



**BUILDING AGREEMENT**

Between

**MSP DEVELOPMENTS (PROPRIETARY) LIMITED**

Registration Number: 2001/019488/07

(The "Contractor")

And

-----  
(The "Employer")

Erf No.	:	_____
House Type	:	_____
Agent	:	_____
Agent's Contact No.	:	_____

## COVERING SCHEDULE

<b>1. PARTIES</b>			
1.1. <b>Contractor:</b>	MSP Developments (Proprietary) Limited Registration Number: 2001/019488/07		
Address:	MSP CHAMBERS 4 Howick Close Tyger Falls Bellville 7530		
1.2. <b>Employer</b> (full names):			
Identity No. / Registration No. / Date of Birth:			
Purchaser's Income Tax Reference No.:			
Representative's full names (if signing on behalf of a legal entity) :			
Residential Address (street address):			
Postal Address:			
Telephone No: (Home)			
(Work)			
(Cell)			
Fax:			
E-mail Address:			
Marital Status:	Single		Married
(How married?)	in community of property		
	out of community of property without accrual		
	out of community of property with accrual		
	Married by Customary Law		
	Foreign marriage		
If foreign marriage, governed by the laws of:	(state country)		
Names Full of Spouse:			
Identity No. / Date of Birth:			
Name of alternative contact person:			
Telephone No: (Home)			
(Work)			
(Cell)			

E-mail address:		
<b>2. PROPERTY</b>		
2.1. Erf number		
Extent (approximately)	m <sup>2</sup>	
<b>3. TOTAL CONTRACT PRICE</b>		
3.1. Price of the Works (Inclusive of VAT)(Contract Price)	R	
3.2. Upgrade to Specifications & Additional Costs (Inclusive of VAT)	R	
3.3 Total Contract Price (Inclusive of VAT)	R	
<b>4. TRANSFERRING ATTORNEY</b>		
Name of Attorney:	Mostert & Bosman Attorneys, MSP Chambers, 4 Howick Close, Tygerfalls, Bellville, Att: Pieter Goosen, Tel no: 021 914 3322. Bank Account details: Mostert & Bosman Trust account, Absa Bank, Account No: 4049105047, Branch Code 632005, Reference No: (Erf number) _____ client's surname;	

## TABLE OF CONTENTS

1.	PARTIES	5
2.	INTERPRETATION	5
3.	THE WORKS	7
4.	CONTRACT PRICE	8
5.	PAYMENT OF THE CONTRACT PRICE	8
6.	POSSESSION	8
7.	COMMENCEMENT AND COMPLETION OF THE WORKS	9
8.	COMPLETION AND HANDOVER INSPECTION	10
9.	DEFECTS AND VOETSTOOTS	10
10.	VARIATIONS	11
11.	RIGHTS AND OBLIGATIONS OF THE CONTRACTOR	11
12.	RIGHTS AND OBLIGATIONS OF THE EMPLOYER	12
13.	CONDITION PRECEDENT	12
14.	BREACH	13
15.	MAGISTRATE'S COURT JURISDICTION	14
16.	ADDRESSES FOR SERVICE AND DELIVERY OF LEGAL DOCUMENTS	14
17.	INTEREST	14
18.	CAPACITY OF EMPLOYER	15
19.	GENERAL	15

## **ANNEXURES**

ANNEXURE	A:	HOUSE PLAN
ANNEXURE	B:	SDP
ANNEXURE	C:	BASIC SPECIFICATIONS
ANNEXURE	D:	UPGRADE TO SPECIFICATIONS AND ADDITIONAL COSTS
ANNEXURE	E:	PRICE STRUCTURE

## 1. **PARTIES**

### 1.1. CONTRACTOR

The Contractor means the Party as more fully described in Clause 1.1 of the Covering Schedule.

### 1.2. EMPLOYER

The Employer means the Party as more fully described in Clause 1.2 of the Covering Schedule.

## 2. **INTERPRETATION**

2.1. In this Agreement the following terms and expressions shall have the meanings ascribed to them hereunder unless the context specifically required otherwise –

- 2.1.1. Agreement: the Building Agreement in respect of the Works and as set out in this document between the Employer and the Contractor;
- 2.1.2. Agreement of Sale: the Agreement of Sale in respect of the Property entered into by and between Corporate Aone Trade and Invest 8 (Pty) Ltd, Registration Number 2008/005234/07;
- 2.1.3. Attorneys: means the Attorneys stipulated in Clause 4 of the Covering Schedule;
- 2.1.4. Basic Specifications: shall means the detailed specifications and finishing schedule annexed hereto as Annexure C and shall comprise the standard specifications and finishes which will be supplied by the Contractor as part of the execution of the Works in terms of this Agreement;
- 2.1.5. Business Day: means any Day except a Saturday, Sunday or officially proclaimed public holiday;
- 2.1.6. Completion Date: means the date of the Handover Inspection;
- 2.1.7. Contractor: means the Party as referred to in Clause 1.1 of the Covering Schedule;
- 2.1.8. Contract Price: the costs of the Works as referred in Clause 3.1 of the Covering Schedule;
- 2.1.9. Day: any Day of the week, including Sundays and South African Public Holidays;
- 2.1.10. Defects List: means the list of defects as agreed upon by the Parties during the Hand-over Inspection;
- 2.1.11. Development: the proposed Development known as Belladonna Estate of which the Property forms part;

- 2.1.12. Due Date: means, for all purposes of this Agreement, 3 (Three) Business Days after demand for payment was made by the Contractor from the Employer;
- 2.1.13. Employer: means the Party as stipulated in Clause 1.2 of the Covering Schedule;
- 2.1.14. Hand-over Inspection means an inspection of the Works by the Contractor or it's representative, and the Employer, after the completion of the Works, at which inspection the Parties will agree to the Defects List;
- 2.1.15. JBCC means the Principal Building Agreement utilized by the Joint Building Contracts Committee Edition 4.1 Code 2101 March 2005 concluded between the Seller and the Contractor;
- 2.1.16. Local Authority: means the Local Authority having jurisdiction over the Property, being the City of Cape Town;
- 2.1.17. Normal Wear and Tear means the Normal Wear and Tear ascribed to improvements to fixed property in general, including but not limited to touch-up paint of any nature, hairline cracks in the plaster work, any shrinkage/movement and expansion cracks between different components/materials used or cracking which might appear in control movement joints, any mould growth caused by a lack of ventilation and/or condensation, any doors and windows slamming in windy conditions or any damages caused thereby, wind and rain entering through open windows and doors and hot water cylinders which is covered by the guarantee issued by the supplier thereof;
- 2.1.18. Parties: a collective reference to the Contractor and the Employer and "Party" means one of them;
- 2.1.19. Prime Overdraft Rate: means the rate of interest per year, which is equal to Absa Bank's Limited publicly quoted Prime Overdraft Rate;
- 2.1.20. Plan: a copy of which is annexed hereto as Annexure A and shall for the purpose of this Agreement means the signed drawings of the Works, which shall form the basis for drawings to be submitted to the Local Authority for approval. Upon approval thereof, the approved Plan shall substitute the drawings and be deemed to be the Plan selected and approved by the Parties for the purpose of this Agreement and the execution of the Works in terms hereof;
- 2.1.21. Property: the Erf as described in Clause 2 of the Covering Schedule;
- 2.1.22. SDP: means the Site Development Plan approved by the Local Authority;

- 2.1.23. Signature Date: means the date on which the Contractor signs the Agreement;
- 2.1.24. Total Contract Price: means the Contract Price plus the costs of the Upgrade to Specifications and Additional Costs as also more fully set out in Annexure E;
- 2.1.25. VAT: means Value Added Tax payable in terms of the VAT Act;
- 2.1.26. VAT Act: means Act No 89 of 1991;
- 2.1.27. Upgrade to Specifications & Additional Costs: shall mean all costs and the upgrading from the Basic Specifications to the specifications described as per Annexure D hereto, which would be supplied by the Contractor as part of the execution of the Works in terms of this Agreement;
- 2.1.28. Works: the building works to be conducted on the Property by the Contractor in accordance with the Plan, Basic Specifications and, if applicable, the Upgrade to Specifications;
- 2.2. Indulgence
- Any indulgence in respect of time or anything else granted by a Party to the other will not be considered to impair any of the rights of such Party in terms of the Agreement, or affect any right of whatsoever Party.
- 2.3. Exclusion of other Agreements
- This Agreement cancels and supersedes all other contracts entered into by the Parties before the date of this Agreement and any amendment, addition hereto or consensual cancellation thereof will be of no force of effect unless it appears in writing and is signed by the Parties hereto.
- 2.4. Clause Headings
- The head notes in this Agreement are used only for the purpose of reference and shall in no way effect or govern the construction or interpretation of this Agreement.

### **3. THE WORKS**

- 3.1 The Contractor undertakes to execute the Works in a proper and workmanlike manner against payment of the Contract Price referred to in Clause 4 of this Agreement.
- 3.2 The Works shall be substantially in accordance with the Plan and Basic Specifications. The placement of the Works will be in accordance with the approved Building Plan.
- 3.3 In the event of any discrepancy arising from the Plan and the Basic Specifications, the provisions of the Basic Specifications shall prevail.

- 3.4 **The Employer irrevocably grants a power of attorney to the Contractor to sign and submit the necessary drawings and specifications to the Local Authority for its approval.**

**4. CONTRACT PRICE**

The Contract Price shall be the amount referred to in Clause 3.1 of the Covering Schedule. The Upgrade to Specifications and Additional Costs shall be the amounts stipulated in Clause 3.2 of the Covering Schedule.

**5. PAYMENT OF THE CONTRACT PRICE**

- 5.1 Payment of the Contract Price shall be made by the Employer to the Contractor:

5.1.1. In 1 (One) instalment on the Completion Date, or

5.1.2. according to the standard procedure of the financial institution concerned, in the instance where a bond has been registered by the Employer as provided for in terms of Clause 6 of the Agreement of Sale. In a case where a part of the Contract Price is financed by a bond the Employer undertakes to pay the first part of the Contract Price as indicate in Clause 5.1.1 of this Agreement and the bond be utilized for the later payments.

- 5.2 The Upgrade to Specifications and Additional Costs shall be payable by the Employer to the Contractor in cash within 24 (Twenty Four) hours after determination of these amounts by the Parties, failing to do so, the Contractor will not be obliged to execute the work as specified under Upgrade to Specifications and Additional Costs, and the Basic Specifications as stipulated in Annexure C will prevail.

- 5.3 **Any agreed payments not paid on Due Date will bear interest in accordance with the provisions of Clause 17 below from the Due Date to date of final payment.**

- 5.4 **In the event of the Employer failing or refusing to authorize payment of any interim or final draws, the Contractor shall be entitled, without prejudice to any other rights which he may have, to discontinue the Works forthwith and all damages arising, costs, including the additional interest accrued, shall be for the account of the Employer.**

- 5.5 **If there is any dispute between the Parties pertaining to this Clause 5, the dispute will be referred to the Principal Agent, appointed in terms of the JBCC, for determination. The Parties agree to be bound by his determination.**

**6. POSSESSION**

- 6.1 The Contractor shall be entitled to:

6.1.1. receive full possession and occupation of the Property when he is due to commence the Works, and

6.1.2. **retain possession and occupation of the Property, including the Works, until all agreed amounts owed to him under this Agreement has been paid and all obligations of the Employer has been fulfilled.**

- 6.2 The Parties record that the earliest expected Completion Date, is the date to be determined in terms of Clause 8 of this Agreement.
- 6.3 Possession and occupation of the Property and the Works shall, upon completion of the Works, be given by the Contractor to the Employer on the Completion Date.
- 6.4 **Where occupation of the Property and the Works is given by the Contractor to the Employer on the Occupation Date as defined in the Agreement of Sale, risk in the Property and the Works will pass to the Employer on the Occupation Date. The Employer hereby irrevocably indemnifies the Contractor against any claims or damages relating to the Property or the Works or in respect of any contents held by the Employer on the Property or in the Works, after the Completion Date or the Occupation Date, whichever is the earlier.**
- 6.5 **The Employer shall not be entitled to make any alterations or modifications of any nature to the Property or the Works between the Occupation Date and the Transfer Date.**
- 6.6 Occupational Interest calculated at 1% (One) per month of the Total Purchase Price as referred to in Clause 3.3 of the Covering Schedule to the Agreement of Sale, is payable by the Employer if the Transfer Date is after the Occupation Date, whether or not occupation has actually been given to and taken by the Employer.
- 6.6.1 The Employer shall pay the Occupational Interest to the Contractor monthly in advance and thereafter on the first day each subsequent month.
- 6.6.2 The Employer shall, on the Transfer Date, be refunded a pro rata share of any Occupational Interest that has been paid in advance in respect of the period after the Transfer Date.
- 6.7 **In the event that the Contractor anticipates that the actual Occupation Date will be later than the date referred to in Clause 5 of the Covering Schedule to the Agreement of Sale, it shall give notice to the Employer, at least 30 (Thirty) days prior to the Occupation Date, of the new expected Occupation Date. The Employer shall have no claim against the Contractor for damages or for compensation of any other nature by reason of the Occupation Date having been amended.**
- 6.8 **The Employer acknowledges that on the Occupation Date construction of parts of the Development and the Public Open Space may not yet have been completed. The Employer accordingly hereby acknowledges that he might be subjected to nuisance, noise and other inconvenience from whatsoever cause arising and howsoever arising.**
- 6.9 **The Property will during the construction period be under the control of the Contractor and the Employer will only be entitled to access the Property, prior to the Completion Date, if accompanied by the Contractor, on a pre-arranged time.**

## 7. **COMMENCEMENT AND COMPLETION OF THE WORKS**

- 7.1 The Contractor shall not be obliged to commence with the Works until:
- 7.1.1 the Employer has furnished adequate security to the Contractor's satisfaction for the Total Contract Price; and

- 7.1.2 all necessary consents, approvals and/or registrations from all relevant authorities have been obtained; and
- 7.1.3 the Property is registered in the name of the Employer and the Employer's bond (if applicable) has been registered.
- 7.2 If commencement of the Works is delayed for longer than 180 (One Hundred and Eighty) Business Days from the fulfilment of the conditions referred to in Clause 7.1 above for any reason other than a reason attributable to the fault and/or omission of the Contractor, then the Contractor shall be entitled, in its sole discretion, to resign from this Agreement with neither party having any further claim against one another. Alternatively the Parties may agree to an amended Total Contract Price.
- 7.3 If the commencement or completion of the Works is delayed for any cause whatsoever beyond the Contractor's control then the Contractor shall be entitled to a fair and reasonable extension of time for the commencement or completion of the Works.**
- 7.4 All amounts due and unpaid shall be payable by the Employer on the Completion Date.

## **8. COMPLETION AND HANDOVER INSPECTION**

- 8.1 The Parties or their representatives shall be obliged to attend the Hand-over Inspection at any pre-arranged time, during which inspection the Parties shall agree to the Defects List.
- 8.2 If the Employer fails to attend a Hand-over Inspection within a reasonable period after having received written notice thereof by the Contractor, then the Completion Date will be determined by the Principal Agent in terms of the JBCC.
- 8.3 The Contractor shall remedy the defects on the Defects List as soon as reasonably possible.
- 8.4 Notwithstanding the provisions of this Clause 8, the Contractor shall strictly enforce, for the benefit of the Employer, any guarantee or warranty which it may have. In as far as such guarantee or warranty relates to the Works, the Contractor hereby cedes all its rights in terms thereof to the Employer.
- 8.5 All undertakings and commitments given by the Contractor to the Employer in terms of this Agreement are personal to the Employer who shall not be entitled to cede, assign or make over its rights thereto.**

## **9. DEFECTS AND VOETSTOOTS**

- 9.1 The Contractor shall remedy any material patent and latent defect in the Works due to faulty workmanship or materials, manifesting itself within 6 (Six) months of the Completion Date, provided that the Employer notifies the Contractor thereof in writing within the said period of 6 (Six) months.
- 9.2 In the absence of notice as referred to in Clause 9.1 above, the Employer shall be deemed to have accepted the Works in a fit and proper condition and be deemed to have acknowledged that the Contractor has fully complied with its obligations as set out in this Agreement and the Works will become "voetstoets". The Contractor, other than as provided for herein, shall not be liable for any defects in the Works or in respect of anything relating thereto, whether patent or latent after expiry of the period as referred to in Clause 9.1.**

- 9.3 In addition to the obligation of the Contractor in Clause 9.1 to remedy patent and latent defects, the Contractor shall in terms of the NHBRC requirements be obliged to:-
- 9.3.1 remedy any material latent defect in the Works due to faulty workmanship or materials, manifesting itself within 90 (Ninety) days of the Completion Date, provided that the Employer notifies the Contractor thereof in writing within the said period of 90 (Ninety) Days;
  - 9.3.2 at its own expense repair any roof leaks that occur in respect of the Works within the first 12 (Twelve) months of the Completion Date, provided that the Employer notifies the Contractor thereof in writing within the said period of 12 (Twelve) months;
  - 9.3.3 rectify any defect of a patent or latent nature in respect of the substructure, the superstructure and the roof structure of the Works for a period of 5 (Five) years of the Completion Date, provided the Employer notifies the Contractor in writing thereof within the said 5 (Five) year period.
- 9.4 **The Contractor shall not be liable for any defects in the Works in respect of Normal Wear and Tear or any defects or damages caused by the conduct of the Employer, whether wilfully or by his negligence.**
- 9.5 **The Employer shall be obliged to give the Contractor, its Agents and sub-contractors all access reasonably required to remedy the patent or latent defects that are required to be remedied in terms of Clause 9. Repairs will be done during working hours, Monday to Friday.**
- 9.6 **The final extent of the Works may vary from the extent indicated on the Plan. If the difference in the extent is less than 10 % (Ten) than the extent stipulated on the Plan, the Parties will have no recourse against each other. If the difference in the extent is more than 10 % (Ten) less than the extent stipulated on the Plan, the Contract Price will be amended pro rata and finally determined by the Principal Agent.**

## 10. **VARIATIONS**

If the Employer, after the Signature Date, requires that any aspect of the Works be varied and/or that any extra work be carried out by the Contractor, then such request shall be made in writing whereupon the Contractor must submit a written quotation for acceptance by the Employer. All costs arising from such variation/extra shall be paid by the Employer to the Contractor within 24 (Twenty Four) hours after acceptance of the quotation, failing to do so, the Contractor will not be obliged to perform such extra work or variations.

## 11. **RIGHTS AND OBLIGATIONS OF THE CONTRACTOR**

- 11.1. The Contractor shall maintain sufficient public liability insurance.
- 11.2. Notwithstanding anything to the contrary herein contained, ownership of all materials used in the execution of the Works shall remain vested in the Contractor until such time as all amounts due in terms of this Agreement have been paid in full.
- 11.3. Copies of the following documentation will be supplied by the Contractor to the Employer on Completion Date:

- 11.3.1. Electrical Compliance Certificate
  - 11.3.2. Roof Certificate (A19)
  - 11.3.3. Approved Plan
  - 11.3.4. Occupation Certificate issued by the Local Authority
  - 11.3.5. Plumbing Certificate
  - 11.3.6. Gas Certificate (if applicable)
  - 11.3.7. NHBRC Certificate
  - 11.3.8. Guarantees from third parties (if applicable)
- 11.4. The Contractor may appoint any third party to execute any of the Works provided that the rights of the Employer in terms of this Agreement against the Contractor shall not be affected in any way by such appointment.
- 11.5. **The Contractor is exempted from liability for making good damage caused to the Property by surface water, storms or rainwater, ground containing clay or other shifting soil, settlement or cracking, earth tremors, geological disturbances and/or subsidence, the nature of the subsoil or terrain and the moisture content of the subsoil and shall under no circumstances be responsible for any consequential damage arising there from.**

## **12. RIGHTS AND OBLIGATIONS OF THE EMPLOYER**

- 12.1. The Employer undertakes to become and remain the registered owner of the Property until the Completion Date.
- 12.2. **The Employer acknowledges that there will be construction work in the vicinity of the Property and that certain inconvenience may be caused thereby. The Contractor shall not be held liable for such inconvenience or any damages that flow there from and shall be entitled, (where necessary) to enter upon the Property for purposes of obtaining access to adjacent erven in the course of such construction work.**
- 12.3. The Contractor will be liable for the payment of all water consumption accounts received from the Local Authority as from the date of commencement of the Works by the Contractor until the Completion Date.

## **13. CONDITION PRECEDENT**

- 13.1. The Agreement is subject to the conclusion of the Agreement of Sale and the fulfilment of all conditions precedent thereto.
- 13.2. In the event that the conditions precedent as referred to in Clause 6 of the Agreement of Sale, is not fulfilled, then this Agreement shall lapse in its entirety and neither party shall be liable for any loss or damage suffered as a result of non-fulfilment of this condition precedent.

**14. BREACH**

14.1. If any party commits a breach of any of the provisions of this Agreement and fails to remedy such breach within 30 (Thirty) days, or in the instance of a breach of the obligation as referred to in Clause 8.2 of this Agreement or any financial obligation, within 7 (Seven) days after receipt of written notice from the other party calling upon it to remedy such breach, then the innocent party shall be entitled, without prejudice to any other rights which it may have in terms of this Agreement and or at Law to:

14.1.1. cancel this Agreement and claim such damages as it may have sustained from the defaulting party;

14.1.2. claim immediate performance by the defaulting party of all its obligations in terms of this Agreement whether or not the due date for performance shall otherwise have arrived;

14.2. The Contractor may retain any cash payments made by the Employer prior to cancellation as liquidated damages, without prejudice to any other right that the Contractor may have.

14.3. Upon cancellation of this Agreement for any reason whatsoever, the Employer, if he took occupation of the Property and/or the Works, hereby undertakes to vacate the Property and/or the Works forthwith, and to procure that the Property and/or the Works shall be vacated by any persons who occupy it through the Employer's title or by his permission. Occupation shall be redelivered to the Contractor in the same good order and condition as at the Completion Date.

14.4. The defaulting party shall pay all legal and other costs, including costs on the attorney and client scale, incurred by the innocent party in successfully enforcing the provisions of this Agreement.

14.5. In the event of the Contractor being obliged and/or electing to cancel the Agreement in accordance with this Clause 14, then the Employer shall, in addition to the right of the Contractor as referred to in Clause 14.1 above, be liable to pay to the Contractor an amount calculated as follows:

(Total Contract Price) less (Amounts Paid and/or Payable in respect of Works already completed) times 20% (Twenty) as genuinely pre-estimated damages for the breach of the terms and conditions of this Agreement by the Employer.

14.6. The Employer acknowledges that, by reason of his signature hereto, the Contractor will incur certain necessary costs or charges relating amongst other to the processing of the Agreement, the preparation of Plan and drawing relative to any loan/Mortgage Bond application and services rendered.

In the event therefore, of the Employer electing to cancel this Agreement for whatever reason, and notwithstanding the fulfilment of the conditions precedent (if any) relating to loan/Mortgage Bond finance contained in the Agreement of Sale, the Employer assumes liability, without recourse, for payment to the Contractor of cancellation costs, calculated as follows:

- 14.6.1. **The amount of R10 000-00 (Ten Thousand Rand) if cancellation is effective prior to the granting of loan finance (if any);**
- 14.6.2. **The sum of R30 000-00 (Thirty Thousand Rand) if cancellation is effective after granting of required loan/Mortgage Bond (if any) but prior to commencement of the Works; or**
- 14.6.3. **Should the Employer cancel this Agreement after commencement of the Works, the Employer shall be liable for the payment to the Contractor of all costs incurred to the time of cancellation.**

**The Employer acknowledges that the foregoing and the costs stipulated are fair and reasonable and that until such time as the provisions contained in this Clause have been complied with, the Employer shall be unable to discharge its liabilities and cancel this Agreement for whatever reason.**

## **15. MAGISTRATE'S COURT JURISDICTION**

For the purposes of all or any Court proceedings herein, the Parties hereby consent to the jurisdiction of any Magistrate's Court having jurisdiction over the intended Defendant.

## **16. ADDRESSES FOR SERVICE AND DELIVERY OF LEGAL DOCUMENTS**

- 16.1. The Parties choose their addresses as set out on in Clause 1 of the Covering Schedule of this Agreement above to serve as their addresses for service and delivery of legal documents for all purposes of the Agreement, which includes the giving of notice and the serving of documents or process.
- 16.2. Any notice given in terms of the Agreement which is:
  - 16.2.1 delivered by hand during normal business hours to the Contractor's or Employer's address for service and delivery of legal documents shall be deemed to have been received by the Contractor or Employer at the time of delivery;
  - 16.2.2 posted by prepaid registered post to the Contractor's or Employer's address for service and delivery of legal documents shall be deemed to have been received by the Contractor or Employer on the 7th day after the day of its posting.
  - 16.2.3 communicated by facsimile or e-mail, shall be deemed to have been received by the Contractor or Employer on received confirmation of the successful transmission thereof.
- 16.3 Where, in terms of this Agreement any communication is required to be in writing, the term "writing" shall include communications by telex, facsimile or e-mail. Communications by telex, facsimile or e-mail shall, unless the contrary is proved by the addressee, be deemed to have been received by the addressee on the day of transmission provided that transmission occurred during business hours.

## **17. INTEREST**

Any agreed amount due by the Contractor to the Contractor not paid on Due Date shall bear interest at the Prime Overdraft Rate plus 2% (Two) from the Due Date until the date of payment thereof.

**18. CAPACITY OF EMPLOYER**

- 18.1. **If more than one Employer signs this Agreement, the Employers will be jointly and severally liable for the due performance of the terms and conditions of this Agreement.**
- 18.2. **The Signatory shall in his personal capacity be liable for the due fulfilment of all the terms and conditions of this Agreement.**

**19. GENERAL**

- 19.1. This document constitutes the entire agreement concluded between the Parties and no warranties or undertakings or representations other than those specifically recorded herein may be relied on by either of the Parties. This document may furthermore not be modified, varied or consensually cancelled other than in writing, duly signed by both Parties.
- 19.2. The Agreement shall not be binding upon the Parties until the Contractor has confirmed acceptance thereof by his signature hereto.

SIGNED at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

AS WITNESSES:

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

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

\_\_\_\_\_  
CONTRACTOR

SIGNED at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

AS WITNESSES:

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

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

\_\_\_\_\_  
EMPLOYER