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## **PART C1: AGREEMENT & CONTRACT DATA**

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## C1.1 FORM OF OFFER AND ACCEPTANCE

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## SCHEDULE OF DEVIATIONS

### Notes:

1. The extent of deviations from the bid documents issued by the Employer prior to the bid closing date is limited to those permitted in terms of the Conditions of Bid.
2. A Bidder's covering letter shall not be included in the final contract document. Should any matter in such, letter, which constitutes a deviation as aforesaid become 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 bid 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 bid documents arising from the above agreements and recorded here shall also be incorporated into the final draft of the Contract.

<b>4.1 Subject:</b>
Detail:

<b>4.2 Subject:</b>
Detail:

<b>4.3 Subject:</b>
Detail:

<b>4.4 Subject:</b>
Detail:

<b>4.5 Subject:</b>
Detail:

By the duly authorised representatives signing this agreement, the Employer and the Bidder agree to and accept the foregoing Schedule of Deviations as the only deviations from the 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 Bidder 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 Bidder a completed signed copy of this Agreement shall have any meaning or effect in the contract between the parties arising from this Agreement.

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## C1.2 CONTRACT DATA

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## **C1.2.1 GENERAL CONDITIONS OF CONTRACT**

**TENDER TO APPOINT A PANEL OF CONTRACTORS FOR CIVIL ENGINEERING (CE) CLASS OF WORK WITH CIDB GRADING 6 TO 9 FOR A PERIOD OF THREE (3) YEARS FOR THE GAUTENG GROWTH AND DEVELOPMENT AGENCY GROUP (GGDA GROUP)**

### **CONDITIONS OF CONTRACT**

The General Conditions of Contract for Construction Works, Third Edition 2015, published by the South African Institute of Civil Engineering is applicable to this contract and is obtainable from [www.saice.org.za](http://www.saice.org.za).

### C1.2.2a Contract-specific Data

The General Conditions of Contract for Construction Works, Third Edition 2015, are applicable to this Contract:

### C1.2.2b 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:

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

Clause	Data	
1.1.1.13	The Defects Liability period is Twelve (12) months	
1.1.1.14	The time for achieving Practical Completion is TBC	
1.1.1.15	The name of the Employer is Gauteng Growth and Development Agency (GGDA)	
1.1.1.16	The name of the Employer's Agent is TBC	
1.1.1.26	The Pricing Strategy is a remeasurement contract. <i>Add new <b>Sub-Clause 1.1.1.35</b></i>	
1.1.1.35	The contractor is to provide pricing for all the items as provided in the Bills of Quantities. Allowance for CPAP will be made for projects that are expected to be 12months and more,	
1.2.1.2	The address of the Employer is : Gauteng Growth and Development Agency (GGDA)	
	Address (physical) :	THE PLACE, 1 SANDTON DRIVE, SANDHURST, JOHANNESBURG, 2196
	Address (postal) :	THE PLACE, 1 SANDTON DRIVE, SANDHURST, JOHANNESBURG, 2196
	Contact person : Telephone : Facsimile : E-mail :	Mokgadi Monyepao  N/A mokgadim@ggda.co.za

1.2.1.3	<p>Any notice or claim required in accordance with this Contract shall be communicated separately from other communications, on a separate cover with specific reference to the clause in terms of which the communication was made</p> <p>Provided that the Employer, Employer's Agent and the Contractor shall be entitled, by written notice to each other, to change their said addresses.</p> <p><b>Add new Sub-Clause 1.2.6</b></p>
1.2.6	Any act or communication, including but not limited to "accept, agree, appoint, approve, certify, decide, delegate, dispute, elect, grant, inform, instruct, issue, notice, order, record, refuse, request, require, state, dispute, call for" and their derivatives indicate an act to be carried out in writing.
3.2.3	<p>The Employer's Agent shall obtain the specific approval of the Employer before carrying out any of his functions or duties according to the following Clauses of the General Conditions of Contract:</p> <ul style="list-style-type: none"> <li>a) The removal or addition of an SMME subcontractor from or to the Works in terms of Clause 4.4.4</li> <li>b) The issuing of instructions for dealing with fossils and the like in terms of Clause 4.7</li> <li>c) The issuing of an instruction to accelerate progress in terms of Clause 5.7</li> <li>d) Suspend the progress if the works in terms of Clause 5.11.2</li> <li>e) The approval of any extension of time for completion in terms of Clause 5.12</li> <li>f) The reduction of a penalty for delay in terms of Clause 5.13.2</li> <li>g) The issuing of a variation order in terms of Clause 6.3.2</li> <li>h) The agreeing of the adjustment of the sums for general items in terms of Clause 6.11</li> <li>i) The giving of a ruling on a contractor's claim in terms of Clause 10.1.5</li> <li>j) The inclusion of credits in the next payment certificate in terms of clause 10.1.5.2</li> </ul>
4.2	<p>Employer's Agent instructions</p> <p><b>Add new Sub-Clause 4.2.3</b></p>
4.2.3	Should the Contractor fail to proceed with due diligence with any Employer's Agent instruction, the Employer's Agent may notify the Contractor to proceed within 7 days from receipt of such notice. Without further notice, on default by the Contractor, the Employer may employ other parties or use its own resources to give effect to such instruction in addition to any other rights that the Employer may have inter alia in terms of Clause 9.2.1.3.6. the Employer may recover such costs from the Contractor resulting from same.

4.3	<p>Legal Provisions</p> <p><i>Add the following to the end of <b>Sub-Clause 4.3.1</b></i></p> <p>“For conventional construction works the Basic Conditions of Employment Act of 1997 (Act No 75 of 1997) shall apply and the minimum employment conditions which will apply shall be guided by the latest Sectorial Determination: Civil Engineering Sector published from time to time.</p> <p>Basic Conditions of Employment Act of 1997 (Act No 75 of 1997) as per Government Notice R63 of 25 August 2002, shall apply to works described in the Scope of Work as being labour intensive and which are undertaken by unskilled or semi-skilled workers.</p> <p>The Contractor shall comply with the Occupational Health and Safety Specification prepared by the Employer in terms of the Construction Regulations, 2014 promulgated in terms of Section 43 of the Occupational Health and Safety Act (Act No 85 of 1993).</p> <p>Without limiting the Contractor’s obligations in terms of the Contract, the Contractor shall before commencement of the Works or any part thereof, be in the possession of an approved Health and Safety Plan.</p> <p>The Contractor shall submit an approved Health and Safety Plan to the Engineer within 14 days of the Commencement Date.”</p> <p><i>Add the following new <b>Sub-Clauses 4.3.3 and 4.3.4</b></i></p>
4.3.3	<p>"Contractor's Liability as Mandatory"</p> <p>The Employer and the Contractor shall enter into an agreement required for the construction of the Works in terms of the provisions of Section 37(2) of the Occupational Health and Safety Act (Act 85 of 1993) and the latest Construction Regulations promulgated thereunder.</p> <p>Notwithstanding any actions which the Employer may take, the Contractor accepts sole liability for due compliance with the relevant duties, obligations, prohibitions, arrangements, and procedures imposed by the Occupational Health and Safety Act, 1993 (Act 85 of 1993), and all its regulations, including the Construction Regulations, 2014, for which he is liable as mandatory. By entering into this Contract it shall be deemed that the parties have agreed in writing to the above provisions in terms of Section 37 (2) of the Act.</p>
	<p>a) The Employer and the Contractor hereby agree, in terms of the provisions of Section 37 (2) of the Occupational Health &amp; Safety Act, 1993 (Act 85 of 1993, hereinafter referred to as 'the Act'), that the following arrangements and procedures shall apply between them to ensure compliance by the Contractor with the provisions of the Act, namely:</p> <ul style="list-style-type: none"> <li>i) The Contractor undertakes that the appropriate officials and employees of the Contractor will fully acquaint themselves with all relevant provisions of the Act and the Regulations promulgated in terms of the Act;</li> <li>ii) The Contractor undertakes that all relevant duties, obligations and prohibitions imposed in terms of the Act and Regulations will be fully complied with;</li> <li>iii) The Contractor hereby accepts sole liability for such due compliance with the relevant duties, obligations and prohibitions imposed by the Act and Regulations, and expressly absolves the Employer from itself being obliged to comply with any of the aforesaid duties, obligations and prohibitions, with the exception of such duties,</li> </ul>



	<p>obligations and prohibitions expressly assigned to the Employer in terms of the Act and its associated Regulations;</p> <p>iv) The Contractor agrees that any duly authorised official of the Employer shall be entitled (although not obliged) to take such steps as may be necessary to ensure that the Contractor has complied with his undertakings as set out more fully in paragraphs (a) and (b) above, which steps may include, but will not be limited to, the right to inspect any appropriate site or premises occupied by the Contractor, or, to inspect any appropriate records or Safety Plans held by the Contractor;</p> <p>v) The Employer retains an interest in all inquiries conducted under this Contract in terms of Section 31 and/or 32 of the Occupational Health and Safety Act, 1993 (Act 85 of 1993) and its Regulations following any incident involving the Contractor and/or Sub-Contractor and/or their employees. The Contractor shall be obliged to report forthwith to the Employer any investigation, complaint or criminal charge which may arise as a consequence of the provisions of the Act and Regulations, pursuant to work performed in terms of this Contract, and shall, on written demand, provide full details in writing of such investigation, complaint or criminal charge;</p> <p>b ) The Contractor shall furthermore, in compliance with the Construction Regulations of 2014 (Notice No. 37305, dated 07 February 2014) to the Act:</p> <p>i) Acquaint himself with the requirements of the Employer's Health &amp; Safety Specification as laid down in Regulation 4(1)(a) of the Construction Regulation of 2014, and prepare a suitably and sufficiently documented Health and Safety Plan as contemplated in Regulation 5(1) of the Construction Regulation of 2014 for approval by the Employer or his assigned agent. The Contractor's Health and Safety Plan and Risk Assessment shall be submitted to the Employer for approval within 14 days from the date of the Letter of Acceptance and shall be implemented and maintained from the Commencement of Works;</p> <p>ii) The Employer, or his assigned agent, reserves the right to conduct periodic audits, as contemplated in the Construction Regulations of 2014, to monitor that the Contractor is compliant in respect of his obligations. Failure by the Contractor to comply with requirements of these Regulations shall entitle the Engineer, at the request of the Employer or his agent, to suspend all or any part of the Works, with no recourse whatsoever by the Contractor for any damages incurred as a result of such suspension, until such time as the Employer or his agent are satisfied that the issues in which the Contractor has been in default have been rectified.</p>
4.3.4	<p>Contractor's Designer</p> <p>The Contractor and his designer shall accept full responsibility and liability to comply with the Occupational Health and Safety Act, 1993 (Act 85 of 1993) and the latest Construction Regulations promulgated thereunder for the design of the Temporary Works and those part of the Permanent Works which the Contractor is responsible to design in terms of the Contract"</p>
4.5.3	<p><i>Delete the contents of <b>Sub-Clause 4.5.4</b> and replace with the following:</i></p> <p>"For this contract the fees, taxes, levies and other charges to be paid by the Contractor in terms of Sub-Clause 4.5.1.1 will not be refunded by the Employer. The cost thereof shall be deemed to be included in the prices tendered for relevant items in the Bill of Quantities."</p>

4.12.2	<p><b>Add the following to the end of <i>Sub-Clause 4.12.2</i></b></p> <p>The Contractor's Construction Manager, Senior Foremen shall be on site at all times when work is being performed. No work may be performed without these persons being on site.</p>
5.3.1	<p>The documentation required <b>before commencement with Works execution</b> are:</p> <ul style="list-style-type: none"> <li>a) An approved Health and Safety Plan (Refer to clause 4.3)</li> <li>b) Initial Programme (Refer to clause 5.6)</li> <li>c) Initial cash flow projection linked to the programme (Refer to clause 5.6.2.6)</li> <li>d) Security (Refer to clause 6.2)</li> <li>e) Insurance (refer to clause 8.6)</li> <li>f) Signed Contract Agreements with nominated SMME contractors and Community Liaison Officer. SMME contract agreements shall clearly state the assigned foreman details, scope of works, materials and equipment to be provided by the Contractor, payment conditions, time frame for completion and any penalties for late completion.</li> <li>g) Proforma SMME Contractor(s) Financial Statement proposed by the Contractor (for approval by Employer and Employer's Agent)</li> <li>h) The names, qualifications and experience of Key Staff</li> </ul>
5.3.2	The time to submit the documentation required before commencement with Works execution is 14 days.
5.3.3	The contractor shall commence executing the works with 14 days from the Commencement date.
5.4.2	The access and possession of Site shall not be exclusive to the Contractor but as set out in the Scope of Work and Site Information.
5.4.4	<p><b>Add the following new <i>Sub-Clause 5.4.4</i></b></p> <p>"The Contractor shall bear all costs and charges for special and temporary rights of way required by him/her in connection with access to the Site. The Contractor shall also provide at his/her own cost an additional facilities outside the Site required by him/her for the purpose of the Works."</p>
5.5	<p>Time for Practical Completion</p> <p><b>Add new <i>Sub-Clause 5.5.1</i></b></p>
5.5.1	The works shall be completed within the limit stipulated or as tendered in the Summary of the Bills of Quantities (whichever is the lesser), exclusive of the special non-working days and the year end break and inclusive of the 21day period referred to in Clause 5.3.1
5.6.1	The contractor shall deliver his programme of works within 7 days from the Commencement date.
5.6.6	<p><b>Add the following sub-clause 5.6.6 to Clause 5.6:</b></p> <p><b><i>Engineer to approve Contractor's Design and Drawings</i></b></p> <p>"All designs, calculations, drawings and operation and maintenance manuals shall be fully endorsed by a third party registered engineer, accomplished in such specific field of practice and the cost thereof shall be borne solely by the Contractor.</p> <p>Once the alternative design has been approved, the Contractor shall indemnify and hold harmless the Engineer, the Employer, their agents and assigns, against all claims howsoever arising out of the said design, whether in contract or delict."</p>

5.8.1	<p>The non-working days are Sundays.</p> <p>The special non-working days are the official public holidays of the Republic of South Africa (which shall include public holidays set aside for voting purposes) and the industry year end break with effective dates published by the South African Forum of Civil Engineering Contractors (SAFCEC).</p>
5.12.2.2	<p>A delay caused by inclement weather conditions will be regarded as a delay only if, in the opinion of the Engineer, all progress on an item or items of work on the critical path of the working programme of the contractor has been brought to a halt. Delays on working days only (based on a five-day working week) will be taken into account for the extension of time, but the Contractor shall make provision in his programme of work for an expected delay of "n" working days caused by normal rainy weather, for which he will not receive any extension of time, where "n" equals 20 days. Extension of time during working days will be granted to the degree to which actual delays, as defined above, exceed the number of "n" workings days.</p>
5.12.5	<p><b>Add the following sub-clause 5.12.5 to Clause 5.12: <i>Extension of time for abnormal climatic conditions</i></b></p> <p>Normal rainfall is not regarded as 'abnormal climatic conditions' which entitles the Contractor to extension of time. Allowance for normal rainfall shall be deemed to have been made for in his tendered rates, prices and programme. The number of days on which work is expected not to be possible is given in the next table, and in his tendered rates, prices and programme the Contractor shall allow at least for the number of days exceeding 10mm for each month.</p> <p>Only in respect of abnormal rainfall or abnormally wet conditions will extension of time be allowed, in accordance with the formula set out hereunder.</p> <p><math>V = (N_w - N_n) \times (R_w / R_n)</math> if <math>N_w</math> is greater than <math>N_n</math>, where :</p> <p><math>V</math> = Extension of time in calendar days in respect of any particular month</p> <p><math>N_w</math> = Actual number of days during the month for which rainfall exceeded 10 mm.</p> <p><math>N_n</math> = Average number of days during the month for which rainfall normally exceeds 10 mm.</p> <p><math>R_w</math> = Actual rainfall for the calendar month.</p> <p><math>R_n</math> = Average rainfall for the calendar month.</p> <p>Calculations shall be done separately for each month. Calculations for part of a month are carried out using pro rata figures for <math>N_n</math> and <math>R_n</math>. If <math>R_w / R_n</math> is greater than 2.5, its value shall be taken as 2.5. If in any month <math>N_w</math> is smaller than <math>N_n</math>, no extension of time shall be granted for that month</p> <p><b><i>Extension of time for abnormal climatic conditions</i></b></p> <p>Normal rainfall is not regarded as 'abnormal climatic conditions' which entitles the Contractor to extension of time. Allowance for normal rainfall shall be deemed to have been made for in his tendered rates, prices and programme. The number of days on which work is expected not to be possible is given in the next table, and in his tendered rates, prices and programme the Contractor shall allow at least for the number of days exceeding 10mm for each month.</p> <p>Only in respect of abnormal rainfall or abnormally wet conditions will extension of time be allowed, in accordance with the formula set out hereunder.</p> <p><math>V = (N_w - N_n) \times (R_w / R_n)</math> if <math>N_w</math> is greater than <math>N_n</math>, where :</p> <p><math>V</math> = Extension of time in calendar days in respect of any particular month</p> <p><math>N_w</math> = Actual number of days during the month for which rainfall exceeded 10 mm.</p> <p><math>N_n</math> = Average number of days during the month for which rainfall normally exceeds 10 mm.</p> <p><math>R_w</math> = Actual rainfall for the calendar month.</p> <p><math>R_n</math> = Average rainfall for the calendar month.</p>

Calculations shall be done separately for each month. Calculations for part of a month are carried out using pro rata figures for  $N_n$  and  $R_n$ . If  $R_w/R_n$  is greater than 2.5, its value shall be taken as 2.5. If in any month  $N_w$  is smaller than  $N_n$ , no extension of time shall be granted for that month.

The following values of  $N_n$  and  $R_n$  shall be used for this Contract. They are based on figures supplied by the Weather Bureau for their KEMPTON PARK recording station:

Month	Average rain days with more than 10mm ( $N_n$ )	Average rainfall ( $R_n$ )
January	5	136.5
February	4	108.9
March	3	92.2
April	2	43.6
May	1	20.2
June	0.3	7.4
July	0.1	1.8
August	0.1	4.7
September	0.4	15.6
October	2.1	64.8
November	4	109.2
December	5	127.5
TOTAL	27	732.4 (Average per year)

5.13.1	The penalty for failing to complete the Works at the Due Completion Date is <b>0.02% of the Contract Value (excluding VAT) per day</b> ; whichever is the higher value The Contractor is to note that delay penalties, in addition to monies still owed to the Contractor (including retention monies) and the Guarantee, shall effectively be used to address additional costs incurred by the Employer, such as the Employer's Agent's construction monitoring fees and other service providers' fees and wayleave extension costs, as a result of the Works not being completed at the Due Completion Date.
5.13.3	The penalty for failure, on the part of the Contractor, to submit any regular monthly report as set out elsewhere in this document on the <b>25<sup>th</sup> day of each month</b> (or the previous work day for the applicable month) until the issue of the Certificate of Completion shall be subject to a penalty of <b>R100.00 per report per day</b> , until report is submitted and which shall not be reversible.
5.14.1	The requirements for achieving Practical Completion are all those for the Works to reach a state of readiness, fit for the intended purpose and occupation without danger or undue inconvenience to the Employer.
5.16.3	The latent defect period is 10 years
6.8	Adjustment in rates and/or Prices
6.8.2	<b>No allowance have been made for Contract Price Adjustment, since the project is expected to last for no more than 6 months</b>
6.10.1.5	The percentage advance on materials not yet built into the Permanent Works is 80%.
6.10.3	The percentage retention on the amount due to the contractor is 10% up to the issue of the Completion Certificate and 5% after the issue of the Completion Certificate.
8.6.1	The Contractor shall provide insurance of the works in terms of clause 8.6 of the GCC
8.6.1.1.3	The amount to cover professional fees for repairing damage and loss to be included in the insurance sum is as per the PRT's approved quotation.
8.6.1.3	The limit of indemnity for liability insurance is R5,000,000.00 minimum.

8.6.1.5	The Contractor is to provide all additional insurances including for, but not limited to, his own employees, vehicles and equipment and plant not incorporated into the Works.
10.5.3	The number of Adjudication Board Members to be appointed is ONE.
10.7.1	The determination of disputes shall be by arbitration.

## PART 2: DATA PROVIDED BY THE CONTRACTOR

Clause	Data
1.1.1.9	The name of the Contractor is :
1.2.1.2	<p>The address and contact detail of the Contractor are :</p> <p>Address (physical) :</p> <p>Address (postal) :</p> <p>Contact person : Telephone : Facsimile : E-mail : Company Registration number :</p>
5.5.1	The contractor confirms that the works can be completed in _____ months.
6.2.1	<p>The security to be provided by the Contractor shall be a Performance Guarantee of 10% of the Contract Sum and a 10% Retention reducing to 5% of the Contract Sum.</p> <p>The Performance Guarantee is to be worded as per the document included in C1.3.</p>
6.5.1.2.3	The percentage allowance to cover overhead charges and profit is 10%.

## LIST OF INSTITUTIONS FROM WHO CONTRACT/DEPOSIT GUARANTEES CAN BE ACCEPTED.

1. ABSA Bank
2. CAPITEC Bank
3. Credit Agricole Indosuez (South Africa Branch)
4. Development Bank of South Africa
5. FirstRand Bank
6. ING Bank N.V. (South Africa Branch)
7. Investec Bank
8. Landbank
9. National Housing Finance Co.
10. Nedcor Bank
11. South African Reserve Bank
12. Standard Bank
13. AIG South Africa
14. Credit Guarantee Insurance Co
15. Emerald Insurance Company
16. Federated Employers Mutual Assurance Co
17. Global Insurance Company
18. Guardrisk Insurance Company
19. Hannover Re:
20. Home Loan Guarantee Company
21. Lion of Africa Insurance Company
22. Metropolitan Life
23. Metropolitan Odyssey Ltd
24. MUA Insurance
25. Mutual & Federal Insurance Company
26. Rand Mutual Assurance Company
27. Regent Insurance Company
28. SA Eagle Insurance Company
29. Lombard Insurance.

#### C1.4 Agreement in Terms of the Occupation Health and Safety Act, 1993

ARTICLE OF AGREEMENT IN TERMS OF SECTION 37(2) OF THE OCCUPATIONAL SAFETY ACT, 1993 BETWEEN

Gauteng Growth and Development Agency (GGDA)  
(Hereinafter referred to as the "EMPLOYER")  
AND

.....  
.....  
.....

Herein represented by ..... in his/her capacity as ..... duly  
authorised by virtue of a resolution dated ....., Attached hereto Annexure A,  
of the said ..... (Herein after referred to as the "CONTRACTOR")

**WHEREAS** the CONTRACTOR is the mandatory of the EMPLOYER as contemplated in an agreement in respect of

.....  
.....

..... Contract number .....

**AND WHEREAS** section 37 of the Occupational Health and Safety act, 1993 (Act 85 of 1993, hereinafter referred to as the "ACT"), imposes certain powers and duties upon the EMPLOYER.

**AND WHEREAS** the parties have agreed to enter into an agreement in terms of section 37(2) of the ACT.

**NOW THEREFORE** the parties agree as follows:

- The CONTRACTOR undertakes to acquaint the appropriate officials and employees of the CONTRACTOR with all relevant provisions of the ACT and the regulations promulgated in terms thereof.
- The CONTRACTOR undertakes that all relevant duties, obligations and prohibitions imposed in terms of the ACT and Regulations will be fully complied with. Provided that should the EMPLOYER prescribe certain arrangements and procedures, that same shall be observed and adhered to by the CONTRACTOR, his officials and employees. The CONTRACTOR shall bear the onus of acquainting himself/herself/itself with such arrangements and procedures.
- The CONTRACTOR hereby accepts sole liability for such due compliance with the relevant duties, obligations, prohibitions, arrangements and procedure, if any, imposed by the ACT and Regulations and the EMPLOYER expressly absolves the EMPLOYER from itself being obliged to comply with any of the aforesaid duties, obligations, prohibitions, arrangements and procedure as the case may be.
- The CONTRACTOR agrees that any duly authorised officials of the EMPLOYER shall be entitled, although not obliged, to take such steps as may be necessary to ensure that the CONTRACTOR has complied with the undertakings as more fully set out in paragraphs 1 and 2 above, which steps may include, but shall not be limited to, the right to inspect any appropriate site or premises occupied by the CONTRACTOR, or to inspect any appropriate

records held by the CONTRACTOR or to take such steps it may deem necessary to remedy the default of the CONTRACTOR at the cost of the CONTRACTOR.

- e) The CONTRACTOR shall be obliged to report forthwith to the EMPLOYER any investigations, complaint or criminal charge which may arise as a consequence of the provisions of the ACT and Regulations, pursuant to work performed in terms of this agreement, and shall, on written demand, provide full details in writing of such an investigation, complaint or criminal charge as the case may be.

FOR AND ON BEHALF OF THE **EMPLOYER**:

NAME(s): (BLOCK LETTERS) .....

CAPACITY of authorized agents: .....

SIGNATURE(s) of authorized agents: .....

SIGNED at ..... on this ..... day of .....

WITNESSES: (Full name – in block letters – and signature)

1. ....  
.....

FOR AND ON BEHALF OF THE **CONTRACTOR**:

NAME(s): (BLOCK LETTERS) .....

CAPACITY of authorized agents: .....

SIGNATURE(s) of authorized agents: .....

SIGNED at ..... on this ..... day of .....

WITNESSES: (Full name – in block letters – and signature)

1. ....  
.....

2. ....  
.....



## C1.5 Adjudicator's Agreement

### PROFORMA

#### ADJUDICATION BOARD MEMBER AGREEMENT

**Please note that words in italics within brackets are items which should be stated.**

This Agreement is entered into between:

Adjudication Board Member: *(Name, physical address, postal address, e-mail address, fax number, telephone number and mobile number)*.

Contractor: *(Name, physical address, postal address, e-mail address, fax number, telephone number and mobile number)*.

Employer: *(Name, physical address, postal address, e-mail address, fax number, telephone number and mobile number)*.

The Contractor and the Employer will hereinafter be collectively referred to as the Parties.

The Parties entered into a Contract for *(name of project)* which provides that a dispute under or in connection with the JBCC Edition 6.2 can be referred to *(ad-hoc adjudication/standing adjudication)*.

The undersigned natural person has been appointed to serve as Adjudication Board Member and together with the undersigned Parties agree as follows:

1. The Adjudication Board Member accepts to perform his duties in accordance with the terms of the Contract, the JBCC Adjudication Board Rules and this Agreement.
2. The Adjudicator undertakes to remain independent and impartial of the Contractor, Employer and Engineer for the duration of the Adjudication Board proceedings.
3. The Adjudication Board Member agrees to serve for the duration of the Adjudication Board proceedings.
4. The Parties may at any time, without cause and with immediate effect, jointly terminate this Agreement.
5. Unless the Parties agree, the Adjudication Board Member shall not act as arbitrator or representative of either Party in any subsequent proceedings between the Parties under the Contract. No Party may call the Adjudication Board Member as a witness in any such subsequent proceedings.
6. The standing Adjudication Board's duties shall end upon the Adjudication Board Member(s) receiving

notice from the Parties of their joint decision to disband the Adjudication Board.

7. The Adjudication Board Member shall be paid in respect of time spent upon or in connection with the adjudication including time spent traveling:
  - a. A monthly retainer of (amount) for (number) of months, and/or
  - b. A daily fee of (amount) based on a (number) hour day, and/or
  - c. A hourly fee of (amount), and/or
  - d. A non-recurrent appointment fee of (amount) which shall be accounted for in the final sums payable.
8. The Adjudication Board Member's expenses incurred in adjudication work shall be reimbursed at cost.

Upon submission of an invoice for fees and expenses to the Parties, the (Contractor/Employer\*) shall pay the full amount within 28 days of receipt of the invoice and he shall be reimbursed by the other party by half the amount so that the fees and expenses are borne equally by the Parties. Late payment of such invoice shall attract interest at prime plus 3% points compounded monthly at the prime rate charged by the Adjudication Board Member's bank.

This Agreement is entered into by:

Contractor's signature: .

Contractor's name: .

Place: .

Date: .

Employer's signature: .

Employer's name: .

Place: .

Date: .

Adjudication Board Member's signature: .

Adjudication Board Member's name: .

Place: .

Date: .

\* Delete the inapplicable party