



# Guarantee for Advance Payment

For use with the JBCC<sup>®</sup> **Principal Building Agreement** state edition /date

For use with the JBCC<sup>®</sup> **NSSA Subcontract Agreement** state edition /date

For use with the JBCC<sup>®</sup> **Minor Works Agreement** state edition /date

## GUARANTOR DETAILS AND DEFINITIONS

Guarantor:

Physical Address:

Guarantor's signatory 1:  Capacity

Guarantor's signatory 2:  Capacity

Employer:

Recipient:

Principal Agent:

Works:

Site:

Guaranteed Advance Payment Sum: (maximum aggregate amount) Currency

Amount in words:

Expiry Date:

## AGREEMENT DETAILS

Principal Agent issues JBCC<sup>®</sup> format Payment Certificates, Recovery Statements

### 1.0 GUARANTEE FOR ADVANCE PAYMENT

1.1 The particulars of the milestones to be achieved in accordance with the Guaranteed Advance Payment Sum are set out in the following schedule:-

No. of Milestones:	<input type="text"/>
Milestone Commence Date:	<input type="text"/>
Milestone 1:	<input type="text"/>
Milestone 2:	<input type="text"/>
Milestone 3:	<input type="text"/>

1.2 The Guarantor's liability shall be limited to the outstanding diminishing amounts of the Guaranteed Advance Payment Sum as follows:-

- 1.2.1 The Guaranteed Advance Payment Sum on receipt thereof by the Recipient; or
- 1.2.2 The full outstanding balance after each Milestone has been achieved in terms of the monthly performance schedule as stated in 1.1

- 2.0 The Guarantor acknowledges that:-
- 2.1 Any reference in this Guarantee for Advance Payment to the Agreement is made for the purpose of convenience and shall not be construed as any intention to create an accessory obligation or any intention to create a suretyship;
- 2.2 Its obligation under this Guarantee for Advance Payment is restricted to the payment of money; and
- 2.3 Reference to a Recovery Statement or a Payment Certificate shall mean such certificate issued by the Principal Agent.
- 3.0 Subject to the Guarantor's maximum liability referred to in 1.0 the Guarantor undertakes to pay the Employer the sum certified on receipt of the documents identified in 3.1 to 3.3:-
- 3.1 A copy of a first written demand notice issued by the Employer to the Recipient stating that payment of a sum certified by the Principal Agent has not been made in terms of the Agreement and failing such payment within seven (7) calendar days, the Employer intends to call upon the Guarantor to make payment in terms of 3.2.;
- 3.2 A first written demand notice issued by the Employer to the Guarantor at the Guarantor's Physical Address with a copy to the Recipient stating that a period of seven (7) calendar days has elapsed since the issue of the first written demand notice in terms of 3.1 and that the sum certified has not been paid to date. The Employer herewith calls up this Guarantee for Advance Payment and demands payment of the sum certified from the Guarantor; and
- 3.3 A copy of the Recovery Statement and Payment Certificate which entitles the Employer to receive payment in terms of the Agreement of the sum certified in 3.0.
- 4.0 Subject to the Guarantor's maximum liability referred to in 1.0 the Guarantor undertakes to pay the Employer the Guaranteed Advance Payment sum or the full outstanding balance upon receipt of a first written demand notice from the Employer to the Guarantor at the Guarantor's Physical Address calling up this Guarantee for Advance Payment stating that:-
- 4.1 The Agreement has been terminated due to the Recipient's default and that the Guarantee for Advance Payment is called up in terms of 4.0. The demand notice shall enclose a copy of the notice of termination; or
- 4.2 A provisional sequestration or liquidation court order has been granted against the Recipient and that the Guarantee for Advance Payment is called up in terms of 4.0. The demand notice shall enclose a copy of the court order.
- 5.0 The aggregate amount of payments to be made by the Guarantor in terms of 3.0 and 4.0 shall not exceed the Guarantor's maximum liability in terms of 1.0.
- 6.0 Payment by the Guarantor in terms of 3.0 or 4.0 shall be made within seven (7) calendar days on receipt of the first written demand notice to the Guarantor.
- 7.0 The Employer shall have the absolute right to arrange its affairs with the Recipient in any manner which the Employer deems fit and the Guarantor shall not have the right to claim its release from this Guarantee for Advance Payment on account of any conduct alleged to be prejudicial to the Guarantor.
- 8.0 The Guarantor chooses the Physical Address as stated above for all notices and correspondences in connection with this Guarantee.
- 9.0 This Guarantee for Advance Payment is neither negotiable nor transferable and shall expire upon payment of the final Payment Certificate in terms of the Agreement or on payment in full of the Guaranteed Advanced Payment Sum or on the Expiry Date whichever is the earlier, whereafter no claims will be considered by the Guarantor. This original Guarantee for Advance Payment form shall be returned to the Guarantor after it has expired.
- 10.0 This Guarantee for Advance Payment, with the required demand notices in terms of 3.0 or 4.0, shall be regarded as a liquid document for the purpose of obtaining a court order.
- 11.0 Where this Guarantee for Advance Payment is issued in the Republic of South Africa this Guarantee for Advance Payment shall be governed by the laws of the Republic of South Africa. A competent court in the Republic of South Africa shall have sole jurisdiction in terms of this Guarantee for Advance Payment. Where this Guarantee for Advance Payment is issued outside the Republic of South Africa, the laws of the guarantor who issued this Guarantee for Advance Payment shall prevail. A competent court, in the jurisdiction in which the guarantor is domiciled, shall prevail.

Signed at:

Date:

Guarantor's Signatory 1: .....

Guarantor's Signatory 2: .....

Witness: .....

Witness: .....

Guarantor's seal or stamp