



NSSA Guarantee for Construction

For use with the JBCC[®] NSSA Subcontract Agreement edition /date

GUARANTOR DETAILS

Guarantor:

Physical Address:

Guarantor's signatory 1: Capacity

Guarantor's signatory 2: Capacity

Employer:

Contractor:

Subcontractor:

Principal Agent:

N/S Works:

Site:

Subcontract Sum: Accepted amount inclusive of tax Currency

Amount in words:

Guaranteed Sum: The maximum aggregate amount Currency

Amount in words:

Guarantee for Construction: *(Insert variable or fixed)* Expiry Date:

AGREEMENT DETAILS

Sections Total number / not applicable Last section

Contractor Issues: JBCC[®] format Interim Payment Advices, the Final Payment Advice

Principal Agent Issues: JBCC[®] format Interim Payment Certificates, the Final Payment Certificate, the Certificate(s) of Practical Completion, the Certificate(s) of Final Completion

1.0 GUARANTEE FOR CONSTRUCTION (Variable)

1.1 Where a NSSA Guarantee for Construction (Variable) in terms of the Agreement has been selected this 1.0 with 3.0 through 13.0 shall apply. The Guarantor's liability shall be limited to the diminishing amounts of the Guaranteed Sum as follows:

GUARANTOR'S LIABILITY

1.1.1 Maximum Guaranteed Sum (not exceeding 10% of the subcontract sum) in the amount of:

Amount in words:

PERIOD OF LIABILITY

From and including the date of issue of this NSSA Guarantee for Construction and up to and including the date of issue of the Interim Payment Advice certifying in excess of 50% of the contract sum

1.1.2 Reducing to the Guaranteed Sum (not exceeding 6.0% of the subcontract sum) in the amount of:

From and including the day after the date of the aforesaid Interim Payment Advice and up to and including the date of the issue of the only Certificate of Practical Completion or last Certificate of Practical Completion where there are sections

Amount in words:

1.1.3 Reducing to the Guaranteed Sum (not exceeding 4.0% of the subcontract sum) in the amount of:

From and including the day after the date of the applicable Certificate of Practical Completion and up to and including the date of issue of the only Certificate of Final Completion or last Certificate of Final Completion where there are sections

Amount in words:

1.1.4 Reducing to the Guaranteed Sum (not exceeding 2.0% of the subcontract sum) in the amount of:

From and including the day after the date of the applicable Certificate of Final Completion and up to and including the date of issue of the Final Payment Advice where payment is due to the Contractor, whereafter this NSSA Guarantee for Construction shall expire. Where the Final Payment Certificate reflects payment due to Contractor, this NSSA Guarantee for Construction shall expire upon payment of the full amount certified

Amount in words:

1.2 The Guarantor's liability limits set out in 1.1.1 to 1.1.4 shall apply in respect of any claim received by the Guarantor during the Guarantee validity period.

2.0 GUARANTEE FOR CONSTRUCTION (Fixed)

2.1 Where a NSSA Guarantee for Construction in terms of the Agreement has been selected this clause 2.0 and 3.0 through 13.0 shall apply. The Guarantor's liability shall be limited to the amount of the Guaranteed Sum as follows:

GUARANTOR'S LIABILITY

Maximum Guaranteed Sum (not exceeding 5.0% of the subcontract sum) in the amount of:

PERIOD OF LIABILITY

From and including the date of issue of this NSSA Guarantee for Construction and up to and including the date of the only Certificate of Practical Completion or the last Certificate of Practical Completion where there are sections, whereafter this NSSA Guarantee for Construction shall expire

Amount in words:

3.0 The Guarantor acknowledges that:

3.1 Any reference in this NSSA Guarantee for Construction to the Agreement is made for the purpose of convenience and shall not be construed as any intention whatsoever to create an accessory obligation or any intention whatsoever to create a suretyship; and

3.2 Its obligation under this NSSA Guarantee for Construction is restricted to the payment of money.

4.0 Subject to the Guarantor's maximum liability referred to in clauses 1.0 or 2.0, the Guarantor undertakes to pay the Contractor the sum certified upon receipt of the documents identified in 4.1 to 4.3 below:

- 4.1 A copy of a first written demand issued by the Contractor to the Subcontractor stating that payment of a sum certified by the Principal Agent in an Interim or Final Payment Certificate has not been made in terms of the Agreement and failing such payment within seven (7) calendar days, the Contractor intends to call upon the Guarantor to make payment in terms of 4.2.
- 4.2 A first written demand issued by the Contractor to the Guarantor at the Guarantor's Physical Address with a copy to the Subcontractor stating that a period of seven (7) calendar days has elapsed since the first written demand in terms of 4.1 and that the sum certified has still not been paid to date. The Contractor herewith calls up this NSSA Guarantee for Construction and demands payment of the sum certified from the Guarantor; and
- 4.3 A copy of the applicable payment advice which entitles the Contractor to receive payment in terms of the Agreement of the sum certified in 4.0.
- 5.0. Subject to the Guarantor's maximum liability referred to in 1.0 or 2.0, the Guarantor undertakes to pay the Contractor the Guaranteed Sum or the full outstanding balance upon receipt of a first written demand notice from the Contractor to the Guarantor at the Guarantor's Physical Address calling up this NSSA Guarantee for Construction stating that:
 - 5.1 The Agreement has been terminated due to the Subcontractor's default and that the NSSA Guarantee for Construction is called up in terms of 5.0. The demand shall enclose a copy of the notice of termination; or
 - 5.2 A provisional sequestration or liquidation court order has been granted against the Subcontractor and that the NSSA Guarantee for Construction is called up in terms of 5.0. The demand notice shall enclose a copy of the court order.
- 6.0 The aggregate amount of payments to be made by the Guarantor in terms of 4.0 and 5.0 shall not exceed the Guarantor's maximum liability in terms of 1.0 or 2.0.
- 7.0 Where the Guarantor is a registered Insurer the Contractor shall within one hundred and twenty (120) days of receipt of payment submit an expense account to the Guarantor showing how all monies in terms of the NSSA Guarantee for Construction have been expended, or will be expended, and shall refund to the Guarantor any surplus amount. All monies refunded to the Guarantor in terms of this NSSA Guarantee for Construction shall bear interest at the prime overdraft rate of the Contractor's bank compounded monthly and calculated from the date payment was made by the Guarantor to the Contractor until the date of refund.
- 8.0 Payment by the Guarantor in terms of 4.0 or 5.0 shall be made within seven (7) calendar days upon receipt of the first written demand to the Guarantor.
- 9.0 The Contractor shall have the absolute right to arrange its affairs with the Subcontractor in any manner which the Contractor deems fit and the Guarantor shall not have the right to claim its release from this NSSA Guarantee for Construction on account of any conduct alleged to be prejudicial to the Guarantor.
- 10.0 The Guarantor chooses the Physical Address as stated above for all notices and correspondences in connection with this NSSA Guarantee for Construction.
- 11.0 This NSSA Guarantee for Construction is neither negotiable nor transferable and shall expire in terms of either 1.1.4 or 2.1, or payment in full of the Guaranteed Sum or on the Expiry Date, whichever is the earlier, whereafter no claims will be considered by the Guarantor. The original of this NSSA Guarantee for Construction shall be returned to the Guarantor after it has expired.
- 12.0 This NSSA Guarantee for Construction, with the required demand notices in terms of 4.0 or 5.0, shall be regarded as a liquid document for the purpose of obtaining a court order.
- 13.0 Where this NSSA Guarantee for Construction is issued in the Republic of South Africa this NSSA Guarantee for Construction 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 Construction. Where this Guarantee for Construction is issued outside the Republic of South Africa, the laws of the Guarantor who issued this NSSA Guarantee for Construction 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