

**AIRPORTS COMPANY SOUTH AFRICA SOC LIMITED**

**PROJECT NAME AND NUMBER: DIA6024/2019/RFP**

**TITLE OF PROJECT: DESIGN AND CONSTRUCT THE WEATHER PROTECTION STRUCTURE**

**NEC 3: ENGINEERING AND CONSTRUCTION CONTRACT (ECC)**

**Between AIRPORTS COMPANY SOUTH AFRICA SOC LIMITED**

**Applicable at KING SHAKA INTERNATIONAL AIRPORT**

(Registration Number: 1993/004149/30)

and **[DRAFTING NOTE: INSERT CONTRATOR NAME]**

(Registration Number: \_\_\_\_\_)

for **DESIGN AND CONSTRUCT THE WEATHER PROTECTION  
STRUCTURE**

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<b>Contents:</b>	<b>No of pages</b>
Part C1 Agreements & Contract Data	[•]
Part C2 Pricing Data	[•]
Part C3 Scope of Works	[•]
Part C4 Site Information	[•]

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**Part C1: Agreements and Contract Data**

**C1.1: Form of Offer and Acceptance**

**OFFER**

The Employer, identified in the Acceptance signature block, has solicited offers to enter into a contract for the procurement of **DESIGN AND CONSTRUCT THE WEATHER PROTECTION STRUCTURE** :

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

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

**THE OFFERED TOTAL OF THE PRICES INCLUSIVE OF VAT IS:**

(in ..... words)  
 ..... Rands;

(in figures) R.....

**THE OFFERED PRICES ARE AS STATED IN THE PRICING SCHEDULE**

This Offer may be accepted by the Employer by signing the Acceptance part of this Form of Offer and Acceptance and returning one copy of this document including the Schedule of Deviations (if any) to the tenderer before the end of the period of validity stated in the Tender Data, or other period as agreed, whereupon the tenderer becomes the party named as the **Contractor** in the conditions of contract identified in the Contract Data.

Signature(s)

Name(s) .....

Capacity .....

**For the Bidder:**

Name & signature of witness ..... *(Insert name and address of organisation)* ..... Date .....

## ACCEPTANCE

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

The terms of the contract, are contained in:

- Part C1            Agreements and Contract Data, (which includes this Form of Offer and Acceptance)
- Part C2            Pricing Data
- Part C3            Scope of Work: Works Information
- Part C4            Site Information

and drawings and documents (or parts thereof), which may be incorporated by reference into the above listed Parts.

Deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Returnable Schedules as well as any changes to the terms of the Offer agreed by the tenderer and the Employer during this process of offer and acceptance, are contained in the Schedule of Deviations attached to and forming part of this Form of Offer and Acceptance. No amendments to or deviations from said documents are valid unless contained in this Schedule.

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

Notwithstanding anything contained herein, this agreement comes into effect on the date when the tenderer receives one fully completed original copy of this document, including the Schedule of Deviations (if any). Unless the tenderer (now **Contractor**) within five working days of the date of such receipt notifies the Employer in writing of any reason why he cannot accept the contents of this agreement, this agreement shall constitute a binding contract between the Parties.

Signature(s)

Name(s)

Capacity

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

**for the  
Employer**

Name &  
signature of  
witness

.....  
*(Insert name and address of  
organisation)*

Date

.....

**Schedule of Deviations**

1 Subject .....

    Details .....

.....

.....

.....

2 Subject .....

    Details .....

.....

.....

.....

3 Subject .....

    Details .....

.....

.....

.....

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

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

**For the Employer**

**For the Bidder**

Signature (s)	.....	.....
Name (s)	.....	.....
Capacity	.....	.....
<b>Name and Address</b>	<b>Airports Company South Africa SOC Limited</b>	
	<b>LAMERCY DRIVE</b>	
Name & Signature of witness	<i>(Insert name and address of organisation)</i>	<i>(Insert name and address of organisation)</i>
Date	.....	.....

## Part C1.2a Contract Data

### Part one – Data provided by the *Employer*

The Conditions of contract are selected from the NEC3 Engineering and Construction Contract, April 2013.

Each item of data given below is cross-referenced to the NEC3 Engineering Construction Contract which requires it.

Clause	Statement	Data
<b>1</b>	<b>General</b>	
	The <i>conditions of contract</i> are the core clauses and the clauses for Main Option	
	Main Option	<b>B: Priced contract with Bill of Quantities</b>
	Dispute resolution Option	<b>W1: Dispute resolution procedure</b>
	Secondary Options (incorporating amendments)	<b>X2: Changes in the law</b> <b>X7: Delay damages</b> <b>X13: Performance Bond</b> <b>X16: Retention</b> <b>X18: Limitation of liability</b> <b>Z: Additional conditions of contract</b> of the NEC3 Engineering and Construction Contract, April 2013
10.1	The <i>Employer</i> is (Name)	Airports Company South Africa SOC Limited, KING SHAKA INTERNATIONAL AIRPORT
	Address	Airports Company South Africa SOC Limited  <b>Po box 57701 la mercy 4407</b>
	Telephone	<b>032 436 6000</b>
	Fax	<b>0860 665 5274</b>
10.1	The <i>Project Manager</i> is:	
	Mzokhona Dlamini	

	Address	KING SHAKA INTERNATIONAL AIRPORT LA MERCY
	Telephone	032 436 6567
	E-mail address	Procurement3.KSIA@airports.co.za
10.1	The <i>Supervisor</i> is	Siphiwe MsimangoXX
	Address	KING SHAKA INTERNATIONL AIRPORT LA MERCY 4407Xx
	Telephone	
	Fax	
	Email	
11.2	The <i>works</i> are	DESIGN AND CONSTRUCT THE WEATHER PROTECTION STRUCTURE [DESCRIBE THE WORKS]
11.2	The following matters will be included in the Risk Register	<ul style="list-style-type: none"> <li>• Availability of As Built information</li> <li>• Access to Site</li> <li>• Site Constraints and Constructability</li> <li>•</li> </ul>
11.2	The <i>Works Information</i> is in	Part C3 'Scope of Works' section of this contract
11.2	The <i>Site Information</i> is in	Part C4 'Works Information' section of this contract
11.2	The <i>boundary of the site</i> is	Xx
12.2	The <i>law of the contract</i> is the law of	the Republic of South Africa
13.1	The <i>language of this contract</i> is	English
13.3	The <i>period of reply</i> is	Seven (7) days
<b>3</b>	<b>Time</b>	
31.2	The <i>starting date</i> is	XX
11.2	The <i>completion date</i> is	XX
30.1	The <i>access date</i> is	XX

31.1	The <i>Contractor</i> submits a first (preliminary) programme with the tender by the tender closing date	Within two weeks of the contract date XX																												
32.2	The <i>Contractor</i> submits revised programmes at intervals no longer than	Four (4) weeks																												
35.1	The <i>Employer</i> is not willing to take over the works before the <i>completion date</i>	The <i>Employer</i> and Others will have access to the <i>works</i> during construction or prior to completion. Such access by the <i>Employer</i> and Others shall not relieve the <i>Contractor</i> from liability for the completion of the <i>works</i> in accordance with the Works Information and in terms of this contract.																												
<b>4</b>	<b>Testing and Defects</b>																													
42.2	The <i>defects date</i> is	Twelve (12) months after Completion of the whole of the <i>works</i>																												
43.2	The <i>defects correction period</i> is	Two (2) weeks																												
<b>5</b>	<b>Payment</b>																													
50.1	The <i>assessment interval</i> is	Ends and starts at 12h00 on the 25 <sup>th</sup> day of each successive month XX (XX) weeks																												
50.1	The <i>currency of this contract</i> is the	South African Rand																												
51.2	The period within which payment is made is	Four (4) weeks																												
51.4	The <i>interest rate</i> is	The prime lending rate of the Nedbank Bank. as determined from time to time																												
<b>6</b>	<b>Compensation events</b>																													
60.1	The <i>weather measurements</i> to be recorded for each calendar month are	the cumulative rainfall (mm) the number of days with rainfall more than 10 mm the number of days with minimum air temperature less than 0 degrees Celsius																												
60.1	The place where weather is to be recorded (on the Site) is	At the Construction Site Office and the records to be kept on site in a file clearly marked for this purpose																												
60.1	Assumed values for the ten-year return <i>weather data</i> for each <i>weather measurement</i> for each calendar month are	<table border="1"> <thead> <tr> <th>Month</th> <th>Days</th> <th>Month</th> <th>Days</th> </tr> </thead> <tbody> <tr> <td>January</td> <td>1</td> <td>July</td> <td>4</td> </tr> <tr> <td>February</td> <td>1</td> <td>August</td> <td>3</td> </tr> <tr> <td>March</td> <td>2</td> <td>September</td> <td>2</td> </tr> <tr> <td>April</td> <td>2</td> <td>October</td> <td>2</td> </tr> <tr> <td>May</td> <td>3</td> <td>November</td> <td>2</td> </tr> <tr> <td>June</td> <td>3</td> <td>December</td> <td>1</td> </tr> </tbody> </table>	Month	Days	Month	Days	January	1	July	4	February	1	August	3	March	2	September	2	April	2	October	2	May	3	November	2	June	3	December	1
Month	Days	Month	Days																											
January	1	July	4																											
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April	2	October	2																											
May	3	November	2																											
June	3	December	1																											
<b>7</b>	<b>Title</b>	No data required for this section of the <i>conditions of contract</i>																												
<b>8</b>	<b>Risks and Insurance</b>																													



84.1	The <i>Employer</i> provides these insurances	Refer to the Insurance Clauses which is attached at the end of the Contract Data
84.2	The <i>Contractor</i> provides the insurance stated in	The Insurance Clauses which is attached at the end of the Contract Data. The insurances are in the joint names of the Parties and provide cover for events which are at the Contractor's risk from the starting date until the Defects Certificate or a termination certificate has been issued.
	The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with this contract for any one event is:	As prescribed by the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993
<b>9</b>	<b>Termination</b>	No data required for this section of the <i>conditions of contract</i>
<b>10</b>	<b>Data for Main Options</b>	
<b>B</b>	Priced contract with Bill of Quantities	[include if applicable]
<b>11</b>	<b>Data for Option W1</b>	
W1.1	The <i>Adjudicator</i> is	The person appointed jointly by the parties from the list of adjudicators contained below
W1.2	The <i>Adjudicator nominating body</i> is	The current Chairman of Johannesburg Advocate's Bar Council
W1.4	The <i>tribunal</i> is	Arbitration
W1.4	If the <i>tribunal</i> is arbitration, the arbitration procedure is	The <i>arbitration procedure</i> is set out in The Rules for the Conduct of Arbitrations 2013 Edition, 7th Edition, published by The Association of Arbitrators, (Southern Africa)
W1.4	The place where arbitration is to be held is	Johannesburg, South Africa.
W1.4	The person or organisation who will choose an arbitrator	The <i>Arbitrator</i> is the person selected by the Parties as and when a dispute arises in terms of the relevant Z Clause, from the Panel of Arbitrators provided under the relevant Z clause if the arbitration procedure does not state who selects an arbitrator. The Arbitrator nominating body is the Chairman of the Johannesburg Advocates Bar Council.
<b>12</b>	<b>Data for Secondary Option Clauses</b>	
<b>X7</b>	<b>Delay Damages</b>	

Delay damages of the *works* are Amount per day is 0.05%, to the maximum of 10% of the Contract value

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**X13 Performance bond**

X13.1 The amount of the performance bond is 10% of the contract value. Pro-forma draft of a performance bond to be used is attached to this contract.

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**X16 Retention**

X16.1 The *retention percentage* is 5% of the Contract value.

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**X18 Limitation of Liability**

X18.1 The *Contractor's* liability to the *Employer* for indirect or consequential loss is limited to Nil - Neither Party is liable to the other for any consequential or indirect loss, including but not limited to loss of profit, loss of income or loss of revenue

X18.2 For any one event, the *Contractor's* liability to the *Employer* for loss of or damage to the *Employer's* property is limited to The total of the Prices

X18.3 The *Contractor's* total liability to the *Employer* for defects due to his design which are not listed on the Defects Certificate is limited to The total of the Prices

X18.4 The *Contractor's* total liability to the *Employer* for all matters arising under or in connection with this contract, other than excluded matters, is limited to The *Contractor's* total direct liability to the *Employer* for all matters arising under or in connection with this contract, other than the excluded matters, is limited to the total of the Prices and applies in contract, tort or delict and otherwise to the extent allowed under the law of the contract.

The e excluded matters are amounts payable by the Contractor as stated in this contract for

- Loss of or damage to the *Employer's* property,
- Delay damages,
- Defects liability,
- Insurance liability to the extent of the *Contractor's* risks
- loss of or damage to property (other than the *works*, Plant and Materials),
- death of or injury to a person;
- damage to third party property; and
- infringement of an intellectual property right

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**Z The *Additional conditions of contract* are Z1 – Z20**

**Amendments to the Core Clauses**

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**Z1 Interpretation of the law**

**Z1.1 Add to core clause 12.3:**

Any extension, concession, waiver or relaxation of any action stated in this contract by the Parties, the *Project Manager*, the *Supervisor*, or the *Adjudicator* does not constitute a waiver of rights, and does not give rise to an estoppel unless the Parties agree otherwise and confirm such agreement in writing.

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**Z2 Providing the Works:**

**Z2.1 Delete core clause 20.1 and replace with the following:**

The *Contractor* provides the works in accordance with the Works Information and warrants that the results of the Works, when complete, shall be fit for their intended purpose

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**Z3 Other responsibilities:**

**Add the following at the end of core clause 27:**

**Z3.1** The *Contractor* shall have satisfied himself, prior to the Contract Date, as to the completeness, sufficiency and accuracy of all information and drawings provided to him as at the Contract Date

**Z3.2** The *Contractor* shall be responsible for the correct setting out of the *Works* in accordance with the original points, lines and levels stated in the *Works Information* or notified by the *Project Manager*, *Supervisor* or the *Employer*. Any errors in the positioning of the *Works* shall be rectified by the *Contractor* at the *Contractor's* own costs.

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**Z4 Extending the defects date:**

**Add the following as a new core clause 46:**

**Z4.1** If the *Employer* cannot use the *works* due to a Defect, which arises after Completion and before the *defects date*, the *defects date* is delayed by a period equal to that during which the *Employer*, due to a Defect, is unable to use the *works*

**Z4.2** If part of the *works* is replaced due to a Defect arising after Completion and before the *defects date*, the *defects date* for the part of the *works* which is replaced is delayed by a period equal to that between Completion and the date by when the part has been replaced

**Z4.3** The *Project Manager* notifies the *Contractor* of the change to a *defect date* when the delay occurs. The period between Completion and an extended *defects date* does not exceed twice the period between Completion and the *defects date* stated in the Contract Data

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**Z5 Termination**

**Z5.1 Add the following to core clause 91.1, at the second main bullet, fifth sub-bullet point, after the words “assets or”:** “business rescue proceedings are initiated or steps are taken to initiate business rescue proceedings”.

**Amendment to the Secondary Option Clauses**

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**Z6 Performance Bond**

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<b>Z6.1</b>	<b>Amend the first sentence of clause X13.1 to read as follows:</b> The <i>Contractor</i> gives the <i>Employer</i> an unconditional, on-demand performance bond, provided by a bank which the <i>Project Manager</i> and the <i>Employer</i> have accepted, for the amount stated in the Contract Data and in the form set out in Annexure C.ii of this Contract Data.
<b>Z6.2</b>	<b>Add the following new clause as Option X13.2:</b> The <i>Contractor ensures</i> that the performance bond is valid and enforceable until the end of the <i>contract period</i> . If the terms of the performance bond specify its expiry date and the end of the <i>contract period</i> does not coincide with such expiry date, four weeks prior to the said expiry date, the <i>Contractor</i> extends the validity of the performance bond until the end of the <i>contract period</i> . If the <i>Contractor</i> fails to so extend the validity of the performance bond, the <i>Employer</i> may claim the full amount of the performance bond and retain the proceeds as cash security
<b>Z7</b>	<b>Limitation of liability:</b>
	<b>Insert the following new clause as Option X18.6:</b>
<b>Z7.1</b>	The <i>Employer's</i> liability to the <i>Contractor</i> for the <i>Contractor's</i> indirect or consequential loss is limited to R0.00
<b>Z7.2</b>	Notwithstanding any other clause in this contract, any proceeds received from any insurances or any proceeds which would have been received from any insurances but for the conduct of the <i>Contractor</i> shall be excluded from the calculation of the limitations of liability listed in the contract
<b>Additional Z Clauses</b>	
<b>Z8</b>	<b>Cession, delegation and assignment</b>
<b>Z8.1</b>	The <i>Contractor</i> shall not cede, delegate or assign any of its rights or obligations to any person without the written consent of the <i>Employer</i> , which consent shall not be unreasonably withheld. This clause shall be binding on the liquidator/business rescue practitioner /trustee (whether provisional or not) of the <i>Contractor</i>
<b>Z8.2</b>	The <i>Employer</i> may cede and delegate its rights and obligations under this contract to any person or entity
<b>Z9</b>	<b>Joint and several liability</b>
<b>Z9.1</b>	If the <i>Contractor</i> constitutes a joint venture, consortium or other unincorporated grouping of two or more persons, these persons are deemed to be jointly and severally liable to the <i>Employer</i> for the performance of the Contract.
<b>Z9.2</b>	The <i>Contractor</i> shall, within 1 week of the Contract Date, notify the <i>Project Manager</i> and the <i>Employer</i> of the key person who has the authority to bind the <i>Contractor</i> on their behalf.
<b>Z9.3</b>	The <i>Contractor</i> does not materially alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without prior written consent of the <i>Employer</i> .
<b>Z10</b>	<b>Ethics</b>
<b>Z10.1</b>	The <i>Contractor</i> undertakes:
<b>Z10.1.1</b>	not to give any offer, payment, consideration, or benefit of any kind, which constitutes or could be construed as an illegal or corrupt practice, either directly or indirectly, as an inducement or reward for the award or in execution of this contract;

- Z10.1.2** to comply with all laws, regulations or policies relating to the prevention and combating of bribery, corruption and money laundering to which it or the *Employer* is subject, including but not limited to the Prevention and Combating of Corrupt Activities Act, 12 of 2004.
- Z10.2** The *Contractor's* breach of this clause constitutes grounds for terminating the *Contractor's* obligation to Provide the Works or taking any other action as appropriate against the *Contractor* (including civil or criminal action). However, lawful inducements and rewards shall not constitute grounds for termination.
- Z10.3** If the *Contractor* is found guilty by a competent court, administrative or regulatory body of participating in illegal or corrupt practices, including but not limited to the making of offers (directly or indirectly), payments, gifts, gratuity, commission or benefits of any kind, which are in any way whatsoever in connection with the contract with the *Employer*, the *Employer* shall be entitled to terminate the contract in accordance with the procedures stated in core clause 92.2. the amount due on termination is A1.

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**Z11 Confidentiality**

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- Z11.1** All information obtained in terms of this contract or arising from the implementation of this contract shall be treated as confidential by the *Contractor* and shall not be used or divulged or published to any person not being a party to this contract, without the prior written consent of the *Project Manager* or the *Employer*, which consent shall not be unreasonably withheld.
- Z11.2** If the *Contractor* is uncertain about whether any such information is confidential, it is to be regarded as such until otherwise notified by the *Project Manager*.
- Z11.3** This undertaking shall not apply to –
- Z11.3.1** Information disclosed to the employees of the *Contractor* for the purposes of the implementation of this agreement. The *Contractor* undertakes to procure that its employees are aware of the confidential nature of the information so disclosed and that they comply with the provisions of this clause;
- Z11.3.2** Information which the *Contractor* is required by law to disclose, provided that the *Contractor* notifies the *Employer* prior to disclosure so as to enable the *Employer* to take the appropriate action to protect such information. The *Contractor* may disclose such information only to the extent required by law and shall use reasonable efforts to obtain assurances that confidential treatment will be afforded to the information so disclosed;
- Z11.3.3** Information which at the time of disclosure or thereafter, without default on the part of the *Contractor*, enters the public domain or to information which was already in the possession of the *Contractor* at the time of disclosure (evidenced by written records in existence at that time);
- Z11.4** The taking of images (whether photographs, video footage or otherwise) of the *works* or any portion thereof, in the course of Providing the Works and after Completion, requires the prior written consent of the *Project Manager*. All rights in and to all such images vests exclusively in the *Employer*
- Z11.5** The *Contractor* ensures that all his Subcontractors abide by the undertakings in this clause.

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**Z12 Employer's Step-in rights**

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**Z12.1** If the *Contractor* defaults by failing to comply with his obligations and fails to remedy such default within 2 weeks of the notification of the default by the *Project Manager*, the *Employer*, without prejudice to his other rights, powers and remedies under the contract, may remedy the default either himself or procure a third party (including any subcontractor or supplier of the *Contractor*) to do so on his behalf. The reasonable costs of such remedial works shall be borne by the *Contractor*

**Z12.2** The *Contractor* co-operates with the *Employer* and facilitates and permits the use of all required information, materials and other matter (including but not limited to documents and all other drawings, CAD materials, data, software, models, plans, designs, programs, diagrams, evaluations, materials, specifications, schedules, reports, calculations, manuals or other documents or recorded information (electronic or otherwise) which have been or are at any time prepared by or on behalf of the *Contractor* under the contract or otherwise for and/or in connection with the *works*) and generally does all things required by the *Project Manager* to achieve this end.

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**Z13 Liens and Encumbrances**

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**Z13.1** The *Contractor* keeps the Equipment used to Provide the Services free of all liens and other encumbrances at all times. The *Contractor*, vis-a-vis the *Employer*, waives all and any liens which he may from time to time have, or become entitled to over such Equipment and any part thereof and procures that his Subcontractors similarly, vis-a-vis the *Employer*, waive all liens they may have or become entitled to over such Equipment from time to time

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**Z14 Intellectual Property**

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**Z14.1** Intellectual Property (“IP”) rights means all rights in and to any patent, design, copyright, trade mark, trade name, trade secret or other intellectual or industrial property right relating to the Works.

**Z14.2** IP rights remain vested in the originator and shall not be used for any reason whatsoever other than carrying out the *works*.

**Z14.3** The *Contractor* gives the *Employer* an irrevocable, transferrable, non-exclusive, royalty free licence to use and copy all IP related to the *works* for the purposes of constructing, repairing, demolishing, operating and maintaining the works

**Z14.4** The written approval of the *Contractor* is to be obtained before the *Contractor's* IP made available to any third party which approval will not be unreasonably withheld or delayed. Prior to making any *Contractor's* IP available to any third party the *Employer* shall obtain a written confidentiality undertaking from any such third party on terms no less onerous than the terms the *Employer* would use to protect its IP

**Z14.5** The *Contractor* shall indemnify and hold the *Employer* harmless against and from any claim alleging an infringement of IP rights (“**the claim**”), which arises out of or in relation to:

**Z14.5.1** the *Contractor's* design, manufacture, construction or execution of the Works

**Z14.5.2** the use of the *Contractor's* Equipment, or

**Z14.5.3** the proper use of the Works.

**Z14.6** The *Employer* shall, at the request and cost of the *Contractor*, assist in contesting the claim and the *Contractor* may (at its cost) conduct negotiations for the settlement of the claim, and any litigation or arbitration which may arise from it.

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**Z16 Dispute resolution:**

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## Z16.1 Appointment of the Adjudicator

An *Adjudicator* is appointed when a dispute arises, from the Panel of Adjudicators below. The referring party nominates an Adjudicator, which nomination is either accepted or rejected by the other party. In the instance of a rejection of the nominated *Adjudicator*, the referring Party refers the appointment deadlock to the Chairman of the Johannesburg Bar Council, who appoints an *Adjudicator* listed in the Panel of Adjudicators below

The Parties appoint the *Adjudicator* under the NEC3 Adjudicator's Contract, April 2013

### Panel of Adjudicators

Name	Location	Contact details (phone & e mail)
Adv. Ghandi Badela	Gauteng	+27 11 282 3700 <a href="mailto:ghandi@badela.co.za">ghandi@badela.co.za</a>
Mr. Errol Tate Pr. Eng.	Durban	+27 11 262 4001 <a href="mailto:Errol.tate@mweb.co.za">Errol.tate@mweb.co.za</a>
Adv. Saleem Ebrahim	Gauteng	+27 11 535-1800 <a href="mailto:salimebrahim@mweb.co.za">salimebrahim@mweb.co.za</a>
Mr. Sebe Msutwana Pr. Eng.	Gauteng	+27 11 442 8555 <a href="mailto:sebe@civilprojects.co.za">sebe@civilprojects.co.za</a>
Mr. Sam Amod	Gauteng	<a href="mailto:sam@samamod.com">sam@samamod.com</a>
Adv. Sias Ryneke SC	Gauteng	083 653 2281 <a href="mailto:ryneke@duma.nokwe.co.za">ryneke@duma.nokwe.co.za</a>
Mr. Emeka Ogbugo (Quantity Surveyor)	Pretoria	+27 12 349 2027 <a href="mailto:emeka@gosiame.co.za">emeka@gosiame.co.za</a>

## Z16.2 Appointment of the Arbitrator

An *Arbitrator* is appointed when a dispute arises from the Panel of Arbitrators below. The referring party nominates an Arbitrator, which nomination is either accepted or rejected by the other party. In the instance of a rejection of the nominated *Arbitrator*, the referring Party refers the appointment deadlock to the Chairman of the Johannesburg Bar Council, who appoints an *Arbitrator* listed in the Panel of *Arbitrators* below

### Panel of Arbitrators

Name	Location	Contact details (phone & e mail)
Adv. Ghandi Badela	Gauteng	+27 11 282 3700 <a href="mailto:ghandi@badela.co.za">ghandi@badela.co.za</a>
Mr. Errol Tate Pr. Eng.	Durban	+27 11 262 4001 <a href="mailto:Errol.tate@mweb.co.za">Errol.tate@mweb.co.za</a>
Adv. Saleem Ebrahim	Gauteng	+27 11 535-1800 <a href="mailto:salimebrahim@mweb.co.za">salimebrahim@mweb.co.za</a>
Mr. Sebe Msutwana Pr. Eng.	Gauteng	+27 11 442 8555 <a href="mailto:sebe@civilprojects.co.za">sebe@civilprojects.co.za</a>
Mr. Sam Amod	Gauteng	<a href="mailto:sam@samamod.com">sam@samamod.com</a>
Adv. Sias Ryneke SC	Gauteng	083 653 2281 <a href="mailto:ryneke@duma.nokwe.co.za">ryneke@duma.nokwe.co.za</a>
Mr. Emeka Ogbugo (Quantity Surveyor)	Pretoria	+27 12 349 2027 <a href="mailto:emeka@gosiame.co.za">emeka@gosiame.co.za</a>

## Z17 Notification of a compensation event

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**Z17.1** Delete “eight weeks” in clause 61.3 and replace with “four weeks”. Delete the words “unless the event arises from the Project Manager or the Supervisor giving an instruction, issuing a certificate, changing an earlier decision or correcting an assumption.

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**Z18** **BBBEE Certificate**

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**Z18.1** The *Contractor* shall be expected to annually present a compliant BEE Certificate. Failure to do adhere to these requirements shall be considered a material breach of the conditions of this Contract, the sanction for which may be a cancellation of this Contract.

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**Z19** **Communication**

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**Z19.1** **Add a new Core Clause** 14.5 and 14.6 to read as follows:

The *Project Manager* requires the written consent of the Employer if an action will result in a change to the design, scope, and Works information that is 5% or more

**Z19.2** The *Project Manager* requires the written consent of the Employer if an action will result in the Completion Date being extended by more than 30 days.

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**Z20** **Delegation**

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As stipulated by Section 37(2) of the Occupational Health and Safety Act No. 85 of 1993 as amended the *Contractor* agrees to the following:

**Z20.1** As part of this contract the *Contractor* acknowledge that it (mandatory) is an employer in its own right with duties as prescribed in the Occupational Health and Safety Act No 85 of 1993 as amended and agree to ensure that all work being performed, or Equipment, Plant and Materials being used, are in accordance with the provisions of the said Act, and in particular with regard to the Construction Regulations

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## PART C1.2b CONTRACT DATA

### PART TWO – DATA PROVIDED BY THE CONTRACTOR

Clause	Statement	Data
10.1	The Contractor is (Name): Address:  Telephone No. Fax No.	
11.2	The <i>working areas</i> are	Only the Site Area. See C4 'Site Information'
24.1	The <i>Contractor's Key people</i> are:	<b>CV's to be appended to Tender Schedule</b>
	Name:	
	Job:	
	Responsibility:	
	Qualifications:	
	Experience:	
	Name:	
	Job:	
	Responsibility:	
	Qualifications:	
	Experience:	
	Name:	
	Job:	
	Responsibility:	
	Qualifications:	
	Experience:	

Name:

Job:

Responsibility:

Qualifications:

Experience:

11.2	The <i>completion date</i> is	XX
11.2	The following matters will be included in the Risk Register	<ul style="list-style-type: none"> <li>• Existing Services</li> <li>• Access to Site</li> <li>• Delay in supply of material and/or equipment</li> <li>• Progress of the works against the program</li> <li>• Travelling public and ACSA stakeholders</li> </ul>
11.2	The <i>Works Information</i> is in	Part C3 'Scope of Works' section of this contract
31.1	The programme identified in the	XX

## Part C1: Agreements and Contract Data

### C1.3: Form of Guarantee

#### PRO FORMA FOR PERFORMANCE BOND

#### PERFORMANCE BOND

#### [TO BE REPLICATED ON BANK'S LETTERHEAD]

Brief description of contract.....

Name and address of Beneficiary.....

..... (whom the contract defines as the Contractor).

We, the undersigned ..... and..... in our capacities as Guarantor's..... of ..... (**Registration Number: ...**) (hereinafter called "the Bank") have been informed that ..... hereinafter called the 'Principal') is your Contractor under such contract, which requires him to obtain an irrevocable, unconditional performance security.

At the request of the Principal, we .....(name of bank) hereby irrevocably undertake to pay you, the Employer, any sum or sums not exceeding in total the amount of .....(the "Guaranteed Amount") upon receipt by us of your first written demand stating that such an amount (or lesser amount) as may be claimed is due and payable to the Employer.

This guarantee constitute an irrevocable, unconditional, non-negotiable and non-transferable undertaking to pay in accordance with the above, subject to the proviso that this Letter will not be interpreted as extending the Bank's liability to anything more than the Guaranteed Amount.

Notwithstanding anything to the contrary herein contained, the Bank's obligation shall be construed as principal and not as accessory to the contract and shall not be delayed or discharged by the fact that a dispute exists between the Employer and the Contractor.

We undertake to pay you such Guaranteed Amount upon receipt by us, within such period of 14 days, of your first written demand stating that such an amount (or lesser amount) as may be claimed is due and payable to the Employer.

The guarantee shall be governed by and construed in accordance with the laws of the Republic of South Africa

Signed at \_\_\_\_\_ on \_\_\_\_\_ 20....

For:

**Registration Number:**

\_\_\_\_\_  
**Name & Position**

As witnesses:

1. \_\_\_\_\_

2. \_\_\_\_\_

## PART C1: AGREEMENTS AND CONTRACT DATA

**[EACH AIRPORT TO CONFIRM WITH SAFETY DEPARTMENTS WHETHER THERE IS ADDITIONAL SAFETY DOCUMENTATION TO BE ATTACHED THAT CONTRACTOR SHOULD BE AWARE OF]**

### C1.4: OCCUPATIONAL HEALTH AND SAFETY AGREEMENT

#### OCCUPATIONAL HEALTH AND SAFETY AGREEMENT

AGREEMENT IN TERMS OF SECTION 37(2) OF THE OCCUPATIONAL HEALTH & SAFETY ACT (ACT 85 OF 1993) & CONSTRUCTION REGULATION 5.1(k)

#### OBJECTIVES

To assist Airport Company South Africa (ACSA) in order to comply with the requirements of:

1. The Occupational Health & Safety (Act 85 of 1993) and its regulations and
2. The Compensation for Occupational Injuries & Diseases Act (Act 130 of 1993) also known as the (COID Act).

To this end an Agreement must be concluded before any contractor/ subcontracted work may commence

The parties to this Agreement are:

Name of Organisation:

AIRPORTS COMPANY SOUTH AFRICA  
**KING SHAKA INTERNATIONAL AIRPORT XXX AIRPORT**

Physical Address:

Airport Company South Africa

**LA MERCY 4407XXX**

Hereinafter referred to as "Client"

Name of organisation:

Physical Address

Hereinafter referred to as "the Mandatary/ Principal Contractor"

## MANDATORY'S MAIN SCOPE OF WORK

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### GENERAL INFORMATION FORMING PART OF THIS AGREEMENT

1. The Occupational Health & Safety Act comprises of SECTION 1-50 and all unrepealed REGULATIONS promulgated in terms of the former Machinery and Occupational Safety Act No.6 of 1983 as amended as well as other REGULATIONS which may be promulgated in terms of the Act and other relevant Acts pertaining to the job in hand.
2. "Mandatory" is defined as including as agent, a principal contractor or a contractor for work, but WITHOUT DEROGATING FROM HIS/HER STATUS IN HIS/HER RIGHT AS AN EMPLOYER or user of the plant
3. Section 37 of the Occupational Health & Safety Act potentially punishes Employers (PRINCIPAL CONTRACTOR) for unlawful acts or omissions of Mandatories (CONTRACTORS) save where a Written Agreement between the parties has been concluded containing arrangements and procedures to ensure compliance with the said Act BY THE MANDATARY.
4. All documents attached or refer to in the above Agreement form an integral part of the Agreement.
5. To perform in terms of this agreement Mandatories must be familiar and conversant with the relevant provisions of the Occupational Health & Safety Act 85 of 1993 (OHS Act) and applicable Regulations.
6. Mandatories who utilise the services of their own Mandatories (contractors) must conclude a similar Written Agreement with them.
7. Be advised that this Agreement places the onus on the Mandatory to contact the CLIENT in the event of inability to perform as per this Agreement.
8. This Agreement shall be binding for all work the Mandatory undertakes for the client.
9. All documentation according to the Safety checklist including a copy of the written Construction Manager appointment in terms of construction regulation 8, must be submitted 7 days before work commences.

### THE UNDERTAKING

The Mandatory undertakes to comply with:

#### INSURANCE

1. The Mandatory warrants that all their employees and/or their contractor's employees if any are covered in terms of the COID Act, which shall remain in force whilst any such employees are present on the Client's premises. A letter is required prior commencing any work on site confirming that the Principal contractor or contractor is in good standing with the Compensation Fund or Licensed Insurer.
2. The Mandatory warrants that they are in possession of the following insurance cover, which cover shall remain in force whilst they and /or their employees are present on the Client's premises, or which shall remain in force for that duration of their contractual relationship with the Client, whichever period is the longest.
  - a. Public Liability Insurance Cover as required by the Subcontract Agreement.
  - b. Any other Insurance cover that will adequately makes provision for any possible losses and/or claims arising from their and /or their Subcontractors and/or their respective employee's acts and/or omissions on the Client's premises.

### COMPLIANCE WITH THE OCCUPATIONAL HEALTH & SAFETY ACT 85 OF 1993

The Mandatory undertakes to ensure that they and/or their subcontractors if any and/or their respective employees will at all times comply with the following conditions:

1. All work performed by the Mandatary on the Client's premises must be performed under the close supervision of the Mandatary's employees who are to be trained to understand the hazards associated with any work that the Mandatary performs on the Client's premises.
2. The Mandatary shall be assigned the responsibility in terms of Section 16(1) of the OHSAct 85 of 1993, if the Mandatary assigns any duty in terms of Section 16(2), a copy of such written assignment shall immediately be forwarded to the Client.
3. The Mandatary shall ensure that he/she familiarise himself/herself with the requirements of the OHSAct 85 of 1993 and that s/he and his/her employees and any of his subcontractors comply with the requirements.
4. The Mandatary shall ensure that a baseline risk assessment is performed by a competent person before commencement of any work in the Client's premises. A baseline risk assessment document will include identification of hazards and risk, analysis and evaluation of the risks and hazards identified, a documented plan and safe work procedures to mitigate, reduce or control the risks identified, and a monitoring and review plan of the risks and hazards.
5. The Mandatary shall appoint competent persons who shall be trained on any Occupational Health & Safety aspect pertaining to them or to the work that is to be performed.
6. The Mandatary shall ensure that discipline regarding Occupational Health & Safety shall be strictly enforced.
7. Any personal protective equipment required shall be issued by the Mandatary to his/her employees and shall be worn at all times.
8. Written safe working practices/procedures and precautionary measures shall be made available and enforced and all employees shall be made conversant with the contents of these practises.
9. No unsafe equipment/machinery and/or articles shall be used by the Mandatary or contractor on the Client's premises.
10. All incidents/accidents referred to in OHSAct shall be reported by the Mandatary to the Provincial Director: Department of Labour as well as to the Client.
11. No user shall be made by the Mandatary and/or their employees and or their subcontractors of any of the Client's machinery/article/substance/plant/personal protective equipment without prior written approval.
12. The Mandatary shall ensure that work for which the issuing of permit is required shall not be performed prior to the obtaining of a duty completed approved permit.
13. The Mandatary shall ensure that no alcohol or any other intoxicating substance shall be allowed on the Client's premises. Anyone suspected to be under the influence of alcohol or any other intoxicating substance shall not be allowed on the premises. Anyone found on the premises suspected to be under the influence of alcohol or any other intoxicating substance shall be escorted off the said premises immediately.
14. Full participation by the Mandatary shall be given to the employees of the Client if and when they inquire into Occupational Health & Safety.

## **FURTHER UNDERTAKING**

1. Only a duly authorised representative appointed in terms of Section 16.2 of the OHS Act is eligible to sign this agreement on behalf of the Mandatary. The signing power of this representative must be designated in writing by the Chief Executive Officer of the Mandatary. A copy of this letter must be made available to the Client.
2. The Mandatary confirms that he has been informed that he must report to the Client's management, in writing anything he/she deems to be unhealthy and /or unsafe. He has versed his employees in this regard.
3. The Mandatary warrants that he/she shall not endanger the health & safety of the Client's employees and other persons in any way whilst performing work on the Client's premises.
4. The Mandatary understands that no work may commence on the Client's premises until this procedure is duly completed, signed and received by the Client.
5. Non-compliance with any of the above clauses may lead to an immediate cancellation of the contract.

## **ACCEPTANCE BY MANDATARY**

In terms of section 37(2) of the Occupational Health & Safety Act 85 of 1993 and section 5.1(k) of the Construction Regulations 2014,

I .....a duly authorised 16.2 Appointee acting for and on behalf of .....(company name) undertake to ensure that the requirements and the provision of the OHSAct 85 of 1993 and its regulations are complied with.

Mandatory – WCA/ Federated Employers Mutual No.....

Expiry date .....

\_\_\_\_\_  
**SIGNATURE ON BEHALF OF MANDATARY**  
(Warrant his authority to sign)

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**SIGNATURE ON BEHALF OF THE CLIENT**  
**AIRPORT COMPANY SOUTH AFRICA**

\_\_\_\_\_  
**DATE**

## **PART C1: AGREEMENTS AND CONTRACT DATA**

### **C1.5: ACSA INSURANCE CLAUSES**

#### **INSURANCE CLAUSES FOR CAPEX PROJECTS**

**[DRAFTING NOTE: ENSURE THAT CORRECTLY DATED INSURANCE SCHEDULE ATTACHED – NOKULUNGA MASIZA IS THE CUSTODIAN]**

The insurance clauses in this document should be extracted and attached to tender documents and to contracts.

#### **SECTION A: DEFINITIONS**

**Landside** refers to:

- Areas of the airport before the security points, and
- The restricted area beyond the security points but, within the perimeter of gatehouses, passenger terminals and cargo buildings

**Airside** refers to:

- The Apron / manoeuvring areas
- Area within the airside boundary/perimeter fence, excluding the internal areas of the passenger terminals, perimeter gatehouses and cargo building.

#### **SECTION B: INSURANCE CLAUSES**

##### **1. Insurance requirements for contracts with a value below R50million on the LANDSIDE**

###### **1.1 Contract Works**

- With regards to contract works claims, the contractor/consultant is responsible for a deductible (excess) of R250 000.
- Contractors / consultants may re-insure the deductible

###### **1.2 Public Liability**

- In the event of a claim against the contractor / consultant for 3<sup>rd</sup> party property damage the contractor / consultant will be responsible for a deductible (excess) of R275 000
- In the event of a claim against the contractor / consultant for removal of lateral support, the contractor / consultant will be responsible for a deductible (excess) of R500 000
- Contractors / consultants may re-insure the deductibles

###### **1.3 Professional Indemnity**

- All consultants are responsible for Professional Indemnity cover of R5million
- Contractors who have a material design element, excluding typical P & G related work, as part of their scope, are responsible for Professional Indemnity cover of R5million
- In the event of a claim above R5million, the ACSA PI cover will kick in for the amount in excess of R5m.
- Proof of cover in the form of a certificate of insurance should be provided to ACSA before a contract is signed between ACSA and the contractor and/or consultant.

##### **2. Insurance requirements for contracts below R50million on the AIRSIDE**



## 2.1 Contract Works

- With regards to contract works claims, the contractor / consultant is responsible for a deductible (excess) of R250 000.
- Contractors / consultants may re-insure the deductible

## 2.2 Public Liability

- In the event of a claim brought against the contractor / consultant for 3<sup>rd</sup> party property damage the contractor / consultant will be responsible for a deductible (excess) of R525 000
- In the event of a claim brought against the contractor / consultant for removal of lateral support, the contractor / consultant will be responsible for a deductible (excess) of R750 000
- In the event of a claim brought against the contractor / consultant for damage to aircraft, the contractor / consultant will be responsible for a deductible (excess) of R750 000
- Contractors / consultants may re-insure the deductibles

## 2.3 Professional Indemnity

- All consultants are responsible for Professional Indemnity cover of R5million
- Contractors who have a material design element, excluding typical P & G related work, as part of their scope, are responsible for a Professional Indemnity cover of R5million.
- In the event of a claim above R5million, the ACSA PI cover will kick in for the amount in excess of R5million.
- Proof of cover in the form of a certificate of insurance should be provided to ACSA before a contract is signed between ACSA and the contractor and/or consultant.

## 3. Insurance requirements for contracts with a value **above R50 million** on the **LANDSIDE**

- Contracts with a value of more R50 million are not automatically covered under the construction policies. A separate quote is provided by insurers per contract.

### 3.1 Contract Works

With regards to contract works claims, the contractor / consultant is responsible for the following deductibles:

- All Civil Work and Earthworks – R300 000 deductible (excess)
- All other claims – R300 000 deductible (excess)
- Other property insured – R700 000 deductible (excess)
- Contractors / consultants may re-insure the deductibles

### 3.2 Public Liability

- In the event of a claim brought against the contractor / consultant for 3<sup>rd</sup> party property damage the contractor / consultant will be responsible for a deductible (excess) of R275 000
- In the event of a claim brought against the contractor / consultant for removal of lateral support, the contractor / consultant will be responsible for a deductible (excess) of R500 000
- Contractors / consultants may re-insure the deductibles

### 3.3 Professional Indemnity

- All consultants are responsible for Professional Indemnity cover of R10million

- Contractors who have a material design element, excluding typical P & G related work, as part of their scope, are responsible for a Professional Indemnity cover of R10million
- In the event of a claim above R10million, the ACSA PI cover will kick in for the amount in excess of R10m
- Proof of cover in the form of a certificate of insurance should be provided to ACSA before a contract is signed between ACSA and the contractor and/or consultant.

#### **4. Insurance requirements for contracts with a value above R50 million on the AIRSIDE**

- Contracts with a value of more R50 million are not automatically covered under the construction policies. A separate quote is provided by insurers per contract.

##### **4.1 Contract Works**

With regards to contract works claims, the contractor / consultant is responsible for the following deductibles:

- All Civil Work and Earthworks excluding Runways – R300 000 deductible (excess)
- Runway Rehabilitation – R300 000 deductible (excess)
- New Runway Construction – R700 000 deductible (excess)
- All other claims – R300 000 deductible (excess)
- Other property insured – R700 000 deductible (excess)
- Contractors / consultants may re-insure the deductibles

##### **4.2 Public Liability**

- In the event of a claim brought against the contractor / consultant for 3<sup>rd</sup> party property damage the contractor / consultant will be responsible for a deductible (excess) of R1 025 000
- In the event of a claim brought against the contractor / consultant for removal of lateral support, the contractor / consultant will be responsible for a deductible (excess) of R1 250 000
- In the event of a claim for damage to aircraft, the contractor / consultant will be responsible for a deductible (excess) of R1 250 000
- Contractors / consultants may re-insure the deductibles

##### **4.3 Professional Indemnity**

- All consultants are responsible for Professional Indemnity cover of R10million
- Contractors who have a material design element, excluding typical P & G related work, as part of their scope, are responsible for a Professional Indemnity cover of R10million
- In the event of a claim above R10million, the ACSA PI cover will kick in for the amount in excess of R10m
- Proof of cover in the form of a certificate of insurance should be provided to ACSA before a contract is signed between ACSA and the contractor and/or consultant.

## PART C2: PRICING DATA

*Develop Pricing Data (Pricing Assumptions, Pricing Schedules, Bills of Quantities etc, as relevant) using guidance provided in the CIDB Compiler guidance note for Component document: C2 – Pricing Data ([http://www.cidb.org.za/procurement/procurement\\_toolbox/overview/contract\\_sec/default.aspx](http://www.cidb.org.za/procurement/procurement_toolbox/overview/contract_sec/default.aspx))*

### PRICING SCHEDULES / BILL OF QUANTITIES

SBD3

#### C2.3 DETAILED BREAKDOWN OF COSTS TO SUPPORT THE PRICED BILL OF QUANTITIES

Detailed breakdown of cost to be inserted here.

##### Price Schedule

No:	Description	Rates	Quantity (Hours)	Unit Price	Price
1	Designing of the canopy structure or similar proposed structure and construction supervision. <i>Provide breakdown of costing as an attachment (To include the number of hours, rate per individual and other related costs)</i>				
	<b>Description</b>	<b>Rates</b>	<b>Quantity (Hours)</b>	<b>Unit Price</b>	<b>Price</b>
2	Other related professional costs <b>(please specify)</b>				
<b>Construction WORKS</b>					
3.1	Cost of material (civil works) <i>Provide bill of quantities, attach detailed breakdown</i>				R
3.2	Cost of material (structural works) <i>Provide bill of quantities, attach detailed breakdown</i>				R
<b>Other costs</b>					
4.1	Safety file				R
4.2	Site establishment				R

4.3	Permit costs (to be paid on a proven costs)				R20 000
<b>Any Other cost please list below (Provide detailed breakdown)</b>					
22	<b>Total Excluding VAT</b>				R
23	<b>VAT</b>				R
24	<b>Total Including VAT</b>				R

### PART 3: SCOPE OF WORK

Document reference	Title	No of pages
	This cover page	1
C3.1	<i>Employer's Works Information</i>	
C3.2	<i>Contractor's Works Information</i> <sup>1</sup>	

<sup>1</sup> Insert at award stage or delete if not applicable. Delete this note once a selection is made.

	Total number of pages	

*Develop Scope of Work using guidance provided. Note that this document is merely a guideline of what to include in the scope of work. The contract manager will be required to apply his / her mind and delete or add any information required, depending on the nature of the works. Where the contract requires information to be included in the scope of works, the relevant heading will contain a footnote indicating that the information is compulsory. Complete this document by replacing the guidance notes in [square brackets] with the relevant information. When the document is complete, delete this note and ALL footnotes.*

*For further guidance refer to guidance notes on CIDB website:*

*[http://www.cidb.org.za/procurement/procurement\\_toolbox/overview/contract\\_sec/default.aspx](http://www.cidb.org.za/procurement/procurement_toolbox/overview/contract_sec/default.aspx)*

## PART C3

### SERVICE INFORMATION (SCOPE / SPECIFICATIONS)

#### C3 SCOPE OF WORKS

##### 1. PURPOSE

The Aim of this tender is to appoint a reputable service provider for the design and construction of the weather protection structure such as the canopy between the Avis car rentals to the terminal building. The team shall include the Architect, Structural Engineer and the contractor.

##### 2. SCOPE OF WORK

###### 2.1. Description of the Work / Services:

The project scope includes the following:

Design and construct the canopy structure or similar approved structure that will be able to protect passengers from adverse weather conditions. The scope will entail design including conceptual designs by the Architect (proposals to be submitted to ACSA with different canopy arrangement or equivalent shelter structure. The agreed structure will have to be designed and signed off by a registered Engineer. This project will further include procurement of material and construction supervision (EPCM model).

Design is to address the following deliverables: -

- a. Less obstruction to Avis rental's advertisements or interference with their parking
- b. Less obstructing structural members on passengers' walkways
- c. For Ease maintenance, specification to match the existing airport structures
- d. **Provision of access to designated smoking area**

The project stages will be as follows:

###### Stage 1: Inception

The first step on appointment is an in-depth discussion to ascertain the requirements of the project. A visit to site will then be required to do an analysis and possible solutions to the problem. This will include consideration of issues such as the views, orientation, access, and the surrounding buildings.

A design brief will then be agreed upon, and an outline concept will be formulated based on the project requirements, design requirements, the contextual issues stemming from the site analysis.

### **Stage 2: Concept Design**

Based on the architectural brief developed from the discussions above and site analysis in Stage 1, an initial concept design will be prepared and submitted to ACSA for review. This will show the intended weather protection structure or concept based on the scope requirements, as well as the planning relationships and proposed layout and contextual issues stemming from the site such as views, orientation and access. It will also show the proposed intended concept and form of the structure.

After review and comments on the initial concept, the design will be further developed to show the proposed materials as well as the technical and functional characteristics of the design. These will include sections through the structure, more detailed dimensioned sketch plans illustrating the positioning of the structure in relation to the surrounding buildings. As the sketch plans form the basis of the entire project, this may be a back-and-forth process until all parties involved are entirely satisfied with the outcome.

### **Stage 3: Design Development**

The design development stage will commence once the final concept design, along with estimated price based on this, are approved.

The plans will then be further developed based on the approved concept design, with any further changes that may be required, as well as the input from the consultants. In the case of the input from the structural engineer, this will include the specifications of the foundations, member size designs and the roof design. The design development will include details of the construction systems and materials to be used.

After any further changes are made, the final set of design development plans are produced.

### **Stage 4: Construction Documentation**

The service provider will be expected to design, procure materials and construct. The proposal is to comprise of a priced Bill of Quantities of the proposed solutions.

### **Stage 5: Construction phase**

#### **Contract Administration**

The architectural /professional service provided for this stage comprises of the administration of the construction work. This includes administering the handover of the site to the contractor; the issuing of construction documentation; initiating and/or checking sub-contract design and documentation as appropriate; regularly inspecting the works for conformity to the design and contract documentation; issuing the practical completion certificate; and submitting handover documents to ACSA.

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### C3.1: EMPLOYER'S WORKS INFORMATION

#### 1. Description of the works

*[provide a general description of the works, including the general arrangements and location drawings. Sufficient information should be included so as to enable the tenderer to determine whether they have the resources and capability to carry out the work]*

##### Description of the Work / Services:

The project scope includes the following:

Design and construct the canopy structure or similar approved structure that will be able to protect passengers from adverse weather conditions. The scope will entail design including conceptual designs by the Architect (proposals to be submitted to ACSA with different canopy arrangement or equivalent shelter structure. The agreed structure will have to be designed and signed off by a registered Engineer. This project will further include procurement of material and construction supervision (EPCM model).

Design is to address the following deliverables: -

- e. Less obstruction to Avis rental's advertisements or interference with their parking
- f. Less obstructing structural members on passengers' walkways
- g. For Ease maintenance, specification to match the existing airport structures
- h. **Provision of access to designated smoking area**

#### 2. Interpretation and terminology

*[If necessary, include any definitions in addition to those used in the conditions of contract which are required only for the purpose of making the Works Information easier to draft and read. Also list abbreviations used and provide a full interpretation of each one, as illustrated below]*

*The following abbreviations are used in this Works Information:*

Abbreviation	Meaning given to the abbreviation
ACSA	Airports Company South Africa SOC Limited

#### 3. Contract Management

Management meetings<sup>2</sup>

Risk reduction meetings are to be held monthly during pre-installation, installation and project close out phase. Meetings will be minuted and distributed within a week. Supervisor attendance is required.

Health and safety risk management

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<sup>2</sup> The information in this section is required by the contract. Do not delete.

The *Contractor* shall comply with the health and safety requirements contained in Part C.1.2 of the “Works Information

#### Environmental constraints and management

The contractor must take into consideration passenger traffic at the arrivals area especially during peak hour operations. Work is to be scheduled to avoid peak hour operation times.

#### Quality assurance requirements

Within the period stated in the Contact Data, the *Contractor* submits his complete quality control and assurance system (with all quality control and assurance procedures and manuals) for review and acceptance by the *Employer*. The manual includes pro-forma checklists for all requirements of the *Contractor's* quality control and assurance program and those called for in the Scope.

Acceptance by the *Employer* of the *Contractor's* quality assurance programme, quality plans and/or inspection and/or test plans, or of those of his Subcontractors will not relieve the *Contractor* of his obligation to provide services which meet the requirements of the Contract.

#### Programming

The contractor is to make provision of 4 weeks from date of contract signing for the acquiring of permits on site.

#### The *Contractor's* Personnel

*[state any additional constraining requirements on Contractor's Personnel that are not already stated in other sections of the Works Information or the conditions of contract. For example, the Employer may require the Contractor to submit an organogram showing its people and their lines of authority / communication, particularly where the Contractor is a Joint Venture]*

#### Insurance provided by the *Employer*

*[add any insurance related information, requirements or other issues not dealt with in core clause 87.1. as well as the details of ACSA personnel to whom insurance-related queries should be addressed]*

#### Provision of bonds and guarantees

Without limitation to the Employer's rights under the Contract, the *Employer* may withhold payment of amounts due to the *Contractor* until the bond or guarantee required in terms of this contract has been received and accepted by the person notified to the *Contractor* by the *Project Manager* to receive and accept such bond or guarantee. Such withholding of payment due to the *Contractor* does not affect the *Employer's* right to termination stated in this contract.

*[add any other requirements]*

Records of Defined Cost, payments & assessments of compensation events to be kept by the *Contractor*

*[include any constraint imposed in regard to format and filing of the records, and whether access for the Project Manager shall be provided in hard copy or electronically. Also detail how other documentation should be treated]*

Training workshops and technology transfer

*[in this section, describe –*

*the Contractor 's requirements in relation to training workshops and technology transfer;*

*the frequency of on job training workshops;*

*obligation for technology transfer being included as part of the contract on Completion of the works (if any)]*

#### **4. Engineering and design of the works**

*Employer's design*

*[where the design is primarily done by the Employer, describe the Employer's design in sufficient detail so as to indicate the standard of performance required to the Contractor]*

*[where the design responsibility lies with the Contractor –*

*describe the Employer's specification which the Contractor must observe when designing the works;*

*detail any particulars which must be taken into account by the Contractor in his design]*

Parts of the *works* which the *Contractor* is to design<sup>3</sup>

*[provide details as to the Contractor's design obligations as required by core clause 21.1]*

Procedure for submission and acceptance of *Contractor's* design

*[specify the extent of detail (the particulars) of the Contractor's design which is to be submitted to the Project Manager for his acceptance and state requirements for drawings to be prepared by the Contractor]*

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<sup>3</sup> The information in this section is required by the contract. Do not delete.

Use of *Contractor's* design

*[detail any purposes, in addition to those provided for in core clause 22.1, for which the Contractor's design may be used. Also list any limitations or exceptions applicable]*

Equipment required to be included in the works<sup>4</sup>

*[core clause 11.2(7) defines Equipment as "items provided by the contractor and used by him to provide the works and which the Works Information does not require him to include in the works." Detail the equipment to be included in the works in this section]*

As-built drawings, operating manuals and maintenance schedules

*[in this section, describe any requirements applicable to as-built drawings, operating manuals and maintenance schedules]*

## 5. Procurement

*[the definition of Disallowed Cost in Options C D and E makes reference to the Works Information in relation to procurement procedures. Use this section to include any such procedures to be able to administer this procedure, as well as any constraints on procurement procedures as may be required by Options A & B]*

Personnel:

Minimum requirements of people employed on the Site

*[specify any constraints in relation to people employed to carry out the Works]*

Subcontracting

Preferred subcontractors

*[in this section the Employer may list subcontractors or suppliers with which the Contractor is required to enter into subcontracts]*

Limitations on subcontracting

The Contractor may not subcontract more than 20% of the Works.

*[state any additional requirements or restrictions]*

Plant and Materials

Plant & Materials provided "free issue" by the *Employer*

*[state requirements as to collection, delivery, storage, inspection, care and control of plant and Materials. Always include the requirements that "all other Plant and Materials are to be provided by the Contractor"]*

*Contractor's* procurement of Plant and Materials

*[specify any requirements applicable to the Contractor's procurement of Plant and Materials]*

Tests and inspections before delivery<sup>5</sup>

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<sup>4</sup> The information in this section is required by the contract. Do not delete.

*[specify any requirements here for any tests and inspections as required by core clauses 40 and 41]*

Marking Plant and Materials outside the Working Areas<sup>6</sup>

*[state how the Contractor is to “mark” Plant and Materials which is outside the Working Areas if they are to be paid for before delivery to the Working Areas, as required by core clauses 70.1 and 71.1]*

Contractor’s Equipment (including temporary works)

*[state any requirements that may be specific to the type of works being performed]*

## 6. Construction

*[this section deals with the requirements, facilities, services and rules applicable to the Contractor in carrying out the work on the Site during the construction and maintenance period. Complete accordingly]*

Temporary works, Site services & construction constraints

*Employer’s Site entry and security control, permits, and Site regulations*

*[add project-specific requirements in this section]*

*Restrictions to access on Site, roads, walkways and barricades*

*[add project-specific requirements in this section]*

*People restrictions on Site; hours of work, conduct and records*

*[add project-specific requirements in this section]*

*Title to materials from demolition and excavation<sup>7</sup>*

*[core clause 73.2 states that the Contractor has title to materials from excavation and demolition only as stated in the Works Information. Complete accordingly]*

*Contractor’s Equipment*

*[state how records are to be kept of Equipment on Site]*

*Equipment provided by the Employer*

*[Provide details of equipment made available for use by the employer and set out conditions relating thereto]*

*Site services and facilities provided by the Employer<sup>8</sup>*

*[State the site services and facilities Employer will provide e.g. power, water, waste disposal, ablutions, fire protection, lighting etc, as required by core clause 25.2 and state that “the Contractor shall provide everything else necessary for Providing the Works”]*

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<sup>5</sup> The information in this section is required by the contract. Do not delete. If it does not apply, delete the notes in italics and substitute the words ‘Not applicable’.

<sup>6</sup> The information in this section is required by the contract. Do not delete. If it does not apply, delete the notes in italics and substitute the words ‘Not applicable’.

<sup>7</sup> The information in this section is required by the contract. Do not delete. If it does not apply to the works, delete the notes in italics and substitute the words ‘Not applicable’.

<sup>8</sup> The information in this section is required by the contract. Do not delete. If it does not apply, delete the notes in italics and substitute the words ‘Not applicable’, but ALWAYS state “the Contractor shall provide everything else necessary for Providing the Works”.

Facilities provided by the Contractor

*[in this section –*

*The facilities the Contractor is to provide e.g. Site accommodation, laboratories, storage, vehicles and office equipment etc;*

*The requirements for such facilities; and*

*what happens to these facilities upon completion of the contract]*

Existing premises, inspection of adjoining properties and checking work of Others

*[provide details of the project-specific requirements]*

setting out of the works

*[state requirements for the setting out of the works]*

site conditions and requirements

*[in this section, state any requirements related to –*

*Excavations and associated water control*

*Underground services, other existing services, cable and pipe trenches and covers*

*Control of noise, dust, water and waste*

Construction requirements

*[In this section, specify any additional requirements related to –*

*Sequences of construction or installation*

*Hook ups to existing works]*

Completion, testing, commissioning and correction of Defects

Work to be done by the Completion Date<sup>9</sup>

*[core clause 11.2(2) defines Completion as when the Contractor has done all the work which the Works Information states he is to do by the Completion Date]*

All work is to be done by the Contractor shall be completed by the Completion Date, save for the following: [list project-specific exceptions and state by when the work should be completed]

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<sup>9</sup> The information in this section is required by the contract. Do not delete.

The *Project Manager* cannot certify Completion until all the work except that listed above has been completed and is also free of Defects which would have, in his opinion, prevented the *Employer* from using the *works* and Others from doing their work.

Use of the *works* before Completion has been certified<sup>10</sup>

*[core clause 35.2 provides that the Employer may use any part of the works before Completion has been certified but if he does so he takes over the part of the works except if the use is for a reason stated in the Works Information. The reasons referred to in core clause 35.2 are stated in this section]*

Materials facilities and samples for tests and inspections

*[state the materials, facilities and samples for tests and inspections the Contractor and the Employer are to provide in terms of core clause 40.2]*

Commissioning

*[requirements and procedure relating to commissioning would be stated here, or attached to an annexure referred to in this section]*

Start-up procedures required to put the *works* into operation

*[complete accordingly]*

Take over procedures

*[complete accordingly]*

Access given by the *Employer* for correction of Defects<sup>11</sup>

*[core clause 43.4 requires that the Project Manager arranges for the Employer to allow the Contractor access to and use of a part of the works which has been taken over if needed to correct a Defect. After the works have been put into operation, the Employer may require the Contractor to undertake certain procedures before such access can be granted (for example barricading a motorway or in a nuclear power station). Include these here]*

Performance tests after Completion

*[in this section, state the procedures for carrying out such tests]*

Operational maintenance after Completion

*[state any applicable requirements here]*

## **7. Plant and Materials standards and workmanship**

*[this section of the Works Information contains all the specifications for the permanent works. Provide the relevant details and requirements under the following headings:]*

Investigation, survey and Site clearance

Building works

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<sup>10</sup> The information in this section is required by the contract. Do not delete. If it does not apply, delete the notes in italics and substitute the words 'Not applicable'.

<sup>11</sup> The information in this section is required by the contract. Do not delete. If it does not apply, delete the notes in italics and substitute the words 'Not applicable'.

*[this section comprises of the specifications provided by the Employer, the list of standardised specifications applicable to the works and variations to the standardised specifications]*

#### Civil engineering and structural works

*[this section comprises of the specifications provided by the Employer, the list of standardised specifications applicable to the works and variations to the standardised specifications]*

#### Electrical & mechanical engineering works

*[these specifications are usually project specific and developed by the Employer to suit his operations. Either include these specifications here, or refer to them in attached Annexure]*

#### Process control and IT works

*[these specifications are usually project specific and developed by the Employer to suit his operations. Either include these specifications here, or refer to them in attached Annexure]*

*[any additional information as required by ACSA]*





### **C3.2 CONTRACTOR'S WORKS INFORMATION**

*[This section of the Works Information will always be project-specific depending on the nature of the works. In this section, include information such as the Contractor's design and Plant and Materials specifications and schedules etc]*

## PART C4: SITE INFORMATION

Document reference	Title	No of pages
C4	This cover page Site Information	1
Total number of pages		

*For additional guidance notes go to [http://www.cidb.org.za/procurement/procurement\\_toolbox/overview/contract\\_sec/default.aspx](http://www.cidb.org.za/procurement/procurement_toolbox/overview/contract_sec/default.aspx)*

*Develop Site Information for engineering and construction works contract only using guidance provided in the Compiler guidance note for Component document: C4 – Site Information*

Core clause 11.2(16) states

“Site Information is information which describes the Site and its surroundings and is in the documents which the Contract Data states it is in.”

In Contract Data, reference has been made to this Part 4 of the contract for the location of Site Information.

Delete this note and others given in boxes like this one at final draft stage.

The compiler of this document should first consult the ECC3 Guidance Notes pages 23 and 24. Further notes are given under each heading below.

Site Information is information about the Site at the time of tender upon which the tendering contractor bases his prices. It is fixed and does not include anything about what happens on the Site after award; that is Works Information.

Site Information does not include weather data; that is included in the Contract Data.

If the *Contractor* subsequently encounters conditions which are different to those described here, he may be entitled to notify a compensation event.

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## Description of the Site and its surroundings

### General description

Provide a general description of the Site and its location. Reference would probably be made to a drawing showing the Site and its surroundings and the *boundaries of the site* as required by the Contract Data. It is particularly important that details of surrounding buildings be provided where crane operation is likely to be affected, or the *works* involve deep foundations adjacent to existing buildings.

### Existing buildings, structures, and plant & machinery on the Site

If the *works* have interfaces or hook up points with existing facilities or comprise refurbishment of existing facilities, provide full details of these so that the tendering contractor can plan his design and construction to integrate with them as the Works Information requires. As built drawings of the existing facilities usually provide the necessary information; such drawings can be listed here stating where they are located for the *Contractor's* use.

### Subsoil information

Provide details of geotechnical reports, borehole records and test results for parts of the Site where earthworks are required by this contract. These details may be referenced as an Annexure to this document where they are extensive.

### Hidden services

Provide details about and drawings showing hidden services and underground structures. If accurate details are not available state what assumptions are to be made by the *Contractor* concerning such services.

### Other reports and publicly available information

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This subsection may refer to mapping, hydro-graphic data, hydrological information, shipping movements, tides and published papers or Geological Surveys that the tendering contractor may need to be able to decide his method of working and programme and prepare any designs for which he would be responsible.