

**GEORGE MUNICIPALITY
DIRECTORATE: CIVIL ENGINEERING SERVICES
TENDER NUMBER: T/ING/025/2022
UPGRADING OF INDUSTRIAL WATER PIPELINE – DENNEOORD**

The Contract

Part C1: Agreement and Contract Data

CONTENTS

Number	Heading
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C1.2	Contract Data
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C1.4	Occupational Health and Safety Agreement
C1.5	Protection of the Environment Declaration
C1.6	Insurance Brokers Warranty

C1.1: FORM OF OFFER AND ACCEPTANCE

Offer

The employer, identified in the acceptance signature block, has solicited offers to enter into a contract for the procurement of:

Contract No T/ING/025/2022: UPGRADING OF INDUSTRIAL WATER PIPELINE - DENNEOORD

The tenderer, identified in the offer signature block, has examined the documents listed in the tender data and addenda thereto as listed in the returnable schedules, and by submitting this offer has accepted the conditions of the tender.

By the representative of the tenderer, deemed to be duly authorized, signing this part of this form of offer and acceptance, the tenderer offers to perform all of the obligations and liabilities of the contractor under the contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the conditions of contract identified in the contract data.

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

Four million Five hundred and twenty six thousand and eight and ninety one Rand and five cents Rand (in words);

R 4 526 891.05 (in figures) (or other suitable wording)

This offer may be accepted by the employer by signing the acceptance part of this form of offer and acceptance and returning one copy of this document to the tenderer before the end of the period of validity stated in the tender data, whereupon the tenderer becomes the party named as the contractor in the conditions of contract identified in the contract data.

Signature(s)	<i>[Signature]</i>		
Name(s)	Chung M. Mgoboli		
Capacity	Director		
for the tenderer	Emihle Live (Pty) Ltd		
	(Name and address of Tenderer)		
Name and signature of witness	HLENGWE MLANGEN <i>[Signature]</i>	Date	18/11/2022

Acceptance

By signing this part of this form of offer and acceptance, the **Employer** identified below accepts the tenderer's offer. In consideration thereof, the employer shall pay the contractor the amount due in accordance with the conditions of the contract identified in the contract data. Acceptance of the tenderer's offer shall form an agreement between the employer and the tenderer upon the terms and conditions contained in this agreement and in the contract that is the subject of this agreement.

The terms of the contract, are contained in:

Part C1 Agreements and contract data, (which includes this agreement)

Part C2 Pricing data

Part C3 Scope of work

Part C4 Site information and drawings and documents or parts thereof, which may be incorporated by reference into the above listed Parts.

Deviations from and amendments to the documents listed in the tender data and any addenda thereto as listed in the returnable schedules as well as any changes to the terms of the offer agreed by the tenderer and the employer during this process of offer and acceptance, are contained in the schedule of deviations attached to and forming part of this form of offer and acceptance. No amendments to or deviations from said documents are valid unless contained in this schedule.

The tenderer shall within two weeks after receiving a completed copy of this agreement, including the schedule of deviations (if any), contact the employer's agent (whose details are given in the contract data) to arrange the delivery of any securities, bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the conditions of contract identified in the contract data. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this agreement.

Notwithstanding anything contained herein, this agreement comes into effect on the date when the tenderer receives one fully completed original copy of this document, including the schedule of deviations (if any). Unless the tenderer (now contractor) within five (5) working days of the date of such receipt notifies the employer in writing of any reason why he/she cannot accept the contents of this agreement, this agreement shall constitute a binding contract between the parties.¹


Signature(s)			
Name(s)	Johannes Franciscus Koegelenberg		
Capacity	Director Civil Engineering Services		
for the Employer			
	(Name and address of Employer)		
Name and signature of witness		Date	2023-08-10

GEORGE MUNICIPALITY
DIRECTORATE: CIVIL ENGINEERING SERVICES
TENDER NUMBER: T/ING/025/2022
UPGRADING OF INDUSTRIAL WATER PIPELINE - DENNEOORD
Schedule of Deviations

Notes:

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

1	Subject _____
	Details _____
2	Subject _____
	Details _____
3	Subject _____
	Details _____
4	Subject _____
	Details _____



By the duly authorised representatives signing this agreement, the employer and the tenderer agree to and accept the foregoing schedule of deviations as the only deviations from and amendments to the documents listed in the tender data and addenda thereto as listed in the returnable schedules, as well as any confirmation, clarification or changes to the terms of the offer agreed by the tenderer and the employer during this process of offer and acceptance.

It is expressly agreed that no other matter whether in writing, oral communication or implied during the period between the issue of the tender documents and the receipt by the tenderer of a completed signed copy of this Agreement shall have any meaning or effect in the contract between the parties arising from this agreement.

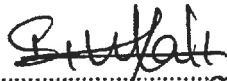
GEORGE MUNICIPALITY
DIRECTORATE: CIVIL ENGINEERING SERVICES
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UPGRADING OF INDUSTRIAL WATER PIPELINE - DENNEOORD

Confirmation of Receipt

The tenderer, (now contractor), identified in the offer part of this agreement hereby confirms receipt from the employer, identified in the acceptance part of this agreement, of one fully completed original copy of this agreement, including the schedule of deviations (if any) today:

the 16 (day)
of August (month)
20 23 (year)
at Port Shepstone (place)

For the Contractor:

Signature(s) 
Name(s) Chuma Mqoboli
Capacity Director

Signature and name of witness:

Name and Signature of Witness  Date 16-08-23

C1.2: CONTRACT DATA (PART 1)

The General Conditions of Contract for Construction Works, 3rd edition (2015), published by the South African Institute of Civil Engineering (SAICE), hereinafter referred to as the GCC 2015, is applicable to this contract and is obtainable from www.saice.org.za.

Copies of these conditions of contract may be obtained on the tenderers own cost from SAICE.

PART 1: CONTRACT SPECIFIC DATA PROVIDED BY THE EMPLOYER

The General Conditions of Contract (GCC) 2015 is amended by the numbered clauses set out below, as follows:
 (i) where the General Conditions of Contract (GCC) 2015 contains no provision with the corresponding clause number, the clause set out herein is inserted into the Contract; and
 (ii) where the General Conditions of Contract (GCC) 2015 contains a provision with the corresponding clause number, it is amended or replaced, as set out herein.

Save as amended in terms of this document, the provisions of the GCC 2015 shall remain unchanged.

Clause	Description / Wording																				
1.1.1.5	The Commencement date means the date the Contractor receives a copy of the signed form of offer and acceptance and schedule of deviations (if applicable), unless otherwise agreed.																				
1.1.1.13	The Defects Liability period is 12 months, measured from the issue of the Certificate of Completion.																				
1.1.1.14	The time for achieving practical completion is <u>152</u> days.																				
1.1.1.15	The Employer is the George Municipality.																				
1.1.1.16	The Employers Agent is SMEC South Africa (Pty) Ltd, represented by an employee authorised to do so. <u>Add the following to the Clause:</u> Any reference to the term "Engineer" in this contract shall inter alia mean "Employers Agent".																				
1.1.1.17	<u>Add the following to the Clause:</u> Any reference to the term "Engineers Representative or Resident Engineer" in this contract shall inter alia mean "Employers Agent Representative".																				
1.1.1.26	The pricing strategy for this contract is re-measurable.																				
1.1.1.35	<u>Add the following new Clause:</u> Parties means the Contractor and the Employer.																				
1.1.1.36	<u>Add the following new Clause:</u> Critical Path means the sequence of work tasks that determines the minimum time/duration needed to complete a project.																				
1.1.1.37	<u>Add the following new Clause:</u> Temporary works means any work required for or in connection with the execution of the Permanent Works which includes falsework, formwork, support work, scaffold, shoring or other temporary structures designed to provide support or means of access during construction work.																				
1.2.1.2	<u>The Employers address is:</u> <table style="width: 100%; border: none;"> <tr> <td style="width: 30%;">Postal Address:</td> <td style="width: 30%;">P.O. Box 19</td> <td style="width: 20%;">Physical Address:</td> <td style="width: 20%;">71 York street</td> </tr> <tr> <td></td> <td>George</td> <td></td> <td>Central</td> </tr> <tr> <td></td> <td>6530</td> <td></td> <td>George</td> </tr> <tr> <td></td> <td></td> <td>Telephone:</td> <td>+27 44 801 9111</td> </tr> <tr> <td>Email address</td> <td colspan="3">avmolendorff@george.gov.za</td> </tr> </table>	Postal Address:	P.O. Box 19	Physical Address:	71 York street		George		Central		6530		George			Telephone:	+27 44 801 9111	Email address	avmolendorff@george.gov.za		
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		Telephone:	+27 44 801 9111																		
Email address	avmolendorff@george.gov.za																				

Clause	Description / Wording
	<p><u>The Employer's Agent address:</u></p> <p>Postal Address: P.O. Box 10633 Physical Address: 13 Progress Street George 6530 Dormehlsdrift George 6529</p> <p>Telephone: +27 44 873 5029</p> <p><u>Email address</u> <u>barry.bartlett@smec.com</u></p>
1.2.1.3	<p><u>Add the following new Clause:</u> Electronically mailed to the parties as per the email addresses provided.</p>
3.2.3	<p>The Employers Agent shall obtain specific approval from the Employer before carrying out any of his functions or duties according to the following clauses of the General Conditions of Contract (GCC) 2015:</p> <p>3.2.1 Nomination of persons as Employers Agent 3.3.1 Nomination of persons as Employers Agent Representative 5.7.2 Night Work 5.8 Non-working times 5.12 Granting of extension of time 5.13 Reduction of penalty for delay 5.14.2 The issue of a certificate of practical completion 5.14.4 The issue of a certificate of completion 5.16.1 The issue of a final approval certificate 6.3 Any variation order or the use of contingencies 6.6 Instruction to expend on provisional sums and prime cost sums 6.11 Adjustment of preliminary and general items and approval of claims 8.2.2.2 Order to repair and make good damage arising from any excepted risk</p>
3.2.4	<p>The Employer has employed an independent Health and Safety Agent on this contract in terms of the Construction Regulations, 2014 as promulgated in terms of section 43 of the Occupational Health and Safety Act, 1993.</p> <p>The Contractor shall prepare a Health and Safety Plan in accordance with the Employer's Occupational Health and Safety Specification and Baseline Risk Assessment and submit such to the appointed Health and Safety Agent for legal compliance, assessment and verification / approval prior to any works including site establishment commencing.</p> <p>The duly appointed Health and Safety Agent will be responsible for further monitoring and the auditing of the approved Health and Safety plan monthly for legal compliance.</p>
4.1.3	<p><u>Add the following new Clause:</u></p> <p>The Contractor and his Designer shall accept full responsibility and liability for compliance with the Occupation Health and Safety Act (Act 85 of 1993) and the Construction Regulations 2014 for the design of the Temporary Works and those parts of the Permanent Works which the Contractor is responsible to design in terms of the Contract.</p> <p>Such responsibility shall be that the relevant part of the Temporary Works shall be fit for such purposes for which it is intended and, the Contractor shall, notwithstanding approval by the Employer's Agent, be liable for any error or deficiency in any drawing or document supplied by him for that part of the Works, and any loss or damage arising out of such error or deficiency.</p> <p>The Contractor shall provide the following to the Engineer for retention by the Employer or his assignee in respect of all Works designed by the Contractor:</p>

Clause	Description / Wording
	<p>4.1.3.1. A Certificate of Stability of the Works signed by a Professional person in the Built Environment and registered with the Engineering Council of South Africa in a field appropriate to the Works signed-off.</p> <p>4.1.3.2. Proof of registration and of adequate and current professional indemnity insurance cover held by the designer(s)</p> <p>4.1.3.3. Design calculations should the Engineer request a copy thereof.</p> <p>4.1.3.4. Engineering drawings and workshop details (both signed by the relevant professional person), in order to allow the Engineer to compare the design with the specified requirements and to record any comments he may have with the respect thereto.</p> <p>4.1.3.5. "As-built" drawings in DXF electronic format upon practical completion of the Works.</p>
4.3.1	<p><u>The Contractor shall inter alia comply with:</u></p> <ul style="list-style-type: none"> a) The Basic Conditions of Employment Act, 1997 (Act No 75 of 1997), as per Government Notice R63 of 25 January 2022 b) The Compensation for Occupational Injuries and Diseases Act, 1993 (Act 130 of 1993) c) National Environmental Management Act (NEMA), 1998 (Act 107 of 1998) d) Occupational Health and Safety Act, 1993 (Act 85 of 1993) e) Section 37(2) Mandatory agreement between Employer and Contractor f) Construction Regulations 2014 g) Site Specific Health and Safety Specifications and Baseline Risk assessment prepared by the Employer in terms of the Construction Regulations 2014. h) Environmental Management Program (if applicable)
4.3.4	<p><u>Add the following new clause:</u> Contractor to notify the Employer</p> <p>The Employer retains an interest in all enquiries conducted under this Contract in terms of Section 31 and /or 32 of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993) and its Regulations following any incident involving the Contractor and/or sub-Contractor and/or their employees. The Contractor shall notify the Employer in writing of all investigations, complaints or criminal charges which may arise pursuant to the work performed under this Contract in terms of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993).</p>
4.5.2	<p><u>Replace the contents of this Clause with the following:</u></p> <p>The Employer Shall be responsible for obtaining any planning approval required in respect of the Permanent Works. In respect of Temporary Works, the Contractor shall be responsible for obtaining any planning approval required.</p>
4.11.3	<p><u>Add the following new Clause:</u></p> <p>The Contractor may not substitute any personnel originally offered or subsequently approved throughout the Contract period without the approval of the Employers Agent.</p> <p>If the Contractor wishes to replace or substitute a person, the person replacing the said person shall be of equal experience and qualification or higher.</p>
4.12.1	<p><u>Add the following to the clause:</u></p> <p>The Contractors appointed Health and Safety Officer, Construction Manager and General Foreman shall be on-site at all times when work is being performed.</p> <p>Notwithstanding the requirements of this Clause, the Contractors appointed Construction Manager, Foreman and Health and Safety Officer shall be solely dedicated to this Contract.</p>

Clause	Description / Wording							
5.3.1	<p>The documentation required before the commencement of the works is carried out:</p> <ul style="list-style-type: none"> • Health and Safety Plan (Refer to Clause 4.3) • Signed agreement in terms of the provisions of Section 37(2) of the Occupational Health and Safety Act (No. 85 of 1993) and the Construction Regulations promulgated thereunder. • Initial programme (Refer to Clause 5.6) and cash flow • Security (Refer to Clause 6.2) • Insurance (Refer to Clause 8.6) • Letter of Good Standing from the Workmen Compensation Fund (UIF) (if not insured with a Licensed Compensation Insurer) • Letter of Good Standing with the Bargaining Council for the Civil Engineering Industry (BCCEI) • CV's and Qualifications of key personnel, or confirmation of the personnel as offered remains unchanged • Risk register <p>Commencement of works shall take place within 28 days of the commencement date.</p>							
5.3.2	<p>The documentation shall be submitted as follows:</p> <table border="1" data-bbox="387 913 1375 1133"> <tr> <td data-bbox="387 913 839 965">Health and Safety Plan</td> <td data-bbox="839 913 1375 965" rowspan="2">: Within 7 days of the commencement date</td> </tr> <tr> <td data-bbox="387 965 839 1003">Section 37(2) Mandatory Agreement</td> </tr> <tr> <td data-bbox="387 1003 839 1041">Performance Guarantee</td> <td data-bbox="839 1003 1375 1041" rowspan="3">: Within 14 days of the commencement date</td> </tr> <tr> <td data-bbox="387 1041 839 1079">Initial Programme</td> </tr> <tr> <td data-bbox="387 1079 839 1133">Insurances</td> </tr> </table>	Health and Safety Plan	: Within 7 days of the commencement date	Section 37(2) Mandatory Agreement	Performance Guarantee	: Within 14 days of the commencement date	Initial Programme	Insurances
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Initial Programme								
Insurances								
5.4.2	<p>Access to and possession of the Site shall not be exclusive to the Contractor.</p> <p>The Contractor shall upon approval of the requirements stated in Clause 5.3.1 be granted access to establish site (site camp). Upon 100% completion of the site camp or to the satisfaction of the Employer's Agent, access to and possession of the remainder of the site will be granted.</p> <p>The Contractor shall bear all costs and charges for special and temporary rights of way required by him in connection with access to the site. The Contractor shall also provide at his own cost any additional facilities outside the site required by him for the purpose of the works.</p>							
5.6.2.8	<p><u>Add the following new clauses after Clause 5.6.2.7</u></p> <p>The Critical Path including the links between all predecessors and successors for activities on the critical path including float.</p>							
5.6.2.9	<p>Health and Safety requirements such as but not limited to Health and Safety Plan, medicals, inductions etc. indicated as milestone items.</p>							
5.6.4.3	<p><u>Add the following new Clause after Clause 5.6.4.2:</u></p> <p>With each extension of time claim.</p>							
5.8.1	<p>Delete the words "between sunset and sunrise" in the first line and replace with "outside normal working hours".</p> <p><u>Add the following to the clause:</u></p> <p>Normal working hours shall be those as stated in the applicable Sectorial Determination applicable to a 5 (five) day week (Monday to Friday) from 07:00 to 17:00.</p> <p>Non-working days are Saturdays and Sundays.</p> <p><u>Special non-working days are:</u></p>							

Clause	Description / Wording
	<ul style="list-style-type: none"> • Any statutory public holiday in terms of the Public Holidays Act, and, where such statutory public holiday falls on a Sunday, and the next Monday subsequently becomes a statutory public holiday in terms of the Public Holidays Act, then both the relevant Sunday and the relevant Monday shall be special non-working days under the contract, • Any proclaimed statutory election day which is proclaimed as a statutory public holiday any proclaimed statutory day of mourning • All annual year-end shutdown periods as recommended by the South African Forum of Civil Engineering Contractors (SAFCEC), up to a maximum of 25 calendar days (including special non-working days).
5.8.1.5	<p><u>Add the following new Clause after Clause 5.8.1.4:</u></p> <p>The cost of supervision by the Employer's Agent or his/her Representative outside of normal working hours (Monday to Friday) in accordance with this Clause shall be to the Contractor's account.</p>
5.12.5	<p><u>Add the following new clause:</u></p> <p>Extension of time due to Abnormal Rainfall</p> <p>Extension of time for Practical Completion of the Contract in the event of abnormal rainfall shall only be allowed in accordance with the following formula. No additional extension of Time for Practical Completion caused by abnormal climatic conditions will be allowed, irrespective of the cause thereof or the effect it may have on the execution of the Works:</p> $V = (N_w - N_n) + (R_w - R_n)/20$ <p><i>Where:</i></p> <p>V = Extension of time in calendar days for the calendar month under consideration</p> <p>N_w = Actual number of days during the calendar month under consideration on which a rainfall of 10mm and more is recorded</p> <p>R_w = Actual total rainfall in mm recorded during the calendar month under consideration</p> <p>N_n = Average number of days, derived from rainfall records, on which a rainfall of 10mm and more was recorded during the relevant calendar month as per the data tabulated hereinafter</p> <p>R_n = Average total rainfall in mm for the relevant calendar month, derived from rainfall records, as tabulated hereinafter</p> <p>Where the extension of time due to abnormal rainfall has to be calculated for a portion of a calendar month, pro rata values shall be used. Should V be negative for any particular month, and should its absolute value exceed the corresponding value of N_n, then V shall be taken as being equal to minus N_n. The total extension of time to be granted shall be the algebraic sum of all the monthly extensions, provided that if this total is negative then the time for completion shall not be reduced due to subnormal rainfall.</p> <p>Rainfall records for the period of construction shall be taken on Site. The Contractor shall provide and install all the necessary equipment for accurately measuring the rainfall. The Contractor shall also provide, erect and maintain a security fence plus gate, padlock and keys at each measuring station, all at his own cost. The Employer's Agent or his Representative shall take and record the daily rainfall readings. The Contractor shall be</p>

Clause	Description / Wording																																										
	<p>permitted to attend these readings, in the company of the Employer's Agent's Representative. Access to the measuring gauge(s) shall at all times be under the Employer's Agent's control.</p> <p>The rainfall records applicable to this Contract are those recorded at Weather Station George International Airport. The following values of N_n and R_n shall apply:</p> <table border="1" data-bbox="488 548 1029 1111"> <thead> <tr> <th>Month</th> <th>R_n (mm)</th> <th>N_n (days)</th> </tr> </thead> <tbody> <tr><td>January</td><td>65</td><td>1.9</td></tr> <tr><td>February</td><td>57</td><td>1.9</td></tr> <tr><td>March</td><td>62</td><td>1.7</td></tr> <tr><td>April</td><td>47</td><td>1.5</td></tr> <tr><td>May</td><td>46</td><td>1.3</td></tr> <tr><td>June</td><td>64</td><td>2.0</td></tr> <tr><td>July</td><td>70</td><td>1.8</td></tr> <tr><td>August</td><td>65</td><td>1.6</td></tr> <tr><td>September</td><td>50</td><td>1.2</td></tr> <tr><td>October</td><td>87</td><td>2.5</td></tr> <tr><td>November</td><td>124</td><td>2.7</td></tr> <tr><td>December</td><td>61</td><td>1.8</td></tr> <tr><td>Totals</td><td>798</td><td>21.9</td></tr> </tbody> </table> <p>The time period specified as the time for completion includes allowances for those days on which it is expected that work, on the critical path items of the works, would be prevented due to abnormal climatic conditions such as wind, rain or the subsequent waterlogged conditions.</p> <p>The Employers Agent shall upon considering all the relevant factors determine the extension of time to be granted on the basis that an extension of time to the contract will only be granted if the total number of days upon which work on the critical path was prevented exceeds the total number of days calculated in terms of the above allowance and considering the official contract period as a whole.</p>	Month	R_n (mm)	N_n (days)	January	65	1.9	February	57	1.9	March	62	1.7	April	47	1.5	May	46	1.3	June	64	2.0	July	70	1.8	August	65	1.6	September	50	1.2	October	87	2.5	November	124	2.7	December	61	1.8	Totals	798	21.9
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5.12.2.4	<p><u>Amend the Clause to read as follows:</u> Any disruption which is entirely beyond the Contractor's control except for internal unrest (contractor's own permanent and limited duration contract workers or his subcontractor's labour) disruptions, strikes, lockouts etc.</p>																																										
5.12.6	<p><u>Add the following new Clause:</u> A delay in so far as the extension of time is concerned, will be regarded as a delay only if, on a claim by the Contractor in accordance with the General Conditions of Contract or the Contract Data, the Employers Agent rules that all progress on an item or items of work on the critical path of the approved programme for carrying out the Works of the Contractor, has been brought to a halt. Delays on normal working days only, based on a working week of five normal working days, will be taken into account for the extension of time.</p>																																										
5.13.1	The penalty for failing to complete the whole of the works is R3 500.00 per day.																																										
5.14.1	The requirements for Practical Completion shall be as prescribed in Clause 1.1.1.14.																																										

Clause	Description / Wording
5.14.2	<p><u>Add the following to the end of the Clause:</u> The Contractor shall be afforded 28 days to complete the further written list setting out the work to justify completion.</p> <p>The Contractor shall be liable to the Employer for the sum stated in clause 5.13.1 as a penalty for every day that lapses upon the expiry of the 28 days.</p>
5.14.4	<p><u>Add the following to the end of the Clause:</u> The Contractor shall be liable to the Employer for the sum stated in clause 5.13.1 as a penalty for every day that elapses between the date stated for completion of works specified on the Certificate of Completion and 28 Days after the issue of the aforementioned date.</p>
5.14.5.1	<p>Consequences of Completion <u>Amend Clause 5.14.5.1 as follows:</u> In the second line, substitute the word 'Guarantor' with 'Contractor'.</p>
5.16.3	<p>The latent defect period is 10 years, commencing on the Day after the date of certification of the Final Approval Certificate.</p>
6.2.1	<p><u>Amend the wording of the Clause as follows:</u> <u>Replace:</u> "...due performance of the contract, as selected in the..." <u>With:</u> "...due performance of the contract, as stated in the..."</p> <p>The security to be provided by the Contractor shall be a fixed performance guarantee of ten percent (10%) of the contract sum (including VAT).</p> <p>The performance guarantee shall be provided by a Bank or Insurance Company approved by the Employer. Guarantees submitted must be issued by either an insurance company duly registered in terms of the Short-Term Insurance Act, 1998 (Act 35 of 1998) or by a bank duly registered in terms of the Banks Act, 1990 (Act 94 of 1990) on the pro forma attached as Annexure A to the Contract Data. No alterations or amendments to the wording of the pro forma will be accepted.</p> <p>The performance guarantee shall be jointly and severally bound with the Contractor, in accordance with the provisions of the form of guarantee. Any other form of security including a retention money guarantee is not permitted.</p> <p>The Contractor shall ensure the performance guarantee remain valid and in full force until the Certificate of Completion is issued.</p>
6.2.3	<p><u>Replace the contents of Clause 6.2.3 with the following:</u> The Contractor shall ensure that the fixed performance guarantee remains valid and enforceable until the issue of the Certificate of Completion.</p>
6.8.2	<p>The application of a Contract Price Adjustment factor will not apply to this Contract.</p>
6.8.3	<p>Price Adjustments for variations in the cost of special materials will not be allowed.</p>
6.10.1.5	<p><u>Remove the following from the Clause:</u> "...not yet supplied to Site or..."</p> <p><u>Add the following to the clause:</u> The percentage advance on materials on site not yet built into the permanent works is 80%.</p>
6.10.1.7	<p><u>Add the following to the Clause:</u> "or any other fines or penalties that become due under the contract."</p>
6.10.3	<p><u>Replace the contents of Clause 6.10.3 with the following:</u> Payment of the amounts referred to in Clause 6.10.1.1, 6.10.1.2, 6.10.1.3 and 6.10.1.4 shall be subject to a retention deduction by the Employer of an amount (retention money) being the percentage retention stated in the Contract Data, of the said amounts due to the</p>

Clause	Description / Wording
	<p>Contractor, until the retention money reaches the "limit of retention" stated in the Contract Data.</p> <p>The percentage retention shall be ten percent (10%) of payments due up to the limit of retention money which shall be five percent (5%) of the contract sum.</p>
6.10.4.1	<p><u>Add the following new clause:</u></p> <p>"The contractor is required to submit the complete, correct and signed monthly Expanded Public Works Programme (EPWP) reports, attached to this tender document as Annexure E, together with the monthly payment certificate.</p> <p>Payment to the contractor will not be processed until the EPWP reporting for the specific month is provided. In addition, a penalty for late submission of R1 500.00 per day will be applicable for every day after the 5th day of the month following the reporting month."</p>
6.10.6.2	<p><u>Replace Clause 6.10.6.2 with the following new Clause:</u></p> <p>No interest shall be payable to the Contractor upon any money retained or overdue in terms of the Contract.</p>
7.2.1	<p><u>Add the following to the end of Clause 7.2.1:</u></p> <p>Unless otherwise directed in writing by the Employer's Agent, materials for permanent works shall be new and unused.</p>
8.3.1.12	<p><u>Replace the contents of Clause 8.3.1.12 as follows:</u></p> <p>The design, specification or instruction of the Employers Agent, Employer (represented by an employee authorised to do so), or defects in the materials supplied by the Employer for incorporation in the Works.</p> <p>The number of claims during the construction and Defects Liability Periods shall be unlimited.</p>
8.6.1.6	<p><u>The Contractor and his/her Subcontractors shall provide as a minimum the following:</u></p> <ol style="list-style-type: none"> a) Proof of registration with the Department of Labour as an Employer in terms of the Compensation for Occupational Injuries and Diseases Act 130 of 1993 b) Common Law Liability Insurance for the duration of the contract period and with a minimum limit of indemnity of not less than R1 000 000 for any one incident c) Insurance on all risk basis for construction plant, equipment and other things (except those intended for incorporation into the works) brought onto the site to the full value of such construction plant, equipment and other things d) Motor vehicle liability insurance, comprising a minimum balance of third-party motor risks, including passenger liability subject to a minimum limit of R2.5 million e) Where the Contract involves manufacturing and/or fabrication of the works or part thereof at premises other than the site, the Contractor shall satisfy the Employer that all materials and equipment for incorporation in the works are adequately insured during manufacture and/or fabrication. In the event of the Employer having an insurable interest in such works during manufacture or fabrication, then such interest shall be noted by endorsement to the Contractors insurance policy. f) Lateral support liability insurance g) Imported equipment or component parts or materials to be supplied in terms of this contract which require any process of assembly or finishing in South Africa prior to delivery to the site are to be insured by the Contractor up to the commencement of transit to the site of the assembled or finished equipment, component parts or materials, unless special arrangements are made with the Employer. h) Contract works insurance for the contract works including temporary works erected or in the course of erection and all materials for incorporation therein for the agreed and accepted contract value as a minimum plus a maximum of 25% escalation including SASRIA insurance. i) Public liability (third party) insurance for the duration of the contract period and with a minimum limit of indemnity of not less than R10 000 000 for any one incident. The

Clause	Description / Wording
	<p>number of claims during the construction and Defects Liability Periods shall be unlimited.</p> <p>These insurances shall be maintained in force for the duration of the Contract including the defects liability period, and in respect of subcontractors, the Contractor shall be deemed to have complied with the provisions of the requirements relating to insurance by ensuring that his/her subcontractors have affected such insurance.</p>
8.6.4	<p><u>Replace the contents of this Clause with the following:</u> The Contractor may affect, at his own cost, any insurance additional to that stated in the Contract Data which he deems necessary in his own interests. The Employer reserves the right to call for full information regarding such insurance.</p>
8.6.6	<p><u>Add the following new Clause:</u> The insurance to be provided by the Contractor and his/her subcontractors shall be effected with Insurers in terms approved by the Employer (which approval shall not unreasonably be withheld) and the Contractor shall, if required by the Employer, produce to the Employer the policy or policies of insurance and the receipts for payment of the current premiums throughout the contract duration.</p>
8.6.7	<p><u>Amend the Clause as follows:</u> <u>Replace:</u> "...and the Employer shall be entitled to recover such amounts paid from the Contractor". <u>With:</u> "...and from time to time, deduct the amount paid by the Employer from the monthly payment certificates or from any monies due or which may become due to the Contractor or recover same as a debt from the Contractor".</p>
8.6.8	<p><u>Add the following new Clause:</u> Submission of a Tender shall be deemed as acceptance by the Contractor that he is satisfied with the scope of the insurance effected by the Employer.</p>
9.2.1.3.2	<p><u>Add the following to the Clause:</u> or to maintain the performance guarantee until the issue of the Certificate of Completion.</p>
9.2.1.3	<p><u>Add the following new Clauses after 9.2.1.3.8:</u> 9.2.1.3.9 Has benefitted from an official or other role player committing any corrupt or fraudulent act during the tender process or in the execution of the Contract.</p>
10.3.2	<p><u>Add the following to the clause:</u> Amicable settlement in terms of Clause 10.4 shall be followed for all disputes prior to referring any dispute to adjudication or arbitration. The parties may appoint an impartial third party to assist with the amicable settlement, but this is optional and is subject to a written agreement between the parties.</p>
10.5.3	<p>The number of Adjudication Board Members to be appointed is one (1).</p>
11	<p>Additional Contract Conditions</p>
	<p><u>Add the following new Clauses to the Contract:</u></p>
11.1	<p>Details to be confidential The Contractor shall treat the details of the Works comprised in this Contract as private and confidential (save in so far as may be necessary for the purposes thereof) and shall not publish or disclose the same or any particulars thereof in any trade or technical paper elsewhere without the prior written consent of the Employer.</p>
11.2	<p>Fine(s) for Health and Safety and/or Environmental non-conformance/non-compliance The Contractor shall be subjected to a fine for all health and safety and/or environmental non-conformances/non-compliances based on the outcome of the monthly audits as follows:</p> <ul style="list-style-type: none"> • Finding(s) in the audit of month 1 is considered as a warning to the contractor. The contractor must affect the necessary changes to correct the non-conformance(s)/non-compliance(s) by the date of the following audit.

Clause	Description / Wording												
	<ul style="list-style-type: none"> • Finding(s) in the audit of month 2 is considered as an official non-conformance(s)/non-compliance(s). • Finding(s) in the audit of month 3 are considered as a recurring non-conformance(s)/non-compliance(s) and the contractor will be charged a penalty of R2 000.00 for each non-conformance/non-compliance finding. <p><u>Example:</u></p> <table border="1" data-bbox="386 546 1329 927"> <thead> <tr> <th data-bbox="386 546 858 636">Description</th> <th data-bbox="858 546 1329 636">Amount (per non-conformance finding)</th> </tr> </thead> <tbody> <tr> <td data-bbox="386 636 858 692">Month 1 warning of non-conformance</td> <td data-bbox="858 636 1329 692">R0</td> </tr> <tr> <td data-bbox="386 692 858 748">Month 2 official non-conformance</td> <td data-bbox="858 692 1329 748">R0</td> </tr> <tr> <td data-bbox="386 748 858 804">Month 3 recurring non-conformance</td> <td data-bbox="858 748 1329 804">(R2 000.00) x 1 = R2 000.00</td> </tr> <tr> <td data-bbox="386 804 858 860">Month 4 recurring non-conformance</td> <td data-bbox="858 804 1329 860">(R2 000.00) x 2 = R4 000.00</td> </tr> <tr> <td data-bbox="386 860 858 927">Month 5 recurring non-conformance</td> <td data-bbox="858 860 1329 927">(R2 000.00) x 3 = R6 000.00</td> </tr> </tbody> </table> <p><u>Note:</u> Recurring non-conformances/non-compliances do not have to take place consecutively for the penalty to be charged and each non-conformance/non-compliance will be charged individually. Recurring non-conformance/non-compliance findings will be charged to the contractor as per the following formula: $f(x) = R2\ 000.00 \times (x)$ where (x) is the number of recurrences of the non-conformance. The penalty will be charged to the contractors' monthly payment certificate."</p>	Description	Amount (per non-conformance finding)	Month 1 warning of non-conformance	R0	Month 2 official non-conformance	R0	Month 3 recurring non-conformance	(R2 000.00) x 1 = R2 000.00	Month 4 recurring non-conformance	(R2 000.00) x 2 = R4 000.00	Month 5 recurring non-conformance	(R2 000.00) x 3 = R6 000.00
Description	Amount (per non-conformance finding)												
Month 1 warning of non-conformance	R0												
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Month 4 recurring non-conformance	(R2 000.00) x 2 = R4 000.00												
Month 5 recurring non-conformance	(R2 000.00) x 3 = R6 000.00												
11.3	<p>Fine for Environmental Offences</p> <ul style="list-style-type: none"> a) A fine for intruding into areas that have been demarcated as no-go areas will be charged at R2 000 per offense per worker. b) A fine of R1 000 per m² cleared, disturbed, damaged or destroyed trees, shrubs or vegetation outside the working servitude. c) A fine of R1 000 per day for failure to keep the site and site camp clean of litter and weeds. d) A fine of R20 000 per office for damaging, disturbing or destroying protected indigenous trees and vegetation. 												
11.4	<p>Monthly Progress Report</p> <p>The Contractor shall submit a comprehensive progress report at least 48 hours prior to the monthly site meetings. The progress report shall consist of at least the following documents:</p> <ul style="list-style-type: none"> • Approved programme indicating the base programme actual and planned percentage completion of each item including the "time now" line • A summary of the progress to date • Updated realistic cash flow • Any delays encountered or anticipated, including rainfall statistics for the month • Plant and labour schedule • Risk register • Site photographs of progress <p>Failure to submit the complete progress report by the due date will result in a fine of R1 500 per day of the report being late from the next payment certificate.</p>												

Clause	Description / Wording
11.5	Implementation of Fines Fines described in Clause 11.2, 11.3 and 11.4 will not necessarily be implemented in the month of the offense but can be implemented in the payment certificate in any of the following months. The implementation of fines will not be time-barred.