



The South African Institution of Civil Engineering

**Supplement to the SAICE Publication Dealing with the  
effects of COVID-19  
in the ambit of the  
SAICE Suite of GCC Contracts**

**Version A**

**14 April 2020**

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## **DISCLAIMER**

The South African Institution of Civil Engineering, referred to hereinafter as "SAICE", provides the information published in this document and that may relate to any of its publications, including any information related to the *SAICE Suite of Contracts and its companion publications*, in good faith and without prejudice. Any advice or guidance provided in this document must be construed on the premise that the specific clauses referred to in the document have not been amended in the Contract Data, for a specific contract under consideration.

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## **PURPOSE OF THIS SUPPLEMENT**

The initial publication dealt with the SAICE Suite of Documents in relation to the General Conditions of Contract 2015 Edition and associated contracts. SAICE subsequently received a number of queries specifically related to the General Conditions of Contract 2<sup>nd</sup> Edition 2010. Although both versions are fundamentally similar there are differences in the remedies available to the Contractor, hence this supplementary publication.

This document is supplementary to the initial publication. Since the background remains unchanged it is not necessary to reproduce a large part of the information provided earlier. Instead this publication will focus on the specifics of GCC 2010.

## ABOUT THIS DOCUMENT

This Version of the document may undergo amendments and re-release. Users are advised to monitor the SAICE website at [www.saice.org.za](http://www.saice.org.za) for subsequent versions that supersede this version.

This document has been compiled by the Contractual Affairs Subcommittee of the SAICE Project Management and Construction Division. Inputs were received from all Subcommittee members and moderated and collated under the leadership of Norman Milne. Subcommittee members at the time of publication of this version of the document, are:

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# COVID-19 and the GCC 2010

## 1. The three COVID-19 Scenarios

Three possible COVID-19 scenarios were previously identified:

### SCENARIO 1: Before Lockdown

This scenario applies specifically to only the period before Lockdown.

During this time, a Contractor (or Subcontractor) may have experienced loss of resources (labour) through no fault of his own, but which was attributable to the COVID-19 pandemic before any legislation was promulgated to counter the pandemic.

This is when one or more members of his labour force were tested positive (or were in contact with one or more members who were tested positive), and was duly ordered into quarantine by a medical professional or statutory authority, or died from the pandemic.

Consequently, the Contractor (or Subcontractor) was left with a reduced workforce which resulted in delay(s) and additional costs to the Contract. Such instances are subject to written proof such as a medical certificate or death certificate, and will have to be submitted to support a contractual claim.

It may also be a case where the Contractor (or Subcontractor) experiences delay(s) or additional costs due to a delay in the manufacturing, supply and delivery of materials or plant to the Site due to the impact of the COVID-19 pandemic on a manufacturer or supplier.

### SCENARIO 2: During Lockdown

This scenario applies separately to:

- the original Lockdown period; and
- each subsequent lockdown period.

During this time, a Contractor (or Subcontractor) and his employees and other members of his workforce are legally prevented from movement due the Lockdown. He therefore was prevented to progress with the execution of the Works (or Subcontract Works).

Failure to achieve a successfully “flattened” curve may not only have led to a likely extension of the Lockdown, but perhaps to multiple extensions of the Lockdown.

All separate Gazettes related to the various different activities and spheres of population that came forth from the original lockdown may then be made to re-apply. Such instances are subject to written proof of the relevant legislation which must be submitted to support a contractual claim.

### SCENARIO 3: After Lockdown

This scenario applies separately to:

- the period after the original lockdown period; and
- each separate period after each of multiple lockdown periods subsequent to the original lockdown period.

During this period, a Contractor (or Subcontractor) may have experienced loss of resources (labour) through no fault of his own, but which was attributable to the COVID-19 pandemic irrespective of whether any legislation was promulgated to counter the pandemic.

This is when one or more members of his labour force were tested positive for COVID-19 (or were in contact with one or more members who were tested positive), and was duly ordered into quarantine by a medical professional or statutory authority, or died from the pandemic.

Consequently, the Contractor (or Subcontractor) was left with a reduced workforce which resulted in delay(s) and additional costs to the Contractor (or Subcontractor). Such instances are subject to written proof such as a medical certificate or death certificate, and must be submitted to support a contractual claim.

It may also be a case where the Contractor (or Subcontractor) experiences delay(s) or additional costs due to a delay in the manufacturing, supply and delivery of materials or plant to the Site due to the impact of the COVID-19 pandemic on a manufacturer or supplier.

Clear distinction must be made by a Contractor between the various scenarios.

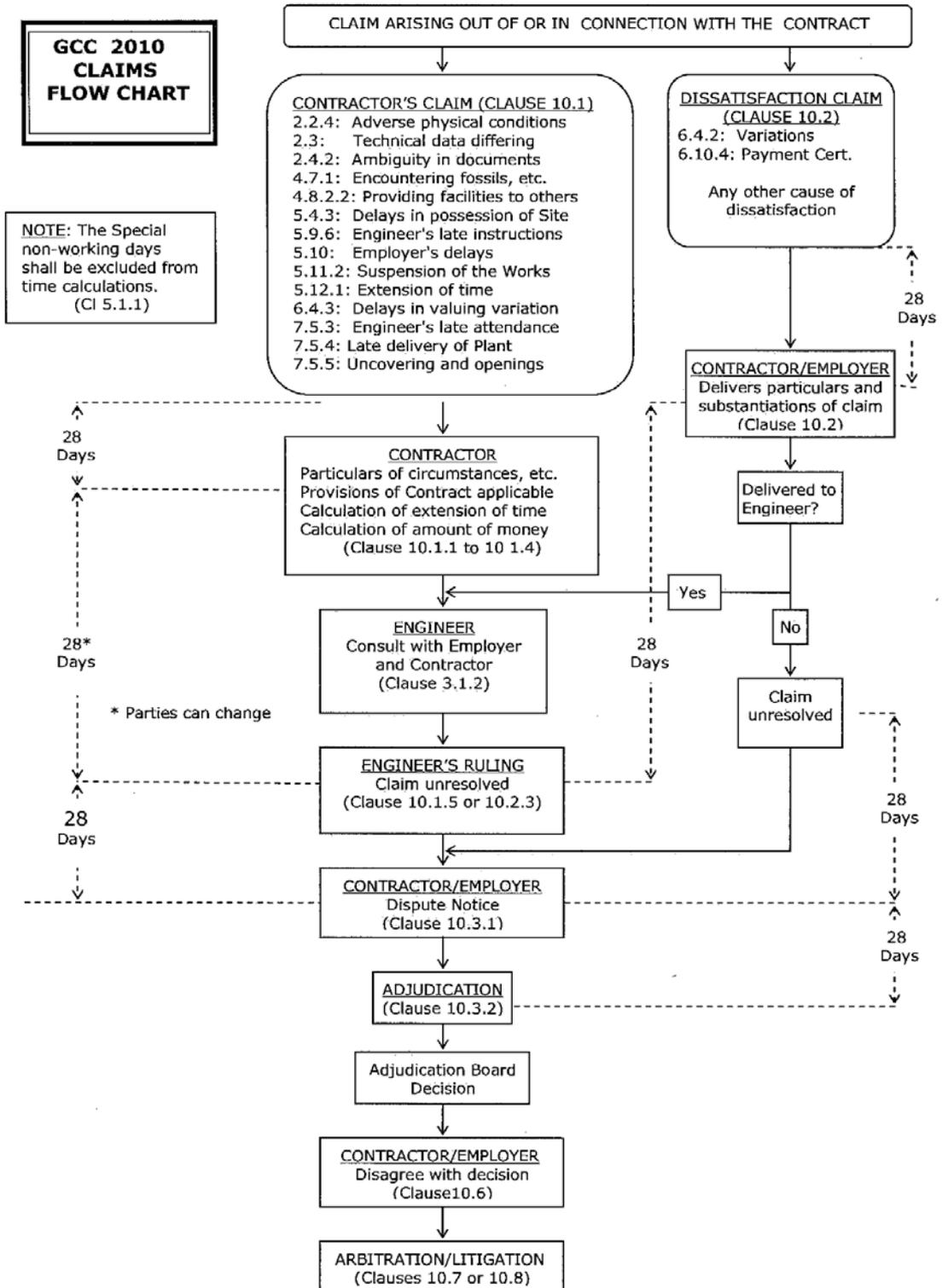
Scenario 1 and 2 differ because scenario 1 is not governed by legislation related to a lockdown, while scenario 2 is governed by legislation.

Scenario 1 and 3 differ because the Contractor's workforce (or supply of materials and/or plant) is foreseen to be affected differently by each of these scenarios because different skillsets (or key resources) are affected during each scenario (i.e. different sets of individuals from the Contractor's workforce for each scenario because of the temporal nature of the COVID-19 pandemic), and hence, different delays and additional costs shall apply to each scenario.

GCC 2010 deals with the three above-named COVID-19 scenarios. In terms of Clause 4.3 a Contractor shall comply with all "*applicable laws, regulations, statutory provisions and agreements*".

## 2. Flow Chart for a claim under GCC 2010

The flow diagram shown below is extracted from the Guide and is self-explanatory.



## 3. Standard Clauses from SAICE GCC 2010

For the purposes of this document, it must be taken that all clauses apply “as they stand”. Should clauses have been amended, deleted or supplemented for a specific Contract, then this document may not apply, or any guidance provided may be restrictive.

## **GCC 2010**

### **GCC 2010 Clause 10: CLAIMS AND DISPUTES**

In terms of Clause 10.1.1.1 of the GCC 2010 the “*Contractor shall within 28 days after the circumstance, event, act or omission giving rise to such a claim has arisen, or occurred, deliver to the Engineer a written claim*”.

In terms of Clause 10.1.1.2 of the GCC 2010 provides that in the event that the Contractor cannot reasonable comply with all or any of the provisions of Clause 10.1.1.1 of GCC 2010, the Contractor shall, within the said 28 days, notify its intention to claim in terms of Clause 10.1.1.2.1, and deliver monthly updates (if the events of circumstances are ongoing) in terms of Clause 10.1.1.3 of GCC 2010.

In terms of Scenario 1 the Contractor should be able to comply with the provisions of Clause 10.1.1.1 of GCC 2010 within the 28 day period specified.

In terms of Scenario 2 the Contractor should only notify its intention to claim in compliance with Clause 10.1.1.2 of GCC 2010 as the actual (and not predicted) period of the Lockdown period can only be determined once the Lockdown (or extended, or even reduced) period comes to an end. The same applies to quantifying a claim for proven additional costs as proven additional costs can only be proved once it was incurred.

In terms of Scenario 2, the circumstance or event should be interpreted to be the limitations, impacts and resultant effects on the progress of the Works, as imposed by *Government Gazette No 43148 of 25 March 2020* and issued as a result of the COVID-19 pandemic. The 28 day period to submit a notice of intention to make a claim should therefore commence to run from 25 March 2020.

In terms of Scenario 3 the Contractor should be able to comply with the provisions of Clause 10.1.1.1 of GCC 2010 within the 28 day period specified unless the events or circumstances are of an ongoing nature, then the provisions of Clause 10.1.1.2 of GCC 2010 should apply.

### **GCC 2010 Clause 4: CONTRACTOR’S GENERAL OBLIGATIONS**

#### **Sub-Clause 4.1 Extent of obligations and liability**

##### **Sub-Clause 4.1.1 Extent of Contractor’s Obligations**

The Contractor is required, as far as legally or physically possible, to design (if applicable), execute and complete the Works and remedy any defects therein in accordance with the provisions of the Contract.

Scenarios 1 and 3 may not apply since, depending on the severity of the COVID-19 impact as described above, the Contractor may still be able to execute the Works, even if it is more difficult to do so.

Scenario 2 is applicable as (1) the construction industry has been classified as a non-essential service and (2) the lockdown has both legally and physically prevented the Contractor from executing the Works in accordance with the Contract.

The Contractor is entitled to submit a claim in accordance with Clause 10.1, 5.12, 5.12.2, 5.12.2.4 and 5.12.3 of GCC 2010.

### **GCC 2010 Clause 5: TIME AND RELATED MATTERS**

#### **Sub-Clause 5.4 Access to the Site**

##### **Sub-Clause 5.4.3 Delays in giving possession**

A claim under the provisions of Clause 5.4.3 of GCC 2010, as a result of the COVID-19 pandemic, will only become applicable once the obligations in Clauses 5.3.1 and 5.3.3 of GCC 2010 have been discharged and on the premise that the Engineer’s instruction (or deemed instruction in terms of Clause 5.3.3 of GCC 2010) to commence carrying out the Works has been issued.

Upon the issuing of the instruction to commence carrying out the Works, the Employer has a duty to give the Contractor right of access and possession of the Site. If the Employer cannot now fulfil this obligation due to the limitations imposed by Government Gazette No 43148 of 25 March 2020, then the Contractor is entitled to submit a claim in accordance with Clause 10.1, 5.12, 5.12.2, 5.12.2.3, 5.12.2.4, 5.12.3 and 5.4.3 of GCC 2010. The 28 day period for such a claim only commence to run once the Contractor is given possession of the Site.

It should also be noted that once possession of the Site is given to the Contractor, it cannot be retracted due to the COVID-19 pandemic and the limitations imposed by Government Gazette No 43148 of 25 March 2020 unless the Contract was duly terminated or Completion was achieved.

*In the Imprefed<sup>1</sup> case, the judge ruled that once the Employer has given possession of Site (or portions successively) on due date (or due dates), this duty is discharged and the clause has no further function in the carrying out of the Contract. A subsequent deprivation of possession by the Employer, or someone acting on his behalf, does not reinstate the clause, though such conduct, if wrongful, would undoubtedly give rise to some other course of action in terms of the Contract.”*

### **Sub-Clause 5.10.1 Delays attributable to the Employer**

Relevant Sub-Clause wording (from the GCC 2010):

*“The Contractor may, in writing to the Engineer, demand compliance within a stated time by the Employer with the terms of the Contract, which terms shall be specified in such demand. If the Contractor suffers delay to Practical Completion and/or incurs proven additional cost from failure or delay on the part of the Employer, his agents, employees or other contractors (not employed by the Contractor) in fulfilling any necessary obligations in order to enable the Works to proceed in accordance with the Contract, the Contractor shall be entitled to make a claim in accordance with Clause 10.1, for which purpose the time limit of 28 days provided in Clause 10.1.1.1 shall commence to run only from the time when compliance with the said terms has actually taken place.”*

Relevant Sub-Clause interpretation (from the Guide):

*“The intention of this clause is to allow the Contractor to claim (and not to terminate the Contract) if the Employer/Engineer withholds provision, approval, permission or consent not covered by the guidelines given in Clause 10.1 for claiming extension of time or additional payment. This includes matters such as the Employer's failure to provide basic survey control points, permits necessary to construct the Works, or Construction Equipment, materials or labour set out in the Scope of Work to be provided by the Employer, or not returning the performance guarantee. It also covers the Engineer's failure to determine the value of the Works or to issue required certificates, such as for payment and completion, and a service owner not relocating his service.*

*The Contractor must state a time within which the Employer must comply with the terms of the Contract. Such a time should take the approved programme into account. For example, SANS 1921-1, Clause 4.1.2(b) requires the Employer to obtain the necessary permits to construct a bridge across a railway line. If such a permit has not been obtained, the Contractor should demand compliance well in advance of the planned start of construction on the specific bridge. If the Contractor waits until the due date for the permit starts delaying the construction of the bridge, the time for the Employer to comply may become unreasonably short.*

*As in the case of delays in giving possession of Site and notified additional instructions and drawings required, the Contractor only needs to make his claim within 28 days of compliance with the demand and not when the lack of demanded action starts to cause delays and additional cost.”*

Recommended Sub-Clause interpretation related to the COVID-19 pandemic:

The provisions of Clause 5.10.1 of GCC 2010 may only become applicable before the Lockdown period commenced and after the Lockdown period has ended and the Employer still has not given the Contractor access and possession of the Site after the end of the Lockdown period.

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<sup>1</sup> Imprefed (Pty) Ltd v National Transport Commission 1993 (3) SA 94 (A).

To place a demand on the Employer in terms of Clause 5.10.1 of GCC 2010 during the Lockdown period and to place any reliance on Clause 5.10.1 to pursue a claim in terms of Clause 10.1 of GCC 2010 will be misplaced as performance cannot be demanded in the event that it is legally impossible for the Employer to perform during the lockdown period.

#### **SCENARIO 1: Before Lockdown**

This Sub-Clause may apply, as read with the guidance given under Clause 5.4.3, if the Contractor has not been given access to and possession of the Site.

#### **SCENARIO 2: During Lockdown**

This Sub-Clause does not apply if the Contractor wants to demand access to and possession of the Site.

#### **SCENARIO 3: After Lockdown**

This Sub-Clause may apply, as read with the guidance given under Clause 5.4.3, if the Contractor has not been given access to and possession of the Site.

### **Sub-Clause 5.11 Suspension of the Works**

Relevant Sub-Clause wording (from the GCC 2010):

*“5.11.1 The Contractor shall, on the written order of the Engineer stating the cause for suspension, suspend the progress of the Works, or any part thereof, for such time or times and in such manner as the Engineer shall order.”*

*“5.11.2 Unless such suspension or alteration is otherwise provided for in the Contract, or by reason of some default or breach of the Contract by the Contractor, the Contractor shall in respect of delay to Practical Completion and/or to proven additional cost as a result of the suspension, be entitled to make a claim in accordance with Clause 10.1”*

*“5.11.3 If the progress of the Works, or any part thereof, is suspended in terms of Clause 5.11.2 for more than 84 days in total, the Contractor may deliver a written notice to the Engineer requiring permission to proceed with the Works, or that part thereof in respect of which progress is suspended.*

*If such permission is not granted within 28 days after the Engineer’s receipt of the written notice, the Contractor may, by a further written notice to the Employer, elect to treat the suspension, where it affects only part of the Works, as an omission of such part under Clause 6.3 or, where it affects the whole Works, as a repudiation of the Contract by the Employer, in which case Clause 9.3 shall apply.”*

Relevant Sub-Clause interpretation (from the Guide):

*“5.11.1 Suspending the Works or part thereof is a serious instruction that should not be ordered without considering the substantial costs that would result upon the consequential halting of the Works, and in the case of a prolonged suspension, the possible termination of the Contract by the Contractor.”*

*“5.11.2 ... Notification of a suspension in the Scope of Work without the proper payment items, will not exempt the Employer from a claim for such a suspension. [A claim for] a forced suspension for which the Contractor may claim [must include] for protection and securing the Works, demobilising and remobilising his employees, inactive Construction Equipment, General Items, and costs like making good deteriorations and defects when resuming with the carrying out of the Works. The Contractor must submit his claim in accordance with Clause 10.1 within 28 days of the date of the suspension order.”*

*“5.11.3 During a prolonged suspension due to default by the Employer of more than 84 days in total (adding individual suspensions to prevent avoiding termination by fractioning of a prolonged suspension), the Engineer must ... face the possibility that such work will not be executed. If part of the Works was suspended for a prolonged period, it would be treated as a Variation Order in terms of Clause 6.3, with the subsequent valuation for the omission*

*by the Engineer. If the whole of the Works was suspended, the Contractor may terminate the Contract and claim payments of amounts due to him in terms of Clause 9.3.*

*If the Contractor is prepared to wait for resumption of the Works beyond the 84 days, he may require the Employer to take over the risks of the Works until permission is granted to proceed. The applicable risks are set out in Clauses 8.1: Protection of the Works, 8.2: Care of the Works, 8.4: Indemnifications, and 8.6: Insurances.”*

Recommended Sub-Clause interpretation related to the COVID-19 pandemic:

#### **SCENARIO 1: Before Lockdown**

Sub-Clause 5.11.1 only applies if the Engineer instructs the Contractor to suspend the progress of the Works. However, should the Engineer instruct the Contractor to suspend the progress of the Works, the Contractor may make a claim in terms of Sub-Clause 5.11.2, as read with Clauses 10.1, 5.12, 5.12.1, 5.12.2, 5.12.2.3, 5.12.2.4 and 5.12.3 of GCC 2010.

Sub-Clause 5.11.2 applies only if the Engineer instructed the Contractor to suspend the Works and remains subject to compliance with the claims procedure set out in Clause 10.1 of GCC 2010.

#### **SCENARIO 2: During Lockdown**

There is no need for the Engineer to issue written order for suspension to the Contractor to suspend the progress of the Works. The Contractor is obliged by the issuing of Government Gazette No 43148 of 25 March 2020 to not continue with carrying out the Works as compliance with Clause 4.3.1 of GCC 2010 is temporarily preventing the Contractor from discharging its obligations under the Contract.

However, in the event that the Engineer did issue a written order for suspension, the Contractor is obliged to comply with such order (or instruction) in terms of Clause 4.2.1 of GCC 2010 and accordingly the Contractor must then make a claim in accordance with Sub-Clause 5.11.2, as read with Clauses 10.1, 5.12, 5.12.1, 5.12.2, 5.12.2.3, 5.12.2.4 and 5.12.3 of GCC 2010.

#### **SCENARIO 3: After Lockdown**

Sub-Clause 5.11.2 only applies if the Engineer instructs the Contractor to suspend the progress of the Works. However, should the Engineer instruct the Contractor to suspend the progress of the Works, the Contractor may make a claim in terms of Sub-Clause 5.11.2, as read with Clauses 10.1, 5.12, 5.12.1, 5.12.2, 5.12.2.3, 5.12.2.4 and 5.12.3 of GCC 2010.

Sub-Clause 5.11.2 applies only if the Engineer instructed the Contractor to suspend the Works and remains subject to compliance with the claims procedure set out in Clause 10.1 of GCC 2010.

### **Sub-Clause 5.12 Extension of time for Practical Completion**

Relevant Sub-Clause wording (from the GCC 2010):

*“5.12.1 If the Contractor considers himself entitled to an extension of time for circumstances of any kind whatsoever which may occur that will, in fact, delay Practical Completion of the Works, the Contractor shall claim in accordance with Clause 10.1 such extension of time as is appropriate. Such extension of time shall take into account any special non-working days and all relevant circumstances, including concurrent delays or savings of time which might apply in respect of such claim.*

*5.12.2 Without limiting the generality of Clause 5.12.1, the circumstances referred to in that Clause include:*

*...*

*5.12.2.3 Any provision of these Conditions which allows for an extension of time, and*

*5.12.2.4 Any disruption which is entirely beyond the Contractor’s control.*

*5.12.3 If an extension of time is granted, the Contractor shall be paid such additional time-related General Items, including for special non-working days, if applicable, as are appropriate regarding any other compensation which may already have been granted in respect of the circumstances concerned.”*

Relevant Sub-Clause interpretation (from the Guide):

Users are referred to pp65-69 of the GCC 2010 Guide which contain extensive details on these sub-clauses.

Recommended Sub-Clause interpretation related to the COVID-19 pandemic:

In the light of the world-wide COVID-19 pandemic, the whole of South Africa is also affected, which makes the remedy for a situation of a decimated workforce nearly impossible for a Contractor and its Suppliers of plant and materials to resolve.

#### **SCENARIO 1: Before Lockdown**

In the event that a decimated workforce (which is not limited to the workforce of the Contractor but also include that of its Subcontractors or Suppliers causes the Contractor to suffer delay to Practical Completion, the Contractor shall be entitled to make a claim in accordance with Clause 10.1 of GCC 2010, as read with Clauses 5.12, 5.12.1, 5.12.2, 5.12.2.4 and 5.12.3.

However, should the Engineer instruct the Contractor to suspend the progress of the Works, the Contractor may make a claim in terms of Sub-Clause 5.11.2, as read with Clauses 10.1, 5.12, 5.12.1, 5.12.2, 5.12.2.3, 5.12.2.4 and 5.12.3 of GCC 2010.

The burden of proof to claim a delay is set out in Clause 5.12.1 of GCC 2010.

#### **SCENARIO 2: During Lockdown**

The Contractor is obliged by the issuing of Government Gazette No 43148 of 25 March 2020 to not continue with carrying out the Works as compliance with Clause 4.3.1 of GCC 2010 is preventing the Contractor from discharging its obligations under the Contract.

The Contractor shall be entitled to make a claim in accordance with Clause 10.1 of GCC 2010, as read with Clauses 5.12, 5.12.1, 5.12.2, 5.12.2.4 and 5.12.3. The burden of proof to claim a delay is set out in Clause 5.12.1 of GCC 2010.

#### **SCENARIO 3: After Lockdown**

In the event that a decimated workforce (which is not limited to the workforce of the Contractor but also include that of its Subcontractors or Suppliers causes the Contractor to suffer delay to Practical Completion, the Contractor shall be entitled to make a claim in accordance with Clause 10.1 of GCC 2010, as read with Clauses 5.12, 5.12.1, 5.12.2, 5.12.2.4 and 5.12.3.

However, should the Engineer instruct the Contractor to suspend the progress of the Works, the Contractor may make a claim in terms of Sub-Clause 5.11.2, as read with Clauses 10.1, 5.12, 5.12.1, 5.12.2, 5.12.2.3, 5.12.2.4 and 5.12.3 of GCC 2010.

The burden of proof to claim a delay is set out in Clause 5.12.1 of GCC 2010.

## **GCC 2010 Clause 6: PAYMENT AND RELATED MATTERS**

### **Sub-Clause 6.8.4 Subsequent changes in legislation**

Clause 6 of GCC 2010 covers payment and related matters. Sub-Clause 6.8 covers adjustment in rates and/or prices. Sub-Clause 6.8.4 covers subsequent changes in legislation.

*If at any time within 28 days before the closing date for tenders or thereafter, there occur changes to any Act of Parliament, Ordinance, Regulation or By-law of any local or other statutory authority which cause additional or reduced cost to the Contractor (other than in terms of Clauses 6.8.2 and 6.8.3) arising from the execution of the Contract, such additional or reduced cost shall, after due consultation between the Employer and the Contractor, be determined by the Engineer and shall be added to or deducted from the Contract Price and the Engineer shall notify the Contractor accordingly, with a copy to the Employer.*

### **SCENARIO 1: Before Lockdown**

If the Declaration of the State of National Disaster on 15<sup>th</sup> March 2020 is considered a change in legislation, and the Contractor incurs additional costs as a result thereof, he can look to be compensated through this Clause. This could include costs incurred in putting additional preventative measures in place as required by the promulgated regulations. There is no requirement to submit a claim in accordance with Sub-Clause 10.1 The onus lies with the Contractor to provide proof of the additional costs incurred.

### **SCENARIO 2: During Lockdown**

If the Declaration of the State of National Disaster on 15<sup>th</sup> March 2020 and the subsequent lockdown announced on 23<sup>rd</sup> March 2020 are considered a change in legislation, and the Contractor incurs additional costs as a result thereof, he can look to be compensated through this Clause. This would comprise of those additional costs incurred as a result of the lockdown, but excludes any extension of the time for Practical Completion. There is no requirement to submit a claim in accordance with Sub-Clause 10.1 The onus lies with the Contractor to provide proof of the additional costs incurred.

### **SCENARIO 3: After Lockdown**

If after the lockdown has been lifted certain restrictions remain, or new restrictions introduced and the Contractor incurs additional costs in executing the Works as a result thereof, then he can look to be compensated through this Clause. There is no requirement to submit a claim in accordance with Sub-Clause 10.1 The onus lies with the Contractor to provide proof of the additional costs incurred.

## **GCC 2010 Clause 9: TERMINATION OF CONTRACTS**

### **Sub-Clause 9.1 Termination of Contract**

#### **Sub-Clause 9.1.2 State of Emergency**

*If a state of emergency is declared by the Government, or if riot, State of commotion, politically motivated sabotage, acts of terrorism or disorder emergency occur, and if any such event beyond the control of the Contractor shall materially affect the execution of the Works, or the supply of labour or materials, or physically interfere with access to the Site or constitute a material risk to persons or property associated with the Contract, the Contractor shall, unless and until the Contract is terminated in terms of this Clause, endeavour to complete the execution of the Works to the best of his ability;*

*Provided that:*

*9.1.2.1 Either the Employer or the Contractor shall, if such state of affairs continues for a period of at least 20 consecutive working days or for two or more periods aggregating not less than 40 working days in any period of six months, be entitled to terminate the Contract by written notice to the other party and, upon such notice being given, the Contract shall (save as to the rights of the parties under this Clause) terminate forthwith but without prejudice to the rights of either party in respect of any antecedent breach thereof; or*

*9.1.2.2 if the Employer shall undertake, in writing, to bear any resultant additional costs involved in continuing the Works, the Contractor shall not exercise his right to terminate the Contract.*

There is a fundamental difference between a State of National Disaster which was declared on 15<sup>th</sup> March 2020 and a State of Emergency. Even if a State of Emergency is declared at some later date, and continues for 20 consecutive working days, if the Employer elects to continue with the Works in accordance with 9.1.2.2 the Contractor is not entitled to terminate.

## 4. Claims Guidelines

No form of contract in the SAICE Suite of GCC contracts provides for an Extension of Time only. Clause 5.12.3 of GCC 2010 allows for an automatic entitlement for the payment of additional time-related General Items, for the extension of time granted. Also, provided that a Contractor complied with the provisions of Clause 10.1 of GCC 2010 in terms of claims procedure, and the applicable Clause allows him to do so, the Contractor will also be entitled to proven additional costs. Each claim must therefore include:

- 1: Extension of time
- 2: Time-related General Items for the extension of time claimed
- 3: Proven additional costs (those costs that are a function of production and not a function of time), where applicable

The Contractor must be alive to the possibility of his claim being time barred, if not notified within 28 days.

If the Claim arises from the Declaration of a National Disaster on 15<sup>th</sup> March 2020, the 28 day period (plus 3 special non-working days) expires on 15<sup>th</sup> April 2020.

If the Claim arises from the Lockdown announced on the 23<sup>rd</sup> March 2020, then the 28 day period expires on 24<sup>th</sup> April 2020.

## 5. Corrections to “*Dealing with the effects of COVID-19 in the ambit of the SAICE GCC Contracts*”

The following corrections apply to Version 2 of the document “Dealing with the effects of COVID-19 in the ambit of the SAICE GCC Contracts”:

*IN THE DISCLAIMER ON NUMBERED PAGE iii,*

*REPLACE*

**“General Conditions of Contract for Construction Works, Third Edition, 2015, 2nd Print”**

WITH

**“General Conditions of Contract for Construction Works, Third Edition, 2015, 1<sup>st</sup> , 2nd and 3<sup>rd</sup> Prints”**

*ON NUMBERED PAGE 1 OF 21, IN SECTION 1, UNDER THE TITLE **Background and Scope of this Document**,*

*REPLACE*

**“General Conditions of Contract for Construction Works, Third Edition, 2015, 2nd Print”**

WITH

**“General Conditions of Contract for Construction Works, Third Edition, 2015, 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Prints”**