C1.2 CONTRACT DATA

GENERAL CONDITION OF CONTRACT FOR CONSTRUCTION WORKS, THIRD EDITION (2015)

CONDITIONS OF CONTRACT

The General Conditions of Contract for Construction Works, Third Edition (2015) published by the South African Institute of Civil Engineering, Private Bag X200, Halfway House, 1685 is applicable to this Contract and is obtainable from www.saice.org.za.

CONTRACT SPECIFICATION DATA

The following contract specification data, referring to the General Conditions of Contract for Construction Works, Third Edition (2015) are applicable to this contract:

Part 1: Data Provided by the Employer

Clause	Data
1.1.1.5	The "commencement date" means the date that the Agreement, made in terms of the Form of Offer and Acceptance, comes into effect.
1.1.1.13	The Defects Liability Period for the Works shall be 365 days.
1.1.1.14	The time for achieving practical completion will be as per instruction and should be within **36 Months**
1.1.1.15	The Name of the Employer is **Thembisile Hani Local Municipality** The THLM Manager: Water and Sanitation Services is **Ms S Mtsweni**
1.2.1.2	The Employer's address for receipt of communication is: **Stand No.24** **KWAGGAFONTEIN C** **0458** **PRIVATE BAG X4041** **MPUMALANGA** **0458** **Telephone: 013 986 9100** **Facsimile: N /A**

1.2.1	Add the following to the clause: 1.2.1.3 Sent by e-mail irrespective of it being during office hours or otherwise. 1.2.1.4 Delivered by a courier service, and signed for by the recipient or his representative.
1.1.1.26	The pricing strategy is Re-measurement Contract.
1.3.5	Add the following new Clause: The copyright in all documents, drawings and records (prepared by the Employer's Agent) related in any manner to the Works shall vest in the Employer or the Employer's Agent or both (according to the dictates of the Contract that has been entered into by the Employer's Agent and the Employer for the Works), and the Contractor shall not furnish any information in connection with the Works to any person or organisation without the prior approval of the Employer to this effect.
2.1.4	The following additional clause applies: - "Without limiting the generality of the afore going, the Schedule of Rates and Prices shall include: The provision and use of all labour, plant, tools instruments, templates, materials, transport, and all other appliances that may be required for satisfactorily protecting and efficiently carrying out the works without interruption or delay. The provision and housing of adequate staff and labour force and the provision of false work of every kind and description necessary for the due and proper performance of the Contract. The execution of the Works in orderly and progressive manner until it has been completed. Time being of the essence of the Contract the progressive development of the Works shall be arranged so that the time from the start to the finish of the construction of the said Works shall not exceed the time laid down in the Tender. The inclusion in the tendered rates for all and any of the general liabilities such as Establishment Charges, legal contingencies, regulations, risks or damage, Royalties, and all other overhead charges. The submission of a tender shall be considered prima facie evidence that the Contractor has complied with the requirements of this clause and has satisfied himself as to all circumstances and local conditions which may influence or affect his Tender."
2.5.1	The following additional clause applies: - The Employer may make direct payments to suppliers on behalf of the Contractor subject to the receipt of a specific request from the Contractor and subject to the following conditions: An original of the invoice together with a singed Cession Form is submitted together with a certificate approved by the Employer's Agent. The Contractor cedes, transfers, and assigns all the rights, title and interest in and to the materials and goods to the total value of the invoice.

	The cession shall become effective as soon as payment is made by the Employer or on behalf of the Employer. The Contractor indemnifies the Employer against any loss or damage whatsoever to the said material and goods whilst they are in the Contractors possession and in transit to the site and until such time as they are safely and properly stored on the site, and the Contractor undertakes to effect adequate insurance against these risks. Such insurance shall be for the full value of the materials and goods and goods certified for payment and the insurance policy ceded in full to the Employer.
3.2.3	The Employer's Agent is, in terms of his appointment by the Employer for the design and administration of the Works included in the Contract, required to obtain the specific approval of the Employer for the execution of the following duties: 3.2.3.1 The issuing of an order to suspend the progress of the Works, the extra cost resulting from which order is to be borne by the Employer in terms of Clause 5.11 or the effect of which is liable to give rise to a claim by the Contractor for an extension of time under Clause 5.12 of these conditions. 3.2.3.2 The issuing of an instruction or order to vary the nature or quantity of the Works in terms of Clause 6.3, the estimated effect of which will be to increase the Contract Price by an amount exceeding R50 000, the evaluation of all variation orders in terms of Clause 6.4 and the adjustment of the sum(s) tendered for General Items in terms of Clause 6.11. 3.1.3.3 The approval of any claim submitted by the Contractor in terms of Clause 10.1.

3.2.5	The following additional clause applies: - The onus rests with the Contractor to raise any item about which the Contractor may be uncertain, with the Employer's Agent's Representative. Any advice given to the Contractor by the Employer's Agent's Representative in response to matters so raised shall not be construed as instructions and shall be held to have been given without prejudice.
3.3.6	The following additional clause applies: - The Employer or the Employer's Agent under delegated authority, reserves the right to obtain the services of consultants on any matter pertaining to this contract; the employment of such consultants forms no part of this contract; a consultant's advice and/or documentation is to be followed only if the Employer's Agent or the Employer's Agent's Representative so instructs.
4.1	All references to "design" are deemed to be deleted and the Contractor shall bear no liability in respect of the Projects design, other than the temporary works and items clearly indicated to design on drawings.
4.1.2	Add the following to the clause: The Contractor shall provide the following to the Employer's Agent for retention by the Employer or his assignee in respect of all works (including Temporary Works) designed by the Contractor: i. Certificate of Stability of the Works signed by a registered Professional Engineer confirming that all such works have been designed in accordance with the appropriate codes of practice. ii. Proof of registration and of adequate and current professional indemnity insurance cover held by the designer(s). iii. Design calculations should the Employer's Agent request a copy thereof. iv. Engineering drawings and workshop details (both signed by the relevant professional engineer), in order to allow the Employer's Agent to compare the design with the specified requirements and to record any comments he may have with respect thereto. v. "As-Built" drawings in DXF electronic format after completion of the Works. The Contractor shall be responsible for the design of the Temporary Works.
4.3.3	Add the following new clause: The Contractor shall comply with the Occupational Health and Safety Specification prepared by the Employer in terms of the Construction Regulations, 2014 promulgated in terms of Section 43 of the Occupational Health and Safety Act (Act No. 85 of 1993). Without limiting the Contractor's obligations in terms of the Contract, the Contractor shall before commencement of the Works or any part thereof, be in the possession of an approved Health and Safety Plan.

	The Contractor shall submit an approved Health and Safety Plan to the Employer's Agent within 14 days from the date that the Agreement made in terms of the Form of Offer and Acceptance comes into effect.
4.3.4	Add the following new clause: **Contractor's liability as mandatory** Notwithstanding any actions which the Employer may take, the Contractor accepts sole liability for due compliance with the relevant duties, obligations, prohibitions, arrangements and procedures imposed by the Occupational Health and Safety Act, 1993 (Act 85 of 1993), and all its regulations, including the Construction Regulations, 2014, for which he is liable as mandatory. By entering into this Contract it shall be deemed that the parties have agreed in writing to the above provisions in terms of Section 37 (2) of the Act.
4.3.5	Add the following new clause: **Contractor to notify Employer** The Employer retains an interest in all inquiries conducted under this Contract in terms of Section 31 and/or 32 of the Occupational Health and Safety Act, 1993 (Act 85 of 1993) and its Regulations following any incident involving the Contractor and/or Sub-Contractor and/or their employees. The Contractor shall notify the Employer in writing of all investigations, complaints or criminal charges which may arise pursuant to work performed under this Contract in terms of the Occupational Health and Safety Act, 1993 (Act 85 of 1993) and Regulations.
4.3.6	Add the following new clause: **Contractor's Designer** The Contractor and his designer shall accept full responsibility and liability to comply with the Occupational Health and Safety Act, 1993 (Act 85 of 1993) and the Construction Regulations, 2014 for the design of the Temporary Works and those part of the Permanent Works which the Contractor is responsible to design in terms of the Contract.
4.3.7	Add the following new clause: the Contractor shall: i) employ Targeted Labour from the Target Area(s) as stated in the Contract Data; and ii) subcontract Targeted Enterprises as stated in the Contract Data; and iii) give preference to Targeted Enterprises which are from rural and underdeveloped areas and townships within the Project Area(s) as set out in the Scope of Works.
4.4.1	Add the following: It is a requirement of this project that the successful tenderer may not subcontract any works by the end of the contract to Targeted Enterprises, as defined in section PCY10 of the Scope of Work. Add the following sub-paragraphs:

	4.4.8 The Contractor shall enter into a written subcontract agreement with the Subcontractor. The subcontract agreement between the Contractor and the Subcontractor shall be the *General conditions of subcontract for construction works, first edition (2018).* 4.4.9 If the Subcontractor is a Targeted Enterprise, the Contractor undertakes to make payment within 7 days after the date on which the Contractor has received payment for the relevant works. 4.4.10 The Contractor shall disclose all subcontracting arrangements. 4.4.11 The security held for all subcontractors shall not exceed the security provided by the Contractor in term of clause 6.1 of this contract. 4.4.12 50% of the retention money held for each Subcontractor shall be released on completion of the subcontract works. The remainder of 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. 4.4.13 Penalties for sub-contractors shall be limited to 10% of the accepted sub-contract amount. 4.4.14 All Subcontractors and suppliers shall be registered on the National Treasury's Central Supplier Database (CSD). 4.4.15 All Subcontractors shall be in good standing in terms of COIDA and shall be registered with the Bargaining Council for the Civil Engineering Industry (Government Notice R.490 – Part III contained in Government Gazette No. 37750) or other relevant Bargaining Council. 4.4.16 All Subcontractors shall be registered with the CIDB in the appropriate category for the class of work to be performed. If the Contractor fails to disclose all subcontracting agreements, or fails to comply with the requirements of this clause he shall be given 14 days to make representation as to why: (i) the contract shall not be terminated; (ii) the Contractor shall not be penalised up to 10% of the value of the contract."
4.10.3	Add the following new clause: The Contractor shall use local labour in accordance with the requirements contained within the Scope of Work.
5.3.1	Add the following: The documentation required before commencement with Works Execution are: • Health and Safety Plan (Refer to Clause 4.3) • Initial Programme (Refer to Clause 5.6) • A detailed cashflow forecast (Refer to Clause 5.6.2.6)

	• Security (Refer to Clause 6.2) • Insurance (Refer to Clause 8.6)
5.3.2	Add the following: The time to submit the documentation required (Refer to Clause 5.3.1) before commencement with Works execution is 14 days.
5.4.2	The access and possession of Site shall not be exclusive to the Contractor but as set out in the Scope or Works and/or Site information
5.7.1	Delete the last paragraph of the clause and replace with the following: No such instruction by the Employer's Agent to expedite progress shall be the subject of additional compensation to the Contractor unless the instruction explicitly states that the Contractor is entitled to additional compensation, and cites the amount of such compensation or the basis upon which it is to be determined.
5.1.1 & 5.8.1	The non-working days are Sundays. Special non-working days shall be all South African Statutory holidays and the official building holidays, which shall generally be from 16 December to the start of the first full working week in January.
5.12.3	Delete the contents of the clause and insert the following: If an extension of time is granted, other than an extension resulting from abnormal rainfall in terms of Clause 5.12.5, the Contractor shall be paid such additional time-related General Items as are appropriate having regard to any other compensation which may already have been granted in respect of the circumstances concerned.
5.13.	Delete the contents of the clause and insert the following: 5.13.1 If the Contractor fails by the Due Completion Date to complete the Works, or any specific portion thereof that is identified in the Scope of Works to the extent which entitles him in terms of Clause 5.14.2 to receive a Certificate of Practical Completion for the Works, then the Contractor shall be liable to the Employer for the sum(s) stated below as (a) penalty(ies) for every day which shall elapse between the Due Completion Date for the Works or the specific portion of the Works and the actual Date of Practical Completion of the Works or of the specific portion. The penalty for delay shall be: **R 2 500-00** per day. 5.13.2 If before the issue of a Certificate of Practical Completion for the whole of the Works, or for any specific portion thereof that is identified in the Scope of Works, any further part of the Works has been: 5.13.2.1 certified as complete in terms of a Certificate of Practical Completion; or

	5.13.2.2 occupied or used by the Employer, his agents, employees or other contractors (not being employed by the Contractor); Then the appropriate penalty for delay referred to in Clause 5.1.3.1 above shall be reduced by the amount which is determined by the Employer's Agent to be appropriate under the circumstances. 5.13.3 The imposition of penalties in terms of Clause 5.13.1 shall not relieve the Contractor from his obligation to complete the Works, nor from any of his obligations and liabilities under the Contract. 5.13.4 All penalties for which the Contractor becomes liable in terms of Clause 5.13.1 shall be accumulative. The Employer may, without prejudice to any other method of recovery, deduct the amounts of all such penalties from any monies in his possession that are or may become due to the Contractor. 5.13.5 The imposition of any penalties in terms of Clause 5.13.1 shall not limit the right of the Employer's Agent to act in terms of Clause 9.2.
5.13.4	Add the following new Clause: Failure to reach either the CPG or any individual Target Group targets shall render the Contractor liable for a penalty as prescribed in as set out in section PCY4.5 in the Scope of Works unless there are compelling reasons why the target or sub-targets could not be achieved. Penalty Targeted Labour = 0.15 x ((TL – TG) + Sum (TL n – TG n) - 1.2 x L dp) Where: n = Each lowest order subgroup of Targeted Labour stipulated in the Contract Data. TL = Monetary value of the Targeted Labour calculated at the percentage stipulated in the Contract Data applied to the Final Contract Value (as defined in PCY 4.4). TG = Cumulative monetary value of Targeted Labour employed on the contract by the Contractor and all Subcontractors. L dp = Cumulative monetary value of black Disabled Persons employed on the Contract by the Contractor and all Subcontractors. (TL n - TG n) = The monetary values calculated unless if any calculated value is negative, then it shall be a zero value. Penalty Targeted Enterprises = 0.15 x ((TE – TGE) + Sum (TE n – TGE n) - 1.2 x TE mv - 1.2 x TE dp) Where: n = Each lowest order subgroup of Targeted Enterprise stipulated in the Contract Data. TE = Monetary value (excluding VAT) of Targeted Enterprises calculated at the percentage stipulated in the Contract Data applied to the Final Contract Value (as defined in PCY4.4) TGE = Cumulative monetary value (excluding VAT) by Targeted Enterprises subcontracted to the contract by the Contractor and 50% of the cumulative

	monetary value (excluding VAT) by Targeted Enterprise suppliers of goods and/or services. TE mv = Cumulative monetary value (excluding VAT) by Targeted Enterprises being majority owned by black Military Veterans, subcontracted to the Contract by the Contractor. TE dp = Cumulative monetary value (excluding VAT) by Targeted Enterprises being majority owned by black Disabled Persons, subcontracted to the Contract by the Contractor. (TE n – TGE n) = The monetary values calculated unless if any calculated value is negative, then it shall be a zero value. The total Penalty value shall be the sum of the Targeted Labour and Targeted Enterprises Penalty values unless the total Penalty value is negative then it shall be a zero value. Interim penalty valuations should be calculated to interim Payment Certificate values (excluding VAT) to establish the anticipated outcome, and to plan corrective actions, but must not be applied to the interim certificate value. Any Penalty payable shall be calculated on, and applied to, the Final Contract Value.
5.14.1	The requirements for reaching Practical Completion are: i. **The commissioning and full operation as listed in the scope of works**
5.14.7	Different dates to achieve Practical Completion **will not be permitted**
6.2.1	Replace the wording “as selected” in Clause 6.2.1 with “as stated”. The security to be provided by the Contractor shall be: Not Applicable
6.8.2	Contract Price Adjustment will be applicable for this contract. The value of the certificates issued shall be adjusted in accordance with the Contract Price Adjustment Schedule included in the General Conditions of Contract. The value of "x" is 0.15 The values of the coefficients are: a = 0.2 Labour b = 0.15 Contractor's equipment c = 0.55 Material d = 0.1 Fuel “Labour Index” and shall be the price index for “Consumer Price Index” for the Mpumalanga Province, as published in the Statistical Release P0141, Table A, of Statistics South Africa.

	"Equipment Index" and shall be the price index for "Plant and Equipment", as published in the Statistical Release P0151.1, Table 4, of Statistics South Africa. "Materials Index" and shall be the price index for the "Civil engineering material (excluding bitumen)" as published in the Statistical Release P0151.1, Table 6, of Statistics South Africa. "Fuel Index" and shall be the price index for "Coal and Petroleum Products", for "Diesel", as published in the Statistical Release P0142.1, Table 1, of Statistics South Africa. The base month is: the month prior to the closing of the tender.
6.8.3	Price Adjustments for variations in the cost of special materials will be allowed. "The Contractor will be required to provide full details in Part 2 of the Contract Data".
6.8.4	In line 8 delete the words "between the Employer and the Contractor".
6.10.1.5	The percentage advance on materials not yet built into the Permanent Works is 80%.
6.10.3	The percentage retention is 10%. The Limit of Retention Money is 10% of the Contract Price at the time of the Agreement made in terms of the Form of Offer and Acceptance coming into effect.
6.10.4	In line 4 delete the word "said" and insert the word "correct".
6.10.9	Replace the first sentence of the clause with the following: Within 14 days after the date of final approval as stated in the Final Approval Certificate, the Contractor shall deliver to the Employer's Agent a final statement claiming final statement of all moneys due to him for additional work ordered by the Employer's Agent after the Certificate of Completion date (save in respect of matters in dispute, in terms of Clause 10.3, and not yet resolved) plus the remainder of retention monies (subject to Clause 6.10.3) retained by the Employer.
6.11.1.3	Delete "15 %" and replace it with "20%".
8.6.1.1.2	Not required
10.5.3	The number of Adjudication Board Members to be appointed is 1 (One).

Part 2: Data Provided by the Contractor

<table>
<tr><th>Clause</th><th colspan="3">Contract Data</th></tr>
<tr><td>1.1.1.9</td><td colspan="3">The name of the Contractor is:
_____
_____</td></tr>
<tr><td>1.2.1.2</td><td colspan="3">The address of the Contractor is:
_____
_____</td></tr>
<tr><td rowspan="2">6.8.3</td><td colspan="3">The variation in cost of special materials is:</td></tr>
<tr><td>Special Material</td><td>Method</td><td>Price for Base Month</td></tr>
<tr><td></td><td></td><td></td><td></td></tr>
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