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| --- |
|  |
| CONTRACT  (MINOR WORKS) |
|  |
|  |
| [INSERT CONTRACT NAME] |
| CONTRACT NO: [INSERT CONTRACT NUMBER] |

Parties

[COUNCIL NAME] ABN [ABN] of [COUNCIL ADDRESS] in the State of Queensland

('the *Principal*')

ACN       of      ,       in the State of

('the *Contractor*')

Recitals:

1. The *Contractor* has submitted an offer to carry out and complete the *WUC* and the *Principal* has accepted the *Contractor's* offer.
2. The parties wish to enter into this *Contract* to record the terms of their agreement.

The Parties Agree:

1. THE CONTRACT
   1. The *Contract* shall comprise the following documents:
2. This formal instrument of agreement;

1. [Annexure Part A to AS4906 – 2002 General Conditions of Contract](#AnnexureA);
2. [Annexure Part B to AS4906 - 2002 General Conditions of Contract](#AnnexureB);
3. AS4906 - 2002 General Conditions of Contract (which form a part of this Contract notwithstanding that a copy is not physically incorporated into this Contract);
4. [Annexure Part C – Scope of Works](#AnnexureC);
5. [Annexure Part D – Price Schedule](#AnnexureD); and
6. [Annexure Part E – Contractor’s Statutory Declaration](#AnnexureE).
   1. The *Contract* constitutes the entire, final and concluded agreement between the parties. It supersedes all prior representations, agreements, statements and understandings between the *Contractor* and the *Principal* (whether oral or in writing)*.*If there is any ambiguity, inconsistency, conflict or discrepancy between any of the documents listed in clause 1.1 of this formal instrument of agreement then the documents will take precedence in the order set out in clause 1.1 of this formal instrument of agreement, with the formal instrument of agreement being the highest in the order.
   2. Where any obligation described in the *Contract* has been carried out by the *Principal* or the *Contractor* prior to the date on which the *Contract* is executed, that obligation shall be taken to have been carried out pursuant to, and the carrying out of that obligation shall be governed by, the *Contract* as if the obligation had been carried out after the *Contract* was executed.
   3. Items or words in Annexure Part A which have been struck through are deleted from Annexure Part A, and *Items* or words which are underlined have been added to Annexure Part A.
   4. The *Contract* may be executed in any number of counterparts and when executed communication of the fact of execution to the other party may be made by sending evidence of execution by email. For clarity, the parties consent to the *Contract* being executed electronically using DocuSign or an equivalent electronic method to identify the parties.
7. PRIMARY OBLIGATIONS
   1. The *Contractor* must perform the *WUC* in accordance with the provisions of the *Contract* and otherwise comply with its obligations under the *Contract* at its expense.
   2. The *Principal* must pay the *Contractor* in accordance with the provisions of the *Contract* and otherwise comply with its obligations under the *Contract*.

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| **EXECUTION BY THE PRINCIPAL** | | |
|  |  |  |
| **SIGNED** for and on behalf of [COUNCIL NAME] by its duly authorised representative in the presence of:    Signature of witness    Name of witness (block letters)    Date | )  )  )  )  )  )  )  )  )  )  ) | Signature of authorised representative    Name of authorised representative    Date |

|  |  |  |
| --- | --- | --- |
| **EXECUTION BY THE CONTRACTOR (WHERE SIGNATORY IS A CORPORATION)** | | |
|  |  |  |
| **SIGNED** for and on behalf of the *Contractor* in accordance with its Constitution and Section 127 of the *Corporations Act 2001*:    Director    Name (block letters)    Date | )  )  )  )  )  )  )  )  )  )  )  )  ) | Director/Secretary    Name (block letters)    Date |

|  |  |  |
| --- | --- | --- |
| **EXECUTION BY CONTRACTOR (WHERE SIGNATORY IS NOT A CORPORATION)** | | |
|  |  |  |
| **SIGNED** for and on behalf of the *Contractor* by its authorised representative (who warrants and represents that it has the power to execute this *Contract* on behalf of the *Contractor*) in the presence of:    Signature of witness    Name of witness (block letters)    Date | )  )  )  )  )  )  )  )  )  )  )  )  ) | Signature    Name of authorised representative    Date |

|  |  |  |  |  |
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| ANNEXURE to the Australia Standard  General Conditions of Contract  AS4906-2002 | | **PART A** | | |
| This Annexure shall be completed and issued as part of the tender documents and, subject to any amendments to be incorporated into the *Contract*, is to be attached to the General Conditions of Contract and shall be read as part of the *Contract*. | | | | |
| *Item* | |  | | |
| 1 | *Principal*  (clause 1) | [COUNCIL NAME] | | |
| ABN | [ABN] | |
| ACN |  | |
| 2 | *Principal's* address | [COUNCIL ADDRESS] | | |
| 3 | *Contractor*  (clause 1) |  | | |
|  | ACN |  | |
|  | ABN |  | |
| 4 | *Contractor's* address |  | | |
| 5 | 1. *Date for practical completion*   (clause 1) | day of       20 | | |
|  | OR |  | | |
|  | 1. Period of time for *practical completion*   (clause 1) | days\* / weeks\* after *date of acceptance of tender* | | |
| 6 | *Contractor's* security |  | | |
|  | 1. Form   (clause 3) | Retention moneys\* / Bank guarantee\*  If neither deleted, retention moneys | | |
|  | 1. Amount or maximum  percentage of *contract sum*   (clause 3) | $      OR      % of the *contract sum*  If nothing stated, 5% of the *contract sum*  [Guidance note: For Building Contracts, this must not be more than 5% of the Contract Sum] | | |
|  | 1. If retention moneys, percentage of each *progress* certificate   (clause 3) | %, until the limit in *Item* 6(b) If nothing stated, 10% until the limit in *Item* 6(b) | | |
|  | 1. Time for provision (except for retention moneys)   (clause 3) | Within       days after the *date of acceptance of tender*  If nothing stated, within 28 days | | |
| 6A | Portable long service  (subclause 7A.1) | The:  *Principal*  *Contractor*  is to make payments and give notices under the *Building and Construction Industry (Portable Long Service Leave) Act 1991* (Qld)  If nothing selected the *Contractor* is to do so | | |
| 6B | Work, health and safety  (Clause 8A)  Engagement as *principal contractor* | The Contractor:  is engaged  is not engaged  as *principal contractor* under the W*ork Health and Safety Regulation 2011* (Qld).  If nothing selected, the *Contractor* is not appointed as *principal contractor*. | | |
| 7 | Amount of limit of indemnity for damage to other property of the *Principal*  (subclause 10.1(a)) | $  If nothing stated, the amount of the public liability insurance cover in *Item* 9 | | |
| 8 | The amount of contract works insurance over  (clause 11) | $  If nothing stated, the *contract sum* plus 20% | | |
| 9 | The amount of public liability insurance cover in respect of any one occurrence shall not be less than  (clause 12) | $  If nothing stated, $10,000 000 | | |
| 9A | The amount of professional indemnity liability insurance cover in respect of any one occurrence shall not be less than  (clause 2A.3) | $  If nothing stated, $1,000 000  Note// Professional indemnity insurance is only required if a part of *the Works* is to be designed by the *Contractor* | | |
| 10 | The time for giving possession of the *site* to the *Contractor*  (Clause 17) | within       days after *date of acceptance of tender*  if nothing stated, 14 days | | |
| 10A | The time for giving access to the *site* to the *Contractor* | within       days after *date of* *acceptance of tender*  if nothing stated, 14 days | | |
| 11 | Liquidated damages  (subclause 20.5) |  | | |
| (a) Rate  (b) Limit | $      per day  $      OR      % of the *contract sum*  If nothing stated, there is no limit | | |
| 12 | Delay Damages, rate  (subclause 20.6) | $      per day  If nothing stated, as reasonably assessed by the *Principal* | | |
| 13 | Defects liability period  (clause 21) | weeks  If no period stated, 26 weeks | | |
| 13A | *Variations*, percentage for profit and  overheads  (subclause 22.2) | Profit | | 5%  If nothing stated 5% |
| Overheads | | 5%  If nothing stated 5% |
| 14 | *Time for progress claims*  *(subclause 23.1)* | On the       day of each month  if no time stated, then on the last day of each month | | |
| 15 | The rate of interest on overdue payments  (subclause 23.4) | 3 % per annum  If no rate stated, 18% per annum | | |
| 16 | Arbitration  (subclause 27.3) |  | | |
|  | 1. The person to nominate an arbitrator | If no-one stated, the President of the Resolution Institute | | |
|  | 1. Rules for arbitration | If nothing stated, Rules 5-18 of the Rules of The Institute of Arbitrators & Mediators Australia for the Conduct of Commercial Arbitrations | | |

**Part B**

Annexure to the   
Australian Standard GeneralConditions of Contract

AS4906 - 2002

**Deletions, amendments and additions**

The following changes have been made to AS4906-2002:

1 INTERPRETATION AND CONSTRUCTION OF *CONTRACT*

Insert a new definition of '*building contract*':

'***building contract*** has the same meaning as given to that term in section 67AAA of the *Queensland Building and Construction Commission Act 1991* (Qld);’

Insert a new definition of *'business day'*:

'***business day*** means:

* + - 1. when used in the definition of payment period, has the same meaning as given to that term in section 67W of the Queensland Building and Construction Commission Act 1991 (Qld);
      2. otherwise, has the same meaning as in the security of payment legislation;’

Delete the definition of *'Contract* and replace with:

*'****Contract*** has the meaning in clause 1.1 of the *Formal Instrument of Agreement*;’

Insert a new definition of ‘*Contractor’s design documents’*:

‘***Contractor’s design documents*** means the drawings, specifications and other information, samples, models, patterns and the like required by the *Contract* to be created by the *Contractor* for the construction of *the Works*;’

Insert a new definition of '*Councillor*':

'***Councillor*** has the meaning given to that term in the *Local Government Act 2009* (Qld);'

Delete the definition of ‘*date of acceptance of tender*’ and insert:

‘***date of acceptance of tender*** means the date which appears on the written notice from the *Principal* to the *Contractor* advising that the *Contractor’s* tender or quotation (as the case may be) is successful or, where no such notice is issued means the date on which the *Contract* is executed by the last party to do so;’

Delete paragraph (a) of the definition of *'date of practical completion*' and replace with:

'(a) the date stated in a *certificate of practical completion* as the date on which *practical completion* was reached (which may be a date earlier than the date on which the *certificate of practical completion* is issued); or

Insert a new definition of ‘*payment period’*:

1. ‘***payment period***means:
   * + 1. if the Contract is a building contract, 15 business days;
       2. otherwise, 25 business days,
2. after the progress claim or final payment claim(as the case may be) is given to the *Principal;*

Insert a new definition of ‘*personal information*’:

1. ‘***personal information*** has the same meaning as given to that term in the *Information Privacy Act 2009* (Qld);’

Insert a new definition of ‘*personnel*’:

‘***personnel*** includes the officers, employees, agents, representatives, consultants and contractors (including, in respect of the *Contractor,* its subcontractors and subconsultants), of a party and any other person or entity for whom that party is vicariously liable and in respect of the *Principal* includes the *Councillors* of the *Principal* but does not include the *Contractor*;’

Delete paragraph (b) of the definition of *'qualifying cause of delay'* and replace with:

'(b) inclement weather occurring on or before the *date for practical completion*;

(c) any other cause which the *Contract* elsewhere states is a *qualifying cause of delay*;'

Insert a new definition of *'response* *period'*:

1. '***response******period***for a progress claim or final payment claim(as the case may be) means 15 *business* *days* after the claim is given to the *Principal*;'

Insert a new definition of '*security of payment legislation*':

1. ‘***security of payment legislation***means the *Building Industry Fairness (Security of Payment) Act 2017* (Qld) and any associated subordinate legislation and any associated subordinate legislation (as amended or replaced from time to time;’

Insert a new paragraph (e) at the end of clause 1 as follows (and make consequential drafting changes);

‘(e) a reference to a ‘legislative requirement’ includes:

* + - 1. Acts, Ordinances, regulations, by-laws, orders, awards and proclamations of the jurisdiction where *WUC* or the particular part thereof is being carried out;
      2. certificates, licences, consents, permits, approvals and requirements of organisations having jurisdiction in connection with the carrying out of *WUC*; and
      3. fees and charges payable in connection with the foregoing,

as amended or replaced from time to time; and

(f) unless the context otherwise requires, a reference to a ‘claim’ includes any claim, action, demand, proceeding, suit, defence or set-off, however arising including pursuant to a provision of the *Contract* (including any claim for a *variation,* an *EOT* or other adjustment of the *contract sum*), at law (including a breach of contract), under statute, in equity, in tort (including for negligence), in quasi-contract, for unjust enrichment and to the extent permitted by law, pursuant to any other principle of law, in connection with the *Contract,* *the* *Works* or *WUC*;

(g) the *Contract* is governed by the law of Queensland and the law of the Commonwealth of Australia in force in Queensland. The parties submit to the jurisdiction of the Courts of Queensland, relevant Federal Courts and Courts competent to hear appeals from them.’

2A design work

Insert a new subclause 2A as follows:

'**2A DESIGN WORK**

2A.1 (**Application**) This clause 2A only applies where a part of *the Works* is to be designed by the *Contractor*.

2A.2 (**Primary obligations**) Where any part of *the Works*:

* + - 1. has been designed by the *Contractor*, the *Contractor* must ensure, and warrants and represents, that such part of *the Works* has been designed and will be constructed in accordance with the requirements of the *Contract*;
      2. is to be designed by the *Contractor*, the *Contractor* must, and warrants and represents that it will:
         1. design and construct this part of *the Works* in accordance with the requirements of the *Contract*;
         2. ensure that the *personnel* engaged by the *Contractor* in connection with the *Contractor’s* design obligationsare suitably qualified and experienced; and
         3. exercise, and ensure that its personnel exercise, due skill, care and diligence in carrying out and completing the *Contractor’s* design obligations,

so that this part of *the Works*, when completed, is fit for the purpose stated in or to be reasonably inferred from the *Contract*.

2A.3 (**Discrepancies**) Notwithstanding clause 5, the *Contractor* shall not be entitled to an adjustment of the *contract sum* for any inconsistency, ambiguity or discrepancy in any document prepared by or on behalf of the *Contractor* for the purpose of carrying out *WUC* or between such a document and any other document prepared for the purpose of carrying out *WUC.*

2A.4 (**Professional indemnity insurance**) In addition to the insurances required elsewhere in the *Contract*, the *Contractor* must before commencing WUC, effect and maintain professional indemnity insurance with levels of cover not less than stated in Item 9A. The Contractor shall ensure that every design consultant engaged by the Contractor in connection with WUC*,* effects and maintains professional indemnity insurance with equivalent levels of cover. The insurance shall be maintained by the *Contractor* and the *Contractor’s* consultants until the final certificate is issued and thereafter for a period of 6 years.

2A.5 (**Intellectual property rights in design**) The Contractor warrants that the *Contractor’s design documents* and any design, materials, documents and methods of working provided by the Contractor, shall not infringe any patent, registered design, trademark or name, copyright or other protected right and indemnifies the other *Principal* against such respective infringements. The Contractor grants to the Principal an irrevocable licence to use the *Contractor’s* design documents for WUC and for the purpose of complying with the Principal’s obligations and exercising the Principal’s rights under the Contract. Such licence shall also include any subsequent repairs to, maintenance or servicing of (including the supply of replacement parts), or additions or alterations to, the Works and the copying of the documents for such purposes.’

4 SERVICE OF NOTICES

Insert a new subclause (b)(iv) as follows:

'(iv) the time shown on the sender's email server as the time at which an email containing the notice was successfully sent, unless the intended recipient proves that it was not at that time capable of being retrieved and read by the intended recipient at the intended recipient's email address.'

7A specific legislation AND OTHER REQUIREMENTS

Insert new clause 7A as follows:

**'7A SPECIFIC LEGISLATION AND OTHER REQUIREMENTS**

7A.1 (**Portable Long Service Leave**) The party identified in *Item* 6A shall pay any levy payable and give any relevant notices pursuant to the *Building and Construction Industry (Portable Long Service Leave) Act 1991* (Qld)in relation to *WUC*.

7A.2 (**Information Privacy**) If the *Contractor* collects or has access to *personal information* in order to carry out its obligations under the *Contract*, the *Contractor* must comply with Parts 1 and 3 of Chapter 2 of the *Information Privacy* *Act* *2009* (Qld) in relation to the discharge of its obligations under this *Contract* as if the *Contractor* was the *Principal*. Where the *Principal* consents to the *Contractor* subcontracting the whole or part of the *Contractor’s* obligations under this *Contract*, the *Contractor* must ensure that any subcontract with a subcontractor that will collect or have access to *personal information* contains a clause requiring the subcontractor to acknowledge and agree that it is a ‘bound contracted service provider’ as that term is defined the *Information Privacy Act 2009* (Qld).

The *Principal* collects *personal information* and non-personal information in connection with the *Contract* so that it can properly administer the *Contract* and otherwise carry out its functions as a local government authority. The *Principal* is authorised to collect this information under the *Local Government Act 2009* (Qld) and the *Local Government Regulation 2012* (Qld) and other law. The information will be accessible by employees of the *Principal* and third-party personnel engaged to assist the *Principal* in connection with the *Contract* or otherwise carrying out the functions of the *Principal*. Information may also be disclosed as otherwise permitted under the *Contract* or at law, including under the *Local Government Regulation 2012* (Qld) and the *Right to Information Act 2009* (Qld).

7A.3 (**Goods and Services Tax**) If GST, as defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth), is imposed on any supply made pursuant to this *Contract*, the amount payable for the supply is to be increased by the amount of that GST.

7A.4 (**Local government**) Nothing in the *Contract* shall be taken to fetter the power, rights or authority of the *Principal* as a local government authority under the *Local Government Act 2009* (Qld), the *Local Government Regulation 2012* (Qld) or any other legislative requirement.

7A.5 (**Compliance)** The *Contractor* must, and must ensure that to the extent relevant to them, its *personnel*, carry out *WUC* and perform the *Contractor's* other obligations under the *Contract* consistently with:

* 1. the *Contract*;
  2. applicable legislative requirements;
  3. applicable industry standards;
  4. the *Principal's* plans, policies, procedures, codes, standards and guidelines to the extent that these are made available by the *Principal* (whether to the public at large or to the *Contractor*);
  5. any other plans, policies, procedures, codes, standards and guidelines which are identified in the *Contract* or which are otherwise applicable to *WUC*.

The *Contractor* must use its best endeavors to identify and obtain copies of anything mentioned in this clause 7A.

7A.6 (**Interpretation**) In the event of any inconsistency, ambiguity, discrepancy or conflict in or between anything mentioned in subclauses 7A.1 to 7A.5, the *Contractor* must promptly notify the *Principal* who shall direct the *Contractor* as to the interpretation to be followed. In the absence of such a *direction*, the *Contractor* shall adopt the interpretation which places the higher or more onerous obligation on the *Contractor*.'

8A Work Health and safety

Insert new clause 8A as follows:

**'8A WORK HEALTH AND SAFETY**

8A.1 (**Interpretation**) In this clause:

* 1. ‘*Act*’ means the Work Health and Safety Act 2011 (Qld);
  2. ‘*Regulation*’ means the *Work Health and Safety Regulation 2011* (Qld);
  3. ‘*inspector*’, ‘notifiable incident’, ‘regulator’ ‘structure’ and ‘workplace’ have the same meanings as in the Act;
  4. ‘*principal contractor*’ has the same meaning as in the *Regulation*;
  5. ‘*statutory notice*’ means any infringement notice, prohibition notice, improvement notice or non-disturbance notice issued by an authority pursuant to the *WHS Laws* and any electrical safety protection notice or unsafe equipment notice issued by an Authority pursuant to the *Electrical Safety Act 2002* (Qld);
  6. ‘*WHS*’ means work, health and safety;
  7. ‘*WHS Laws*’ means the *Act*, the *Regulation* and all other applicable work health and safety legislation, regulations, rules, Codes of Practice and Australian Standards.

8A.2 (**Appointment as principal contractor**) Where *Item* 6B states that the *Contractor* is appointed as *principal contractor*, then from the *date of acceptance of tender*:

* 1. the *Principal* engages the *Contractor* to be the *principal contractor* under the *Work Health and Safety Regulation 2011* (Qld) in relation to *WUC* and authorises the *Contractor* to:
     + - 1. have management and control of the *site* and any other *workplace* at which *WUC* is carried out; and
         2. discharge the duties as person conducting a business or undertaking and the additional duties of the *principal contractor* imposed under the *Regulation*;
  2. the Contractor accepts the engagement as principal contractorfrom the Principal and agrees to fulfil all requirements and give effect to that engagement prior to the commencing any WUC; and
  3. the Contractor will comply with and discharge all obligations imposed on the Contractor, as principal contractor, by the WHS Laws.

If *Item* 6B states that the *Contractor* is not engaged as *principal contractor*, the *Contractor* must comply with all *directions* of the *Principal* relating to *WHS*.

8A.3 (**Contractor’s primary obligations**) From the *date of acceptance of tender*, the *Contractor* must:

* 1. comply with and discharge all obligations imposed on the Contractor as a person who conducts a business or undertaking and otherwise, by the WHS Laws;
  2. consult with the Principal and consult with the designers of the whole or any part of a structure to be constructed under the Contract, about how to ensure that risks to health and safety arising from the design are eliminated during construction of WUC or, if it is not reasonably practicable to eliminate the risks, minimise, so far as is reasonably practicable;
  3. in performing its obligations under the Contract, take into account and take appropriate action having regard to any information given to the Contractor by the Principal or any other person, about hazards and risks at or in the vicinity of the workplace where WUC is being carried out,
  4. in performing its obligations under the *Contract*, must ensure that any person performing *work* holds the necessary qualifications competencies, licences, accreditations, certifications, permits, clearances and other authorisations which may be required to perform the *work*;
  5. comply with any direction on *WHS* issued by a *WHS Authority issued* in relation to the *WUC*;
  6. consult, co-operate and co-ordinate *work* with the *Principal* in relation to any health and safety matter arising out of or in connection with *WUC, the Contract* or duties held by either the *Principal* or the *Contractor* under *WHS Law;* and
  7. without limiting paragraph 8A.2(c) ensure its officers, workers and agents, subcontractors and its subcontractors’ officers, workers and agents, discharge their respective duties under the WHS Lawsin connection with WUC.

8A.4 (**Contractor’s WHS systems and documentation**)The *Contractor*:

* 1. must ensure, and warrants and represents, it has made its own enquiries in connection with compliance with *WHS Laws,* including in relation to hazards or risks on the *site*, and has not relied on any representations, warranty or information that has been provided by the *Principal;*
  2. must ensure, and warrants and represents, that it has adequate WHS systems in place having regard to the nature of its obligations under the Contract and any hazards specific to any workplace at which an obligation under the Contract is to be carried out;
  3. must inform the Principal of all its WHS policies, procedures or measures implemented for the performance of its obligations under the Contract;
  4. must prepare and adopt a WHS plan and other documentation which:
     + - 1. addresses all the specific *WHS* hazards and issues relevant to the *Contractor’s* obligations under the *Contract* which can be reasonably anticipated or ascertained from time to time during the performance of the *Contractor’s* obligations under the *Contract*;
         2. documents the system and control methods to be implemented for the performance of its obligations under the *Contract*,

and must update such documentation as required from time to time to ensure that it complies with this subclause 8A.4(c) at all times during the performance of its obligations under the *Contract*;

* 1. must:
     + - 1. unless otherwise directed by the *Principal*, prior to commencing *WUC*, submit the *Contractor’s WHS* plan and other documentation (including the documentation required elsewhere under the *Contract*) to the *Principal* for review; and
         2. within the time directed by the *Principal*, submit to the *Principal* for review any other *WHS* documentation that the *Principal* directs it to prepare,

and if the *Principal* notifies the *Contractor* that all or part of the *WHS* documentation is not suitable, at its cost amend and resubmit the relevant *WHS* documentation;

* 1. must, if the *Principal* at any time during the performance of the *Contractor’s* obligations under the *Contract* requests the *Contractor* to review any of the *WHS* documentation, promptly and within the time required by the *Principal*, review any or all of the *WHS* documentation in accordance with the *Principal’s* request and either:
     + - 1. submit revised documentation to the *Principal*; or
         2. provide written confirmation that the *WHS* documentation is appropriate to manage the risks associated with the *Contractor’s* obligations under the *Contract*;

8A.5 (**Notices and reports**)The *Contractor* must:

* 1. if a *notifiable incident* occurs at the *workplace* at which *WUC* is being undertaken:
     + - 1. immediately notify the regulator and the *Principal* of the *notifiable incident*; and
         2. take all reasonably practicable steps to secure the *site* where the *notifiable incident* occurred until an *inspector* arrives at the *site* or any earlier time that an *inspector* directs;
  2. provide a copy of every *statutory notice* received from an *authority* in connection with *WUC* to the *Principal* within 1 *business day* after the notice is received; and
  3. within the time directed by the *Principal* make available to the *Principal* all project *site* accident data which must include injuries and damage resulting from accidents or any incidents involving harm to a third party, particularly where legal action may be taken against them or the *Principal*.

8A.6 (**Site specific induction**) The *Contractor* must ensure that all *personnel* of the *Contractor* working at the *site* receive a site-specific induction and that each person visiting the *Contractor* or its *personnel* at that *site* receives a site-specific induction or is accompanied by someone who has received such an induction.

8A.7 (**Safety compliance**) If during the performance of *WUC* the *Principal* informs the *Contractor* that it is of the opinion the *Contractor* is:

* 1. not conducting WUC in compliance with the WHS Act, the WHS Regulation, codes of practice or relevant policies and procedures; or
  2. conducting WUC in such a way as to endanger the health and safety of the Contractor*’s* personnel, the Principal’spersonnel or the general public,

the *Principal* may direct the *Contractor* to promptly remedy the breach or take any other action permitted by the *Contract*, including suspending the whole or part of *WUC* pursuant to clause 19 until such time as the *Contractor* satisfies the *Principal* that *WUC* can be resumed in a safe manner.

12A.8 (**Indemnity**) The *Contractor* shall indemnify and keep indemnified the *Principal* against any claim which may be brought against the *Principal* and any cost, expense, fine, penalty, damages or loss which may be imposed upon, suffered or incurred by the *Principal* in connection with a breach by the *Contractor* of its obligations under this clause 8A but the indemnity will be reduced to the extent that the act or omission of the *Principal* caused or contributed to the claim or loss.’

11 INSURANCE OF THE WORKS

In the last paragraph delete 'be in the joint names of the parties' and insert 'note the *Principal* as an interested party' and insert ‘, consultants and’ before the word ‘subcontractors’.

12 PUBLIC LIABILITY INSURANCE

In subparagraph (b) of the second paragraph, insert ‘, consultants and all’ before the word ‘subcontractors’.

Delete subclause 12(a) and replace with:

'(a) be in the name of the *Contractor* with the *Principal* noted as an interested party;'

13 INSURANCE OF EMPLOYEES

In the last paragraph insert the words ‘consultants and’ before the word ‘subcontractors’.

17 SIte

Insert the following new paragraph before the first paragraph of clause 17:

‘If a part of *the Works* is to be designed by the *Contractor*, the *Principal* shall by the time stated in Annexure Part A, give the *Contractor* access to the *site* sufficient to enable the *Contractor* to commence and carry out the Contractor’s design obligations in accordance with the *Contract*. The *Principal* shall notify the *Contractor* in writing of the date when access will be available.’

Delete the word ‘Possession’ in the second paragraph and replace it with ‘Access to or possession’.

18 Defective work

Insert ‘redesign’ after the word ‘replace’ in subclause 18.2(c).

22 Variations

In the second paragraph of subclause 22.1, insert ‘, the *Contractor’s design documents*’ after the word ‘*WUC*’.

In subclause 22.2 delete:

‘(d) reasonable rates or prices, which shall include a reasonable amount for profit and overheads,

and any deductions shall include a reasonable amount for profit but not overheads.’

and insert:

‘(d) reasonable rates or prices, which shall include the percentage stated in *Item* 13A for profit, and if the *Principal* considers it reasonable to do so, the percentage stated in Item 13A for overheads,

and any deductions shall include the full value of the deducted work (including profit and overheads), unless the *Principal* considers it reasonable to exclude an amount for overheads, in which case the amount so excluded shall not exceed the percentage stated in *Item* 13A for overheads.

23 PAYMENT

Delete the second paragraph of subclause 23.1, and insert:

‘Unless otherwise directed by the *Principal* with each progress claim, the *Contractor* must submit the statutory declaration included in Annexure Part E and any other documentation which the *Contract* elsewhere requires to be submitted with a progress claim.'

In the first paragraph of subclause 23.2, delete 'within 14 days after receiving such a progress claim’ and replace with ‘before the end of the *response period*’.

After the first paragraph of subclause 23.2, insert :

‘The party entitled to receive payment must provide a tax invoice in the form required by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth). If the payment is a progress payment to be made by the *Principal* to the *Contractor*, then the tax invoice shall be in the amount of the progress certificate and must be provided to the *Principal* within 5 *business days* of receipt of such progress certificate.’

In the second paragraph of subclause 23.3 delete ‘Within 21 days after receipt by the *Principal* of such a progress claim’ and replace with ‘Before the end of the *payment period*’.

In the second paragraph of subclause 23.3, delete ‘within 42 days after the expiry of the defects liability period’ and replace with ‘before the end of the *response period*’.

Delete the third paragraph of subclause 23.3 and replace with:

'If the final certificate shows that an amount is due to the *Contractor*, then the *Principal* shall pay the amount of the final certificate before the end of the *payment period*. Otherwise, the *Contractor* shall pay the *Principal* the amount of the final certificate within 15 *business days* after receiving the final certificate.’

25 DEFAULT OR INSOLVENCY

Insert a new sub-subparagraph in subclause 25.2(a) as follows:

‘(v) failing to perform properly the *Contractor’s* design obligations under the *Contract*;’

Insert the following at the end of subclause 25.5(b)(i):

‘and the *Contractor’s* *design documents*’

Insert a new paragraph at the end of subclause 25.10 as follows:

‘If the *Principal* has terminated the *Contract*, the *Principal* may also, without payment of compensation, take possession of and use the *Contractor’s design documents*.’

25A TERMINATION FOR CONVENIENCE

Insert new clause 25A as follows:

**'25A Termination for Convenience**

The *Principal* may at any time terminate this *Contract* by giving 5 business days written notice to the *Contractor*.

If the *Principal* exercises its right under this clause 25A, then:

(a) the *Contractor* must comply with all reasonable directions of the *Principal* in connection with the termination;

(b) the *Principal* may complete the uncompleted part of the works itself or have it completed by others;

(c) the *Principal* may, without payment of compensation to the *Contractor*, take possession of and use any documents (including the *Contractor’s design documents*) and any goods which have become the property of the *Principal* and the *Principal* shall have a right of access to any premises at which those things are held in order to recover possession of those things;

(d) the *Contractor* shall, subject to the *Contract*, be entitled to payment of:

* + 1. costs reasonably necessarily and not prematurely incurred by the *Contractor* up to the date of termination; and
    2. an additional amount equal to 5% of the balance of the *contract sum* unpaid at the time of termination after deducting any amount payable under this clause 25A,

except that the total amount payable to the *Contractor* under the *Contract* shall not exceed the amount which would have been payable had the *Contract* not been terminated and the *Contractor* completed the work in accordance with the *Contract*.

The *Principal* shall not be liable upon any other claim in connection with the termination, including, without limitation a claim for loss of profit, income, opportunity or contract.'

**27 DISPUTE RESOLUTION**

In subclause 27.2 delete 'or to agree on methods of doing so' and ‘or methods’ from the first paragraph.

[DELETE THIS PAGE AND INSERT SCOPE OF WORKS INTO EXECUTION COPY OF CONTRACT]

[DELETE THIS PAGE AND INSERT PRICE SCHEDULE INTO EXECUTION COPY OF CONTRACT]

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| ***Oaths Act 1867***  **STATUTORY DECLARATION**  QUEENSLAND  TO WIT  I,       of       in the State of Queensland, do solemnly and sincerely declare that, in relation to the Contract between [COUNCIL NAME] and       (**Contractor**), for the       (**Contract**):   * 1. I hold the position of      . Having made all reasonable inquiries, I am in a position to know the facts contained herein and am duly authorised by the Contractor to make this declaration on its behalf.   2. All subcontractors, suppliers, and consultants ('subcontractors') of the Contractor have been paid all that:      1. is due and payable to them up to the date of submission by the Contractor of the payment claim with which this declaration is submitted in respect of their part of the work under the Contract; and      2. the subcontractors have claimed is due and payable to them up to the date of submission by the Contractor of the payment claim with which this declaration is submitted in respect of their part of the work under the Contract,   except as disclosed in paragraph 3.   * 1. The Contractor has not paid the following amounts which are due and payable to subcontractors or which subcontractors claim are due and payable to them:  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | | **Name of subcontractor** | **Date of claim** | **Date work the subject of the claim carried out** | **Amount claimed** | **Amount paid** | **Reason for not paying amount claimed** | |  |  |  |  |  |  | |  |  |  |  |  |  |  * 1. All the Contractor's employees who at any time have been engaged on work under the Contract by the Contractor have been paid, in accordance with the relevant award or industrial instrument, all moneys due and payable to them up to the date of submission by the Contractor of the payment claim with which this declaration is submitted (including, without limitation building industry superannuation and long service leave levies), except as disclosed in paragraph 5.   2. The Contractor has not paid the following amounts which are due and payable to workers:  |  |  |  |  | | --- | --- | --- | --- | | **Name of worker** | **Amount unpaid** | **Basis of payment (e.g. wages)** | **Reason for not paying amount claimed** | |  |  |  |  | |  |  |  |  |  * 1. All subcontracts and employee agreements are in accordance with applicable law and any specific requirements in the Contract.   2. The Contractor is not aware of any current or potential legal action against it which it has not previously disclosed to the Principal.   3. The Contractor remains able to pay its debts as and when they become due and payable. None of the events described in subclause 25.11(a), (b), (c) or (d) of the AS4906-2002 General Conditions of Contract (or any analogous event) has occurred in relation to the Contractor since the date on which the Contractor submitted its tender for the Contract to the Principal.   4. No non-conforming building products or building products the subject of a warning statement issued by the Minister have been incorporated into the Works and all required information has been obtained and provided to the Principal (where ‘building product’, ‘Minister’, ‘non-conforming building product’ and ‘required information’ each have the respective meanings given to those terms in the *Queensland Building and Construction Commission Act 1991* (Qld)).   5. All insurances which are required to be effected and maintained under the Contract remain in place.   And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1867*.  I declare that the contents of this statutory declaration are true and correct. Where the contents of this declaration are based on information and belief, the contents are true to the best of my knowledge and I have stated the source of that information and grounds for the belief.  I understand that it is a criminal offence to provide a false matter in a declaration, for example, the offence of perjury under section 123 of the *Criminal Code Act 1899* (Qld).  I state that:   1. This declaration was made in the form of an electronic document.\* 2. This declaration was electronically signed.\* 3. This declaration was made, signed and witnessed under part 6A of the *Oaths Act 1867.*\*   *(\*delete whichever statements are not applicable)* | | | |
| **DECLARED** by  ……………………………………………..  [insert full name of declarant]  at ………………………………………….  [insert place where declarant is located] | | )  )  )  )  )  )  )  )  )  ) | ……………………………………………..  [signature of declarant]  ……………………………………………..  [date] | |
| In the presence of:  ……………………………………………..  [insert full name of witness]  ……………………………………………..  [insert type of witness]  ……………………………………………..  [insert name of law practice / witness’s  place of employment]\*  **\****delete if not applicable* | | )  )  )  )  )  )  )  )  )  )  )  )  )  )  )  ) | ……………………………………………..  [signature of witness]  ……………………………………………..  [date] | |
| ***For special witnesses to complete – Tick as applicable*** | | | | |
|  | I am a special witness under the Oaths Act 1867. (see section 12 of the Oaths Act 1867) | | | |
|  | This document was made in the form of an electronic document. | | | |
|  | I electronically signed this document. | | | |
|  | This statutory declaration was made, signed and witnessed under part 6A of the Oaths Act 1867 – I understand the requirements for witnessing a document by audio visual link and have complied with those requirements. | | | |