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COMPACT FORM OF AGREEMENT

February 2022

CESA

Consulting Engineers South Africa

The Voice of Consulting Engineering

CONSULTING ENGINEERS SOUTH AFRICA
COMPACT FORM OF AGREEMENT

PRODUCED BY:

CONSULTING ENGINEERS SOUTH AFRICA

Consulting Engineers South Africa is a voluntary association of individual consulting engineering firms formed to uphold standards and advance the usefulness of consulting engineers by promoting the interests of its members and their clients.

It is a focal point for contact between consulting engineers and allied disciplines, the public, government agencies, private enterprise, professional and government organisations.

The association publishes a wide variety of documents regularly used by the profession. These include conditions of engagement for various services, forms of agreement, an annual directory of member firms, and a variety of guidelines, practice notes and reports.

The Chief Executive Officer and staff of the association are available at all times to offer advice to member firms and client-bodies, and the association serves as a centre for general information about the consulting engineering profession:

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EXPLANATORY NOTES

This Compact Form of Agreement has been developed by Consulting Engineers South Africa (CESA) in response to the needs of consulting engineers and their clients and is intended for use on routine and small projects of a relatively low value (less than R2 million) and of short duration (less than 6 monthes) and where only a single consulting engineer is appointed. It is not suitable for professional appointments involving joint ventures or subconsulting arrangements, nor for use on multi-disciplinary projects. The Compact Form of Agreement is ideally suited to specialist engineering appointments such as investigations, reports and similar studies.

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CONDITIONS OF AGREEMENT

1. The appointment of the consulting engineer shall commence from the date of signature of this agreement or when the consulting engineer commences to perform the services described in this agreement and shall be completed when the consulting engineer has completed the services and has submitted the final account and has received payment in full.

2. The consulting engineer shall perform the services in accordance with this agreement with reasonable professional skill, care, and diligence. The consulting engineer shall co-operate with any third parties who are appointed by the client and who are involved with the project. The consulting engineer will not be responsible for any aspect of the performance of such third parties.

3. The consulting engineer shall monitor any construction as described in this agreement. The consulting engineer cannot e[illegible]re t[illegible]erformanc[illegible]he contra[illegible]nor gua[illegible]e ag[illegible]ure b[illegible]he contractor the con[illegible]ctor's work in acco[illegible]n[illegible]with the [illegible]act.

4. On becoming [illegible]of any [illegible]tter w[illegible]ch ma[illegible]na[illegible]all cha[illegible]e th[illegible]t or t[illegible]ng of the serv[illegible] works, the consu[illegible] en[illegible]give [illegible]tter [illegible]ce [illegible]the [illegible]nt, save that [illegible] consulting [illegible]ineer is empow[illegible]d to ma[illegible]min[illegible]changes [illegible]varia[illegible]ns w[illegible]n th[illegible]vera[illegible]rogramme or [illegible]get, provide[illegible]at such changes a[illegible]p[illegible]rted tim[illegible]ously to the client.

5. The client shall timeously provide to the consulting engineer all information and assistance that may be reasonably required for the performance of the services and the consulting engineer shall be entitled to rely on the accuracy and completeness of such information.

6. The client shall remunerate the consulting engineer in accordance with this agreement for services performed and for costs and expenses necessarily incurred by the consulting engineer in connection with the services.

7. Amounts due to the consulting engineer shall be paid in full within thirty (30) days of the date of issue of any invoice failing which interest shall be paid to the consulting engineer at the prevailing prime overdraft rate of the consulting engineer's bank plus two (2) percentage points per annum compounded monthly calculated from the date of the invoice. The consulting engineer may terminate the agreement where payment in full has not been received by the consulting engineer within the thirty (30) day period for payment.

8. Unless otherwise stated all monetary amounts in this agreement exclude tax.

9. If circumstances arise, including but not limited to force majeure, for which the consulting engineer is not responsible and which make it impractical or impossible for the consulting engineer to perform the services in accordance with this agreement in whole or in part, then the consulting engineer shall promptly notify the client. If in those circumstances certain services have to be suspended, the time for completion of the services shall be extended by a reasonable period and the client shall pay the consulting engineer such additional fees and expenses as may be agreed as appropriate to the work undertaken by the consulting engineer in performing the necessary additional services. If it is clear to the consulting engineer that it will be impossible or impractical to resume the suspended services within a reasonable period of time, the consulting engineer may terminate the agreement by giving at least fourteen (14) days written notice with reasons.

10. In the event that the agreement is terminated under Clause 7 or Clause 9 above, the consulting engineer shall be paid for the services performed up to the date of termination plus a surcharge of ten percent (10%) of the full fee due in terms of this agreement.

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11. Notwithstanding the terms of the Prescription Act No 68 of 1969 (as amended) or any other applicable statute of limitation neither the client nor the consulting engineer shall be held liable for any loss or damage resulting from any occurrence unless a claim is made within a period of twelve (12) monthes from the date of completion or termination of the services in terms of this agreement.

12. The maximum amount of compensation payable by either party to the other in respect of liability arising out of or in connection with this agreement is limited to the gross amount of the fee paid to the consulting engineer under this agreement. Neither party shall be liable to the other party for any indirect, incidental, special, punitive, consequential, or exemplary loss or damages suffered and/or incurred by the other party pursuant to this agreement.

13. The consulting engineer shall arrange and maintain professional indemnity and other insurance cover in respect of the services provided under this agreement.

14. The client shall indemnify the consulting engineer against the adverse effects of all claims by third parties which arise after the duration of the liability period or which exceed the limit of compensation.

15. This agreement shall be governed by the laws of the Republic of South Africa.

16. The consulting engineer shall retain ownership and copyright of all documentation including the ownership of the intellectual property rights thereof prepared by the consulting engineer. The client shall be entitled to use or copy them only for the project and the purpose for which they are intended and need not obtain the consulting engineer's permission to copy for such use. The consulting engineer shall not be liable in any way for the use of any of the information other than as originally intended for the project and the client shall indemnify the consulting engineer against any claim which may be made against him by any party or third party arising from the use of such documentation for other purposes.

    The ownership of data and factual information collected by the consulting engineer and paid for by the client shall, after payment in full by the client, lie with the client.

17. Both parties shall keep all information obtained by them in the context of the agreement confidential and shall not divulge it without the written approval of the other party.

18. Any dispute between the parties which cannot be resolved by mutual agreement may be referred to adjudication by a single adjudicator to be selected by agreement or, failing such agreement, nominated by the president of Consulting Engineers SA and following such rules for adjudication as may be laid down by the president of Consulting Engineers SA. The opinion expressed by the adjudicator shall be binding on the parties save that nothing precludes either party from approaching the court for relief.

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AGREEMENT AND SPECIFIC PROVISIONS

This agreement is between

"the client"	
Address	

AND

"The consult engineer"	
Address	

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The client hereby appoints the consulting engineer to perform consulting engineering services as described below:

Unless otherwise stated above, the services to be performed will generally be as described in the latest published ECSA Guideline Scope of Services and Professional Fees (Scope of Services and Professional of Fees for Persons Registered in terms of the Engineering Profession Act, 46 of 2000), subject to any amendments as described below.

Where the services to be performed include construction monitoring, this shall be as described in the ECSA Guideline and the level of construction monitoring and the frequency and duration of site visits shall be as described below:

The consulting engineer agrees to perform such services and the client agrees to pay the engineer to perform the services for the remuneration as described below:

The time for completion of the services is

weeks

Signed at _____	Si[illegible] at _____
On this _____ da[illegible]f _____ 2[illegible]	[illegible]t _____ [illegible]y of _____ [illegible]
Client:	**Con[illegible]ting [illegible]gineer:**
Name: _____	**Name:** _____
Signed: _____	**Signed:** _____
Witness: _____	**Witness:** _____

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