



# N/S Payment Guarantee

for use with the  
JBCC Nominated/Selected Subcontract Agreement

## GUARANTOR DETAILS AND DEFINITIONS

Guarantor means \_\_\_\_\_

Physical address \_\_\_\_\_

Guarantor's signatory 1 \_\_\_\_\_ Capacity \_\_\_\_\_

Guarantor's signatory 2 \_\_\_\_\_ Capacity \_\_\_\_\_

Contractor means \_\_\_\_\_

Subcontractor means \_\_\_\_\_

Employer means \_\_\_\_\_

N/S Works means \_\_\_\_\_

Site means \_\_\_\_\_

Agreement means The JBCC Series 2000 Nominated/Selected Subcontract Agreement

Subcontract Sum means

Amount in words \_\_\_\_\_

Guaranteed Sum means The maximum aggregate amount of

Amount in words \_\_\_\_\_

Guarantee expiry date means

## AGREEMENT DETAILS

Contractor issues: Payment advice, Final payment advice

- 1.0 The Guarantor hereby acknowledges that:
- 1.1 Any reference in this N/S Payment Guarantee 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
- 1.2 Its obligation under this N/S Payment Guarantee is restricted to the payment of money
- 2.0 Subject to the Guarantor's maximum liability in terms of the Guaranteed Sum, the Guarantor hereby undertakes to pay the Subcontractor the sum certified upon receipt of the documents identified in 2.1 to 2.3:
- 2.1 A copy of a first written demand issued by the Subcontractor to the Contractor stating that payment of a sum certified in the payment advice statement has not been made in terms of the Agreement and that:
- 2.1.1 The Contractor has failed to notify the Subcontractor of payment default by the Employer and has failed to make payment to the Subcontractor within seven (7) calendar days after due date for payment to the Contractor by the Employer; or
- 2.1.2 The Contractor has received timeous payment from the Employer and has failed to make payment to the Subcontractor within seven (7) calendar days after due date for payment to the Contractor by the Employer; or
- 2.1.3 The Contractor has received late payment from the Employer and has failed to make payment to the Subcontractor within seven (7) calendar days of the Contractor receiving payment from the Employer; or
- 2.1.4 The Contractor has failed to pay to the Subcontractor within ninety (90) calendar days after the due date for payment to the Contractor by the Employer
- and failing payment of the sum certified by the Contractor in the payment advice statement within seven (7) calendar days, the Subcontractor intends to call upon the Guarantor to make payment in terms of 2.2
- 2.2 A first written demand issued by the Subcontractor to the Guarantor at the Guarantor's physical address with a copy to the Contractor stating that a period of seven (7) calendar days has elapsed since the first written

demand in terms of 2.1 and that the sum certified has still not been paid therefore the Subcontractor calls up this N/S Payment Guarantee and demands payment of the sum certified from the Guarantor

- 2.3 A copy of the payment advice statement issued by the Contractor and which entitles the Subcontractor to receive payment of the sum certified in 2.0
- 3.0 Subject to the Guarantor's maximum liability in terms of the Guaranteed Sum, the Guarantor hereby undertakes to pay the Subcontractor the demanded sum upon the receipt of the documents identified in 3.1 and 3.2:
- 3.1 A copy of a first written demand issued by the Subcontractor to the Contractor stating that the Subcontractor demands the issue of a payment advice statement and failing such issue within seven (7) calendar days, the Subcontractor intends to call upon the Guarantor to make payment in terms of 3.2 of the demanded sum as set out in the demand
- 3.2 A first written demand issued by the Subcontractor to the Guarantor at the Guarantor's physical address with a copy to the Contractor stating that a period of seven (7) calendar days has elapsed since the first written demand in terms of 3.1 and that a payment advice statement has still not been issued therefore the Subcontractor calls up this N/S Payment Guarantee and demands payment of the demanded sum from the Guarantor
- 4.0 It is recorded that the aggregate amount of payments required to be made by the Guarantor in terms of 2.0 and 3.0 shall not exceed the Guaranteed Sum
- 5.0 Where the Guarantor is a registered insurer and has made payment in terms of 3.0, the Subcontractor shall upon the date of issue of the final payment advice statement submit an expense account to the Guarantor showing how all monies received in terms of the N/S Payment Guarantee have been expended and shall refund to the Guarantor any resulting surplus. All monies refunded to the Guarantor in terms of this N/S Payment Guarantee shall bear interest at the prime overdraft rate of the Subcontractor's bank compounded monthly and calculated from the date payment was made by the Guarantor to the Subcontractor until the date of refund
- 6.0 Payment by the Guarantor in terms of 2.0 or 3.0 shall be made within seven (7) calendar days upon receipt of the first written demand to the Guarantor
- 7.0 The Subcontractor shall have the absolute right to arrange his affairs with the Contractor in any manner which he 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
- 8.0 The Guarantor chooses the physical address as stated above for all purposes in connection herewith
- 9.0 This N/S Payment Guarantee is neither negotiable nor transferable and shall expire upon settlement of the final payment advice in terms of the Agreement or on payment in full of the Guaranteed Sum or on the Guarantee expiry date, whichever is the earlier, whereafter no claims will be considered by the Guarantor. The original of this N/S Payment Guarantee shall be returned to the Guarantor after it has expired
- 10.0 This N/S Payment Guarantee, with the required demand notices in terms of 2.0 or 3.0, shall be regarded as a liquid document for the purpose of obtaining a court order
- 11.0 Where this N/S Payment Guarantee is issued in the Republic of South Africa the Guarantor hereby consents in terms of Section 45 of the Magistrate's Courts Act No 32 of 1944, as amended, to the jurisdiction of the magistrates court of any district having jurisdiction in terms of Section 28 of the said Act, notwithstanding that the amount of the claim may exceed the jurisdiction of the magistrate's court

Signed at	_____	Date	_____
Guarantor's Signatory 1	_____	Guarantor's Signatory 2	_____
Witness	_____	Witness	_____

Guarantor's seal or stamp