed to by the worker;
  - (b) during the worker's working hours or within fifteen minutes of the start or finish of work;
  - (c) In a sealed envelope which becomes the property of the worker.
- 14.7 An employer must give a worker the following information in writing –
- (a) The period for which payment is made;
  - (b) The numbers of tasks completed or hours worked;
  - (c) The worker's earnings;
  - (d) Any money deducted from the payment;
  - (e) The actual amount paid to the worker.
- 14.8 If the worker is paid in cash or by cheque, this information must be recorded on the envelope and the worker must acknowledge receipt of payment by signing for it
- 14.9 If a worker's employment is terminated, the employer must pay all monies owing to that worker within one month of the termination of employment.

## 15 Deductions

- 15.1 An employer may not deduct money from a worker's payment unless the deduction is required in terms of a law.
- 15.2 An employer must deduct and pay to the SA Revenue Services any income tax that the worker is required to pay.
- 15.3 An employer who deducts money from a worker's pay for payment to another person must pay the money to that person within the time period and other requirements specified in the agreement law, court order, or arbitration award concerned.
- 15.4 An employer may not require or allow a worker to –
- (a) Repay any payment except an overpayment previously made by the employer by mistake;
  - (b) State that the worker received a greater amount of money than the employer actually paid to the worker; or
  - (c) Pay the employer or any other person for having been employed.

## 16 Health and Safety

- 16.1 Employers must take all reasonable steps to ensure that the working environment is healthy and safe.
- 16.2 A worker must –
- (a) Work in a way that does not endanger his/her health and safety or that of any other person;
  - (b) Obey any health and safety instruction;
  - (c) Obey all health and safety rules of the SPWP;

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Employer

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- (d) Use any personal protective equipment or clothing issued by the employer;
- (e) Report any accident, near-miss incident, or dangerous behaviour by another person to their employer or manager.

## 17 Compensation for Injuries and Diseases

- 17.1 It is the responsibility of the employers (other than a contractor) to arrange for all persons employed on a SPWP to be covered in terms of the Compensation for Occupational Injuries and Diseases Act, 130 of 1993.
- 17.2 A worker must report any work-related injury or occupational disease to their employer or manager.
- 17.3 The employer must report the accident or disease to the Compensation Commissioner.
- 17.4 An employer must pay a worker who is unable to work because of an injury caused by an accident at work 75% of their earnings for up to three months. The employer will be refunded this amount by the Compensation Commissioner. This does NOT apply to injuries caused by accidents outside the workplace such as road accidents or accidents at home.

## 18 Termination

- 18.1 The employer may terminate the employment of a worker for good cause after following a fair procedure.
- 18.2 A worker will not receive severance pay on termination.
- 18.3 A worker is not required to give notice to terminate employment. However, a worker who wishes to resign should advise the employer in advance to allow the employer to find a replacement.
- 18.4 A worker who is absent for more than three consecutive days without informing the employer of an intention to return to work will have terminated the contract. However, the worker may be re-engaged if a position becomes available for the balance of the 24-month period.
- 18.5 A worker who does not attend required training events, without good reason, will have terminated the contract. However, the worker may be re-engaged if a position becomes available for the balance of the 24-month period.

## 19 Certificate of Service

- 19.1 On termination of employment, a worker is entitled to a certificate stating –
  - (a) The worker's full name;
  - (b) The name and address of the employer;
  - (c) The SPWP on which the worker worked;
  - (d) The work performed by the worker;
  - (e) Any training received by the worker as part of the SPWP;
  - (f) The period for which the worker worked on the SPWP;
  - (g) Any other information agreed on by the employer and worker

## MONTHLY REPORTING

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Contractor

Witness 1

Witness 2

Employer

Witness 1

Witness 2