



# **N3 TOLL CONCESSION (RF) PROPRIETARY LIMITED**

(Hereinafter referred to as N3TC)

## **PROJECT DOCUMENT**

**STATUS: TENDER DOCUMENT**

**VOLUME 3  
BOOK 1 OF 2**

**CONTRACT NO: N3TC/RM-2022-605**

**ROUTINE ROAD MAINTENANCE OF NATIONAL ROUTE 3,  
CEDARA TO HEIDELBERG**

**MOWING, CUTTING AND REMOVAL OF VEGETATION ON THE N3  
PACKAGE 5**

Package 1: N3-4 km 1.6 to N3-4 km 61.6 (60 km)	Cedara to Hidcote
Package 2: N3-5 km 0.0 to N3-5 km 54.0 (54 km)	Hidcote to Tugela River
Package 3: N3-6 km 0 to N3-6x km 60.4 (60.4 km)	Tugela River to Van Reenen
Package 4: N3-7X km 0.0 to N3-7X km 63 (63.0 km)	Van Reenen to Meul River
Package 5: N3-8X km 0.0 to N3-9 km 18 (60.8 km)	Meul River to Grootspuit Bridge
Package 6: N3-9 km 18 to N3-9 km 77.2 (59.2 km)	Grootspuit Bridge to Vaal River
Package 7: N3-10 km 0.0 to N3-11 km 15.1 (57.5 km)	Vaal River to Heidelberg S IC

**Part of the operation and maintenance of the  
N3 Toll Road under  
Contract No: SAPR N0304102/1**

**CONTRACTOR NAME:.....**

## LIST OF CONTRACT DOCUMENTS

The following documents form part of this contract:

- Volume 1: The FIDIC Conditions of Contract for Construction for building and engineering works designed by the employer (1999), issued by the International Federation of Consulting Engineers, which the tenderer shall purchase himself. (See note 1).
- Volume 2: Standard Specification for Routine Road Maintenance (RRM) as issued by SANRAL. (See Note 2)
- Volume 3: The Project Document containing
- Book 1 (issued per Works Package). the tender notice, Conditions of Tender, Tender Data, Returnable Schedules, general and particular conditions of contract, Form of Offer (per Works Package) and Pricing Schedule
- Book 2. (General and applicable to all Works Packages), the Project Specifications, Environmental Management Plan, OHS Specifications and Site Information.
- Books 1 & 2 are issued by the Employer.
- The employer's Form of Acceptance and any correspondence from the selected tenderer, and all addenda issued during the period of tender will also form part of this volume once a successful tenderer has been appointed.
- Volume 4: The road works drawings. Available separately on the N3TC Website.

### Notes to Tenderer:

1. **Volume 1 is obtainable from CESA, P O Box 68482, Bryanston, 2021. Tel: (011) 463 2022 Fax: (011) 463 7383, email:general@cesa.co.za.**
2. **Volume 2 is available on the N3TC website.**
3. **Volume 3 is issued to the contractor in hard copy and contains the following files:**
  - **The full Project Document in PDF format**
  - **The information schedules in word format**
  - **The pricing data in excel format**

**At contract stage, Volume 3 will be a bound signed paper copy containing the following documents:**

- **Information schedules relevant to the project**
- **Agreements and Contract Data**
- **Pricing Data**
- **Scope of Work**
- **Site Information**

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# PART T1: TENDERING PROCEDURES

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## PART T1: TENDERING PROCEDURES

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## T1.1 INVITATION TO TENDER: PER PACKAGE FOR OPEN TENDER

1. The N3 Toll Concession (RF) Proprietary Limited (N3TC) hereby invites competitive tenders from the vicinity of the N3 Toll Route to tender for the below mentioned contract.  
**CONTRACT: N3TC/RM-2022-601 TO 607**  
**N3 TOLL ROAD: CEDARA INTERCHANGE TO HEIDELBERG SOUTH INTERCHANGE**  
**MOWING, CUTTING AND REMOVAL OF VEGETATION ON THE N3– PACKAGE 1 TO 7**
2. Mowing, cutting and removal of vegetation on the N3 is a seasonal activity. The mowing seasonal periods are defined as the general mow that takes place annually between April and June, and the shoulder mow takes place biannually between November and December and January and February.
3. The time for completion is twenty-four (24) months divided into two annual seasonal cycles. The contractor will be required to carry out two general mow activities and 4 shoulder mow activities during the Time for Completion. N3TC reserves the right to extend the validity of the contract in 12 month increments (One annual seasonal cycle) as mutually agreed.
4. Tenders will only be accepted from Tenderers meeting the Eligibility Criteria below. The attention of Tenderers is also drawn to the Tender Preference Points as contained in the Tender Rules and summarised below.
5. The *Eligibility* criteria are as follows:
  - a. The Applicant shall be either an “Entity”/company, “Joint Venture” (i.e. partnership between two entities) or a “Consortium” (i.e. group of entities). Entities shall have been registered and operationally active at the *Location* for at least one year prior to 1 January 2022.
  - b. All members of the Tenderer Entity, Joint Venture or Consortium shall have their places of business for a specific Contract Package, located not more than 40km from the N3 Toll Road, defined as *Location* below.
  - c. Companies/ “Entities” with black (Black People) shareholding of 50.1% and more.
  - d. Applicants shall be registered with the CIDB for a CE designation and have a CIDB grading of between 2CE and 6CE (inclusive of 2CE and 6 CE).
  - e. Applicants shall have proven previous experience of mowing, cutting and removal of vegetation on National Roads projects
  - f. Applicants shall have proven adequate financial resources.
  - g. Applicants shall be in good standing with the South African Revenue Services.
  - h. Applicants shall be in good standing with the Department of Labour for Compensation for Occupational Injuries and Diseases Act
6. Definitions
  - a. *Black People* Individuals who are citizens of the Republic of South Africa, who according to racial classification did not have the right to vote or had restricted voting rights immediately prior to the 1994 elections in South Africa.
  - b. *Location*. The shortest travel distance by road from the Domicilium Citandi of Applicants (Head office address) **to any point for a specific Contract Package on the N3 between Cedara Interchange and Heidelberg South Interchange shall be less than 40km**. In the case of Joint Ventures and Consortia, this criteria for eligibility applies to all members of the Joint Venture or Consortium for each specific Contract Package.
7. Tenderers will be required to provide all of the returnable schedules as required in this Tender Document.

8. The tender documents are only available on the N3TC website in .pdf format, and it is the responsibility of the Tenderer to download the complete document for the correct package. The document will be available on the website from 17 January 2022. Forms to be completed will be available on the website in MS Word format and the Pricing Schedule will be available in MS Excel format.  
N3TC website address: <http://www.n3tc.co.za/routine-road-maintenance/>
9. There will be no pre-tender meeting. All tender queries must be submitted to the N3TC tender email address and responses will be sent by return email. Written responses will be given to all queries received at least 5 days before the tender closing date.
10. Communication email address: [n3mow2022.tender@n3tc.co.za](mailto:n3mow2022.tender@n3tc.co.za).
11. **The Tender shall be submitted via email to [n3mow2022.tender@n3tc.co.za](mailto:n3mow2022.tender@n3tc.co.za) not later than 12:00 on Monday 7 February 2022, the Closing Time (F2.15.1). Late submissions will not be accepted.**
12. Tenderers are to please refer to the Conditions of Tender, and in particular:
  - a. Clause F.3.8 Test for responsiveness and
    - i. F.3.9.4 tenders below economic viability threshold
  - b. Clause F.3.11 Evaluation of tender offers. Preference
  - c. F3.11.2 Method1: Price and Preference Points
    - i. Price Scoring 80 points
    - ii. Preference Points 4 points Equity of tenderer
    - iii. Preference Points 16 points – location of business
13. N3TC reserves the right to not accept the tender with the lowest scoring points or to not accept any tenders received for any particular Package.

## THE TENDER PROCESS (FOR INFORMATION ONLY)

This information is provided in good faith to assist the Tenderer in preparing the Tender and for informative purposes only. The Contractor remains responsible for complying with the terms and conditions of contract. The Contract takes precedence

1. **Eligibility**  
Please refer to the eligibility criteria as to whether the Tenderer is eligible to tender. The Tenderer may price any Package for which they are eligible. The eligibility criteria are detailed in the Invitation to Tender and in the Tender Rules.  
  
Tenderers must ensure that all required Forms (Part T2) and supplementary information requested are filled out and provided completely.  
  
Those tenders received from Tenderers who are not eligible and/or not complete will be rejected.
2. **Evaluation of Tender Offers. Preference**  
Refer to F3.11 for details on Price and Preference Points
3. **The Works**  
The Tender is for Contracts for periodic mowing and removal of cut grass on the N3 Toll Road. The N3 Toll Road has been divided into 7 Works Packages. The Tender is for one Main Contractor per Work Package. In addition to carrying out some of the work required themselves, the successful Contractor per Works Package will be required to employ EME Sub-Contractors identified in each area to carry out a certain minimum amount of work.  
  
The Scope of Work is defined in Part C4: Site Information and the Contracts will be for two annual mowing cycles.
4. **Pricing the Pricing Schedule (Bill of Quantities)**
  - 4.1 The Tenderer shall price the entire Pricing Schedule (Part C2) and is divided into Parts for Management and Operations of the Main Contractor as well as for the EME sub-Contractor works.
5. **Pricing Instructions for the Main Contractor Pricing Schedule** Please refer to Part C2 Pricing Instructions
  - 5.1 **Part 1.1 Management.** The Management Section for the Main Contractor applies to the management of the Contract by the Main Contractor and provides for the entire Contract Period of 24 months. The Main Contractor shall provide all of the contract management and support for their own works as well as that of the EME sub-contractors. The Management Section also includes a fee for the Management payable to the Main Contractor for the management of the EME sub-contractors. The Tenderer will tender a percentage (%) fee under this item that will be multiplied by the total of the EME tender schedules to calculate a tender amount. Refer to Item 612.01 in Part 1.1 of the Pricing Schedule.
  - 5.2 **Part 1.2 Operational.** The Operational Section for the Main Contractor applies to the actual work that the Main Contractor is required to execute under the Contract. The rates tendered will apply to the work done. See also Part 2 EME pricing in C2.1.14 below
  - 5.3 **Pricing Instructions for Part 2, work done by EME Contractors.** The Part 2 EME Pricing Schedule comprises two components relating to operations.
  - 5.4 In order to ensure equality in compensation for work done by the EME sub-contractors, they will be paid the same rate as the rate tendered by the Main Contractor under Operational Part 1.2. In the tender therefore, the Main Contractor shall tender the same rates for work items in the EME pricing schedule as was tendered in the Main Contractor Part 1.2
6. **Tender Queries and Submission of the Tender**  
Please note that during the Tender Period, all communication with the Employer will be via email. Queries must be in writing and shall be responded to in writing. The full tender submission shall be via email. The onus rests with the Tenderer to ensure that the Employer receives the tender before the closing time.

## **T1.2 CONDITIONS OF TENDER**

Notes to tenderer:

1. The legislated Standard Conditions of Tender (as published and amended from time to time by the Construction Industry Development Board) together with N3TC's special conditions of tender where the former is shown in standard format and N3TC's amendments (i.e. special conditions) shown in italics.
2. Tender Data and Tender Schedules are included separately after the tender conditions.

**N3TC Conditions of Tender**  
**(Based on CIDB Standard Conditions of Tender – 10 July 2018)**

**F.1 General**

**F.1.1 Actions**

- F.1.1.1 The Employer and each tenderer submitting a tender offer shall comply with these conditions of tender. In their dealings with each other, they shall discharge their duties and obligations as set out in F.2 and F.3, timeously and with integrity, and behave equitably, honestly and transparently, comply with all legal obligations and not engage in anticompetitive practices.
- F.1.1.2 The employer and the tenderer and all their agents and employees involved in the tender process shall avoid conflicts of interest and where a conflict of interest is perceived or known, declare any such conflict of interest, indicating the nature of such conflict. Tenderers shall declare any potential conflict of interest in their tender submissions. Employees, agents and advisors of the employer shall declare any conflict of interest to whoever is responsible for overseeing the procurement process at the start of any deliberations relating to the procurement process or as soon as they become aware of such conflict, and abstain from any decisions where such conflict exists or recuse themselves from the procurement process, as appropriate.
- F.1.1.3 The Employer shall not seek and a tenderer shall not submit a tender without having a firm intention and the capacity to proceed with the contract.

**F.1.2 Tender Documents**

The documents issued by the Employer for the purpose of a tender offer are listed in the tender data.

**F.1.3 Interpretation**

- F.1.3.1 The tender data and additional requirements contained in the tender schedules that are included in the returnable documents are deemed to be part of these conditions of tender.
- F.1.3.2 These conditions of tender, the tender data and tender schedules which are only required for tender evaluation purposes, shall not form part of any contract arising from the invitation to tender.

**F.1.3.3 For the purposes of these conditions of tender, the following definitions apply:**

- a) **conflict of interest** means any situation in which:
  - i) someone in a position of trust has competing professional or personal interests which make it difficult to fulfill his or her duties impartially;
  - ii) an individual or organisation is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit; or
  - iii) incompatibility or contradictory interests exist between an employee and the organisation which employs that employee.
- b) **comparative offer** means the tenderer's financial offer after all tendered parameters that will affect the value of the financial offer have been taken into consideration in order to enable comparisons to be made between offers on a comparative basis.
- c) **corrupt practice** means the offering, giving, receiving or soliciting of anything of value to influence the action of the Employer or his staff or agents, or any official in the employ of the State, in any tender process.
- d) **fraudulent practice** means the misrepresentation of the facts in order to influence the tender process or the award of a contract arising from a tender offer to the detriment of the Employer, or the State, including collusive practices intended to establish prices at artificial levels.
- e) **organisation** means a company, firm, enterprise, association or other legal entity, whether incorporated or not, or a public body.

- f) **quality (functionality)** means the totality of features and characteristics of a product or service that bear on its ability to satisfy stated or implied needs.
- g) **tenderer** means any commercial entity that responds to the Tender Notice by submitting an offer.
- h) **tender rigging** means collusive bidding by which businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and/or services for purchasers who wish to acquire goods and/or services through a tender process. It is, therefore, an agreement between competitors not to compete.
- i) **these conditions of tender** mean the Standard Conditions of Tender (as published and amended from time to time by the Construction Industry Development Board) and the Employer's Special Conditions of Tender, the latter of which are demonstrated by appearing in italics.

#### **F.1.4 Communication and Employer's agent**

Each communication between the Employer and a tenderer shall be to or from the Employer's agent only, and in a form that can be readily read, copied and recorded. Communications shall be in the English language. The Employer shall not take any responsibility for non-receipt of communications from or by a tenderer. The name and contact details of the Employer's agent are stated in the tender data.

#### **F.1.5 Cancellation and Re-invitation of Tenders**

**F.1.5.1** *The employer may, prior to the award of the tender, cancel a tender if:*

- (a) due to changed circumstances, there is no longer a need for the services, works or goods requested; or
- (b) funds are no longer available to cover the total envisaged expenditure; or
- (c) no acceptable tenders are received.

**F.1.5.2** The decision to cancel a tender must be published in the cidb website and in the government Tender Bulletin for the media in which the original tender invitation was advertised.

**F.1.5.3** The Employer may not subsequent to the cancellation or abandonment of a tender process re-issue a tender covering substantially the same scope of work within a period of six months (measured between the relevant closing dates of the cancelled tender and the re-issued tender) unless only one tender was received and such tender was returned unopened to the tenderer or if there is agreement by the participating tenderers.

#### **F.1.6 Procurement procedures**

##### **F.1.6.1 General**

Unless otherwise stated in the tender data, a contract will, subject to F.3.13, be concluded with the tenderer who in terms of F.3.11 is the highest ranked or the tenderer scoring the highest number of tender evaluation points, as relevant, based on the tender submissions that are received at the closing time for tenders.

##### **F.1.6.2 Competitive negotiation procedure**

**F.1.6.2.1** Where the tender data require that the competitive negotiation procedure is to be followed, tenderers shall submit tender offers in response to the proposed contract in the first round of submissions. Notwithstanding the requirements of F.3.4, the Employer shall announce only the names of the tenderers who make a submission. The requirements of F.3.8 relating to the material deviations or qualifications which affect the competitive position of tenderers shall not apply.

**F.1.6.2.2** All responsive tenderers, or not less than three responsive tenderers that are highest ranked in terms of the evaluation method and evaluation criteria stated in the tender data, shall be invited in each round to enter into competitive negotiations, based on the principle of equal treatment and keeping confidential the proposed solutions and associated information. Notwithstanding the provisions of F.2.17, the employer may request that tenders be clarified, specified and fine-tuned in order to improve a

tenderer's competitive position provided that such clarification, specification, fine-tuning or additional information does not alter any fundamental aspects of the offers or impose substantial new requirements which restrict or distort competition or have a discriminatory effect.

F.1.6.2.3 At the conclusion of each round of negotiations, tenderers shall be invited by the Employer to make a fresh tender offer, based on the same evaluation criteria, with or without adjusted weightings. Tenderers shall be advised when they are to submit their best and final offer.

F.1.6.2.4 The contract shall be awarded in accordance with the provisions of F.3.11 and F.3.13 after tenderers have been requested to submit their best and final offer.

#### **F.1.6.3 Proposal procedure using the two stage-system (*Not applicable to this tender*)**

### **F.2 Tenderer's obligations**

#### **F.2.1 Eligibility**

F.2.1.1 Submit a tender offer only if the tenderer satisfies the criteria stated in the tender data and the tenderer, or any of his principals, is not under any restriction to do business with the employer.

F.2.1.2 The Tenderer, shall have the Location of their registered places of business for a specific Contract Package, not more than 40km from the N3 Toll Road, Location defined as the shortest travel distance by road from the Tenderers registered Head office address **to any point for a specific Contract Package on the N3 between Cedara Interchange and Heidelberg South Interchange**. In the case of Joint Ventures and Consortia, this criteria for eligibility applies to all members of the Joint Venture or Consortium for each specific Contract Package. In addition, preference points for location will be allocated, refer to F3.11.6.

F.2.1.3 Notify the employer of any proposed material change in the capabilities or formation of the tendering entity (or both) or any other criteria which formed part of the qualifying requirements used by the employer as the basis in a prior process to invite the tenderer to submit a tender offer and obtain the employer's written approval to do so prior to the closing time for tenders.

#### **F.2.2 Cost of tendering**

Accept that, unless otherwise stated in the tender data, the employer will not compensate the tenderer for any costs incurred in the preparation and submission of a tender offer, including the costs of any testing necessary to demonstrate that aspects of the offer complies with requirements.

#### **F.2.3 Check documents**

Check the tender documents on receipt for completeness and notify the employer of any discrepancy or omission.

#### **F.2.4 Confidentiality and copyright of documents**

Treat as confidential all matters arising in connection with the tender *whether the tender is submitted or not*. Use and copy the documents issued by the employer only for the purpose of preparing and submitting a tender offer in response to the invitation.

#### **F.2.5 Reference documents**

Obtain, as necessary for submitting a tender offer, copies of the latest versions of standards, specifications, conditions of contract and other publications, which are not attached but which are incorporated into the tender documents by reference.

#### **F.2.6 Acknowledge addenda**

Acknowledge receipt of addenda to the tender documents, which the employer may issue, and if necessary apply for an extension to the closing time stated in the tender data, in order to take the addenda into account.

#### **F.2.7 Clarification meeting**

Attend, where required, a clarification meeting(s) at which tenderers may familiarize themselves with aspects of the proposed work, services or supply and raise questions. Details of the meeting(s) are stated in the tender data. *(No clarification meeting will be held for this contract)*

#### **F.2.8 Seek clarification**

Request clarification of the tender documents, if necessary, by notifying the employer at least seven working days before the closing time stated in the tender data.

#### **F.2.9 Insurance**

Be aware that the extent of insurance to be provided by the employer (if any) might not be for the full cover required in terms of the conditions of contract identified in the contract data. The tenderer is advised to seek qualified advice regarding insurance.

#### **F.2.10 Pricing the tender offer**

- F.2.10.1 Include in the rates, prices, and the tendered total of the prices (if any) all duties, taxes (except Value Added Tax (VAT)), and other levies payable by the successful tenderer, such duties, taxes and levies being those applicable 14 days before the closing time stated in the tender data.
- F.2.10.2 Show VAT payable by the employer separately as an addition to the tendered total of the prices.
- F.2.10.3 Provide rates and prices that are fixed for the duration of the contract and not subject to adjustment except as provided for in the conditions of contract identified in the contract data.
- F.2.10.4 State the rates and prices in Rand unless instructed otherwise in the tender data. The conditions of contract identified in the contract data may provide for part payment in other currencies.

#### **F.2.11 Alterations to documents**

Do not make any alterations or additions to the tender documents, except to comply with instructions issued by the employer, or necessary to correct errors made by the tenderer. All signatories to the tender offer shall initial all such alterations. *The use of masking fluid is prohibited.*

#### **F.2.12 Alternative tender offers (N/A)**

- F.2.12.1 Unless otherwise stated in the tender data, submit alternative tender offers only if a main tender offer, strictly in accordance with all the requirements of the tender documents, is also submitted as well as a schedule that compares the requirements of the tender documents with the alternative requirements that are proposed.
- F.2.12.2 Accept that an alternative tender offer may be based only on the criteria stated in the tender data or criteria otherwise acceptable to the Employer.
- F.2.12.3 An alternative tender offer may only be considered in the event that the main tender offer is the winning tender.

#### **F.2.13 Submitting a tender offer**

- F.2.13.1 Submit one tender offer only, either as a single tendering entity or as a member in a joint venture to provide the whole of the works, services or supply identified in the contract data and described in the scope of works, unless stated otherwise in the tender data.

- F.2.13.2 Return all returnable documents to the employer after completing them in their entirety, either electronically (if they were issued in electronic format) or by writing legibly in non-erasable ink.
- F.2.13.3 Submit the parts of the tender offer communicated on paper as an original plus the number of copies stated in the tender data, with an English translation of any documentation in a language other than English, and the parts communicated electronically in the same format as they were issued by the employer.
- F.2.13.4 Sign the original and all copies of the tender offer where required in terms of the tender data. For purposes of the tender offer the Employer will hold all authorised signatories liable on behalf of the tenderer. In the case of proposed joint ventures all members shall sign the tender offer. Signatories for tenderers proposing to contract as joint ventures shall also state which of the signatories is the lead partner.
- F.2.13.5 Seal the original and each copy of the tender offer as separate packages marking the packages as "ORIGINAL" and "COPY". Each packages shall state on the outside the employer's address and identification details stated in the tender data, as well as the tenderer's name and contact address.
- F.2.13.6 Where a two-envelope system is required in terms of the tender data, place and seal the returnable documents listed in the tender data in an envelope marked "financial proposal" and place the remaining returnable documents in an envelope marked "technical proposal". Each envelope shall state on the outside the Employer's address and identification details stated in the tender data, as well as the tenderer's name and contact address. (N/A).
- F.2.13.7 Seal the original tender offer and copy packages together in an outer package that states on the outside only the employer's address and identification details as stated in the tender data. (N/A).
- F.2.13.8 Accept that the Employer will not assume any responsibility for the misplacement or premature opening of the tender offer if the outer package is not sealed and marked as stated.

#### **F.2.14 Information and data to be completed in all respects**

Accept that tender offers, which do not provide all the data or information requested completely and in the form required, may be regarded by the employer as non-responsive.

#### **F.2.15 Closing time**

- F.2.15.1 Ensure that the employer receives the tender offer at the address specified in the tender data not later than the closing time stated in the tender data. Accept that proof of posting shall not be accepted as proof of delivery.
- F.2.15.2 Accept that, if the employer extends the closing time stated in the tender data for any reason, the requirements of these conditions of tender apply equally to the extended deadline.

#### **F.2.16 Tender offer validity**

- F.2.16.1 Hold the tender offer(s) valid for acceptance by the Employer at any time during the validity period stated in the tender data after the closing time stated in the tender data.
- F.2.16.2 If requested by the employer, consider extending the validity period stated in the tender data for an agreed additional period with or without any conditions attached to such extension.
- F.2.16.3 Accept that a tender submission that has been submitted to the employer may only be withdrawn or substituted by giving the employer's agent written notice before the closing time for tenders that a tender is to be withdrawn or substituted.

- F.2.16.4 Where a tender submission is to be substituted, submit a substitute tender in accordance with the requirements of F.2.13 with the packages clearly marked as "SUBSTITUTE".

#### **F.2.17 Clarification of tender offer after submission**

- F.2.17.1 Provide clarification of a tender offer in response to a request to do so from the employer during the evaluation of tender offers. This may include providing a breakdown of rates or prices and correction of arithmetical errors by the adjustment of certain rates or item prices (or both). No change in the competitive position of tenderers or substance of the tender offer is sought, offered, or permitted.
- F.2.17.2 *Accept that the employer may, at its sole discretion, accept a less favourable tender from those already received or invite fresh tenders if a tenderer, at any time after the opening of his tender offer but prior to the signing of a contract based on his tender offer:- withdraws his tender; or*
- (i) gives notice of his inability to execute the contract in terms of his tender; or*
  - (ii) fails to sign a contract or furnish the performance security within the period fixed in the letter of award or any extended period fixed by the employer, or*
  - (iii) fails to comply with a request made in terms of standard condition F2.18.1.*

#### **F.2.18 Provide other material**

- F.2.18.1 Provide, on request by the employer, any other material that has a bearing on the tender offer, the tenderer's commercial position (including notarized joint venture agreements), preferencing arrangements, or samples of materials, considered necessary by the employer for the purpose of a full and fair risk assessment. Should the tenderer not provide the material, or a satisfactory reason as to why it cannot be provided, by the time for submission stated in the employer's request, the employer may regard the tender offer as non-responsive.
- F.2.18.2 *Accept the employer's right, at his sole discretion, to appoint suitably qualified persons to report on the financial resources, standing with the South African Revenue Services regarding all taxes, report on criminal and police records of Directors of the tendering companies, report on ITC records, management structure and ownership details of any tenderer and/or to verify the correctness of any information furnished to the employer in terms of condition F.2.17.1. Comply with the employer's request within the time stated in the request. Failure on the part of the tenderer to cooperate with such an inquiry shall entitle the employer to declare such tender offer as non-responsive.*

#### **F.2.19 Inspections, tests and analysis**

Provide access during working hours to premises for inspections, tests and analysis as provided for in the tender data.

#### **F.2.20 Submit securities, bonds, policies**

If requested, submit for the employer's acceptance before formation of the contract, all securities, bonds, guarantees, policies and certificates of insurance required in terms of the conditions of contract identified in the contract data.

#### **F.2.21 Check final draft**

Check the final draft of the contract provided by the employer within the time available for the employer to issue the contract.

#### **F.2.22 Return of other tender documents**

If so instructed by employer, return all retained tender documents within 28 days after the expiry of the validity period stated in the tender data.

### **F.2.23 Certificates**

Include in the tender submission or provide the employer with any certificates as stated in the tender data.

## **F.3 The employer's undertakings**

### **F.3.1 Respond to requests from the tenderer**

- F.3.1.1 Unless otherwise stated in the Tender Data, respond to a request for clarification received up to five working days before the tender closing time stated in the Tender Data and notify all tenderers who drew tender documents.
- F.3.1.2 Consider any request to make a material change in the capabilities or formation of the tendering entity (or both) or any other criteria which formed part of the qualifying requirements used to prequalify a tenderer to submit a tender offer in terms of a previous procurement process and deny any such request if as a consequence:
- a) an individual firm, or a joint venture as a whole, or any individual member of the joint venture fails to meet any of the collective or individual qualifying requirements;
  - b) the new partners to a joint venture were not prequalified in the first instance, either as individual firms or as another joint venture; or
  - c) in the opinion of the employer, acceptance of the material change would compromise the outcome of the prequalification process.

### **F.3.2 Issue Addenda**

If necessary, issue addenda that may amend or amplify the tender documents to each tenderer during the period from the date that tender documents are available until *three days* before the tender closing time stated in the Tender Data. If, as a result a tenderer applies for an extension to the closing time stated in the Tender Data, the employer may grant such extension and, shall then notify all tenderers who drew documents.

### **F.3.3 Return late tender offers**

Return tender offers received after the closing time stated in the Tender Data, unopened, (unless it is necessary to open a tender submission to obtain a forwarding address), to the tenderer concerned.

### **F.3.4 Opening of tender submissions**

- F.3.4.1 Unless the two-envelope system is to be followed, open valid tender submissions in the presence of tenderers' agents who choose to attend at the time and place stated in the Tender Data. Tender submissions for which acceptable reasons for withdrawal have been submitted will not be opened.
- F.3.4.2 Announce at the meeting held immediately after the opening of tender submissions, at a venue indicated in the Tender Data, the name of each tenderer whose tender offer is opened and, where applicable, the total of his prices, preferences claimed for its BBEE status level and time for completion for the main tender offer only.
- F.3.4.3 Make available the record outlined in F.3.4.2 to all interested persons upon request.

### **F.3.5 Two-envelope system (N/A)**

- F.3.5.1 Where stated in the Tender Data that a two-envelope system is to be followed, open only the technical proposal of valid tenders in the presence of tenderers' agents who choose to attend at the time and place stated in the Tender Data and announce the name of each tenderer whose technical proposal is opened.
- F.3.5.2 Evaluate the functionality of the technical proposals offered by tenderers, then advise tenderers who remain in contention for the award of the contract of the time and place

when the financial proposals will be opened. Open only the financial proposals of tenderers, who score in the functionality evaluation more than the minimum number of points for functionality stated in the Tender Data, and announce the score obtained for the technical proposals and the total price and any *preferences* claimed. Return unopened financial proposals to tenderers whose technical proposals failed to achieve the minimum number of points for functionality.

### **F.3.6 Non-disclosure**

Not disclose to tenderers, or to any other person not officially concerned with such processes, information relating to the evaluation and comparison of tender offers, the final evaluation price and recommendations for the award of a contract, until after the award of the contract to the successful tenderer.

### **F.3.7 Grounds for rejection and disqualification**

F.3.7.1 Determine whether there has been any effort by a tenderer to influence the processing of tender offers and instantly disqualify a tenderer (and his tender offer) if it is established that he engaged in corrupt or fraudulent practices, *or collusive tendering*.

### **F.3.8 Test for responsiveness**

F.3.8.1 Determine, after opening and before detailed evaluation, whether each tender offer properly received:

- a) complies with the requirements of these Conditions of Tender,
- b) has been properly and fully completed and signed, and
- c) is responsive to the other requirements of the tender documents.

F.3.8.2 A responsive tender is one that conforms to all the terms, conditions, and specifications of the tender documents without material deviation or qualification. A material deviation or qualification is one which, in the employer's opinion, would:

- a) detrimentally affect the scope, quality, or performance of the works, services or supply identified in the Scope of Work,
- b) significantly change the employer's or the tenderer's risks and responsibilities under the contract, or
- c) affect the competitive position of other tenderers presenting responsive tenders, if it were to be rectified.

Reject a non-responsive tender offer, and not allow it to be subsequently made responsive by correction or withdrawal of the non-conforming deviation or reservation.

F.3.8.3 *Refer to F.3.9.4 below.*

### **F.3.9 Arithmetical errors, omissions and discrepancies**

F.3.9.1 Check the highest ranked tender or tenderer with the highest number of tender evaluation points after the evaluation of tender offers in accordance with F.3.11 for:

- a) the gross misplacement of the decimal point in any unit rate;
- b) omissions made in completing the pricing schedule or bills of quantities; or
- c) arithmetic errors in:
  - i) line item totals resulting from the product of a unit rate and a quantity in bills of quantities or schedules of prices; or
  - ii) the summation of the prices.

F.3.9.2 The employer must correct the arithmetical errors in the following manner:

- a) Where there is a discrepancy between the amounts in words and amounts in figures, the amount in words shall govern.

- b) If bills of quantities or pricing schedules apply and there is an error in the line item total resulting from the product of the unit rate and the quantity, the *unit rate* shall govern and the *line item* shall be corrected. Where there is an obviously gross misplacement of the decimal point in the unit rate, the line item total and the unit rate shall be corrected.
- c) Where there is an error in the total of the prices either as a result of other corrections required by this checking process or in the tenderer's addition of prices, the total of the prices shall *be corrected*.

Consider the rejection of a tender offer if the tenderer does not correct or accept the correction of the arithmetical error in the manner described above.

**F.3.9.3** Where the unit rates are imbalanced in the view of the employer/N3TC based on market related rates, the employer/ N3TC may request the tenderer to adjust certain rates keeping the total tender price unchanged.

Consider the rejection of a tender offer if the tenderer does not adjust the rates to submit balanced rates to the satisfaction of the employer/N3TC.

**F.3.9.4** *Should a tender be received where the tendered rates are considered to be below an commercially viable threshold, (sub-economic), and should the re-balancing of the tender as described above result in a Contract Price that is considered below the threshold of economic viability, the tender shall be rejected.*

### **F.3.10 Clarification of a tender offer**

Obtain clarification from a tenderer on any matter that could give rise to ambiguity in a contract arising from the tender offer.

### **F.3.11 Evaluation of tender offers**

#### **F.3.11.1 General**

Information submitted with the tender will also be used for the evaluation of tender offers and may form part of the contract document.

The evaluation will be done by N3TC's nominated representative.

Reduce each responsive tender offer to a comparative offer and evaluate them using the tender evaluation methods and associated evaluation criteria and weightings that are specified in the Tender Data.

*No member of the adjudication panel shall have close family ties with any of the tenderers.*

#### **F.3.11.2 Method 1: Price and Preference**

In the case of a price and preference:

- 1) Score tender evaluation points for price
- 2) Score points for *preference*
- 3) Add the points scored for price and *preference*

#### **F.3.11.3 Method 2: Functionality, Price and Preference**

*Method 2 as defined by CIDB is not applicable to this contract and not included in this document.*

#### **F.3.11.4 Decimal Places**

Score price, preference and functionality, as relevant, to two decimal places.

#### **F.3.11.5 Scoring Price**

*Points awarded for price (Np) (Maximum 80 points)*

$$N_p = \frac{80 [1-(P-P_m)]}{P_m}$$

$N_p$  = Number of tender adjudication points awarded for price

$P_m$  = Lowest acceptable tender price

$P$  = Tender price under consideration

#### F.3.11.6 Scoring preferences

Confirm that tenderers are eligible for the preferences claimed in accordance with the provisions of the Tender Data and reject all claims for preferences where tenderers are not eligible for such preferences.

Calculate the total number of tender evaluation points for preferences claimed in accordance with the following:

(i) Points awarded for Equity of tenderer ( $N_{ep}$ ) (Maximum 4 points)

$$N_{ep} = 0.04 \times E_p$$

$E_p$  = the percentage equity ownership of previously disadvantaged person with the enterprise.

$N_{ep}$  = number of equity based points:

100% equity ownership will be awarded 4 points

Less than 50.1% equity ownership will be awarded no points.

(ii) Points awarded based on location of business in relation to the shortest distance by road to the Particular Package (Maximum 16 points)

$N_{loc}$  = Points awarded as indicated in table below.

Road distance to Package (km)	Preference Points $N_{loc}$
0 to 11	16
11.1 to 24	9
24.1 to 32	3
32.1 to 40	0

Note. Tenders will be deemed ineligible if the location of business in relation to the shortest distance by road to the Particular Package exceeds 40km

#### F3.11.7 Total tender adjudication points

The total number of tender adjudication points awarded ( $N$ ) is the sum of:

$$N = N_p + N_{ep} + N_{loc}$$

The tender with the highest  $N$  value will be the most favourable tender.

#### F.3.12 Insurance Provided by the Employer

If requested by the proposed successful tenderer, submit for the tenderer's information the policies and/or certificates of insurance which the conditions of contract identified in the contract data, require the employer to provide.

#### F.3.13 Acceptance of Tender Offer

Accept the tender offer, if in the opinion of the employer, it does not present any risk and only if the tenderer:

- is not under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement;

- b) can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract;
- c) has the legal capacity to enter into the contract;
- d) is not insolvent, in receivership, under Business Rescue as provided for in chapter 6 of the Companies Act, 2008, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings in respect of any of the foregoing;
- e) complies with the legal requirements, if any, stated in the Tender Data; and
- f) is able in the opinion of the employer, to perform the contract free of conflicts of interest.
- g) *Directors of the company have a clean criminal record.*
- h) *The company has a satisfactory status at the ITC*

#### **F.3.14 Prepare Contract Documents**

F.3.14.1 If necessary, revise documents that shall form part of the contract and that were issued by the employer as part of the tender documents to take account of:

- a) addenda issued during the tender period,
- b) inclusion of some of the returnable documents, and
- c) other revisions agreed between the employer and the successful tenderer.

F.3.14.2 Complete the schedule of deviations attached to the form of offer and acceptance, if any.

#### **F.3.15 Complete Adjudicator's Contract**

Unless alternative arrangements have been agreed or otherwise provided for in the contract, arrange for both parties to complete formalities for appointing the selected adjudicator at the same time as the main contract is signed.

#### **F.3.16 Notice to Unsuccessful Tenderers**

F.3.16.1 Notify the successful tenderer of the employer's acceptance of his tender offer by completing and returning one copy of the form of acceptance before the expiry of the validity period stated in the tender data, or agreed additional period.

F.3.16.2 If any tenderer did not receive any notification within three months after closure then he must accept that his tender was unsuccessful.

### T1.3 TENDER DATA

The Standard Conditions and the Employer's Special Conditions of Tender for Procurement make several references to the Tender Data for details that apply specifically to this tender. The Tender Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the standard/special conditions of tender.

Each item of data given below is cross-referenced to the clause in the Standard and Special Conditions of Tender to which it mainly applies.

Clause Number	Tender Data
F.1.1	<p>The Employer is N3 Toll Concession (RF) Proprietary Limited. The Employer's domicilium citandi et executandi (permanent physical business address) is:</p> <p>1st Floor, Block D Southdowns Office Park 22 Karee Street Irene 0169</p> <p>The Employer's address for communication relating to this project is: Email only: <a href="mailto:n3mow2022.tender@n3tc.co.za">n3mow2022.tender@n3tc.co.za</a>.</p>
F.1.2	<p>The tender documents comprise the following:</p> <p><b>VOLUME 2:</b> Standard Specifications for Routine Road Maintenance, October 2001, issued by SANRAL, which will be available on the N3TC website at <a href="http://www.n3tc.co.za">www.n3tc.co.za</a></p> <p><b>VOLUME 3:</b> Project Document</p> <p><b><u>BOOK 1: PER PACKAGE</u></b></p> <p>TENDER Part T1: Tendering Procedures T1.1 Tender invitation T1.2 Conditions of Tender T1.3 Tender data</p> <p>Part T2: Returnable Documents T2.1 List of returnable documents T2.2 Returnable schedules</p> <p>CONTRACT Part C1: Agreements and contract data C1.1 Form of offer and acceptance C1.2 Contract data C1.3 Other contract forms</p> <p>Part C2: Pricing data C2.1 Pricing instructions C2.2 Bill of Quantities</p> <p><b><u>BOOK 2: COMMON TO ALL PACKAGES</u></b></p> <p>Part C3: Scope of work</p> <p>Part C4: Site Information</p> <p><b>VOLUME 4:</b> Contract Drawings will be provided on the N3TC website for information, <a href="http://www.n3tc.co.za">www.n3tc.co.za</a>. <b>COMMON TO ALL PACKAGES</b></p>

Clause Number	Tender Data
F.1.4	<p>The Employer's agent is:</p> <p>N3TC CEO delegated to the N3TC Route Maintenance Manager assisted by RRM Project Managers</p> <p>Contact details will be made available to the successful Contractors</p>
F.1.6.3	The Tender phase is a single stage tender for open invitation.
F.2.1.1	<p>CIDB Registration: Tenderers will be required to attach valid CIDB certificates of the appropriate grading with their tenders.</p> <p>Joint Ventures: A grading of the party on the joint venture with the qualifying CIDB will be considered.</p>
F2.1.2	Location of business less than 40km to specific Contract Package
F.2.7	<b>No clarification meeting will be held for this contract</b>
F.2.12	Alternative tender offers will not be considered.
F.2.13.4	Submit only one signed original tender offer in electronic format.
F.2.13.5	<p>The Employer's email address for delivery of tender offers is <a href="mailto:n3mow2022.tender@n3tc.co.za">n3mow2022.tender@n3tc.co.za</a>.</p> <p>Only email tenders will be accepted.</p>
F2.13.6	A two envelope system is not applicable
F.2.15.1	The closing time for submission of tender offers is <b>as per the Tender Invitation</b> .
F.2.16.1	The tender offer validity period is 90 calendar days.
F2.19	No inspections, analysis and tests are required from the contractor.
F.2.23	The tenderer is required to submit the certificates as listed in Form D1: Certificate of Tender Compliance.
F.3.4.1	Email tenders will not be made public.
F.3.9.3	Re-balancing of imbalanced rates will be applied by adjusting all rates, keeping the tender price the same. Refer to F3.9.4 below for sub-economic tendering.
F3.9.4	Should any tender be deemed to be sub-economic after re-balancing, the tender will be rejected.
F.3.11.1	<p>N3TC is committed to transformation, employment equity and staff advancement, and to supporting black economic empowerment in particularly in the immediate vicinity of the contract Packages. Preference will be given to tenders received from Contractors whose businesses are in the immediate vicinity of each Package. (i.e. in the immediate vicinity of the N3 Toll Road)</p> <p>The procedure for the evaluation of responsive tenders is Method 1, Scoring will be undertaken as stated in F3.11.5, F3.11.6 and F3.11.7.</p> <p>The tenderer with the highest score of the aggregate of Price Score and Preference Score will be the most favourable tender. Should the score be equal, the Preference Score will be used to determine the most favourable tender.</p> <p>Contractors are obligated to employ EME contractors for mowing, cutting and baling activities as instructed by the Employer/N3TC. The number of EME's to employ is specified in each works package and can be amended from time to time.</p>
F.3.11.2	Method 1: For scoring and adjudication, refer to F.3.11.5, F.3.11.6 and F.3.11.7.
F.3.12	Refer to the Special Conditions of Contract for requirements of Insurance

F.3.13	<p>Tender offers will only be accepted if:  the tenderer or any of its directors is not listed on the Register of Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act of 2004 as a person prohibited from doing business with the public sector; and  the tenderer has not:</p> <ul style="list-style-type: none"> <li>(i) abused the Employer's supply chain management system; and</li> <li>(ii) failed to perform on any previous contract and has been given a written notice to this effect.</li> <li>(iii) has a clear criminal and ITC record.</li> </ul> <p>The tender meets the eligibility criteria and has fully completed all returnable forms.</p>
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## **PART T2: RETURNABLE SCHEDULES**

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### **T.2.1 LIST OF RETURNABLE SCHEDULES**

The tenderer must complete the following returnable schedules:

**Notes to tenderer:**

- 1. Failure to submit fully completed relevant returnable documents may render such a tender offer non-responsive.**
- 2. Tenderers shall note that their signature appended to each returnable form represents a declaration that they vouch for the accuracy and correctness of the information provided.**
- 3. Notwithstanding any check or audit conducted by or on behalf of the Employer, the information provided in the returnable documents is accepted in good faith and as justification for entering into a contract with a tenderer. If subsequently any information is found to be incorrect such discovery shall be taken as wilful misrepresentation by that tenderer to induce the contract. In such event:**
  - a. the Employer shall inform the tenderer and give the tenderer an opportunity to make representations within 14 days as to why the tender submitted should not be disqualified;**
  - b. if the Employer has already entered into a contract with the Tenderer, the Employer has the discretionary right under FIDIC Particular Condition 15.2(g) to terminate the contract.**
- 4. These forms must be completed in non-erasable ink (electronically signed submission is deemed non-erasable ink) and any alterations made prior to tender closure countersigned by an authorised signatory.**

## **PART T2: RETURNABLE SCHEDULES**

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**FORM A1: APPLICANT'S COMPANY DETAILS**

<b>a. General:</b>				
1. Name of Firm				
2. Postal address				
3. Physical address (Company Head Office Domicilium citandi)				
4. Telephone no				
5. E-mail address				
6. Contact person (full name)				
7. Income tax reference no				
8. VAT registration no				
9. Company registration no				
<b>b. Type of business:</b>				
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Sole Trader		Close Corporation	
			Company	(Pty) Ltd.
<b>c. List all shareholders, or owners of enterprises as follows:</b>				
Name	ID Number / Citizenship	Black Y/N	Male / Female	% Owned

d. Total number of years the firm has been in business: \_\_\_\_\_

e. Number of permanent staff members employed by your business: \_\_\_\_\_

**NOTE: A CERTIFIED COPY OF THE APPLICANT'S BUSINESS/COMPANY REGISTRATION FORM SHALL BE ATTACHED.**

SIGNED BY TENDERER: .....

**FORM A2      LOCATION OF BUSINESS AND PROOF**

The onus lies with the Applicant to ensure that adequate proof is provided that the Business is located at the address declared. Supporting documentation, e.g. Municipal Rates or other utility bill, is preferable.

***Note: A certified copy of proof of business address shall be attached.***

Business  
street address (being the  
place at which the applicant  
operates its business):

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District municipality:

---

Province:

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Distance from  
N3 Toll Road:

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Number of years  
at present address:

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Additional justifications,  
if applicable:

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SIGNED BY TENDERER: .....

**FORM A3: CERTIFICATE OF AUTHORITY FOR SIGNATORY**

**Notes to tenderer:**

- 1) The signatory for the tenderer shall confirm his/her authority thereto by attaching, on the tendering company's letterhead, a duly signed and dated copy of the relevant resolution of the board of directors/partners.
- 2) In the event that the tenderer is a joint venture, a certificate is required from each member of the joint venture clearly setting out:
  - authority for signatory,
  - undertaking to formally enter into a joint venture contract should an award be made to the joint venture,
  - name of designated lead member of the intended joint venture, as required by tender condition 4.13.2.
- 3) The resolution below is given as an example of an acceptable format for authorisation, but submission of this page with the example completed shall not be accepted as authorisation of the tenderer's signatory.

By resolution of the board of directors passed at a meeting held on .....

Mr/Ms ....., whose signature appears below, has been duly authorised to sign all documents in connection with the tender for

N3TC TENDER N3 MOW 2022: RETURNABLE SCHEDULES: PACKAGE 5

and any contract which may arise there from on behalf of **enter name of tenderer in block capitals**

.....

SIGNED ON BEHALF OF THE COMPANY:.....

IN HIS/HER CAPACITY AS:.....

DATE:.....

SIGNATURE OF SIGNATORY:.....

WITNESS: .....

SIGNATURE

SIGNATURE

.....  
NAME (PRINT)

.....  
NAME (PRINT)

**FORM A4: CERTIFICATE OF TAX COMPLIANCE**

Notes to tenderer:

1. The tenderer shall attach to this page an original or certified copy of his Tax Clearance and VAT Registration certificate which shall be obtained by the tenderer from the South African Revenue Service (SARS) and which shall be valid on the closing time for submission of tenders.
2. In the event of a joint venture each member shall comply with the above requirement.
3. Where such certificates are no longer issued by SARS, the tenderer shall complete the declaration below:

I, .....(name)  
the undersigned in my capacity as .....(position)  
on behalf of .....(name of company)  
herewith grant consent that SARS may disclose to the N3TC our tax compliance status. For this purpose,  
our unique security personal identification number (PIN) is ..... our tax  
reference number is .....and our tax clearance certificate number is  
.....

SIGNED ON BEHALF OF THE TENDERER: .....

**FORM A5: CERTIFICATE OF INSURANCE COVER**

**Note to tenderer: In the event of the tenderer being a joint venture/consortium the details of the individual members must also be provided.**

The tenderer shall provide the following details of this insurance cover:

- i) Name of Tenderer: .....
- ii) Period of Validity:.....
- iii) Value of Insurance:
  - Insurance for Works and Contractor's Equipment  
Company: .....  
Value: .....
  - Insurance for Contractor's Personnel  
Company: .....  
Value: .....
  - General public liability  
Company: .....  
Value: .....
  - SASRIA  
Company: .....  
Value: .....

SIGNED ON BEHALF OF THE TENDERER: .....

**FORM A6: TENDERER'S REGISTERED FINANCIAL SERVICE PROVIDER LETTER AND BANK DETAILS**

**Notes to tenderer:**

1. The tenderer shall attach to this form:
  - a) A letter (dated less than 3 months prior to the tender closing date) from a Registered Financial Service Provider (registered with the FSB) which declares how the entity conducts its account and confirms that the Tenderer has the financial means net of current commitments (independent of any contractual advance payment) available to meet the construction cash flow requirements estimated for the subject contract.
2. In the event that the tenderer is a joint venture enterprise, details of all the members of the joint venture shall be similarly provided and attached to this form.
3. In the event that the Employer at its sole discretion is not satisfied with the financial capability of the tenderer as a result of whatsoever nature and reason, the Employer reserves the right to invoke the provisions under tender data 5.13.

DATE

Bank Name

FSB Number

Bank Address

(Letter to be on the Financial Service Provider's letter head)

**RE: ACCOUNT CONDUCT AND CASHFLOW CONFIRMATION**

To Whom It May Concern:

We hereby confirm that **Tenderer Name** has been banking with **xxxx** bank for a period of **xxx years** and the account has been conducted in a satisfactory manner. **Tenderer Name** has the financial means, net of current commitments available to meet the construction cash flow requirements to the value of **xxxxx** for contract **(insert contract number)**.

- i) Name of Account Holder: .....
- ii) Account Number: .....
- iii) Bank name: .....
- iv) Branch Number: .....
- v) Bank and branch contact details .....

Yours Sincerely,

Name \_\_\_\_\_

Signature \_\_\_\_\_

BANK STAMP

SIGNED ON BEHALF OF TENDERER: .....

**FORM A7: CERTIFICATE OF REGISTRATION WITH CIDB**

The tenderer shall provide the following details of his registration with the Construction Industry Development Board. In the case of a joint venture, each member of the joint venture shall complete a separate form attached to this one.

The tenderer shall provide a printed copy of the Active Contractor's Listing off the CIDB website. ([www.cidb.org.za](http://www.cidb.org.za)). Tenderers whose CIDB registration expires within 21 days after close of tender should attach proof of their application for re-registration (refer to Tender Data Clause 4.1.1). In the case of a Joint Venture, a printed copy of the Active Contractor's Listing must be provided for each member of the Joint Venture.

Name of Contractor: .....

Contractor Grading Designation: .....

CIDB Contractor Registration Number: .....

Expiry Date: .....

SIGNED ON BEHALF OF THE TENDERER: .....

**FORM B1: CERTIFICATE OF COMPLIANCE WITH OCCUPATIONAL HEALTH AND SAFETY ACT, 1993 AND CONSTRUCTION REGULATIONS**

Notes to applicant:

1. Discovery that the applicant has failed to make proper disclosure may result in N3TC disqualifying the applicant from this pre-qualification process on the ground that it has been rendered invalid by the applicant's misrepresentation.
2. The applicant shall attach to this Form evidence that he is registered and in good standing with the compensation fund or with a licensed compensation insurer who is approved by the Department of Labour in terms of section 80 of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No 130 of 1993).

SIGNED BY TENDERER: .....

**FORM C1: TENDERER'S B-BBEE VERIFICATION CERTIFICATE**

**Notes to tenderer:**

1. The tenderer shall attach to this form a valid B-BBEE verification certificate issued in accordance with:
  - the amended Construction Sector Codes published in Notice 931 of 2017 of Government Gazette No. 41287 on 1 December 2017 by the Department of Trade and Industry.
  - in the event that the Measured Entity operates in more than one sector or sub-sector, the scorecard for the sector or sub-sector in which the majority of its core activities (measured in terms of Annual Revenue) are located will be acceptable.
2. The certificate shall:
  - have been issued by a verification agency accredited by the South African National Accreditation System (SANAS); or
  - be in the form of a sworn affidavit or a certificate issued by the Companies and Intellectual Property Commission in the case of an Exempted Micro Enterprise (EME) with a total annual revenue of less than R3 million if issued in accordance with the amended Construction Sector Codes published in Notice 931 of 2017 of Government Gazette No. 41287 on 1 December 2017 by the Department of Trade and Industry; and
  - be valid at the original advertised tender closing date; and
  - have a date of issue less than 12 (twelve) months prior to the tender closing date (see Tender Data 4.15).
3. In the event of an un-incorporated joint venture (JV), a project specific (SANRAL project number indicated) consolidated B-BBEE verification certificate in the name of the JV, shall be attached, as well as a valid B-BBEE verification certificate for each member of the JV on which the JV certificate was calculated.
4. The attached verification certificate and the associated assessment report shall comply with the requirements of Tender Data clause 5.11.8 and shall identify:
  - (a) The name and domicilium citandi et executandi of the tenderer.
  - (b) The registration and VAT number of the tenderer.
  - (c) The dates of granting of the B-BBEE score and the period of validity.
  - (d) The expiry date of the verification certificate.
  - (e) A unique identification number.
  - (f) The standard and/or normative document, including the issue and/or revision used to evaluate the tenderer.
  - (g) The name and/or mark/logo of the B-BBEE verification agency.
  - (h) The category (Generic, QSE, EME) in which the tenderer has been measured.
  - (i) The B-BBEE status level.
  - (j) The South African National Accreditation System (SANAS) logo on the verification certificate once verification agencies have been accredited.
  - (k) The B-BBEE procurement recognition level.
  - (l) The score achieved per B-BBEE element.
  - (m) The % black shareholding.
  - (n) The % black women shareholding.
  - (o) The % black persons with disabilities shareholding
  - (p) The % black youth shareholding
  - (q) The % black people living in rural or underdeveloped areas or townships shareholding
  - (r) The % black military veterans shareholding
  - (s) The value added status of the tenderer.
5. The Employer will not be responsible to acquire data that it needs for its own reporting systems and which may not form part of a verification agency's standard certificate format. The tenderer, at its own cost, must acquire any missing specified data listed in 4 above from its selected verification agency and have it recorded on the certificate. Alternatively, such missing data must be supplied separately, but certified as correct by the same verification agency and also attached to this form.

SIGNED BY TENDERER: .....

**FORM F1: CERTIFICATE OF TENDER COMPLIANCE**

**Note to tenderer**

This form has been created as an aid to ensure a tenderer's compliance with the completion of the returnable forms and schedules and subsequent placement in the correct envelope.

FORM NO	FORM DESCRIPTION	TICK IF COMPLETED
A1	APPLICANT'S COMPANY DETAILS	
A2	LOCATION OF BUSINESS AND PROOF	
A3	CERTIFICATE OF AUTHORITY FOR SIGNATORY	
A4	CERTIFICATE OF TAX COMPLIANCE	
A5	CERTIFICATE OF INSURANCE COVER	
A6	TENDERER'S REGISTERED FINANCIAL SERVICE PROVIDER LETTER AND BANK DETAILS	
A7	CERTIFICATE OF REGISTRATION WITH CIDB	
B1	CERTIFICATE OF COMPLIANCE WITH OCCUPATIONAL HEALTH AND SAFETY ACT, 1993 AND CONSTRUCTION REGULATIONS	
C1	TENDERER'S B-BBEE VERIFICATION CERTIFICATE	

SIGNED ON BEHALF OF THE TENDERER: .....

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# PART C1: AGREEMENTS AND CONTRACT DATA

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## PART C1: AGREEMENTS AND CONTRACT DATA

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## C1.1 FORMS OF OFFER AND ACCEPTANCE

### C1.1.1 FORM OF OFFER

The N3 TOLL CONCESSION (RF) PROPRIETARY LIMITED  
Block D  
Southdowns Office Park  
22 Karee Street  
Irene  
[n3mow2022.tender@n3tc.co.za](mailto:n3mow2022.tender@n3tc.co.za)

Sir,

**CONTRACT: N3TC/RM-2022-605: PACKAGE 5**  
**N3 TOLL ROAD: CEDARA INTERCHANGE TO HEIDELBERG SOUTH INTERCHANGE**  
**MOWING, CUTTING AND REMOVAL OF VEGETATION ON THE N3- PACKAGE 5**

1. I/we, by signing this part of the forms of offer and acceptance, confirm that we have examined the documents listed in the tender data and addenda thereto as listed in the returnable schedules and am/are duly authorised to represent and commit the tenderer to the contractual obligations contained therein.
2. I/we further confirm that by submitting this offer the tenderer accepts the conditions of tender and 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 tender and the conditions of contract identified in the contract data.

#### THE OFFERED TOTAL OF THE PRICES (INCLUSIVE OF VALUE ADDED TAX) IS

.....  
.....(in words)

(R..... in figures)

3. You may accept this offer by signing and returning to the tenderer one copy of the Form of acceptance before the end of the period of validity stated in the tender data, (or at the end of any agreed extension thereof), whereupon the tenderer becomes the party named as the contractor in the conditions of contract identified in the contract data.
4. Notwithstanding anything contained in a covering letter to this tender, I/we declare this offer is submitted entirely without variations or deviations.

Yours faithfully

SIGNATURE: ..... DATE: .....

NAME (IN CAPITALS): .....

CAPACITY: .....

NAME AND ADDRESS OF ORGANISATION: .....

NAME AND SIGNATURE OF WITNESS:

SIGNATURE: ..... DATE: .....

NAME (IN CAPITALS): .....

### C1.1.2 FORM OF ACCEPTANCE

To (Name of successful tenderer)

Dear Sir,

**CONTRACT: N3TC/RM-2022-605: PACKAGE 5**  
**N3 TOLL ROAD: CEDARA INTERCHANGE TO HEIDELBERG SOUTH INTERCHANGE**  
**MOWING, CUTTING AND REMOVAL OF VEGETATION ON THE N3- PACKAGE 5**

#### ACCEPTANCE OF OFFER

1. It is our pleasure to inform you that the N3 Toll Concession (RF) Proprietary Limited (the Employer) accepts your ( *select if applicable corrected/corrected alternative/alternative*) offer in the amount of R..... (i.e. including VAT but excluding CPA, and any contingent sum not in the priced schedule).
  2. The amount due may not be the accepted price but payment shall be made in accordance with the conditions of contract identified in the contract data.
  3. Acceptance shall form an agreement between us according to the terms and conditions contained in this form and in the contract that is comprised of:  
  
Part C1: Agreements and Contract Data (including this form of acceptance),  
Part C2: Pricing Data,  
Part C3: Scope of the Work and  
Part C4: Site Information,  
Part C5: Annexures  
together with issued drawings and other documents, or parts thereof, which may be incorporated by reference into the Parts listed above.
  4. Deviations and/or variations included in your offer as well as any changes to the terms of the offer agreed by us during the process of offer and acceptance shall not be valid unless contained in the appended schedule of deviations. (*If no deviation state "There are no deviations, variations or changes to the documents." Addenda issued during the tender period are deemed not to be deviations to the tender documents and schedules.*)
  5. Within 14 calendar days of the date of this form of acceptance (including the schedule of deviations if any) you shall deliver to the Employer:
    - Proof of insurance in terms of the information provided in the contract data and clause 18 of the FIDIC Conditions of Contract. Proof of currency of insured cover shall be provided on a monthly basis until contract completion.
- Failure to fulfil any of these obligations shall constitute a repudiation of this agreement.
6. The effective date of the contract shall be the date of this Form of Acceptance unless you, within seven (7) calendar days of the effective date, notify the Employer in writing of any justification why you cannot accept the contents of this agreement.
  7. The commencement date of the contract shall be as mutually agreed, but shall not be later than.... (*usually 28 calendar days after the date of this form, or earlier if circumstances demand and as agreed between tenderer/employer*). Access to the site shall be the date stated in the Letter of Access to the Site.
  8. Notwithstanding that a full, original-signed copy of the contract document containing all contract data and schedules (including that of accepted deviations) will be delivered to you, this form of acceptance constitutes the binding contract between us.
  9. The Employer or a duly appointed agent will act as the Employer's Agent to fulfil the functions of the Engineer in the administration of this contract. Please contact .....at .....to make arrangements for the signing of the contract documents and commencement meeting.

SIGNATURE:..... DATE:.....

NAME (IN CAPITALS): .....

CAPACITY: .....

EMPLOYER'S NAME AND ADDRESS: .....

AUTHORITY TO ACT: .....

## **C1.2 CONTRACT DATA**

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

#### **Note to Tenderer**

1. The Conditions of Contract for Construction (1999 edition) prepared by the International Federation of Consulting Engineers (FIDIC), as amended, shall apply to this contract. The amendments are those issued by FIDIC and reproduced hereafter, together with additional amendments (particular conditions of contract) as prescribed by the N3 Toll Concession (RF) Proprietary Limited.

<b>TABLE OF CONTENTS</b>	<b>PAGE</b>
<b>PART A: GENERAL CONDITIONS - FIDIC AMENDMENTS</b>	<b>C1-6</b>
<b>PART B: PARTICULAR CONDITIONS OF CONTRACT</b>	<b>C1-7</b>

## **PART A: GENERAL CONDITIONS - FIDIC AMENDMENTS**

Up to April 2021, the following amendments have been issued by FIDIC.

### **ERRATA to the First Edition, 1999**

The following significant errata are corrected in this reprinting of the First Edition of the Construction Contract. Several minor typographical errors and layout irregularities have also been corrected.

#### **GENERAL PROVISIONS**

Foreword	In figure "Typical sequence of Payment Events envisaged in Clause 14", change "14.11 Contractor issues Final Statement ..." to "Contractor submits Final Statement ...".
Page 2	In the middle of the third line of Sub-Clause 1.1.2.9, delete "under".
Page 26	In the title of Sub-Clause 8.1, substitute "Works" for "Work".
Page 56	In the penultimate line, delete the parentheses "(" and ")".
Page 60	Sub-Clause 20.3, in the line following sub-paragraph (d), delete "Particular Conditions" and substitute "Appendix to Tender".
Page 68	In the third line of Clause 9, delete the two words "notice to".

#### **GUIDANCE FOR THE PREPARATION OF PARTICULAR CONDITIONS**

Page 14	Under Sub-Clause 14.9, delete "EXEMPTION" and substitute "RETENTION".
Annexes	Delete "© FIDIC".

## **PART B: PARTICULAR CONDITIONS OF CONTRACT**

### **Note to Tenderer:**

**The following amendments are the N3 Toll Concession's standard particular conditions to the general conditions and shall apply to this contract**

The following additional amendments to the FIDIC Conditions of Contract 1999 apply to this contract:

## CONDITIONS OF CONTRACT

### PARTICULAR CONDITIONS AMENDING THE GENERAL CONDITIONS OF FIDIC

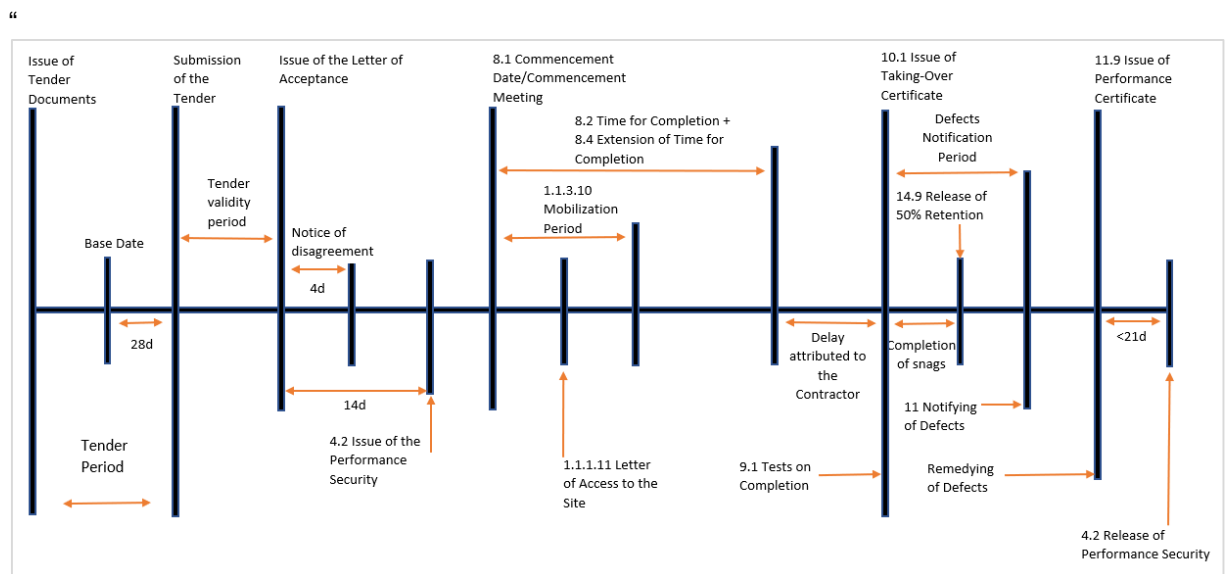
#### SUBJECT INDEX

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Mediation	20.3	Safety Procedures	4.8
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Employer's Personnel	2.3	Variations – Procedures	13.3
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## PARTICULAR CONDITIONS AMENDING THE GENERAL CONDITIONS OF FIDIC

### FOREWORD

Add the following illustrative chart as a clarification of the sequence of the Contract activities as amended in this Particular Conditions:



Typical sequence of Principal Events during Contracts for Construction as amended”

## 1.1 Definitions

### 1.1.1 The Contract

Replace 1.1.1.1 with:

“ **“Contract”** means the Form of Offer and Acceptance, Contract Data, these Conditions, the Specifications, the Drawings, the Schedules, and the further documents (if any), which are listed in the Form of Offer and Acceptance, and further includes drawings and documents or parts thereof, which any of the aforesaid documents incorporate by reference.”

Replace 1.1.1.3 with:

“ **“Letter of Acceptance”** means the Form of Acceptance as contained in part C1.1.2 of the contract documents.”

Replace 1.1.1.4 with:

“ **“Letter of Tender”** means the Form of Offer as contained in part C1.1.1 of the contract document.”

Replace 1.1.1.5 with:

“ **“Specification”** means that document entitled Scope of Work, as included in the Contract, and any additions and modifications to the Scope of Work in accordance with the Contract. Such document specifies the Works.”

Replace 1.1.1.7 with:

“ **“Schedules”** means the document(s) completed by the Contractor and submitted with his tender offer, as included in the Contract. Such document(s) may include the Bill of Quantities, data lists and schedules of rates and/or prices.”

*Replace 1.1.1.8 with:*

“**Tender**” means that section of the Form of Offer and Acceptance called ‘Offer’ and all other documents which the Contractor submitted as Returnable Documents, as included in the Contract.”

*Replace 1.1.1.9 with:*

“**Contract Data**” means the completed section entitled C1.2.2 Contract Data – Information provided by the Employer included in this Contract Data. Any reference to “Appendix to Tender” shall also mean “Contract Data” and shall apply mutatis mutandis.”

*1.1.1.10 Add the following:*

“**Bill of Quantities** shall also mean the Pricing Schedule as contained in section C2.2 of the contract document.”

*Add the following:*

“1.1.1.11 “**Concession Contract**” – means the Concession Contract, dated 27 May 1999, entered into between SANRAL and the Employer, including the annexures and amendments thereto.”

“1.1.1.12 “**Independent Engineer’ Agreement**” – means the contract entered into by SANRAL, the Employer and the Independent Engineer for purposes of the Concession Contract, substantially in the form set out in Annexure 19 including amendments thereto (Contract SAPR N0304012/1-IE2019B).”

1.1.1.13 “**Letter of Access to the Site**” means a letter issued by the Employer giving the Contractor right of access to the Site in accordance with Sub-Clause 2.1 [Right of Access to the Site]”

## **1.1.2 Parties and Persons**

*Replace 1.1.2.6 with:*

“**Employers Personnel**” means the Engineer appointed by the Employer, and any other personnel notified to the Contractor by the Employer or the Engineer as Employer’s Personnel.”

*Add the following:*

“1.1.2.11 “**Targeted Enterprise**” means an enterprise defined in Section D of Part C3 Scope of Work.

1.1.2.12 “**BE**” means Black Enterprise as defined in Section D of part C3 Scope of Work.

1.1.2.13 “**SMME**” means Small, Medium and Micro Enterprise as defined in Section D of part C3 Scope of Work.”

1.1.2.14 “**BP**” means Black People as defined in part C3 Scope of Work.”

1.1.2.15 “**Independent Engineer**” means the consulting engineer(s) or expert(s) appointed by SANRAL and the Employer pursuant to clause 6.1 of the Concession Contract or such other successor or consulting engineer(s) or experts as may be appointed from time to time by SANRAL and the Concessionaire and whose duties are set forth in the Independent Engineer’s Agreement, the Concession Contract and these general conditions.”

1.1.2.16 “**Intercreditor Agent**” means Nedcor Investment 102 Limited (previously known as Nedcor Investment Bank Limited).”

**1.1.2.17 “SANRAL”** means the South African Roads Agency Limited, established by Section 2 of the Act, or its legal successors and/or assigns.”

**1.1.2.18 “Concessionaire”** means the N3 Toll Concession (RF) Proprietary Limited.”

*Delete the definition of “DAB” in its entirety.*

### **1.1.3 Dates, Tests, Periods and Completion**

*Replace 1.1.3.9 with:*

“A **“day”** means a calendar day, except for any extension of time that is granted under Sub-Clause 8.4, [Extension of Time for Completion], in which case a day means a working day. A **“Year”** means 365 calendar days.”

*Add the following:*

**“1.1.3.10 “Working day”** means a day that is not listed as a Special non-working day subject to a maximum of 23 days per calendar month.”

*Add the following:*

**“1.1.3.11 “Mobilisation Period”** means the period as stated in the Appendix to Tender, or the period between the Commencement Date and the date that the Contractor starts with the execution of the Permanent Works, whichever is the shortest.

### **1.1.6 Other Definitions**

#### **1.1.6.5 “Laws”**

*In the 1st line, replace “(or state)” with “(or other spheres of government)” and in the 2<sup>nd</sup> line, after “other laws”, insert “including the South African Common Law”.*

*Add the following:*

**“1.1.6.10 “Supplementary Agreement”** means an agreement between the Employer and the Contractor for executing work, supplemental to the original Contract, which was not contemplated in the original Contract and is also not required for the proper completion of the original Contract.

**1.1.6.11 “Act”** means the South African National Roads Agency Limited and National Roads Act, 7 of 1998.”

### **1.2 Interpretation**

*Replace the contents of (d) with:*

“The expression “written”, “in writing”, “notify”, “the giving of notice”, “giving consent”, “as instructed” or “at the request of” means that communication, either hand-written or printed by whatever means, including transmission by telefax or e-mail, and resulting in a permanent record.

### **1.3 Communications**

*Add the following before the last paragraph:*

“However, such notice, instruction, consent or request is not deemed to have been delivered by virtue of its appearance in the minutes of meetings.”

### **1.5 Priority of Documents**

*Insert the following at the end of the 1<sup>st</sup> paragraph before the colon:*

“... unless specifically stated otherwise in the contract.”

*Replace sub-paragraphs items (a) through (h) with:*

- “(a) the Forms of Offer and Acceptance
- (b) the Appendix to Tender within the Contract data
- (c) the Particular Conditions of Contract
- (d) the General Conditions
- (e) the project specifications (Scope of Works (Part C3)),
- (f) the project Drawings,
- (g) the standard Specifications,
- (h) the Bill of Quantities (Pricing Data (Part C2)), and
- (i) the Schedules and any other documents forming part of the Contract.”

## **1.6 Contract Agreement**

*Replace the 1<sup>st</sup> two sentences with the following:*

“The Parties shall enter into a Contract Agreement when the Employer issues the Form of Acceptance (see Particular Condition 1.1.1.3). The Contract Agreement shall be in the form prescribed in the tender documents.”

## **1.7 Assignment**

*Change the title of this sub-clause to read “Assignment/Cession” and replace its contents with the following:*

“Neither Party shall, without the written consent of the other, assign the contract or any part thereof or any obligation under the Contract or cede any right or benefit thereunder.”

## **1.8 Care and Supply of Documents**

*Delete the first paragraph and replace with:*

“The Employers specification and drawings shall be in the custody and care of the Employer. The design in compliance with the Employers specification shall be the responsibility of the Contractor and shall form part of the Contractors Documents”.

*In the 2<sup>nd</sup> paragraph, 3<sup>rd</sup> line, change “six” to “two”.*

## **1.9 Delayed Drawings or Instructions**

*In paragraph 1, delete the words “drawings or instruction” and replace with the words “instructions for which the Contractor’s Design Engineer or the Contractor is not responsible”*

*In paragraph 2, delete part (b) “payment for such Cost ...”*

*Add the following paragraph after the 4<sup>th</sup> paragraph:*

“The Contractor shall have no entitlement of claim of any nature against the Employer resulting from any delay resulting from the late delivery of designs, drawings or instructions for which the Contractor’s Design Engineer or the Contractor is responsible.”

## **1.10 Employer’s Use of Contractor’s Documents**

*Amend sub-clause 1.10 by inserting a new clause after the third paragraph, to read as follows:*

“Notwithstanding that set out herein, the Contractor acknowledges that it has had sight of and is aware of the Employer’s obligations to SANRAL in respect of copyright and confidentiality (as recorded in the Concession Contract) and undertakes that it shall (and shall procure that Sub-Contractors shall) comply with the provisions thereof in order to

ensure that the Employer does not breach its copyright and confidentiality obligations to SANRAL.”

#### **1.11 Contractor’s Use of Employer’s Documents**

*At the end of the 1<sup>st</sup> sentence add:*

“as well as any research, innovation, industry cutting edge technology and any form of trials undertaken as part of the Contract.”

*Add the following new sub-clause “1.15 Applicability of Concession Contract”, after sub-clause 1.14 to read as follows:*

#### **2.3 Employer’s Personnel**

*In the 1<sup>st</sup> sentence delete “and the Employer’s other contractors.”*

#### **3.1 Engineer’s Duties and Authority**

*After the 3<sup>rd</sup> paragraph insert the following:*

“In addition to the actions stipulated in the General Conditions whereby the Engineer shall first obtain the approval of the Employer, the Employer’s approval shall also be obtained before taking any action under Sub-Clauses 8.1, 8.4, 8.8, 10.1, 11.9 and 13.3 as amended in these Particular Conditions and taking cognisance of clause 3.7 below.”

*Add the following new sixth paragraph:*

“If the Engineer is a legal entity, a natural person employed by the Engineer and approved by the Employer shall be appointed and authorised to act as the Engineer under the Contract.”

#### **3.5 Determinations**

*Amend sub-clause 3.5 by inserting the following words as the beginning of sub-clause 3.5:*

“subject to 3.6”

*Add the following new sub-clauses 3.6, 3.7 and 3.8, after sub-clause 3.5 to read as follows*

#### **4.1 Contractor’s General Obligations**

*Add the following sentence below the 4<sup>th</sup> paragraph:*

“With regard to the Contractor’s proposals submitted under the item of the Scope of Works entitled “Section D: Stakeholder and Community Liaison and Targeted Labour and Targeted Enterprise utilisation and development”, if the Contractor fails to provide the employment or training to the extent proposed, the Employer may impose penalties as set out in the above-mentioned Scope of Works.”

*Add the following as a final paragraph:*

“The Contractor shall obtain Mining Authorisation for all sites where mining activities, as defined in the Mines Health and Safety Act (Act 29 of 1996) as amended, are to be conducted and shall assume responsibility for the Environmental Management Plan (EMP) in respect of the site(s) and shall ensure that the site(s) is/are rehabilitated at the conclusion of the contract.”

#### **4.4 Subcontractors**

*Change the title to read “Subcontractors and Suppliers”*

*In the first paragraph delete “the whole of the Works” and add “more than the percentage of the Works as stated in the Appendix to Tender without the express approval of the Employer”.*

*In the 1<sup>st</sup> line of the 2<sup>nd</sup> paragraph, after the word “Subcontractor” replace the expression “his agents or employees” with “suppliers, their agents or employees”.*

*Add the following to sub-paragraphs:*

(e) If the Contractor is required to employ one or more Subcontractors under his targeted enterprise development, then the subcontract agreement between the Contractor and the Subcontractor shall be the standard FIDIC subcontract agreement (version 2011) and the provisions of Sub-Clause 5.4 (Evidence of Payment) shall apply as if such Subcontractor is a nominated Subcontractor.

(f) Each subcontract agreement shall include the provisions:

(i) The Contractor undertakes to pay the Subcontractor the full value as certified by the Engineer as being due in each Interim Payment Certificate, any deduction for plant, equipment, materials or fuel supplied by the Contractor as agreed to by the Engineer. The Contractor further undertakes to make payment within 21 days of presentation by the Engineer of the Contractor’s own Interim Payment Certificate to the Employer for payment, or by the 25<sup>th</sup> of the month following that in which the Subcontractor completed the work, whichever date is earlier.

(ii) The Subcontractor’s retention money shall be released when a Subcontractor’s work does not show any defect within 12 (twelve) months after the completion of the subcontract. However, the Subcontractor’s retention money may be withheld but only if the Performance Certificate is unable to be issued because of defective workmanship attributable to the Subcontractor.

(iii) The Contractor shall procure that each Subcontractor keeps the Works, materials, supplies and equipment provided hereunder free of all liens and other encumbrances at all times. The Subcontractors shall be required to waive all and any liens and encumbrances which the Subcontractor may from time to time have, or become entitled to, on the Work, materials, supplies and equipment and any part thereof. The Contractor shall and hereby warrants and undertakes to the Employer that it will include a provision to this effect in each Subcontract with each of its Subcontractors.”

#### **4.7 Setting Out**

*Amend the 2<sup>nd</sup> line of the 2<sup>nd</sup> paragraph to read;*

*“.....reference, provided that the Contractor shall provide proof of their inaccuracy before they are used.”*

#### **4.8 Safety Procedures**

*Add the following sub-paragraph:*

*“(f) enter into and execute an agreement as provided for under Section 37 (2) of the Occupational Health and Safety Act, 1993 (Act No 85 of 1993) and shall comply with all other requirements of Act No 85 of 1993 and Construction Regulations, 2014. The agreement in the relevant form shall be prepared at the expense of the Employer.”*

#### **4.10 Site Data**

*In the 1<sup>st</sup> paragraph, 1<sup>st</sup> sentence, replace “prior to the Base Date” with “either as part of or by reference in the Tender Documents or, otherwise, not later than 7 days before the latest date for submission of the Tender Documents.”, and delete the 2<sup>nd</sup> sentence.*

#### **4.13 Rights of Way and Facilities**

*Add the following paragraph:*

"The Contractor shall abide by the procedures for the provision of deviation, haul and construction roads, and the requirements for the construction, maintenance and final reinstatement of such roads, all as set out in the standard Specifications."

#### **4.17 Contractor's Equipment**

*Add the following paragraph:*

"The Contractor shall notify the Engineer, in writing, of the names and addresses of the owners of all major items of equipment not owned by the Contractor."

#### **4.18 Protection of the Environment**

*In the 1<sup>st</sup> paragraph, 1<sup>st</sup> sentence add "and shall ensure compliance with all the environmental requirements indicated in part C3 Scope of Work."*

*Add the following paragraph:*

"The Contractor shall indemnify the Employer against any liability arising from or in relation to any of the above matters."

#### **4.19 Electricity, Water and Gas**

*In the 1<sup>st</sup> paragraph, 1<sup>st</sup> line, delete "except as stated below", and delete the 2<sup>nd</sup> and 3<sup>rd</sup> paragraphs.*

#### **4.20 Employer's Equipment and Free-Issue Material**

*Delete "and Free-Issue Material" from the title of the sub-clause and delete the 3<sup>rd</sup> and 4<sup>th</sup> paragraphs.*

#### **4.21 Progress Reports**

*In the 1<sup>st</sup> paragraph, 2<sup>nd</sup> line, delete "in six copies"*

*Add the following at the end of the 3<sup>rd</sup> paragraph:*

- "(i) Comparison of estimated Contract Price and the original Contract Price as stated in the form of Acceptance, with details of any events or circumstances which may result in the original Contract Price to be exceeded, and the measures being (or to be) adopted to prevent this.
- (j) SHE audits, SHE incidents, traffic accidents, Environmental management report, employment, empowerment and training reports (extracted from Employer system), training plan, communication plan, media information, site memos, drawings issued, mix designs, work authorisations, daywork, programme, sub-standard work, cashflow and expenditure, claims, risk report and penalties."

#### **4.22 Security of the Site**

*Replace the fullstop at the end of subclause (b) with a comma and continue this clause as follows:*

"and authorised utility or service owners whom the Employer or the Engineer identifies as having also been authorised. Without said notice, the Contractor may refuse access to such utility or service owners; and"

*Add the following subclause:*

"(c) The Contractor shall indemnify the Employer against any liability for damage incurred to, or loss of, property within the site identified in the contract documents as not belonging to the Employer regardless of whether or not such damage or loss is caused by the Contractor's equipment."

#### **4.24 Fossils**

*In the 1<sup>st</sup> paragraph, 1<sup>st</sup> sentence after “fossils” insert “and graves” and in the 2<sup>nd</sup> sentence, add “and shall indemnify the Employer against any liability arising from such loss or damage.”*

*Add the following new sub-clause 5.5:*

#### **5.5 Contract Requirements for Nominated Subcontractors**

“In this contract, the contractor shall enter into a Subcontract with the nominated subcontractor on the terms and conditions stipulated by the Employer and set out in C1.2.2 to this document.”

#### **6.2 Rates of Wages and Conditions of Labour**

*Add the following:*

“The conditions as stated in the Appendix to Tender shall also apply.”

#### **6.5 Working Hours**

*Replace the 1<sup>st</sup> sentence with the following:*

“No work shall be carried out on Site on Sundays or on any special non-working day stated in the Contract Data or outside normal working hours (as defined in Part C3: Scope of Works: Clause B1502 (n), unless:”

#### **6.7 Health and Safety**

*Replace the 1<sup>st</sup> paragraph with the following:*

“The Contractor shall provide and maintain on the Site adequate and suitable sanitary and first aid services (including the provision at all times of a person qualified to render medical first aid) and a supply of potable water for the Contractor’s, the Employer’s and the Engineer’s personnel engaged on the Contract and, if necessary, similar facilities elsewhere for such personnel off the Site.”

*Add the following as a new 4<sup>th</sup> paragraph:*

“The Contractor and his Subcontractors shall be in good standing in terms of the Compensation for Occupational Injuries and Disease Act (COIDA) and have a letter as proof.

*Add the following as a new 5<sup>th</sup> paragraph:*

“The Contractor shall also comply to the requirements of the Scope of Works titled: Section E: Requirements of the Occupational Health and Safety Act and Regulations.”

#### **6.9 Contractor’s Personnel**

*Add the following new subparagraphs to the 1<sup>st</sup> paragraph:*

- “(e) is found, based on reasonable evidence, to have engaged in corrupt, fraudulent, collusive or coercive practice; or
- (f) has been recruited from the Employer’s Personnel in breach of sub-clause 6.3 [Persons in the Service of Employer].”

*Add the following as a final paragraph:*

“The requirements for key personnel as stated in the Appendix to Tender shall also apply for the duration of the contract.”

*Add the following new sub-clause:*

#### **“6.12 Indemnity by Contractor**

The Contractor shall indemnify the Employer against and from all damages, losses and expenses (including legal fees and expenses) resulting from:

- (a) the loss of output and delay caused by the slowing down or partial or total stoppage of work caused by"
  - i. all or any of the Contractor's workforce as a result of a dispute between all or any of the Contractor's workforce and the Contractor; or
  - ii. all or any of the Contractor's suppliers difficulty or impossibility to deliver goods or materials needed to perform the Works;
- (b) any unlawful, riotous or disorderly conduct by or amongst the Contractor's personnel."

#### **7.4 Testing**

*Delete all paragraphs after the 4<sup>th</sup> paragraph.*

#### **8.1 Commencement of Work**

*Delete the first paragraph and replace with:*

"The Engineer shall give the Contractor not less than 7 days' notice of the Commencement Date.

*In the 2<sup>nd</sup> line of the 2<sup>nd</sup> paragraph, after the words "Commencement Date", insert "but within the period stated in the Contract Data."*

*Add the following after the 2<sup>nd</sup> paragraph.* Failure to commence with the works within the period stated in the Contract Data will result in a penalty being deducted from monies owed to the Contractor as stated in the Contract Data.

#### **8.3 Programme**

*Replace the 1<sup>st</sup> sentence of the 1<sup>st</sup> paragraph with "The Contractor shall submit a detailed programme to the Engineer within 14 days of the Commencement Date."*

*Add to the items to be included in the programme the following sub-paragraph:*

- "(e) The Contractor's cash flow forecast.
- (f) Documented details of the contractor's environmental mitigation measures and health and safety plans in respect of all construction activities."

*In the 2<sup>nd</sup> paragraph replace "21" with "14".*

#### **8.4 Extension of Time for Completion**

*In the 1<sup>st</sup> paragraph after "... will be delayed by any of the following causes" add "and all float in the programme has been utilised".*

*Amend sub sub clause (c) to the following:*

- "(c) exceptionally adverse climatic conditions, which for the purpose of these Conditions shall mean adverse climatic conditions at the Site which are exceptional having regard to climatic data made available by the Employer and/or climatic data published in the Country for the geographical location of the Site, and calculated as stated in the Appendix to Tender,"

*Add the following as a 3<sup>rd</sup> paragraph:*

"If a delay caused by a matter which is the Employer's responsibility is concurrent (that is the effect of the events are felt at the same time) with a delay caused by a matter which is the Contractor's responsibility, the Contractor's entitlement to Extension of Time shall be assessed after taking into account any contribution to the delay caused by a matter which is the Contractor's responsibility and the Contractor shall only be entitled to Extension of Time if the Employer delay exceeds the Contractor delay."

*Replace the word “Engineer” with “Employer” in the last sentence of the last paragraph.*

## **8.6 Rate of Progress**

*Delete Clause 8.6 and replace with:*

“Should the Contractor not adhere to the program for any general and or shoulder mow and baling and after receiving an instruction from the Employer in writing to remedy the progress, if after 7 days, the Contractor has not been able to recover progress according to the original program, the Employer reserves the right to relieve the Contractor of his obligation to execute that general and or shoulder mow and baling and to re-allocate the general and or shoulder mow and baling to a performing Contractor from one of the other Packages. Should the Contractor continue to not adhere to the agreed program, the Employer will resort to Clause 15 Termination.”

## **8.7 Delay Damages**

*Change the marginal heading of this clause to read “Delay Damages and Other Non-compliance Charges” and insert the following as a first paragraph:*

“Delay damages (or Penalties in terms of the Conventional Penalties Act, 1962), and other payments to the Employer for late delivery, failure to achieve intra-programme due dates or non-compliance events shall apply as follows:”

*Number the existing two paragraphs as subclause (a) and in the 1<sup>st</sup> sentence of the 1<sup>st</sup> paragraph of subclause (a), delete “subject to Sub-Clause 2.5 [Employer’s Claims]”.*

*Add the following subclause relating to other non-compliance charges:*

“(b) If the Contractor fails to comply with the requirements detailed in the Specification regarding duration of accommodation of traffic closures, meeting intra-programme dates, Accommodation of Traffic requirements, overloading, Contract Participation Targets, subcontracting, quality of work, submission of information and performance criteria, the Contractor shall pay non-compliance charges to the Employer for this default. These non-compliance charges shall be calculated at the rates stated in the Appendix to Tender, which shall be applied for each incident of non-compliance.

These non-compliance charges shall be the only charges due from the Contractor for such default, other than in the event of termination under Sub-Clause 15.2 [Termination by Employer] prior to completion of the Works. These charges shall not relieve the Contractor from his obligation to complete the Works, or from any other duties, obligations or responsibilities which he may have under the Contract.”

*Add the following paragraph:*

“If it is stipulated in the project specification or the Contract Data that certain parts of the work must be completed within a specified period and the Contractor fails to complete this part or parts of the work by the due date, a separate penalty as defined in the Contract Data shall apply for each day the actual completion date for these specified items surpasses the due date”

## **8.8 Suspension of Work**

*Add the following paragraph after the last paragraph of sub-clause 8.8:*

“Suspension of Work due to Seal Embargo - Should the Time for Completion extend into the seal embargo period, 15 April to 15 October, the Contractor shall suspend single or double seal works for the period of the seal embargo, and sub-clauses 8.9, 8.10 and 8.11 shall not apply. The remaining time (Time for Completion) shall be added to a re-commencement date of 15 October. Regardless of whether the Contractor vacates site temporarily or not, the Contractor shall not be compensated for de-establishment and

re-establishment of the seal unit for such a suspension. The Contractor shall not be entitled to any extension of time, time related costs or any other costs related to this suspension.”

*Add the following new sub-clause:*

**“9.5 Tests after Completion and Failure to pass Tests after Completion**

Tests after Completion shall be performed according to the Specifications. The procedure in the event of Failure to pass Tests after Completion is detailed in the Specifications. Failure of the Contractor to remedy defects according to the requirements of the Specification within a reasonable period shall result a breach of Contract and result in the Employer recovering reasonable costs by making demand on the Performance Security.”

**10.1 Taking Over of the Works and Sections**

*In the 3<sup>rd</sup> paragraph at the end of sub-clause (a), before the word “or”, insert the following:*

“(the work listed in amended clause B1210 of the Scope of Works shall not be deemed as minor outstanding work)”

**10.2 Taking Over of Parts of the Works**

*Delete the 2<sup>nd</sup> paragraph.*

*Between the 3<sup>rd</sup> and 4<sup>th</sup> paragraphs insert the following paragraph:*

“The Employer may make use of any part of the Permanent Works prior to the issue of a Taking Over-Certificate.”

*Delete the 5<sup>th</sup> paragraph.*

*Add the following new sub-clause 10.5 Independent Engineer, after sub-clause 10.4 to read as follows:*

**11.11 Clearance of Site**

*Replace the 1<sup>st</sup> paragraph with the following:*

“With the exception of Plant, Materials and Contractor’s Equipment required to complete any outstanding work or to remedy defects or damage as notified by, or on behalf of, the Employer and which Plant, Materials and Contractor’s Equipment have been agreed by the Engineer and the Contractor, the Contractor shall, upon receipt of the Taking-Over Certificate, remove all Contractor’s Equipment and surplus material, wreckage, rubbish and Temporary Works, from the Site unless otherwise instructed by the Engineer.”

*In the 2<sup>nd</sup> paragraph, replace “after the Employer receives a copy of the Performance Certificate” with “after the issue of the Taking-Over Certificate.”*

**12.3 Evaluation**

*Replace the 2<sup>nd</sup> sentence of the 2<sup>nd</sup> paragraph with the following:*

“However, a new rate or price shall be appropriate for an item of work only if notice has been given and if:...”

*Delete the conditions of sub-sub-clause (a) and replace with:*

“as this is a maintenance and rehabilitation Contract, a new rate or price shall not be appropriate should a measured quantity differ in any way from the Bill of Quantities or other Schedule and that may result in any increase or decrease in the Contract Price.”

*Replace the word ‘Contract’ with ‘Contract Data’.*

### **13.3 Variation Procedure**

*Delete the first paragraph and replace with the following new paragraph:*

"Variations may be initiated by the Employer (with a copy to the Engineer) at any time prior to the issuing of a Taking Over Certificate for the Works, either by instruction or by request to the Contractor to submit a proposal. The Engineer shall be required to implement the variation in accordance with 13.3."

*Replace the 3<sup>rd</sup> paragraph with the following:*

"Each instruction to execute a Variation, unless the Variation is to be executed on a Daywork basis, shall be a written instruction presented in the form of a Variation order. The Variation order shall be presented to the Employer, who shall signify his approval before the order is issued to the Contractor, who shall acknowledge his acceptance by signing the order. The Contractor shall not accept a Variation order that is not approved and signed by the Employer."

If the Contractor considers that an instruction constitutes a Variation, the Contractor shall immediately, and before commencing any work related to an instruction, give a notice to the Engineer with reasons. If the Engineer does not respond within seven days confirming, revoking or varying the instruction, the Engineer shall be deemed to have revoked the instruction."

### **13.5 Provisional Sums**

*In the 1<sup>st</sup> line of sub-paragraph (b) after "services" insert "and including items for which a prime cost sum has been provided in the Bill of Quantities."*

*Add the following after the last paragraph:*

"The Contractor and Engineer shall follow the procedure as specified in the Specification for each Provisional Sum and Prime Cost Sum, prior to any work being performed under a Provisional Sum or Prime Cost Sum."

### **13.6 Daywork**

*Replace the 2<sup>nd</sup> and 3<sup>rd</sup> sentences in the 1<sup>st</sup> paragraph with "The following procedure shall apply."*

*Add the following as the 5<sup>th</sup> paragraph of this sub-clause:*

"The work shall be valued in accordance with the Daywork Schedule included in the Contract or, in the absence of a Daywork Schedule or for items not included in the Daywork Schedule the Contractor shall be paid the aggregate of:

- (i) the gross remuneration of the workmen for the time they are actually engaged on the work concerned;
- (ii) the net cost of Materials actually used;
- (iii) an amount in respect of Contractor's Equipment which shall be charged on a time basis at the rates stated in the Tender, failing which at rates, to be agreed between the Contractor and the Engineer or, failing agreement, to be determined by the Engineer on the basis of ruling equipment hire rates; and
- (iv) the percentage allowances stated in the Contract Data, which allowances shall be held to cover all charges for the Contractor's and/or Subcontractor's profits, timekeeping, clerical work, insurance, establishment, superintendence and the use of hand tools."

### **13.8 Adjustments for Changes in Costs**

Delete sub-clause 13.8) and replace with the following

"CPA does not apply to this contract."

Escalation on this contract is subject to CPI Adjustment that will take effect on the Base Date and thereafter on the first day of each subsequent month, in accordance with the following formula:

$$EA = CA \times \frac{CPIN}{CPIA00}$$

Where:

EA = the escalated amount for month N

CA = the amount measured in month N as being  
Base Date prices

CPIN = CPI for, month N being the CPI applicable on the 1st day of month N

Date, and in the case of each subsequent month, the third month prior to such month

CPIA00= CPI for 1 February 2022 (Base Date)

CPI = Consumer Price Index as Published by STATS SA monthly in publication No. P 0141.1 being the weighted average for Ekurhuleni and Pietermaritzburg in the ratio 1:1.

#### **14.1 The Contract Price**

*In clause (d), replace "a proposed breakdown of each lump sum price" with "a breakdown of all rates."*

#### **14.3 Application for Interim Payment Certificates**

*In the 1<sup>st</sup> line of the 1<sup>st</sup> paragraph, delete "in six copies."*

*In the 4<sup>th</sup> line of the 1<sup>st</sup> paragraph, change "the report" to "reports."*

*In the 2<sup>nd</sup> paragraph, sub-paragraph (c), after "above amounts" insert "and 80% of the value of Materials on Site"*

*Add the following as a final paragraph:*

"If, as stated in the Appendix to Tender, a Retention Money Guarantee is permitted and the Contractor elects to furnish it, the guarantee shall, at the cost of the Contractor, be executed by an insurance company or bank in a form approved by the Employer. If this, in the full amount (limit) is provided by the Contractor, the cash retention deduction will not apply.

The said company or bank shall be registered or licensed to do business in the Republic of South Africa and shall have an office and banking facility in the Republic of South Africa and shall be subject to approval by the Employer.

The aggregate liability under the guarantee shall be the maximum amount of retention monies to be retained by the Employer, which amount shall be as stated in the Appendix to Tender.

#### **14.5 Plant and Materials intended for the Works**

*In the first paragraph delete "If this Sub-Clause applies"*

*Delete the 2<sup>nd</sup> paragraph.*

*In the 3<sup>rd</sup> paragraph, delete sub-paragraphs (b) and (c) (i) and amend sub-paragraph (a) so that (c) (ii) becomes (a) (iii) thus;*

- “(a)(ii) ...supported by satisfactory evidence; and  
“(a)(iii) the relevant Materials have been delivered to and.....”

*Add the following sub-sub-clause:*

- “(a)(iv) provided proof of ownership of the plant and materials

*Add the following paragraph:*

“The provisions of this Sub-Clause 14.5, as amended herein, shall not apply to Materials intended for incorporation in the Permanent Works and stored at places other than the Site.”

#### **14.6 Issue of Interim Payment Certificates**

*In the 2<sup>nd</sup> line of the 1<sup>st</sup> paragraph replace “28” with “14”.*

#### **14.7 Payment**

*In sub-paragraphs (b) and (c) of the 1<sup>st</sup> paragraph replace “56” with “28”.*

*In sub-paragraphs (b) of the 1<sup>st</sup> paragraph replace “supporting documents” with “all supporting documents required in terms of the Contract;”*

*Delete the 2<sup>nd</sup> paragraph.*

#### **14.8 Delayed Payment**

*Replace the 2<sup>nd</sup> paragraph with the following:*

“These financing charges shall be calculated at the simple annual rate of two percentage points above the prime lending rate of the South African Reserve Bank.”

*In the 3<sup>rd</sup> paragraph, replace “... entitled to this payment without formal notice ...” with the following: “... entitled to this payment with formal notice ...”*

#### **14.10 Statement at Completion**

*In the 2<sup>nd</sup> line of the 1<sup>st</sup> paragraph delete “six copies of”.*

#### **14.11 Application for Final Payment Certificate**

*In the 2<sup>nd</sup> line of the 1<sup>st</sup> paragraph delete “six copies of”.*

#### **14.15 Currencies of Payment**

*Delete this sub-clause and replace with:*

“The currency of payment for this contract shall be South African Rand.”

#### **15.1 Notice to Correct**

*Add the following at the end of the paragraph:*

“The Notice to correct shall:

- (a) describe the Contractor’s failure;
- (b) state the Sub-clause and/or provisions of the Contract under which the Contractor has the obligation; and
- (c) specify the time within which the Contractor shall remedy the failure, which shall be reasonable, taking due regard of the nature of the failure and the work and/or other action required to remedy it.

After receiving a Notice to Correct the Contractor shall immediately respond by giving a Notice to the Engineer describing the measures the Contractor will take to remedy the

failure and stating the date on which such measures will be commenced in order with the time specified in the Notice to correct.

The time specified in the Notice to Correct shall not imply any extension of Time for Completion."

## **15.2 Termination by the Employer**

*In the 1<sup>st</sup> paragraph replace the 1<sup>st</sup> sentence with the following:*

"The Employer shall be entitled to give a Notice to Terminate to the Contractor of the Employer's intention to terminate the Contract or, in the case of sub-paragraph e), f), g) or h) below, a Notice of Termination, if the Contractor:"

*In sub-paragraph (d), after the words "...the required agreement," add the following "fails to disclose its subcontractor agreements,"*

*In sub-paragraph (e), after the words "... or carries on business under a receiver," add the following "or under a business rescue practitioner,"*

*Delete the word "or" at the end of sub-paragraph (e) and replace sub-paragraph (f) with the following:*

"(f) Gives or has given, offers to give or has offered to give (directly or indirectly) to any person any bribe, gift, gratuity, commission or other thing of value, as an inducement or reward:

- (i) for doing or forbearing to do any action in relation to the Contract or any other contract with the Employer, or
- (ii) for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other contract with the Employer,

or if any of the Contractor's Personnel, agents or Sub-contractors gives or has given, offers to give or has offered to give (directly or indirectly) to any person any such inducement or reward as is described in this sub-paragraph (f). However, lawful inducements and rewards to Contractor's Personnel shall not entitle termination."

*Add the following sub-paragraph:*

"(g) Misrepresented, whether innocently, negligently or fraudulently, the true facts requested in the tender documents; or

(h) acts in such a way, on this contract or any other contract with the Employer, that a statute relating to the combating of fraud, corruption, uncompetitive practice and the like can be invoked."

*Replace the 2<sup>nd</sup> paragraph with the following:*

"Unless the Contractor remedies the matter described in the Notice to Terminate above within 14 days of receiving the Notice to Terminate, the Employer may by giving a Notice of Termination to the Contractor immediately terminate the Contract. The date of termination shall be the date stated in the Notice of Termination.

In the case of sub-paragraph e), f), g) or h) the Employer may by giving a Notice of Termination immediately terminate the Contract and the date of termination shall be the date of the Notice of Termination."

## **17.1 Indemnities**

*In the 1<sup>st</sup> paragraph delete "and" at the end of sub-paragraph (b)(i).*

*Delete the full stop at the end of sub-paragraph (b)(ii) and substitute ",", and insert the following sub-paragraphs:*

- “(c) the loss of output and delay caused by the slowing down or partial or total stoppage of work caused by:
  - (i) all or any of the Contractor’s Personnel or ex-Personnel as a result of a dispute between all or any of the Contractor’s Personnel or dismissed Contractor’s Personnel and the Contractor, or all or any of the Subcontractor’s Personnel and the Subcontractor, and
  - (ii) all or any of the Contractor’s Suppliers’ difficulty or impossibility to deliver goods or materials needed to perform the Works,
- (d) any unlawful, riotous or disorderly conduct by or amongst the Contractor’s Personnel or dismissed Contractor’s Personnel,
- (e) any liability for damage incurred to, or loss of, property within the site identified in the contract documents as not belonging to the Employer regardless of whether or not such damage or loss is caused by the Contractor’s equipment,
- (f) all damages, losses and expenses (including legal fees and expenses) resulting from the loss of output and delay caused by the slowing down or partial or total stoppage of work caused by:
  - (i) all or any of the Contractor’s workforce (or dismissed Contractor’s Personnel) as a result of a dispute between all or any of the Contractor’s Personnel (or dismissed contractor’s Personnel) and the Contractor; or
  - (ii) all or any of the Contractor’s suppliers’ difficulty or impossibility to deliver goods or materials needed to perform the Works, and
- (g) harm or damage to the environment caused in the performance of the Works.”
- (h) The Contractor hereby indemnifies and holds blameless the Employer against any and all losses that may be incurred by the Employer as Owner of the Mine(s) as a result of any act or omission by the Contractor, its employees or subcontractors in contravention of the Mines Health and Safety Act, 1996 (Act No 29 of 1996), as amended.”

*Add the following final paragraphs:*

“To the extent, if any, that the Contractor is responsible for the design of part of the Permanent Works under Sub-Clause 4.1 [*Contractor’s General Obligations*], and/or any other design under the Contract, the Contractor shall also indemnify and hold harmless the Employer against all acts, error or omissions by the Contractor in carrying out the Contractor’s design obligations that result in the Works (or Section or Part or major item of Plant, if any), when completed, not being fit for the purpose(s) for which they are intended under Sub-Clause 4.1 [*Contractor’s General Obligations*].

The Contractor shall indemnify the Employer against any liability for physical damage incurred to, or loss of, property within the Site identified in the Contract as not belonging to the Employer regardless of whether or not such damage or loss is caused by the Contractor’s equipment.”

### **17.3 Employer’s Risks**

*Add the following to sub-paragraph (c):*

“unless these risks are insurable with the South African Special Risks Insurance Association (SASRIA) at the time of tendering and it is stipulated in the Contract Data that the Contractor is to effect insurance against these risks.”

### **17.4 Consequences of Employer’s Risks**

*In the 1<sup>st</sup> sentence of the 2<sup>nd</sup> paragraph, insert “to the Works, Goods or Contractor’s Documents” after the word “damage”.*

### **17.6 Limitation of liability**

*In the 3<sup>rd</sup> line of the 1<sup>st</sup> paragraph delete the remainder of the sentence after the comma and substitute:*

“other than as specifically provided for in Sub-Clause 8.7 [*Delay Damages*]; Sub-Clause 11.2 [*Cost of Remedying Defects*]; Sub-Clause 12.5 [*Non-compliance Damages*]; Sub-

Clause 15.4 [*Payment after Termination*]; Sub-Clause 16.4 [*Payment on Termination*]; Sub-Clause 17.1 [*Indemnities*]; Sub-Clause 17.4 [*Consequences of Employer's Risks*] and Sub-Clause 17.5 [*Intellectual and Industrial Property Rights*]."

*Replace sub-clauses 18.1, 18.2, 18.3 and 18.4 with the following:*

**"18.1 General Requirements for Insurances**

**"(a) Employer's Insurance**

Without limiting the Contractor's responsibilities under this Contract, the Employer shall subject to the Terms, Limits, Exceptions and Condition of the Policy effect, in the joint names of the Employer, SANRAL, the Lenders (as defined in the Concession Contract), the Independent Engineer, the Contractor and its sub-contractors for their respective rights and interests in the terms of the insurance referred to in Part A of Appendix A on terms compliant with Part C of Appendix A.

**(b) Contractor's Insurance**

The Contractor shall effect and maintain, from the Commencement Date of Works under this Contract until the completion of its obligations hereunder in respect of the Works, insurance in accordance with Part B of Appendix A. All insurances referred to in this 18.1(b) shall be in the joint names of the Employer, SANRAL, the Lenders and the Independent Engineer and all other parties with an insurable interest and indemnify the Employer, SANRAL, the Engineer and the Independent Engineer and their respective agents, employees or workmen, without any right of subrogation against him or them, in respect of claims that may be made against him or them arising out of or in the course of or in connection with the carrying out of the Works or the performance of the duties in connection therewith or incidental thereto. Such insurances which are to be effected by the Contractor shall be effected with the same insurers as the Employer to the extent commercially reasonable, or otherwise with insurers whose identity has been approved by the Employer, and on terms compliant with Part C of Appendix A.

**(c) Requirements as to Insurance**

- (i) The Contractor will comply and ensure that its Sub-Contractors of all tiers comply with the terms and conditions of all insurances effected in accordance with this Clause 18.1 and the procedures for claims notification and registration thereunder and shall do nothing or omit to do anything which might prejudice such insurances.
- (ii) In the event of loss or damage to the Works and save to the extent that such loss or damage was caused by the act or default or breach of this Contract by the Employer or persons for whom it is responsible, the Contractor shall be responsible for the amount of any deductibles under the insurances effected in respect of such loss and damage and shall not be entitled to any payment in respect of the restoration thereof other than the monies received under such insurances.
- (iii) Insofar as the Contractor is dissatisfied with the terms and conditions of any of the insurances effected by the Employer the Contractor may effect, at its own cost and on terms compliant with the provisions of this Clause 18.1 such additional insurance as it may consider necessary.
- (iv) The Contractor shall, in performance of its obligations pursuant to Clause 18.1(b), provide to the Employer (with copies to the Engineer, the Independent Engineer and the Lenders) certified copies of the certificates of such insurances and notify the Employer, the Engineer, the Independent Engineer and the Lenders immediately should any of such insurances be cancelled, varied or not renewed.
- (v) All insurances specified in this Clause 18.1 and Parts A and B of Appendix A shall be reviewed annually in consultation with the Employer and, subject to the other provisions of this Clause 18.1(c), the extent and adequacy of the coverage provided in terms of this Clause 18.1 and Appendix A shall, if

necessary, be adjusted in order to ensure that coverage is commensurate with the related risks.

(d) Notification of Claims

- (i) The Contractor shall give the Engineer and the Independent Engineer immediate notification of any claim under any of the insurance policies referred to in this Clause 18.1 accompanied by as much detail of the incident giving rise to such claim as may be required by the relevant insurance policy.
- (ii) Without prejudice to Clauses 18.1(c)(i), 18.1(d)(i) and 18.1(e), the Contractor shall take all steps as are necessary or may be appropriate to make and pursue for its benefit (including that of its sub-contractors) claims against the insurances effected in accordance with this Clause 18.1.

(e) Application of Proceeds

- (i) The proceeds of any claims under the all risks insurance policies and under the property all risks policies referred to in Appendix A shall be applied to the repair and restoration of the Works except to the extent that the event resulting in the claim being made under an insurance policy is an event which has resulted in the termination of this Agreement in which case the proceeds shall be retained by the Employer. The Employer shall, in this regard, keep the Engineer and the Independent Engineer informed of the status in regard to the application of proceeds received from insurances.
- (ii) All proceeds received from insurers in respect of insurances referred to in Clause 18.1(e)(i) shall be paid in the first instance to the Employer. The Employer shall, following receipt of the proceeds from the insurers, pay to the Contractor by instalments pursuant to payment certificates issued under Clause 14.6 such amounts as may be determined by the Employer as being proportional to the extent of the Works repaired or restored by the Contractor and works in respect of the removal and disposal of debris carried out by the Contractor.
- (iii) The Contractor hereby irrevocably authorises the Employer to instruct (and shall forthwith confirm such authorisation and instruction to) the insurers to pay all monies from the insurances referred to in Clause 18.1(e)(i) to the Employer or as the Employer shall direct.

(f) Contractor's Obligation to Restore Work Damaged

If any loss or damage to the Works or any part thereof or any unfixed materials, plant or equipment is occasioned by any one or more of the perils insured against by the insurances referred to in this Clause 18.1 and/or any of the risks assumed by the Contractor, under this Contract, the Contractor shall, notwithstanding that settlement of any insurance claim has not been completed, with due diligence, restore work damaged, repair or replace any unfixed materials, plant or equipment which have been destroyed or damaged, remove and dispose of any debris and proceed with the execution of the Works."

## 19.1 Definition of Force Majeure

*In paragraph 2, delete the words "but is not limited to"*

*In the third line of subclause 19.1(iii) insert "or suppliers," after the word "Subcontractors".*

*Insert the following as a new 3<sup>rd</sup> paragraph:*

"Events as listed in sub-paragraph (iii) above may only be classified as "exceptional event or circumstances", if the following additional conditions are satisfied:

- (1) The Contractor has engaged with the persons responsible for the riot, commotion, disorder, strike or lockout; has met with the persons or leaders; and has recorded

- the persons or leaders details, their grievances, the organisations involved, all threats made; and has requested the persons or leaders to cease all unlawful conduct; and
- (2) The Contractor has obtained proof of the riot, commotion, disorder, strike or lockout, and of any unlawful conduct; and
  - (3) The Contractor has reported all threats and unlawful conduct to the South African Police Service; and
  - (4) The Contractor has brought an urgent application to the court on an ex parte basis that correctly identify the respondents and define the unlawful conduct to be interdicted; and
  - (5) The Contractor has ensured that the court order is enforced."

## **19.5 Force Majeure Affecting Subcontractor**

*Amend the title to read "Force Majeure Affecting Subcontractor and Supplier".*

*In the first line insert "or supplier" after the word "Subcontractor"*

## **20.1 Contractor's Claims**

*In paragraph 5, insert the following after the first sentence;*

"If an extension of time is granted, the Contractor will not be paid additional time-related Preliminary and General allowances or any other costs. Payment of any other costs will only be considered if the costs derive from claims that fall within the terms of Clause 13.3 [Variations and Adjustments]"

*Insert the following at the end of the 5<sup>th</sup> paragraph:*

"If the Contractor fails to submit a fully detailed claim within the 42 days or within such other period as approved by the Engineer, or in the event of the claim having a justifiable continuing effect, fails to submit monthly interim claims or fails to submit a final claim within the 28 days or within such period as approved by the Engineer, then the notice given by the Contractor under this clause shall be deemed to have lapsed."

*Replace the 6<sup>th</sup> paragraph with the following:*

"After receiving a claim or any further particulars supporting a previous claim, the Engineer taking cognisance of Clause 3.5, shall present such claim or particulars to the Employer, together with his recommendations, for a ruling, which ruling shall be given to the Contractor within 42 days after receiving a claim or any further particulars, provided that the said period of 42 days may be extended by application from one Party and approval of the other. If the Employer fails to give his ruling within the specified period, or agreed extension thereto, it shall be deemed that the Employer has dismissed the claim."

*Delete the 8<sup>th</sup> paragraph*

*Delete the second sentence of the 9<sup>th</sup> paragraph.*

*Replace sub-clauses 20.2 to 20.8 with the following:*

## **"20.2 Settlement of Disputes**

- (a) The Contractor or the Employer shall have the right to dispute any ruling given or deemed to have been given by the Engineer or the Independent Engineer in terms of Clause 3.7 only, as the case may be, provided that, unless the Contractor or the Employer shall, within 42 days after his receipt of a ruling or after a ruling shall have been deemed to have been given, give written notice (hereinafter referred to as a "Dispute Notice") to the Engineer and/or the Independent Engineer (depending upon who issued the ruling), referring to this Clause, disputing the validity or correctness of the whole or a specified part of

the ruling, he shall have no further right to dispute that ruling or the part thereof not disputed in the said Dispute Notice.

- (b) If either Party shall have given written notice in compliance with sub-paragraph (a), the dispute shall be referred to mediation in terms of Sub-Clause 20.3 unless either Party has given written notice to the other Party of its intention to refer the matter in dispute to arbitration, which notice shall be given within 14 days of receipt by the one Party of the other Party's notice of dispute of the Engineer and/or the Independent Engineer's decision.

If notice of intention to refer the matter in dispute to arbitration has been served by either party, the matter in dispute shall not be referred to mediation but shall be referred to arbitration.

- (c) Notwithstanding that the Contractor may, in respect of a ruling, have given a Dispute Notice, the ruling shall be of full force and carried into effect unless and until otherwise agreed by both Parties in terms of Sub Clause 20.3 (c) or as determined by arbitration.

## **20.3 Mediation**

- (a) The mediation referred to in Sub-Clause 20.2 (e) shall be conducted by a mediator selected by agreement between the Parties or, failing such agreement within 7 days after a written request by either Party for such agreement, nominated on the application of either Party by the President for the time being of the South African Institution of Civil Engineering.

If, for any reason, the person appointed fails to assume or to continue in the office concerned:

- (i) the provisions of Sub-Clause 20.3 shall apply mutatis mutandis in the appointment of a successor,
  - (ii) in making his nomination in terms of this sub-clause, the president for the time being of the South African Institution of Civil Engineering shall, at his own discretion, act in consultation with the presidents for the time being of the South African Association of Consulting Engineers and the South African Federation of Civil Engineering Contractors, and
  - (iii) if the president required to make a nomination in terms of this sub-clause shall have a direct or indirect interest in the subject matter of the dispute, the nomination shall be made by the chief executive officer or the next senior officer of the body concerned who has no such interest.
- (b) Neither Party shall be entitled to be represented at any hearing before, or at, any meeting, or in any discussion, with the mediator except by any of the following:
  - (i) the Party himself, if a natural person,
  - (ii) a partner in the case of a partnership,
  - (iii) an executive director in the case of a company,
  - (iv) a member in the case of a close corporation,
  - (v) the Engineer,
  - (vi) a bona fide employee of the party concerned, and
  - (viii) a professional engineer appointed for the purpose by the Party concerned.
- (c) The mediator shall, as he deems fit, follow formal or informal procedure and receive evidence or submissions orally or in writing, sworn or unsworn, at joint meetings with the Parties or separately or from any person whom he considers can assist in the formulation of his opinion, provided that:
  - (i) each Party shall be given reasonable opportunities of presenting evidence or submissions and of responding to evidence or submissions of the other Party, and
  - (ii) each Party shall be given full details of any evidence or submissions received by the Mediator from the other Party or any other person otherwise than at a meeting where both Parties are present or represented.

- (d) The mediator shall have the power to propose to the Parties compromise settlements of or agreements in disposal of the whole or portion of the dispute.
- (e) The mediator shall, as soon as reasonably practical, give to each of the Parties his written opinion on the dispute, setting out the facts and the provisions of the Contract on which the opinion is based and recording the details of any agreement reached between the Parties during the mediation.
- (f) The mediator's opinion shall become binding on the Parties only to the extent correctly recorded as being agreed by the Parties in the mediator's written opinion or otherwise as recorded as being agreed in writing by both Parties subsequent to the receipt of the mediator's opinion.
- (g) The dispute on any matter still unresolved after the application of the provisions of sub-paragraph (f) shall be resolved by arbitration.
- (h) Save for reference to any portion of the mediator's opinion which has become binding in terms of sub-paragraph (f), no reference shall be made by or on behalf of either Party, in any proceedings subsequent to mediation, to the mediator's opinion, or to the fact that any particular evidence was given, or to any submission, statement or admission made in the course of the mediation.
- (i) Irrespective of the nature of the mediator's opinion:
  - (i) each Party shall bear his own costs arising from the mediation, and
  - (ii) the Parties shall in equal shares pay the mediator the amount of his expenses and the amount of his fee based on a scale of fees as agreed between the mediator and the Parties before the commencement of the mediation.

#### **20.4 Arbitration**

- (a) Any dispute of whatsoever nature which arises out of or in connection with this Contract, including any dispute as to the validity, existence, enforceability, interpretation, application, implementation, breach, termination or cancellation of this Contract or as to the parties' rights and/or obligations in terms of this agreement or in connection with any documents furnished by the parties pursuant to this Contract, shall if so required by either party by giving written notice to the other be submitted to arbitration in accordance with this 20.4.
- (b) This 20.4(b) shall not preclude either party from obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision of the arbitrator.
- (c) The arbitrator shall, if the dispute is agreed in writing by the parties to be
  - (i) primarily an engineering matter, an independent practising engineer of not less than ten years standing as such;
  - (ii) primarily an accounting matter, be an independent practising accountant of not less than ten years' standing as such;
  - (iii) primarily a legal matter, be an attorney of not less than ten years' standing as such or a practising senior counsel;
  - (iv) any other matter, be a suitably qualified independent person;

agreed upon in writing by the parties; provided that if the parties do not, within three days after the date on which the arbitration is demanded, agree in writing as to the nature of the dispute and the identity of the arbitrator, the arbitrator shall, irrespective of the nature of the dispute, be appointed by the Chairman of the Association of Arbitrators or its successor in title upon request by either party to make such appointment after the expiry of such three day period.
- (d) The arbitration shall be held at a venue in the Gauteng Province and in accordance with formalities and/or procedures determined by the arbitrator, (save that it is specifically recorded that the parties shall be entitled, should they so elect, to legal representation), and may be held in an informal and summary

manner, on the basis that it shall not be necessary to observe or carry out the usual formalities or procedures, pleadings and/or discovery, or the strict rules of evidence.

- (e) The arbitrator shall have the power, inter alia, to -
  - (i) investigate any matter, fact or thing which he considers necessary or desirable in connection with the dispute and, for that purpose, shall have the widest powers of investigating all the books, records, documents and other things in the possession or under the control of any party, the right to take copies thereof and/or make extracts therefrom, the right to inspect goods and/or property of the parties, and the right to have such books, records, documents, goods and/or property produced and/or delivered at any place reasonably required by him;
  - (ii) summon as a witness any person who may be able to give relevant evidence. Each party undertakes to use reasonable endeavours to procure the attendance when summoned of any witness employed by it or otherwise under its control;
  - (iii) interview, question and cross examine under oath any witness;
  - (iv) record evidence;
  - (v) make an award regarding the amount and responsibility for payment of legal fees and the arbitrator's remuneration;
  - (vi) call for the assistance of any other person who he may deem necessary to assist him in arriving at his decision;
  - (vii) make such temporary or final order or award (including a rule nisi, a declaratory order, an order for specific performance, an interdict and an award of damages or a penalty) as a High Court would be competent to make in the circumstances; and
  - (viii) exercise any additional powers which are conferred on him in terms of the Arbitration Act No 42 of 1965,
  - (vix) and to allow or cause any of the aforementioned things to be done.
- (f) The arbitration shall be held as quickly as possible after it is demanded with a view to its being completed within thirty days after it has been so demanded.
- (g) Immediately after the arbitrator has been appointed, either party shall be entitled to call upon the arbitrator to fix a date and place when and where the arbitration proceedings shall be held and to settle the procedure and manner in which the arbitration proceedings will be held.
- (h) Any order or award that may be made by the arbitrator
  - (i) shall be final and binding;
  - (ii) shall be carried into effect; and
  - (iii) may be made an order of any competent court.
- (i) The hearing of the arbitration shall be held in camera. Save to the extent strictly necessary for the purposes of the arbitration or for any court proceedings related thereto, neither party shall disclose or permit to be disclosed to any person any information concerning the arbitration or the award (including the existence of the arbitration and all process, communications, documents or evidence submitted or made available in connection therewith).
- (j) This 20.4
  - (i) constitutes an irrevocable consent by the parties to any proceedings in terms hereof; and
  - (ii) is severable from the other provisions of this agreement and shall remain in effect notwithstanding the termination or invalidity for any reason of this agreement.

## **20.5 Obligations During Arbitration**

Pending any attempt at amicable settlement or any award pursuant to 20.3 or 20.4, the Contractor shall, and shall cause its Sub Contractors of all tiers to, continue to perform

their respective obligations hereunder unless otherwise instructed in writing by the Employer. Pending any such settlement or award, the Employer shall continue to perform its obligations under this Contract.

**20.6 Continuing Validity of Sub-Clauses 20.2 to 20.6**

Sub-Clauses 20.2 to 20.6 inclusive constitute a separate, divisible agreement from the rest of the Contract and shall remain valid and applicable, notwithstanding that the Works may have been completed or that the rest of the Contract may be void or voidable or may have been cancelled for any reason.”

**APPENDIX General Conditions of Dispute Adjudication Agreement**

*Delete this appendix*

**ANNEX Procedural Rules**

*Delete this annexure*

## 18. INSURANCE APPENDIX A

### 1 PART A: EMPLOYER'S INSURANCE

#### 1.1 Construction All Risks Insurance

- 1.1.1 This policy will provide protection to SANRAL, the Employer, the Lenders and, Contractors and its Sub-contractors in the project against loss or/ or damage to the Works. Indemnity shall be on a replacement cost basis for the full replacement value of the Works, and other related works, plant and materials. Replacement value to cover other related costs (i.e. debris removal and professional fees).
- 1.1.2 The Construction All Risk insurance cover shall as a minimum be based upon a DE3 wording and cover shall be provided up to the issue of the Taking-Over-Certificate – plus the required Defects Notification Period.
- 1.1.3 Perils will be on an all risks basis to cover loss or damage from any cause including fire, lightning, explosion, storm, tempest, flood, earthquake and such perils as are insurable by the South African Special Risks Insurance Association.
- 1.1.4 Subrogation against any party insured under this policy is to be waived.

#### 1.2 Third Party Liability Insurance

- 1.2.1 This category of insurance must provide protection for SANRAL, the Employer, the Lenders, Contractors and its Sub-contractors and arising directly from the execution of the Works against third party claims liability arising from the Contractor's performance of the Works, including legal and/or contractual costs incurred by the insured parties for bodily injury, death or property damage to third parties including Legal Defence - costs and expenses in addition.
- 1.2.2 Policies are to provide for cross liability of the Insureds and against all Insureds i.e. all the Insureds as defined above, are to be considered as third parties, one in respect of the other, from the Commencement Date to the date of issue of a Taking-Over-Certificate plus the required Defects Notification Period in respect of the Works or any part thereof.
- 1.2.3 The general cover limit of such insurance cover is R 30 000 000.00 with a total limit of cover of R 50 000 000.00 per claim/unlimited in number during the period during which the Works are to be carried out.
- 1.2.4 Lateral Support – Employers Risk
- Specific Lateral Support insurance must be arranged for a limit of indemnity of R 30 000 000.00 insofar as the construction activities bear such risk. The Contractor is to notify the Employer at date of commencement of works where lateral support cover would be required.

#### 1.3 Deductibles/Excess (Refer to Clause 18.1(c) (ii))

Any One Occurrence or Event

Civils and Earthworks:

Any single occurrence or event

R 30 000.00

4)

Public Liability:	
Any single occurrence or event:	R 25 000.00
Damage due to fire	R 50,000.00
Lateral support (to be notified as per 1.2.4):	R 50,000.00

## 2. **PART B: CONTRACTOR'S INSURANCE**

### 2.1 Motor Vehicle Liability Insurance

Motor vehicle liability insurance must be arranged for a limit of not less than R 5 000 000.00.

### 2.2 Contractors Equipment Insurance

Contractors own or hired in equipment (plant that will not form part of the Permanent Works).

### 2.3 Construction All Risks

Construction All Risks insurance must be arranged for a limit of not less than R 5 000 000.00.

### 2.4 SASRIA

South African Special Risks Insurance Association cover must be arranged on motor vehicles, plant, site accommodation, tools and equipment.

### 2.5 COIDA

The necessary insurances must be arranged to ensure that all statutory obligations concerning the Compensation for Occupational Injuries or Diseases Act are complied with.

### 2.6 Common Law Liability

Contractor's common law liability (Employers Liability) insurance in respect to liability to employees for an indemnity of R 5 000 000.00 must be arranged.

## 3. **PART C: TERMS OF INSURANCE**

3.1 If either Party is unable to obtain insurance in the sums or on the terms required either at all or at a reasonable commercial rate, it shall immediately notify the other Party of any material areas of change in the terms or level of the insurance cover and shall restore the terms and level of cover to the required levels as soon as such become available at a reasonable commercial rate.

3.2 Should the Employer and the Contractor disagree with respect to what is "a reasonable commercial rate" in Clause 3.1, either Party may request the other Party to agree within 7 Business Days on an independent insurance expert to make a determination in that regard. Should the Parties be unable to agree on the identity of such expert within 7 Business Days of the second Party being so requested, such expert shall be chosen by the President of the Institute of Chartered Accountants from among those leading international insurance brokers that are, at that time, active in the South African market to make such determination. The expert shall act as an expert and not as an arbitrator and the determination by such expert shall be final and binding on the Parties.

- 3.3 The Employer and Contractor shall maintain the aforementioned insurances on the best terms available in the South African and international insurance markets with reliable insurers of adequate financial strength and experience which are authorised by the relevant State authorities to provide the respective coverage.

## C1.2.2 CONTRACT DATA – APPENDIX TO TENDER - INFORMATION PROVIDED BY THE EMPLOYER

### Notes to tenderer:

1. This form is the equivalent of the Appendix to Tender as defined in Sub-Clause 1.1.1.9 of the FIDIC Conditions of Contract.
2. Clause numbers (Cl. No.) refer to the FIDIC Conditions of Contract. The prefix A refers to an amendment to these conditions.

<i>Item</i>	<i>Clause No</i>	<i>Data</i>
Employer	1.1.2.2	<p>means the N3 Toll Concession (RF) Proprietary Limited or a person delegated by the N3 Toll Concession (RF) Proprietary Limited to act on its behalf</p> <p>The Employer's address is:</p> <p><i>Physical address</i>  N3 Toll Concession (Proprietary) Limited  1<sup>st</sup> Floor, Block D; Southdowns Office Park  22 Karee Street; Irene  0169</p>
Engineer	1.1.2.4	Means N3 Toll Concession (RF) Proprietary Limited or a person delegated by N3 Toll Concession (RF) Proprietary Limited to act on its behalf
Independent Engineer	A1.1.2.13	<p>means Zutari (Pty) Ltd or a person delegated by Zutari (Pty) Ltd to act on its behalf</p> <p>The Independent Engineer's address to be used for this contract is:</p> <p><i>Physical address</i>  41 Matroosberg road,  Ashlea Gardens,  0081</p>
Communications	1.3	The addresses for communication between the parties shall be:
Employer		<p><i>Physical address</i></p> <p>N3 Toll Concession (RF) Proprietary Limited  1<sup>st</sup> Floor, Block D; Southdowns Office Park  22 Karee Street; Irene  0169</p> <p><i>Postal Address</i>  e-mail address n3mow2022.tender@n3tc.co.za</p>
Time for completion of works	1.1.3.3	<p>The time for completion is twenty-four (24) months divided into two annual seasonal cycles. The contractor will be required to carry out two general mow activities and 4 shoulder mow activities during the Time for Completion.</p> <p>The Contractor's program shall take into account the annual holidays in December, January, and the other special non-working days (all if applicable)</p>
Defects for notification period for works.	1.1.3.7	Not Applicable
Time for access to the site	2.1	7 Days
Amount of performance security	4.2 & A4.2	Nil

<i>Item</i>	<i>Clause No</i>	<i>Data</i>
Special hours/days      non-working	A6.5	all designated public holidays, Sundays and restrictions provided by the N3TC Critical Dates Year Planner as agreed with the Engineer
Period in which works must commence	8.1	Not later than 14 days after the particular Mowing Period
Delay damages for the works	8.7	R 3,000.00 per day or part thereof.
Penalty for non-conformance to Traffic Accommodation requirements	A7	R 5 000.00 per event and R 500.00 per hour
Interim Payments	14.3	30 days after providing Tax Invoice
Retention money:		
- Percentage	14.3 (c)	Not applicable
- Limit	14.3 (c)	Not applicable
- Guarantee	A14.3 (c)	Not applicable
Minimum amount of interim payment certificate	14.6	Not applicable
Contractor to insure with SASRIA	A17.3c	Required
Contract Price Adjustment	A13.8	Refer to A13.8
Target Areas	D1002(f)	For Targeted Labour: As agreed with the Employer and local PLC.
Contract Participation Goals (CPG)	D1003(a)	As required by the Employer
Labour content		Only local labour from the vicinity of the Package may be employed.
SMME/BE utilization		Required. The number of EME Contractors to be employed is defined in each Contract Package

SIGNED ON BEHALF OF THE TENDERER: .....

DATE: .....

**C1.2.3 APPENDIX TO TENDER: CONTRACT DATA – INFORMATION PROVIDED BY THE TENDERER**

**Note to tenderer:**

**This form is the equivalent of the Appendix to Tender as defined in Sub-Clause 1.1.1.9 of the FIDIC Conditions of Contract**

**1. FIDIC CONDITIONS OF CONTRACT**

**1.a Clause 1.3: Communications**

The Contractor is .....

Physical Address: .....

.....

Telephone: .....

Email: .....

**1.b Clause 4.3: Contractor's representative**

The authorised and designated representative of the Contractor is:

Name: .....

SIGNED BY TENDERER: .....

**C.1.3.3 FORM OF AGREEMENT IN TERMS OF THE OCCUPATIONAL HEALTH AND SAFETY ACT 1993**

(ACT NO. 85 OF 1993)

This AGREEMENT made at .....on this the ..... day of.....in the year ..... between N3 Toll Concession (RF) Proprietary Limited (hereinafter called "the Employer") on the one part, herein represented by ..... in his capacity as ..... and delegate of the Employer in terms of the Employer's standard powers of delegation pursuant to the provisions of Act No. 7 of 1998 and ..... (hereinafter called "the Mandatory") of the other part, herein represented by ..... in his capacity as .....

WHEREAS the Employer is desirous that certain works be constructed, viz

**CONTRACT: N3TC/RM-2022-605: PACKAGE 5  
N3 TOLL ROAD: CEDARA INTERCHANGE TO HEIDELBERG SOUTH INTERCHANGE  
MOWING,CUTTING AND REMOVAL OF VEGETATION ON THE N3 – PACKAGE 5**

and has accepted a tender by the Mandatory for the construction, completion & maintenance of such works and has appointed the Mandatory in terms of Regulation 5(1)(k) of the Construction Regulations 2014, and whereas the Employer and the Mandatory have agreed to certain arrangements and procedures to be followed in order to ensure compliance by the Mandatory with the provisions of the Occupational Health and Safety Act 1993 (Act 85 of 1993);;

NOW THEREFORE THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. The Mandatory shall execute the work in accordance with the contract documents pertaining to this contract.
2. This Agreement shall hold good from its commencement date, to either:
  - a) the date of the Performance Certificate issued in terms of sub-clause 11.9 of the FIDIC Conditions of Contract for Construction for building and engineering works designed by the Employer (1999) (hereinafter referred to as "the GCC"), as contained in Volume 1 of the contract documents pertaining to this contract, or
  - b) the date of termination of the contract in terms of clauses 15, 16 or 19 of the GCC.
3. The Mandatory declares himself to be conversant with the following:-
  - a) All the requirements, regulations and standards of the Occupational Health and Safety Act (Act 85 of 1993), hereinafter referred to as "The Act", together with its amendments and with special reference to the following Sections of The Act.
    - i) Section 8: General duties of Employers to their employees.
    - ii) Section 9: General duties of Employers and self-employed persons to persons other than employees.
    - iii) Section 37: Acts or omissions by employees or mandatories and
    - iv) Sub-section 37(2) relating to the purpose and meaning of this Agreement.
  - b) The procedures and safety rules of the Employer as pertaining to the Mandatory and to all his sub contractors.
4. In addition to the requirements of sub-clause 4.8 ,6.7 and 17.1 of the GCC and all relevant requirements of Volume 3 of the contract documents pertaining to this contract, the Mandatory agrees to execute all the works forming part of this contract and to operate and utilize all machinery, plant and equipment in accordance with The Act.
5. The Mandatory is responsible for the compliance with the Act by all his sub-contractors, whether or not nominated and/or approved by the Employer.

6. The Mandatory warrants that all his and his sub-contractors' workmen are covered in terms of the Compensation for Occupational Injuries and Diseases Act 1993 which cover shall remain in force whilst any such workmen are present on site. A letter of good standing from the Compensation Commissioner to this effect must be produced to the Employer upon signature of the agreement.
7. The Mandatory undertakes to ensure that he and/or his sub-contractors and/or their respective employees will at all times comply with the following conditions:
  - a) The Mandatory shall assume the responsibility in terms of Section 16.1 of The Act. The Mandatory shall not delegate any duty in terms of Section 16.2 of The Act without the prior written approval of the Employer. If the Mandatory obtains such approval and delegates any duty in terms of section 16.2 a copy of such written delegation shall immediately be forwarded to the Employer.
  - b) All incidents referred to in The Act shall be reported by the Mandatory to the Department of Labour as well as to the Employer. The Employer will further be provided with copies of all written documentation relating to any incident.
  - c) The Employer hereby obtains an interest in the issue of any formal enquiry conducted in terms of section 32 of The Act into any incident involving the Mandatory and/or his employees and/or its sub-contractors.

In witness thereof the parties hereto have set their signatures hereon in the presence of the subscribing witnesses:

**SIGNED FOR AND ON BEHALF OF EMPLOYER:** .....

WITNESS 1: .....

NAME (IN CAPITALS) .....

WITNESS 2: .....

NAME (IN CAPITALS) .....

**SIGNED FOR AND ON BEHALF OF THE MANDATARY** .....

WITNESS 1: .....

NAME (IN CAPITALS): .....

WITNESS 2: .....

NAME (IN CAPITALS) .....

**C.1.3.4 CERTIFICATE OF AUTHORITY FOR SIGNATORY TO AGREEMENT IN TERMS OF  
OCCUPATIONAL HEALTH AND SAFETY ACT 1993 (ACT NO 85 OF 1993)**

The signatory for the company that is the Contractor in terms of the above-mentioned contract and the Mandatory in terms of the above-mentioned Act shall confirm his / her authority thereto by attaching to this page a duly signed and dated copy of the relevant resolution of the Board of Directors.

An example is given below:

"By resolution of the Board of Directors passed at a meeting held  
on

Mr/Ms whose signature appears below, has been duly authorised to sign the AGREEMENT IN TERMS  
OF THE OCCUPATIONAL HEALTH AND SAFETY ACT 1993 (ACT 85 OF 1993) on behalf of

SIGNED ON BEHALF OF THE COMPANY:

IN HIS/HER CAPACITY AS .....

DATE: .....

SIGNATURE OF SIGNATORY: .....

WITNESSES:

1. .... 2. ....

1. .... 2. ....  
NAME (IN CAPITALS) NAME (IN CAPITALS)

**Notes to tenderer:**

1. This form is the equivalent of the Appendix to Tender as defined in Sub-Clause 1.1.1.9 of the FIDIC Conditions of Contract.
2. Clause numbers (Cl. No.) refer to the FIDIC Conditions of Contract. The prefix A refers to an amendment to these conditions.

**Notes to tenderer:**

1. This form is the equivalent of the Appendix to Tender as defined in Sub-Clause 1.1.1.9 of the FIDIC Conditions of Contract.
2. Clause numbers (Cl. No.) refer to the FIDIC Conditions of Contract. The prefix A refers to an amendment to these conditions.

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# **PART C2: PRICING DATA**

## **(BOQ - SCHEDULE OF QUANTITIES)**

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**ARTICLE I. PART C2   PRICING DATA**

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C2.1            PRICING INSTRUCTIONS.....	C2-2
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## C2.1 PRICING INSTRUCTIONS

C2.1.1 For the purposes of the Schedule of Quantities, the following words shall have the meanings hereby assigned to them.

Unit:	The unit of measurement for each item of work as defined in the standard specifications or the Scope of Works.
Quantity:	The number of units of work for each item.
Rate:	The payment per unit of work for which the Contractor prices to do the work.
Amount:	The product of the quantity and the rate submitted for an item.
Lump Sum:	An amount submitted for an item, the extent of which is described in the Schedule of Quantities, the Scope of Work or elsewhere, but of which the quantity of work is not measured in units.
Provisional Sum:	An amount allowed for an item and its extent of which is alluded to in the Schedule of Quantities, the Scope of Work or elsewhere, but of which the quantity of work is not known.
Period:	An amount submitted for an item, the extent of which is described in the Definitions PM0144. The Period is the particular mowing period to which the Rate applies and has a component of time as defined.

C2.1.2 The quantities set out in the Schedule of Quantities are only approximate quantities. The quantities of work finally accepted and certified for payment, and not the quantities given in the Schedule of Quantities, will be used to determine payments to the Contractor.

The validity of the Contract shall in no way be affected by differences between the quantities in the Schedule of Quantities and the quantities finally certified for payment. Work is valued at the rates or lump sums tendered.

C2.1.3 Rates and lump sums shall include full compensation for overheads, profits, incidentals, tax (other than VAT), etc, and for the completed items of work as specified in the standard specifications and Project Data and for all the risks, obligations and responsibilities specified in the General Conditions of Contract, Particular or Special Conditions of Contract, except in so far as the quantities given in the Schedule of Quantities are only approximate.

C2.1.4 The contractor shall fill in a rate or a lump sum for each item where provision is made for it even where no quantities are given. Items against which no rate or lump sum has been entered in the tender will not be paid for when the work is executed, as payment for such work will be regarded as being covered by other rates or lump sums in the Schedule of Quantities.

The contractor shall fill in a rate against all items where the words "rate only" appears in the amount column. Although no work is foreseen under such item and no quantities are consequently given in the quantity column, the submitted rate shall apply should work under this item actually be required. Contractors should note the provisions of clause C2.1.8 below.

If the contractor should group a number of items together and tender one lump sum for each group of items, this single priced lump sum shall apply to that group of items and not to each individual item, or should he indicate that full compensation for any item has been included in the rate for another item, the rate for the item included in another item shall be deemed to be nil.

The priced lump sums and rates shall be valid irrespective of any change in the quantities during the execution of the contract.

C2.1.5 The short descriptions of the payment items in the Schedule of Quantities are only given to identify the items and to provide specific details. Reference shall, *inter alia*, be made to the Contract Data, General Conditions of Contract and Particular / Special Conditions of Contract for more detailed information regarding the extent of work entailed under each item.

C2.1.6 Provisional Sums: Each Provisional Sum shall only be used, in whole or in part, in accordance with the Employer's instructions and the Contract Price shall be adjusted accordingly. The total sum paid to the Contractor shall include only such amounts, for the work, supplies or services to which the Provisional Sum relates, as the Employer shall have instructed. For each Provisional Sum, the Employer may instruct plant, materials or services to be procured by the Contractor in accordance with the Employer's policies, and for which there shall be included in the Contract Price:

- The actual amounts paid (or due to be paid) by the Contractor, and
- A sum for compilation and printing of procurement documentation, quotation/tender process and evaluation, and all overhead charges and profit, calculated as a percentage of these actual amounts by applying the relevant percentage rate tendered in the Schedule of Quantities.

The Contractor shall produce all quotations, invoices, vouchers and accounts or receipts in substantiation of any claim under a Provisional Sum.

C2.1.7 Subject to the conditions stated clause C2.1.8 below, the rates and lump sums filled in by the tenderer in the Schedule of Quantities shall be final and binding with regard to submitting the tender, and may not be adjusted should there be any mistakes in the extensions thereof and in the total sums appearing in the tender. Should there be any discrepancies between the tender sum and the correctly extended and totaled Schedule of Quantities, the rates will be regarded as being correct, and the Employer shall have the right to make adjustments to the tender sum to reconcile the tender sum with the total of the Bill of Quantities. In such an event the tenderer will be consulted but, failing agreement between the parties, the decision of the Employer shall be final and binding. Adjustment of the tender sum will take place prior to the signing of the contract. In their own interest tenderers must make doubly sure of the correctness of their tendered rates, the extensions and the tender sum.

C2.1.8 A contract may be deemed unresponsive if the unit rates or lump sums for some of the items in the Schedule of Quantities are, in the opinion of the Employer, unreasonable or out of proportion, and if the contractor fails, within a period of seven (7) days of having been notified in writing by the Employer to adjust the unit rates or lump sums for such items, to make such adjustments.

C2.1.9 All rates and sums of money quoted in the Schedule of Quantities shall be in South African Rand and whole cents

C2.1.10 The item numbers appearing in the Schedule of Quantities refer to the corresponding item numbers in the Scope of Work.

C2.1.11 It will be assumed that prices included in the bills of quantities are based on Acts, Ordinances, Regulations, By-laws, International Standards and National Standards that were published 28 days

C2.1.12 General Pricing Instructions for the Main Contractor

The Main Contractor may price any Package for which they eligible. The Main Contractor shall price the entire Pricing Schedule for the Main Contractor and EME sub-Contractor works.

C2.1.13 Pricing Instructions for the Main Contractor Pricing Schedule

C2.1.13.1 Part 1.1 Management. The Management Section for the Main Contractor applies to the management of the Contract by the Main Contractor and provides for the entire Contract Period of 24 months. The Main Contractor shall provide all of the contract management and support for their own works as well as that of the EME sub-contractors. The Management Section also includes a fee for the Management payable to the Main Contractor for the management of the EME sub-contractors. The Tenderer will tender a percentage (%) fee under this item that will be multiplied by the total of the EME tender schedules to calculate a tender amount. Refer to Item 612.01 in Part 1.1 of the Pricing Schedule.

C2.1.13.2 Part 1.2 Operational. The Operational Section for the Main Contractor applies to the actual work that the Main Contractor is required to execute under the Contract. The rates tendered will apply to the work done. See also Part 2 EME pricing in C2.1.14 below

C2.1.14 Pricing Instructions for Part 2, work done by EME Contractors. The Part 2 EME Pricing Schedule comprises two components relating to operations.

C2.1.14..1 General obligations and accommodation of traffic. The Employer has fixed the rates for these items in order to ensure that all EME contractors are compensated fairly and equally.

C2.1.14..2 Work related items. These work items are identical in nature to the Operational Items for work applicable to the Main Contractor. In order to ensure equality in compensation for work done by the EME sub-contractors, they will be paid the same rate as the rate tendered by the Main Contractor under Operational Part 1.2. In the tender therefore, the Main Contractor shall tender the same rates for work items in the EME pricing schedule as was tendered in the Main Contractor Part 1.2



PART 1.1 MANAGEMENT

ITEM NO	DESCRIPTION	UNIT	QUANTITY	RATE	AMOUNT
M0300	<b>TENDERERS TO REFER TO THE PRICING INSTRUCTIONS</b>				
	<u>CONTRACTOR'S ESTABLISHMENT ON SITE AND GENERAL OBLIGATIONS</u>				
M030.01	Fixed Obligations Payment of the Lump Sum shall be as follows: 1. 50% on commencement of contract. 2. 35% on commencement of second annual cycle. 3. 15% on completion of the second annual cycle.	Lump Sum	1		-
M030.03	Period Related Obligation. Measured per period Payment pro-rata to value of work done in Period.				
	(a) General Mow.				
	(i) Cycle 1 General mow April to June 2022	Period	1		-
	(ii) Cycle 2 General mow April to June 2023	Period	1		-
	(b) Shoulder Mow.				
	(i) Cycle 1: Shoulder mow November to December 2022	Period	1		-
	(ii) Cycle 1: Shoulder Mow January to February 2023	Period	1		-
	(iii) Cycle 2: Shoulder mow November to December 2023	Period	1		-
	(iv) Cycle 2: Shoulder Mow January to February 2024	Period	1		-
PM030.04	(a) All Occupational health and safety obligations including that of EME Subcontractors	Prov Sum	1	15 000.00	15 000.00
	(b) The Contractor's overhead charges and profit in respect of sub-item PM030.04 (a)	%	15000.00		-
PM020.06	Training Including Main Contractor plus EME sub-contractors as instructed by the Employer				
	(a) Safety	Prov Sum	1	15 000.00	15 000.00
	(b) Remuneration of workers undergoing training	Prov Sum	1	14 200.00	14 200.00
	(c) The Contractor's overhead charges and profit in respect of sub-item DM020.06 (a) to (e)	%	29200.00		-
	NOTE. 1. The rate paid for workers undergoing training shall be R40 per hour, which includes all costs including transport, meals and other  2. The daily rate shall be based on a max six (6) hrs for class room training and eight (8) hrs for practical training  3. The contractor shall nominate per training category. 2 persons from Main Contractor and 1 each from EME sub-contractors.  4. N3TC shall cover the cost of the training and materials if applicable as well as the venue.				
	CARRIED FORWARD TO NEXT PAGE				

PART 1.1 MANAGEMENT (continued)					
ITEM NO	DESCRIPTION	UNIT	QUANTITY	RATE	AMOUNT
	BROUGHT FORWARD FROM PREVIOUS PAGE				-
PM0500	<u>ACCOMMODATION OF TRAFFIC</u>				
PM050.01	<p>Accommodation of Traffic</p> <p>(a) Provision of temporary traffic control facilities.</p> <p>This Item is for the payment of all road signs required by the Main Contractor and EME Sub-Contractors for the duration of the Contract namely 2 years</p> <p>The Main Contractor shall issue the required road signs to the EME Sub-Contractors at the commencement of each mowing Period.</p> <p>The Main Contractor shall be responsible for the maintenance and safe keeping of all road signs for the duration of the Contract, namely 2 years.</p> <p>The life of the signs is deemed to be the Duration of the contract, namely 2 years.</p> <p>The minimum Tenderer Rate for Item PM050.01 (a) shall be R20,000.00.</p> <p>This is to ensure adequate provision for required signs, in particular should the Contractor request the Employer to assist in procuring the signs under this item.</p>	Lump Sum	1		-
	<p>(b) Deduct item should the Contractor request the Employer to assist in purchasing the required road signs.</p> <p>The amount to be deducted shall be the actual cost price of the road signs purchased by the Employer at the request of the Contractor.</p>	P.C. Sum		20000.00	rate only
PM6120	<u>MANAGEMENT OF EME SUB-CONTRACTORS</u>				
PM 612.01	<p>Management Fee payable for management of subcontractors Contractor to tender a percentage mark-up on the value of the EME work done as a fee for the management of sub-contractors</p> <p>Calculation of the Management Fee for the Tender.</p> <p>The "QUANTITY" for this item shall be determined by inserting the Total for the Scheduled Works by EME Sub-Contractors from the Summary Page below sub-Total Part 2</p> <p>Multiply this sub-Total by the tendered management fee to obtain the total tendered amount for Management Fee.</p> <p>The minimum Tenderer Rate for Item PM612.01 shall be 5%.</p>	%			-
	TOTAL PART 1.1: MANAGEMENT CARRIED TO SUMMARY				-

PART 1.2: OPERATIONAL

ITEM NO	DESCRIPTION	UNIT	QUANTITY	RATE	AMOUNT
PM0500	<u>ACCOMMODATION OF TRAFFIC</u>				
PM050.03	Accommodation of traffic and maintaining temporary deviations.  Main Contractor. Measured per period Payment pro-rata to value of work done in Period				
	(a) General Mow.				
	(i) Cycle 1 General mow April to June 2022	Period	1		-
	(ii) Cycle 2 General mow April to June 2023	Period	1		-
	(b) Shoulder Mow.				
	(i) Cycle 1: Shoulder mow November to December 2022	Period	1		-
	(ii) Cycle 1: Shoulder Mow January to February 2023	Period	1		-
	(iii) Cycle 2: Shoulder mow November to December 2023	Period	1		-
	(iv) Cycle 2: Shoulder Mow January to February 2024	Period	1		-
M6100	<u>CONTROLLING VEGETATION GROWTH: MOWING AND CUTTING</u>				
PM610.01	Shoulder mowing and removal of grass cuttings				
	(a) Reserve with dual carriageway, min width 3m including full median width, excluding interchanges. Including baling/removal.	km			rate only
	(b) Reserve with single carriageway, min width 3m excluding interchanges. Including baling/removal.	km	85.6		-
	(c) Shoulder mow interchanges. Including baling/removal. Refer to Table in Section C4.1.2.4	No	4		-
	(d) Ad hoc cutting of the median outside of the shoulder and general mow periods on instruction of the engineer	Prov Sum	1	100 000.00	100 000.00
M6100	CARRIED FORWARD TO NEXT PAGE				

PART 1.2 : OPERATIONAL (continued)

ITEM NO	DESCRIPTION	UNIT	QUANTITY	RATE	AMOUNT
	BROUGHT FORWARD FROM PREVIOUS PAGE				-
PM610.02	General Mowing and Removal of Grass Cuttings.				
	(b) General mow reserve with single carriageway, excluding interchanges	km	42.8		-
	(c) General mow interchanges Refer to Table in Section C4.1.2.4	No	2		-
	(e) Extra over item PM610.02 (b) for baling and or removal of grass cuttings from reserve with single carriageway	km	42.8		-
	(f) Extra over item PM610.02 (c) for baling and or removal of grass cuttings from interchanges	No	2		-
	(g) Baling and Removal of cut grass from the road reserve or interchanges where the grass is mowed by others				
	(i) From reserve with dual carriageway	km	Rate only		-
	(ii) From reserve with single carriageway	km	Rate only		-
	(iii) From interchanges	No	Rate only		-
	The rates tendered under this "Rate Only" item shall not exceed the rate tendered for items PM610.02 (d), (e) & (f) respectively by more than 30%.				
PM611.01	Cutting of designated areas Provisional Sum for the cutting of designated areas on the instruction of the Engineer	Prov Sum	1	30 000.00	30 000.00
	TOTAL PART 1.2 MAIN CONTRACTOR OPERATIONAL CARRIED TO SUMMARY				

**SUMMARY OF BILL OF QUANTITIES AND CALCULATION OF THE TENDER SUM**

SECTION	DESCRIPTION		AMOUNT
PART 1.1	MANAGEMENT SECTION (MAIN CONTRACTOR)		
	SUB-TOTAL PART 1.1 : MANAGEMENT SECTION		
PART 1.2	OPERATIONAL SECTION (MAIN CONTRACTOR)		
			-
	SUB-TOTAL PART 1.2 : OPERATIONAL SECTION		
PART 2	WORK BY EME SUBCONTRACTORS		
PART 2.1 EME 1	TOTAL VALUE OF SCHEDULE 2.1 - EME 1 BOQ	Total brought forward from EME 1	
PART 2.2 EME 2	TOTAL VALUE OF SCHEDULE 2.2 - EME 2 BOQ	Total brought forward from EME 2	
PART 2.3 EME 3	TOTAL VALUE OF SCHEDULE 2.3 - EME 3 BOQ	Total brought forward from EME 3	
PART 2.4 EME 4	TOTAL VALUE OF SCHEDULE 2.4 - EME 4 BOQ	Total brought forward from EME 4	
	SUB-TOTAL PART 2 : WORK FOR SUBCONTRACTORS CARRIED FORWARD TO ITEM "PM 612.01" QUANTITY COLUMN		
	SUB-TOTAL PART 1.1 : MANAGEMENT SECTION		
	SUB-TOTAL PART 1.2: OPERATIONAL SECTION		
	SUB-TOTAL PART 2 : WORK FOR SUBCONTRACTORS		
	SUB-TOTAL SCHEDULE A		
	VAT AT 15%		
	TOTAL TENDER SUM CARRIED FORWARD TO FORM OF OFFER		

PART 2.1: EME 1

ITEM NO	DESCRIPTION	UNIT	QUANTITY	RATE	AMOUNT
M0300	<u>CONTRACTOR'S ESTABLISHMENT ON SITE AND GENERAL OBLIGATIONS</u>				
M030.01	General Obligations. Measured per period Payment pro-rata to value of work done in Period				
	(a) General Mow. (Fixed sum by Employer)				
	(i) Cycle 1 General mow April to June 2022	Period	1	8 000.00	8 000.00
	(ii) Cycle 2 General mow April to June 2023	Period	1	8 000.00	8 000.00
	(b) Shoulder Mow. (Fixed sum by Employer)				
	(i) Cycle 1: Shoulder mow November to December 2022	Period	1	5 000.00	5 000.00
	(ii) Cycle 1: Shoulder Mow January to February 2023	Period	1	5 000.00	5 000.00
	(iii) Cycle 2: Shoulder mow November to December 2023	Period	1	5 000.00	5 000.00
	(iv) Cycle 2: Shoulder Mow January to February 2024	Period	1	5 000.00	5 000.00
PM0500	<u>ACCOMMODATION OF TRAFFIC</u>				
	The required road signs will be provided by the Main Contractor				
PM050.03	Accommodation of traffic and maintaining temporary deviations. Measured per period  The Employer has fixed rates under Item PM050.03 (a) and (b)  Payment shall be pro-rata to value of work done in Period				
	(a) General Mow. (Fixed Rate by Employer)				
	(i) Cycle 1 General mow April to June 2022	Period	1	10 000.00	10 000.00
	(ii) Cycle 2 general mow April to June 2023	Period	1	10 000.00	10 000.00
	(b) Shoulder Mow. (Fixed Rate by Employer)				
	(i) Cycle 1: Shoulder mow November to December 2022	Period	1	8 000.00	8 000.00
	(ii) Cycle 1: Shoulder Mow January to February 2023	Period	1	8 000.00	8 000.00
	(iii) Cycle 2: Shoulder mow November to December 2023	Period	1	8 000.00	8 000.00
	(iv) Cycle 2: Shoulder Mow January to February 2024	Period	1	8 000.00	8 000.00
	<b>NOTE: The Part 2.1 EME Contractor rates for Items PM610.01 and PM610.02 shall be the same as the rates tendered by the Main Contractor for the respective Items.</b>				
	<b>Therefore the rates tendered under the items in Part 1.2 shall be transferred to the respective items in this Schedule for Part 2.1.</b>				
M6100	<u>CONTROLLING VEGETATION GROWTH: MOWING AND CUTTING</u>				
PM610.01	Shoulder mowing and removal of grass cuttings				
	(b) Reserve with single carriageway, min width 3m, excluding interchanges. Including baling/removal	km	40		-
	(c) Shoulder mow interchanges. Including baling/removal. Refer to Table in Section C4.1.2.4	No			rate only
PM610.02	General Mowing and Removal of Grass Cuttings				
	(b) General mow reserve with single carriageway, excluding interchanges	km	20		-
	(c) General mow interchanges Refer to Table in Section C4.1.2.4	No			rate only
	(e) Extra over item PM610.02 (b) for baling and or removal of grass cuttings from reserve with single carriageway	km	20		-
	(f) Extra over item PM610.02 (c) for baling and or removal of grass cuttings from interchanges	No			rate only
TOTAL SCHEDULE 2.1 CARRIED FORWARD TO SUMMARY SCHEDULE MAIN CONTRACTOR BOQ - PART 2				EME 1	

PART 2.1: EME 2

ITEM NO	DESCRIPTION	UNIT	QUANTITY	RATE	AMOUNT
M0300	<u>CONTRACTOR'S ESTABLISHMENT ON SITE AND GENERAL OBLIGATIONS</u>				
M030.01	General Obligations. Measured per period Payment pro-rata to value of work done in Period				
	(a) General Mow. (Fixed sum by Employer)				
	(i) Cycle 1 General mow April to June 2022	Period	1	8 000.00	8 000.00
	(ii) Cycle 2 General mow April to June 2023	Period	1	8 000.00	8 000.00
	(b) Shoulder Mow. (Fixed sum by Employer)				
	(i) Cycle 1: Shoulder mow November to December 2022	Period	1	5 000.00	5 000.00
	(ii) Cycle 1: Shoulder Mow January to February 2023	Period	1	5 000.00	5 000.00
	(iii) Cycle 2: Shoulder mow November to December 2023	Period	1	5 000.00	5 000.00
	(iv) Cycle 2: Shoulder Mow January to February 2024	Period	1	5 000.00	5 000.00
PM0500	<u>ACCOMMODATION OF TRAFFIC</u>				
	The required road signs will be provided by the Main Contractor				
PM050.03	Accommodation of traffic and maintaining temporary deviations. Measured per period  The Employer has fixed rates under Item PM050.03 (a) and (b)  Payment shall be pro-rata to value of work done in Period				
	(a) General Mow. (Fixed Rate by Employer)				
	(i) Cycle 1 General mow April to June 2022	Period	1	10 000.00	10 000.00
	(ii) Cycle 2 general mow April to June 2023	Period	1	10 000.00	10 000.00
	(b) Shoulder Mow. (Fixed Rate by Employer)				
	(i) Cycle 1: Shoulder mow November to December 2022	Period	1	8 000.00	8 000.00
	(ii) Cycle 1: Shoulder Mow January to February 2023	Period	1	8 000.00	8 000.00
	(iii) Cycle 2: Shoulder mow November to December 2023	Period	1	8 000.00	8 000.00
	(iv) Cycle 2: Shoulder Mow January to February 2024	Period	1	8 000.00	8 000.00
	<b>NOTE: The Part 2.1 EME Contractor rates for Items PM610.01 and PM610.02 shall be the same as the rates tendered by the Main Contractor for the respective Items.</b>				
	<b>Therefore the rates tendered under the items in Part 1.2 shall be transferred to the respective items in this Schedule for Part 2.1.</b>				
M6100	<u>CONTROLLING VEGETATION GROWTH: MOWING AND CUTTING</u>				
PM610.01	Shoulder mowing and removal of grass cuttings				
	(a) Reserve with dual carriageway, min width 3m including full median width, excluding interchanges. Including baling/removal.	km			rate only
	(b) Reserve with single carriageway, min width 3m excluding interchanges. Including baling/removal.	km	40		-
	(c) Shoulder mow interchanges. Including baling/removal. Refer to Table in Section C4.1.2.4	No	4		-
PM610.02	General Mowing and Removal of Grass Cuttings				
	(a) General mow reserve with dual carriageway including the full median width, excluding interchanges,	km			rate only
	(b) General mow reserve with single carriageway, excluding interchanges	km	20		-
	(c) General mow interchanges Refer to Table in Section C4.1.2.4	No	2		-
	(d) Extra over item PM610.02 (a) for baling and or removal of grass cuttings from reserve with dual carriageway	km			rate only
	(e) Extra over item PM610.02 (b) for baling and or removal of grass cuttings from reserve with single carriageway	km	20		-
	(f) Extra over item PM610.02 (c) for baling and or removal of grass cuttings from interchanges	No	2		-
TOTAL SCHEDULE 2.1 CARRIED FORWARD TO SUMMARY SCHEDULE MAIN CONTRACTOR BOQ - PART 2				EME 2	

ITEM NO	DESCRIPTION	UNIT	QUANTITY	RATE	AMOUNT
M0300	<u>CONTRACTOR'S ESTABLISHMENT ON SITE AND GENERAL OBLIGATIONS</u>				
M030.01	General Obligations. Measured per period Payment pro-rata to value of work done in Period				
	(a) General Mow. (Fixed sum by Employer)				
	(i) Cycle 1 General mow April to June 2022	Period	1	8 000.00	8 000.00
	(ii) Cycle 2 General mow April to June 2023	Period	1	8 000.00	8 000.00
	(b) Shoulder Mow. (Fixed sum by Employer)				
	(i) Cycle 1: Shoulder mow November to December 2022	Period	1	5 000.00	5 000.00
	(ii) Cycle 1: Shoulder Mow January to February 2023	Period	1	5 000.00	5 000.00
	(iii) Cycle 2: Shoulder mow November to December 2023	Period	1	5 000.00	5 000.00
	(iv) Cycle 2: Shoulder Mow January to February 2024	Period	1	5 000.00	5 000.00
PM0500	<u>ACCOMMODATION OF TRAFFIC</u>				
	The required road signs will be provided by the Main Contractor				
PM050.03	Accommodation of traffic and maintaining temporary deviations. Measured per period  The Employer has fixed rates under Item PM050.03 (a) and (b)  Payment shall be pro-rata to value of work done in Period				
	(a) General Mow. (Fixed Rate by Employer)				
	(i) Cycle 1 General mow April to June 2022	Period	1	10 000.00	10 000.00
	(ii) Cycle 2 general mow April to June 2023	Period	1	10 000.00	10 000.00
	(b) Shoulder Mow. (Fixed Rate by Employer)				
	(i) Cycle 1: Shoulder mow November to December 2022	Period	1	8 000.00	8 000.00
	(ii) Cycle 1: Shoulder Mow January to February 2023	Period	1	8 000.00	8 000.00
	(iii) Cycle 2: Shoulder mow November to December 2023	Period	1	8 000.00	8 000.00
	(iv) Cycle 2: Shoulder Mow January to February 2024	Period	1	8 000.00	8 000.00
	<b>NOTE: The Part 2.1 EME Contractor rates for Items PM610.01 and PM610.02 shall be the same as the rates tendered by the Main Contractor for the respective Items.</b>  <b>Therefore the rates tendered under the items in Part 1.2 shall be transferred to the respective items in this Schedule for Part 2.1.</b>				
M6100	<u>CONTROLLING VEGETATION GROWTH: MOWING AND CUTTING</u>				
PM610.01	Shoulder mowing and removal of grass cuttings				
	(b) Reserve with single carriageway, min width 3m excluding interchanges. Including baling/removal. Incl 1km on R103	km	44		-
	(c) Shoulder mow interchanges. Including baling/removal. Refer to Table in Section C4.1.2.4	No	12		-
PM610.02	General Mowing and Removal of Grass Cuttings				
	(b) General mow reserve with single carriageway, excluding interchanges, incl 1km on R103	km	22		-
	(c) General mow interchanges Refer to Table in Section C4.1.2.4	No	6		-
	(e) Extra over item PM610.02 (b) for baling and or removal of grass cuttings from reserve with single carriageway, incl. 1km on R103	km	22		-
	(f) Extra over item PM610.02 (c) for baling and or removal of grass cuttings from interchanges	No	6		-
TOTAL SCHEDULE 2.1 CARRIED FORWARD TO SUMMARY SCHEDULE MAIN CONTRACTOR BOQ - PART 2				EME 3	

PART 2.1: EME 4

ITEM NO	DESCRIPTION	UNIT	QUANTITY	RATE	AMOUNT
M0300	<u>CONTRACTOR'S ESTABLISHMENT ON SITE AND GENERAL OBLIGATIONS</u>				
M030.01	General Obligations. Measured per period Payment pro-rata to value of work done in Period				
	(a) General Mow. (Fixed sum by Employer)				
	(i) Cycle 1 General mow April to June 2022	Period	1	8 000.00	8 000.00
	(ii) Cycle 2 General mow April to June 2023	Period	1	8 000.00	8 000.00
	(b) Shoulder Mow. (Fixed sum by Employer)				
	(i) Cycle 1: Shoulder mow November to December 2022	Period	1	5 000.00	5 000.00
	(ii) Cycle 1: Shoulder Mow January to February 2023	Period	1	5 000.00	5 000.00
	(iii) Cycle 2: Shoulder mow November to December 2023	Period	1	5 000.00	5 000.00
	(iv) Cycle 2: Shoulder Mow January to February 2024	Period	1	5 000.00	5 000.00
PM0500	<u>ACCOMMODATION OF TRAFFIC</u>				
	The required road signs will be provided by the Main Contractor				
PM050.03	Accommodation of traffic and maintaining temporary deviations. Measured per period				
	The Employer has fixed rates under Item PM050.03 (a) and (b)				
	Payment shall be pro-rata to value of work done in Period				
	(a) General Mow. (Fixed Rate by Employer)				
	(i) Cycle 1 General mow April to June 2022	Period	1	10 000.00	10 000.00
	(ii) Cycle 2 general mow April to June 2023	Period	1	10 000.00	10 000.00
	(b) Shoulder Mow. (Fixed Rate by Employer)				
	(i) Cycle 1: Shoulder mow November to December 2022	Period	1	8 000.00	8 000.00
	(ii) Cycle 1: Shoulder Mow January to February 2023	Period	1	8 000.00	8 000.00
	(iii) Cycle 2: Shoulder mow November to December 2023	Period	1	8 000.00	8 000.00
	(iv) Cycle 2: Shoulder Mow January to February 2024	Period	1	8 000.00	8 000.00
	<b>NOTE: The Part 2.1 EME Contractor rates for Items PM610.01 and PM610.02 shall be the same as the rates tendered by the Main Contractor for the respective Items.</b>				
	<b>Therefore the rates tendered under the items in Part 1.2 shall be transferred to the respective items in this Schedule for Part 2.1.</b>				
M6100	<u>CONTROLLING VEGETATION GROWTH: MOWING AND CUTTING</u>				
PM610.01	Shoulder mowing and removal of grass cuttings				
	(a) Reserve with dual carriageway, min width 3m excluding interchanges. Including baling/removal.	km			rate only
	(b) Reserve with single carriageway, min width 3m excluding interchanges. Including baling/removal.	km	40		-
	(c) Shoulder mow interchanges. Including baling/removal. Refer to Table in Section C4.1.2.4	No			rate only
PM610.02	General Mowing and Removal of Grass Cuttings				
	(b) General mow reserve with single carriageway, excluding interchanges	km	20		-
	(c) General mow interchanges Refer to Table in Section C4.1.2.4	No			rate only
	(e) Extra over item PM610.02 (b) for baling and or removal of grass cuttings from reserve with single carriageway	km	20		-
	(f) Extra over item PM610.02 (c) for baling and or removal of grass cuttings from interchanges	No			rate only
TOTAL SCHEDULE 2.1 CARRIED FORWARD TO SUMMARY SCHEDULE MAIN CONTRACTOR BOQ - PART 2				EME 4	