

REQUEST FOR PROPOSAL (RFP): Appointment of a Main Contractor for Phase 1 of the renovations and construction of offices at iThemba LABS(TAMS), Johannesburg, South Africa

Supplier name:

RFP Number:	iLABS/RFP2024/25:14
RFP Description:	Appointment of a Main Contractor for Phase 1 of the renovations and construction of offices at iThemba LABS(TAMS), Johannesburg, South Africa. It is Estimated that tenderers must have a CIDB contractor grading designation of 2 GB or Higher
Date of Issued:	4 April 2025
Compulsory Site visit Location:	Date: 14 April 2025 @ 11:00 iThemba LABS, 92 Empire Road, Braamfontein Johannesburg 2050 (only email submission will be accepted)
RFP Closing Date:	5 May 2025 at 11:00 am
Compulsory Site Visit Date:	To be held on the 14 April 2025 at 11h00am.
Delivery Address for RFP responses:	scm@tlabs.ac.za (only email submission will be accepted)
For More Information, (Technical):	Mr. Morgan Madhuku Email: madhuku@tlabs.ac.za Nish Devanunthan Email: n.devanunthan@tlabs.ac.za

For More Information, (Supply Chain Management):	Mr. Lusindiso Buje Email: scm@tlabs.ac.za Tel: 021 843 1000
iThemba LABS Business Hours:	08:00 am till 16:30 pm
Date Services Required:	Immediately After Issuing of Purchase Order
Validity from Closure Date:	90 Days
Contract Period:	Duration of work from receipt of Official Purchase Order including defects liability period
Preferential Procurement System Applicable:	80:20 This RFP is subject to the Preferential Procurement Policy Framework Act 2000 and its 2022 Regulations; the General Conditions of Contract (GCC); Special Conditions of Contract (SCC), and, if applicable, any other legislation.

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1. INTRODUCTION TO THE NRF

The National Research Foundation (“NRF”) is a juristic person established in terms of the National Research Foundation Act, Act 23 of 1998, and a Schedule 3A Public Entity in terms of the Public Finance Management Act. The NRF is the government’s national agency responsible for promoting and supporting research and human capital development through funding researchers, provision of the National Research Platforms, and science outreach platforms/programs to the broader community. The NRF provides these services in all fields of science and technology, including natural science, engineering, social science, and humanities. The NRF delivers its mandate through its internal business units which are both functional and geographical diverse. All contracts flowing from bidding only apply to iThemba LABS Cape Town.

The NRF is a schedule 3A entity under the PFMA (Act 29 of 1999), which is required to plan and report on its activities and organizational performance, and which is to be audited by the AGSA on an annual basis. As part of the AGSA audit requirements, the NRF has to collect / document and store details, data and/or information of all persons and activities that form part of its performance record as proof thereof. In terms of this requirement, all persons making use of NRF facilities, platforms, equipment, tools etc., for research and related purposes are required to provide their personal details/data/information as per the template below or other similarly appropriate format. By completing your information in the template/register/record below and appending your signature thereto, you confirm your consent, in line with the Protection of Personal Information Act 4 of 2013, whereby the NRF and any of its business units may process (collect, receive, record, organize, collate, share, store, update, modify, retrieve, alter, consult, use, disseminate, distribute, merge, link, erase or destroy) the personal information you provide within and amongst its business units/functions for the purpose of fulfilling its statutory mandate, public accountability and other regulatory/legal requirements.

2. INTRODUCTION TO THE NRF BUSINESS UNIT RESPONSIBLE FOR THIS RFP

iThemba LABS (Laboratory for Accelerator-Based Sciences) is a multi-disciplinary research laboratory based at two sites in the Western Cape and Gauteng respectively, these provide facilities for:

- Basic and Applied Nuclear Physics Research using Particle Beams
- Research Radiation Biophysics
- The supply of Accelerator-produced Radioactive Isotopes for Nuclear Medicine and Research

The Infrastructure and Projects department of iThemba Labs Cape Town is responsible for this RFP.

3. INVITATION FOR PROPOSAL

iThemba LABS seeks to appoint a reputable Service Provider as required by National Treasury Regulations (NTRs) and Public Financial Management Act (PFMA) through an open and competitive process so that it can realise the benefits of the strategic sourcing which includes, amongst others:

- Reducing the cost of effort and administration
- Minimising price inconsistencies

- Reducing inadequate contract management and service delivery

This Request for Proposal is intended to allow the successful bidder to specify and present their skills, expertise and price for the above-mentioned services to iThemba LABS. Final acceptance of any proposal is not guaranteed, this being the exclusive right of iThemba LABS. The purpose of this RFP is to invite proposals for **APPOINTMENT OF A MAIN CONTRACTOR FOR PHASE 1 OF THE RENOVATIONS AND CONSTRUCTION OF OFFICES AT ITHEMBA LABS(TAMS), JOHANNESBURG, SOUTH AFRICA**, with the right to cancellation due to non – performance.

CIDB Requirement:

Only those tenderers / service providers who are registered with the CIDB, or are capable of being so prior to the evaluation of submission, in a contractor grading designation equal to or higher than a contractor grading designation determined in accordance with the sum tendered, or a value determined in accordance with Regulation 25 (1B) or 25(7A) of the Construction Industrial Development Regulations, for a 2 GB or higher class of construction work, are eligible to have their tenders evaluated.

- Joint ventures are eligible to submit tenders provided that:
 1. Every member of the joint venture is registered with the CIDB;
 2. The lead partner has a contractor grading designation in the 2GB or higher class of construction work; or not lower than one level below the required grading designation in the class of works construction works under considerations and possess the required recognition status.
 3. The combined contractor grading designation calculated in accordance with the Construction Development Regulations is equal to or higher than a contract grading designation determined in accordance with sum tendered for a 2GB or higher class of construction work or a value determined in accordance with Regulation 25 (1B) or 25(7A) of the Construction Industry Development Regulations.

4. OBJECTIVES OF iThemba LABS

The long-term Key Strategic Objectives of iThemba LABS are well aligned with five of the six Strategic Outcomes of the National Research Foundation (NRF) as follows:

- iThemba LABS develops and provides to its users' leading-edge research and infrastructure platforms to **enhance impact on the research enterprise**. This state-of-the-art facility is aimed at responding to the needs of the SA research community in subatomic science and technology, radiobiology, radiochemistry, materials research, accelerator mass spectrometry, and environmental sciences, as well as other disciplines that can benefit from ion beam analysis techniques.
- The availability of the leading–edge research allows iThemba LABS to contribute to **enhance impact on the research enterprise** through in-house and collaborative research projects. In addition to growing the production of globally competitive research outputs our training capacity is enhanced, leading to improvement in both quality and quantity of Human Capacity Development (HCD), and contributing to a **transformed**

(internationally competitive and sustainable) research workforce. Competitive infrastructure also allows iThemba LABS and its users to forge closer ties with the South African, African and International Science and Technology, Higher Education and Research Institutions. Our facilities and skilled human resources also serve to technically and scientifically assist South African research groups that wish to use international facilities thereby contributing to a **transformed organisation that lives its culture and values.**

- Having world class infrastructure, conducting competitive research and having active international research collaborations serves to establish iThemba LABS and South Africa to be **globally recognised and respected for the research infrastructure platforms and people.** iThemba LABS further contributes to the societal benefit by growing and enhancing our Radionuclide Production portfolio and service offering for the health and related benefits of the SA community whilst improving cost recovery opportunities.
- iThemba LABS **upholds best corporate practise** and constantly strives to deliver transparent HR/Business/Finance processes (including Health and Safety) in line with the NRF policies in support of the operations and to facilitate Strategic Decision Making.
- iThemba LABS offers an extensive range of training programmes, mainly focused on post-graduate training where our research facilities are being utilized. In particular, post-graduate programmes with HDIs provide the pipeline needed to generate a **transformed research and technical workforce**, not only internal to the NRF but also in academia and the nuclear industry
- A small but active group at iThemba LABS engages in a variety of science outreach programmes aimed at establishing a **scientifically informed society.** Having world-class research facilities and participating in leading edge research plays an important role in instilling interest and pride in science in South Africa.

5. REGISTRATION ON THE CENTRAL SUPPLIER DATABASE (CSD)

The bidder must register on the National Treasury's Central Supplier Database in order to do business with an organ of state or for the NRF to award a bid or contract. Registration on the CSD (www.csd.gov.za) provides a bidder with an opportunity to do business with all state organisations including provincial and municipal levels. National Treasury Contact Details: 012 406 9222 or email csd.support@treasury.gov.za .

6. SECTION 1: Process Description & Administrative Requirements.

6.1 Mandatory and Administrative Requirements

- a. All documentation to be included:

PART 1: Technical Proposal: RFP No.: **iLABS/RFP2024/25:14**

PART 2: B-BBEE and other Mandatory Documentation:

- b. Detailed proposal and any additional information must accompany this signed Request for Proposal (RFP).
- c. Prices supplied must be fully inclusive of all costs; value added tax, delivery charges and other taxes.
- d. Prices must be in South African currency.
- e. Price summary supplied in this document is firm prices.

- f. Bidders not submitting mandatory returnable evaluation documents will not be considered for technical evaluation and will be disqualified automatically.

ADMINISTRATIVE DOCUMENTS (M = Mandatory)		
Please Tick Applicable		
B – BBEE Certificate (or Sworn affidavit or Certified Copy)	O	YES/NO
Company Profile	M	YES/NO
CSD (Central Supplier Database) Proof of Registration (www.csd.gov.za)	M	YES/NO
SBD 4	M	YES/NO
SBD 6.1	O	YES/NO
Resolution by the Bidder authorizing signatory (If documents completed and signed by the Owner/Partner/Managing Director, Resolution not needed from the bidder)	M	YES/NO
EVALUATION DOCUMENTS (Go/No Go)		
Note: Compulsory to submit all returnable documents		
Submission of a valid CIDB Grading certificate, 2GB or higher	M	YES/NO
Submission of a detailed construction program outlining the schedule for all work packages with specific timelines to ensure completion of the project within 4 months	M	YES/NO
Submission of a company profile showcasing that the bidder has at least 5 years' experience in similar construction projects	M	YES/NO
Submission of a project portfolio of a minimum of 5 similar projects –value of project, duration, etc	M	YES/NO
Submission of a Curriculum Vitae/s of the designated site foreman who will be on site during the execution of works.	M	YES/NO
Submission of Proof of Qualified trade tested Plumber and Electrician Wireman	M	YES/NO
Three (3) reference letters or project completion certificates with contact details for those whom the bidder has completed similar work for within the last sixty (60) months (preferably last thirty-six (36) months) that meets the minimum threshold	M	YES/NO
Valid Letter of Good Standing issued by Compensation Commissioner OR COIDA certificate.	M	YES/NO
Submission of Sub-Contractor details if applicable	M	YES/NO
Proof of public liability insurance for at least R5m or Letter of intent from insurer	M	YES/NO

6.2 Proposal Submission

Proposal must reach iThemba LABS before the closing hour on the date shown below:

RFP No: **iLABS/RFP2024/25:14**

Description: Appointment of a Main Contractor for Phase 1 of the renovations and construction of offices at iThemba LABS(TAMS), Johannesburg, South Africa

Closing Date and Time: **5 May 2025 at 11:00am**

Email Submission Address: scm@tlabs.ac.za

- 6.2.1 Please note that this RFP closes punctually at **5 May 2025** at 11:00 am. No late bids will be accepted.
- 6.2.2 If responses are not delivered as stipulated herein, such responses will not be considered and will be treated as “UNRESPONSIVE.” This included bids that are delivered late.
- 6.2.3 **Only email responses to scm@tlabs.ac.za will be considered, unless otherwise stated herein.**
- 6.2.4 The responses to this RFP will be evaluated as soon as practicable after the expiry of the time advertised for receiving them.
- 6.2.5 iThemba Labs reserves the right to accept the whole proposal or part of your submitted proposal or any item or part of any item or accept more than one proposal (in the event of a number of items being offered).
- 6.2.6 iThemba LABS shall not, at the evaluation of responses, disclose to any other company any confidential details pertaining to the Proposals / information received i.e. pricing, delivery, etc. The names and locations of the Respondents will be divulged to other respondents upon request.
- 6.2.7 iThemba LABS business hours are between 08h00 and 16h30.
- 6.2.8 Each proposal shall be valid for a minimum period of ninety (90) days calculated from the closing date.
- 6.2.9 All documentation to be included:
- **PART 1:** Technical Proposal:
 - **PART 2:** Pricing Proposal, B-BBEE and other Mandatory Documentation:
- 6.2.10 Proposals submitted by companies must be signed by a person or persons duly authorised.

6.3 Awarding of Request for Proposal and Appointment of Bidder

- 6.3.1 The contract will be awarded to the bidder who scores the highest total number of points during the evaluation process, except where the law permits otherwise.
- 6.3.2 iThemba LABS will award the contract to qualified bidder(s) whose proposal is determined to be the most advantageous to iThemba LABS, taking into consideration the Technical (Functional) Solution, Price and B-BBEE.
- 6.3.3 **In the event of pricing declared found to be unacceptable to iThemba LABS because they are either excessively low or high (in comparison to the Employer market price range determination),**

or not in proper balance with other rates or lump sums, the Bidder may be required to produce evidence and advance arguments in support of such rates or lump sums objected to. If, after submission of such evidence and any further evidence requested, iThemba LABS is still not satisfied with the rates or lump sums objected to, it may request the Bidder to amend these rates and lump sums along the lines indicated by it.

6.4 Evaluation Process.

6.4.1 Evaluation of proposals:

All proposals will be evaluated by an evaluation team and SCM for administrative compliance, Functionality, Price and B-BBEE. Based on the results of the evaluation process and upon successful negotiations, iThemba LABS will approve the awarding of the contract to successful bidder.

6.4.2. Evaluation process will be followed:

- The first phase includes evaluation of mandatory and technical criteria.
- The second phase includes the evaluation of price and B-BBEE status.

Pricing Proposals will only be considered after the technical phase has been adjudicated and accepted.

Preference points system:

- The 80/20 preference point system will be used where 80 points will be dedicated to price and 20 points to B-BBEE status.

6.4.3. Pricing Proposal:

6.4.3.1 Pricing proposal must be cross-referenced to the sections in the Technical Proposal or BOQ.

6.4.3.2 Price needs to be provided in South African Rand (incl. VAT), with details on price elements that are subject to escalation and exchange rate fluctuations clearly indicated.

6.4.3.3 Only firm prices will be accepted during the bid validity period. Non-firm prices (including prices subject to rates of exchange variations) will not be considered.

6.5 Appointment of Bidder

6.5.3 Appointment as a successful bidder shall be subject to the parties agreeing to mutually acceptable contractual terms and conditions. In the event of the parties failing to reach such agreement iThemba LABS reserves the right to appoint an alternative supplier.

6.5.4 Awarding of contracts will be announced on iThemba LABS website and regret letters will be sent to unsuccessful bidders.

6.6 Communication.

- 6.6.3 Bidders are warned that a Proposal will be liable to disqualification should any attempt be made by a Respondent either directly or indirectly to canvass any officer or employee of iThemba LABS in respect of this RFP between the closing date and the date of the award of the business.
- 6.6.4 For specific queries relating to this RFP, Respondents must contact SCM Office in writing.
- 6.6.5 After the closing date of the RFP, a Respondent may communicate with iThemba LABS Supply Chain Management Section, at scm@tlabs.ac.za on any matter relating to its RFP proposal.
- 6.6.6 Respondents found to be in collusion with one another will be automatically disqualified and blacklisted from doing business with iThemba LABS in future.

6.7 Proposal Documentation Availability.

The RFP documents are available from the iThemba LABS website – <https://tlabs.ac.za/supply-chain/tenders/>

7 SECTION 2: BACKGROUND

7.1 BACKGROUND

iThemba LABS identified a need for additional office space and rearranging offices to have people performing similar functions to be located closer to each other. Some office space will be repurposed by either breaking down smaller offices to make them larger or partitioning larger areas to create more offices. All the new office areas must be provided with suitable lighting and electrical reticulation. Given the technical nature and resources required to complete the proposed works, it was decided to source an external service provider.

8 SECTION 3: GENERAL SPECIFICATION

The scope of work is based on the attached building plans and includes renovation and rebuilding of specific office areas. This phase 1 is confined to the 2nd floor of the main building depicted below.



8.1 DEMOLISH AND REMOVAL MANAGEMENT

Functional material from dismantling or demolition works shall be isolated out and stacked as directed by the Employer's Project Manager (EPM). Unserviceable material and waste to be disposed as directed by the EPM. The serviceable materials (i.e. furniture, doors, sanitary items, wall mounted items etc.) shall be put away within site as per execution plan. **The Contractor will provide one skip to service waste material and for rubble containment.**

8.1.1 FURNITURE

The successful bidder shall, prior to wall demolishing or construction work, remove all necessary wall mounted items (such as signs, boards, shelves, lights, sanitary items in toilets, etc.) to a predetermined location as directed by the EPM.

8.1.2 WALL REMOVAL

Demolition shall commence in a systematic manner in compliance with the National Building Regulations and Standards set out in SANS 10400-5. The demolishing of existing walls must be done in a reverse manner in which the structure was constructed to prevent and diminish probabilities of structural failure, which may lead to unnecessary extra works or potential injuries.

To accomplish this, the successful bidder will consult the layout design provided, preceding any works. Works must be done in a consistent way and proper cleaning must be done to each finished portion so as to lessen heaping up of removals which may threaten the health and safety of people moving around.

The successful bidder is held responsible, for any works done which does not conform to the stipulated standards and specification set out in this document, without consultation and written agreement with the employer principal agent or authorised representative.

All walls to remain undisturbed unless otherwise specified on the demolition plans. Remaining walls to be protected during construction.

8.1.3 DOORS AND FRAMES

The successful bidder shall ensure dismantling and removing of doors and door frames is executed in a standard manner to prevent and reduce damage. The contractor to avoid damaging and losing door auxiliary items and ironmongery.

8.1.4 WINDOWS AND FRAMES

The successful bidder shall ensure dismantling and removing of windows and window frames is executed in a standard manner to prevent and reduce damage. The contractor to avoid damaging and losing window auxiliary items and ironmongery.

8.1.5 FLOOR FINISHES

The successful bidder shall carefully remove existing floor finishes in accordance to OHS and prepare surface bed for installation of new floor finishes as per floor and skirting finishes schedules in accordance with relevant NBR, SANS 10400 Part J and building product manufacturer's specifications.

8.1.6 POWER ISOLATIONS

The successful bidder shall ensure that all electrical devices are electrically isolated and disconnected prior to commencement of demolition work. The electrical isolation shall be conducted by the Employer's Electricians. The successful bidder shall consult with the employer's electricians prior to any electrical isolation being done to ensure that such work is scheduled correctly.

8.2 REBUILDING WORKS

All works, materials, and standards set out in this section must be executed in accordance with the specification requirements as the design criteria shall be measured and adhere to. The construction shall conform to National Building Regulation and Building Standards Act No. 103 of 1977 as amended in 1984, as well as Machinery and Occupational Health and Safety Act No. 85 of 1993. A Certificate of Compliance (COC) must be done in all newly installed plumbing as well as electrical works.

8.2.1 FURNITURE

The successful bidder will be required to procure the counters, built in and open cupboards as per the layout design and provisional sums provided.

The successful bidder will be required to re-install existing counters and open cupboards as per the layout design and provisional sums provided.

8.2.2 WALLS

The successful bidder will be required to construct masonry walls as per the layout design and bill of quantities provided.

New masonry construction shall comply with the National Building Regulations, Standards set out in SANS 10400-5 and the model trade preambles as published by the ASAQs.

Wherever practicable, new brickwork shall be built in stretcher bond. Unless legitimately required to form bond, no false headers shall be used.

New brickwork, unless otherwise described, shall be built in Class II mortar.

Bricks shall be laid on a solid bed of mortar and all joints shall be grouted up solid.

Where necessary, bricks shall be wetted before being laid and the course of bricks last laid shall be well wetted before laying a fresh course upon it.

New brickwork in thicknesses of more than one skin shall have at least five wire ties per square metre. Linings to concrete, unless otherwise specified, shall be tied to the concrete with at least five wire ties per square metre.

8.2.3 DRYWALLS

The successful bidder will be required to construct new drywalls as per the layout design and bill of quantities provided.

Drywall partitioning system with overall thickness of 76mm comprising internal framing formed of 51mm galvanised steel studs fixed at 600mm centres to galvanised steel top and bottom track with 51mm thick fibreglass insulation batts in cavity of partition, including any additional steel studding necessary at door openings, glazed or other apertures, abutments, ends, corners, etc. and covered with 12mm thick JUMBO Plasterboard in single lengths to suit height, butt jointed and secured to studding with 25mm drywall screws at maximum 300mm centres, the joints taped over and flushed over with jointing compound prepared for painting.

All aluminium door frames, glazing sections, corners, transoms, cornices, skirtings, etc. shall be formed of powder coated aluminium sections in colour

8.2.3 FLOOR FINISHES

The successful bidder will be required to construct new floor finishes as per the layout design and bill of quantities provided.

All flexible vinyl flooring to comply to SANS 786

Floor coverings, wall linings, skirtings and nosing shall include all preparatory work to screeded or plastered surfaces etc, priming coats and adhesives

Floor coverings shall be dressed around and into corners.

8.2.4 DOORS AND FRAMES

The successful bidder will be required to install new doors and frames as per detailed schedule and bill of quantities provided.

All aluminium door frames and shopfronts to comply with Architectural Aluminium Manufacturers of South Africa (AAMSA) regulations.

Aluminium extrusions shall be of 6063-T6 alloy and temper. Aluminium sheet and strips shall be of 1200-H4 alloy and temper. Joints in all aluminium members shall be formed in an approved manner so that the joints are practically invisible. Screw heads, pins, rivets, etc shall be concealed as far as possible. 300 Series stainless steel screws and bolts shall be used for jointing and fixing aluminium work

All pressed steel door frames shall project not less than 20mm into floor finish. Except where described as galvanized, frames shall be primed as specified before leaving the factory.

Flush doors shall have solid timber edge strips with concealed edges.

All doors must be robust and capable of withstanding continuous use as applicable to frequent traffic.

Door closers shall be fitted to doors where specified. Door closers shall be adjustable for "closing speed" and "latching speed" and shall incorporate a manually set "hold open" feature.

Doors shall have a neat fit. The gap between the door and the frame on the perimeter should not exceed 3mm. The gap between the floor and door bottom, should not exceed 4 mm. Door thicknesses should match the wall panel and frame detail so that the doors do not protrude past the edge of the wall.

Unless otherwise described double doors shall have rebated meeting stiles

8.2.5 WINDOWS AND FRAMES

The successful bidder will be required to install new windows and frames as per detailed schedule and bill of quantities provided.

All aluminium window frames and shopfronts to comply with Architectural Aluminium Manufacturers of South Africa (AAMSA) regulations.

The fittings for all opening sashes shall be substantial and, unless otherwise described, shall be of high-quality aluminium alloy finished to match the windows, doors, etc on which they occur. Samples of all fittings shall be supplied to the Principal Agent for approval.

Aluminium windows shall include glass as described, fixing in position, sealing and protection against damage, deterioration or discolouration by taping with removable tape or covering with temporary casings, removing same on completion.

8.2.6 PLASTER

The successful bidder will be required to construct plaster wall finishes as per the layout design and bill of quantities provided.

Surfaces shall be clean and free of oil and thoroughly wetted directly before any plastering or other in situ finishes are commenced. Concrete surfaces shall be slushed with a mixture of one part cement and one-part coarse sand or otherwise treated to form a proper key. Preparatory coats shall be thoroughly scored and roughened to form a proper key.

All plaster, other than skim plaster, shall be not less than 10mm and not more than 20mm thick.

8.2.7 PAINT WORKS

The successful bidder will be required to finish new and existing works with new paint finishes as per the layout design and bill of quantities provided.

The successful bidder must properly prepare and clean all surfaces before applying paint. The preparation also includes filling up of the cracks, and removal of moisture and dust.

The standard procedure or method for paint works shall be followed in accordance with the latest relevant standards for such works and must be done by a qualified and competent person to avoid re-works.

The successful bidder shall make use of Plascon paint or equivalent.

Air bubbles are not acceptable on the finish paint works and no paint lines must be reflected from the wall.

8.3.8 LUMINAIRES

The successful bidder will be required to procure light fittings as per the layout design and provisional sums provided.

Luminaires shall be installed in all occupied areas to suit the respective operation taking place in the area.

Luminaires shall be of the low energy type, preferably LED.

The lux levels shall comply with the average level of 850 Lux and the lux level at any point in the room should not vary from the average value by less than 15%. Lighting levels indicated shall be measured at 900mm above finished floor level.

Where light fittings are installed in trafficable ceilings the fittings should be serviced from above the ceilings, if sufficient space is available. In this case a safety glass panel with film on underside (to prevent glass shards from falling into the room) shall be sealed into a frame in the ceiling and the luminaire shall rest on top of this

frame. The luminaire shall be provided with a gasket around the perimeter to form a seal onto the ceiling to prevent insect ingress into the fitting.

Where light fittings are installed in trafficable ceilings and top access is not sufficient, the light fittings shall be serviced from below the ceiling. The light fitting shall be the type where the luminaire diffuser can be removed from within the room to perform maintenance. The diffuser panel shall provide an airtight seal against the ceiling.

8.3.9 GENERAL PRACTICES

The successful bidder must ensure all electrical light switches and outlet sockets are isolated before removing the switch covers, this needs to be done in conjunction with the Employer. Drop sheets must be laid down at all times while painting. The bidder must ensure that all ladders and equipment used are in a good and safe working condition. All paint, sealants and other consumables must be included in the price. The successful bidder must provide temporary lights during construction.

9. PRICING SCHEDULE INSTRUCTIONS:

- Bidders must price in accordance with the pricing schedules attached BOQ, this will enable iThemba LABS to compare priced offers.
- Failure to submit a priced offer using the prescribed schedules will make the bid liable for disqualification.
- Do not leave any area blank in the pricing schedules.
- All payments will be made 30 days of receiving invoice.
- Provisional Sums: The Sums provided here are under the sole control of the NRF – iThemba LABS. Payment will only be made based on proof of actual costs. All purchases using these provisional sums will need pre-approval in writing from the project manager.

9. REFERENCE LETTER TEMPLATE

REFERENCE LETTER			
Referee Letterhead			
<u>Referee Legal Name:</u>			
<u>REFERENCE ON COMPANY:</u>			
RFP Number:		iLABS/RFP2024/25:14	
RFP Description: Appointment of a Main Contractor for Phase 1 of the renovations and construction of offices at iThemba LABS(TAMS), Johannesburg, South Africa.			
Describe the service/work the above bidder provide to you below:			
Criteria / risks	Below requirements	Meets requirements	Exceeds requirements
Customer satisfied with the service			
On time completion of project			
Competent staff executing the project			
Management of costs			
Project management			
Overall Impression	Other comments		
Approximate value of contract			
Would you use the provider again?			<input type="checkbox"/> YES <input type="checkbox"/> NO
Completed by:			
Signature:			
Company Name:			
Contact Telephone Number:			
Date:			

10. SPECIAL CONDITIONS FOR MANAGING THE CONTRACTUAL OBLIGATIONS

SERVICE PERFORMANCE LEVELS (MANDATORY)

Service being Measured	Measurement Methodology	Penalty where minimum levels are breached
Detailed work plan and project schedule	As stipulated GCC 22 PER JBCC	R 1 000 for each and every occurrence of non-compliance.
Management of Contractors	Successful bidder manages all its staff and contractors until successful close-out of the projects.	Penalties to be applied are those set out as per JBCC clause 4.1 in the contract data
Quality System	A quality system is applied to manage all non-conformances to the Client's satisfaction.	Penalties to be applied are those set out as per JBCC clause 4.1 in the contract data
Risk Assessment and Constructability Plans	The successful bidder facilitates the construction risk assessment sessions and constructability plan meetings prior to any construction work on-site in accordance with an agreed risk assessment system.	Penalties to be applied are those set out as per JBCC clause 4.1 in the contract data
Organisation and structure	The appointed Principal Agent ensures an organisational structure and personnel for the execution of the Project to comply with all the provisions as stated in the JBCC 6.2 and to comply with all provisions stated in the Scope.	Penalties to be applied are those set out as per JBCC clause 4.1 in the contract data

SPECIAL CONDITIONS TO THE JBCC 6.2 2018 GENERAL CONDITIONS

SPECIAL CONDITIONS TO THE JBCC 6.2 2018 GENERAL CONDITIONS
Special conditions amending specific clauses of the general conditions of contract reference the specific clause in the title JBCC 6.2 2018 General Conditions forming part of these special conditions and conditions of contract.
PROJECT MANAGEMENT The General Technical Support Department Project Office is responsible for the execution of this Tender and subsequent contract. The Nuclear Medicine department of iThemba Labs Cape Town is the main client of this contract.
PRINCIPAL AGENT iThemba LABS has appointed iQhayiya Design Workshop as the Principal Agent for this project.
IMPLEMENTATION PLANNING AND PROJECT MANAGEMENT The contracted provider will arrange an initial meeting to determine delivery execution with the assigned NRF project team. Both parties will review the proposed project execution plan submitted with the bid and agree on the finalised timetable stating clearing commence date and completion date of each stage of the implementation.
PERFORMANCE VERIFICATION The NRF appointed Principal Agent verifies that the performance of this contract in terms of services, delivery service, goods, labour and any other element specified in this contract is at the contracted performance level and/or the goods meet the contracted specifications with the represented of the contracted provider. The Principal Agent has the authority to require the contractor to uncover any work for performance verification. Both parties verify this through signing the verification documentation.
REPORTING Monthly reports, inclusive of up-to-date financial statements, shall be produced to report on progress. Reports shall be issued one week ahead of monthly site meetings for perusal before, and discussion at the meetings. Site meetings shall be escalated to two-weekly meetings from two months ahead of the commencement of construction work on site.
SITE VISITS Site visits shall be conducted on a regular basis as the work requires or on request of the Client by the Principal Agent.
LOCAL SUPPORT FOR INSTALLED EQUIPMENT The Bidder shall ensure that all major installed equipment shall have reputable Service Centres in the Western Cape. Service Centres shall offer On-site Field Support 24 hours per day, 7 days per week
INSPECTIONS, TESTS, AND ANALYSES The contractor shall carry out all the comprehensive tests, inspections, and checks required for the issuance of the Certificate of Analysis upon delivery of the items.

JBCC 6.2 2018 GENERAL CONDITIONS
JBCC SERIES 2000 PRINCIPAL BUILDING AGREEMENT EDITION 6.2 (MAY 2018 EDITION)
<p>The Conditions of Contract are the JBCC Series 2000 Principal Building Agreement Edition 6.2 (May 2018 edition) published by the Joint Building Contract Committee. Copies of these documents may be obtained from the Association of South African Quantity Surveyors (011-315 4140), the Master Builders Association (011-205 9000), the South African Association of Consulting Engineers (011-463 2022) or the South African Institute of Architects (011-486 0684).</p> <p>The JBCC Principal Building Agreement Contract Data EC and the JBCC Principal Building Agreement Contract Data CE form an integral part of this agreement.</p> <p>The ASAQS Preliminaries (November 2007 edition) published by the Association of South African Quantity Surveyors for use with the said JBCC Principal Building Agreement shall be deemed to be incorporated in these bills of quantities.</p> <p>The Model Preambles for Trades (2008 edition) as published by the Association of South African Quantity Surveyors shall be deemed to be incorporated in these bills of quantities and no claims arising from brevity of description of items fully described in the said Model Preambles will be entertained.</p> <p>The SANS Standardised Specification, and specific amendments and additions shall be deemed to be incorporated in the bill of quantities.</p> <p>FOR INFORMATION PURPOSES ONLY - TO BE SIGNED ON APPOINTMENT</p> <p>This addendum contains all variables referred to in the Principal Building Agreement that are the responsibility of the Contractor to provide the appropriate information that is necessary for the Contractor to complete their tender. The addendum must be completed in full and included in the tender documents. The Addendums 'Contract Data – EC', 'Contract Data – CE', 'Contract Data – ES' and 'Contract Data – SE' form part of the contract between the parties. The definitions used in this document and the interpretation thereof are as listed in the Principal Building Agreement. The work or phrase of a definition is in bold text and shall bear the meaning assigned to it in the Principal Building Agreement. Where such word or phrase is not highlighted, it shall bear the meaning consistent with the context of its use. The listed defined word or phrase does not qualify as a definition where information required to be stated in the contract data has not been provided.</p> <p>Spaces requiring information must be filled in, shown as 'not applicable' or deleted and not left blank. Where choices are offered, the non-applicable items are to be clearly struck out. Where insufficient space is provided, the additional information should be annexed hereto and cross referenced to the applicable clause of the contract data.</p> <p>Where relevant, the Principal Building Agreement clause applicable to the required information is printed in italics under the Contract Data clause number, i.e. [27.4.2].</p>



PRINCIPAL BUILDING AGREEMENT

Project

Employer

Contractor

Contract Date

File Code

The Joint Building Contracts Committee® - NPC Principal Building Agreement Edition 6.2 – May 2018

JBCC®

The Joint Building Contracts Committee® NPC (JBCC®) is representative of building owners and developers, professional consultants and general and specialist contractors who contribute their knowledge and experience to the compilation of the JBCC® documents. The JBCC® documents portray the consensus view of the constituent members and are published in the interests of standardisation and good practice with an equitable distribution of contractual risk.

For more information about the JBCC®, frequently asked questions, where documents may be purchased as well as training courses visit www.jbcc.co.za. The JBCC® does not sell directly to users but may be contacted at info@jbcc.co.za

Principal Building Agreement structure

The agreement clauses follow the project execution sequence. The documents aim to set out clear, balanced and enforceable procedures, rights and obligations which, when competently managed and administered, protect the employer, contractor and subcontractors alike. The following additional documents form part of the suite of contract agreements:

- The JBCC® Principal Building Agreement - Contract Data that incorporates specific employer and contractor requirements;
- The JBCC® General Preliminaries that generally covers all aspects of preliminaries for most types of projects;
- The JBCC® Nominated/Selected Subcontract Agreement that replicates the JBCC® Principal Building Agreement with common clauses retaining the same numbering; and
- A comprehensive set of certificate forms and support documents for use in the administration of the agreement

Warning!

The JBCC® Principal Building Agreement Edition 6.2 has been coordinated with the JBCC® Nominated/Selected Subcontract Agreement Edition 6.2, the JBCC® General Preliminaries and the JBCC® certificate forms and support documents. Forms from previous editions are not compatible with the JBCC® Principal Building Agreement Edition 6.2.

Persons entering into or preparing contracts using the JBCC® suite of contract agreements and support documents are warned of the dangers inherent in modifying any part of it.

Experience has shown that changes drafted by others, including members of the building professions, often have unintended results that may be prejudicial to either, or both, parties

Disclaimer

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Actions by the parties / principal agent within a given time

Clause	Time period	Party	Purpose
2.4	1-7 CD	parties or principal agent	notices deemed to be received
6.4	5 WD	contractor > principal agent	non-performance of an agent i.l.o. this agreement
6.5	10 WD	employer	appoint another agent/contractor may object
10.6	10 WD notice	contractor > employer	failure to insure - notice - insure - recover expense
11.1	15 WD	contractor	provide guarantee for construction
11.2.1	20 WD	contractor	replace securities
11.5.1-2	15/20 WD	employer	provide / replace guarantee for payment
11.6	10 WD notice	contractor > employer	no security, contractor notice to suspend works
11.8	10 WD	parties	return original/replacement security forms
12.2.2	15 WD	contractor	submit priced document
12.2.6	15 WD	contractor	submit programme
14.4.2	15 WD guarantee	contractor > subcontractor	provide guarantee for payment to nominated subcontractor
14.5	5 WD proof payment	employer (principal agent)	pay nominated subcontractor on default by contractor
14.6	5 WD notice	contractor > subcontractor	termination of subcontractor appointment on default
15.4.2	15 WD guarantee	contractor > subcontractor	provide guarantee for payment to selected subcontractor
15.5	5 WD proof payment	employer (principal agent)	pay selected subcontractor on default by contractor
17.3	5 WD	contractor	proceed with a contract instruction, where practical
19.2.2	5 WD	contractor > principal agent	works ready for inspection
19.4	5-5 WD	principal agent > principal agent	no 'list' > notice > deemed practically complete
19.6	5-agreed WD	principal agent > contractor	employer occupies portion of the works, list for completion, fix defects
21.3.1	10 WD	contractor	inspect before expiry of defects liability period
21.3.2	5 WD	contractor > principal agent	invite PA to inspect list for completion
21.5	5 WD notice	contractor > principal agent	inspect > list for final completion > certificate
21.6	10 WD notice	principal agent > contractor	no list for final completion > notice > complete
21.7.3	5 WD notice	principal agent > contractor	inspect > list for final completion > certificate
21.9	5-5 WD	contractor > principal agent	no list for final completion / deemed final completion
23.4.2*	20 WD notice	contractor > principal agent	notice of a possible delay / no details yet
23.5	40 WD claim	contractor > principal agent	delay ceased, details of delay and expenses
23.7	20 WD award	principal agent > contractor	assess claim - accept/reduce/reject
25.2	date [CD]	principal agent > contractor	issue payment certificate and support forms
25.10	14 CD payment	employer pay contractor	make payment from date of payment certificate
25.11	21 CD	contractor pay employer	make payment i.l.o. schedule from principal agent
25.13	7 CD payment	contractor pay subcontractor	pay subcontractors i.l.o. schedule from principal agent
25.14	5 WD notice	contractor > employer	no/partial payment, suspend etc
25.15	7 CD payment	principal agent > contractor	final payment certificate after acceptance of final account
26.5*	20 WD notice	contractor > principal agent	notice of possible expense and loss
26.6	40 WD claim	contractor > principal agent	sign/submit claim
26.7	20 WD award	principal agent > contractor	assess claim - accept/reduce/reject
26.10	60 WD issue FA	principal agent > contractor	issue final account
26.11	30 WD accept FA	contractor > principal agent	accept final account
26.12	10 WD notice	contractor > principal agent	agree final account or deemed acceptance
27.2.9	5 WD notice	notice to contractor	remedy default before next recovery statement
28.1	10 WD notice	contractor > employer	list of defaults to be remedied > suspend works
28.2	notice	contractor > employer	suspension of works where defaults not remedied
29.2	10 WD	employer > contractor	intention to terminate if defaults not remedied
29.3	notice	employer > contractor	default not remedied, termination forthwith
29.14	notice	contractor > employer	intention to terminate if guarantee for payment not provided/maintained
29.15	10 WD notice	contractor > employer	intention to terminate if defaults not remedied
29.16	forthwith	contractor > employer	default not remedied, termination forthwith
29.17.1	forthwith	contractor > subcontractor	termination where PIA terminated
29.17.2	10 WD notice	contractor	remove construction equipment, temporary works, etc
29.21	10 WD	either party	intention to terminate > impossible to complete
29.24.3	10 WD	contractor	remove construction equipment
29.25.2	20 WD	principal agent	prepare status report
29.25.4	60 WD	principal agent	complete final account
30.2	10 WD	either party	disagreement not resolved > dispute
30.3	10 WD	agrieved party	refer to adjudication
30.6.4	10 WD	agrieved party	dissatisfied with adjudication
30.6.5	10 WD	agrieved party	no adjudication/not accept adjudication ruling > arbitration

Abbreviations: WD = working days CD = calendar days, *No notice, forfeits the opportunity to claim

PRINCIPAL BUILDING AGREEMENT

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INTERPRETATION

1.0 DEFINITIONS and INTERPRETATION

1.1 Definitions

A word or phrase in bold type in this agreement shall have the meaning assigned to it in these definitions
A word or phrase not in bold type shall be interpreted in the context of its usage

AGENT: An entity [CD] appointed by the **employer** to deal with specific aspects of the **works**

AGREEMENT: The completed JBCC® Principal Building Agreement and JBCC® contract data, the **contract drawings**, the **priced document** and any other documents reduced to writing and signed by the authorised representatives of the **parties**

BILLS OF QUANTITIES: The document drawn up in accordance with the measuring system [CD]

BUDGETARY ALLOWANCE: An amount included in the **contract sum** for work intended for execution by the **contractor**, the extent of which is identified but not detailed

CALENDAR DAYS: Twenty-four (24) hour days commencing at midnight (00:00) which include Saturdays, Sundays, proclaimed public holidays and recorded **contractor's annual holiday periods** [CD]

CERTIFICATE OF FINAL COMPLETION: A certificate issued by the **principal agent** to the **contractor** with a copy to the **employer** stating the date on which **final completion** of the **works**, or of a **section** thereof, was achieved

CERTIFICATE OF PRACTICAL COMPLETION: A certificate issued by the **principal agent** to the **contractor** with a copy to the **employer** stating the date on which **practical completion** of the **works**, or of a **section** thereof, was achieved

COMPENSATORY INTEREST: Interest due to the **contractor** at the ruling rate of **interest** on amounts certified after thirty-one (31) **calendar days** of the date of **practical completion**, compounded monthly until the date of payment

CONSTRUCTION EQUIPMENT: Equipment and/or plant provided by or belonging to the **contractor** and/or **subcontractors** and used during the **construction period**

CONSTRUCTION INFORMATION: All information issued by the **principal agent** and/or **agents** including this **agreement**, **specifications**, **drawings**, **schedules**, **notices** and **contract instructions** required for the execution of the **works**

CONSTRUCTION PERIOD: The period commencing on the intended date [CD] of possession of the **site** by the **contractor** and ending on the date of **practical completion**

CONTRACT DATA: The document listing the project specific information

[CD]: The notation used where project specific information is recorded in the **contract data**

CONTRACT DRAWINGS: The drawings listed [CD]

CONTRACT INSTRUCTION: A written instruction issued by or under the authority of the **principal agent** to the **contractor** that may include **drawings**, **photographs** and other **construction information**

CONTRACT SUM: The accepted tender amount inclusive of **tax** [CD], not subject to adjustment

CONTRACT VALUE: A monetary value initially equal to the **contract sum**, subject to adjustment in terms of this **agreement**

CONTRACTOR: The **party** [CD] contracting with the **employer** for the execution of the **works**

DEFAULT INTEREST: Interest at six (6) percentage points per annum above the ruling rate of **interest** where payment has not been received within the stipulated period, compounded monthly from the due date for payment until the date of payment

DEFECT: Any aspect of materials and workmanship forming part of the **works** that does not conform to the **agreement** and/or **construction information**

DIRECT CONTRACTOR: An entity appointed under separate agreement by the **employer** to do work on site prior to **practical completion** [CD]

EMPLOYER: The party [CD] contracting with the **contractor**

FINAL ACCOUNT: The document prepared by the **principal agent** that reflects the final contract value of the **works** at final completion or termination

FINAL COMPLETION: The stage of completion as certified by the **principal agent** where the **works**, or a section thereof, has been completed and is free of **defects**

FINAL PAYMENT CERTIFICATE: The certificate issued by the **principal agent** after the issue of the certificate of final completion and after the **final account** has been agreed

FORCE MAJEURE: An exceptional event or circumstance that:

- Could not have been reasonably foreseen
- Is beyond the control of the **parties**, and
- Could not reasonably have been avoided or overcome

Such an event may include but is not limited to:

- Acts of war (declared or not), invasion and/or hostile acts of foreign enemies
- Insurrection, rebellion, revolution, military or usurped power and terrorism
- Civil commotion, disorder, riots, strike, lockout by persons other than the **contractor's** employees or his **subcontractors**
- Sonic shock waves caused by aircraft or other aerial devices and ionising or radioactive contamination
- Explosive materials, except where attributable to the **contractor's** use of such technology
- Natural catastrophes including earthquakes, floods, hurricanes or volcanic activity

FREE ISSUE: Materials and goods provided at no cost to the **contractor** by the **employer** for inclusion in the **works** [CD]

GUARANTEE FOR ADVANCE PAYMENT: A security in terms of the JBCC® Guarantee for Advance Payment form, obtained by the **contractor** from an institution approved by the **employer**

GUARANTEE FOR CONSTRUCTION: A security in terms of the JBCC® Guarantee for Construction form, obtained by the **contractor** from an institution approved by the **employer** [CD]

GUARANTEE FOR PAYMENT: A security in terms of the JBCC® Guarantee for Payment form, obtained by the **employer** from an institution approved by the **contractor** [CD]

INTEREST: The bank rate applicable from time to time to registered banks borrowing money from the Central or Reserve Bank of the country [CD]. The ruling bank rate on the first **calendar day** of each month shall be used in calculating the interest due for such month

JBCC®: The Joint Building Contracts Committee® NPC

LATENT DEFECT: A defect that an inspection of the **works** by the **principal agent** and/or **agents** would not reasonably have revealed

LAW: The law of the country [CD]

LIST FOR COMPLETION: A list that may include marked up drawings and photographs issued by the **principal agent** where **practical completion** has been certified, listing **defects** and/or outstanding work to be completed

LIST FOR FINAL COMPLETION: A list for completion that may include marked up drawings and photographs issued by the **principal agent** after the inspection of the **works** for final completion, where final completion has not been achieved, listing **defects** and/or outstanding work to be completed to achieve final completion

LIST FOR PRACTICAL COMPLETION: A comprehensive and conclusive list that may include marked up drawings and photographs issued by the **principal agent** after the inspection of the **works** for practical completion, where practical completion has not been achieved, listing the **defects** and/or outstanding work to be completed to achieve practical completion

MATERIALS AND GOODS: Unfixed materials, goods and/or items fabricated for inclusion in the **works** whether stored on or off the **site** or in transit

NOTICE: A written communication, excluding social media, issued by either **party**, the **principal agent** and/or **agents** to the other **party**, the **principal agent** and/or **agents** to, inter alia, record an event, request outstanding construction information, or where **suspension** or resumption of the **works** and/or termination of this **agreement** is contemplated

N/S SUBCONTRACT AGREEMENT: The completed **JBCC®** Nominated/Selected Subcontract Agreement (NSSA) and **JBCC®** NSSA contract data, the subcontract drawings, the subcontract priced document and any other documents reduced to writing and signed by the authorised representatives of the **contractor** and of the subcontractor

PARTY: The **employer** or the **contractor** and 'parties' shall refer to both of them

PAYMENT CERTIFICATE: A certificate issued at regular agreed intervals [CD] by the **principal agent** to the **parties** certifying the amount due and payable in terms of the **JBCC®** Payment Certificate format

PENALTY: The stipulated amount per **calendar day** [CD] payable by the **contractor** to the **employer** where the date or the revised date for **practical completion**, whichever is the later, has not been met

PRACTICAL COMPLETION: The stage of completion as certified by the **principal agent** where the **works**, or a **section** thereof, has been completed and is free of patent **defects** other than minor **defects** identified in the **list for completion** and can be used for the intended purpose [CD]

PRELIMINARIES: The **JBCC®** General Preliminaries and/or the items listed in the preliminaries section of the **priced document**

PRICED DOCUMENT: The document incorporating quantities and/or rates used in the compilation of the contract sum such as **bills of quantities**, **preliminaries** and **schedules of rates**

PRIME COST AMOUNT: An amount included in the **contract sum** for the delivered cost of **materials and goods** obtained from a supplier as instructed by the **principal agent**

PRINCIPAL AGENT: The entity [CD] appointed by the **employer** with full authority and obligation to act in terms of this **agreement**

PROGRAMME: A diagrammatic representation of the planned execution of units of work or activities by the **contractor** and **subcontractors** indicating the dates for commencement and completion prepared and maintained by the **contractor**

PROVISIONAL SUM: An amount included in the **contract sum** for the supply and installation of work by a subcontractor

RECOVERY STATEMENT: The statement prepared and issued in conjunction with each **payment certificate** by the **principal agent** in terms of the **JBCC®** Recovery Statement format

SECTION: An identified portion of the **works** for which **practical completion** is required by a date earlier than that required for the **works** as a whole [CD]

SECURITY: A monetary guarantee [CD] provided by the **employer** to the **contractor**, or vice versa, in terms of this **agreement** from which either **party** may recover expense and loss in the event of default

SITE: The land or place where the **works** is to be executed [CD]

STATUS REPORT: A report compiled by the **principal agent** and/or **agents** in the event of termination of the **agreement**, or where the **works** has been suspended due to a **force majeure** event, or in the event of termination of a **n/s subcontract agreement** by the **contractor**, to record the state of completion or otherwise of the **works** or the **n/s subcontract works**. Such **status report** may include marked up drawings and photographs

SUBCONTRACTOR: A nominated or a selected subcontractor appointed in terms of the **n/s subcontract agreement** by the **contractor** in accordance with a **contract instruction** for the supply and installation of work for which a **provisional sum** has been included in the **contract sum**

SUSPENSION: The temporary cessation of the **works** by the **contractor**

TAX: Value-added tax, general sales tax or similar consumption tax applicable by law

WORKING DAYS: **Calendar days** which exclude Saturdays, Sundays, proclaimed public holidays and recorded **contractor's** annual holiday periods [CD]

WORKS: The extent of work to be executed by the **contractor** described in the **agreement** and **contract instructions**, which includes **free issue** and **materials and goods**. Work or installations to be executed by **direct contractors** and others responsible to the **employer** are excluded [CD]

1.2 Interpretation

- 1.2.1 In this document, unless inconsistent with the context, the words "accept, allow, appoint, approve, authorise, certify, decide, demand, designate, grant, inform, instruct, issue, list, **notice**, notify, object, record, reduce, refuse, request, state" and their derivatives require such acts to be in writing
- 1.2.2 The masculine gender includes the feminine and neuter genders and vice versa, the singular includes the plural and vice versa and a person includes juristic or artificial persons
- 1.2.3 The headings of clauses are for information only and shall not be used in interpretation
- 1.2.4 Reference to a clause number written as clause [54.3.2] means that specific clause; or clause [54.3.2-4] means sub-clauses 2 to 4 inclusively; or clause [54.3.2 & 4] means sub-clauses 2 and 4 only
- 1.2.5 The word "deemed" shall be conclusive that something is fact, regardless of the objective truth

2.0 LAW, REGULATIONS AND NOTICES

- 2.1 The **contractor** shall comply with the **law** [CD], obtain permits, licences and approvals required and pay related charges for the execution of the **works** [17.1.4]. The **employer** shall comply with the **law** [CD], obtain permits, planning, building or similar permissions and pay charges for the **works** other than those which are the responsibility of the **contractor** [26.4.1]
- 2.2 All communication or **notices** between the **parties** shall be in the language of this **agreement** and in a format that can be read, copied and recorded
- 2.3 Legal processes arising out of or concerning this **agreement** may validly be delivered to and served on the **parties** at the physical address of the **parties** recorded in this **agreement**. Either **party** may, at any time, by **notice** to the other, change his physical address provided it is in the same country as the original address
- 2.4 **Notices** given in terms of this **agreement** shall be deemed to have been received where:
 - 2.4.1 Delivered by hand - on the day of delivery
 - 2.4.2 Sent by electronic mail, excluding social media - within one (1) **working day**
 - 2.4.3 Sent by registered post - within seven (7) **calendar days** after posting

3.0 OFFER AND ACCEPTANCE

- 3.1 The objective of this **agreement** is the execution of and payment for the **works** for which there has been an offer by the **contractor** and an acceptance by the **employer**
- 3.2 The currency applicable to this **agreement** is as recorded [CD]
- 3.3 This **agreement** shall come into force on the date of acceptance by the **employer** and continue to be of force and effect until the end of the **latent defects** liability period [22.0] notwithstanding termination [29.0] or the certification of **final completion** [21.0] and final payment [25.0]
- 3.4 Should any provision of this **agreement** be unenforceable the **parties** shall act in good faith to agree alternative provisions in terms of this **agreement**
- 3.5 Failure or omission by a **party** to enforce any provision of this **agreement** shall not constitute a waiver of such provision or affect such **party's** rights to require the performance of such provision in the future

4.0 CESSION AND ASSIGNMENT

- 4.1 Neither **party** shall cede rights or assign rights and obligations under this **agreement** without the prior written consent of the other **party**, which consent shall not be unreasonably withheld
- 4.2 The **contractor** shall not consent to a nominated **subcontractor** ceding rights or assigning rights and obligations under this **agreement** without obtaining the prior written consent of the **principal agent**
- 4.3 Notwithstanding the above, where a **party** cedes any right to any monies due or to become due under this **agreement** as security in favour of a financial institution, consent shall not be required provided **notice** of such cession is timeously given to the other **party**

5.0 DOCUMENTS

- 5.1 Documents referred to in this **agreement** shall mean the current edition thereof with all amendments thereto as at the date of submission of the **contractor's** tender
- 5.2 The **parties** shall sign the original **agreement** and shall each be issued with a copy thereof by the **principal agent**. The original signed **agreement** shall be held by the **principal agent** [CD]
- 5.3 Persons authorised to act on behalf of the **parties** and/or **agents** appointed by the **employer** shall be identified in the **construction information**. Such authorised persons may be changed by **notice** to the other **party**
- 5.4 The **priced document** shall not be used as a specification of **materials and goods** or methods
- 5.5 The content of this **agreement** shall not be published or disclosed or used for any purpose other than that specified in this **agreement** by one **party** without the prior written consent of the other **party**
- 5.6 The **principal agent** and/or **agents** shall timeously provide the number of copies [CD] of drawings, un-priced **bills of quantities** and other **construction information** at no cost to the **contractor**

6.0 EMPLOYER'S AGENTS

- 6.1 The **employer** warrants that the **principal agent** has full authority and obligation to act on behalf of and bind the **employer** in terms of this **agreement**. The **principal agent** has no authority to amend this **agreement**
- 6.2 The **employer** may appoint **agents** to deal with specific aspects of the **works** in terms of this **agreement** [CD]. The **principal agent** shall give **notice** to the **contractor** where such authority is delegated to **agents** to issue **contract instructions** and perform duties for specific aspects of the **works**. An **agent** appointed in terms of this clause shall not be entitled to subdelegate his authority without the prior written consent of the **employer** and **notice** to the **contractor**
- 6.3 The **principal agent** and/or **agents** shall declare any interest or involvement in the **works** other than a professional interest, where applicable [CD]
- 6.4 Where the **principal agent** fails to act in terms of this **agreement** and/or an **agent** fails to act in terms of delegated authority, the **contractor** shall give **notice** to the **principal agent**, with a copy to the **employer**, to rectify such default within five (5) **working days**. Where such default has not been rectified, the **contractor** may give **notice** to suspend the **works** [28.0]
- 6.5 Where the **principal agent** and/or an **agent** fails to act or is unable to act or ceases to be the **principal agent** or an **agent** in terms of this **agreement**, the **employer** shall appoint another **principal agent** and/or an **agent** within ten (10) **working days** of the date of such **notice** from the **contractor**. The **employer** shall not appoint a **principal agent** and/or an **agent** against whom the **contractor** makes reasonable objection within five (5) **working days** of receipt of **notice** of intention to make such an appointment
- 6.6 The **employer** shall not interfere with or prevent the **principal agent** and/or **agents** from exercising fair and reasonable judgement when performing their obligations in terms of this **agreement**

7.0 DESIGN RESPONSIBILITY

- 7.1 The **contractor** shall not be responsible for the design of the **works** other than the **contractor's** and **subcontractors'** temporary works. The **contractor** shall not be responsible for the coordination of design elements
- 7.2 Any design responsibility undertaken by a **subcontractor** shall not devolve on the **contractor**. All contractual or other rights the **contractor** has against such **subcontractor** arising from any design responsibility undertaken shall be ceded to the **employer** on the date of **final completion** or the date of termination of this agreement [9.2.3]
- 7.3 The **contractor** shall be responsible for the timely submission of design documentation by a selected **subcontractor** for acceptance and coordination by the **principal agent** and/or **agents** [23.2.8]

INSURANCES AND SECURITIES

8.0 WORKS RISK

- 8.1 The **contractor** shall take full responsibility for the **works** from the date on which possession of the **site** is given to the **contractor** and up to the date of issue of the **certificate of practical completion** or deemed achievement of **practical completion** for the **works** as a whole, or a **section** thereof. Thereafter responsibility for the **works** as a whole, or a **section** thereof, shall pass to the **employer**
- 8.2 The **contractor** shall make good physical loss and repair damage to the **works** caused by or arising from:
- 8.2.1 Any cause before the date of **practical completion** [19.0]
- 8.2.2 Any act or omission of the **contractor** in the course of any work carried out in pursuance of the **contractor's** obligations after the date of **practical completion**
- 8.3 The liability of the **contractor** in respect of any loss or damage shall include, but not be limited to:
- 8.3.1 The cost of making good such physical loss and repairing damage to the **works** including clearing away and removing all debris and any other costs to reinstate the **works**
- 8.3.2 The new replacement value of **free issue** [12.1.10]
- 8.3.3 The cost of additional professional services
- 8.4 Notwithstanding subclause 8.3, the limit of the **contractor's** liability shall not exceed the amount of the contract works insurance [10.1.1] [CD]
- 8.5 The **contractor** shall not be liable for the cost of making good physical loss and repairing damage to the **works** caused by or arising from:
- 8.5.1 The use or occupation of any part of the **works** by the **employer**, the **employer's** employees and/or **agents** and those for whose actions they are responsible
- 8.5.2 An act or omission of the **employer**, the **employer's** employees and/or an **agent** and those for whose actions they are responsible
- 8.5.3 An act or omission by a **direct contractor**
- 8.5.4 The use or occupation of any part of the **works** by a **direct contractor**
- 8.5.5 The design of the **works** for which the **contractor** is not responsible [7.1]
- 8.5.6 A **defect** in **free issue** or **materials** and **goods** specified by trade name where the **contractor** has no right of substitution. The **contractor** hereby cedes any right of action to the **employer** that may exist against the supplier and/or manufacturer of such **free issue** and/or **materials** and **goods**
- 8.5.7 **Force majeure**

- 8.6 Where the **contractor** is not liable for the cost of making good physical loss or repairing damage [8.5] such making good and/or expense and/or loss shall be measured and valued and included in the **contract value** by the **principal agent** [17.1.10]
- 8.7 The **contractor** shall immediately give **notice** to the **principal agent** on becoming aware of physical loss or damage to the **works**

9.0 INDEMNITIES

- 9.1 The **contractor** indemnifies and holds harmless the **employer**, the **employer's** employees and/or **agents** from all claims or proceedings for damages, expense and/or loss including legal fees and expenses in respect of or arising from:
- 9.1.1 Death or bodily injury or illness of any person or physical loss or damage to any property other than the **works** arising out of or due to the execution of the **works** or presence on and/or occupation of the **site** by the **contractor**. Should such an event occur, the **contractor** shall forthwith give **notice** to the **principal agent**
- 9.1.2 Non-compliance by the **contractor** with the **law**, regulation or bylaw of any local or other authority and the failure by the **contractor** to obtain any permit, licence or approval that the **contractor** is required to obtain in terms of this **agreement** [2.1]
- 9.1.3 Physical loss or damage to construction equipment or other property belonging to the **contractor** or the **contractor's** subcontractors but excluding **direct contractors** equipment or property
- 9.2 The **employer** indemnifies and holds the **contractor** harmless from all claims or proceedings for damages, expense and/or loss, including legal fees and expenses, in respect of or arising from:
- 9.2.1 An act or omission of the **employer**, the **employer's** employees and/or **agents** and those for whose actions they are responsible
- 9.2.2 An act or omission of a **direct contractor** [16.0]
- 9.2.3 Design of the **works** [7.2] where the **contractor** is not responsible for such design
- 9.2.4 The use or occupation of any part of the **works** by the **employer**, tenants, **direct contractors** or others authorised by the **employer**
- 9.2.5 Proceeding with the **works** on instruction from the **employer** without the **employer** obtaining the required permission under the **law** in terms of this **agreement** [2.1]
- 9.2.6 Interference with any servitude or other right not recorded in **construction information** issued to the **contractor** that is the unavoidable result of the execution of the **works** including the removal of or weakening of or interference with the support of land and property adjacent to or within the **site** unless resulting from any negligent act or omission by the **contractor** or his subcontractors. Should such an event occur, the **contractor** shall forthwith give **notice** to the **principal agent**
- 9.2.7 Physical loss or damage to an existing structure and the contents thereof where this **agreement** is for alterations or additions to an existing structure. Should such an event occur, the **contractor** shall forthwith give **notice** to the **principal agent**
- 9.2.8 A defect in **free issue**
- 9.2.9 Physical loss or damage to the **works** where a **certificate of practical completion** has been issued [19.0] or **practical completion** has been deemed to have been achieved
- 9.2.10 Advance payments certified by the **principal agent** and paid by the **contractor** to subcontractors [27.1.8; 27.2.4]

10.0 INSURANCES

- 10.1 The **party** responsible shall effect and keep the respective insurances [CD] in force in the joint names of the **parties** from the date of possession of the **site** until the issue of the **certificate of practical completion** with an extension to cover the **contractor's** obligations after the date of **practical completion** [8.2.2]:
- 10.1.1 Contract works insurance [CD] for the **works** that shall make provision for **direct contractors** [CD], **free issue** [CD], **materials and goods**, professional fees, temporary works, clearing away and removing of all debris and any other costs to reinstate the **works** and where required, damage to **employer** owned surrounding property [CD] where not covered under the removal of lateral support insurance
- 10.1.2 Supplementary insurance [CD] for the **works** against loss or damage caused by civil commotion, riot, strike, labour disturbance and lockout to the extent not insured under the contract works insurance
- 10.1.3 Public liability insurance [CD] providing indemnity in respect of accidental death or injury to any person and accidental loss of or physical damage to tangible property, to remain in force until the date of **final completion**
- 10.1.4 Removal of lateral support insurance [CD] where the **employer** considers that the execution of the **works** could cause the removal of or weakening of or interference with the support of land or property adjacent to or within the **site** (also including **employer** owned surrounding property) and the consequences thereof. The **employer** shall appoint an **agent** to design and monitor appropriate support structures for use in excavations and/or in existing property that form part of the **works** and/or the **site**
- 10.1.5 Other insurances [CD]
- 10.2 Where **practical completion** in sections is required [20.0], or where the **works** is for alterations and additions, the **employer** shall effect and keep in force contract works insurance [10.1.1], supplementary insurance [10.1.2], public liability insurance [10.1.3] and where applicable, removal of lateral support insurance [10.1.4] and other insurances [10.1.5] in the joint names of the **parties** until the date of **final completion**
- 10.3 The **party** responsible for effecting insurances [10.1.1-5; 10.2] shall provide proof of the insurances effected to the other **party** before the commencement of the **construction period** and, where required, provide proof of extension or renewal of such insurances before their expiry. Upon request the **party** responsible for effecting insurances shall provide the other **party** with the entire policy wording of such insurances
- 10.4 The **contractor** shall be responsible for the deductible amounts [CD] other than where a claim against an insurance cover is due to default of the **employer**, the **employer's** employees and/or **agents** and those for whose actions they are responsible
- 10.5 The **employer** may, at his expense, require the cover of the contract works insurance [10.1.1] to be increased. The **party** responsible for effecting insurances shall provide written proof of such adjustment
- 10.6 Where the **employer** fails to effect the required insurances within ten (10) **working days** after notice to do so the **contractor** may, on expiry of the notice period, suspend the **works** until such insurances have been effected [28.1.4]
- 10.7 Where this **agreement** is terminated [29.0] and the **contractor** is not required to make good the physical loss or repair damage to the **works**, the right to the proceeds of an insurance claim shall vest solely in the **employer**. The **party** responsible for the insurances shall give notice to the insurer to clarify the status of the insurance cover and/or further insurance obligations applicable to the **works**, public liability insurance, supplementary insurance and removal of lateral support insurance
- 10.8 Any amounts not recovered from insurers shall be borne by the **employer** or **contractor** in accordance with their respective obligations under this **agreement**
- 10.9 The **party** responsible for effecting the insurances shall keep insurers informed of any relevant changes in respect of this **agreement**
- 10.10 The **parties** shall at their discretion effect insurances for aspects not insured such as **construction equipment** and work by **direct contractors** after **practical completion**

11.0 SECURITIES

- 11.1 The contractor shall provide to the employer a guarantee for construction within fifteen (15) working days of acceptance of the contractor's tender and choose:
- 11.1.1 A guarantee for construction – (variable) initially equal to ten per cent (10%) of the contract sum and keep such security valid and enforceable until the final payment certificate has been issued to the contractor [25.15]
- or ...
- 11.1.2 A guarantee for construction – (fixed) equal to five per cent (5%) of the contract sum and a payment reduction of five per cent (5%) of the value of each payment certificate up to a maximum of five per cent (5%) of the contract sum [25.3.3; 25.12]. The contractor shall keep such security valid and enforceable until the only or last certificate of practical completion has been issued
- 11.2 The contractor shall:
- 11.2.1 Maintain and/or replace a guarantee for construction – (variable or fixed) [11.1.1-2] at least twenty (20) working days before such security is due to expire
- 11.2.2 Provide a guarantee for advance payment where an advance payment is required. The contractor shall keep such security valid and enforceable until the advance payment is repaid [11.3]
- 11.3 The amount of the guarantee for advance payment shall be reduced by the amount repaid by the contractor as certified by the principal agent in payment certificates. If the advance payment is not repaid by the date a certificate of practical completion is issued or deemed achievement of practical completion or by the date of termination by the employer due to contractor default [29.9.3], the entire outstanding amount shall immediately become due and payable
- 11.4 Where the contractor fails to provide the specified guarantee for construction the employer may:
- 11.4.1 Hand over the site to the contractor and withhold an amount in interim payment certificates to the contractor until the total amount withheld is equal to ten per cent (10%) of the contract sum. The amount withheld shall be reduced at practical completion [19.0] to two and one half per cent (2.5%) of the contract sum and to zero per cent (0%) in the final payment certificate [25.9; 25.15]
- or ...
- 11.4.2 Terminate this agreement [29.1.1; 29.2]
- 11.5 The employer shall:
- 11.5.1 Provide to the contractor a guarantee for payment where required in the accepted tender [CD] within fifteen (15) working days of acceptance of the contractor's tender
- 11.5.2 Keep such guarantee for payment valid and enforceable in terms of the security form and/or provide a replacement guarantee for payment at least twenty (20) working days before such security is due to expire
- 11.6 Where the employer fails to provide the guarantee for payment [CD], or such security has expired, the contractor may, after giving ten (10) working days notice, where such default has not been remedied, forthwith suspend the works until such security has been provided [12.1.1; 28.1.1] or by further notice terminate this agreement [29.14.2; 29.15]
- 11.7 Where the contract value exceeds the contract sum by more than ten per cent (10%) the guarantee for payment shall be adjusted at the employer's expense. The employer shall provide written proof of such adjustment
- 11.8 The original or the replacement security form(s) shall be returned to the other party within ten (10) working days after the expiry date
- 11.9 Where a party makes an unjustified call on a security, the amount paid and default interest shall be paid to the other party [27.1.2; 27.1.5]
- 11.10 The contractor shall waive his lien or right of continuing possession of the works on receipt of a guarantee for payment from the employer

EXECUTION

12.0 OBLIGATIONS OF THE PARTIES

12.1 The employer shall:

- 12.1.1 Provide a **guarantee for payment** [11.5], where applicable [CD]
- 12.1.2 Record specific requirements [CD] where the existing premises will be in use and occupied during the execution of the **works** including restriction of working hours [CD]
- 12.1.3 Record and describe relevant natural features and known services [CD] where the **contractor** shall be responsible for their preservation
- 12.1.4 Define any restrictions to the **site** or areas that the **contractor** may not occupy [CD]
- 12.1.5 Give possession of the **site** to the **contractor** on the agreed date [CD]
- 12.1.6 Effect and keep in force insurances in the joint names of the **parties**, where the **employer** is responsible for providing insurances [CD]
- 12.1.7 Make payments by the due date [25.10] [CD]
- 12.1.8 Make advance payments, where required [CD]
- 12.1.9 Permit reasonable access to the **works** by the **contractor** and/or **subcontractors** subsequent to **practical completion** to fulfil outstanding obligations [17.1, 17, 19.7]
- 12.1.10 Supply **free issue** [CD] to suit the **programme**
- 12.1.11 Define the extent of work to be carried out by **direct contractors** [CD]
- 12.1.12 Ensure that the **principal agent** and/or **agents** provide adequate **construction information** timeously to the **contractor**
- 12.1.13 At the **employer's** discretion make direct payment where the **contractor** has failed to honour a n/s subcontract payment advice after **notice of default** by a **subcontractor** to the **principal agent**, the **employer** and the **contractor** [14.5 and/or 15.5]

12.2 The contractor shall:

- 12.2.1 Have inspected the **site** and any existing structures and be thoroughly acquainted with the conditions under which the **works** is to be executed including means of access and any matters which may influence the execution and/or the pricing of the **works**
- 12.2.2 Within fifteen (15) **working days** of acceptance of the **contractor's** tender submit to the **principal agent** the **priced document** with items priced to include all costs, overheads and profit, extended and cast. Where the **priced document** contains errors or discrepancies and/or prices considered by the **principal agent** to be imbalanced or unreasonable the **principal agent** and the **contractor** shall adjust such prices without any change to the **contract sum**
- 12.2.3 Provide a **guarantee for construction** [11.1; 11.2.1]
- 12.2.4 Provide a **guarantee for advance payment** [11.2.2], where applicable [CD]
- 12.2.5 Effect and keep in force insurances in the joint names of the **parties** where the **contractor** is responsible for providing insurances [10.0] [CD]
- 12.2.6 Prepare and submit to the **principal agent** within fifteen (15) **working days** of receipt of **construction information** a **programme** for the **works** in sufficient detail to enable the **principal agent** to monitor the progress of the **works**
- 12.2.7 On being given possession of the **site** commence the **works** and proceed with due diligence, regularity, expedition, skill and appropriate resources to bring the **works** to **practical completion** and to **final completion** [21.12]
- 12.2.8 Provide everything necessary for the proper execution of the **works** in compliance with the **agreement**

- 12.2.9 Coordinate the programme with subcontractors' and direct contractors' programmes
- 12.2.10 Regularly update the programme to illustrate progress of the works and revise the programme where the principal agent has revised the date for practical completion
- 12.2.11 Regularly submit to the principal agent a progress report and a schedule of outstanding construction information to avoid delays to the works
- 12.2.12 Cooperate with the principal agent in the preparation of cash flow projections and the compilation of payment certificates [25.1]
- 12.2.13 Designate a competent person to continuously administer and control the works and to receive and implement notices and contract instructions on behalf of the contractor
- 12.2.14 Maintain daily records of categories of persons and construction equipment employed on the works and regularly provide copies to the principal agent
- 12.2.15 Keep on site a copy of all construction information required for execution of the works to which the employer and principal agent and/or agents shall have reasonable access
- 12.2.16 Allow the employer and principal agent and/or agents reasonable access to the works, workshops and other places where work is being prepared, executed and/or stored
- 12.2.17 Give notice forthwith to the principal agent and/or the employer where items of free issue have been received damaged prior to storage or, where on unpacking, are found not to be in good order before installing such items
- 12.2.18 Provide, maintain and remove on practical completion all temporary structures, construction equipment and notice boards
- 12.2.19 On achievement of practical completion hand over to the principal agent all information for the preparation of 'as built' documentation and applicable statutory and/or regulatory approval certificates as well as all operating and instruction manuals and the like
- 12.2.20 Cede to the employer on the date of issue of the certificate of final completion any guarantees, product warranties or indemnities pertaining to the works. This cession shall not prejudice any other rights that the employer may have [21.1]
- 12.2.21 Forthwith notify all subcontractors where a certificate of practical completion and/or a certificate of final completion has been issued by the principal agent for the works, or a section thereof
- 12.3 The principal agent and the contractor shall hold regular meetings to monitor progress of the works and to deal with technical and coordination matters. The principal agent shall record and timeously distribute the minutes of such meetings

13.0 SETTING OUT

- 13.1 The principal agent and/or an agent with delegated authority shall:
 - 13.1.1 Point out boundary pegs or beacons identifying the site and the datum level
 - 13.1.2 Define the setting out points and levels required for the execution of the works
- 13.2 The contractor shall:
 - 13.2.1 Be responsible for accurate setting out of the works notwithstanding checking by others
 - 13.2.2 Be responsible for the preservation and the reinstatement of boundary pegs, beacons and other survey information and, where disturbed or destroyed, replace such items at his expense
 - 13.2.3 Not be responsible for incorrect setting out if incorrect information was issued to the contractor. In such event the contractor may be entitled to a revision of the date for practical completion [23.2.5] and/or an adjustment of the contract value [26.0]
 - 13.2.4 Immediately suspend affected work to an appropriate extent where encroachments of adjoining structures occur and where undocumented services, natural features, articles of value or relics are uncovered on site and forthwith give notice to the principal agent who shall issue a contract instruction on how to proceed with the works. Any relics or other articles of value found on the site shall remain the property of the employer

14.0 NOMINATED SUBCONTRACTORS

14.1 The principal agent and/or agents shall:

- 14.1.1 Prepare tender documents in conformity with the n/s subcontract agreement and this agreement for work intended to be executed by a nominated subcontractor
- 14.1.2 Call for tenders
- 14.1.3 Scrutinise the received tenders for compliance with the tender documents in consultation with the contractor, where appointed
- 14.1.4 Nominate a subcontractor and instruct the contractor [17.1.14] to appoint such subcontractor as a nominated subcontractor in terms of the n/s subcontract agreement and other tender requirements
- 14.1.5 Inform the contractor where an advance payment is to be made to the subcontractor for an amount included in the accepted tender and that a guarantee for advance payment shall be provided by the subcontractor for the amount stated [NSSA-CD]

14.2 The contractor may refuse to appoint such subcontractor:

- 14.2.1 Against whom the contractor makes a reasonable objection
- 14.2.2 Who refuses or fails to enter into a n/s subcontract agreement and/or to comply with other tender requirements
- 14.2.3 Who has failed to provide a required security [NSSA-CD]

14.3 Where such subcontractor is not appointed by the contractor for the reasons stated [14.2], or where the appointment of a subcontractor has been terminated, another subcontractor shall be nominated and appointed in accordance with a contract instruction issued by the principal agent

14.4 Where the subcontractor has complied with the tender requirements, in accordance with a contract instruction issued by the principal agent [17.1.14], the contractor shall:

- 14.4.1 Appoint the subcontractor as a nominated subcontractor and forward a copy of the signed n/s subcontract agreement to the principal agent
- 14.4.2 Provide a guarantee for payment in the amount stated within fifteen (15) working days of such appointment, where required in the n/s subcontract agreement [CD]
- 14.4.3 Forward the subcontractor's regular payment claims to the principal agent and/or agents by the date stated [NSSA-CD]
- 14.4.4 Issue to each subcontractor (with a copy to the principal agent) a JBCC® n/s subcontract payment advice and a JBCC® n/s subcontract recovery statement to reconcile the amount due for payment with the amount stated in the JBCC® n/s subcontract payment notification issued by the principal agent
- 14.4.5 Pay the subcontractor the amount certified by the date stated in the JBCC® NSSA contract data [25.13]

14.5 Where the contractor fails to provide proof of payment to the subcontractor within five (5) working days of a notice by the principal agent, the employer may instruct the principal agent to certify direct payment to the subcontractor and recover such amount from the contractor [27.2.7]

14.6 Where a nominated subcontractor has been declared insolvent, or where, after notification by the contractor, the principal agent agrees that a nominated subcontractor is in default of a material term of the n/s subcontract agreement, the principal agent shall instruct the contractor to give notice to the subcontractor to rectify such default. The principal agent shall instruct the contractor to terminate the n/s subcontract agreement should such default continue for five (5) working days after such notice [17.1.15]

14.7 Where a n/s subcontract agreement with a nominated subcontractor is terminated:

- 14.7.1 Due to default or insolvency of the subcontractor [23.2.10], or default of the employer, the principal agent and/or agents [23.2.11] any variation in the cost of completing such subcontract works shall be for the account of the employer
- 14.7.2 Due to default or insolvency of the contractor any variation in the cost of completing such subcontract works shall be for the account of the contractor. The employer may recover expense and/or loss [27.2.8]

- 14.7.3 The **principal agent** shall instruct the **contractor** to appoint another nominated **subcontractor** [14.1.4] to complete the subcontract works
- 14.8 There shall be no privity of contract between the **employer** and a **subcontractor** appointed by the **contractor**

15.0 SELECTED SUBCONTRACTORS

- 15.1 The **principal agent** and/or **agents** shall:
- 15.1.1 Prepare tender documents in conformity with the **n/s subcontract agreement** and this **agreement** for work intended to be executed by a selected **subcontractor** in consultation with and to the reasonable approval of the **contractor**
- 15.1.2 Call for tenders from a list of tenderers agreed between the **contractor** and the **principal agent**
- 15.1.3 Scrutinise the received tenders for compliance with the tender documents in consultation with the **contractor**
- 15.1.4 In consultation with the **contractor**, choose the compliant tenderer to be appointed as a selected **subcontractor** in terms of the **n/s subcontract agreement**
- 15.1.5 Inform the **contractor** where an advance payment is to be made to the **subcontractor** for an amount included in the accepted tender and that a **guarantee for advance payment** shall be provided by the **subcontractor** for the amount stated [NSSA-CD]
- 15.2 The **contractor** may refuse to appoint such **subcontractor**:
- 15.2.1 Who refuses or fails to enter into a **n/s subcontract agreement** and/or to comply with other tender requirements
- 15.2.2 Who has failed to provide a required security [NSSA-CD]
- 15.2.3 Against whom the **contractor** makes a reasonable objection where circumstances have changed
- 15.3 Where such **subcontractor** is not appointed by the **contractor** for the reasons stated [15.2], or where the appointment of a **subcontractor** has been terminated, another **subcontractor** shall be chosen in consultation with the **contractor** and appointed in accordance with a **contract instruction** issued by the **principal agent**
- 15.4 Where the **subcontractor** has complied with the tender requirements, in accordance with a **contract instruction** issued by the **principal agent** [17.1.14], the **contractor** shall:
- 15.4.1 Appoint the **subcontractor** as a selected **subcontractor** and forward a copy of the signed **n/s subcontract agreement** to the **principal agent**
- 15.4.2 Provide a **guarantee for payment** in the amount stated within fifteen (15) **working days** of such appointment, where required in the **n/s subcontract agreement** [CD]
- 15.4.3 Forward the **subcontractor's** regular payment claims to the **principal agent** and/or **agents** by the date stated [NSSA-CD]
- 15.4.4 Issue to each **subcontractor** (with a copy to the **principal agent**) a **JBCC® n/s subcontract payment advice** and a **JBCC® n/s subcontract recovery statement** to reconcile the amount due for payment with the amount stated in the **JBCC® n/s subcontract payment notification** issued by the **principal agent**
- 15.4.5 Pay the **subcontractor** the amount certified by the date stated in the **JBCC® NSSA contract data** [25.13]
- 15.5 Where the **contractor** fails to provide proof of payment to a **subcontractor** within five (5) **working days** of a notice by the **principal agent**, the **employer** may instruct the **principal agent** to certify direct payment to the **subcontractor** and recover such amount from the **contractor** [27.2.7]
- 15.6 Where the selected **subcontractor** is in default of a material term of the **n/s subcontract agreement**, the decision of whether or not to terminate the **n/s subcontract agreement** is that of the **contractor**
- 15.7 Where a **n/s subcontract agreement** with a selected **subcontractor** is terminated:

- 15.7.1 Due to default of the **employer**, the **principal agent** and/or **agents** any variation in the cost of completing such subcontract works shall be for the account of the **employer** [25.3.7]
- 15.7.2 Other than due to the default by the **employer**, the **principal agent** and/or **agents** any variation in the cost of completing the subcontract works shall be for the account of the **contractor** [25.3.7]
- 15.7.3 The **principal agent** shall instruct the **contractor** to appoint another selected **subcontractor** [15.1.4] to complete the subcontract works
- 15.8 There shall be no privity of contract between the **employer** and a **subcontractor** appointed by the **contractor**

16.0 DIRECT CONTRACTORS

- 16.1 The **contractor** shall:
 - 16.1.1 In accordance with a **contract instruction** [17.1.16] permit **direct contractors** [CD] to execute and/or install work as part of the **works**. Such access to the **works** shall not constitute deemed achievement of **practical completion** or occupation by the **employer** [19.6]
 - 16.1.2 Make reasonable allowance in the **programme** for such work or installation
 - 16.1.3 Be entitled to claim expense and/or loss caused by **direct contractors** [23.2.9; 27.1.7]
- 16.2 Payment of **direct contractors** shall be the responsibility of the **employer** outside this **agreement**
- 16.3 There shall be no privity of contract between the **contractor** and a **direct contractor** appointed by the **employer**

17.0 CONTRACT INSTRUCTIONS

- 17.1 The **principal agent** may issue **contract instructions** to the **contractor** regarding:
 - 17.1.1 Rectification of discrepancies, errors in description or quantity or omission of items in the **agreement** other than in the **JBCC® Principal Building Agreement**
 - 17.1.2 Alteration to design, standards or quantity of the **works** provided that such **contract instructions** shall not substantially change the scope of the **works**
 - 17.1.3 The **site** [13.0]
 - 17.1.4 Compliance with the **law**, regulations and bylaws [2.1]
 - 17.1.5 Provision and testing of samples of **materials and goods** and/or of finishes and assemblies of elements of the **works**
 - 17.1.6 Opening up of work for inspection, removal or re-execution [23.2.4; 26.4.2]
 - 17.1.7 Removal or re-execution of work
 - 17.1.8 Removal or substitution of any **materials and goods**
 - 17.1.9 Protection of the **works**
 - 17.1.10 Making good physical loss and repairing damage to the **works** [23.2.2]
 - 17.1.11 Rectification of **defects** [21.2]
 - 17.1.12 A **list for practical completion** specifying outstanding or defective work to be rectified to achieve **practical completion**, a **list for completion** and a **list for final completion** specifying outstanding or defective work to be rectified to achieve **final completion**
 - 17.1.13 Expenditure of **budgetary allowances**, **prime cost amounts** and **provisional sums**
 - 17.1.14 Appointment of a **subcontractor** [14.0; 15.0]

- 17.1.15 Termination of a nominated n/s subcontract agreement [14.6]
- 17.1.16 Work by **direct contractors** [16.0]
- 17.1.17 Access by others or previous contractors to remedy defective work
- 17.1.18 Removal from the **site** of any person employed on the **works**
- 17.1.19 Removal from the **site** of any person not engaged on or connected with the **works**
- 17.1.20 On **suspension** or termination, protection of the **works**, removal of **construction equipment** and **surplus materials and goods** [29.0]
- 17.2 The **contractor** shall comply with and duly execute all **contract instructions**
- 17.3 Should the **contractor** fail to proceed with a **contract instruction** with due diligence, the **principal agent** may give **notice** to the **contractor** to proceed within five (5) **working days** of receipt of such **notice**. Where the **contractor** remains in default, the **employer** may engage others to carry out such **contract instruction** and recover expense and/or loss incurred [27.2.3]
- 17.4 The **contractor** shall not be obliged to execute **contract instructions** for additional work issued after the certified or deemed date of **practical completion**
- 17.5 Oral instructions shall be of no force or effect

COMPLETION

18.0 INTERIM COMPLETION

- 18.1 This clause applies only to the n/s subcontract agreement and is included to retain the same clause numbers between the two agreements

19.0 PRACTICAL COMPLETION

- 19.1 The **principal agent** shall:
 - 19.1.1 Inspect the **works** at appropriate intervals to give the **contractor** interpretations and direction on the standard of work and the state of completion of the **works** required of the **contractor** to achieve **practical completion** [CD]
 - 19.1.2 Issue a **contract instruction** [17.1] consequent on each such inspection, where necessary
- 19.2 The **contractor** shall:
 - 19.2.1 Inspect the **works** in advance of the anticipated date for **practical completion** to confirm that the standard of work required and the state of completion of the **works** for **practical completion** has been achieved
 - 19.2.2 Give at least five (5) **working days** notice to the **principal agent** of the anticipated date for the inspection for **practical completion** of the **works** to meet the anticipated date for **practical completion**
- 19.3 The **principal agent** shall inspect the **works**, or a **section** thereof, within the period stated [CD] and forthwith issue to the **contractor**:
 - 19.3.1 A comprehensive and conclusive list for **practical completion** [17.1.12] where the **works** has not reached **practical completion** specifying the **defects** to be rectified and work to be completed to achieve **practical completion**
 - 19.3.2 An updated list for **practical completion** limited to items on the list for **practical completion** that have not been attended to satisfactorily. The **contractor** shall repeat the procedure until all items on the list for **practical completion** have been attended to satisfactorily before the **certificate of practical completion** is issued by the **principal agent**

or ...

- 19.3.3 A **certificate of practical completion** with a copy to the **employer** stating the date on which **practical completion** of the **works**, or a **section** thereof, was achieved
- 19.3.4 A **list for completion** with a copy to the **employer**
- 19.4 Should the **principal agent** not issue a **list for practical completion** or the updated list within five (5) **working days** after the inspection period, or the **certificate of practical completion** [19.3], the **contractor** shall give **notice** to the **employer** and the **principal agent**. Should the **principal agent** not issue such list within a further five (5) **working days** of receipt of such **notice**, **practical completion** shall be deemed to have been achieved on the date of such **notice** and the **principal agent** shall issue the **certificate of practical completion** forthwith
- 19.5 On issue of the only or last **certificate of practical completion** the **employer** shall be entitled to possession of the **works** and the **site** subject to the **contractor's** lien or right of continuing possession of the **works** where this has not been waived. On issue of the **certificate of practical completion** for a **section**, the **employer** shall be entitled to possession of such **section**
- 19.6 Where the **employer** takes possession of the whole or a portion of the **works** by agreement with the **contractor**, **practical completion** shall be deemed to have occurred. The **principal agent** shall after inspection of the **works** [19.3] issue a **certificate of practical completion** to the **contractor** with a copy to the **employer** within five (5) **working days** of the date of possession of the whole or a portion of the **works** by the **employer** and the **list for completion** of items to be rectified and work to be completed within a period agreed between the parties
- 19.7 On issue of the **certificate of practical completion** of the **works**, or a **section** thereof, where the **principal agent** instructs that installation work is to be executed by others, the **employer** and/or **contractor** shall allow access for such installations

20.0 COMPLETION IN SECTIONS

- 20.1 Where completion in **sections** is required [CD] the terms and conditions applicable to the **works** as a whole shall apply to each **section**
- 20.2 The **principal agent** shall for each **section** issue:
 - 20.2.1 A **certificate of practical completion** [19.3]
 - 20.2.2 A **certificate of final completion** indicating where applicable, if it is for the last **section** to reach final completion [21.6.2]

21.0 DEFECTS LIABILITY PERIOD AND FINAL COMPLETION

- 21.1 The defects liability period for the **works** shall commence on the **calendar day** following the date of **practical completion** and end at midnight (00:00) ninety (90) **calendar days** from the date of **practical completion** [CD] or when work on the **list for completion** has been satisfactorily attended to [21.6], whichever is the later
- 21.2 Where **defects** become apparent during the defects liability period the **principal agent** may instruct the **contractor** [17.1.11] to progressively attend to such items, whilst at all times minimising inconvenience to the occupants
- 21.3 The **contractor** shall:
 - 21.3.1 Inspect and forthwith rectify all items on the **list for completion** no later than ten (10) **working days** before the expiry of the defects liability period [19.3.4]
 - 21.3.2 Give **notice** to the **principal agent** to inspect the **works** within five (5) **working days** of receipt of such **notice**
- 21.4 Where items on the **list for completion** have not been attended to the **principal agent** shall give **notice** to the **contractor** of such outstanding items. The process [21.3] shall be repeated until all items on the **list for completion** have been attended to

- 21.5 The **contractor** shall give notice to the **principal agent** when the outstanding items on the **list for completion** have been attended to. The **principal agent** shall inspect the **works** within five (5) **working days** of receipt of such notice
- 21.6 On the expiry of the ninety (90) **calendar days** defects liability period [21.1] or when all items on the **list for completion** have been attended to and on receipt of the **contractor's** notice to the **principal agent**, whichever is the later, the **principal agent** shall inspect the **works** and within ten (10) **working days** either:
- 21.6.1 Issue a **list for final completion** detailing all outstanding work or **defects** that must be attended to, or rectified to achieve **final completion**
- or ---
- 21.6.2 Issue the **certificate of final completion** to the **contractor** with a copy to the **employer**
- 21.7 Where the **principal agent** issues a **list for final completion**:
- 21.7.1 The **contractor** shall forthwith complete all outstanding work and rectify all the **defects**
- 21.7.2 The **contractor** shall give notice to the **principal agent** when all outstanding work has been completed and all the **defects** have been rectified
- 21.7.3 The **principal agent** shall, within five (5) **working days** of receipt of the **contractor's** notice(s) [21.7.2] give notice to the **contractor** either that the items on the **list for final completion** have been completed, or issue an updated **list for final completion** of the items not completed and of any further **defects** that have become evident since the last inspection
- 21.8 Where the **principal agent** gives notice to the **contractor** of items on the **list for final completion** or an updated **list for final completion** specifying all outstanding work to be completed and/or **defects** to be rectified to achieve **final completion** the process [21.7.2-3] shall be repeated until all items on the (updated) **list for final completion** have been completed. On completion of all items on the (updated) **list for final completion** the **principal agent** shall forthwith issue the **certificate of final completion** to the **contractor** with a copy to the **employer**
- 21.9 Where the **principal agent** has not issued the **list for final completion** or the updated list within five (5) **working days** after the inspection period [21.6], the **contractor** shall forthwith give notice to the **employer** and the **principal agent**. Should the **principal agent** not issue such list within a further five (5) **working days** of receipt of such notice, **final completion** shall be deemed to have been achieved on expiry of such notice period and the **principal agent** shall forthwith issue the **certificate of final completion**
- 21.10 Where a **subcontractor's** defects liability period extends beyond the **contractor's** defects liability period:
- 21.10.1 The **contractor's** obligations and liability concerning the **subcontractor's** **defects** shall end on the date of issue of the **certificate of final completion**
- 21.10.2 The remaining portion of the **subcontractor's** defects liability period shall be ceded to the **employer** on the date of issue of the **certificate of final completion**
- 21.11 Where the **contractor**, a **subcontractor** or a supplier is required to give a guarantee, warranty or indemnity, other than a **security** to the **contractor**, the rights and obligations under such guarantee, warranty or indemnity shall be ceded to the **employer** on the date of issue of the **certificate of final completion**. This cession shall not prejudice any other rights the **employer** may have [12.2.20]
- 21.12 A **certificate of final completion** shall be conclusive as to the sufficiency of the **works** and that the **contractor's** obligations [12.2.7] have been fulfilled other than for **latent defects**

22.0 LATENT DEFECTS LIABILITY PERIOD

- 22.1 The **latent defects** liability period for the **works** shall commence at the start of the **construction period** and end five (5) years from the certified date of **final completion**
- 22.2 The **contractor** shall make good all **latent defects** that appear up to the date of expiry of the **latent defects** liability period [3.3]
- 22.3 Where termination of this **agreement** occurs before the date of **final completion**, the **latent defects** liability period shall end:
- 22.3.1 Five (5) years from the date of termination [29.10] for the completed portion of the **works** only

or ...

- 22.3.2 On the date of termination where execution of the **works** has become impossible due to circumstances beyond the control of either **party** [29.20], or on the date of termination by the **contractor** due to default by the **employer**, the **principal agent** and/or **agents** [29.17.3; 29.23]

23.0 REVISION OF THE DATE FOR PRACTICAL COMPLETION

- 23.1 The **contractor** is entitled to a revision of the date for **practical completion** by the **principal agent** without an adjustment of the **contract value** for a delay to **practical completion** caused by one or more of the following events:

- 23.1.1 Adverse weather conditions
- 23.1.2 Inability to obtain **materials and goods** where the **contractor** has taken reasonable steps to avoid or reduce such a delay
- 23.1.3 Making good physical loss and repairing damage to the **works** [8.2] where such risk is beyond the reasonable control of the **parties**
- 23.1.4 Late supply of a **prime cost** amount item where the **contractor** has taken reasonable steps to avoid or reduce such delay
- 23.1.5 Exercise of statutory power by a body of state or public or local authority that directly affects the execution of the **works**
- 23.1.6 **Force majeure**

- 23.2 The **contractor** is entitled to a revision of the date for **practical completion** by the **principal agent** with an adjustment of the **contract value** [26.7] for a delay to **practical completion** caused by one or more of the following events:

- 23.2.1 Delayed possession of the **site** [12.1.5]
 - 23.2.2 Making good physical loss and repairing damage to the **works** [8.5] where the **contractor** is not at risk
 - 23.2.3 **Contract instructions** [17.1-2] not occasioned by the **contractor's** default
 - 23.2.4 Opening up and testing of work and **materials and goods** where such work is in accordance with the **agreement** [17.1.6]
 - 23.2.5 Late or incorrect issue of **construction information** [12.1.12; 13.2.3]
 - 23.2.6 Late supply of **free issue, materials and goods** for which the **employer** is responsible [12.1.10]
 - 23.2.7 Late appointment of a **subcontractor** in terms of the agreed **programme** where the **contractor** has taken reasonable steps to avoid or reduce such delay [14.4.1; 15.4.1]
 - 23.2.8 Late acceptance by the **principal agent** and/or **agents** of a design undertaken by a selected **subcontractor** where the **contractor's** obligations have been met [7.3]
 - 23.2.9 An act or omission by a nominated **subcontractor** [14.0] or a **direct contractor** [16.0]
 - 23.2.10 Insolvency or termination of a nominated **subcontractor** [14.7.2]
 - 23.2.11 **Suspension** or termination by a **subcontractor** due to default of the **employer**, the **principal agent** and/or **agents**
 - 23.2.12 Execution of additional work for which the quantity in the **bills of quantities** is not sufficiently accurate
 - 23.2.13 **Suspension of the works** [28.0]
- 23.3 Further circumstances for which the **contractor** may be entitled to a revision of the date for **practical completion** and an adjustment of the **contract value** are delays to **practical completion** due to any other cause beyond the **contractor's** reasonable control that could not have reasonably been anticipated and provided for. The **principal agent** shall adjust the **contract value** where such delay is due to the **employer** and/or **agents**

- 23.4 Should a listed circumstance occur [23.1-3] which could cause a delay to the date for **practical completion**, the **contractor** shall:
- 23.4.1 Take reasonable steps to avoid or reduce such delay
- 23.4.2 Within twenty (20) **working days** of becoming aware, or ought reasonably to have become aware of such delay, give notice to the **principal agent** of the intention to submit a claim for a revision to the date for **practical completion**, failing which the **contractor** shall forfeit such claim
- 23.5 The **contractor** shall submit a claim for the revision of the date for **practical completion** to the **principal agent** within forty (40) **working days**, or such extended period as the **principal agent** may allow, from when the **contractor** is able to quantify the delay in terms of the **programme**
- 23.6 Where the **contractor** submits a claim for a revision of the date for **practical completion** the claim shall in respect of each circumstance separately state:
- 23.6.1 The relevant clause [23.1-3] on which the **contractor** relies
- 23.6.2 The cause and effect of the delay on the current date for **practical completion**, where appropriate, illustrated by a change to the critical path on the current **programme**
- 23.6.3 The extension period claimed in **working days** and the calculation thereof
- 23.7 The **principal agent** shall, within twenty (20) **working days** of receipt of the claim, grant in full, reduce or refuse the **working days** claimed, and:
- 23.7.1 Determine the revised date for **practical completion** as a result of the **working days** granted
- 23.7.2 Identify each event and the reference clause for each revision granted or amended
- 23.7.3 Give reasons where such claim is refused or reduced
- 23.8 Where the **principal agent** fails to act within the period [23.7] such claim shall be deemed to be refused. The **contractor** may give notice of a disagreement [30.1] where the **principal agent** refuses a claim, alternatively reduces a claim, or fails to act

24.0 PENALTY FOR LATE OR NON-COMPLETION

- 24.1 Where the **contractor** fails to bring the **works**, or a section thereof, to **practical completion** by the date for **practical completion** [CD], or the revised date for **practical completion**, the **contractor** shall be liable to the **employer** for the **penalty** [CD]
- 24.2 Where the **employer** elects to levy such **penalty** the **employer**, or the **principal agent** on instruction from the **employer**, shall give notice thereof to the **contractor**. The **principal agent** shall determine the **penalty** due from the later of the date for **practical completion** [CD], or the revised date for **practical completion**, up to and including the earlier of:
- 24.2.1 The actual or deemed date of **practical completion** of the **works**, or a section thereof [23.7.1]
- 24.2.2 The date of termination [29.8]
- 24.3 The **principal agent** shall include the **penalty** in regular interim **payment certificates** from the date on which the **employer's** entitlement to **penalties** commences

PAYMENT

25.0 PAYMENT

- 25.1 The **contractor** shall cooperate with and assist the **principal agent** in the preparation of cash flow statements and payment valuations by providing all required documents and quantified amounts of work duly executed. Where the **contractor** has not provided such information the **principal agent** shall make a fair estimate of the work executed

- 25.2 The **principal agent** shall regularly by the due date [CD] issue **payment certificates** to the **contractor** with a copy to the **employer** until and including the issue of the **final payment certificate**. A **payment certificate** may be for a nil or negative amount
- 25.3 Each **payment certificate** shall separately include:
- 25.3.1 A fair estimate of the value of work executed
 - 25.3.2 A fair estimate of the value of **materials and goods** [25.4; 25.5]
 - 25.3.3 **Security** adjustment [11.1.2; 11.4.1]
 - 25.3.4 Cost fluctuations, if applicable
 - 25.3.5 The gross amount certified
 - 25.3.6 The amount previously certified
 - 25.3.7 Amounts due to either **party** in the **recovery statement** [27.1]
 - 25.3.8 **Tax**
 - 25.3.9 Interest amounts included in the **recovery statement**
 - 25.3.10 Other non-taxable amounts
 - 25.3.11 The net amount certified due to the **contractor** or the **employer**.
- 25.4 The value of **materials and goods** [25.3.2] (excluding **materials and goods** off site or in transit) shall be included in the amount certified only where:
- 25.4.1 Not prematurely delivered or offered for delivery in terms of the **programme**
 - 25.4.2 Stored and suitably protected against loss and damage
 - 25.4.3 Covered by insurances [10.0]
- 25.5 The value of **materials and goods** [25.3.2] stored off site and/or in transit shall be included in the amount certified only where covered by a **guarantee for advance payment** or such other **security** acceptable to the **employer**
- 25.6 **Materials and goods** when certified [25.4] and paid for shall become the property of the **employer** and shall not be removed without the written authority of the **principal agent**
- 25.7 The **principal agent** shall concurrently with each **payment certificate** issue:
- 25.7.1 To the **employer** and the **contractor** a **recovery statement** showing the amounts due to either **party** in the current **payment certificate**
 - 25.7.2 To the **contractor** a statement showing the amount certified for each **subcontractor**
 - 25.7.3 To each **subcontractor** a n/s subcontract payment notification showing the amount included in the **payment certificate** and its date of issue
 - 25.7.4 The determination of **default interest**
 - 25.7.5 The determination of **compensatory interest**
- 25.8 An interim **payment certificate** shall not be evidence that the **works** and **materials and goods** are in terms of the **agreement**
- 25.9 The **principal agent** shall certify one hundred per cent (100%) of the amount of the **final account** including adjustments [26.0; 27.0] in the **final payment certificate**
- 25.10 The **employer** shall pay the **contractor** the amount certified in an issued **payment certificate** within fourteen (14) **calendar days** of the date for issue of the **payment certificate** [CD] including **default interest** and/or **compensatory interest**
- 25.11 The **contractor** shall pay the **employer** the amount certified in an issued **payment certificate** within twenty-one (21) **calendar days** of the date of issue of the **payment certificate** [CD] including **default interest**

- 25.12 Where a **guarantee for construction** (fixed) and payment reduction [11.1.2] has been chosen the value of the **works** [26.0] and **materials and goods** [25.3.2] that exceeds the **contract sum** and any contract price adjustments (cost fluctuations) [25.3.4; 26.9.5] [CD] shall be certified in full. The value certified that does not exceed the **contract sum** shall be subject to the following percentage adjustments:
- 25.12.1 Ninety-five per cent (95%) of such value in interim **payment certificates** issued up to the date of **practical completion**
- 25.12.2 Ninety-seven and one half per cent (97.5%) of such value in interim **payment certificates** issued up to but excluding the **final payment certificate**
- 25.12.3 One hundred per cent (100%) of such value in the **final payment certificate**
- 25.13 The **contractor** shall pay all **subcontractors** within seven (7) **calendar days** of the due date for payment by the **employer** [CD] and on request provide proof thereof to the **principal agent** within seven (7) **calendar days** of a request to do so
- 25.14 Where the **employer** has made a partial or no payment of the amount due in an issued **payment certificate** by the due date or where the **principal agent** fails to issue a **payment certificate**, the **contractor** may give five (5) **working days notice** to comply, failing which the **contractor** may:
- 25.14.1 **Suspend the works** [26.1.3]
- 25.14.2 Exercise the lien or right of continuing possession of the **works** where this has not been waived
- 25.14.3 Call up the **guarantee for payment** [11.5]
- 25.15 The **principal agent** shall issue the **final payment certificate** to the **contractor** with a copy to the **employer** within seven (7) **calendar days** of acceptance of the **final account** by the **contractor**, but not before the issue of the **certificate of final completion**, other than on termination [26.11; 29.0]
- 25.16 Where the **contractor** disputes the correctness of the **final account** within the period allowed [26.12], the **principal agent** shall issue interim **payment certificates** to the **contractor** with a copy to the **employer** by the due date [CD] for the undisputed amount(s)
- 25.17 For the purposes of provisional sentence in relation to a **payment certificate** only, the **parties** consent to the jurisdiction of any court of law of the country [CD]

26.0 ADJUSTMENT OF THE CONTRACT VALUE AND FINAL ACCOUNT

- 26.1 The **principal agent** shall determine the value of adjustments to the **contract value** in cooperation with the **contractor** in the preparation of the **final account**. Where such adjustments require measurement on site, the **contractor** shall have the right to be present
- 26.2 Adjustments to the **contract value** resulting from a **contract instruction** [17.1] shall be determined as follows:
- 26.2.1 Work of a similar character executed under similar conditions shall be priced at the rates in the **priced document**
- 26.2.2 Work not of a similar character shall be priced at rates based on those in the **priced document** and adjusted to suit the changed circumstances
- 26.2.3 If the above methods do not apply, work shall be priced at rates based on the necessary use of labour, **construction equipment** and/or **materials and goods** for executing the work plus an allowance of ten per cent (10%) mark-up
- 26.2.4 Work omitted shall be valued at the rates in the **priced document**, but where the omission of such work alters the circumstances under which the remaining work is carried out, the value of the remaining work shall be determined by the above methods
- 26.3 Where work is identified as provisional in the **priced document** the **principal agent** shall omit such value from the **contract value** and add the value of work as executed to the **contract value**
- 26.4 Where the **contractor** has made payment for items not included in the **priced document** in accordance with a **contract instruction** with the approval of the **principal agent**, the actual amounts paid plus a ten per cent (10%) mark-up shall be added to the **contract value** limited to:

- 26.4.1 Charges by authorities [2.1]
- 26.4.2 The cost of opening up and testing [17.1.6], where the work is according to this **agreement**
- 26.4.3 The cost of insurances [10.0], where applicable [CD]
- 26.5 The **contractor** shall give **notice** to the **principal agent** within twenty (20) **working days** of becoming aware, or ought reasonably to have become aware of expense and/or loss for which provision was not required in the **contract sum** failing which such claim shall be forfeited
- 26.6 Following **notice** [26.5], the **contractor** shall submit a detailed and substantiated claim for the adjustment of the **contract value** to the **principal agent** within forty (40) **working days**, or such additional period as the **principal agent** may allow
- 26.7 The **principal agent** shall make a fair assessment of the claim [26.6] and adjust the **contract value** within twenty (20) **working days** of receipt of such details
- 26.8 Where the **principal agent** fails to act within such period [26.7] the claim shall be deemed to be refused. The **contractor** may give **notice** of a disagreement [30.1] where no assessment is received
- 26.9 The **principal agent** shall:
 - 26.9.1 Omit **prime cost amounts** and **budgetary allowances** [17.1.13] from the **contract sum** and determine the actual value of such work to be added to the **contract value**
 - 26.9.2 Omit **provisional sums** [17.1.13] from the **contract sum** and determine the actual value of such **subcontractors'** work to be added to the **contract value**
 - 26.9.3 Prorate the **contractor's** allowances for profit and attendance on **provisional sums** and **prime cost amounts** excluding any allowance for cost fluctuations
 - 26.9.4 Adjust the **preliminaries** amounts in accordance with the method selected [CD]
 - 26.9.5 Adjust the **contract value** to include contract price adjustments (cost fluctuations), if applicable [CD]
 - 26.9.6 Rectify discrepancies, errors in description or quantity or omission of items in this **agreement** other than in the **JBCC®** Principal Building Agreement [17.1.1]
- 26.10 The **principal agent** shall prepare and issue the **final account** to the **contractor** within sixty (60) **working days** of the date of **practical completion**
- 26.11 The **contractor** shall accept the **final account** within thirty (30) **working days** of receipt thereof or give **notice** of non-acceptance with reasons failing which the **final account** shall be deemed to be accepted
- 26.12 Should the reasons for non-acceptance of the **final account** [26.11] not be resolved within ten (10) **working days** of the **notice** of non-acceptance, or within such extended period as the **principal agent** may allow on request from the **contractor**, the **contractor** may give **notice** of a disagreement
- 26.13 The **principal agent** shall issue the **final payment certificate** to the **contractor** within seven (7) **calendar days** of acceptance of the **final account**

27.0 RECOVERY OF EXPENSE AND/OR LOSS

- 27.1 The **principal agent** shall issue a **recovery statement** with each **payment certificate** to the **parties** with explanatory documentation to support the calculation of amounts due to:
 - The **employer** resulting from:
 - 27.1.1 **Penalty** [24.3]
 - 27.1.2 **Default interest** [25.7.4]
 - 27.1.3 **Expense and/or loss** [27.2]
 - The **contractor** resulting from:
 - 27.1.4 **Default interest** [25.7.4]

- 27.1.5 **Compensatory interest** [25.7.5]
- 27.1.6 **Damages**
- 27.1.7 **Expense or loss caused by a direct contractor** [16.1.3]
- 27.1.8 **Advance payments** [9.2.10; 12.1.8]
- 27.1.9 **Termination of a n/s subcontract agreement due to default of the employer, the principal agent and/or agents** [14.7.1; 15.7.1]
- 27.2 **The employer may recover expense and/or loss incurred or to be incurred resulting from:**
 - 27.2.1 **Paying charges** [2.1]
 - 27.2.2 **Effecting insurances due to the contractor's default** [10.0]
 - 27.2.3 **Work executed by others due to the contractor's default** [17.3]
 - 27.2.4 **Recoupment of advance payments** [9.2.10; 11.3]
 - 27.2.5 **The contractor not paying amounts due to the employer** [25.3.7]
 - 27.2.6 **Termination of this agreement by the employer** [29.1]
 - 27.2.7 **Amounts paid directly to subcontractors on default by the contractor** [14.5; 15.5]
 - 27.2.8 **Termination of a n/s subcontract agreement** [14.7.2; 15.7.2]
 - 27.2.9 **Default by the contractor where not less than five (5) working days notice detailing such default has been given before the issue of the next recovery statement to allow the contractor the opportunity to remedy such default**
 - 27.2.10 **Adjustment of the n/s subcontract preliminaries due to the subcontractor as a result of a default by the contractor**
- 27.3 **Where an amount is due to either party and has not been paid, the other party may recover the amount from any of the following:**
 - 27.3.1 **Subsequent payment certificates** [25.0]
 - 27.3.2 **A demand in terms of the security** [11.0]
 - 27.3.3 **The defaulting party as a debt**
- 27.4 **Where either party has been liquidated, or this agreement terminated, the other party may exercise rights in terms of the security** [11.0]

SUSPENSION AND TERMINATION

28.0 SUSPENSION BY THE CONTRACTOR

- 28.1 **The contractor may give ten (10) working days notice to the employer and the principal agent of the intention to suspend the works where the employer or the principal agent has failed to:**
 - 28.1.1 **Provide and/or maintain a guarantee for payment, where required** [11.5-6]
 - 28.1.2 **Issue a payment certificate by the due date** [25.2] [CD]
 - 28.1.3 **Make payment in full of an amount certified in an interim payment certificate by the due date** [25.10] [CD]

- 28.1.4 Effect insurances [10.1.1-5; 10.2] where applicable [CD]
- 28.1.5 Appoint another **principal agent** and/or another **agent**, where applicable [6.5] or where an **agent** has failed to act in terms of delegated authority [6.4]
- 28.2 Where the **employer** has not remedied a default in terms of a **notice** the **contractor** may suspend execution of the **works** until such default has been remedied without prejudice to any rights the **contractor** may have
- 28.3 Where the **works** is suspended the **contractor** shall instruct each **subcontractor** to suspend the n/s subcontract works forthwith
- 28.4 Where the **works** has been suspended by the **contractor** [23.2.13] the **principal agent** shall revise the date for **practical completion** on resumption of the **works** with an adjustment of the **contract value**

29.0 TERMINATION

Termination by the employer

- 29.1 The **employer** may give **notice** of intention to terminate this **agreement** where the **contractor** has failed to:
 - 29.1.1 Provide and maintain a **guarantee for construction** [CD]
 - 29.1.2 Proceed with the **works** [12.2.7]
 - 29.1.3 Comply timeously with a **contract instruction** [17.0]
- 29.2 Where the **employer** contemplates terminating this **agreement** the **employer** or the **principal agent** on instruction from the **employer** shall give **notice** thereof to the **contractor** of a specified default [29.1.1-3], to be remedied within ten (10) **working days** of the date of receipt of such **notice**
- 29.3 Where the **contractor** has not remedied a specified default within such period [29.2] the **employer** may forthwith give **notice** to the **contractor** of termination of this **agreement**
- 29.4 The **employer** may employ others to safeguard the **works**, complete the outstanding work and rectify defects in that portion of the **works** executed by the **contractor** [27.2.3]. The **contractor** shall be liable to the **employer** for such costs that shall be included in the **final account** [26.10]
- 29.5 The **employer** may use **materials and goods** and temporary structures on the **site** for which payment shall be included in the **final account**
- 29.6 Should the **contractor** default on removing temporary structures or **construction equipment** from the **site** the **employer**, without being responsible for any loss or damage, may have such items belonging to the **contractor** removed or sold. Resulting costs and/or income shall be included in the **final account**
- 29.7 The **employer**, on **notice** to the **contractor**, may recover damages from the **contractor** from the date of termination including, but not limited to, additional costs incurred in the completion of the remaining work [25.3.7; 27.1.3]
- 29.8 The **employer** may apply the **penalty** [24.0] up to the date of termination where the initial or revised date for **practical completion** has passed
- 29.9 The **employer** has the right of recovery against the **contractor**, where applicable, [CD] from:
 - The **guarantee for construction** (variable) until the final payment has been made; or
 - The **guarantee for construction** (fixed) until the date of **practical completion**; or
 - The payment reduction until the final payment is made; or
 - The **guarantee for advance payment** until the outstanding balance has been repaid to the **employer**
- 29.10 The **latent defects** liability period for the completed portion of the **works** shall end [22.3.1] five (5) years from the date of termination
- 29.11 Where this **agreement** is terminated, the **contractor** shall forthwith give **notice** of termination of the n/s subcontract **agreement** to each **subcontractor**
- 29.12 Termination of the **works** shall not prejudice any rights the **employer** may have
- 29.13 The right to terminate may not be exercised where the **employer** is in material breach of this **agreement**

Termination by the contractor

- 29.14 The contractor may give notice of intention to terminate this agreement where:
- 29.14.1 The employer has failed to provide and maintain a **guarantee for payment**, where applicable [CD]
- 29.14.2 The employer has failed to give possession of the **site** to the contractor [12.1.5]
- 29.14.3 The employer has failed to allow the **principal agent** and/or **agents** to exercise fair and reasonable judgement as contemplated by this agreement [6.6]
- 29.14.4 The employer has failed to effect insurances, where applicable [CD]
- 29.14.5 The employer has failed to pay the amount certified by the due date [25.10]
- 29.14.6 The employer has failed to appoint another **principal agent** and/or **agents**, where applicable [6.5]
- 29.14.7 The **principal agent** has failed to issue a **payment certificate** to the contractor by the due date [25.2]
- 29.15 Where the contractor contemplates terminating this agreement, the contractor shall give notice to the employer and/or the **principal agent** of a specified default [29.14.1-7], to be remedied within ten (10) **working days** of the date of receipt of such notice
- 29.16 Where a specified default has not been remedied within such period [29.15] the contractor may forthwith give notice to the employer and the **principal agent** of the termination of this agreement
- 29.17 Where this agreement is terminated by the contractor:
- 29.17.1 The contractor shall forthwith give notice of termination of the n/s subcontract agreement to each subcontractor
- 29.17.2 The contractor shall remove temporary structures, construction equipment and, on notice, surplus materials and goods from the site within ten (10) **working days**, or such period agreed by the **principal agent**
- 29.17.3 The latent defects liability period shall end on the date of termination [22.3.2]
- 29.17.4 The contractor may be entitled to recover damages [27.1.6]
- 29.17.5 The **guarantee for construction** shall expire on the date of termination
- 29.17.6 The **guarantee for advance payment**, where applicable [CD], shall expire on repayment of amounts due to the employer
- 29.17.7 The **guarantee for payment** [11.5-6], where applicable [CD], shall expire on payment of the final **payment certificate** or on payment in full of the guaranteed sum or on the **security** expiry date, whichever is the earlier
- 29.18 Termination of the **works** shall not prejudice any rights the contractor may have
- 29.19 The right to terminate may not be exercised where the contractor is in material breach of this agreement

Termination by either party

- 29.20 Either party may give notice of intention to terminate this agreement where:
- 29.20.1 The **works** is for alterations and/or additions to (an) existing building(s), or a new building, which has been substantially destroyed regardless of the cause other than by the party seeking termination
- 29.20.2 Progress of the **works** has ceased for a continuous period of ninety (90) **calendar days**, or an intermittent period totalling one hundred and twenty (120) **calendar days** as a result of a **force majeure** event or the exercise of statutory power by a body of state or public or local authority that directly affects the execution of the **works**
- 29.21 The party contemplating termination of this agreement shall give ten (10) **working days** notice to the other party. Where this agreement is terminated by either party:
- 29.21.1 The contractor shall forthwith give notice of termination of the n/s subcontract agreement to each subcontractor

- 29.21.2 The **party** responsible for insurance [CD] shall inform the insurer and the other **party** of the date of termination of the **agreement**
- 29.21.3 The **guarantee for payment**, where applicable [CD], shall expire on payment of the **final payment certificate** or on payment in full of the guaranteed sum or on the **security** expiry date, whichever is the earlier
- 29.21.4 The **guarantee for construction** shall expire on the date of termination
- 29.21.5 The **guarantee for advance payment** [11.2.2; 11.3], where applicable [CD], shall expire on repayment of amounts due to the **employer**
- 29.22 Neither **party** shall be liable to the other **party** for expense and/or loss resulting from the termination
- 29.23 The **latent defects** liability period for the **works** shall end on the date of termination [22.3.2]
- Termination procedure by the employer, the contractor or by the parties**
- 29.24 On termination of this **agreement** the **contractor** shall:
- 29.24.1 Cease work and ensure that the **works** is safe in terms of the law
- 29.24.2 Remain responsible for the **works** [8.1] until possession is relinquished to the **employer**
- 29.24.3 Remove temporary structures, **construction equipment** and, on notice from the **principal agent**, surplus **materials and goods** from the site within ten (10) **working days**, or such period agreed by the **principal agent**
- 29.25 On termination of this **agreement** the **principal agent** shall:
- 29.25.1 Prepare and hand over to the **employer** all compliance certificates, as built drawings and product warranties in conjunction with **agents**, the **contractor** and **subcontractors**
- 29.25.2 In consultation with the **contractor** where possible, compile and issue to the **parties** a **status report** recording completed and incomplete work on the date of termination of the **works** within twenty (20) **working days** of such date
- 29.25.3 Continue to certify the value of the work executed and **materials and goods** for payment by the **employer** or the **contractor** until the issue of the **final payment certificate** [25.15]
- 29.25.4 Prepare and issue the **final account** to the **contractor** within sixty (60) **working days** of the date of termination including the cost of **materials and goods** and those ordered before termination that the **contractor** is bound to accept and make payment for
- 29.26 Termination shall take effect after completion of the procedure [29.24.1]
- 29.27 The **employer** shall arrange appropriate insurances to suit the stage of completion of the **works**
- 29.28 This clause shall, to the extent necessary to fulfil its purpose, exist independently of this **agreement**

DISPUTE RESOLUTION

30.0 DISPUTE RESOLUTION

Settlement by the parties

- 30.1 Should any disagreement arise between the **employer** (or the **principal agent** or an **agent**) and the **contractor** arising out of or concerning the action or inaction of the **employer** (or the **principal agent** or an **agent**) or the **contractor**, or any other matter concerning this **agreement** (including the validity thereof), either **party** may give notice of a disagreement to the other. The **parties** shall attempt to resolve such disagreement between them and record such resolution in writing signed by them

- 30.2 Where the disagreement is not resolved within ten (10) **working days** of receipt of the **notice** of disagreement, the disagreement shall be deemed to be a dispute
- 30.3 The dispute shall be referred to adjudication within ten (10) **working days** of the expiry of the period [30.2] by means of a **notice** of adjudication by the **party** (the referring party) which gave the **notice** of disagreement
- 30.4 The **notice** of adjudication shall clearly define the scope of the dispute and the relief sought by adjudication
- 30.5 Failure to comply with the procedure described [30.3-4] shall cause the dispute to be resolved by arbitration and not by adjudication

Adjudication

- 30.6 Where a dispute is referred to adjudication:
 - 30.6.1 The adjudicator shall be nominated by the nominating body [CD] and shall be deemed to have been appointed by the **parties**
 - 30.6.2 The applicable rules shall be stated [CD] or shall be by agreement between the **parties** and the adjudicator, failing which the rules shall be determined by the adjudicator. Neither **party** shall be entitled to legal representation, unless otherwise agreed in writing by the **parties**
 - 30.6.3 A determination given by the adjudicator shall be immediately binding upon and implemented by the **parties** notwithstanding that either **party** may give **notice** to refer the dispute to arbitration
 - 30.6.4 Where the adjudicator has given a determination, either **party** may give notice of dissatisfaction to the other **party** and to the adjudicator within ten (10) **working days** of receipt of the determination, or an extended time period provided in the applicable rules for adjudication whereafter such dispute shall be referred to arbitration
 - 30.6.5 Where the adjudicator has not given a determination within the time period allowed or extended time period provided in the applicable rules for adjudication either **party** may give **notice** to the other **party** and to the adjudicator that if such determination is not received within ten (10) **working days** of receipt of this **notice** his appointment is thereupon automatically terminated and such dispute shall be referred to further adjudication or arbitration, at the option of the referring **party**
 - 30.6.6 The adjudicator shall not be eligible for subsequent appointment as the arbitrator

Arbitration

- 30.7 Where the dispute is referred to arbitration:
 - 30.7.1 Arbitration shall not be construed as a review or appeal of an adjudicator's determination. Any determination by the adjudicator shall remain in force and continue to be implemented unless and until overturned by an arbitration award
 - 30.7.2 The resolution of the dispute shall commence anew
 - 30.7.3 The referring **party** in the adjudication shall be the claimant in the arbitration
 - 30.7.4 The arbitrator shall be nominated by the nominating body [CD] and shall be deemed to have been appointed by the **parties**
 - 30.7.5 The applicable rules shall be stated [CD] or shall be by agreement between the **parties** and the arbitrator, failing which the rules shall be determined by the arbitrator
 - 30.7.6 The arbitrator shall have the authority to finally determine the dispute including the authority to make, open up and revise any certificates, opinion, decision, determination, requisition or **notice** relating to the dispute as if no such certificate, opinion, decision, determination, requisition or **notice** had been issued or given
 - 30.7.7 The arbitrator's award shall be final and binding on the **parties**

Mediation

- 30.8 Notwithstanding the provisions relating to adjudication and arbitration the **parties** may, by agreement and at any time, refer a dispute to mediation, in which event:

- 30.8.1 The provisions relating to adjudication and/or arbitration shall be deemed to be suspended from the time of such agreement until **notice** by either **party** that they be resumed
- 30.8.2 The appointment of a mediator, the procedure, and the status of the outcome shall be agreed between the **parties**
- 30.8.3 Regardless of the outcome of a mediation the **parties** shall bear their own costs concerning the mediation and equally share the costs of the mediator and related expenses

General

- 30.9 The **employer** consents to the joining of any **subcontractor** with the **contractor** as a party to any proceedings
- 30.10 Where the **parties** fail to specify a body to nominate the adjudicator [30.6.1] or the arbitrator [30.7.4] the referring **party** shall have the right to choose a local recognised body to suggest one or more persons with appropriate skills to be appointed as an adjudicator or an arbitrator. Such nomination shall be binding on the **parties**
- 30.11 The **parties** shall continue to perform their obligations in terms of this **agreement**, notwithstanding any disagreement or dispute that exists between them
- 30.12 This clause shall, to the extent necessary to fulfil its purpose, exist independently of this **agreement**

AGREEMENT

The **agreement** comprises the entire contract between the **parties**. No representations, terms, conditions or warranties not contained in this **agreement** shall be binding on the **parties**. No agreement or addendum varying, adding to, deleting or terminating this **agreement** including this clause shall be effective unless reduced to writing and signed by the duly authorised representatives of the **parties**

The contracting **parties**

The parties	Employer	Contractor
Business name		
Business type		
Business registration		
Tax number (VAT/GST)		
Contact person		
Telephone		
Mobile number		
E-mail		
Address: Building name		
Address: Street		
Address: Suburb		
Address: City		
Address: P O Box		
Address: Post Office		
Address: Province		
Address: Country		
Project name		
Project location		
Currency		
Accepted contract sum including tax		
Accepted contract sum including tax in words		
Signed – who by signature hereto warrants authority		
Name of signatory		
Signed: Date		
Signed: Location		
Signed: Witness		
Name of witness		

STANDARD BIDDING DOCUMENT (SBD) 4

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.

Where a person/s are listed in the Register for Tender Defaulters and / or the List of Restricted Suppliers, that person will automatically be disqualified from the bid process.

2. Bidder's declaration

- 2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest¹ in the enterprise, employed by the state? **YES/NO**

- 2.1.1 If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/ directors / trustees / shareholders / members/ partners or any person having a controlling interest in the enterprise, in table below.

Full Name	Identity Number	Name of State institution

¹ the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.

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2.2 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution?
YES/NO

2.2.1 If so, furnish particulars:

.....

.....

.....

.....

.....

2.3 Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract?
YES/NO

2.3.1 If so, furnish particulars:

.....

.....

.....

.....

.....

3 DECLARATION

I, the undersigned, (name)..... in submitting the accompanying bid, do hereby make the following statements that I certify to be true and complete in every respect:

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium² will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.
- 3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for

² Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....

Signature

.....

Date

.....

Position

.....

Name of bidder

STANDARD BIDDING DOCUMENT (SBD) 6.1

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to invitations to tender:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2 To be completed by the organ of state

(delete whichever is not applicable for this tender).

a) The applicable preference point system for this tender is the **80/20** preference point system.

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

- (a) Price; and
- (b) Specific Goals.

1.4 To be completed by the organ of state:

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	80
SPECIFIC GOALS	20
Total points for Price and SPECIFIC GOALS	100

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time

subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

2. DEFINITIONS

- (a) **“tender”** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) **“price”** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (c) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (d) **“tender for income-generating contracts”** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
- (e) **“the Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

3.1.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

A maximum of 80 or 90 points is allocated for price on the following basis:

80/20	or	90/10	
$Ps = 80 \left(1 - \frac{Pt - P_{min}}{P_{min}} \right)$	or	$Ps = 90 \left(1 - \frac{Pt - P_{min}}{P_{min}} \right)$	

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

3.2. FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT

3.2.1. POINTS AWARDED FOR PRICE

A maximum of 80 or 90 points is allocated for price on the following basis:

$$P_s = 80 \left(1 + \frac{P_t - P_{max}}{P_{max}} \right) \quad \text{or} \quad P_s = 90 \left(1 + \frac{P_t - P_{max}}{P_{max}} \right)$$

Where

- P_s = Points scored for price of tender under consideration
 P_t = Price of tender under consideration
 P_{max} = Price of highest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

- 4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:
- 4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—
- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
 - (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,
- then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

Table 1: Specific goals for the tender and points claimed are indicated per the table below.

(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.)

Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)

The specific goals allocated points in terms of this tender (B-BBEE Status Level of Contributor)	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
--	--	--	--	--

1	10	20		
2	9	18		
3	6	14		
4	5	12		
5	4	8		
6	3	6		
7	2	4		
8	1	2		
Non-compliant contributor	0	0		

Bidders to submit B-BBEE certificate or sworn affidavit to claim for specific goals.

DECLARATION WITH REGARD TO COMPANY/FIRM

4.3. Name of company/firm.....

4.4. Company registration number:

4.5. TYPE OF COMPANY/ FIRM

- ☐ Partnership/Joint Venture / Consortium
- ☐ One-person business/sole propriety
- ☐ Close corporation
- ☐ Public Company
- ☐ Personal Liability Company
- ☐ (Pty) Limited
- ☐ Non-Profit Company
- ☐ State Owned Company

[TICK APPLICABLE BOX]

4.6. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
 - (a) disqualify the person from the tendering process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution, if deemed necessary.

.....

SIGNATURE(S) OF TENDERER(S)

SURNAME AND NAME:

DATE:

ADDRESS:

.....

.....

11. CONTRACT MANAGEMENT

1. Contract Management

- 1.1. The NRF manages this contract fairly and objectively in accordance to the terms and conditions set out in this document.

2. Contract Manager

- 2.1. The NRF appoints a contract manager and notifies the other party in writing of the name and contact details of the appointed contract manager.

3. Contract Communication

- 3.1. The NRF communicates all communications in writing as well as through email.
- 3.2. The NRF maintains all contract documentation, correspondence, etc. in a defined contract file open for inspection.
- 3.3. The NRF states the contract number with secondary reference numbers i.e. purchase numbers on all communication, documentation such as purchase orders issued, etc. The NRF will consider any communication without the contract number on as not being legal communication between the parties and not enacted on by either party as a protection against fraud.

4. Communicating “As and When” in terms of the specific contract clauses

- 4.1. Where prices and/or availability need to be confirmed, a request for an updated detail quotation/information is issued and the Project Leader must complete a B52 (Request for Order). The detailed quotation together with the signed B52 must be submitted to Supply Chain Management Office for processing;
- 4.2. Where specific procurement items as specified in the contract are required, the NRF issues a purchase order stating the contract number for the requirement.
- 4.3. Such purchase order has the following detail (where this is not provided, the purchase order is not a valid communication in terms of this contract):
 - 4.3.1. Purchase Order Number
 - 4.3.2. Contract Number
 - 4.3.3. Quantity
 - 4.3.4. Description of the required procurement. Where detailed, reference must be made to the relevant technical document attached;
 - 4.3.5. Catalogue number if applicable;
 - 4.3.6. Unit price per this contract;
 - 4.3.7. Delivery Date;
 - 4.3.8. Business unit code; and
 - 4.3.9. The specific delivery site.

5. Communicating where incidental services are required as listed in this document

- 5.1. Incidental services are specified in the incidental services clause
- 5.2. Incidental services are priced in accordance with the incidental clause where such prices have not been set in the SBD form.

6. Communicating where spare parts are required as listed in this document

- 6.1. The spare parts services are specified in the spare parts clause

7. Performance Management

- 7.1. The NRF measures performance throughout the contract life.
- 7.2. The NRF has regular performance review with the contractor.
- 7.3. Where severe non-performance occurs will terminate the contract earlier in consultation with the contractor.

12. CONTRACTED BIDDER

8. Managing the Contract

- 8.1. The contracted party manages this contract fairly and objectively in accordance to the terms and conditions set out in this document.
- 8.2. The Service Provider will supervise and exercise proper control over its personnel and shall not hold the iThemba LABS liable for any loss or injury caused to the said personnel. The Service Provider will seek to resolve any problems relating to its personnel in line with the laws of the country (e.g. Labour Laws).

9. Contract Manager

- 9.1. The contracted party appoints a contract manager and notifies the NRF in writing of the name and contact details of the appointed contract manager.

10. Communication

- 10.1. The contracted party communicates in writing and through email.
- 10.2. The contracted party always state the contract number on communication, documentation such as correspondence, purchase orders issued, etc. and will not act upon any communication without the contract number or must verify such communication with the NRF prior to acting upon it.

11. Managing Stages (if applicable), Delivery Scheduling (if applicable), Milestones (if applicable)

- 11.1. Where different stages apply, the contracted party communicates in writing the commencement of the stage to the NRF.

12. Health and Safety Requirements

- 12.1. In terms of the Occupational Health and Safety Act (OHS Act No 85 of 1993 and its Regulations), the contracted supplier is responsible for the health and safety of its employees and those other people affected by the operations of the supplier.
- 12.2. The contracted supplier ensures all work performed and/or equipment used on site complies with the Occupational Health and Safety Act (OHS Act No 85 of 1993 and its Regulations).
- 12.3. To this end, the contracted supplier shall make available to NRF the valid letter of good conduct and shall ensure that its validity does not expire while executing this bid.
- 12.4. Prior to commencement of any work the contractor needs to complete an Indemnity form, the iThemba LABS Contractual obligations form and will be required to attend a Contractors Health and Safety induction prior to commencement of any works.

13. BID SUBMISSION CERTIFICATE FORM

I hereby undertake to supply all or any of the goods, works, and services described in this procurement invitation to the NRF in accordance with the requirements and specifications stipulated in this Bid Invitation document at the price/s quoted.

My offer remains binding upon me and open for acceptance by the NRF during the validity period indicated and calculated from the closing time of Bid Invitation.

The following documents are deemed to form and be read and construed as part of this offer / bid even where integrated in this document:

Invitation to Bid	Specification(s) set out in this Bid Invitation inclusive of any annexures thereto
Bidder's responses to this invitation as attached to this document	Pricing Schedule(s) including detailed schedules attached

		CSD / Tax clearance letter
	Bidder's Disclosure (SBD4);	
	Preference (SBD 6.1) claims for Broad Based Black Economic Empowerment Status Level of Contribution in terms of the Preferential Procurement (SBD6.1) and the BBBEE certificate	
	Conditions of contract as set out in this document (GCC)	
	I confirm that I have satisfied myself as to the correctness and validity of my offer / bid in response to this Bid Invitation; that the price(s) and rate(s) quoted cover all the goods, works and services specified in the Bid Invitation; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.	
	I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me in terms of this Bid Invitation as the principal liable for the due fulfilment of the subsequent contract if awarded to me.	
	I declare that I have had no participation in any collusive practices with any Bidder or any other person regarding this or any other Bid.	
	I certify that the information furnished in these declarations (SBD4, SBD6.1, SBD 6.2 where applicable) is correct and I accept that the NRF may reject the Bid or act against me should these declarations prove to be false.	
	I confirm that I am duly authorised to sign this offer/ bid response.	
NAME (PRINT)		
CAPACITY		
SIGNATURE		
Witness 1		
NAME		
SIGNATURE		
Witness 2		
NAME		
SIGNATURE		
DATE		

ANNEXURE A: BOQ

ANNEXURE B – ARCHITECTURAL DRAWINGS

ANNEXURE C: CONSTRUCTION NOTES AND SPECIFICATIONS OF SUNDRIES