

FOR
THE APPOINTMENT OF
MEDIATORS
ARBITRATORS
AND
ADJUDICATORS

2016



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PROCEDURE FOR THE APPOINTMENT OF A MEDIATOR

(In terms of clause 61(2) of the GCC – 1990/2004/2010)

The Panel of Mediators is available to parties in a dispute to select a mutually acceptable mediator. They are advised that if they follow that route, the mediator selected should be a person known and acceptable to both parties. If the parties are unable to select someone, the President of the South African Institution of Civil Engineering will, upon request, nominate a mediator in terms of clause 61(2)(a).

To enable the President to nominate a suitable person, the following information is needed:

1. The name of the engineer in terms of clause 1(m) of the GCC
2. A copy of the engineer's written decision given in terms of clause 61(1) (c) of the GCC
3. Whether the engineer gave notice of his decision to the employer and the contractor in terms of clause 61(1) (c) of the GCC
4. The names of the persons who have already been considered and rejected as mediators by the parties
5. A brief description of the particulars of the dispute, including particulars of the contractors and parties involved in the dispute
6. The location of the subject matter of the dispute

On receipt of the information, the matter will be placed before the President and when the nomination is made, the name of the mediator so nominated will be communicated to the party who requested the nomination. Both parties must then communicate directly with the mediator to ascertain whether he accepts the appointment and to agree with him upon the terms and conditions of appointment.

PROCEDURE FOR THE APPOINTMENT OF AN ARBITRATOR

(In terms of clause 61(3) of the GCC – 1990/2004/2010)

If the parties to a dispute fail to agree on an arbitrator, the latter shall be nominated by the President of the South African Institution of Civil Engineering, in terms of clause 61(3) (a), on application by either of the parties.

To enable the President to nominate a suitable person, the following information is needed:

1. The information solicited in items 1 - 6 above
2. The names of the persons who have already been considered and rejected as arbitrators by the parties
3. If the parties resorted to mediation, the name of the mediator

On receipt of the information, the matter will be placed before the President and his nomination will be communicated to the party who requested the nomination. Both parties must then communicate directly with the arbitrator to ascertain whether he accepts the appointment and to agree with him upon the terms and conditions of appointment.

Please address all correspondence to:

Email: dawn@saice.org.za



**South African Institution of Civil Engineering
Private Bag X200
HALFWAY HOUSE
1685**

Date

Dear Sir

GENERAL CONDITIONS OF CONTRACT:

**APPOINTMENT OF MEDIATOR / ARBITRATOR / ADJUDICATOR BY THE
PRESIDENT OF THE SOUTH AFRICAN INSTITUTION OF CIVIL ENGINEERING**

With reference to your request for the appointment of a mediator/ arbitrator/adjudicator, please complete the attached form and return the relevant documentation to the CEO to expedite the process.

In addition to the completed application form, payment in the amount R9000 per request is required. Please enclose a cheque for this amount made out to SAICE, or provide proof of payment with your completed application form. Receipt of payment is a prerequisite for the request to be processed.

Yours faithfully

**M Pillay
CEO SAICE**

SAICE Banking details:
Standard Bank Parktown
Account number: 200 853 058
Branch code: 000355

APPOINTMENT OF MEDIATOR / ARBITRATOR/ADJUDICATOR IN TERMS OF GENERAL CONDITIONS OF CONTRACT (1990/2004/2010)

I. Names and particulars of the parties to the contract and the dispute:

I.1 Employer _____

Address: _____

Contact person's name _____

Tel: _____ Fax: _____ Cell: _____

E-mail: _____

I.2 Contractor _____

Address: _____

Contact person's name _____

Tel: _____ Fax: _____ Cell: _____

E-mail: _____

I.3 Subcontractor if a party to the dispute

Contact person's name _____

Tel: _____ Fax: _____ Cell: _____

E-mail: _____

I.4 Other parties to the dispute

Contact person's name _____

Tel: _____ Fax: _____ Cell: _____

E-mail: _____

2. Title and edition of General Conditions of Contract:

3. Engineers involved:

3.1 Name of Engineer appointed in terms of the GCC

Address: _____

Contact person's name _____

Tel: _____ Fax: _____ Cell: _____

E-mail: _____

3.2 Consulting Engineer appointed by the employer

Address: _____

Tel: _____ Fax: _____ Cell: _____

E-mail: _____

3.3 Other Engineers involved

4. Is this a request for the nomination of an Adjudicator, Arbitrator or Mediator?

5. Attach a copy of the decision of the employer's engineer, the employer's representative, the contractor or the subcontractor that lead to the request for arbitration, adjudication or mediation together with a copy of the clause in the contract concerning such a request.

6. Give a brief description of the dispute:

7. Geographical location of the works as well as the municipal jurisdiction of the location of the works:

8. Name of the party submitting this form:

Address _____

Contact person's name _____

Tel: _____ Fax: _____ Cell: _____

E-mail: _____

9. Indicate the names of arbitrators, adjudicators or mediators already considered by a party or parties but not accepted by one of the parties:

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10. Attachments to this application form:

The logo for SAICE, featuring the word "saice" in a lowercase, blue, sans-serif font. The logo is positioned on a grey, curved banner that also features a blue wavy line on its left side.

INTERIM ADMISSION CRITERIA FOR ADJUDICATORS (2011 – 2015)

Application for inclusion in the President's list (Please tick the relevant block)
Requirements for persons wishing to be considered for inclusion in the SAICE
President's List of Adjudicators, to be applied in the period 2011 to 2015 until
final criteria are developed

Introduction

This document is based on the following documents, for which the relevant institutions have granted their kind permission:

- CIDB Best Practice Guideline #C3 Adjudication, 2005
- ICE Requirements for entry onto ICE's List of Adjudicators, 2006.

SAICE can nominate adjudicators in terms of the SAICE General Conditions of Contract and maintains a President's List of adjudicators for this purpose (the List), as well as to facilitate adjudicator selection by Employers and/or Contractors. Admission to the List does not guarantee that any nomination will be made or that appointments will follow.

SAICE sets requirements for admission to the List and for maintenance of a name on the List. Candidates wishing to be selected for the List must complete the standard SAICE application form for Mediators, Arbitrators and Adjudicators, and satisfy the SAICE's Dispute Resolution Panel that they meet minimum requirements stipulated below. Failure to demonstrate the necessary competence may result in one of two options:

- Where clarification is required, the applicant may be invited for an interview
- Where certain requirements have not been met, a response will be issued specifying this.

The SAICE Dispute Resolution Panel's (the Panel's) decisions on all such matters are final.

Minimum Qualification Requirements for Entry onto the SAICE President's List of Adjudicators.

Applicants should:

- i. have worked as Project Manager, Contract Manager, Engineer, Principal Agent or equivalent on engineering construction projects for a period of at least 10 years, preferably within the past 5 years, with appropriate disputes experience;
- ii. be registered as a Professional Engineer or equivalent of at least 10 years standing.
- iii. have detailed working knowledge of at least one, and preferably more, of the standard forms of contract recommended by the CIDB, in particular the General Conditions of Contract published by SAICE (including the adjudication provisions);
- iv. have working knowledge of international and local practice, legislation and Institutional guide lines on adjudication, including CIDB guidelines;

Project Management & Construction Division

- v. have working knowledge of construction contract law and rules of natural justice
- vi. have appreciation of:
 - the factors that affect construction costs
 - investigations, design, construction and fabrication methods
 - programming and delay assessment
 - resource and risk assessment;
- vii. be impartial and capable of fair and independent judgment;
- viii. if invited for an interview, be able to satisfy the panel that they are a suitable person who has achieved the necessary level of knowledge of construction and dispute resolution and possesses the necessary personal management and communication skills to conduct an adjudication.

Sunset clause / interim application period

This document shall apply for a maximum period of three (3) years beginning from 2011, in which time SAICE shall develop more objective assessment criteria to be applied for all new applicants.

These shall include but not be limited to the establishment of requirements for:

- Written application

- • Passing Adjudication course(s) and / or Qualifying Examination
- • Panel interview

