



PROJECT NUMBER: CTIA: 4553 GRJ: 6059 DIA: 6051

**THE PROVISION OF PROFESSIONAL SERVICES OF A CONSULTING COMPANY
TO CONDUCT A FEASIBILITY STUDY ON HOTEL DEVELOPMENT AT KING
SHAKA, GEORGE, AND CAPE TOWN INTERNATIONAL AIRPORT**

NEC 3: PROFESSIONAL SERVICES CONTRACT (PSC)

Between **AIRPORTS COMPANY SOUTH AFRICA SOC LIMITED**

Applicable at: **King Shaka International Airport
Cape Town International Airport
George International Airport**

(Registration Number : 1993/004149/30)

and

for Consulting Feasibility Study Services on Hotel Developments at
King Shaka, George, and Cape Town International Airport

Consulting Feasibility Study Services on Hotel Developments at King Shaka, George and Cape Town International Airport

NEC 3: PROFESSIONAL SERVICES CONTRACT (PSC)

Contents:	
Part C1	Agreements & Contract Data
C1.1	Form of Offer and Acceptance
C1.2a	Contract Data provided by the Employer
C1.2b	Contract Data provided by the Contractor
Part C2	Pricing Data
Part C3	Scope of Work
Part C4	Site Information
C4.1	Site Information
C4.2	Insurance - Generic Conditions of Contract Insurance Clauses
C4.3	ACSA Special Requirements at an Operational Airport

Part C1: Agreement 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:

The provision of professional services of a consulting company for Feasibility Study Services on Hotel Developments at King Shaka, George and Cape Town International Airport.

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.

The tenderer, identified in the Offer signature block, has examined the draft contract as listed in the Acceptance section and agreed to provide this Offer.

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 **Consultant** 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 FOR FEASIBILITY STUDIES ON THE HOTEL DEVELOPMENT AT KING SHAKA, GEORGE, AND CAPE TOWN INTERNATIONAL AIRPORT:

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 **Consultant** in the *conditions of contract* identified in the Contract Data.

Signature(s)

Name(s)

Capacity

**For the
tenderer:**

(Insert name and address of organisation)

Name &
signature of
witness

Date

AIRPORTS COMPANY SOUTH AFRICA SOC LIMITED

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 **Consultants** 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

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 **Consultant**) 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**

Airports Company South Africa SOC Limited,
PO Box 57701
King Shaka International Airport
4407

Name &
signature of
witness

Date

Schedule of Deviations

1 Subject	
Details	
.....	
.....	
.....	
2 Subject	
Details	
.....	
.....	
.....	
3 Subject	
Details	
.....	
.....	
.....	
4 Subject	
Details	
.....	
.....	
.....	
5 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.

Part C1.2a Contract Data

The Conditions of contract are selected from the NEC3 Professional Services Contract, April 2013.

Each item of data given below is cross-referenced to the clause in the NEC3 Professional Services Contract which requires it.

Part one - Data provided by the *Employer*

1	General
The <i>conditions of contract</i> are the core clauses and the clauses for Main Option: A- Lump Sum Contract with Activity Schedule	

Dispute resolution Option clause : W1

Secondary Options

X7 Delay damages

X9 Transfer of rights

X10 *Employer's Agent*

X11 Termination by the Employer

X18: Limitation of liability

Z: *Additional conditions of contract*

of the NEC3 Professional Services Contract , April 2013.

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The *project stages* are:

ID	Project Stages	Key deliverable at end of each stage
1	Prefeasibility Report	- Assessments on available information - Client input - Statutory requirements - Cost estimate for further studies required
2	Market Study	- Supply and demand - External market scan - Hotel pricing, rates, occupancy rates, length of stay-full hotel analysis - Best suited hotel location
3	Financial Projections	- Feasibility study - Costing that needs to include engineering input - Return on investment calculation (NPV, IRR, Profitability index etc.)
4	Implementation Plan and Development Agreement Input	- Development options - Operating models, finance and investment opportunities - Implementation plans - Input to the development agreement with an operator

10.1 The *Employer* is: Airports Company South Africa SOC Limited , **King Shaka International Airport**
 Address:
 PO Box 57701
 King Shaka International Airport
 4407
 Tel No: 032 346 6000

11.2(9) The *services* are: Professional Consulting Engineering

11.2(10) The following matters will be included in the Risk Register

- Availability of As Built information
- Access to Site
- Statutory approvals and ACSA approvals
- Site Constraints and Constructability
- Notification of Claims
- Financial and Procurement

11.2(11) The *Scope* is in the document called Part 3: Scope of Work

12.2 The *law of the contract* is the law of the Republic of South Africa

13.1 The *language of this contract* is English

13.3 The *period for reply* is 2 weeks

13.6 The *period for retention* is 10 year following Completion or earlier termination

2 The Parties' main responsibilities

25.2 The *Employer* provides access to the following persons, places and things

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	access to	access date
1	Any Information	Upon award of the project
2	Access to Airside to the Consultants	Upon award of the project and required induction and permit approvals
3	Time	
31.2	The <i>starting date</i> is or any other mutually agreed date.	
11.2(3)	The <i>completion date</i> for the whole of the services is or any other mutually agreed date.	
11.2(6)	The <i>key dates</i> and the <i>conditions</i> to be met are:	
	Condition to be met 1.Prefeasibility Report 2.Market Study 3.Financial Projection Report 4.Implementation Plan & Development Agreement (A report is to be submitted for each of the 3 airports)	key date
31.1	The <i>Consultant</i> is to submit a first programme for acceptance within 2 weeks of the Contract Date.	
32.2	The <i>Consultant</i> submits revised programmes, Monthly Reports and Cashflows at intervals of 4 weeks. Due at the end of the month.	
4	Quality	
40.2	The quality policy statement and quality plan are provided within 2 weeks of the Contract Date.	
41.1	The <i>defects date</i> is 52 weeks after Completion of the whole of the services.	
5	Payment	
50.1	The <i>assessment interval</i> ends and starts at 12h00 on the 25 th day of each successive month.	
51.1	The period within which payments are made is 4 weeks, after the receipt of the tax invoice.	
51.2	The <i>currency of this contract</i> is the South African Rand (ZAR).	
51.5	The <i>interest rate</i> is negotiable	
6	Compensation events	
	No data required for this section of the <i>conditions of contract</i> .	
7	Rights to material	
	No data required for this section of the <i>conditions of contract</i> .	

8	Indemnity, insurance and liability Refer to Part C4.2- GENERIC CONDITIONS OF CONTRACT INSURANCE CLAUSES		
81.1	The amounts of insurance and the periods for which the <i>Consultant</i> maintains insurance are		
	Event failure by the <i>Consultant</i> to use the skill and care normally used by professionals providing services similar to the <i>services</i> death of or bodily injury to a person (not an employee of the <i>Consultant</i>) or loss of or damage to property resulting from an action or failure to take action by the <i>Consultant</i> death of or bodily injury to employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with this contract	Cover Refer to PartC4.2 Refer to PartC4.2 Refer to PartC4.2	Period of Insurance
81.1	The <i>Employer</i> provides insurance cover for the project		
82.1	Deductibles: • In the event where the consultant defaults in its insurance obligations, the employer may take insurance on their own and then deduct the monthly premiums from the consultant. • Refer to Part C4.2		
9	Termination Refer to Secondary Clause X11.		
10	Data for main Option clause		
21.3	The <i>Consultant</i> prepares forecasts of the total of the <i>expenses</i> at intervals of no longer than 4 weeks.		
11	Data for Option W1		
W1.1	The <i>Adjudicator</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 Adjudicators provided under the relevant Z clause		
W1.2(3)	The <i>adjudicator nominating body</i> is the current Chairman of the Johannesburg Advocates' Bar Council.		
W1.4(2)	The <i>tribunal</i> is Arbitration		
W1.4(5)	The <i>arbitration procedure</i> is as set out in the latest edition for the Conduct of Arbitrations published by the Association of Arbitrators (Southern Africa) or its successor body.		
	The place where arbitration is to be held is Durban, Kwa Zulu Natal, South Africa. The person or organisation who will choose an arbitrator if the Parties cannot agree a choice or if the <i>arbitration procedure</i> does not state who selects an arbitrator, is the Chairman of the Association of Arbitrators (Southern Africa) or its successor body		
12	Data for secondary Option clauses		

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X7	Delay Damages
	Delay damages for each section of work is 0.05% per day to a maximum of 10% of the contract value
X10	The <i>Employer's Agent</i>
X10.1	The <i>Employer's Agent</i> is
X11	Termination by Employer
X11.1	The Employer may terminate the Consultant's obligation to Provide the services for a reason not stated in this contract by notifying the Consultant.
X18	Limitation of liability
X18.1	The <i>Consultant's</i> liability to the <i>Employer</i> are limited to the amount stated in the contract
X18.2	The <i>Consultant's</i> liability to the <i>Employer</i> for Defects that are not found until after the <i>defects date</i> is capped at the total of the contract price.
X18.3	The <i>end of liability date</i> is 1 years after Completion of the whole of the <i>services</i> .
ADDITIONAL CONDITIONS OF CONTRACT	
Z1	Estimation of fees
	It is specifically recorded that the fees charged by the consultant for services rendered in connection with and/or under this Contract shall be in terms of: Part C2: Pricing Data.
Z2	Tax invoices
	The <i>Consultant's</i> invoice.
	Delete the first sentence of core clause 50.2 and replace with:
	Invoices submitted by the <i>Consultant</i> to the <i>Employer</i> include
	- the details stated in the Scope to show how the amount due has been assessed, and - the details required by the <i>Employer</i> for a valid tax invoice.
	Delete the first sentence of core clause 51.1 and replace with:
	Each payment is made by the <i>Employer</i> within five weeks of receiving the <i>Consultant's</i> invoice showing the details which this contract requires or, if a different period is stated in the Contract Data, within the period stated.
Z3	Communications and Notices
	Z3.1 Add to the end of the first sentence in core Clause 13.1:
	All notices, notifications, requests, demands or other communications shall be deemed to have reached the other Party –
	- if delivered by hand, on the date of delivery; - if posted by ordinary mail or registered post, on the 5th (fifth) calendar day following the date of such posting; - if transmitted by facsimile or any other electronic medium acceptable to both Parties, on the first Business Day following the date of transmission / publication / delivery.

Z4 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 ghandi@badela.co.za
Mr. Errol Tate Pr. Eng.	Durban	+27 11 262 4001 Errol.tate@mweb.co.za
Adv. Saleem Ebrahim	Gauteng	+27 11 535-1800 salimebrahim@mweb.co.za
Mr. Sebe Msutwana Pr. Eng.	Gauteng	+27 11 442 8555 sebe@civilprojects.co.za
Mr. Sam Amod	Gauteng	sam@samamod.com
Adv. Sias Ryneke SC	Gauteng	083 653 2281 reyneke@duma.nokwe.co.za
Mr. Emeka Ogbugo (Quantity Surveyor)	Pretoria	+27 12 349 2027 emeka@gosiame.co.za

Z4.1 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 rejected or accepted by the either 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. An appointed Arbitrator shall provide his written award no later than 30 days following the last day of closing arguments.

PANEL OF ARBITRATORS		
Name	Location	Contact details (phone & e mail)
Adv. Ghandi Badela	Gauteng	+27 11 282 3700 ghandi@badela.co.za
Mr. Errol Tate Pr. Eng.	Durban	+27 11 262 4001 Errol.tate@mweb.co.za

Adv. Saleem Ebrahim	Gauteng	+27 11 535-1800 salimebrahim@mweb.co.za
Mr. Sebe Msutwana Pr. Eng.	Gauteng	+27 11 442 8555 sebe@civilprojects.co.za
Mr. Sam Amod	Gauteng	sam@samamod.com
Adv. Sias Ryneke SC	Gauteng	083 653 2281 ryneke@duma.nokwe.co.za
Mr. Emeka Ogbugo (Quantity Surveyor)	Pretoria	+27 12 349 2027 emeka@gosiame.co.za

Z5

Interpretation of the law

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.

Z6

Providing the Works: Delete core clause 20.1 and replace with the following:

The *Consultant* will supervise the works in accordance with the Works Information and warrants that the results of the Works done in accordance with the drawings and specifications, when complete, shall be fit for their intended purpose.

Z7

Extending the defects date: add the following as a new core clause 46:

Z7.1

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*.

Z7.2

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.

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- Z7.3 The *Project Manager* notifies the *Consultant* 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.
- Z8 **Termination**
- Z8.1 **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”.
- Z9 **Cession, delegation and assignment**
- Z9.1 The *Consultant* shall not cede, delegate or assign any of its rights or obligations to any person without the written consent of the *Employer*, which consent shall not be unreasonably withheld.
- Z9.2 The *Employer* may, on written notice to the *Consultant*, cede and delegate its rights and obligations under this contract to any person or entity.
- Z10 **Ethics**
- Z10.1 The *Consultant* undertakes:
- Z10.1.1 not to give or cause 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 *Consultant's* breach of this clause constitutes grounds for terminating the *Consultant's* obligation to Provide the Works or taking any other action as appropriate against the *Consultant* (including civil or criminal action). However, lawful inducements and rewards shall not constitute grounds for termination.
- Z10.3 If the *Consultant* 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.
- Z11. **Confidentiality**
- 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 *Consultant* 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.

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- Z11.2 If the *Consultant* 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 *Consultant* for the purposes of the implementation of this agreement. The *Consultant* 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 *Consultant* is required by law to disclose, provided that the *Consultant* notifies the *Employer* prior to disclosure so as to enable the *Employer* to take the appropriate action to protect such information. The *Consultant* 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; and
- Z11.3.3 Information which at the time of disclosure or thereafter, without default on the part of the *Consultant*, enters the public domain or to information which was already in the possession of the *Consultant* 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 *Consultant* ensures that all his Sub-Consultants abide by the undertakings in this clause.
- Z12. ***Employer's Step-in rights***
- Z12.1 If the *Consultant* 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 sub-Consultant or supplier of the *Consultant*) to do so on his behalf. The reasonable costs of such remedial works shall be borne by the *Consultant*.
- Z12.2 The *Consultant* 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 *Consultant* 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.
- Z13. **Intellectual Property**

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- Z13.1 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.
- Z13.2 IP rights remain vested in the originator and shall not be used for any reason whatsoever other than carrying out the works.
- Z13.3 The *Consultant* 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.
- Z13.4 The *Consultant* 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:
- Z13.4.1 the *Consultant's* design, manufacture, construction or execution of the Works;
- Z13.4.2 the use of the *Consultant's* Equipment, or
- Z13.4.3 the proper use of the Works.
- Z13.5 The *Employer* shall, at the request and cost of the *Consultant*, assist in contesting the claim and the *Consultant* may (at its cost) conduct negotiations for the settlement of the claim, and any litigation or arbitration which may arise from it.
- Z14 **Dispute resolution: The following amendments are made to Option W1:**
- Z14.1 **Under clause W1.3, in the fourth row of the first column of the adjudication table, the following words are added after the words "any other matter":** "excluding disputes relating to termination of the contract".
- Z14.2 **The following clauses are added at the end of clause W1.3:**
- Z14.2.1 "The Adjudicator shall decide the dispute solely on the written submissions of the parties. No oral submissions shall be heard during adjudication."
- Z14.2.2 "Disputes relating to or arising from termination of the Contract shall not be determined by an adjudicator. Any such dispute shall be referred directly to arbitration."
- Z15 The Consultant 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.

Part C1.2b Contract Data

The conditions of contract are the NEC3 Professional Service Contract, April 2013

Each item of data given below is cross-referenced to the clause in the NEC3 Professional Service Contract to which it mainly applies.

Part two - Data provided by the Consultant

Clause	Statement
10.1	The <i>Consultant</i> is Address: Tel No.: Fax No.: Email:
22.1	The <i>Consultant's</i> key persons are: 1 Name: Job: Responsibilities: Qualifications: Experience: 2 Name: Job: Responsibilities: Qualifications: Experience: 3 Name: Job: Responsibilities: Qualifications: Experience:

AIRPORTS COMPANY SOUTH AFRICA SOC LIMITED

The *Consultant's key persons* are:

1 Name:

Job:

Responsibilities:

Qualifications:

Experience:

2 Name:

Job:

Responsibilities:

Qualifications:

Experience:

3 Name:

Job:

Responsibilities:

Qualifications:

Experience:

11.2(3) The *completion date* for the whole of the **services is** or as mutually agreed

11.2(10) The following matters (if any) will be included in the Risk Register

•

11.2(13) The *staff rates* are as stated in the Pricing Data

25.2 The *Employer* provides access to the following persons, places and things

	access to	access date
1	Any Information	Upon award of the project
2	Access to Airside to the Consultants	Upon award of the project and required induction and permit approvals

A **Priced contract with activity schedule**

11.2(14) The *activity schedule* is in the Pricing Data

11.2(18) The tendered total of the Prices is in the Form of Offer and Acceptance

Pricing Schedule:

Fee Schedule	Estimated Duration	3 Months
Deliverable		FEE (EXCL. VAT)
A. Prefeasibility, Preparation & Briefing Report		R
B. Market Study		R
C. Financial Projections		R
D. Implementation Plan & Development Agreement		R
E. Sub-Total 1 (Excl. Vat)		R
F. Contingency (10% of Subtotal 1)		R
G. Sub-Total 2 (Excl. Vat)		R
H. Disbursements (5% of Subtotal 2)		R
I. Sub-Total 3 (Excl. Vat)		R
J. ACSA Direct Costs (5% of Subtotal 3)		R
Total Fees (Excl. Vat) – Tender Price Carried Forward to Form of Offer & Acceptance		R
K. VAT at 15%		R
Total Fees (Incl. Vat) – Tender Price Carried Forward to Form of Offer & Acceptance		R

The above scope of works is to be concluded in a 3-month period. The appointment of the team however will be done for a period of 12 months. Whilst the works will be completed in the 3-month period noted above, the extended appointment will allow ACSA to update the design and/ or cost in the subsequent months if necessary, subject to pre-approval.

Part C2: Pricing Data

C2.1 Pricing Instructions

Pricing Instruction

- 1.1. Payment for this contract will be against proven cost.
- 1.2. Other expenses, for example accommodation, travelling, travelling time, telephone cost, reproduction cost, courier costs, special postage will not be paid separately for this appointment, bidders are advised to include them in their pricing.
- 1.3. Disbursements will be reimbursed at actual cost. The successful bidder will be required to provide proof of expenses in order to be reimbursed.
- 1.4. Permit costs to be paid from ACSA direct costs:
 - Permit costs will need to be paid up front by the successful bidder and ACSA will reimburse against proof of payment.
 - No mark-up to be levied on Permit costs.
 - All employees will be checked for criminal records and no permit will be granted to those with criminal records.
 - Cost for lost permits and new employees will not be reimbursed by ACSA

Part C3: Scope of work

C3.1: EMPLOYER'S SCOPE

Description of the services

3.1.1 BACKGROUND

Since inception approximately 20 years ago, Airports Company South Africa Limited (ACSA) has transformed into a focused, profitable, and commercial enterprise that is market-driven and customer service oriented.

ACSA is mandated by national government to run, manage, and develop airports.

ACSA has a role to play in contributing towards South African's economic recovery and growth plan post the pandemic. ACSA can achieve this catalyst role through the monetization of property, ensuring the increase of its commercial business and revenue stream opportunities.

ACSA's is planning to build hotels at three of its airports, George, King Shaka, and Cape Town International Airport. This aligns with ACSA's aerotropolis strategy and development, which aims to create sustainable value over the short, medium, and long-term that will positively impact not only ACSA's business but also its people, the society in which it operates, and its environment. In addition to the hotels, the development plan includes the establishment of a conference centre at King Shaka Airport, further enriching the overall vision for these airport expansions.

3.1.3 DESCRIPTION OF SERVICES

The consultant will conduct a feasibility study on hotel development for ACSA. The study must also include a feasibility study for conversion of what was previously a restaurant, into a conference centre. The study will include an analysis of the current market conditions, an assessment of the demand for hotel facilities and the conference centre, and a review of the competitive landscape. The consultant will also provide recommendations on the optimal size, location, and design of the hotels. The consultant should conduct a thorough analysis of the market demand for hotels at the three airports, including the current and future demand, competition, and trends. Additionally, analysis of a conference centre at KSIA. The consultant should analyse the suitability of the sites for hotel development and conference centre, including the location, accessibility, and availability of utilities and infrastructure. The consultant should prepare a detailed financial

analysis of the project, including the projected development costs, operating costs, and revenue projections over the next 10 years. The consultant should review plans for the facility, the scope of the development, and projected costs to make recommendations for the proposed hotels and conference centre. The scope of recommendations includes the number of guestrooms, number of restaurants and lounges, amount of meeting space, recreational and aquatic features, retail shops, spa, and other amenities. The same should apply to the conference centre and the amenities that comes with them. The consultant should conduct an environmental impact assessment of the proposed hotels, including the potential impact on the surrounding environment and community. The consultant should review all relevant regulations and standards related to hotel development and operation, including zoning laws, building codes, and safety regulations. The consultant should identify and assess potential risks associated with the project, including financial, legal, environmental, and operational risks. The consultant should prepare a project plan, including the design, construction, and operation of the hotels and conference centre, and a project schedule and budget. The design and costing should take into consideration the sustainability of the hotels and their operations, including energy efficiency, waste reduction, and water conservation measures.

The study must include the optimum number of rooms and its occupancy rate, hotel rates the hotel star rating and its best location at the respective airports. The capacity of the facilities that are to be included in the hotel development must also be included. A supply and demand analysis must be performed to determine the sustainable profitability of a hotel development.

The consultants must also provide ACSA with the best development options, operating models, finance and investment opportunities. This will be used to present to internal ACSA investment committees. Once the investment option is approved, the consultant must provide input to the development agreement.

The consultants is to consider the regulatory and zoning requirements when designing the hotels. Airports are a unique facility. Hotels built in the vicinity of airports must adhere to height, noise, and visual restrictions as per ICAO Annexure 14 requirements.

The following are key deliverables:

Prefeasibility, Preparation & Briefing Report:

This will include assessment of previous feasibility studies conducted where applicable. The consultant is to develop a report to address the client's requirement based on the client's brief. Determine the site rights and constraints and all statutory authority applications and studies that will be required as well as cost estimates.

Market Study:

The current and projected market scan for the supply and demand of hotels must be presented. This will include the economic, tourisms and hotel performance. A recommendation on the hotel concept and pricing must be made for the respective airports. Hotel occupancy rates, daily pricing rates, length of stay, clientele, and facilities to be included must form part of the study. The best suited location and start rating must be considered.

Financial Projections:

A feasibility study must be produced based on the hotel development cost and returns to earned. The cost report must include predevelopment costs, development costs, as well as consideration for post development costs. A sensitivity analysis must also be conducted for the projected returns. The cost to develop must take into consideration all engineering inputs as well as any additional bulk services required and energy saving requirements. Return on investment calculations need to be included.

Implementation Plan and Development Agreement Input:

The consultants must also provide the client with the best development options, operating models, finance, and investment opportunities. The options must include an implementation plan. This will be used to present to internal ACSA investment committees. Once the investment option is approved, the consultant must provide input to the development agreement.

Proposed Hotel Locations



Figure 1: George Airport Hotel Development: Potential Sites Analysis



Figure 2: King Shaka International Airport Hotel Development: Potential Site Analysis



Figure 3: Cape Town International Airport Hotel Development: Potential Sites Analysis

Design Software and Programmes/Methodologies to be utilised

AutoCAD, etc.

Constraints on how the *Consultant* Provides the Services.

Management meetings

To be able to manage the contract, the Employer and Consultants will have various meetings, to proactively and jointly manage and minimise adverse risks to the project. The attendees shall have the necessary delegated authority to make decisions in respect of matters discussed at such meetings.

Regular meetings of a general nature may be convened and chaired by the *Employer's Agent* as follows:

Title and purpose	Approximate time & interval	Location	Attendance by:
Risk register and compensation events	Every two weeks	To be confirmed	<i>Employer's Agent, Consultant</i>
Overall contract progress and feedback	Monthly	To be confirmed	<i>Employer's Agent, Consultant</i>

Meetings of a specialist nature may be convened as specified elsewhere in this Scope or if not so specified by persons and at times and locations to suit the Parties, the nature and the progress of the *services*. Records of these meetings shall be submitted to the *Employer's Agent* by the person convening the meeting within five days of the meeting.

All meetings shall be recorded using minutes or a register prepared and circulated by the person who convened the meeting. Such minutes or register shall not be used for the purpose of confirming actions or instructions under the contract as these shall be done separately by the person identified in the *conditions of contract* to carry out such actions or instructions.

Consultant's key persons

The *Consultant* is required to nominate a senior partner or director who will have overall responsibility for this project and other senior personnel responsible for the execution of the project. No change may be made without prior consultation with and approval by the *Employer*.

The *Consultant* is required to submit an organogram showing the key persons and their lines of authority / communication.

Work Plan

Objectives

The project shall be done firstly in accordance with the Employer's objective as per his appointed NEC Scope of Works Briefing with detail tasks and deliverables for each of the project stages, as stated in this contract.

ISO Quality management System

All projects shall be managed in accordance with strict ISO 9001 quality system ensuring quality in design, administration, reports and site administration. Consultants must be accredited with ISO9001 compliance and each project shall be administrated with respect to quality and technical compliance, in accordance with these strict international Quality Procedures.

Programme and monthly feedback

A detailed programme for each project needs to be submitted within 14days of appointment and updated regularly/monthly.

Consultation and Client Feedback

Detailed consultation with the designated ACSA representative and on-going feedback and reporting during feasibility preliminary design, detailed design and construction stages will be essential in delivering optimal and acceptable solutions which are in line with ACSA specifications and budget allocations. A monthly progress and cost report shall be done from detail design stage onwards till construction ends.

Understanding the Works

The Employer is not responsible for the failure of the Consultant to understand the precise nature of his undertaking under this contract or for any erroneous interpretation concerning the conditions affecting his performance, it being recognized that the Employer provided the Consultant sufficient opportunity to ask the Employer for clarification of the terms and conditions of this contract prior to submission of his tender to provide the services.

Compliance with Laws

The Consultant keeps himself fully informed of, and complies with all laws which apply to the Works and/or Services and/or to Providing the Works and/or Services (including laws which apply to persons employed to provide the Services and/or Works). "Laws" includes all national and provincial legislation, statutes ordinances and other laws and regulations and by-laws, orders and decrees of government or other legally constituted public authority and the common law.

Compliance with Codes & Standards

The Services comply with the codes and standards stated in the Scope. To the extent not stated, the Services comply with internationally recognised codes and standards which are accepted by the Employer.

In case of conflict between national, international codes, standards or guidelines and/or the requirements specified in this Scope, and unless otherwise instructed by the Employer, the more onerous one takes precedence; provided always that the Services comply as a minimum and in any event, with applicable law and mandatory South African national codes, standards and guidelines.

Health and safety

The *Consultant* shall at all times comply with the health and safety requirements prescribed by law as they may apply to the services.

The *Consultant* shall comply with the Health and Safety requirements contained in Annexure C.

Working on the *Employer's* property

Work done on or near an active airport is subject to several special requirements and conditions to ensure the safe operation of the airport at all times. Various limitations and requirements are to be taken cognisance of during the preparation of the tender and construction programme.

This work will be on the Landside area of the airport and the normal operations must be able to continue for the duration of the contract.

Please also refer to Annexure B: **SPECIAL REQUIREMENTS AT AN OPERATIONAL AIRPORT.**

People restrictions, hours of work, conduct and records

The work under this contract is to be carried out under operational conditions of the airport and is therefore subject to several special requirements and conditions to ensure the safe operation of the airport at all times.

The *Consultant* keeps records of his people working on the *Employer's* property, including those of his Sub-consultants, and the *Employer's Agent* shall have access to these records at any time.

Cooperating with and obtaining acceptance of Others

Whenever work being done by Others on the project is dependent on or adjacent or related to the Services, the interface and sequence of such works and the Services should be such that the least interference possible will result to the Consultant and to Others and such sequence is determined by the Employer. Cooperation is required between the *Consultant* and Others to ensure the completion of the Services and other project works within the programme for the project as a whole.

As may be required from time to time or as per statutory requirements, the *Consultant* will liaise with and obtain acceptance from statutory authorities and avail themselves for any inspections that would be required.

At the earliest possible date, detailed programmes prepared for all other project works having interfaces with the Services are discussed by the Employer with the Consultant in order that the phasing, duration, use of working areas, attendance work etc. can be drawn into overall programmes for the project works.

Things provided by the *Employer*

The *Employer* will issue to the *Consultant* available information that will assist in the carrying out of the services. This information may include Base plans to indicate existing services and other available information.

The providing of this information does not relieve the *Consultant* of their professional responsibility to verify information that will be used as a basis for their designs.

Part C4.1 : Site Information

The feasibility for the Project will be undertaken at King Shaka International Airport, George Airport and Cape Town International Airport.

Part C4.2 : Insurance – Generic Conditions of Contract Insurance

INSURANCE CLAUSES FOR OPEX FEASIBILITY PROJECTS

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 buildings

SECTION B: INSURANCE CLAUSES

1. For consultants on the airside:

The service provider must source the following insurance covers:

- a) Professional indemnity cover for a limit of twice the contract value
- b) Aviation liability insurance for an indemnity limit of
 - Fifteen thousand US dollars (USD 15 000) for damage to aircraft
 - Five thousand US dollars (USD 5 000) for damage to property

2. For consultants on the landside:

The service provider must source the following insurance covers:

- c) Professional indemnity cover for a limit of twice the contract value
- d) Avia liability insurance for an indemnity limit of
 - Five thousand US dollars (USD 5 000) for damage to property

Part C4.3 - SPECIAL REQUIREMENTS AT AN OPERATIONAL AIRPORT

Work done on or near an active airport is subject to several special requirements and conditions to ensure the safe operation of the airport at all times.

The work under this contract is to be carried out under operational conditions. Various limitations and requirements are to be taken cognisance of during the preparation of the tender and the construction programme. These limitations will not entitle the contractor to claim for extension of time.

1. Airports Manager

The Airports Manager is at all times responsible for the effective and safe operation of the airport. The Airports Manager or his designated representative will represent the Employer at the airport and he has full authority to act on behalf of the Employer, as set out in the contract documents.

The Airport manager will issue the necessary application forms to those who apply to the airport management for an airside vehicle permit and/or an Airport Security Permit and will decide, on receipt of the completed forms, whether or not to issue permits.

The Airport Management may at any time withdraw or suspend an Airside vehicle Permit or any Airside Security Permit.

All negotiations between the Contractor and the airport management shall be through the Engineer.

2. Airport Security and Safety

All personnel of the Engineer or Contractor will have to undergo a Security and Safety Awareness Programme before the start of the contract.

The Engineer/Contractor shall ensure that airport security is at all times complied with by his own personnel, all subcontractors and their personnel as well as all suppliers.

Access to the security area for personnel, vehicles and construction plant can only be obtained with permission from the Employer. Permits may be required for personnel and vehicles frequently moving through the security check points and shall at all times be visibly displayed while a person or vehicle is within the security area. Identity Documents must be available and presented on request.

Permits are only valid for a specific area inside the security area and the responsibility rests with the Contractor to control the movement of personnel, plant and vehicles to ensure their compliance with this requirement. A Prime Cost Sum has been provided for the cost of any permits required.

The Contractor will be required to provide permits for each and every material delivery vehicle entering the site, and they are to be escorted by a permit and radio license holder. The Employer may withdraw any or all permits without prior notice in the case of misuse, in which case the Contractor will have no claim against the Employer.

The Contractor shall make specific arrangements with the Employer, through the Engineer, to ensure the expedient delivery of time-dependent materialst. If required, the Contractor shall supply additional security personnel, approved by the Airport Manager to assist with security control. If, due to the extra volume of construction traffic that has to pass through security, additional entrance facilities have to be

provided, it shall be done in consultation with the Airport Manager and Engineer. These facilities and personnel have to be provided by the Contractor.

3. Responsibilities of Consulting Engineers/Contractor

As a condition of approval of an application for an Airside Vehicle Permit, the Consulting Engineer/Contractor shall ensure that all vehicles and drivers are covered by the Contract Works, Public Liability and SASRIA Special Risks Insurance.

When a vehicle is no longer required for airside use, the Engineer/ Contractor must upon removing it from airside use, remove and return the Airside Vehicle Permit to the airport manager.

The Engineer/Contractor shall immediately report to the airport manager all notifiable accidents and shall ensure that arrangements are in place for the rapid removal and/or repair of its vehicles should they become immobilised on movement areas.

Plant, equipment and personnel of the Engineer/Contractor shall at all times operate and remain 50m clear of all active runways and taxiways (measured from nearest edge of facilities). In Cat 2 conditions the 50m increases to 100m.

4. Accident/Penalties

The Engineer/Contractor shall report to the Airport Manager any accident involving vehicle or plant under their control where the accident has involved injury or damage to another vehicle, aircraft or airport property; or where there is injury to driver(s) or passenger(s) in the vehicle. The prescribed accident report shall be used for this purpose.

Distinction will be made between the following types of accidents:

- (i) Accidents of minor nature not having effect on the operational efficiency of the involved vehicles, building or airport property.
- (ii) Accidents causing property damage affecting the operational efficiency of vehicles or infrastructure or causing injury to persons traveling in vehicles.

Accidents in the first category must be reported to the Airport Manager within 24 hours. Accidents in the second category must be reported to the Airport Manager immediately and the South African Police Services (SAPS) shall be called to the accident site to investigate and report on the causes of the accident. Where possible neither the driver, the passenger or vehicles should leave the accident site before the arrival of the SAPS.

The parties involved must ensure that adequate arrangements are made for the rapid removal or repair of the immobilised vehicles on **operational** areas.

All accidents/incidents, irrespective of the seriousness thereof, affecting aircraft or loading bridges, must be reported immediately to the AM.

The Airport Manager reserves the right to:

- Withdraw any airport security permit.
- Withdraw any airside vehicle permit, if it is considered necessary tow away vehicles when parked incorrectly.

5. Identification and Warning Lights

All construction vehicles and self-propelled plant used inside the security area shall be properly marked to promote easy identification. A register of all identification numbers for all vehicles shall be kept up to date by the Contractor and shall at all times be available for inspection by the Airport Manager or Engineer. Each vehicle or self-propelled plant item, as required by the Engineer, shall be fitted with an approved amber rotating warning light which shall be in continuous operation while the vehicle is moving in the security area. The Contractor will be responsible for all costs involved in this item.

6. Additional Security Measures

- No cameras or the taking of photos will be allowed within the security area without written approval from the Airport Manager. No fire-arms, explosives or any other weapons may be brought into the security area.
- Smoking and the making of fires are prohibited in certain areas of the airport. Open fires may only be made in designated areas after written permission has been obtained from the Airport Manager, who will also supervise such fires. No smoking is allowed in the apron areas.
- No accommodation of personnel will be allowed in the security area of the airport.
- No drawings, sketches, diagrams, information, etc. pertaining to the works, airport, accidents, etc. may be made, reproduced or registered, except when it is necessary for the execution of the contract. No information regarding accidents, airport activities, reports, etc. shall be given to anybody and no press release shall be made or interview may be given to anybody without the written permission from the Airport Manager.
- Any interference with airport personnel, equipment or aircraft will be considered as an infringement of this clause. The Contractor will be held responsible for any damage, direct or indirect, to any airport equipment, aircraft, etc. caused by his own personnel or those of his subcontractors or suppliers whether on duty or not. The Contractor shall make good all costs necessary to remedy the situation including re-calibration of equipment where necessary. The Contractor shall note that especially navigation equipment is extremely sensitive and may be disturbed by sitting or leaning on it.
- No aircraft may be touched or moved by any member of the construction team. In case of an aircraft accident, no assistance what so ever may be given by the Contractor unless specifically requested and all staff must stay away from any part of an accident scene for a distance of at least 300m.

If the Contractor is found lacking in any of the security measures or requirements, it will be sufficient cause for the termination of all construction activities until the matter has been rectified to the satisfaction of the Airport Manager.

No claim resulting from inadequate security and safety measures will be considered.

7. Compliance with Instructions

If the Contractor does not promptly comply with all instructions of the Airport Manager and Engineer, the Employer has the right to amend the working schedule in aid of safety. The Engineer also retains the right to suspend all works until the Contractor, in the opinion of the Engineer, complies with the requirements.

8. Delays Caused by Airport Management

If delays, leading to an extension of time, are caused by aspects such as airport requirements, a reasonable claim for extension of time may be considered. However, if such delays coincide with delays

caused by other circumstances, such as weather conditions, no claim for extension of time caused by requirements of airport management will be considered.

9. General Requirements for Execution of the Work

At the end of each work period, all plant, vehicles, material and obstructions must be removed to a demarcated safe area. The cost of removal of plant and materials and cleaning operations shall be deemed to be included in the relevant work items or in the general items. The Engineer reserves the right to ban any item of plant or equipment which leaks excessive amounts of fuel or oil. In addition all significant spillages of fuels and oils will be cleared immediately to the satisfaction of the Engineer failing which the Engineer reserves the right to have this work carried out by a third party to the cost of the Contractor.

The Employer retains the right to clean any of the mentioned areas if the Contractor neglects to do so to his satisfaction. In such a case the costs incurred by the Employer will be recovered from the Contractor at a rate of R400,00 per hour or part thereof taken by the sweeping machine of the Employer to do the work. This cost will be deducted from any monies payable to the Contractor.

If night work has to be done only suitable power and lighting units, approved by the Engineer, complying with the requirements of the Occupational Health and Safety Act No. 85 of 1993 , SABS 0142-1981 and ICAO Annex 14 regulations shall be used.

10. Times for the Execution of the Works

Most of the work on this contract must be executed minimizing disruptions to airport operations. If, due to airport requirements, certain aspects of the work have to be done during night time, the following will apply:

- The Contractor shall supply sufficient lighting facilities to enable him and his subcontractors to perform the work according to the requirements of the specification.
- At the end of the night's work all lights, power plants, etc. must be removed to a safe area indicated by the Engineer and the Airport Manager. Remuneration for the acquisition, transport, erection and maintenance of lighting and power plants shall be included in the items provided and shall be all-inclusive. Power plants that spill fuel or oil will not be allowed on the works.

11. Movement on the Airport, Barriers, Lights and Marks

It is the responsibility of the Contractor to properly control the movement of personnel, vehicles and plant connected to the contract. The Contractor shall erect, remove and maintain all temporary barriers, warning lights and marks as required by the Airport Manager.

These control and limitations to movement of the Contractor will not be paid for separately and sufficient provision for it shall be made in the tendered items. Delays and disruption of the contractor's programme or progress as a result of the above requirements will not constitute reason for a claim of whatever nature.

12. Dust and Pollution Control

The Contractor shall limit dust pollution to the minimum as required by the Airport Manager. During windy conditions, the Engineer may temporarily suspend all work where dust pollution creates unacceptable conditions until such time that conditions return to normal.

In the case of working areas alongside the taxiways it shall be a definite requirement that at all times, weekends included, exposed areas are kept damp and free from dust and loose material which may be sucked into the engines of passing aircraft. The taxiways adjacent to the works shall be swept as required but at least daily.

All costs involved in dust and pollution control shall be borne by the Contractor.

13. Storing of Vehicles, Plant and Materials

It is a requirement that, at the end of each work period, all vehicles and plant are returned to the designated camp area allocated to the Contractor. With the approval of the Project Manager / Engineer, certain equipment may remain on or near the work area if the area is properly demarcated.

If material is temporarily stored outside the designated campsite, stockpiles shall be limited to a height of 1, 0 m above natural ground level.

14. Fires

No open fires whatsoever will be allowed. All necessary precautions must be taken to prevent veld or other unauthorized fires.

In the case of fire, including veld fires, the Contractor must instruct his employees to assist the airport management in extinguishing the fire if requested to do so.

The Contractor shall indemnify the Employer against claims that may arise from fires due to negligence by the Contractor or his operations. If it is required by the Employer to extinguish any fires caused by the Contractor, the cost thereof will be for the Contractor.

In case of a fire caused by air traffic activities, the area involved shall immediately be evacuated by the Contractor to an area beyond a radius of 300 m from the fire.

15. **Environmental**

The Airports Company South Africa (ACSA) recognises the impacts airport expansion projects have on the environment during the planning, design and construction phase of new projects and embraces the obligations of corporate environmental responsibility to manage and minimise these impacts as far as possible.

Design consultants are encouraged to explore and implement (where possible) feasible opportunities for minimising environmental impacts in the form of stormwater, soil and groundwater pollution, resource and raw material utilisation, as well as energy and water conservation measures.