

DPW-10.2 (EC): VARIABLE CONSTRUCTION GUARANTEE – (GCC (2010) 2nd EDITION: 2010)

Director-General
 Department of Public Works
 Government of the Republic of South Africa

To: **Director General**
 Private Bag **X65**
Pretoria
0001

Sir,

VARIABLE CONSTRUCTION GUARANTEE FOR THE EXECUTION OF A CONTRACT IN TERMS OF GCC (2010) 2nd EDITION 2010

1. With reference to the contract between _____
 _____ (hereinafter referred to as the “**contractor**”) and the Government of the Republic of South Africa in its Department of Public Works (hereinafter referred to as the “**employer**”), Contract/Tender No: **H21/002 AI**, for the **Alexander Bay, Violsdrift, Onseepkans Port of Entry: Appointment of Service Provider/s for the Maintenance and Repairs of Building, Civil, Mechanical, Electrical Infrastructure and Installations for a Period of 36 Months** (hereinafter referred to as the “**contract**”) for the sum of R **insert amount, (insert amount in words)**, (hereinafter referred to as the “**contract sum**”).

I / We, _____
 in my/our capacity as _____ and hereby
 representing _____ (hereinafter referred to as the “**guarantor**”) advise that the **guarantor** holds at the **employer’s** disposal the sum of R **insert amount, (insert amount in words)** being 10% of the **contract sum** (excluding VAT), for the due fulfilment of the **contract**.

2. I / We advise that the **guarantor’s** liability in terms of this guarantee shall be as follows:
- (a) From and including the date on which this guarantee is issued and up to and including the day before the date on which the last **certificate of completion** of works is issued, the **guarantor** will be liable in terms of this guarantee to the maximum amount of 10% of the **contract sum** (excluding VAT);
 - (b) The **guarantor’s** liability shall reduce to 5 % of the **value of the works** (excluding VAT) as determined at the date of the last **certificate of completion** of works, subject to such amount not exceeding 10% of the **contract sum** (excluding VAT);
 - (c) This guarantee shall expire on the date of the last **final approval certificate**.
3. The **guarantor** hereby renounces the benefits of the exceptions *non numeratae pecunia; non causa debiti; excussionis et divisionis; and de duobus vel pluribus reis debendi* which could be pleaded against the enforcement of this guarantee, with the meaning and effect whereof I/we declare myself/ourselves to be conversant, and undertake to pay the **employer** the amount guaranteed on receipt of a written demand from the **employer** to do so, stating that (in the **employer’s** opinion and sole discretion):
- (a) the **contractor** has failed or neglected to comply with the terms and/or conditions of the **contract**; or
 - (b) the **contractor’s** estate is sequestered, liquidated or surrendered in terms of the insolvency laws in force within the Republic of South Africa.

4. Subject to the above, but without in any way detracting from the **employer's** rights to adopt any of the procedures provided for in the **contract**, the said demand can be made by the **employer** at any stage prior to the expiry of this guarantee.
5. The amount paid by the **guarantor** in terms of this guarantee may be retained by the **employer** on condition that upon issue of the last **final approval certificate**, the **employer** shall account to the **guarantor** showing how this amount has been expended and refund any balance due to the **guarantor**.
6. The **employer** shall have the absolute right to arrange his affairs with the **contractor** in any manner which the **employer** deems fit and the **guarantor** shall not have the right to claim his release on account of any conduct alleged to be prejudicial to the **guarantor**. Without derogating from the foregoing, any compromise, extension of the construction period, indulgence, release or variation of the **contractor's** obligation shall not affect the validity of this guarantee.
7. The **guarantor** reserves the right to withdraw from this guarantee at any time by depositing the guaranteed amount with the **employer**, whereupon the **guarantor's** liability ceases.
8. This guarantee is neither negotiable nor transferable, and
 - (a) must be surrendered to the **guarantor** at the time when the **employer** accounts to the **guarantor** in terms of clause 5 above, or
 - (b) shall lapse in accordance with clause 2 (c) above.
9. This guarantee shall not be interpreted as extending the **guarantor's** liability to anything more than payment of the amount guaranteed.

SIGNED AT _____ **ON THIS** _____ **DAY OF**

AS WITNESS

1. _____
2. _____

By and on behalf of

(insert the name and physical address of the guarantor)

NAME: _____

CAPACITY: _____
 (duly authorised thereto by resolution attached marked Annexure A)

DATE: _____

- A. No alterations and/or additions of the wording of this form will be accepted.**
- B. The physical address of the guarantor must be clearly indicated and will be regarded as the guarantor's *domicilium citandi et executandi*, for all purposes arising from this guarantee.**
- C. This GUARANTEE must be returned to:** _____

DPW-10.4 (EC): FIXED CONSTRUCTION GUARANTEE - (GCC (2010) 2nd EDITION: 2010)

Director-General
 Department of Public Works
 Government of the Republic of South Africa

To: **Director General**
 Private Bag X65
Pretoria
0001

Sir,

FIXED CONSTRUCTION GUARANTEE FOR THE EXECUTION OF A CONTRACT IN TERMS OF GCC (2010) 2ND EDITION 2010

1. With reference to the contract between _____
 _____ (hereinafter referred to as the "**contractor**") and the Government of the Republic of South Africa in its Department of Public Works (hereinafter referred to as the "**employer**"), Contract/Tender No: H21/002 AI, for the **Alexander Bay, Violsdrift, Onseepkans Port of Entry: Appointment of Service Provider/s for the Maintenance and Repairs of Building, Civil, Mechanical, Electrical Infrastructure and Installations for a Period of 36 Months** (hereinafter referred to as the "**contract**"), for the sum of R **insert amount, (insert amount in words)**, (hereinafter referred to as the "**contract sum**").
 I / We, _____
 in my/our capacity as _____ and hereby
 representing _____ (hereinafter referred to as the "**guarantor**") advise that the **guarantor** holds at the **employer's** disposal the sum of R **insert amount, (insert amount in words)** being 5% of the **contract sum** (excluding VAT), for the due fulfillment of the **contract**.
2. The **guarantor** hereby renounces the benefits of the exceptions *non numeratae pecunia; non causa debiti; excussionis et divisionis; and de duobus vel pluribus reis debendi* which could be pleaded against the enforcement of this guarantee, with the meaning and effect whereof I/we declare myself/ourselves to be conversant, and undertake to pay the **employer** the amount guaranteed on receipt of a written demand from the **employer** to do so, stating that (in the **employer's** opinion and sole discretion):
 - (a) the **contractor** has failed or neglected to comply with the terms and/or conditions of the **contract**; or
 - (b) the **contractor's** estate is sequestrated; liquidated or surrendered in terms of the insolvency laws in force within the Republic of South Africa.
3. Subject to the above, but without in any way detracting from the **employer's** rights to adopt any of the procedures provided for in the **contract**, the said demand can be made by the **employer** at any stage prior to the expiry of this guarantee.
4. The amount paid by the **guarantor** in terms of this guarantee may be retained by the **employer** on condition that upon the issue of the last **final approval certificate**, the **employer** shall account to the **guarantor** showing how this amount has been expended and refund any balance due to the **guarantor**.
5. The **employer** shall have the absolute right to arrange his affairs with the **contractor** in any manner which the **employer** deems fit and the **guarantor** shall not have the right to claim his release on account of any conduct alleged to be prejudicial to the **guarantor**. Without derogating from the

aforegoing, any compromise, extension of the construction period, indulgence, release or variation of the **contractor's** obligation shall not affect the validity of this guarantee.

- 6. The **guarantor** reserves the right to withdraw from this guarantee at any time by depositing the guaranteed amount with the **employer**, whereupon the **guarantor's** liability ceases.
- 7. This guarantee is neither negotiable nor transferable, and
 - (a) must be surrendered to the **guarantor** at the time when the **employer** accounts to the **guarantor** in terms of clause 4 above, or
 - (b) shall lapse on the date of the last **certificate of completion** of works.
- 8. This guarantee shall not be interpreted as extending the **guarantor's** liability to anything more than the payment of the amount guaranteed.

SIGNED AT _____ **ON THIS** _____ **DAY OF**

_____.

AS WITNESS

1. _____

2. _____

By and on behalf of

(insert the name and physical address of the guarantor)

NAME: _____

CAPACITY: _____
(duly authorised thereto by resolution attached marked Annexure A)

DATE: _____

- A. No alterations and/or additions of the wording of this form will be accepted.**
- B. The physical address of the guarantor must be clearly indicated and will be regarded as the guarantor's *domicilium citandi et executandi*, for all purposes arising from this guarantee.**
- C. This GUARANTEE must be returned to:** _____
