Commission of Inquiry into the CFMEU and Misconduct in the Construction Industry

BPIC and Transport Projects – Bundle 3

Contract Document List

Queensland Government

C7871 **Contract Number** **CN-13712**

This Contract Document List, Form C7871, identifies all the documents which comprise the Contract

Date of Acceptance of Tender 16 December 2022

Contractor

Name	ACN / ABN
GEORGIOU BMD JOINT VENTURE	**20 185 567 437**

Description of Contract

CENTENARY MOTORWAY JINDALEE
Centenary Bridge Upgrade – Stage 2

This Contract Document List consists of the following:

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	Total Number of Pages	9

Contract Document List

Queensland Government

Contract Number	CN-13712

Section A
Contract Correspondence

Document Reference	Date	From	General Description
C7871	16 Dec 2022	Principal	Contract Document List
LOA	16 Dec 2022	Principal	Letter of Acceptance
C7872	16 Dec 2022	Principal	Requirements to be Executed by the Contractor

Section B
Post Tender Correspondence (PTC)

Document Reference	Date	To/From	General Description
PTC01	08/11/21	Principal/GBJV	Unusually low bid
PTC02	15/11/21	Principal/GBJV	Clarification on proposal to close existing footpath at Spinkbrae St, Fig Tree Pocket
PTC03	29/11/21	Principal/GBJV	Clarification on compliance with Traffic Provisions
PTC04	30/11/21	Principal/GBJV	PTC-RFI-002 Unusually low bid response clarification
PTC05	07/12/21	Principal/GBJV	Access to QUU Pump Station at SP19
PTC06	07/12/21	Principal/GBJV	Additional Level 2 Bridge Inspection Reports
PTC07	09/12/21	Principal/GBJV	Tender Schedule M1 – Schedule of rates discrepancies
PTC08	17/12/21	Principal/GBJV	Status of tender assessment progress
PTC09	01/03/22	Principal/GBJV	Extension of Tender Validity Period
Post Tender Correspondence during Envelop 3			
PTC01	Various	Principal/GBJV	BPIC stretch targets: ▪ Agreed stretch targets ▪ Confirmation of total amount ▪ Lodgement of Industrial Engagement with Fairwork Commission
PTC02	Various	Principal/GBJV	Cost escalation of tender validity: ▪ Escalation meeting minutes ▪ GBJV initial cost escalation proposal

			▪ Principal's cost escalation determination ▪ GBJV acceptance of determination
PTC03	Various	Principal/GBJV	Changes to GCOC in relation to Safety Governance: ▪ Updated GCOC Special edition (with tracked changes) ▪ Updated GCOC Special edition (clean copy) ▪ Closure of TMR comments spreadsheet ▪ Closure of TMR comments email ▪ WHS specification ▪ Template for Information Sharing Protocol
PT04	08/12/2022	Principal/GBJV	Inclusion of income protection in GBJV's greenfield agreement.
PT05	Various	Principal/GBJV	Updated construction program
PT06	26/10/2022	Principal/GBJV	Letter of comfort to progress industrial matters
PT07	Various	Principal/GBJV	GBJV Proposed temporary works: ▪ Sequencing and methodology ▪ Permanent works plans ▪ Temporary works plans *The documents included in this PTC are supporting documents for the application of the development approval of prescribed tidal works and the removal, destruction, or damage of a marine plant.

Contract Document List

Queensland Government

Section C
The Tender

Contract Number: CN-13712

Document Reference	Date Signed	Document Description
Tender Submission	26 Oct 2021	Gerogiou BMD Joint Venture Winning Tender Submission

Contract Document List

Queensland Government

Section D
Notice to Tenderers (NTTs)

Contract Number: CN-13712

Notice Number	Date of Issue	General Description
1	6/9/2021	3 – Envelope Process.
2	7/9/2021	Request For Information (RFI) Template Attachment – Request for Information Template – Stage 2.
3	7/9/2021	Inclusion of PSTS 09 – Ground Improvement Attachment – 7.11 PSTS-09 – Ground Improvement.
4	10/9/2021	Additional Electronic Project Data Attachments – 1. Civil CAD IFT (215MB) – CAD (DWG) files of all civil components including associated plot styles and SHX files; 2. Structural CAD IFT (177MB) – CAD (DWG) drawings related to the bridge; 3. TMR Survey (3.2MB) – Survey files for the project.
5	10/9/2021	C7820 – Information for Tenderers – Re-issued. Attachments – C7820.TIC (revised).
6	14/9/2021	Any questions for the Harbour Master / Maritime Safety in relation to the project are to be submitted in writing to [redacted] through the RFI process. Direct contact details will be provided to the successful proponent post tender award. Attachments - NIL
7	14/9/2021	Additional Electronic Project Data – 2 Attachments – 1. 12d Files includes 5 x 12DAZ files; 2. REVIT – 3 subfolders for the North Bound Bridge, Retaining wall and Southbound superstructure; 3. Survey Grid Transformation includes 2 x CHAIN files.
8	16/9/2021	Bridge Reports Attachments – Zip folder containing 60605610-PD-REP-BRI-0020-1 – (AECOM) level 3 Bridge Inspection Report and 256266-REP-BB-001-1 – (Aurecon) Level 3 Inspection.
9	16/9/2021	The Standard Drawaing for Pontoon will replace the existing 19.0 AI_Standard Drawing for Pontoon included in 7.22 Reports of CN13712: Part 7 – Project Specific Documents. Attachments – 19.0 Standard Drawing for Pontoon.
10	16/9/2021	Standard Drawing for Pontoon – Re-issued Attachments – 17.1 AI_SB_Bridge 8618_Drawings_NTT_10
11	17/9/2021	Amendments to Tender Schedules and PSTS 17 – Miscellaneous Principal Item – Re-issued. Attachments – 7.19 PSTS-17 – Miscellaneous Principal Items – NTT_11
12	17/9/2021	Progress of Project's Development Assessment (DA) Applications - 1 Attachments – SARA pre-lodgement meeting minutes
13	17/9/2021	Stage 2: Request For Tenders Key Tendering Milestones An extension of time of 1 week is granted. Tenders must be received no later than Tuesday 26 October 2021 14:00hrs (AEST). Pre-lodgement conference is confirmed for Tuesday 5th October 2021 10:00 – 11:00hrs at Floor 6, 313 Adelaide Street, Brisbane City. A meeting invite would be sent separate to this NTT13. Attachments - Nil
14	21/9/2021	1. Amendments to CN13712: Part2 – Conditions of Tendering 2.2 C7822 – Conditions of Tendering 2. Amendments to CN_13712: Part 3 – Tender Forms and Tender Schedules. 3. Amendments to CN13712: Part 4 – General Conditions of Contract. 4. Amendments to Part 5 – Additional Contract Requirements 5. Amendments to CN-13712: Part 7 – Project Specific Documents Attachments – 2.2 C7822 – NTT_14; 3.3 C7810 – NTT_14; 4.1 C7830 – NTT_14; 5.1 C7836 – NTT_14; 7.07a PSTS-06 – KRA – NTT_14; 7.07b PSTS-06 - Appendix A – NTT_14.

Contract Document List

Queensland Government

Section D
Notice to Tenderers (NTTs)

Contract Number: CN-13712

Notice Number	Date of Issue	General Description
15	21/9/2021	Stage 2 RFT – Tender Submission – Page Limits – 1 Attachments – Nil.
16	21/9/2021	PSTS-17 – Miscellanous Principal items – Re-issued. Attachments – 7.19 PSTS-17 – Miscellaneous Principal Items – NTT_16
17	22/9/2021	Additional Electronic Project Data - 3. Attachments – MR100634 BSCG Extract_20180803.12da; Playground.12daz
18	22/9/2021	MRTS56.1 – Construction Surveying. Attachments – 6.078 MRTS56.1 NTT18
19	23/9/2021	Amendments to Tender Schedules Attachments - Nil
20	23/9/2021	Withdrawal of Tender Schedules C7810 M2 and C7810 M2A. Attachments – Nil.
21	28/9/2021	Withdrawal and Re-issue of MRS02, MRTS02 and MRTS02.1 – Provision of Traffic. Attachments – 6.005 MRS02_NTT21; 6.006 MRTS02_NTT21; 6.007 MRTS02.1_NTT21
22	27/9/2021	Asbestos and Environmental reports – issued. Attachments – 191119 CoA_18-17746 – Brisbane River Bridge Centenary Highway (Inbound) SID 8619; 191120 CoA_18-14745 – Brisbane River Bridge Centenary Highway (outbound) SID 8618; 60605610_Centenary Bridge Preliminary Design_EAR_RevB1; 60605610_Terrestrial Ecology Report_Draft; 60605610-PD-REP-GN-0016-B; 60605610-PD-REP-HYD-0027-B.
23	28/9/2021	Structure Drawings Clarifications Attachments - Nil
24	30/9/2021	Amendments to Tender Schedules. *PSTS-16 – Southbound bridge (29 Pages)"* is withdrawn to be replaced by the attached *"7.18 PSTS-16 – Southbound bridge NTT24 (29 Pages)".* Attachments – 7.18 PSTS-16 -Southbound bridge NTT24.
25	30/9/2021	Stage 2 RFT – Tender Submission – Page Limits - 2. Attachments - Nil
26	30/9/2021	Water Quality Bio-Retention Clarfications. Attachements - Nil
27	1/10/2021	Progress of Project's Development Assessment (DA) Application – 2 Attachments – BCC Pre-lodement meeting minutes dates 23 August 2021; Request for Owner's consent submitted to BCC dated 10 September 2021; Request for Owner's consent submitted to Department of Resources dated 10 September 2021.
28	1/10/2021	Part 6 – Standard Documents – Anneuxures MRTS28.1 Contractor's Site Facilities and Camp clarifications. Attachments - Nil
29	5/10/2021	Amendments to Tender Schedules. The following documents are withdrawn – "6.058 MRTS30.1" – Ashpalt Pavement, Technical Specification Annexure, July 2020 and "6.126 MRTS84.1" – Deck Wearing Surface, Technical Specification Annexure, July 2019. These will be replaced with Attachments - "6.058 MRTS30.1 – NTT_29" – Asphalt Pavement, Technical Specification Annexure, July 2020 and "6.126 MRTS84.1 – NTT_29" – Deck Wearing Surface, Technical Specification Annexure, July 2019.
30	5/10/2021	Noise Barrier Clarifications. Amendments to Tender Schedules. Withdrawal of 2 listed work items. Amendments to Part 6 – Standard Documents - the following Standard Documents are withdrawn: 6.034 MRS15 – Noise Fences - Specification (Measurement); 6.035 MRTS15.1 – Noise Fences, Technical Specification Annexure; 6.036 MRTS15 – Noise Fences, Technical Specification. Attachments - NIL
31	7/10/2021	Clarifications in relation to Tender Submission and Evaluation Processes.. Attachments - Nil

Section D
Notice to Tenderers (NTTs)

Contract Number: CN-13712

32	7/10/2021	Clarifications in relation to Provision of Traffic requirements under the Contract. Attachments - Nil
33	7/10/2021	Copy of the slideshow presentation package and attendee list for the Pre-Lodgement Conference held on 5 October 2021 at 313 Adelaide Street. No separate attachments – the items are embedded in the NTT document.
34	11/10/2021	Quality Assurance Clarification Attachments – Nil.
35	11/10/2021	Document - Tier 1 Bridge Heavy Load Assessment Criteria, August 2013 will form part of CN-13712: Part 7 – Project Specific Documents. Attachment – Tier1BridgeHeavyLoadAssessmentCriteria2013.pdf
36	11/10/2021	Part 3 – Tender Forms and Tender Schedules. Clarification is provided in relation to C7810 Tender Schedule EC1 – Key Response Area (KRA): KRA5 – Project Delivery Optimisation d) Claims and sub-section d) i). Attachments – Nil.
37	11/10/2021	Clarification for Marine Contamination Information and Water Quality Monitoring. Attachments - Nil
38	11/10/2021	Clarifications on Development Approvals Status. Attachments - Nil
39	11/10/2021	Response to Pre-Lodgement Conference Query – Assurance and Compliance. Attachments - Nil
40	11/1012021	Request for Information Process: C7821 – Conditions of Tendering and C7822 – Conditions of Tendering Annexure. Restating the process as per NTT2. The cut-off for RFI's to be sent under CN-13712 is Tuesday, 12 October 2021, 1400hrs AEST. Attachments - Nil
41	12/10/2021	Amendments to Part 3 – Tender Forms and Tender Schedule: Additional work items to 3.4 Tender Schedule of Rates of the CN-13712: Part 3 – Tender Forms and Tender Forms and Tender Schedules. Amendments to Part 6 – Standard Documents: 6.055 MRTS28.1 is hereby withdrawn and replaced by the attached 6.055 MRTS28.1_NTT41. Notes amendments to Clause 3 Item 20101.02P & Item 20101.03P. The administrator will confirm prior to the pre-start meeting which of the above options will be ordered. Attachments – 6.055 MRTS28.1_NTT41
42	12/10/2021	Amendments to Tender Schedules. MRTS14.1 – Road Furniture – Technical Specification Annexure is withdrawn and replaced with the attached 6.033 MRTS14.1_NTT42. PSTS-17 Miscellanous Principal Items – NTT_16 is withdrawn and replaced with attached 7.19 PSTS-17 – Miscellaneous Principal Items – NTT_42 Attachments – 6.033 MRTS14.1_NTT42; 7.19 PSTS-17 – Miscellanous Principal Items NTT42; BSD 10142; BSD 10306.
43	13/10/2021	Centenary Bridge Headstock Strenghtening drawings - Issued. Attachments – Jindalee Bridge NB Special Maintenance drawing.
44	13/10/2021	Amendment to Tender Schedules. Clarification on Active Transport path pavement markings. Attachments - NIL
45	14/10/2021	Clarification in relation to Permit Requirements for River Dredging. Attachments - NIL
46	14/10/2021	Clarification for Southbound Bridge Demolition and additonal Asbestos reports - Issued. Attachments – CoA_18-15406_Brisbane River Bridge Centenary Highway (Inbound) SID 8619; Asbestos_Location_49293; Asbestos_Location_49294; Asbestos_Location_49296; Asbestos_Location_49297; Asbestos_Location_49299 & Asbestos_Location_49301.
47	14/1012021	Amendments to Tender Schedules and Drawing 844600 – Signs and Pavement Marking Plan – Notes and Legend (Rev 0) is withdrawn, to be replaced by the attached Drawing 844600 (Rev 1). Attachments – 844600 Rev 1

Section D
Notice to Tenderers (NTTs)

Contract Number: CN-13712

48	14/10/2021	Noise Barrier and Pavement Details changes. Reissue of Drawing 844509 – General Arrangment Layout Plan. Sheet 3 of 3 and Drawing 844588 – Rev 1 – Pavement Plan Notes and Legend – re-issued. Amendments to Tender Schedules, MRTS30.1 Asphalt Pavements – Technical Specifications Annexure is withdrawn and replaced by 6.058 MRTS30.1 Asphalt Pavements – Technical Specifications Annexure – NTT48 Attachments – 844509 Rev 1; 844588 Rev 1; 6.058 MRTS30.1 NTT48.
49	14/10/2021	Amendments to Tender Schedules and Re-issue of Drawing 844517 – General Edge Details – Sheet 4 of 6. Attachments – 844517 Rev 1
50	15/10/2021	Amendments to Tender Schedules and PSTS-08 – Additional GI is withdrawn and replaced by 7.09 PSTS-08 – Additional GI NTT50. Attachments – 7.09 PSTS-08 – Additional GI NTT50
51	15/10/2021	Amendments to Tender Schedules. PSTS-17 – Miscellaneous Principal Items NTT42 is withdrawn and replaced by 7.19 PSTS-17 – Miscellaneous Principal Items NTT51. Amendments to Sinnamon Road Drawings – Re-issued. Attachments – 7.19 PSTS-17 – Miscellaneous Principal Items NTT51; 665610_Centenary Bridge – Sinnamon Rd Update; 895176 Rev 0.
52	15/10/2021	Amendments to Tender Schedules - Drainage requirements clarification and amendments. Amendments to Part 7 – Project Specific Documents: withdraw 7.17 PSTS-15 – Northbound Bridge and 7.18 PSTS-16 – Southbound Bridge NTT24 and replace with 7.17 PSTS-15 – Northbound bridge NTT52 and 7.18 PSTS-16 – Southbound Bridge NTT52. Attachments – 7.17 PSTS-15 – Northbound bridge NTT52; 7.18 PSTS-16 – Southbound Bridge NTT52.
53	15/10/2021	General CN-13712 Sustainability and Construction Staging Clarifications. Attachments - Nil
54	18/10/2021	Public Utility Plant and Intelligent Transport Systems (ITS) Works Clarifications. Amendments to Volume 1 – Part 6 – Standard Documents – Re-issue of MRTS171.1. Additions to Volume 1 – Part 7 – Project Specific Documents. General Clarifications – Asbestos identification and removal. Clarification on Energex works. Clarification on Telecommunications works. Clarification on Urban Utiliites Water and Sewer Mains works. Attachments – 6.168 MRTS171_1 NTT54; Jindalee VSLS install; Western Freeway ITS ascons.
55	18/9/2021	C7830 - General Conditions of Contract feeback clarification Attachments - NIL.
55 Rev	18/10/2021	Re-issed of NTT55 with corrected date. Attachments - NIL
56	19/10/2021	Clarification on PSTS-12 – Bridge and Other Structures (General) and Bridge Design Report (Doc No. 60605610-DD-REP-BRI-0013-[B]). C7810 – NTT_14 – M Schedule Summary is withdrawn to be replaced by 3.3 C7810 – NTT_56. 3.4 Tender Schedule of Rates to be replaced by 3.4 Tender Schedule of Rates_NTT56. Issue of C7503 – Register of Notices to Tenderers Attachments – 3.3 C7810 – NTT_56; 3.4 Tender Schedule of Rates NTT56.xls; 3.4 Tender Schedule of Rates.pdf; CN-13712 – C7503 – NTT Register.

Contract Document List

Queensland Government

Contract Number	CN-13712

Section E
Tender Documents

Location Reference	Document Reference	Remarks
Volume 1 Part 1	Information for Tenderers	Form C7820.
Volume 1 Part 2	Conditions of Tendering	Forms C7821 and C7822.
Volume 1 Part 3	Tender Form and Tender Schedules	Blank forms C7801, C7810 series, C7035 for completion by Tenderer if applicable
Volume 1 Part 4	General Conditions of Contract	Forms C7830, C7831, C7832 and C7833.
Volume 1 Part 5	Transport Infrastructure Contract Clause Bank	Additional Clauses related to the Contract.
Volume 1 Part 6	Standard Documents	Form C7825, Annexures to Standard Specifications, Standard Specifications as marked on the C7825.
Volume 1 Part 7	Project Specific Documents	Forms C7827, Supplementary Specifications and project reports (if applicable).
Volume 1 Part 8	Standard Contract Forms	Forms C7807, C7810.P1, C7810.P2, C7810.P3, C7810.P4, C7810.P5, C7810.P6, C7810.P7, C7810.P8, C7840, C7841, C7842, C7843, C7844, C7845, C7847, C7848, C7849, C7850, C7851, C7854, C7855, C7856, C7858 and C7859.
Volume 2	Drawings	-

Formal Instrument of Agreement

QUEENSLAND GOVERNMENT

Contract Number: **CN-13712**

Contract between
[Contractor Details]

Name and Address of Contractor	ACN / ABN
GEORGIOU BMD JOINT VENTURE **C/- B.M.D. Constructions Pty. Limited** **1 Sandpiper Avenue** **Port of Brisbane Qld 4178**	**20 185 567 437**
Contractor's Delegate [Name] **Gerard Keynes, General Manager on behalf of Georgiou BMD JV**	
Contractor's Delegate Contact Details **Email:** [redacted] **Phone:** [redacted]	

Referred to in the Agreement as 'the Contractor'

and

Name of Principal
The State of Queensland acting through the Department of Transport and Main Roads

'the Principal'

The Contractor agrees to perform the work under the Contract in accordance with the requirements contained in the documents listed in the completed Form C7871, *Contract Document List.*

The Contractor agrees with the Principal and the Principal agrees with the Contractor that they will comply with all conditions and matters as set out or reasonably inferred in the Contract.

Execution by the Contractor
Signed, sealed and delivered for and on behalf of

Name of Authorised Party (1) for the Contractor	Position
Name of Authorised Party (2) for the Contractor	Position

Signature (1)	Date
Signature (2)	Date

The Company Seal
(where applicable)

who certifies his/her/their authorisation to execute this Deed in the presence of

Witness Signature	Date

The Department of Transport and Main Roads collects personal information on this form so that you may execute the Contract for and on behalf of the Contractor. The information on this form is accessible by authorised departmental officers and third parties engaged to administer the Contract or resolve disputes who will not disclose your personal details to a third party without your consent unless required to do so by law.

Formal Instrument of Agreement

Contract Number: **CN-13712**

Execution by the Principal

Signed, sealed and delivered for and on behalf of the STATE OF QUEENSLAND acting through the DEPARTMENT OF TRANSPORT AND MAIN ROADS by

Name	Position
Dale Cunningham	Manager (Prequalification and Contracts)

Signature	Date

as Delegate of the Director-General of the Department of Transport and Main Roads in the presence of

Witness Signature	Date

Queensland Government

16 December 2022

Gerard Keynes – General Manager
GEORGIOU BMD JOINT VENTURE
C/- B.M.D. Constructions Pty. Limited
PO Box 197
WYNNUM QLD 4178

[redacted]

Dear Gerard,

Contract Number: CN-13712
CENTENARY MOTORWAY JINDALEE – Centenary Bridge Upgrade - Stage 2
Project No. 669801

LETTER OF ACCEPTANCE

I am pleased to advise that the State of Queensland acting through the Department of Transport and Main Roads hereby accepts your schedule of rates tender dated 26 October 2021 for the above works for the contract sum of $213,541,764.41 (GST Inclusive), which comprises the following items:

Original Contract Amount (Excl. GST)	$149,208,876.74
Tender Validity Period Extension Cost (Excl. GST)	$23,000,000
Cost to achieve the Envelope 3 – Stretched targets in Key Result Areas (KRA) included in Best Practice Industrial Relations Polity (Excl. GST)	$21,920,000
Total Contract Sum (Excl. GST)	$194,128,876.74
Total Contract Sum (Incl. GST)	$213,541,764.41

In accordance with the Conditions of Tendering, you are now bound by the Conditions of Contract. Securities required as part of this Contract and requirements to be executed by the Contractor are attached for your attention.

Department of Transport and Main Roads
Program Management & Delivery
Floor 18 | 313 Adelaide Street | Brisbane | Qld | 4000
GPO Box 1549 | Brisbane | Qld | 4001

ABN 39 407 690 291

Our Ref: CN-13712
Enquiries: Sastha Ariyasinghe
Telephone [redacted]
Website www.tmr.qld.gov.au

An unexecuted version of the e-Contract is now available for you to peruse on the QBuild eTender website. Also attached to this letter is a copy of the Formal Instrument of Agreement (FIA) for your signature and return. In accordance with Clause 6.2 of the General Conditions of Contract, you are requested to execute the FIA and return to the address stated below within 10 Business Days after receiving the FIA from the Principal.

Please ensure the FIA is properly executed in accordance with Section 127 of the *Corporations Act 2001*. On return of the correctly executed FIA document, a copy will be uploaded to the QBuild eTender system for your records.

Yours sincerely

[redacted]

Dale Cunningham
Delegate of the Principal

Department of Transport and Main Roads
Program Management & Delivery
Floor 18 | 313 Adelaide Street | Brisbane | Qld | 4000
GPO Box 1549 | Brisbane | Qld | 4001

ABN 39 407 690 291

Our Ref: **CN-13712**
Enquiries: **Sastha Arivasinghe**
Telephone [redacted]
Website www.tmr.qld.gov.au

Requirements to be Executed by the Contractor

Queensland Government

C7872

Contract Number	CN-13712
Date of Letter of Acceptance (LOA)	16 December 2022

When Required	What	Clause † Reference	Amount	Forward to ‡	Details
Before commencing work.	Evidence of Insurance of Employees	Cl. 20 & 21 GCoC	-	A	
Before commencing work.	Prestart Conference	Cl. 4.2 GCoC	-	A	Contact the Administrator to arrange a Prestart conference.
Within 10 Business Days of LOA.	Primary Security	Cl. 5.4 GCoC	$2,135,417.64	P1	An Insurance Bond/Bank Guarantee on the attached form is acceptable.
Within 10 Business Days of LOA.	Subcontractor Payment Security	Cl. 5.4 GCoC	$2,135,417.64	P1	An Insurance Bond/Bank Guarantee on the attached form is acceptable.
Provided at Contractor's discretion as per Clause 5.3.	Retention Security	Cl. 5.3 GCoC	$8,541,670.58	P1	An Insurance Bond/Bank Guarantee on the attached form is acceptable. Alternatively, Retention Monies will be withheld from each Payment Claim until required amount is retained.
Please check Item 35A of Annexure A to GCoC.	Contract Plan	Cl. 33.3 GCoC	-	A	

Contract Plan which includes the following plans:

i. Construction Program
ii. Quality Plan
iii. Environmental Management Plan
iv. Work Health and Safety Management Plan
v. Traffic Management Plan (where required)
vi. Community Liaison Plan (where required)
vii. Severe Weather Management Plan (where required)

When Required	What	Clause † Reference	Amount	Forward to ‡	Details
Within 10 Business Days of LOA.	Training Requirements	Cl. 29.3 GCoC	-	-	
Within 10 Business Days after receipt from the Principal.	Formal Instrument of Agreement (FIA)	Cl. 6.2 GCoC		P1	The Principal will forward 3 hard copies of the FIA within 20 Business Days after the LOA for execution. Contract documents will be provided electronically.

† **GCoC = General Conditions of Contract**

‡ **Forwarding Addresses:**

P1
Arwen Lea
Program Officer (Contracts)
Prequalification & Contracts Unit
Program Management & Delivery
Department of Transport & Main Roads
GPO Box 1549
Brisbane QLD 4001

A
Administrator
c/- Department of Transport & Main Roads
Email:
[redacted]

General Conditions of Contract – C7830.TIC

Transport Infrastructure Contract

August 2022 (CBUP Special Edition)

Queensland Government

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Feedback

Please send your feedback regarding this document to: [redacted]

Transport Infrastructure Contract, Transport and Main Roads, July 2021

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1 Construction of Contract

a) The law governing the Contract, its interpretation, any agreement to arbitrate and the conduct of any arbitration or litigation, is the law of the State of Queensland.

b) Unless otherwise provided, prices are in Australian currency and payments shall be made in Australian currency at the place stated in Item 1A.

c) Where provisions in the General Conditions of Contract are expressed to be alternatives and the Contract fails to state which alternative applies, the first alternative shall apply.

d) Any provision of the Contract which purports to, or has the effect of, limiting or excluding a liability of the Principal shall be construed as limiting or excluding that liability only to the extent permitted by law.

2 Defined terms and interpretation

2.1 Defined terms

In the Contract, except where the context otherwise requires, the following words and expressions shall have the meanings given to them below.

Term	Definition
Accession	for the purposes of Clause 14.7, has the meaning given in the PPSA
Administrator	means the entity or individual specified in Item 5A of Annexure A, with the role as defined in the General Conditions of Contract
Administrator's Representative	means the individual stated in Item 5A as the Administrator's Representative or other person from time to time, appointed in writing by the Administrator, to be the Administrator's Representative and notified as such in writing to the Contractor and the Principal by the Administrator
Annexure	means an annexure to these General Conditions of Contract
Authority	means any Commonwealth, State or local government department, body or instrumentality or any other authority or body (statutory or otherwise) which has jurisdiction or authority over the Site, the execution of the Work Under the Contract, the use of the Works or with respect to any Public Utility Plant
Best Practice Industry Conditions	means the Best Practice Industry Conditions provided as part of the tender
Best Practice Principles	means the best practice principles in the QPP
Bound Contracted Service Provider	for the purposes of Clause 8.10, has the meaning given in the *Information Privacy Act 2009* (Qld)
Business Day	has the meaning given in the *Payments Act*
Certificate of Practical Completion	means a Certificate of Practical Completion issued by the Administrator under Clause 42.5

Term	Definition
Claim	includes any claim, demand, action, proceeding or suit which the Contractor may make or bring against the Principal or any of its agents or employees or any Claim which the Principal may have against the Contractor relating to the construction of the Contract or as to any fact, matter or thing arising out of or in connection with the Contract or the Work Under the Contract including any claim, demand, action, proceeding or suit seeking the payment of money, an adjustment to the Contract Sum, an extension of the Date for Practical Completion or any costs, expenses, loss or damages on any ground whatsoever including pursuant to the Contract, on a quantum meruit basis, for unjust enrichment, in tort and insofar as is permitted by law pursuant to any other principle of law
Claim of Charge	means any claim which: a) purports to be a claim of charge under the *Payments Act* b) is made by any person who purports to be a Subcontractor, and c) purports to be in connection with the performance by that person of any of the Work Under the Contract
Commercial Framework	is attached as Annexure B to the General Conditions of Contract
Community Liaison Plan	means any plan the Contractor is required to provide pursuant to Clause 15.6
Compliance Notice	for the purposes of Clause 8.10, has the meaning given in the *Information Privacy Act 2009* (Qld)
Conformance Report	has the meaning given to that term in Clause 10.1.1 of MRTS50 *Specific Quality System Requirements*
Constructional Plant	means appliances and things used in the execution of the Work Under the Contract, but not forming part of the Works
Construction Program	for the purposes of Clause 33.4, means a statement in writing showing the dates by which, or the times within which, the various stages or parts of the Work Under the Contract are to be executed or completed
Construction Project	for the purposes of Clause 15.3 means the Work Under the Contract
Contract	means the agreement between the Principal and the Contractor and comprising the documents set out or referred to in the completed Form C7871
Contract Leadership Team or CLT	means the CLT established in accordance with Clause 4.1
Contractor	means the person stated in Item 6A, who is bound to execute the Work Under the Contract
Contractor's Delegate	means the person or position delegated by the Contractor with the authority to enter into the Contract. The Contractor's Delegate shall be nominated in the Form C7805 *Formal Instrument of Agreement.*
Contractor's Representative	means the person nominated under Clause 29.2.1
Contract Plan	has the meaning in Clause 33.3.1
Contract Sum	means the amount set out in, or determined in accordance with, Annexure B (Commercial Framework)
Contractor’s Tender	means the tender submitted by the Contractor and accepted by the Principal
Corporation	has the meaning given in the Corporations Law
Corporations Law	means the *Corporations Act 2001* (Cth)

Term	Definition
Critical Incident	means a Safety Incident which results in the death of a person or a serious injury or illness of a person, as defined under the WHS Act
Critical Incident Response Plan	means the plan referred to in Clause 15.3.6.1
Current Program	has the meaning given in Clause 33.4.4
Critical Risk	means those risks identified in the WHS Specification as critical risks
Critical System Failure	occurs when the Contractor has been directed to prepare a WHS Performance Management Plan and either the Contractor does not comply with that plan, or the plan does not address the underperformance issue
Critical System Failure Response Plan	means the plan prepared referred to in clause 15.3.8.2
Date for Practical Completion	means: a) where Item 2A or Item 37A provides a Date for Practical Completion, that Date b) where Item 2A or Item 37A provides a period of time for Practical Completion, the last day of the period but if any extension of time for Practical Completion is granted by the Administrator or allowed in any arbitration or litigation, it means the date resulting therefrom
Date of Acceptance of Tender	means the date of the Letter of Acceptance issued by the Principal
Date of Practical Completion	means: a) the date certified by the Administrator in a Certificate of Practical Completion issued pursuant to Clause 42.5, to be the date upon which Practical Completion was reached, or b) where another date is determined in any arbitration or litigation as the date upon which Practical Completion was reached, that other date
Day	means calendar day
Daywork	means work which the Administrator directs to be carried out as Daywork under Clause 41
Daywork Rates	means the rates set out in the Schedule of Daywork Rates
Defects Liability Period	means the Defects Liability Period or Periods referred to in Clause 37 and any extended Defects Liability Period or Periods in accordance with Clause 37
Designer's Safety Report	means a report required to be prepared by a designer in accordance with the WHS Regulation that relates to the Work Under the Contract
Disclosure Statement	for the purposes of Clause 48 or 49, means a statement provided by each proposed Dispute Resolution Board Member (DRB) or Issues Resolution Advisor (IRA) (as applicable), including a resume of experience together with a declaration: a) describing all past, present, anticipated and planned future relationships, including indirect relationships through the nominated DRB Members' or IRA's (as applicable) primary or full-time employer, to the project and with all parties involved in the Contract, including Subcontractors, design professionals and consultants, and b) close professional or personal relationships with all key members of all parties to the project shall be included

Term	Definition
Dispute Resolution Board (DRB)	means the board established by Clause 48
Document	for the purposes of Clause 8.10, has the meaning given in the *Information Privacy Act 2009* (Qld)
Drawings	means the Standard Drawings and the Project Specific Drawings
DRB Agreement	is the agreement between the parties and the DRB Members based on the template which is available on the Principal's website
DRB Members	are the members selected for the DRB pursuant to Clauses 48.5 and 48.6
Environmental Management Plan	means the plan the Contractor is required to provide pursuant to Clause 15.7.2
EP Act	means the *Environmental Protection Act 1994* (Qld)
Excepted Risks	has the meaning given in Clause 16.4
Final Certificate	means the Final Certificate issued by the Administrator under Clause 42.8
Form	means the applicable form available on the Principal's website, or as provided as part of tendering and award documents, as amended from time to time
Formal Instrument of Agreement	means the Formal Instrument of Agreement generally in the form of Form C7805 to be executed by the parties pursuant to Clause 6.2
Government Department or Instrumentality	means any governmental regulator, including Work Health Safety Queensland, the Queensland Building and Construction Commission, the Fair Work Commission and the Australian Building and Construction Commission
GST	means the goods and services tax imposed under the GST Legislation. A reference to an amount of GST is reference to the GST liability in respect of the supply in question
GST Legislation	means the *A New Tax System (Goods and Services Tax) Act 1999*, associated legislation and regulation and any additional or substituted legislation and regulation providing for a value added tax, consumption tax, retail tax or other goods and services tax
Indicative Conformance	As per MRTS50 *Specific Quality System Requirements* Clause 10.1.2
Industrial Matters	has the meaning given in the *Industrial Relations Act 2016 (Qld)*
Information Commissioner	for the purposes of Clause 8.10, has the meaning given in the *Information Privacy Act 2009* (Qld)
IRA Agreement	is the agreement between the parties and the IRA based on the template which is available on the Principal's website
Issues Resolution Advisor (IRA)	means the person appointed under Clause 49
Item	means an item in Annexure A

Term	Definition
Latent Condition	is a physical condition on the Site or its surroundings, including artificial things but excluding weather conditions, which differs materially and substantially: a) from the physical conditions specified in the Reliance Information at a specific location at the Site, or b) from the physical conditions which should reasonably have been anticipated by a competent and experienced Contractor at the time of the Contractor's Tender if such a Contractor had: i. examined all information made available in writing by the Principal to the Contractor for the purpose of tendering, ii. examined all information relevant to the risks, contingencies and other circumstances having an effect on the Tender and obtainable by the making of reasonable enquiries, and iii. inspected and investigated the Site and its surroundings but Latent Conditions do not include any conditions described in Item 3A.
Legislative Requirement	means: a) Acts, ordinances, regulations, by-laws, orders, awards and proclamations of the jurisdiction where Work Under the Contract or the particular part thereof is being carried out, and b) certificates, licences, consents, permits, approvals and requirements of organisations having jurisdiction in connection with the carrying out of Work Under the Contract
Letter of Acceptance	means a letter of acceptance issued by the Principal to the Contractor accepting the Contractor's Tender in respect of the Works
Management and Control	for the purposes of Clause 15.3, has the meaning given in the WHS Act and WHS Regulation
NGER Legislation	means the *National Greenhouse and Energy Reporting Act 2007* (Cth)
Nominated Subcontractor	means: a) a subcontractor to whom the Contractor is directed by the Administrator to subcontract Nominated Subcontract Work, or b) a subcontractor named in Item 15C
Nominated Subcontract Work	means the work or supply of items specified in Item 15B
Notice of Claim	means a notice which purports to be a notice of claim pursuant to the *Payments Act* and which is given by a person who purports to be a Subcontractor
Notices to Tenderers	means notices to Tenderers issued by the Principal to clarify, revise, amend or modify any aspect of the Tender Documents before the time for submission of Tenders in respect of the Work Under the Contract
Notifiable Incident	means any incident which is notifiable to a regulator in accordance with the WHS Legislation
Other Contract Documents	means the documents included or referred to in the part of this Contract titled 'Other Documents'
Payments Act	means the *Building Industry Fairness (Security of Payment) Act 2017* (Qld) and any relevant regulations and includes any amendments to that Act and those regulations
Perfect (or Perfection or Perfected)	for the purposes of Clause 14.7, has the meaning given in the PPSA

Term	Definition
Performance Assessment Conferences	has the meaning given in Clause 4.4
Personal Information	has the meaning given to it in the *Information Privacy Act 2009* (Qld)
Personal Property	for the purposes of Clause 14.7, has the meaning given in the PPSA
PPSA	means the *Personal Property Securities Act 2009* (Cth)
Practical Completion	is that stage in the execution of the Work Under the Contract when: a) the Works are complete except for minor omissions and minor defects: i. which do not prevent the Works from being reasonably capable of being used for their intended purpose ii. which the Administrator determines the Contractor has reasonable grounds for not promptly rectifying iii. rectification of which will not prejudice the convenient use of the Works b) those tests which are required by the Contract to be carried out and passed before the Works reach Practical Completion have been carried out and passed c) documents and other information required under the Contract which, in the opinion of the Administrator, are essential for the use, operation and maintenance of the Works have been supplied d) all certificates required by the Contract and all approvals, consents and permissions from all Authorities have been provided to the Administrator, and e) the Contractor has done everything which it is required to do as a condition precedent to Practical Completion
Primary Security	means the security provided under Clause 5.2 and any further security provided under Clause 5.3 or as directed under Clause 5.8 and, in each case, includes any moneys resulting from the conversion into money of any part of that security which did not originally consist of money
Principal	means the Principal stated in Item 4A
Principal Arranged Insurance Program (PAIP)	means the Contract Works and general and products liability insurance policies effected and maintained by the Principal
Principal Contractor	has the meaning given in the WHS Regulation
Principal's Delegate	means the person or position delegated by the Principal with the authority to enter into the Contract. The Principal's Delegate shall be nominated in Item 4C.
Principal's Representative	means the person or position delegated by the Principal's Delegate and shall represent the interests of the Principal when required under the Contract. The Principal's Representative shall have a good knowledge and understanding of the requirements of the Works. The Principal's Representative shall be nominated in Item 4E.
Principal Supplied Material	means the materials to be provided by the Principal as listed in any Principal supplied Item list (Form C7827) included or referred to in the Contract
Privacy Complaint	for the purposes of Clause 8.10, has the meaning given in the *Information Privacy Act 2009* (Qld)
Privacy Principles	for the purposes of Clause 8.10, has the meaning given in the *Information Privacy Act 2009* (Qld)

Term	Definition
Project Specific Drawings	means: a) the drawings attached or referred to in the Contract. b) any modification of such drawings notified to the Contractor by the Administrator, and c) such other drawings as may from time to time be supplied to the Contractor by the Administrator, or the use of which has been permitted by the Administrator, for the purposes of the Contract but do not include the Standard Drawings.
Project Specific Specifications	means: a) the specifications attached or referred to in the Contract b) any modification of such specifications notified to the Contractor by the Administrator, and c) such other specifications as may from time to time be supplied to the Contractor by the Administrator, or the use of which has been permitted by the Administrator, for the purposes of the Contract but do not include the Standard Specifications
Provisional Sum	includes monetary sum, contingency sum and prime cost item, but does not include any amounts in a Schedule of Rates for items described or marked 'provisional', 'provisional quantity' or 'if ordered, provisional quantity' (or similar) or any amounts for numbered items in a Schedule of Rates which include the suffix 'P' or 'PS'
Public Utility Plant	means any railway, monorail, tramway, viaduct, aqueduct, conduit, water channel, pipeline (water, stormwater, gas, sewerage or otherwise), fixed mechanical conveyor, tower, pole, cable (electrical, fibre optic, telecommunications or otherwise), electrical installation or telecommunications plant that is: a) on, in, over, under or adjacent to the Site, or b) affected by the Work Under the Contract but does not include Constructional Plant
Purchase Money Security Interest	for the purposes of Clause 14.7 has the meaning given in the PPSA
QGP Compliance Branch	means the Queensland Government Procurement Compliance Branch of the Department of Energy and Public Works or any subsequent Queensland government agency having functions in relation to procurement compliance and complaints
Quality Plan	means the plan the Contractor is required to provide pursuant to Clause 30.3
Quality System	has the meaning given in Clause 30.2
Queensland Procurement Policy or QPP	means the Queensland Procurement Policy of the State of Queensland as published from time to time
Registered Supplier	means a supplier registered by Department of Transport and Main Roads in relation to the Department's relevant registration categories
Relationship and Collaboration Principles	has the meaning given in Clause 3.2.1
Reliance Information	means those documents and other information specified in Item 13B
Resolution Institute	is the merger of the Institute of Arbitrators and Mediators Australia (IAMA) and Leaders Engaged in Alternative Dispute Resolutions (LEADR) and a reference to Resolution Institute is a reference to the Chairperson of the Queensland Chapter of Resolution Institute

Term	Definition
Retention Moneys	means the retention moneys withheld by the Principal under Clause 42.3
Retention Security	means the security provided under Clause 5.3 and any further security provided as directed under Clause 5.7 and in each case includes any moneys resulting from the conversion into money of any part of that security which did not originally consist of money
Safety Incident	means any health and safety incident connected to the Works Under the Contract or Site, including but not limited to: a) a Notifiable Incident; b) a near miss incident that is not otherwise a Notifiable Incident; c) a traffic crash, including any within, adjacent to or in proximity to the Site/s; and d) any incident involving the health and safety of the public or other person to whom the Contractor owes a duty under the WHS Legislation.
Safety Meeting/s	means meetings referred to in clause 15.3.7.2
Schedule of Deviations	means the Schedule of Deviations (Form C7807), if any, developed jointly and agreed by the Principal and the Contractor during post-Tender negotiations and enclosed within the Letter of Acceptance
Schedule of Prices	has the meaning given in Annexure B (Commercial Framework)
Schedule of Rates	has the meaning given in Annexure B (Commercial Framework)
Schedules of Daywork Rates	means the various completed schedules named 'Daywork Rates – Personnel' and 'Daywork Rates – Plant and Equipment'
Security Interest	for the purposes of Clause 14.7, has the meaning given in the PPSA
Selected Subcontractor	means a subcontractor identified in the Contractor's Tender from a list of one or more subcontractors provided by the Principal in the Tender Documents for Selected Subcontract Work
Selected Subcontract Work	means the work or supply of Items specified in Item 15D
Separable Portion	means a portion of the Work Under the Contract described in Item 37A as a Separable Portion or which the Administrator has determined pursuant to Clause 35.4 shall be a Separable Portion
Site	means the lands and other places described in Item 7A and any other lands and places made available to the Contractor by the Principal for the purpose of the Contract
Site Conferences	has the meaning given in Clause 4.3
Site Information	means any document, information, data, report, material, core or sample, whatever its form, regarding the Site or its surroundings or regarding the subsurface conditions (including topographical, geological and hydrological conditions) or subsurface services at the Site or its surroundings, but does not include the Reliance Information
Specifications	means the Standard Specifications and the Project Specific Specifications
Standard Drawings	means the Principal's standard drawings attached or referred to in the Contract, as amended or updated from time to time by the Principal
Standard Specifications	means the Principal's standard specifications attached or referred to in the Contract, as amended or updated from time to time by the Principal

Term	Definition
Subcontractor	means any Contractor, consultant or supplier (including their personnel), engaged by or on behalf of the Contractor with respect to the Work Under the Contract and includes the Contractor's Designers and any supplier or hirer of materials, plant or equipment
Subcontractor Payment Security	means the security provided under Item 11A and any further security provided as directed under Clause 5 and in each case includes any moneys resulting from the conversion into money of any part of that security which did not originally consist of money
Subsidiary	has the meaning given in the Corporations Law
Supply	for the purposes of Clause 42.11, has the meaning given in the GST Legislation
Temporary Works	means works used in the execution of the Work Under the Contract, but not forming part of the Works
Traffic Management Plan	means any plan the Contractor is required to provide pursuant to Clause 15.5.2
Warranty Items	has the meaning in Clause 30.10
WHS	means work health and safety
WHS Act	means the *Work Health and Safety Act 2011* (Qld)
WHS Legislation	means the *WHS Act*, the WHS Regulation , *Electrical Safety Act 2002* (Qld), the Electrical Safety Regulation 2013 (Qld), the Safety in Recreational Water Activities Act 2011 (Qld), the *Mining and Quarrying Safety and Health Act 1999* (Qld), *the Mining and Quarrying Safety and Health Regulation 2017* (Qld) the Heavy Vehicle National Law (Queensland), the Rail Safety National Law (Queensland) and any other general law of the State or Commonwealth in respect of workplace health and safety and any State or Commonwealth Act, Regulation, Code of Practice or ministerial notice in respect of work health and safety, as amended from time to time
WHS Management Plan	has the meaning given in the WHS Regulation
WHS Performance Management Plan	means the plan referred to in Clause 15.3.8.1
WHS Regulation	means the Work Health and Safety Regulation 2011 (Qld)
WHS Specification	means the Principal's Project Specific Technical Specification – Work health and safety attached or referred to in the Contract, as amended or updated from time to time by the Principal
Working Days and Working Hours	have the meaning given in Clause 32
Workplace	for the purposes of Clause 15.3 means the Site
Works	means the whole of the work to be executed in accordance with the Contract, including variations provided for by the Contract, which by the Contract is to be handed over to the Principal
Work Under the Contract	means the work which the Contractor is or may be required to execute under the Contract and includes variations, remedial work, Constructional Plant and Temporary Works

In addition to the defined terms set out in Clause 2.1, some terms, specific to a clause, are defined in that clause.

2.2 Interpretation

a) Reference to:

   i. one gender includes the others

   ii. the singular includes the plural and the plural includes the singular

   iii. a person includes a body corporate

   iv. a party includes the party's executors, Administrators, successors and permitted assigns

   v. a Legislative Requirement includes:

      a) that Legislative Requirement as amended or re-enacted from time to time, and

      b) a Legislative Requirement enacted in replacement of that legislative requirement

   vi. money is to Australian dollars unless otherwise stated.

b) Measurements of physical quantities shall be in legal units of measurement of Australia within the meaning of the *National Measurement Act 1960*.

c) Communications between the Principal, the Administrator and the Contractor shall be in the English language.

d) 'Including' and similar expressions are not words of limitation.

e) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.

f) Headings are for convenience only and do not form part of the Contract or affect its interpretation.

g) A provision of the Contract shall not be construed to the disadvantage of a party merely because that party was responsible for the preparation of the Contract or the inclusion of the provision in the Contract.

h) If an act must be done on a specified Day which is not a Business Day, it shall be done instead on the next Business Day, except as otherwise expressly contemplated by this Contract.

i) No comment, review, representation, vetting, inspection, testing or approval by the Principal or the Administrator in respect of the Contractor's obligations under this Contract will lessen or otherwise affect the Contractor's obligations under this Contract.

j) The Contractor acknowledges that:

   i. an absolute discretion in the Principal or the Administrator under the Contract is not required to be exercised for the benefit of the Contractor

   ii. neither the Principal nor the Administrator is bound to exercise any such absolute discretion in any particular manner or having regard to any particular consideration notwithstanding that such considerations might be stated in the Contract

   iii. no provision of the Contract conferring such an absolute discretion gives the Contractor any rights (including any right to make any Claim arising out of the exercise or failure to exercise the discretion), and

   iv. the exercise or failure to exercise such an absolute discretion is not capable of being the subject of a dispute or difference for the purpose of Clause 47 and is not otherwise subject to review.

k) Whenever the Principal or Administrator is required to act reasonably, what is reasonable under the circumstances is to be judged having regard to the terms of this Contract.

l) All indemnities and warranties given by the Contractor in this Contract survive the termination or otherwise merging of this Contract.

m) Without limiting Clause 2.2(l), the provisions of this Contract which, by their nature, are intended to survive the termination, cancellation, completion or expiration of this Contract shall continue as valid and enforceable obligations of the parties notwithstanding any such termination, cancellation, completing or expiration.

n) Unless otherwise expressed as a sole remedy, the rights and remedies provided in this Contract are in addition to other rights and remedies given by law independently of this Contract.

o) Unless otherwise expressly set out in this Contract, and to the extent permitted by law, all implied terms (whether implied by statute or operation of law) are excluded from this Contract.

p) The word 'immediately' means to act promptly, with expedition, within a reasonable time and without unnecessary delay.

3 Nature of Contract

3.1 Performance and description

a) The Contractor shall execute and complete the Work Under the Contract.

b) The Principal shall pay the Contractor the Contract Sum in accordance with the Contract. The Contract Sum shall be set out in, or determined in accordance with, the relevant part of the Commercial Framework, as specified in Item 8A.

3.2 Commitment to relationship and collaboration

3.2.1 Relationship and Collaboration Principles

a) The parties acknowledge that a good working relationship between the Principal, the Administrator and the Contractor is a significant factor that contributes towards the successful completion of a project. The Contractor, the Principal and the Administrator jointly commit to establishing and maintaining a project team built on relationships and they agree to observe the following principles (Relationship and Collaboration Principles):

   i. act as stated in this Contract and in the spirit of mutual trust, openness, respect and cooperation

   ii. at all times deal with each other fairly, honestly and reasonably

   iii. communicate and expeditiously reconcile any matter that may affect the proper execution and timely completion of the Work Under the Contract, and

   iv. be dedicated to achieving 'best for project' outcomes.

b) The parties agree and acknowledge that the Relationship and Collaboration Principles do not apply where the Contract expressly provides that the Principal or the Administrator may act in its absolute or sole discretion and otherwise are not intended to derogate from the Contractor's obligations under this Contract or at Law.

3.2.2 Relationship and collaboration workshop

As specified in Item 8B, the Administrator will convene, within two months of the Date of Acceptance of Tender, a relationship management workshop to facilitate the understanding of, and commitment to, the Relationship Principles. This workshop is to be attended by representatives of the Contractor, the Principal, the Administrator (the Team) and the CLT (if any).

All costs associated with the relationship and collaboration workshop shall be borne by the Contractor.

3.2.3 Relationship management and collaboration protocol

At the workshop held under Clause 3.2.2, the Team and the CLT (if any) shall develop and agree a relationship management and collaboration protocol to be signed by all participants of the workshop that:

a) includes a relationship charter or mission

b) sets the relationship and collaboration goals and objectives, core values and guiding principles

c) includes a mechanism for determining a rating of the parties' achievement of the agreed objectives (including by reference to Performance Assessment Conferences required under Clause 4.4)

d) includes a mechanism for the resolution of personality-related issues

e) documents the lines of communication, levels of responsibility and reporting systems

f) includes an issues resolution matrix that includes an action plan for addressing factors that may prevent them from meeting the relationship objectives, and

g) specifies the times for the workshops and meetings referred to in Clause 3.2.4.

3.2.4 Monitoring the relationship

Unless the parties agree otherwise, the Team shall meet at least monthly to review the Team's performance against the Relationship and Collaboration Principles and the relationship management and collaboration protocol (if any).

4 Contract Leadership Team and conferences

4.1 Contract Leadership Team

This Clause 4.1 only applies if 'Yes' is selected in Item 9A.

4.1.1 Representation and tenure

a) A Contract Leadership Team (CLT) shall be established prior to the commencement of the Work Under the Contract.

b) The CLT will consist of two senior representatives from the Principal and two senior representatives from the Contractor (CLT Members).

c) A party may replace its CLT Member(s) at any time by giving notice in writing to the other party at least 24 hours prior to the change in representation.

d) Unless otherwise agreed by the Principal and the Contractor, the CLT will remain established until 10 Business Days after the date of the Final Certificate.

4.1.2 Duties and accountabilities for the Contract Leadership Team

a) The CLT shall, unless otherwise agreed by the parties in writing:

i. provide overall guidance and leadership with respect to the Work Under the Contract and to provide a forum for regular and formal interaction between senior executives of the Principal and the Contractor

ii. set policy and give philosophical and strategic direction for the Work Under the Contract within the boundaries set out in the Contract, including by establishment of a relationship charter (Relationship Charter)

iii. provide leadership and set a visible example of senior management's commitment to the Relationship Charter and the Relationship Management Protocol

iv. provide guidance to the Contractor in its development and implementation of a transparent governance framework across the Work Under the Contract

v. provide leadership and guidance to the Contractor in ensuring timely, accurate and comprehensive reports are given to the Principal

vi. oversee the Contractor in initiating or approving the commitment of resources to the Work Under the Contract and provide corporate support as necessary

vii. provide leadership in the implementation of a culture necessary to achieve the key performance indicators and ensure they are created and sustained

viii. provide encouragement to the Contractor to implement directions from the Principal or the Administrator

ix. monitor the performance of the Contract and implement appropriate measures to correct undesirable trends

x. issue decisions as required by the Contract (if any)

xi. attempt to resolve any differences or issues that are referred to it under Clause 47.3, and

xii. any other duties agreed between the parties from time to time.

b) The parties acknowledge and agree that, except as expressly provided for in the Contract:

i. the CLT will have no legal responsibility.

ii. no comment, direction, review, representation, vetting, inspection, testing or approval by the CLT or members of the CLT will be binding on a party or be construed as a direction from the Principal or the Administrator to do or not to do something, and

iii. nothing that occurs at a meeting of the CLT will relieve either party, or alter or affect their liabilities or responsibilities under this Contract, including a requirement for the Contractor to provide formal notification to the Principal or the Administrator under any other provision of this Contract.

c) Prior to each meeting of the CLT, the Administrator and the Contractor's Representative shall provide a joint report on the following matters for the consideration of the CLT:

i. the progress of the Works

ii. delays to the Works, including planned mitigation

iii. the adequacy of resourcing levels, and

iv. all issues and disputes which have arisen and have not yet been resolved.

4.1.3 Meetings

a) Unless the parties agree otherwise, the CLT will meet at least once every month until Practical Completion.

b) At least one CLT Member from each party shall be present to enable the CLT to hold a meeting or make a decision. Attendance may be by telephone or video link.

c) The CLT will arrange for a secretary (CLT Secretary) to record minutes of all resolutions of the CLT and all actions arising out of each CLT meeting. A copy of the minutes will be forwarded by the CLT Secretary to each CLT Member as soon as practicable but not later than five Business Days after each CLT meeting.

d) Decisions of the CLT must be unanimous.

4.2 Prestart conference

a) Prior to the commencement of Work Under the Contract, the Contractor shall contact the Administrator in order to arrange:

   i. a conference (prestart conference), and

   ii. a prestart safety conference, which shall be conducted in accordance with the WHS Specification.

b) The prestart conference shall:

   iii. be attended by representatives of the Contractor, the Principal, the Administrator and the CLT (if any)

   iv. establish lines of communication and clarify all relevant responsibilities and delegations

   v. discuss arrangements for submission and review of the Construction Program, Quality Plan, Environmental Management Plan, WHS Management Plan (noting the additional requirements of the prestart safety conference), Traffic Management Plan (where required), Severe Weather Management Plan (where required), Community Liaison Plan (where required) and the Indigenous Economic Opportunities Plan (where required)

   vi. discuss arrangements for project records, including access by the Administrator, submission of test results and other reports, and disposition of records upon completion of the Contract

   vii. discuss setting out of the Works, Site accommodation, camp and delivery of materials and plant to the Site

   viii. determine arrangements for Site inspections and Site Conferences

   ix. define arrangements for management of:

      a) payment Claims

      b) variations, and

      c) non-conformances

   x. discuss arrangements for all administrative requirements, including the date for a relationship workshop (if required under Clause 3.2.2) and information and documents which the Contractor is obliged to submit to the Administrator

   xi. deal with any other matters nominated by the Contractor or the Administrator, and

xii. deal with requirements for a post-construction review.

c) The Administrator shall, within five Business Days of the Prestart Conference, issue to the Contractor a copy of the minutes. Within two Business Days of receipt of the copy of the minutes, the Contractor shall notify the Administrator in writing of any Item from the minutes which, in its opinion, has not been correctly recorded. Within a further two Business Days, the Administrator shall arrange to amend the minutes where necessary and will return two copies to the Contractor for confirmation of the minutes. The Contractor shall confirm the minutes by returning a signed copy to the Administrator within two Business Days of receipt. The CLT (if any) may review and provide guidance to the parties in relation to the content of those minutes.

4.3 Site Conferences

a) The Contractor shall arrange for conferences to be held at the Site (Site Conferences) to:

i. review progress of the Work Under the Contract

ii. review the Contract Plan documents and issues relating to progress of the Work Under the Contract

iii. review non-conformances and dispositions, and

iv. discuss any matters of concern related to the project with a view to their resolution as far as possible.

b) Site Conferences shall be held until Practical Completion at the intervals stated in Item 10A or at such other intervals as are otherwise mutually agreed between the Principal, the Contractor and the Administrator (such interval not exceed a period of one month).

c) Site Conferences shall be attended by the Contractor, the Principal and the Administrator, and/or their senior representatives. Subject to the prior approval of the Administrator, which may be given or withheld in its absolute discretion, other persons may attend all or part of any Site Conference, but:

i. at no time more than four persons from either the Contractor or the Administrator, and

ii. members of the CLT (if any) may attend any Site Conference without the approval of the Administrator, which may be given or withheld in its absolute discretion.

d) The Administrator will chair each Site Conference and will arrange for the recording of minutes. The Administrator shall, within five Business Days of each Site Conference, issue to the Contractor, a copy of the minutes. Within two Business Days of receipt of the copy of the minutes, the Contractor shall notify the Administrator in writing of any Item from the minutes which, in its opinion, has not been correctly recorded. Minutes of a Site Conference will be confirmed at the next Site Conference. The CLT (if any) may provide guidance to the parties in relation to the content of those minutes.

4.4 Contract Performance Assessment

a) The Administrator shall score on the Contractor's performance as set out in the Form C7901 on a monthly basis and hand over to the Contractor for any comments. The Contractor shall take all reasonable steps to provide additional comments in a timely manner.

b) Upon reaching Practical Completion and issuance of Final Certificate, the Administrator and the Contractor shall prepare detailed performance reports using Form C7902. The same Form C7902

shall be used for performance assessment at reaching milestones in the Contract or as directed by the Principal.

c) If required, a separate meeting may be arranged to discuss the Administrator's performance report or this topic can be accommodated as part of monthly Site Conferences. If a separate meeting is arranged then it should be attended by the Administrator and the Contractor and/or their senior representatives. Subject to the prior approval of the Administrator, which may be given or withheld in its absolute discretion, other persons may attend all or part of any performance assessment meeting, but members of the CLT (if any) may attend without the approval of the Administrator.

d) The Administrator shall take all reasonable steps in a timely manner to obtain the signature of the Contractor on the Form C7901 or C7902 and submit to the department's project manager or the Principal's Representative for comments and submission to the Prequalification and Contracts Unit.

e) The department's project manager or Principal's Representative, within reasonable time, shall include any comments and send a signed copy (portable document format or PDF) via electronic mail to:

   Department of Transport and Main Roads, Program Management & Delivery
   Attention: Prequalification and Contracts Unit
   Email address: [redacted]

f) If the Administrator and department's project manager roles are shared by a same person, then the performance reports shall be reviewed by the Manager (Delivery) or Principal's Representative and any additional comments to be added prior to submission to the Prequalification and Contracts Unit.

g) The department's prequalification committee members or its nominees may attend any performance meetings including Site Conferences to discuss the contract performance without prior invitation and if necessary, moderate the scorings on behalf of the Principal.

5 Security and Retention Moneys

5.1 Purpose

a) The Primary Security, Retention Moneys, Retention Security, and any additional security are, subject to the provisions of Clause 5, for the purpose of (in order of priority):

   i. ensuring the due and proper performance of the Contract by the Contractor (including the satisfaction of any debts due from the Contractor to the Principal and any Claims which the Principal may have against the Contractor), and

   ii. satisfying Claims of Charge as provided in Clause 5.7.

b) The Subcontractor Payment Security is, subject to the provisions of Clause 5, for the purpose of (in order of priority):

   i. satisfying Claims of Charge as provided in Clause 5.7, and

   ii. ensuring the due and proper performance of the Contract by the Contractor (including the satisfaction of any debts due from the Contractor to the Principal and any Claims which the Principal may have against the Contractor).

5.2 Provision of security

Within 10 Business Days of the Date of Acceptance of Tender, the Contractor shall lodge with the Principal security in accordance with Item 11A.

5.3 Substitution of security for Retention Moneys

a) The Contractor may, at any time with the prior written consent of the Principal (which the Principal may give or withhold), lodge with the Administrator Retention Security in substitution for Retention Moneys (or the Principal's right to deduct Retention Moneys) as discussed under Clause 42.3.

b) If the Contractor provides such security, the Principal shall, to the extent of that security:

   i. not deduct Retention Moneys under Clause 42.3, and

   ii. release any Retention Moneys previously deducted under Clause 42.3 immediately upon the provision of such security.

5.4 Form of security

a) The Primary Security, the Retention Security and the Subcontractor Payment Security shall, in each case, be any of the following:

   i. an unconditional irrevocable bank guarantee from a bank as defined under s36 of the *Acts Interpretation Act 1954* in the forms included in the Tender Documents (Forms C7840, C7841, C7842, C7855) that:

      a) complies with the requirements of Part 2, Division 6 of the *Financial and Performance Management Standard 2009 (Qld)*, and

      b) is approved by the Principal in its absolute discretion

   ii. an unconditional irrevocable insurance bond from an insurance company, in the forms included in the Tender Documents (Forms C7843, C7844, C7845, C7856), that:

      a) complies with the requirements of Part 2, Division 6 of the *Financial and Performance Management Standards 2009 (Qld),* and

      b) is approved by the Principal in its absolute discretion

   iii. If the security provider has stopped being an approved security provider, the Contractor shall, immediately upon request by the Principal, substitute that bank guarantee or insurance bond submitted to the Principal.

b) The costs of and incidental to providing any security (including all stamp duty and other taxes payable in respect of the security) shall be borne by the Contractor.

5.5 Conversion of security

a) The Principal may convert into money at any time, such part of the Primary Security, the Retention Security and/or any additional security provided pursuant to Clause 42 that does not consist of money, whether or not it is entitled to exercise a right under the Contract in respect of the security.

b) The Principal shall not be liable in any way for any loss occasioned by the conversion of any security into money whether that conversion is done pursuant to this Clause 5.5 or any other clause.

5.6 Recourse to security and Retention Moneys

a) The Principal may have recourse to the Primary Security, the Retention Security and/or the Retention Moneys if:

   i. the Principal has become entitled to exercise a right under the Contract in respect of any such security and/or Retention Moneys, and/or

   ii. the Principal has received a Notice of Claim.

b) The Principal may have recourse to the Subcontractor Payment Security if:

   i. the Principal has received a Notice of Claim, and/or

   ii. the Principal has otherwise become entitled to exercise a right under the Contract in respect of that security (and notwithstanding any other provision of the Contract, the Principal shall not be so entitled until three months after the date of issue of the Final Certificate, and, even then, the Principal shall only be so entitled if it has exercised its powers under Clause 5.7(a)(ii) in respect of any Notices of Claim which it has received).

c) Nothing in any other part of Clause 5 shall limit the Principal's rights under Clause 5.5 or oblige the Principal to have recourse to any security and/or Retention Moneys where the Principal has received a Notice of Claim.

5.7 Notice of Claim received

a) Where the Principal has received a Notice of Claim, the moneys mentioned in Clauses 5.7(b)(i) to (b)(vi):

   i. shall, for the purposes of Section 109(1) of the *Payments Act*, be deemed to be moneys payable to the Contractor by the Principal under the Contract, and

   ii. may, in respect of any Notice of Claim, be retained by the Principal in accordance with Section 126(2) of the *Payments Act* or be used by the Principal to make a payment into court under Section 126(4) of the *Payments Act*.

b) The moneys mentioned in Clause 5.7(a) are:

   i. the moneys resulting from the conversion into money of any part of the Subcontractor Payment Security that did not consist of money

   ii. the moneys resulting from the conversion into money of any part of the Primary Security that did not consist of money (but only the balance remaining after the Principal has exercised all of its rights against such moneys)

   iii. the balance of the Retention Moneys after the Principal has exercised all of its rights against such moneys, and

   iv. the moneys resulting from the conversion into money of any part of the Retention Security that did not consist of money (but only the balance thereof remaining after the Principal has exercised all of its rights against such moneys).

c) If any part of the Primary Security, the Retention Security, the Subcontractor Payment Security, the moneys resulting from the conversion into money of any of those securities or the Retention Moneys is retained by the Principal or paid into court as provided in Clause 5.7(a)(ii), the Contractor shall within 10 Business Days of being directed to do so by the Principal, lodge further security for an amount equal to the amount retained or

paid into court. If the Contractor fails to provide such further security within the stated time, the Principal may deduct from any moneys otherwise due to the Contractor, an amount equal to the amount of the further security required by this Clause 5.7 and such deduction shall become part of the Primary Security, the Retention Security or the Subcontractor Payment Security (as the case requires).

5.8 Reduction of security and Retention Moneys

a) Upon the issue of the Certificate of Practical Completion, the Principal's entitlement to:

   i. the Primary Security

   ii. the Retention Moneys, and

   iii. the Retention Security

   shall be reduced to the percentage stated in Item 11B.

b) Subject to Clause 5.8(a), if, in the opinion of the Administrator, it is reasonable to further reduce the Principal's entitlement to the Primary Security, the Retention Security and/or the Retention Moneys, that entitlement shall be reduced to the amount which the Administrator determines to be reasonable.

c) The Principal shall, within 10 Business Days of the Administrator making such a determination, release the Primary Security, the Retention Security and/or the Retention Moneys (as the case requires) in excess of the entitlement determined by the Administrator.

5.9 Release of security

a) If the Contractor has provided additional security pursuant to Clause 42.4, the Principal shall, at the request of the Contractor, release that additional security within 10 Business Days of the incorporation into the Works of the unfixed plant or materials in respect of which the additional security was provided.

b) On achieving Practical Completion, any additional securities requested by the Principal from the Contractor at award stage, shall be released by the Principal within 10 Business Days of being notified by the Administrator to release such securities.

c) Where the Final Certificate shows that there is no balance owing by the Contractor to the Principal, the Principal shall, subject to the provisions of Clause 5:

   i. within 10 Business Days of the issue of the Final Certificate, release to the Contractor any Primary Security, Retention Security or Retention Moneys then held by the Principal, and

   ii. within four months after the issue of the Final Certificate, release to the Contractor any Subcontractor Payment Security then held by the Principal.

5.10 Interest on security and Retention Moneys

a) The Principal shall own any interest earned on:

   i. any Primary Security, Retention Security, Subcontractor Payment Security and/or additional security provided under Clause 42.4, which is converted into money, and

   ii. any Retention Moneys.

b) The Principal does not hold any such security, converted moneys or Retention Moneys upon any trust for the Contractor or any other party.

5.11 Deed of guarantee, undertaking and substitution

Where:

a) the Contractor is a Corporation that is related to, or is a Subsidiary of, another Corporation, and

b) the Principal has included in the Tender Documents a Form of deed of guarantee, undertaking and substitution

the Contractor shall, if requested by the Principal in writing, lodge with the Principal within 10 Business Days after that request having been made a deed of guarantee, undertaking and substitution in the form of Form C7848 duly executed by the Contractor and that other Corporation for the performance of the obligations and the discharge of the liabilities of the Contractor under or arising out of the Contract.

5.12 Composite securities

a) In this Clause 5.12, a reference to a Security is a reference to a Primary Security, a Retention Security, a Subcontractor Payment Security, an additional security provided under Clause 42.4 or any other bank guarantee or insurance bond provided as a security in relation to this Contract, as applicable.

b) If the Contractor provides a Security to the Principal in accordance with this Contract that is comprised of two or more bank guarantees or insurance bonds, the Principal:

   i. by accepting the provision of that Security in that form, does not limit or restrict the Principal's absolute discretion in deciding which of those bank guarantees or insurance bonds to have recourse to; and

   ii. in having recourse to that Security, is not obliged to do so in a proportional or prorated manner as between the bank guarantees or insurance bonds comprising that Security.

c) Where:

   i. the Contractor is comprised of two or more entities, and

   ii. those entities elect to satisfy the Contractor's obligation to provide Security to the Principal by each entity providing part of that Security to the Principal,

   Clause 5.12(b) will apply as though each entity's bank guarantee or insurance bond is a separate bank guarantee or insurance bond provided by the Contractor which together comprise the Security provided by the Contractor.

d) Where the Contractor is comprised of two or more entities, Clause 50.1 is not amended, waived or otherwise affected by the Principal accepting the provision of Security in the manner described in Clauses 5.12(b) or (c) (as applicable).

6 Evidence of Contract

6.1 Contract in absence of Formal Instrument of Agreement

Unless and until a Formal Instrument of Agreement is executed by the parties, the Letter of Acceptance, including documents or parts of documents referred to in, or attached to, the Letter of Acceptance, shall evidence the Contract.

6.2 Formal Instrument of Agreement

a) Item 12A specifies that a Formal Instrument of Agreement is required. The Principal shall prepare in triplicate a Formal Instrument of Agreement and shall, within 20 Business Days after the Date of Acceptance of Tender, forward it to the Contractor with a request that it be executed.

b) Within 10 Business Days after being requested in writing by the Principal so to do, the Contractor shall execute all three copies of the Formal Instrument of Agreement in the manner directed in writing by the Principal and return them to the Principal.

c) Within 10 Business Days after receipt from the Contractor of the three copies of the Formal Instrument of Agreement duly executed by the Contractor, the Principal shall execute all three copies and forward one copy to the Contractor.

d) The Administrator may extend the periods under Clause 6.2 by notice in writing to the parties.

e) The Principal shall bear the cost of any stamp duty payable on the Contract.

f) Notwithstanding any other provision of the Contract, and without prejudice to any other right or remedy which the Principal may have, if the Contractor has failed to comply with this Clause 6.2, the Principal may withhold payment until the Contractor complies with this Clause 6.2.

6.3 Collusive arrangements

The Contractor warrants and represents to the Principal that:

a) it had no knowledge of the Tender Price of any other Tenderer for the Work Under the Contract at the time of submission of its Tender

b) except as disclosed in its Tender, it has not entered into any Contract, arrangement or understanding to pay or allow to be paid any money directly or indirectly to a trade or industry association (above the published standard membership fee) or to or on behalf of any other Tenderer in relation to its Tender or this Contract, nor paid or allowed to be paid any money on that account

c) except by prior agreement with the Principal, it has not paid or allowed to be paid or entered into any Contract, arrangement or understanding to pay or allow to be paid any money directly or indirectly to or on behalf of any other Tenderer nor received any money or allowance from or on behalf of any other Tenderer in relation to its Tender or this Contract, nor will it pay or allow or receive any money, and

d) if, without the Principal's prior agreement, it receives or has received any money or allowance from any other Tenderer in relation to its Tender, the other Tenderer's Tender or this Contract, then without prejudice to any other right or remedy of the Principal, such money or allowance shall be deemed to be held by the Contractor on trust for the Principal and shall be paid to the Principal within five Business Days.

7 Service of notices

7.1 Notice requirements

a) Subject to Clause 7.1(b), a notice, request, consent, approval, direction or other communication (notice) under or for the purposes of the Contract shall be:

   i. in writing, in English and addressed to the receiving party, and
   ii. either:

a. sent by registered post to or left at the address specified in Item 4B, 5B or 6B (as the case may be)
b. handed to the other party and/or the Administrator (as the case may be)
c. sent by email to the email address specified in Item 4D, 4F, 5C or 6D (as the case may be), or
d. sent via a proprietary document management system which the parties have agreed in writing may be used for the purpose of giving a notice under the Contract.

b) Service of a notice under Clauses 44.2, 44.4, 44.7, 44.9 or 47.1 shall only be valid if effected in accordance with Clause 7.1(a)(ii)(a) or 7.1(a)(ii)(b).

7.2 Time of receipt

A notice is deemed to have been received:

a) if sent by registered post, on the third Business Day (or the 10th Business Day if posted to or from a place outside Australia) after posting

b) if delivered personally, upon delivery

c) if sent by email:

i. on a Business Day, on dispatch of the transmission, or

ii. on a Day other than a Business Day, on the next Business Day

unless the sender's server indicates a malfunction or error in transmission or the recipient within four hours of sending notifies the sender of an incomplete transmission, or

d) if sent via any proprietary document management system which the parties have agreed may be used for the purpose of giving a notice under the Contract, upon notification from that system to the recipient of the notice having been delivered on the proprietary document management system.

7.3 Notice details

A party may specify another address or email address for the purposes of this Clause 7, by notice to the other party.

7.4 Service of payment Claims

a) Service of payment Claims under the *Payments Act* by the Contractor on the Principal shall be made by forwarding or serving such Claims on the same Day to both the Administrator and the Principal.

b) The Contractor shall ensure that within 24 hours after any notice under the *Payments Act* (other than a payment Claim or payment schedule) is given or received by the Contractor or any Subcontractor, a copy of that notice is given to both the Principal and the Administrator.

8 Contract documents

8.1 Order of precedence of documents

a) The Contract is comprised of the documents listed in the Formal Instrument of Agreement (or the Letter of Acceptance, unless and until a Formal Instrument of Agreement is executed by the parties).

b) Unless otherwise expressly stated in the Formal Instrument of Agreement or the Letter of Acceptance (as the case may be) or in a version of Form C7871 attached to the Formal Instrument of Agreement or Letter of Acceptance, the following order of precedence shall apply where there is any ambiguity, discrepancy or inconsistency between the documents comprising the Contract, with the higher in the list having a higher priority:

i. Formal Instrument of Agreement

ii. Letter of Acceptance, including any post-Tender correspondences and the Schedule of Deviations (if applicable) listed or referred to in the Letter of Acceptance

iii. notices to Tenderers

iv. Special Conditions of Contract (Annexure D to these General Conditions of Contract) if any

v. these General Conditions of Contract, including:

a) Annexure A (Contract Details)

b) Annexure B (Commercial Framework)

c) Annexure C (Certification Functions of the Administrator), and

d) Clause Bank (C7836)

vi. Project Specific Specifications including MRTS Annexures

vii. Project Specific Drawings

viii. Standard Specifications

ix. Standard Drawings

x. Conditions of Tendering and Conditions of Tendering Annexure

xi. Completed Tender Form and Tender Schedules

xii. Other Contract Documents.

8.2 Discrepancies

a) The several documents forming the Contract are to be taken as mutually explanatory of one another. If either party discovers any ambiguity or discrepancy in any document prepared for the purpose of executing the Work Under the Contract, that party shall notify the Administrator in writing of the ambiguity or discrepancy as soon as possible but not later than five Business Days of first becoming aware of the ambiguity or discrepancy. In the event of any such ambiguity or discrepancy, the Administrator shall within five Business Days of receiving such advice or discovering the discrepancy, direct the Contractor as to the interpretation to be followed by the Contractor in carrying out the work.

b) If the direction from the Administrator under Clause 8.2(a) causes the Contractor to incur more or less cost than the Contractor could reasonably have anticipated at the time of tendering, the difference shall be valued under Clause 40.5.

8.3 Dimensions

Where any discrepancy exists between figured and scaled dimensions, the figured dimensions shall prevail.

8.4 Supply of documents and information by Principal

a) The Principal shall supply to the Contractor the number of copies stated in Item 13A of the Drawings, Specifications and Other Documents required by the Contract to be supplied to the Contractor by the Principal. Documents supplied to the Contractor by the Principal shall remain the property of the Principal and shall be returned by the Contractor to the Principal on demand in writing. The documents shall not, without the prior written approval of the Principal, be used, copied or reproduced for any purpose other than the execution of the Work Under the Contract.

b) The Contractor warrants that it has and it shall be deemed to have:

   i. examined carefully and to have acquired actual knowledge of the contents of the Contract documents, the Principal's Requirements (if applicable), the Tender Documents and any other information made available in writing by the Principal or any other person on the Principal's behalf to the Contractor for the purpose of preparing and submitting the Contractor's Tender

   ii. examined all information relevant to the risks, contingencies and other circumstances which could affect the Contractor's Tender and which was obtainable by the making of detailed enquiries

   iii. informed itself of the nature of the work and materials necessary for the execution of the Work Under the Contract and the means of access to and facilities at the Site and transport facilities for deliveries to or from the Site

   iv. informed itself as to the availability and cost of labour including the costs of complying with obligations imposed by any agreement between the relevant building industry unions and employers relating to the execution of construction and building work similar to the Work Under the Contract

   v. satisfied itself as to the correctness and sufficiency of the Contract Sum and that the Contract Sum covers the cost of complying with all its obligations under the Contract and of all matters and things necessary for the due and proper performance and completion of the Work Under the Contract

   vi. informed itself of all requirements of the Authorities in relation to the Work Under the Contract generally, and without limiting the generality of the foregoing, in relation to measures necessary to protect the environment from any adverse effect or damage arising from execution of the Work Under the Contract

   vii. obtained all appropriate professional and technical advice on all matters and circumstances with respect to the matters referred to in Clause 8.4(b)(i) to (vi) prior to submitting its Tender for the Work Under the Contract, and

   viii. entered into this Contract based on its own investigations, interpretations, deductions, information and determinations and the Contractor acknowledges that it is aware that the Principal has entered into the Contract relying upon this acknowledgment and warranty.

c) Failure by the Contractor to do all or any of the things it is deemed to have done under Clause 8.4(b) will not relieve the Contractor of any of its obligations or liabilities under the Contract, including its obligation to perform and complete the Work Under the Contract in accordance with the Contract.

8.5 Supply of documents by Contractor

a) If the Contract requires the Contractor to supply documents, the Contractor shall supply the number of copies stated in Item 13C.

b) If the Contractor submits documents to the Administrator, then:

   i. the Administrator shall not be bound to check the documents for errors, omissions or compliance with the requirements of the Contract

   ii. notwithstanding the provisions of Clauses 3.2.1 or 23, the Administrator's approval or direction as to suitability shall not relieve the Contractor from responsibility for the Contractor's errors or omissions or compliance with the requirements of the Contract

   iii. if the Contract provides that the Contractor must obtain the Administrator's direction whether documents are suitable or are not suitable then within the time stated in Item 13D after receipt of the documents, the Administrator shall notify the Contractor that the documents are suitable or are not suitable

   iv. if the Administrator notifies the Contractor that the documents are not suitable, the Administrator shall give reasons why the documents are not suitable and the Contractor shall submit new or amended documents for the Administrator direction under this Clause 8.5 within five Business Days after receipt of the Administrator's notice

   v. the Administrator shall not reject documents which are in accordance with the requirements of the Contract.

c) Copies of documents supplied by the Contractor shall be the property of the Principal but shall not be used or copied otherwise than for the use, maintenance or alteration of the Works.

8.6 Design by Contractor

8.6.1 Definitions

a) This Clause 8.6 only applies where Item 14A specifies the Contractor is required to design a Defined Part or where the Contractor has proposed an Alternative Tender that the Principal has accepted at the time of tendering and the Alternative Tender involved Contractor-supplied design.

b) The parties agree that the Principal or the Administrator (as the case may be) may act in its absolute discretion when exercising any of its rights under Clause 8.6.

c) Unless the context requires otherwise, in this Clause 8.6 and any other part of the Contract relating to work to be designed by the Contractor:

   i. 'Contractor's Construction Drawings' means the drawings prepared by, or on behalf of, the Contractor which are necessary for the construction and/or installation of the Defined Part.

   ii. 'Contractor's Construction Specifications' means the specifications prepared by, or on behalf of, the Contractor which are necessary for the construction and/or installation of the Defined Part.

   iii. 'Contractor's Design' means the design for the Defined Part which has been accepted pursuant to Clause 8.6.9(c)(i) or is deemed to have been accepted pursuant to Clause 8.6.11 and includes:

a) the Contractor's Construction Drawings, the Contractor's Construction Specifications and all other Drawings, Specifications, manuals, designs (including systems designs) and other information, calculations, samples, models, patterns and the like, and

b) any new software and any customised, modified or extended parts of any existing software (including associated data and documentation)

required for the construction and/or installation of the Works or which the Contract requires the Contractor to create or cause to be created or to provide (in all forms, including electronic) and which has become the Contractor's Design in accordance with Clause 8.6.8.

iv. 'Contractor's Designer' means the consultants and/or employees stated in the Contractor's Tender or any replacement Designer approved by the Administrator under Clause 8.6.4, being the Designers engaged by the Contractor for the purpose of preparing the Contractor's Design and providing required Certificates.

v. 'Defined Part' means that part of the Work Under the Contract specified in Item 14B which is to be designed and constructed by the Contractor, including all necessary interfaces with the remainder of the Work Under the Contract.

vi. 'Designer's Certificate' means a certificate in the form of Form C7859.

vii. 'Designer's Deed of Covenant' means the deed between the Principal, the Contractor and the Contractor's Designer referred to in Clause 8.6.4, in the form of Form C7854.

viii. 'Principal's Requirements' means the written summary or outline of the Principal's requirements for the Defined Part described in the documents stated in Item 14C or in any relevant design provided by the Principal.

8.6.2 Contractor's warranties

The Contractor warrants that:

a) it shall at all times be suitably qualified and experienced, and shall exercise due skill, care and diligence in the execution and completion of the design of the Defined Part

b) the design of the Defined Part will be carried out and completed in accordance with the requirements of the Contract, and:

i. such design will satisfy the Principal's Requirements and be fit and adequate for the purposes stated in, or that can be reasonably implied from the Contract, and suitable and adequate for the Site, and

ii. construction in accordance with such design will comply with the standards and other requirements specified by this Contract

c) it will construct the Defined Part in accordance with the Contractor's Design:

i. in a proper and workmanlike manner

ii. using material of the nature described in the Contract which is of merchantable quality fit and adequate for its intended purpose, or failing any specific description, then using material of the best quality available which is of merchantable quality and fit and adequate for its intended purpose

d) the Defined Part will, when constructed:

i. satisfy the Principal's Requirements and be fit and adequate for the purposes stated in, or that can be reasonably implied from, the Contract and be suitable and adequate for the Site, and

ii. comply with all the requirements of the Contract, including all Legislative Requirements and the requirements of all Authorities, and

e) it will apply for, and obtain (or cause to be applied for and obtained) and will maintain, all certificates, licenses, consents, permits and other approvals of any Authority necessary for:

i. the execution of the Defined Part, and

ii. the occupation and use of the Defined Part.

8.6.3 Contractor's liabilities, obligations and warranties unaffected

The warranties in Clause 8.6.2 shall remain unaffected, notwithstanding:

a) any design work in respect of the Defined Part may have been carried out by, or on behalf of, the Principal

b) any comment upon, response to, review or acceptance of, giving or withholding of permission to use, approval to proceed with, direction or query in relation to or request to vary any Contractor's Construction Drawing or Contractor's Construction Specification or any part of the quality assurance system (in so far as it relates to the Defined Part), by the Principal, the Administrator or any agent, employee or consultant of the Principal

c) any acceptance of a Drawing or Specification pursuant to Clause 8.6.9(c)(i) or deemed acceptance pursuant to Clause 8.6.11

d) any variation directed or approved by the Principal in accordance with Clause 40, or

e) the provision of any warranty under Clause 30.10.

8.6.4 The Contractor's Designer and Designer's Deed of Covenant

a) The Contractor shall engage the Contractor's Designer to assist the Contractor to carry out and complete the Contractor's Design and to assist the Contractor to discharge its other obligations under Clause 8.6. The Contractor shall not terminate the engagement of the Contractor's Designer without the prior written consent of the Administrator.

b) Before commencing any Work Under the Contract in respect of the Defined Part, the Contractor shall ensure that the Contractor's Designer takes out a professional indemnity insurance policy:

i. for a total aggregate of not less than the sum stated in Item 14D covering, among other things, Claims by the Principal, its employees and agents and third parties against the Contractor or the Contractor's Designer or by any other person arising out of or incidental to any negligent act, error or omission by the Contractor or the Contractor's Designer in connection with the professional activities and duties of the Contractor or the Contractor's Designer, and

ii. which is maintained until the Final Certificate is issued under Clause 42.8 and, after that, time for the period stated in Item 14E.

c) The Contractor shall, if requested by the Principal, within five Business Days of the later of:

i. the Date of Acceptance of Tender, or

ii. the date the Contractor's Designer is engaged by the Contractor

complete and execute, and procure the Contractor's Designer to complete and execute, a Designer's Deed of Covenant and deliver it to the Administrator.

d) If having been requested by the Contractor to execute a Designer's Deed of Covenant, the Contractor's Designer fails to do so in the required Form and within the time period prescribed by this Clause 8.6.4, the Contractor shall, provided it has obtained the prior written approval of the Administrator, terminate the engagement of the Contractor's Designer and the Contractor shall nominate a further Designer for the approval of the Administrator. If the Administrator approves the replacement Designer, the provisions of this Clause 8.6.4 shall apply with respect to that Designer.

8.6.5 The Contractor's Design

The Contractor shall ensure the Design of the Defined Part is carried out and completed in accordance with the Contract and such that the Contractor's Design, the Contractor's Construction Drawings, the Contractor's Construction Specifications and the Defined Part:

a) are in accordance with the Principal's Requirements

b) are consistent with the Contractor's Tender for the Defined Part (except to the extent that the Contractor's Tender is inconsistent with the Principal's Requirements or the Other Contract Documents or provides for standards of finish, workmanship or materials of a lesser standard than that required by the Principal's Requirements or the Other Contract Documents, in which case the Contractor's Design shall be in accordance with the Principal's Requirements and the Other Contract Documents), and

c) are sufficient to enable the Contractor to construct and complete the Defined Part.

8.6.6 Submission of Contractor's Construction Drawings, Specifications and certificate

The Contractor shall, in accordance with the documentation program required under Clause 8.6.13, submit to the Administrator:

a) five copies of the Drawings and Specifications for the Defined Part or as otherwise specified in Item 13C, and

b) with the copies of the Drawings and Specifications for the Defined Part submitted under Clause 8.6.6(a), five copies of a Designer's Certificate from the Contractor's Designer (signed by a Principal of the Contractor's Designer).

8.6.7 No obligations to review or check Drawings and Specifications

a) Neither the Principal nor the Administrator is required to review or check any Drawings or Specifications submitted by the Contractor under Clause 8.6.6 or 8.6.10(a) or any reasons or supporting information submitted by the Contractor under Clause 8.6.10(b):

   i. for errors, omissions or compliance with the Contract (including the Principal's Requirements), or

   ii. for any other purpose whatsoever.

b) The Contractor acknowledges that in considering and responding to any Drawings or Specifications submitted by the Contractor (if any such consideration occurs or response is given), the Principal and the Administrator will be relying upon:

   i. the advice, skill and judgment of the Contractor and the Contractor's Designer

ii. the Designer's Certificate provided under Clauses 8.6.6 and 8.6.10(a)

iii. any reasons and supporting information given by the Contractor under Clause 8.6.10(b), and

iv. the warranties given by the Contractor under the Contract.

c) No review of, comments upon, rejection of, or failure to review or comment upon or reject, any Drawings or Specifications submitted by the Contractor or any other direction by the Principal or Administrator about such Drawings or Specifications forming part of the Contractor's Design will:

i. relieve the Contractor from, or alter or affect, the Contractor's liabilities or responsibilities whether under the Contract or otherwise according to law, or

ii. prejudice the Principal's rights against the Contractor whether under the Contract or otherwise according to law.

8.6.8 Permission to use required before construction

The Contractor shall not commence construction of any part of the Defined Part unless and until Drawings and Specifications for that part of the Defined Part have been submitted under Clause 8.6.6 or 8.6.10(a) and either:

a) the Administrator has accepted the Contractor may use those Drawings and Specifications for the construction of the Defined Part in accordance with Clause 8.6.9(c)(i), or

b) the Administrator is deemed to have accepted those Drawings or Specifications may be used by the Contractor for the construction of the Defined Part as provided in Clause 8.6.11.

8.6.9 Giving and withholding permission to use

Within 10 Business Days after the submission by the Contractor to the Administrator of:

a) Drawings and Specifications and the accompanying Designer's Certificate in accordance with Clause 8.6.6

b) resubmitted Drawings and Specifications and the accompanying Designer's Certificate in accordance with Clause 8.6.10(a), or

c) reasons and supporting information in accordance with Clause 8.6.10(b) concerning Drawings and Specifications for which the Administrator has previously withheld permission to use

as the case may be, the Administrator may either:

i. give the Contractor notice in writing that it accepts use of the relevant Drawings and Specifications by the Contractor for the construction of the Defined Part, or

ii. advise the Contractor in writing that it does not accept such Drawings or Specifications and give the Contractor brief reasons for withholding permission.

8.6.10 Where permission to use is withheld

If the Administrator advises the Contractor under Clause 8.6.9(c)(ii) that it does not accept the Drawing or Specification, the Contractor shall either:

a) amend the Drawing or Specification and resubmit it to the Administrator together with an accompanying Designer's Certificate in accordance with Clause 8.6.6, or

b) submit written reasons and supporting information to the Administrator stating why use of the Drawing or Specification should be accepted.

8.6.11 Deemed permission to use

If within 10 Business Days after submission by the Contractor to the Administrator of:

a) a Drawing or Specification and the accompanying Designer's Certificate in accordance with Clause 8.6.6

b) a resubmitted Drawing or Specification and the accompanying Designer's Certificate in accordance with Clause 8.6.10(a), or

c) reasons and supporting information in accordance with Clause 8.6.10(b) concerning a Drawing or Specification for which the Administrator has previously withheld permission to use

as the case may be, the Administrator has not responded to the Contractor as provided in Clause 8.6.9(c)(i) or 8.6.9(c)(ii), then upon the expiration of the relevant 10 Business Day period, the Administrator shall be deemed to have accepted the use of the relevant Drawing or Specification by the Contractor for the construction of the Defined Part to the extent that the document complies with the requirements of the Contract.

8.6.12 Documents become part of the Contractor’s Design

A Drawing or Specification submitted under Clause 8.6.6 or resubmitted in accordance with Clause 8.6.10(a) shall become part of the Contractor's Design:

a) when the Administrator has accepted that Drawing or Specification may be used by the Contractor for the construction of the Defined Part pursuant to Clause 8.6.9(c)(i), or

b) where such acceptance is deemed to have occurred pursuant to Clause 8.6.11.

8.6.13 Documentation program

a) The Contractor shall, as part of the program which it is obliged to provide pursuant to Clause 33, submit a documentation program to the Administrator setting out the order in which and times by which Drawings and Specifications for the construction of the Defined Part are to be completed and submitted to the Administrator.

b) The Contractor shall ensure that the documentation program provides for, and makes due allowance for, those Drawings and Specifications to be prepared and supplied to the Administrator within the time required by and at a rate consistent with the maintenance of progress of the Defined Part in accordance with the Current Program (provided that no more than a reasonable number of Drawings or Specifications are to be submitted to the Administrator on any one Day).

8.6.14 No departure from Contractor’s Design

a) The Contractor shall carry out and complete the Defined Part strictly in accordance with the Contractor's Design.

b) The Contractor shall not depart from, or change, the Contractor's Design unless the departure or change (including a departure or change required by a variation directed by the Administrator under Clause 40.1):

   i. is not inconsistent with the Principal's Requirements or any other Contract requirements, and

   ii. will not materially affect the design and construction of the Defined Part.

c) Where there is any departure or change to the Contractor's Design pursuant to Clause 8.6.14(b), the Contractor shall prepare Drawings and Specifications in relation to the departure or change in

accordance with Clause 8.6.5 and submit them, together with relevant Designer's Certificates, in accordance with Clause 8.6.6 and the Administrator shall be deemed to have accepted those Drawings and Specifications in accordance with Clause 8.6.11.

d) If any departure or change to the Contractor's Design is inconsistent with the Principal's Requirements or any other Contract requirements or will materially affect the Defined Part, the Contractor shall resubmit Drawings and Specifications in relation to the departure or change in accordance with Clause 8.6.6 and Clauses 8.6.6 to 8.6.12 shall apply in respect of those resubmitted Drawings and Specifications.

e) No acceptance or deemed acceptance by the Administrator in connection with a departure from or change to a Contractor's Design as contemplated by this Clause 8.6.14 shall:

   i. constitute, or be treated as, a variation direction by the Administrator under Clause 40.1

   ii. entitle the Contractor to any additional payment or any extension of the Date of Practical Completion, or

   iii. affect the warranties or obligations of the Contractor under Clause 8.6.2.

8.6.15 Copyright in design

a) The Contractor warrants that:

   i. it and/or the Contractor's Designer owns the copyright in all of the Drawings and Specifications prepared by them for the purposes of the construction of the Defined Part, and

   ii. it has the right and the Authority to grant the licence mentioned in Clause 8.6.15(b).

b) The Contractor hereby grants to the Principal an irrevocable royalty-free licence to use the documents mentioned in Clause 8.6.15(a)(i) for the Work Under the Contract, for any subsequent operation, maintenance, repairs, additions or alterations of or to the Defined Part and for any other purpose including other non-related projects. This licence will survive the breach, repudiation, rescission, frustration, cancellation, termination, completion or any other discharge of the Contract and any takeover of the whole or any part of the Work Under the Contract.

c) Where the Principal uses any of the documents mentioned in Clause 8.6.15(a)(i) other than for the purposes of this Contract or in connection with the Work Under the Contract, it does so at its own risk.

8.6.16 Conditions precedent to issue of Certificate of Practical Completion

The Contractor shall, as a condition precedent to the issue of the Certificate of Practical Completion, hand over the following to the Administrator:

a) three sets of as-constructed Contractor's Construction Drawings and Contractor's Construction Specifications in a Form and containing such details as may be required by the Administrator

b) a Designer's Certificate certifying that the as-constructed Contractor's Construction Drawings and Contractor's Construction Specifications comply with the requirements of the Contract and the Contractor's Design, and

c) records and reporting relevant to Work Under the Contract required by legislation, government policy or specific contractual conditions, provided in electronic form unless otherwise agreed by the Administrator.

8.6.17 Ambiguities and discrepancies in the Contractor's Design

Clause 8.2(b) shall apply to a Defined Part only where the ambiguity or discrepancy is in the Principal's Requirements. Where the ambiguity or discrepancy is:

a) in the Contractor's Design or any Drawing or Specification produced by the Contractor in respect of a Defined Part (including in or between any of the Contractor's Construction Drawings or the Contractor's Construction Specifications), or

b) between the Contractor's Design or any Drawing or Specification produced by the Contractor in respect of a Defined Part (including any Contractor's Construction Drawings or the Contractor's Construction Specifications) and the Principal's Requirements

such ambiguity or discrepancy shall be at the Contractor's risk and the direction shall not entitle the Contractor to any extra payment or an extension of time.

8.7 Workshop drawings

The Contractor shall prepare all fabrication, erection and construction drawings (workshop drawings), required to supplement any information supplied by the Principal and these shall be submitted to the Administrator for a direction as to their suitability, in accordance with Clause 8.5, where specified, at the time specified or, if not specified, 15 Business Days before any work shown in such workshop drawings is commenced.

8.8 Availability of documents

a) While Work Under the Contract is being performed, one complete set of Drawings, Specifications and other written information supplied by the Principal, the Administrator and the Contractor shall be kept by the Contractor at the Site or other location approved in writing by the Principal and shall be available at all times for reference by the Principal, the Administrator and any persons nominated in writing by either of them.

b) During the manufacture or assembly of any significant part of the Work Under the Contract away from the part of the Site where the Works are to be constructed, a set of the Drawings and written information relevant to that part of the work shall be kept by the Contractor at the place of manufacture or assembly and shall be available for reference by the Principal, the Administrator and any person nominated in writing by either of them.

8.9 Confidential information

a) Drawings, Specifications and other information, samples, models, patterns and the like, supplied by either the Contractor or the Principal and marked or otherwise identified as confidential, shall be regarded as confidential and shall not be disclosed to a third party except with the prior agreement of the other party to the Contract.

b) If required in writing by a party, the other party shall enter into a separate agreement not to disclose to anyone else any confidential matter even after the issue of the Final Certificate pursuant to Clause 42.8 or the earlier termination of the Contract.

8.10 Information Privacy Act 2009

a) The Contractor acknowledges that the Contractor is a Bound Contracted Service Provider and the Information Commissioner's (as defined under the Act) functions include conducting reviews into Personal Information handling practices of Bound Contracted Service Providers and conducting compliance audits to assess Bound Contracted Service Providers' compliance with the privacy principles.

b) The Contractor shall promptly advise the Principal of any:

   i. enforcement of the Contractor's obligations under the *Information Privacy Act 2009* (Qld) in connection with the Contract, including enforcement through Compliance Notices given to the Contractor, and

   ii. Privacy Complaints in connection with the Contractor's discharge of its obligations under the Contract, including any Privacy Complaints to which the Contractor is a respondent.

c) The Contractor shall take any actions reasonably required by the Principal in connection with the matters referred to in Clause 8.10(b), including steps to comply with any Compliance Notice.

d) The Contractor shall keep the Principal informed about actions of the Information Commissioner in connection with the Contract of which the Contractor becomes aware.

e) The Contractor shall immediately notify the Principal if the Contractor becomes aware that disclosure of Personal Information held in relation to this Contract is, or may be, required or authorised by law.

f) Where:

   i. an individual makes an application to the Principal for access to, or amendment of, a Document containing the individual's Personal Information, whether the application is made under the *Information Privacy Act 2009* (Qld) or otherwise, or

   ii. a Privacy Complaint is made to the Principal, including any Privacy Complaints to which the Principal is a respondent, the Contractor shall, as soon as possible following the Principal's request, but no later than two Business Days after such request from the Principal:

      a) submit to the Principal any Document specified by the Principal

      b) amend or notate any Document specified by the Principal

      c) provide information to the Principal concerning the Contractor's discharge of its obligations under this Clause 8.10, and

      d) take other reasonable actions required by the Principal.

g) The Principal may request the Contractor to comply with privacy and security measures under the *Information Privacy Act 2009* (Qld) and the *Right to Information Act 2009* (Qld). Such request will be in writing.

h) In relation to this Clause 8.10, the Administrator shall act as an agent of the Principal.

i) Following the issuing of the Certificate of Practical Completion and prior to the issue of the Final Certificate, the Contractor shall forward any Personal Information on members of the community held by the Contractor to the Principal. Following confirmation of receipt by the Principal, the Contractor shall destroy all such information in the Contractor's possession.

j) This Clause 8.10 survives termination or expiry of the Contract.

8.11 Media releases and communication material

The Contractor shall not issue any information, publication, document or article for external release or publication concerning the project to third parties or in any media (including social) without prior approval of the Principal. The Contractor shall refer to the Principal any enquiries concerning the project from any media.

9 Assignment and subcontracting

9.1 Assignment

a) Neither party shall, without the prior written approval of the other, and except on such reasonable terms and conditions as are determined in writing by the other, assign the Contract or any payment or any other right or benefit or interest thereunder.

b) The Contractor shall not without the written approval of the Administrator allow a Subcontractor to assign a subcontract or any payment or any other right, benefit or interest under a subcontract.

9.2 Subcontracting

9.2.1 Prior consent required

The Contractor shall not:

a) subcontract the whole of the Work Under the Contract

b) subcontract or allow a Subcontractor to subcontract any Work Under the Contract, if:

   i. the value of the Work Under the Contract to be subcontracted exceeds the amount specified in Item 15A, or

   ii. the Work Under the Contract to be subcontracted is subject to the requirements in Clause 9.3 in relation to registered suppliers

   without the written approval of the Administrator, which may be given or withheld in the Administrator's absolute discretion.

9.2.2 Subcontractor documents

Note: this clause may be adapted to align with the Contractor's Tender

If the Best Practice Principles are applicable, the Contractor shall implement the following measures when preparing the documents required to enable the Contractor to call tenders and entering into subcontracts:

a) include the Best Practice Principles in the tender documents when selecting Subcontractors to undertake work under the Contract

b) include a copy of the Best Practice Industry Conditions in the tender documents as a guidance example of best practice industrial relations;

c) require Subcontract tenderers to:

   (i) *demonstrate as part of their tender*, how they propose to address each of the Best Practice Principles and the Best Practice Industry Conditions (noting that it is not mandatory for Subcontractors to have an enterprise agreement or a certain kind of enterprise agreement)

   (ii) demonstrate as part of their tender, how their terms and conditions of employment for the Subcontractor's personnel who will perform Work Under the Contract, compare to the Best Practice Industry Conditions

   (iii) acknowledge that information relating to the Subcontractor relevant to the evaluation criteria that may be held by any Government Department or Instrumentality may be obtained by or made available to the Principal for its information and verification, and

   (iv) execute a deed poll in favour of the Principal in the form provided as part of their tender;

d) ensure evaluation of Subcontract tender responses against clear evaluation criteria and weightings, including evaluation of the terms and conditions of employment for the Subcontractor's personnel who will perform Work Under the Contract, having regard to the Best Practice Industry Conditions (noting that it is not mandatory for Subcontractors to have an enterprise agreement or a certain kind of enterprise agreement);

e) record all evaluation findings and, if requested, submit these to the Administrator at the completion of each Subcontract evaluation;

f) include provisions in any resulting Subcontract requiring the Subcontractor to:

(v) fulfil the commitments made in the Subcontractor's tender in respect of the Best Practice Principles,

(vi) provide terms and conditions of employment for the Subcontractor's personnel who will perform Work Under the Contract, in accordance with the Subcontractor's tender; and

(iii) submit Subcontractor statutory declarations as contemplated by Clause 43e).

9.2.3 Details of proposed Subcontractors

a) In seeking approval to subcontract any part of the Work Under the Contract, the Contractor shall provide to the Administrator:

i. particulars in writing of the work to be subcontracted and the name and the address of the proposed Subcontractor, and

ii. any other information which the Administrator reasonably requests, including the proposed subcontract documents (without prices).

b) Within 10 Business Days of receiving the information required to be provided by the Contractor pursuant to Clause 9.2.2(a), the Administrator shall consider the request for approval and advise the Contractor of its approval or provide reasons why approval is not given.

c) In considering a request for approval to subcontract under this Clause 9.2.2, the Administrator may consider the proposed Subcontractor's:

i. commitments in respect of the Best Practice Principles and the Best Practice Industry Conditions

ii. management capability in quality, work health and safety and environmental management, and

iii. technical experience and capability.

d) The Administrator's approval to subcontract under this Clause 9.2.2 may be conditional upon the subcontract, including:

i. provision that the Subcontractor shall not assign or subcontract without the consent in writing of the Contractor, and

ii. provisions which may be reasonably necessary to enable the Contractor to fulfil the Contractor's obligations to the Principal.

9.3 Registered Suppliers

a) Without limiting the Contractor's obligations under Clause 9.2, the Contractor shall only use Registered Suppliers in respect of the Work Under the Contract which is covered by the Department's relevant registration categories.

b) The Registered Suppliers and registration categories may be amended at any time and from time to time by the Principal and are available at the Principal's website.

c) Where a Registered Supplier is removed from the register after the Administrator has granted approval of that Subcontractor, the Contractor shall continue to fulfil that Registered Supplier's obligations under the Contract.

d) The Contractor shall ensure that any special conditions imposed on the Registered Suppliers as part of registration be complied.

9.4 Contractor's responsibility

The existence of a subcontract (with or without the approval of the Administrator) does not relieve the Contractor from any liability or obligation under the Contract. Except where the Contract otherwise provides, the Contractor is liable to the Principal for the acts and omissions of Subcontractors and employees and agents of Subcontractors as if they were acts or omissions of the Contractor.

10 Selected and Nominated Subcontractors

10.1 Selected Subcontract

The Contractor shall subcontract the Selected Subcontract Work to a Selected Subcontractor. If the Tender Documents specify the terms and conditions upon which the subcontract is to be entered into, the subcontract shall include those terms and conditions.

10.2 Nominated Subcontract

a) At such time as is necessary to avoid delay to the Contractor, the Contractor shall subcontract the Nominated Subcontract Work to a Nominated Subcontractor.

b) If the Contract provides that the Principal may assign to the Contractor the benefit of a prior Contract made between the Principal and a Nominated Subcontractor, the Contractor shall, when directed by the Administrator, accept the assignment of that prior Contract. If the Contract provides that the Principal may novate to the Contractor a prior Contract made between the Principal and a Nominated Subcontractor in respect of Nominated Subcontract Work, the Contractor shall, when directed by the Administrator, execute a deed of novation of that prior Contract in the Form included in the Tender Documents (Form C7849) and unless the Contract otherwise provides, the Contractor shall give the Principal credit for payment made by the Principal to the Nominated Subcontractor in respect of the Nominated Subcontract Work.

c) The Contractor shall ensure that the provisions of the subcontract with a Nominated Subcontractor provides:

   i. that in respect of the Nominated Subcontract Work, the Nominated Subcontractor will undertake the Contractor obligations and liabilities to enable the Contractor to discharge the Contractor's obligations and liabilities to the Principal under the terms of the Contract

   ii. that the Nominated Subcontractor will indemnify the Contractor against loss resulting from any failure by the Nominated Subcontractor to perform such obligations or fulfil such liabilities

   iii. that the Nominated Subcontractor will indemnify the Contractor against loss resulting from any negligence by the Nominated Subcontractor and the Nominated Subcontractor's servants and agents and against any misuse by them of any Constructional Plant or Temporary Works provided by the Contractor for the purposes of the Contract

iv. that the Nominated Subcontractor will lodge security in a Form provided by Clause 5.4 and that security and Retention Moneys shall be calculated on the same scale and on the same basis respectively as apply in the Contract, and

v. rights and obligations equivalent to those in Clause 44.

10.3 Provisions applying generally to Selected and Nominated Subcontract Work

a) The Contractor shall be fully responsible to the Principal for the Selected or Nominated Subcontract Work, including design, suitability, quality and workmanship.

b) Except as specified in this Clause 10, and subject to any reasonable objection made by the Contractor pursuant to this Clause 10:

i. the Principal shall have no liability to a Selected or Nominated Subcontractor arising from the subcontract between the Contractor and the Selected or Nominated Subcontractor, and

ii. the Principal shall not be liable to the Contractor for any act, default or omission or breach of Contract by a Selected or Nominated Subcontractor, arising from the subcontract between the Contractor and the Selected or Nominated Subcontractor.

10.4 Direct payment of Nominated Subcontractor

a) In respect of Nominated Subcontract Work performed by a Nominated Subcontractor, the Principal shall make payment directly to the Nominated Subcontractor. Except where the Contractor has accepted an assignment of the benefit of a prior Contract made between the Principal and a Nominated Subcontractor:

i. such payment shall be made on behalf of the Contractor, and

ii. if the Contractor reasonably requests the Principal in writing not to make a payment to the Nominated Subcontractor, the Principal shall withhold payment, but under no circumstances, including bankruptcy or winding up of the Contractor, shall payment be made to the Contractor.

b) The Principal as stakeholder shall hold Retention Moneys and security provided by a Nominated Subcontractor and shall disburse or apply the Retention Moneys or security as jointly requested by the Contractor and the Nominated Subcontractor or in accordance with the decision of an arbitrator or Court.

10.5 Termination of Nominated Subcontractor

a) The Contractor shall not unreasonably terminate a subcontract for Nominated Subcontract Work and as early as possible the Contractor shall notify the Administrator of the Contractor's intention to terminate and the reasons.

b) If a Nominated Subcontractor repudiates or abandons a subcontract or the Nominated Subcontractor is terminated, the Contractor shall within one Business Day notify the Administrator in writing and within three Business Days the Administrator shall nominate an alternative Nominated Subcontractor to complete the subcontract work.

c) The Contractor shall not be obliged to enter into a subcontract with an alternative Nominated Subcontractor referred to in Clause 10.5(b) against whom the Contractor raises reasonable objection.

d) The Contractor shall, as soon as practicable, enter into a subcontract with the alternative Nominated Subcontractor referred to in Clause 10.5(b) and notify the Administrator accordingly.

e) If compliance with such a direction causes the Contractor to incur more or less cost than otherwise would have been incurred had the Contractor not been given the direction, the difference shall be valued under Clause 40.5, except where a Provisional Sum for the Nominated Subcontract Work has been included in the Contract, in which case the provisions of Clause 11 shall apply.

11 Provisional Sums

a) A Provisional Sum included in the Contract shall not itself be payable by the Principal, but where at the direction of the Administrator, the work or Item to which the Provisional Sum relates is performed by:

   i. the Contractor, the work or Item shall be valued under Clause 40.5 of the General Conditions of Contract

   ii. a Subcontractor, the Principal shall pay the Contractor the amount payable by the Contractor to the Subcontractor for the work or Item, disregarding any damages payable by the Contractor to the Subcontractor or vice versa, plus the amount or percentage thereon for profit and attendance stated in Item 15E or, where not so stated, as stated elsewhere in the Contract and (unless incorporated within the amounts payable under this paragraph) GST, and

   iii. a Nominated Subcontractor pursuant to a prior Contract made between the Principal and a Nominated Subcontractor, the benefit of which has been assigned to the Contractor, the Principal shall pay the Contractor the amount stated in Item 15F or the percentage for profit and attendance stated in Item 15F of the amount payable by the Principal to the Nominated Subcontractor for the work or Item or, where no amount or percentage is stated, as stated elsewhere in the Contract, disregarding any damages payable by the Principal to the Nominated Subcontractor or vice versa and (unless incorporated within the amounts payable under this paragraph) GST.

b) The amount payable to a Subcontractor for materials or goods is to be taken to be the nett cost to the Contractor (disregarding any deduction of cash discount for prompt payment).

12 Site conditions

12.1 Contractor investigations

a) The Principal does not warrant or make any representation with respect to:

   i. the completeness, accuracy, adequacy or content of any Site Information provided to the Contractor by, or on behalf of, the Principal

   ii. the completeness or adequacy of any Reliance Information, or

   iii. any interpretations, deductions, opinions or conclusions set out in any such Site Information or Reliance Information.

b) The Contractor warrants that it has, and shall be deemed to have, visited and examined the Site and its surroundings and done everything a competent and experienced Contractor would have done to inform itself fully as to the physical conditions or obstructions upon and below the surface of the Site, and the local conditions, including climatic and hydrologic conditions at, near or relevant to the Site, or any other condition or characteristic of the Site affecting or which may affect its performance of the Contract and obtained all necessary information as to risks,

contingencies and other circumstances which could have an effect on the performance and cost of executing the Work Under the Contract.

c) Any Site Information provided to the Contractor by, or on behalf of, the Principal is provided for information only.

d) Subject to Clause 12.2:

   i. the Principal shall not be liable to the Contractor for any Claim arising out of, or in relation to, Site Information provided to the Contractor by, or on behalf of, the Principal

   ii. the Contractor shall not be relieved of any of its obligations or liabilities, if the Contractor encounters conditions, including subsurface conditions and subsurface services, which differ from the conditions shown in or indicated by any Site Information provided to the Contractor by or on behalf of the Principal, and

   iii. the Contractor accepts all risk arising out of its use of or reliance upon any Site Information provided to the Contractor by or on behalf of the Principal.

12.2 Notification

a) If during the execution of the Work Under the Contract, the Contractor becomes aware of a Latent Condition, the Contractor shall within one Business Day and, where possible, before the Latent Condition is disturbed, give written notice to the Administrator of that Latent Condition endorsed 'Contractor's Notice Under Clause 12.2'.

b) Following notification under Clause 12.2 a) and unless not required by the Administrator, the Contractor shall provide to the Administrator a statement in writing, specifying:

   i. the Latent Condition encountered and in what respects it differs materially

   ii. the additional work and additional resources which the Contractor estimates to be necessary to deal with the Latent Condition

   iii. the time the Contractor anticipates will be required to deal with the Latent Condition and the expected delay in achieving Practical Completion

   iv. the Contractor's estimate of the cost of the measures necessary to deal with the Latent Condition, and

   v. other details reasonably required by the Administrator.

c) The written statement provided under Clause 12.2 b) shall be provided by the Contractor within a reasonable timeframe after the Latent Condition was first notified under Clause 12.2 a).

12.3 Extension of time and cost

Delay caused by a Latent Condition may justify an extension of time under Clause 35.5. If a Latent Condition causes the Contractor to:

a) carry out additional work

b) use additional Constructional Plant, or

c) incur extra cost (including any disruption costs)

which a competent and experienced Contractor could not reasonably have anticipated at the time of tendering, a valuation shall be made under Clause 40.5.

12.4 Reduced Valuation

Where the Contractor has not provided the notification required under Clause 12.2, the Administrator may reduce the value of the Contractor's claim to the extent that there is a more cost-effective treatment to mitigate the Latent Condition which was not identified by the Contractor and could have been identified by the Principal and directed by the Administrator had the required notification been provided.

13 Patents, copyright and other intellectual property rights

a) The Principal warrants that unless otherwise provided in the Contract:

   i. design

   ii. materials

   iii. documents, and

   iv. methods of working

   specified in the Contract or provided or directed by the Principal or the Administrator will not infringe any patent, registered design, trademark or name, copyright or other protected right.

b) The Contractor warrants that any other design, materials, documents and methods of working provided by the Contractor will not infringe any patent, registered design, trademark or name, copyright or other protected right and the Contractor shall indemnify the Principal against any design, materials, documents or methods of working provided by the Contractor infringing any patent, registered design, trademark or name, copyright or other protected right.

14 Statutory requirements

14.1 Complying with Legislative Requirements

a) The Contractor shall satisfy all Legislative Requirements.

b) The Contractor shall give the notices and pay any fees or charges necessary to comply with all Legislative Requirements.

c) If a change in a Legislative Requirement is at variance with a provision of the Contract, as soon as the Contractor discovers the variance, the Contractor shall notify the Administrator in writing specifying the difference.

14.2 Changes in Legislative Requirements

If a change in a Legislative Requirement after the 10th Business Day prior to the closing of Tenders:

a) necessitates a change in the Works or the Temporary Works or the Contractor's method of working, or

b) is an increase or decrease in or is a new fee or charge in relation to the Works or Temporary Works,

and causes the Contractor to incur more or less cost than could reasonably have been anticipated by a competent and experienced Contractor at the time the Contractor submitted its Tender, the difference shall be valued under Clause 40.5.

14.3 Licences, registrations, permits, approvals and certificates

a) The Contractor shall obtain and hold, and ensure that its Subcontractors, agents and employees obtain and hold, all of the licences, registrations, permits, approvals and certificates that they are

required under all Legislative Requirements in order to carry out the Work Under the Contract and in respect of the use and occupation of the Works.

b) The Contractor shall give the Principal copies of documents issued to the Contractor by any Authority in respect of the Work Under the Contract and, in particular, any approvals of work.

14.4 Industrial matters

a) The Contractor shall comply with, and ensure that its Subcontractors comply with, the provisions of the industrial awards and agreements that from time to time are applicable to the performance of the Work Under the Contract. Without limiting the generality of the foregoing, the Contractor shall ensure that its Subcontractors enter into an agreement to comply with the provisions of the said industrial awards and agreements prior to their employment on the Site.

b) The Contractor warrants that the labour rates and conditions upon which the Contract Sum has been calculated are based on the provisions of the applicable industrial awards and/or agreements.

c) The Contractor is not entitled to make any Claim in connection with its compliance with this Clause 14.4 or any increase in labour costs.

14.5 Specific Legislative Requirements

Without limiting Clause 14.1, the Contractor shall comply with the requirements set out in this Clause 14.5.

14.5.1 The Building Code

If specified in Item 16A, the Code for the Tendering and Performance of Building Works 2016 (the Building Code) applies to this Contract. The Building Code can be viewed at the Australian Government website https://www.abcc.gov.au/building-code.

14.5.2 Haulage of plant and materials

a) The Contractor shall ensure that vehicles carrying plant and material over state-controlled roads and local government-controlled roads shall comply with the vehicle weight limit requirements set out in the *Transport Operations (Road Use Management) Act 1995* (Qld), and with any other vehicle weight limit requirements imposed by duly constituted authorities on whose roads such vehicles operate.

b) The Contractor shall, prior to commencement of work on the Site, submit evidence to the Administrator that the approvals of the relevant Authorities have been obtained for the haulage of plant and materials over surface streets along nominated routes.

c) The Contractor shall be responsible for the rectification of any damage to surface streets attributable to the Work Under the Contract. If the Contractor fails to rectify the damage, the Administrator may, after giving reasonable notice, arrange for the necessary rectification work to be carried out and the cost incurred shall be a debt due from the Contractor to the Principal.

d) Access for Constructional Plant to and from surface streets on or off the Site shall be subject to any restrictions stated in Item 17A.

e) Failure of the Contractor to comply with the requirements of this Clause 14.5.2 will be a substantial breach of Contract for the purposes of Clause 44.2.

14.5.3 Portable Long Service Leave Levy

Where applicable:

a) The Principal shall be responsible for the notification of any building and construction work required to be performed under this Contract in accordance with Section 67 of the *Building and Construction Industry (Portable Long Service Leave) Act 1991* (Qld), and

b) The Principal shall be responsible for the payment of any levies due in accordance with Section 66 of the *Building and Construction Industry (Portable Long Service Leave) Act 1991* (Qld).

14.5.4 National Greenhouse and Energy Reporting Act

a) A party will provide the other party with all information and documentation reasonably requested by the other party in respect of greenhouse gas emissions and energy production and consumption referable to any activities that comprise Work Under the Contract which is reasonably necessary to enable compliance by the other party with its obligations under the *National Greenhouse and Energy Reporting Act 2007* (Cth) (NGER Legislation) in relation to any Work Under the Contract.

b) The Contractor acknowledges that it is not entitled to any additional payment from the Principal for complying with any obligations the Contractor may have under the NGER Legislation.

14.5.5 Work health and safety accreditation

If applicable, as indicated in Item 11A of the Conditions of Tendering Annexure (or in the case of a TIC-Sole Invitation, if requested by the Principal):

the Contractor shall be accredited under the Australian Government Building and Construction WHS Accreditation Scheme (the Scheme) established by the *Building and Construction Industry (Improving Productivity) Act* 2016 *(BCIIP Act)* while building work (as defined in Section 6 of the BCIIP Act) is carried out, and shall maintain accreditation under the Scheme while the Works are being carried out and for the duration of the Contract, and

a) The Contractor shall comply with all conditions of the Scheme accreditation.

14.6 The Queensland Code

14.6.1 Definitions

If applicable, in addition to terms defined in this document, terms used in this Clause 14.6 have the same meaning as is attributed to them in the Queensland Government's *Queensland Code of Practice for the Building and Construction Industry* (the Queensland Code)The Queensland Code is available at https://www.oir.qld.gov.au/industrial-relations/building-and-construction-code-practice-2000.

14.6.2 Primary obligation

a) The Contractor shall comply with, and meet any obligations imposed by, the Queensland Code.

b) The Contractor shall notify the Australian Building and Construction Commission (or nominee) and the Principal of any alleged breaches of the Queensland Code and of voluntary remedial action taken within 24 hours of becoming aware of the alleged breach.

c) Where the Contractor is authorised to engage a Subcontractor and it does so, the Contractor shall ensure that any secondary Contract imposes on the Subcontractor equivalent obligations to

those in this Clause 14.6, including that the Subcontractor shall comply with, and meet any obligations imposed by, the Queensland Code.

d) The Contractor shall not appoint or engage another party in relation to the Work Under the Contract where that appointment or engagement would breach a sanction imposed on the other party in relation to the Queensland Code.

14.6.3 Access and information

a) The Contractor shall maintain adequate records of compliance with the Queensland Code by it, its Subcontractors and related entities.

b) The Contractor shall allow, and take reasonable steps to facilitate, Queensland Government authorised personnel (including personnel of the ABCC) to:

   i. enter and have access to Sites and premises controlled by the Contractor, including any Site at which the Work Under the Contract is being carried out

   ii. inspect any work, material, machinery, appliance, article or facility

   iii. access information and documents

   iv. inspect and copy any record relevant to the Work Under the Contract

   v. have access to personnel, and

   vi. interview any person.

c) As is necessary for the authorised personnel to monitor and investigate compliance with the Queensland Code by the Contractor, its Subcontractors and related entities.

d) The Contractor, and its related entities, shall agree to, and comply with, a request from Queensland Government authorised personnel (including personnel of the ABCC) for the production of specified documents by a certain date, whether in person, by post or electronic means.

14.6.4 Sanctions

a) The Contractor warrants that at the time of entering into this Contract, neither it, nor any of its related entities, are subject to a sanction in connection with the Queensland Code that would have precluded it from tendering for work to which the Queensland Code applies.

b) If the Contractor does not comply with, or fails to meet any obligation imposed by, the Queensland Code, a sanction may be imposed against it in connection with the Queensland Code.

c) Where a sanction is imposed:

   i. it is without prejudice to any rights that would otherwise accrue to the parties,

   ii. the State of Queensland (through its agencies, Ministers and the ABCC) is entitled to:

      a) record and disclose details of non-compliance with the Queensland Code and the sanction, and

      b) take them into account in the evaluation of future expressions of interest or Tender responses that may be lodged by the Contractor, or its related entities, in respect of work to which the Queensland Code applies.

14.6.5 Compliance

a) The cost of ensuring the Contractor's compliance with the Queensland Code shall be borne by the Contractor. The Contractor is not entitled to make a Claim for reimbursement or an extension of time from the Principal or the State of Queensland for such costs.

b) Compliance with the Queensland Code does not relieve the Contractor from responsibility to perform the Work Under the Contract and any other obligation under the Contract, or from liability for any defect in the Works or from any other legal liability, whether or not arising from its compliance with the Queensland Code.

c) Where a change in the Contract or the Work Under the Contract is proposed, and that change would, or would be likely to, affect compliance with the Queensland Code, the Contractor shall immediately notify the Principal (or nominee) of the change, or likely change and specify:

   i. the circumstances of the proposed change

   ii. the extent to which compliance with the Queensland Code will, or is likely to be, affected by the change, and

   iii. what steps the Contractor proposes to take to mitigate any adverse impact of the change.

   and the Principal will direct the Contractor as to the course it must adopt within five Business Days of receiving notice.

14.7 Personal Property Securities Act

14.7.1 Confidentiality under the Act

If this Contract contains a Security Interest, then each party agrees for the purposes of s275(6) of the *Personal Property Securities Act 2009* (Cth) (the PPSA) that it will not disclose information of the type referred to in Section 275(1) of the PPSA where a request is made under s275(1) of the PPSA in relation to this Contract or any part of it, except in circumstances where the party is compelled by law (other than s275(1) of the PPSA) to make that disclosure.

14.7.2 Security Interests under the Act

If the Principal determines that any clause of this Contract, or a transaction contemplated by this Contract or in connection with the performance of the Work Under the Contract constitutes, or is likely to give rise to a Security Interest in respect of which the Principal is the security holder, then:

a) the Contractor agrees to promptly provide all assistance and cooperation requested by the Principal that the Principal determines is reasonably required to:

   i. register and maintain the registration of its Security Interest on the personal property securities register within any applicable time limits relevant to the effectiveness of the Security Interest

   ii. ensure that the Principal's Security Interest is enforceable against third parties, Perfected or otherwise effective

   iii. ensure that the Security Interest has the appropriate priority required by the Principal (including where applicable as a Purchase Money Security Interest)

   iv. ensure that any Security Interest granted temporary Perfection under the PPSA is Perfected by registration or other appropriate means prior to any applicable expiry of that temporary Perfection, and

v. enable the Principal to register financing statements or financing change statements under the PPSA with respect to any such Security Interest

b) the Contractor waives the right to receive notice of a verification statement in relation to the registration of that Security Interest

c) the Contractor shall not register or permit to be registered any other Security Interest in respect of the Personal Property that comprises the collateral in respect of that Security Interest other than one that has been consented to or granted by the Principal

d) the Contractor shall not cause or allow any of the Contractor's Personal Property to become an Accession to the Principal's Personal Property or cause or allow the Principal's Personal Property to become an Accession to the Contractor's Personal Property without the prior consent of the Principal, and

e) immediately notify the Principal if any other person Claims or attempts to enforce a Security Interest:

i. in the Principal's Personal Property, or

ii. in the Contractor's Personal Property to the extent that that purported enforcement affects or has the potential to affect the Contractor's ability to carry out the Works in accordance with the terms of the Contract.

14.8 The Queensland Charter for Local Content

The Contractor is advised that the Queensland Charter for Local Content (the Charter) applies when the project meets one of the following requirements:

a) Queensland Government contribution is $5.5 million and above (including GST) for south-east Queensland and $2.75 million and above (including GST) for regional Queensland

b) Queensland Government grants greater than $2.75 million (inclusive of GST), and

c) Large infrastructure projects where funding of over $20 million is provided by the Commonwealth through the Queensland Government

There is an obligation on the Contractor to comply with the principles of the Queensland Charter and:

i. within 28 days of the Letter of Acceptance, the Contractor shall prepare and submit a statement of intent, indicating how the principles of the Charter shall be addressed, and

ii. upon reaching Practical Completion or the last of the Practical Completion if there is more than one separable portion, the Contractor shall complete and submit a Queensland Charter for Local Content – Project Outcome report (template available from https://www.tmr.qld.gov.au/business-industry/Technical-standards-publications/Infrastructure-Contract/Transport-Infrastructure-Contract/TIC-Construct-Only) to [redacted] and also submit a copy to the Principal via [redacted]

No additional payment will be made for compliance requirements in accordance with the Queensland Charter.

For more information, please refer to:

https://www.statedevelopment.qld.gov.au/industry/industry-support/qld-charter-for-local-content

14.9 Compliance with the Queensland Procurement Policy (QPP)

Local Business Participation.

The Principal expects the Contractor to support local businesses by sourcing equipment, materials and services from suppliers based locally to the Project. The Contractor shall give, and shall ensure that its subcontractors give local subcontractors, vendors and suppliers a full, fair and reasonable opportunity to supply labour, services, materials, plant, machinery, equipment and other items for the Works. 'Local' is defined by the *Queensland Procurement Policy* (QPP).

In addition to the reporting requirements stipulated in Clause 14.8(ii) of the General Conditions of Contract, the Contractor shall compile and submit a report monthly to the Principal via email address [redacted], with a copy to the Administrator, using the Project Outcome Reporting template (template available at https://www.tmr.qld.gov.au/business-industry/Technical-standards-publications/Infrastructure-Contract/Transport-Infrastructure-Contract/TIC-Construct-Only). This monthly report shall contain data relevant to the work completed up to and including the month (cumulative) to which the Contractor's progress claim relates, identifying businesses meeting the local requirements of the QPP.

14.10 Best Practice Principles

a) For eligible projects with a Contract Sum of $100 million or greater, the Contractor shall fulfil the commitments made in the Contractor's Tender in respect of the Best Practice Principles . For further information, refer to the following link. http://www.hpw.qld.gov.au/SiteCollectionDocuments/QualitySafeWorkplaces.pdf

b) If the Best Practice Principles are applicable, the Contractor:

   i. acknowledges that the Principal values a commitment to the Best Practice Principles, including the provision of terms and conditions of employment, including specified pay rates, for all personnel who will perform work under the Contract, which are equivalent to the Best Practice Industry Conditions;

   ii. must, and must ensure that its Subcontractors, comply with:

      a. the Best Practice Principles when procuring or entering into Subcontracts in relation to Work Under the Contract; and

      b. any commitments made in their respective tenders for work under the Contract in relation to the Best Practice Principles and the Best Practice Industry Conditions, and

   iii. acknowledges and agrees that the Contractor's compliance with its obligations under this Clause 14.10 and Clause 9.2.2 may be taken into account in any future tender process or similar procurement process undertaken by the Principal.

14.11 The Ethical Supplier Threshold and Ethical Supplier Mandate

a) In this Clause 14.11,

   i. Ethical Supplier Mandate means the Queensland Government policy titled '*Ethical Supplier Mandate*' or any policy that replaces that policy

   ii. Ethical Supplier Threshold means the Ethical Supplier Threshold in paragraph 2.3 of the *Queensland Procurement Policy*

   iii. QPP Compliance Unit means the Queensland Procurement Policy (QPP) Compliance Unit, Office of the Chief Advisor – Procurement, Department of Housing and Public Works.

b) The Contractor shall comply with the Ethical Supplier Threshold.

c) The Principal may obtain information about the Contractor relevant to the Contractor's compliance with Clause 14.11(b) that may be held by the QPP Compliance Unit or any Government Department or Instrumentality and take the information into account in assessing the offer.

d) The Contractor acknowledges that a failure to comply with the Principal's policies that apply to the work under the proposed contract or the Contractor's obligations under the proposed contract may result in the imposition of a demerit or sanction under the *Ethical Supplier Mandate*, in addition to any other remedies available to the Principal under this Contract.

e) Failing to comply with the requirements of this Clause 14.11(b) is a substantial breach of Contract for the purpose of Clause 44.2(a) and (b)(xviii) of the General Conditions of Contract.

14.12 Records and Access to records

a) The Contractor shall make and keep and shall ensure that every Subcontractor makes and keeps accurate and complete records of:
   (a) the Contractor's Tender or a Subcontractor's tender, including without limitation the preparation and submission of that tender;
   (b) tenders received by it, whether accepted or not;
   (c) the execution and completion of the work under the Contract or of the work under the Subcontract; and
   (d) compliance with commitments made in the Contractor's Tender relating to the local benefits test contained in the Queensland Procurement Policy or, where the Best Practice Principles are applicable, the Best Practice Principles and the Best Practice Industry Conditions.

b) The records referred to in Clause 14.12(a) shall include records that are required to be created or provided, or that are otherwise referred to, under the Contract as well as other records including but not limited to those that:
   (a) are required to demonstrate compliance with commitments made in the Contractor's Tenderer a Subcontractor's tender relating to government policies, including payroll records, management records and time recordings; and
   (b) are in any format or stored on any medium, including without limitation photographs, electronic files, telecommunications or social media.

c) Without limiting any other rights or obligations under this Clause 14.12 or the Contract, the Principal shall give minimum 7 days written notice to the Contractor that an audit shall be undertaken under this Clause 14.12(c), undertake an audit in respect of the Contractor's compliance with Clause 9. In undertaking the audit, the Principal and QGP Compliance Branch shall have the right to inspect and copy any record referred to in Clause14.12 and to access any of the Contractor's systems and processes which are in any way connected with subcontracting to the extent permitted by law. Upon receipt of written notice of the audit under this Clause 14.12, the Contractor shall promptly and at its own cost provide the Principal and QGP Compliance Branch with every reasonable facility necessary to undertake the audit, including but not limited to:
   (a) providing to the Principal and QGP Compliance Branch any record requested for inspection or copying under Clause 14.12;
   (b) making staff available to the Principal and QGP Compliance Branch to access or explain systems, processes or any record referred to in Clause 14.12; and

(c) arranging and providing access to the Contractor’s workplaces, sites, premises or facilities.

15 Protection of people and property

15.1 Contractor's obligations

Nothing in Clause 15 shall in any way limit or exclude any of the Contractor's obligations or liabilities under the Contract.

15.2 Protection of people and property

a) Insofar as compliance with the requirements of the Contract permits, the Contractor shall:

   i. provide all things and take all measures necessary to protect people and property

   ii. avoid unnecessary interference with the passage of people and vehicles, and

   iii. prevent nuisance and unreasonable noise and disturbance.

b) Without limiting the operational management and control of the Site held by the Contractor, if the Principal or the Administrator considers that a person is or may be imminently exposed to a risk of serious injury, illness or death, the Principal or the Administrator may, as an alternative to the suspension of the whole or part of the Work Under the Contract under Clause 34, direct the Contractor to take the necessary action to address the imminent exposure.

c) Without limiting the generality of the Contractor's obligations, they include the provision of barricades, guards, fencing, temporary roads, footpaths, warning signs, lighting, traffic flagging, safety helmets and clothing, removal of obstructions and protection of services.

d) If the Contractor or the workers or agents of the Contractor (including Subcontractors and their workers) damage property, including Public Utilities Plant and services and/or property on or adjacent to the Site, the Contractor shall promptly make good the damage and pay any compensation which the law requires the Contractor to pay.

e) If the Contractor fails to comply with an obligation under Clause 15.2 the Principal may, in addition to any other remedy, perform the obligation on the Contractor's behalf and the cost incurred by the Principal shall be a debt due from the Contractor to the Principal.

15.3 Work health and safety

15.3.1 General

This Clause 15.3 survives the termination or expiry of the Contract.

15.3.2 Appointment of Principal Contractor and preparation of WHS Management Plan

a) The Contractor is engaged by the Principal as the Principal Contractor for the Construction Project and the Contractor accepts that engagement.

b) The Contractor is authorised to have management and control of the Workplace and to discharge its obligations as Principal Contractor under the WHS Regulation.

c) The Contractor's engagement as Principal Contractor will continue until completion of the Works, unless earlier revoked by the Principal.

d) The Contractor shall prepare and submit, as part of the Contract Plan, its WHS Management Plan to the Administrator in accordance with Clause 33.3. At a minimum the WHS Management Plan will address the requirements of the WHS Specification.

e) The Contractor shall not commence the Work Under the Contract until the Administrator has advised that the Contractor's WHS Management Plan has addressed the requirements of the WHS Specification.

f) The Contractor is not entitled to make any Claim in connection with any change to the WHS Management Plan that is required in order to address the requirements of the WHS Specification.

g) The Contractor must participate in any handover or handback processes in relation to the Site.

15.3.3 Design obligations

Where the Contractor provides or commissions any design for the Work Under the Contract, the Contractor shall:

a) ensure that it and any designer discharge all duties relating to design under WHS Legislation;

b) obtain a Designer's Safety Report from any designer in accordance with the WHS Regulation and provide a copy to the Principal's Representative; and

c) ensure it obtains full details of all hazards and risks from any designer and incorporates corresponding methods of controlling these in the WHS Management Plan.

15.3.4 General obligations

Without limiting the Contractor’s obligations under the Contract and the WHS Legislation, the Contractor shall:

a) ensure that the Contractor and its officers, agents and workers (including Subcontractors and their workers) are familiar with and, comply with all WHS Legislation;

b) ensure that the Contractor and its officers, agents and workers (including Subcontractors and their workers) do all things necessary to allow the Principal and its officers, employees and agents, to comply with their duties and obligations under the WHS Legislation in relation to the Site and the Work Under the Contract;

c) consult, cooperate and coordinate with the Principal, including the Administrator, and all other duty holders in relation to health or safety matters arising in connection with the Works, in accordance with WHS Legislation;

d) ensure the Contractor, and its officers, agents and workers (including Subcontractors and their workers) are suitable and competent, and shall retain evidence of their suitability and competence, and provide that evidence to the Principal promptly upon request,

e) to the extent permitted by law and without limitation of any other provisions in this Contract, indemnify and keep indemnified the Principal and its officers, employees and agents against any action, Claim, demand, expense, loss, cost (including legal costs), penalty, fine or other liability (including in tort) arising from or in connection with:

   i. any injury, accident or safety related incident on or adjacent to the Site that arises in connection with the Work Under the Contract, and

   ii. any enforcement action, or any breach by the Contractor, in relation to its obligations under the WHS Legislation.

15.3.5 Regulators and Unions

Without limiting the Contractor's obligations under the Contract and the WHS Legislation, the Contractor shall:

a) immediately notify the Principal of any interactions it has with any regulators or trade unions with respect to work health or safety matters in relation to the Site or the Work Under the Contract;

b) comply with any request from the Principal/Administrator to provide information relating to a visit to the Site by a regulator or union entry permit holder with respect to a work health and safety matter;

c) provide the Principal with copies of any notices or correspondence issued by a regulator or union with respect to health or safety in relation to the Site or the Work Under the Contract immediately, but no later than within 24 hours of the receipt by the Contractor of any such notice or correspondence;

d) comply with any request from the Principal/Administrator seeking written confirmation as to how any notice issued by a regulator will be addressed by the Contractor; and

e) where the Principal/Administrator considers that the Contractor does not respond to any enforcement notice issued by a regulator in accordance with the requirements of the notice or the issuing regulator and provides a direction under the Contract to respond to the enforcement notice, within clear timeframes, comply with the direction of the Principal/Administrator.

15.3.6 Safety Incidents

The Contractor shall:

a) ensure that the relevant regulator is notified immediately after becoming aware of a Notifiable Incident, arising out of or in connection with the Site or the Work Under the Contract and the incident scene is not disturbed in accordance with the obligations under the WHS Act;

b) notify the Administrator of all Safety Incidents, including Notifiable Incidents, in relation to or in connection with the Site or the Work Under the Contract , in accordance with the WHS Specification;

c) provide information to the Administrator and keep the Administrator informed of Safety Incidents in accordance with the WHS Specification;

d) investigate all Safety Incidents associated with a Critical Risk, regardless of whether or not a person was injured, in accordance with the Contractor's safety management system and in accordance with any obligations at law; and

e) comply with any written instruction issued by the Principal/Administrator to undertake an investigation of a Safety Incident in accordance with the Contractor's safety management system, and provide a copy of the full investigation report to the Administrator immediately upon completion (if completion of the investigation process will take more than 10 days after the incident, the Contractor must advise the Administrator of the estimated timeframe for completion, the reason for the timeframe and updates regarding the timeframe if the estimation changes).

f) comply with, and ensure its officers, agents and workers (including Subcontractors and their workers) comply with, any request by the Principal/Administrator to provide information or assistance in relation to a Safety Incident,

15.3.6.1 Critical Incidents

In the event of a Critical Incident, the Contractor must:

a) comply with WHS Legislation with respect to any Critical Incident;

b) follow the Critical Incident process set out in the WHS Specification;

c) prepare and provide a Critical Incident Response Plan in accordance with the WHS Specification; and

   i. implement and monitor the Critical Incident Response Plan.

If the sharing of information in relation to a Critical Incident may involve the sharing of confidential or legally privileged information, the parties agree to implement an information sharing protocol incorporating the terms provided for in Annexure F: TMR TIC-CO Template Information Sharing Protocol.

If the Contractor fails to comply with a Critical Incident Response Plan, or a Critical Incident Response Plan fails to prevent future incidents of the same or a similar type, the Principal may give notice to the Contractor of a substantial breach of the Contract under Clauses 44.2 and 44.3.

15.3.7 WHS performance monitoring

15.3.7.1 Safety performance reporting

The Contractor must prepare and provide to the Principal safety performance reports in accordance with the WHS Specification, and any other safety performance reporting required by the Principal.

15.3.7.2 Safety Meetings

The Contractor and the Principal must attend regular meetings to discuss and review health and safety matters in accordance with the WHS Specification.

15.3.7.3 Safety audits

a) The Principal or any other suitably qualified person nominated by the Principal may carry out safety audits on the Contractor, the Site or the Work Under the Contract in accordance with the WHS Specification.

b) The Contractor must provide the Principal or any other suitably qualified person nominated by the Principal with all documents, access and assistance required for carrying out the audit.

c) The Contractor shall:

   a. address the findings of a safety audit as soon as is practicable;

   b. where the findings relate to the ineffective management of a Critical Risk, suspend the Work Under the Contract (or the relevant portion) until the Contractor has addressed the aspect of the audit findings that relate to management of the Critical Risk, and

   c. in the meantime, continue to comply with all duties and obligations under WHS Legislation and the Contract.

15.3.8 WHS performance management

15.3.8.1 WHS Performance Management Plan

a) Where the Administrator considers there is an issue with the Contractor's safety under the Contract that has been brought to the Contractor's attention and the Contractor has failed to adequately address within a reasonable timeframe, the Administrator may require the Contractor

to produce a written plan (a WHS Performance Management Plan) which sets out how the Contractor will address the issue of underperformance, in accordance with the WHS Specification.

b) The Contractor must comply with any direction issued by the Principal/Administrator to prepare a WHS Performance Management Plan and must implement and monitor the plan.

15.3.8.2 Critical System Failure Response Plan

a) In the event of a Critical System Failure, the Administrator may issue the Contractor with a Critical System Failure notification.

b) If a Critical System Failure notification is issued, the Contractor must comply with the Critical Systems Failure processes set out in the WHS Specification, including by appointing a Critical System Failure Manager and preparing and implementing a Critical System Failure Response Plan.

c) If the sharing of information in relation to a Critical System Failure may involve the sharing of confidential or legally privileged information, the parties agree to implement an information sharing protocol incorporating the terms provided for in Annexure F: TMR TIC-CO Template Information Sharing Protocol.

d) If the Contractor fails to comply with a Critical System Failure Response Plan, or a Critical System Failure Response Plan fails to address the underperformance, the Principal may give notice to the Contractor of a substantial breach of the Contract under Clauses 44.2 and 44.3.

15.3.9 No separate payment for compliance with work health and safety requirements

The Contractor is not entitled to make any Claim in connection with complying with the WHS Act, WHS Regulation or the work health and safety requirements under this Contract. The Contractor acknowledges it has allowed for the cost of compliance in the Contract Sum.

15.4 Traffic management

15.4.1 General

a) Without limiting Clause 15.1, the Contractor shall be responsible for the safe and orderly passage of all traffic on or within the road reserve including all vehicular and pedestrian traffic through and around the Site at all times from the date of possession of the Site to the Date of Practical Completion.

b) For the purposes of Clause 15.5, 'the Manual' means the department's *Manual of Uniform Traffic Control Devices* as amended from time to time and available at the Principal's website.

c) If specified in Item 18A, the Contractor shall prepare, implement and maintain a Traffic Management Plan for the Work Under the Contract and the provisions of Clause 15.5.2 shall apply.

15.4.2 Traffic Management Plan

a) The Contractor shall prepare and submit, as part of the Contract Plan, its Traffic Management Plan to the Administrator, in accordance with Clause 33.3.

b) The Traffic Management Plan shall be consistent with the Manual, the Standard Specifications and any Traffic Management Plan outline submitted with the Contractor's Tender (except to the extent that any Traffic Management Plan outline is inconsistent with the Manual, the Standard Specifications or any of the Other Documents comprising the Contract, then the

Traffic Management Plan shall be in accordance with the Manual, the Standard Specifications and the Other Documents comprising the Contract).

c) The Traffic Management Plan shall include procedures to comply with any minimum traffic restrictions stated in Clause 15.5.3 and shall be accompanied by a duly completed Form M994.

d) The Traffic Management Plan shall include details of all proposed road closures, detours, staged construction, necessary signing, the relevant Authorities whose approval is required to be obtained and all other relevant information.

e) The Contractor shall implement, monitor and update its Traffic Management Plan during the Contract and shall, within five Business Days of its amendment, submit a copy of the Traffic Management Plan to the Administrator.

15.4.3 Restrictions to traffic

Unless otherwise agreed in writing with the Administrator, the Contractor shall comply with any restrictions to the passage of vehicular traffic through the Site set out in the Standard Specifications.

15.5 Community liaison

15.5.1 General

If specified in Item 19A, the Contractor shall prepare, implement and maintain a Community Liaison Plan for the Work Under the Contract and Clause 15.6.2 applies.

15.5.2 Community Liaison Plan

a) The Contractor shall prepare and submit, as part of the Contract Plan its Community Liaison Plan to the Administrator in accordance with Clause 33.3.

b) The Community Liaison Plan shall be formatted under at least the following headings:

   i. Overview

   ii. Objectives

   iii. Target audiences

   iv. Potential issues and opportunities

   v. Strategy

   vi. Tactics

   vii. Evaluation, and

   viii. Timeframes.

c) The Community Liaison Plan shall include procedures and timetables to:

   i. make contact with any local businesses, schools, hospitals, community groups and residents adjacent to the Site and/or affected by the Work Under the Contract and the office of the relevant local government, to establish an effective communication network to be maintained during construction

   ii. anticipate the impacts of construction on the above groups and the broader community, and be proactive (subject to the requirements of Clause 15.6.4) in keeping all parties informed via direct contact, through newsletters, leaflets, advertisements in newspapers, radio and other

appropriate means, particularly in regard to changed traffic arrangements during construction and local access issues

iii. maintain a complaints register and respond to all registered complaints within 48 hours

iv. prepare regular fact sheets for the information of visitors and the public

v. develop procedures for the management of emergency situations and ensure that staff are trained in the appropriate response necessary to deal with such emergency situations, and

vi. implement the following minimum reporting requirements:

a) immediately report any emergency issue and a copy of any public inquiry

b) on a weekly basis report on:

i. key activities achieved from previous week

ii. key activities planned for coming week

iii. summary of responses to complaints and inquiries, and

iv. summary of outstanding responses

c) on a monthly basis report on:

i. anticipated issues for coming month

ii. proposed actions in response to issues, and

d) on a quarterly basis report on key actions and achievements.

15.5.3 Meetings and reporting

a) An initial meeting with members of the local community that will be affected by the Work Under the Contract shall be convened by the Contractor within 20 Business Days after the Date of Acceptance of Tender at which the Contractor shall undertake a brief presentation of the work to be undertaken under the Contract and the expected issues.

b) The Contractor shall report to the Administrator at weekly meetings to be held between the Contractor's Community Liaison Officer, the Administrator and a representative of the Principal.

15.5.4 Restrictions and prior permissions

a) All newsletters, leaflets and other public statements shall be submitted for approval to the Administrator prior to publication.

b) The Contractor shall:

i. not have direct contact or liaise with members of the press, and

ii. assist in formulating responses to questions raised by the press as required from the Contractor's Community Liaison Officer.

15.6 Environmental management

15.6.1 General

The Contractor shall, at all times during the course of the Contract, comply with the requirements of the *Environmental Protection Act 1994* (Qld) (EP Act). The Contractor shall implement and maintain measures to preserve and protect the natural environment on and adjacent to the Site.

15.6.2 Environmental Management Plan

a) The Contractor shall prepare and submit, as part of the Contract Plan, its Environmental Management Plan to the Administrator in accordance with Clause 33.3 and a time-based schedule for its implementation.

b) The Environmental Management Plan shall be consistent with the EP Act, the Standard Specifications and any Environmental Management Plan outline submitted with the Contractor's Tender (except that if any Environmental Management Plan outline is inconsistent with the EP Act, the Standard Specifications or any of the Other Documents comprising the Contract, then the Environmental Management Plan shall be in accordance with the EP Act, the Standard Specifications and the Other Documents comprising the Contract).

c) The Contractor shall:

   i. implement the Environmental Management Plan in accordance with the schedule included in the Environmental Management Plan, and

   ii. monitor, update and control its Environmental Management Plan while carrying out Work Under the Contract.

d) Nothing contained in Clause 15.7 shall in any way limit or exclude any of the Contractor's obligations or liabilities under the Contract.

16 Care of the work and reinstatement of damage

16.1 Care of the Work Under the Contract

a) From and including the earlier of the date of commencement of Works under the Contract and the date on which the Contractor is given possession of the Site to 4.00 pm on the Date of Practical Completion of the Works, the Contractor shall be responsible for the care of the Work Under the Contract.

b) Without limiting the generality of the Contractor's obligations, the Contractor shall be responsible for the care of unfixed items the value of which has been included in a payment certificate under Clause 42.1, things entrusted to the Contractor by the Principal for the purpose of carrying out the Work Under the Contract, things brought on the Site by the Contractor or any Subcontractor for that purpose, the Works, the Temporary Works and Constructional Plant, and the Contractor shall provide the storage and protection necessary to preserve these items and things, and the Works, the Temporary Works and Constructional Plant.

c) After 4.00 pm on the Date of Practical Completion the Contractor shall remain responsible for the care of outstanding work and items to be removed from the Site by the Contractor and shall be liable for damage occasioned by the Contractor in the course of completing outstanding work or complying with obligations under Clauses 30.9, 31.1 and 37.

16.2 Weather protection

16.2.1 General obligations

a) Without affecting the Contractor's obligations under Clause 16.1, the Contractor shall:

   i. take all reasonable precautions to protect the Work Under the Contract against the effects of inclement weather, including by ensuring that:

a) the Work Under the Contract is carried out and designed so as to obviate ponding of rain water on or within the Site

b) all excavations are adequately drained or, if practicable, protected to minimise water entry and where a suitable outlet cannot be constructed to excavations, taking such other measures as are necessary to remove water from the excavation

c) all excavations are backfilled as soon as practicable after the work for which the excavation was made is completed

d) it takes all reasonable steps to prevent otherwise suitable materials from becoming unsuitable as a result of moisture entry during construction, and

e) that at the completion of each Day's operations, and at such other times when rainfall is imminent, the surface of relevant areas of the Site are graded so as to provide adequate falls transversely and, where practicable, longitudinally to permit shedding of surface water without ponding or scouring and ensuring the graded area is rolled to provide a smooth dense surface in this regard, and

ii. reinstate any part of the Work Under the Contract affected by inclement weather in a timely manner after the event.

b) Nothing in Clause 16.2 shall in any way limit or exclude the Contractor's obligations or liabilities under the Contract.

16.2.2 Severe weather management plan

a) If specified in Item 20A, the Contractor shall prepare, implement and maintain a Severe Weather Management Plan (SWMP).

b) The Contractor shall prepare and submit its SWMP to the Administrator in accordance with Clause 33.3.

c) The SWMP shall:

i. comply with and fully satisfy the requirements of the Principal's Engineering Policy EP146 *Severe Weather Management Plans (SWMP)*

ii. include a time-based schedule for its implementation

iii. as a minimum, detail what measures will be undertaken by the Contractor to mitigate or minimise the impact of damage to the following elements (as applicable to the Work Under the Contract) as a result of inclement weather:

a) pavement

b) earthworks formation and batters (cuttings and embankments)

c) culvert construction

d) drainage

e) environmental protection, and

f) major excavations

iv. include the following components:

a) severe weather identification (means and methods)

b) risk evaluation (procedures)

c) weather treatments (short-, mid- and long-term)

d) rectification and recovery (means and methods), and

e) contact personnel.

d) The Contractor shall monitor, update and control its SWMP while carrying out Work Under the Contract.

16.3 Reinstatement

a) If loss or damage (except loss or damage which is a direct consequence, without fault or omission on the part of the Contractor, of an Excepted Risk) occurs to anything while the Contractor is responsible for its care, the Contractor shall promptly make good the loss or damage and any costs incurred by the Contractor in making good the loss or damage shall be borne by the Contractor.

b) Where loss or damage occurs as a direct consequence, without fault or omission on the part of the Contractor, of an Excepted Risk, the Contractor shall, if and to the extent directed by the Administrator, rectify that loss or damage, which shall be deemed to be a variation under Clause 40. In the case of loss or damage being caused by a combination of Excepted Risks and other risks, any such direction and consequential valuation made under Clause 40.5 shall take into account the proportional responsibility of the Contractor and the Principal.

16.4 Excepted Risks

The Excepted Risks are:

a) any negligent act or omission of the Principal, the Administrator or the employees, consultants or agents of the Principal

b) any risk specifically excepted in the Contract

c) war, invasion, act of foreign enemies, act of terrorism, hostilities, (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power, martial law or confiscation by order of any government or public Authority

d) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel not caused by the Contractor or the Contractor's employees or agents

e) use or occupation by the Principal or the employees or agents of the Principal or other Contractors to the Principal (not being employed by the Contractor) or a Nominated Subcontractor engaged by the Principal (pursuant to a prior Contract the benefit of which has been assigned to the Contractor pursuant to the Contract) of any part of the Works or the Temporary Works, or

f) defects in the design of the Work Under the Contract other than a design provided by the Contractor.

17 Damage to persons and property other than the Works

17.1 Indemnity by Contractor

a) The Contractor shall indemnify the Principal against:

i. loss of or damage to property of the Principal, including existing property in, or upon, which the Work Under the Contract is being carried out, and

ii. Claims by any person (including Claims by owners or occupiers of areas adjacent to the Site) against the Principal in respect of personal injury or death or loss of or damage to any property

arising out of or as a consequence of the carrying out by the Contractor of the Work Under the Contract, but the Contractor's liability to indemnify the Principal shall be reduced proportionally to the extent that the act or omission of the Principal or employees or agents of the Principal may have contributed to the loss, damage, death or injury.

b) Clause 17.1(a) shall not apply to:

i. the extent that the liability of the Contractor is limited by another provision of the Contract

ii. exclude any other right of the Principal to be indemnified by the Contractor

iii. things for the care of which the Contractor is responsible under Clause 16.1, and

iv. Claims in respect of the right of the Principal to construct the Work Under the Contract on the Site.

17.2 Indemnity by the Principal

The Principal shall indemnify the Contractor in respect of Claims referred to in Clause 17.1(b)(iv).

18 Insurance of the Works

The alternative applying for Insurance of the Works for this Contract is given in Item 21A.

Alternative 1 – Principal arranged insurance

a) On or before the Date of Acceptance of Tender, the Principal shall effect a policy of insurance in relation to the Work Under the Contract in the terms of the Principal Arranged Insurance Program as set out at the website https://www.tmr.qld.gov.au/business-industry/Technical-standards-publications/Infrastructure-Contract maintained by the Principal. The Principal shall maintain the policy while ever the Contractor has an interest in it and the Principal shall pay all premiums.

b) The policy will include the Principal, the Contractor and Subcontractors as insured parties.

c) The Contractor is responsible for the payment of deductibles under the policy to the extent that the Claim under the policy is not a direct consequence, without fault or omission on the part of the Contractor, of an Excepted Risk defined in Clause 16.4.

d) As an Insured under the PAI program all insured parties have an obligation to notify insurers (via Transport and Main Roads Insurance office or Marsh its broker) of incidents that may give rise to a claim. Once notified the Insured has an ongoing obligation to assist insurers in managing any claim until that claims finality.

Alternative 2 – Contractor arranged insurance

a) Before the Contractor commences work, the Contractor shall take out an insurance policy covering all the things referred to in Clause 16.1 against loss or damage resulting from any cause whatsoever until the Contractor ceases to be responsible for their care.

b) Without limiting the generality of the obligation to insure, the policy shall cover the Contractor's liabilities under Clause 16.3 and things in storage off Site and in transit to the Site.

c) The insurance cover may exclude:

i. the cost of making good fair wear and tear or gradual deterioration, but shall not exclude the loss or damage resulting therefrom

ii. the cost of making good faulty design, workmanship and materials, but shall not exclude the loss or damage resulting therefrom

iii. consequential loss of any kind, but shall not exclude loss of or damage to the Works

iv. damages for delay in completing or for the failure to complete the Works

v. loss or damage resulting from ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel resulting from any cause

vi. loss or damage resulting from the Excepted Risks in Clause 16.4(b) and (c).

d) The insurance cover shall be for an amount not less than the sum of:

i. the Contract Sum

ii. the amount stated in Item 21B to provide for costs of demolition and removal of debris

iii. the amount stated in Item 21C to cover fees of consultants

iv. the value stated in Item 21D of any materials or things to be supplied by the Principal for the purposes of the Work Under the Contract, and

v. the additional amount or percentage stated in Item 21E of the total of the items referred to in Clause 18(d)(i) to (iv).

e) The insurance policy shall be in the joint names of the Principal and the Contractor, and shall cover the Principal, the Contractor and all Subcontractors for their respective rights, interests and liabilities and, unless otherwise specified elsewhere in the Contract, shall be effected with an insurer and in terms both approved in writing by the Principal, which may be given or withheld in its absolute discretion. The policy shall be maintained until the Contractor ceases to be responsible under Clause 16.1 for the care of anything.

19 Public liability insurance

The alternative applying for public liability insurance for this Contract is given in Item 22A.

Alternative 1

a) On or before the Date of Acceptance of Tender, the Principal shall effect in relation to the Work Under the Contract a policy of insurance in the terms of the Principal Arranged Insurance (PAI) Program as set out at the website https://www.tmr.qld.gov.au/business-industry/Technical-standards-publications/Infrastructure-Contract maintained by the Principal. The Principal shall maintain the policy while ever the Contractor has an interest in it and the Principal shall pay all premiums.

b) The policy will include the Principal, the Contractor and Subcontractors as insured parties.

c) The Contractor is responsible for the payment of deductibles under the policy to the extent that the Claim under the policy is not a direct consequence, without fault or omission on the part of the Contractor, of an Excepted Risk defined in Clause 16.4.

Alternative 2

a) Before the Contractor commences work, the Contractor shall take out a public liability policy of insurance in the joint names of the Principal and the Contractor, which covers the Principal, the Contractor, the Administrator and all Subcontractors for their respective rights and interests and covers their liabilities to third parties. The policy shall also cover the Contractor's liability to the Principal and Principal's liability to the Contractor for loss of or damage to property (other than property required to be insured by Clause 18) and the death of or injury to any person (other than liability which is required by law to be insured under a workers compensation policy of insurance).

b) The public liability policy of insurance shall be for an amount in respect of any one occurrence not less than the sum stated in Item 22B and, unless otherwise specified elsewhere in the Contract, shall be effected with an insurer and in terms both approved in writing by the Principal, which may be given or withheld in its absolute discretion. The policy shall be maintained until the Final Certificate is issued under Clause 42.8.

20 Insurance of employees

a) Before the Contractor commences work the Contractor shall insure against liability for death of or injury to persons employed by the Contractor including liability by statute and at common law. The insurance cover shall be maintained until all work including remedial work is completed.

b) Where permitted by law, the insurance shall be extended to indemnify the Principal for the Principal's statutory liability to persons employed by the Contractor.

c) The Contractor shall ensure that every Subcontractor is similarly insured.

21 Inspection and provisions of insurance policies

21.1 Proof of insurance

a) Before the Contractor commences work and whenever requested in writing by the other party, a party liable to effect or maintain insurance shall produce evidence to the satisfaction and approval of the other party of the insurance effected and maintained.

b) The effecting of insurance shall not limit the liabilities or obligations of a party under other provisions of the Contract.

c) The Contractor shall be deemed to have examined, assessed and understood the Principal's insurance policies at the Date of Acceptance of Tender.

21.2 Failure to produce proof of insurance

If, after being requested in writing by the other party so to do, a party fails to produce evidence of compliance with insurance obligations under Clauses 18, 19 or 20 to the satisfaction and approval of the other party, the other party may effect and maintain the insurance and pay the premiums. The amount paid shall be a debt due from the party in default to the other party. Where the defaulting party is the Contractor, the Principal may refuse payment until evidence of compliance with insurance obligations under Clauses 18, 19 or 20 is produced by the Contractor to the satisfaction and approval of the Principal. The rights given by Clause 21.2 are in addition to any other right.

21.3 Notices from or to the insurer

The party effecting insurance under Clause 18 or 19 shall ensure that each policy of insurance contains provisions acceptable to the other party that will:

a) require the insurer, whenever the insurer gives the Principal, the Contractor or a Subcontractor a notice of cancellation or other notice concerning the policy at the same time to inform the other party in writing that the notice has been given.

b) provide that a notice of Claim given to the insurer by the Principal, the Administrator, the Contractor or a Subcontractor shall be accepted by the insurer as a notice of Claim given by the Principal, the Administrator, the Contractor and the Subcontractor and that a failure by one insured to discharge its obligations of disclosure and good faith or to observe the terms of the policy will not prejudice the cover of the other insureds, and

c) require the insurer, whenever the party fails to renew the policy or to pay a premium, to give notice in writing thereof forthwith to the Principal and the Contractor and prior to the insurer giving any notice of cancellation.

21.4 Notices of potential Claims

a) The Contractor shall, as soon as practicable, inform the Principal in writing of any occurrence that may give rise to a Claim under a policy of insurance required by Clause 18 or 19 and shall keep the Principal informed of subsequent developments concerning the Claim. The Contractor shall ensure that Subcontractors in respect of their operations similarly inform the Principal.

b) Where the occurrence may give rise to a Claim or potential Claim under a policy of insurance effected under the PAI Program regardless of whether the likely value of such Claim or potential Claim is less than the applicable deductible, the Contractor shall, despite any clause to the contrary, comply in all respects with the procedures for notifying a Claim as set out at the website https://www.tmr.qld.gov.au/business-industry/Technical-standards-publications/Infrastructure-Contract maintained by the Principal. Failure to do so may result in indemnity not being granted under the PAI Program.

c) Where a policy of insurance required by the Contract has been effected by the Principal, the Principal shall similarly inform the Contractor.

d) The Contractor shall comply with the terms of the policies of insurance effected under Clauses 18, 19 or 20 (including the notification requirements under those policies).

21.5 Settlement of Claims

a) Upon settlement of a Claim under the insurance specified by Clause 18:

   i. to the extent that the Work Under the Contract needing reinstatement has been the subject of a payment or allowance by the Principal to the Contractor, if the Contractor has not completed reinstatement of that work, moneys received shall, if requested by either party, be paid into a bank agreed upon by the parties in an account in the joint names of the Contractor and the Principal. As the Contractor proceeds to reinstate the loss or damage, the Administrator shall certify against the joint account for the cost of reinstatement, and

   ii. to the extent that the work to be reinstated has not been the subject of a payment or allowance by the Principal to the Contractor, the Contractor shall be entitled immediately to receive from moneys received, the amount of money so paid in relation to any loss suffered by the Contractor relating to that Work Under the Contract (including the supply of goods and materials on Site whether or not incorporated into the Works).

b) Settlement of Claims under the PAI Program will be dealt with in accordance with the procedures set out at the website https://www.tmr.qld.gov.au/business-industry/Technical-standards-publications/Infrastructure-Contract maintained by the Principal.

21.6 Cross liability

Any insurance required to be effected by the Contractor in joint names in accordance with the Contract shall include a cross-liability clause in which the insurer agrees to waive all rights of subrogation or action against any of the persons comprising the insured and for the purpose of which the insurer accepts the term 'insured' as applying to each of the persons comprising the insured as if a separate policy of insurance had been issued to each of them (subject always to the overall sum insured not being increased thereby).

21.7 Excess / deductible

The Contractor shall bear or pay any excess or deductible which is applicable to any Claim made under any of the policies of insurance effected under Clauses 18, 19 or 20 except to the extent the Claim is with respect to loss or damage which is the direct consequence, without fault or omission on the part of the Contractor, of an Excepted Risk defined in Clause 16.4.

22 Inspectors

The Administrator shall forthwith notify the Contractor in writing of the name of any inspector appointed by the Principal or the Administrator, including any appointed inspector's delegated function under the contract (if any). This may include separate designated geographical areas performing the same delegated functions.

23 Administrator

23.1 Administrator

a) The Principal shall ensure that at all times there is an Administrator. The Administrator will be responsible for the overall administration of this Contract.

b) The Principal shall ensure that in the exercise of the functions of the Administrator under the Contract listed in Annexure C, the Administrator:

   i. acts fairly, reasonably, and honestly

   ii. acts within the time prescribed under the Contract or where no time is prescribed, within a reasonable time, and

   iii. arrives at a reasonable measure or value of work, quantities or time.

c) In the exercise of all other functions of the Administrator under the Contract, the Administrator acts as the agent of the Principal (not as an independent certifier).

d) If pursuant to a provision of the Contract enabling the Administrator to give directions, the Administrator gives a direction, the Contractor shall comply with the direction.

e) In this Clause 23 'direction' includes agreement, approval, Authorisation, certificate, decision, demand, determination, explanation, instruction, notice, order, permission, rejection, request or requirement.

f) Except where the Contract otherwise provides, a direction may be given orally, but the Administrator shall as soon as practicable confirm it in writing.

g) If the Contractor in writing requests the Administrator to confirm an oral direction, the Contractor shall not be bound to comply with the direction until the Administrator confirms it in writing.

24 Administrator’s Representative

a) The Administrator may from time to time appoint individuals to exercise any functions of the Administrator under the Contract but not more than one Administrator’s Representative shall be delegated the same function at the same time. The appointment of an Administrator’s Representative shall not prevent the Administrator from exercising any function.

b) The Administrator shall forthwith notify the Contractor in writing of:

   i. the appointment and the name of any Administrator’s Representative and the functions delegated to the Administrator’s Representative

   ii. the termination of the appointment of an Administrator’s Representative.

c) If the Contractor makes a reasonable objection to the appointment of a representative, the Administrator shall terminate the appointment.

25 Contractor's Representative

a) The Contractor shall nominate a Contractor's Representative who shall personally superintend the execution of the Work Under the Contract and be present on the Site for at least the percentage of time nominated in Annexure Item 29A.

b) The Contractor's Representative shall have a thorough and direct understanding of all aspects of the Work Under the Contract and shall have the authority to make decisions and agreements on behalf of the Contractor.

c) If required by the Administrator, the Contractor shall have a competent employee present at other places at which activities relating to the execution of the Work Under the Contract are taking place to ensure that the Contractor's Representative is adequately informed.

d) The Contractor's Representative shall comply with the requirements of Clause 29.2.1.

e) The Contractor shall forthwith notify the Administrator in writing of the name of the representative and of any subsequent changes. Any direction defined in Clause 23 shall:

   i. if it relates to the execution of work on the Site and is given to the Contractor's Representative on the Site, or

   ii. if it relates to the execution of work at any other place and is given to the employee of the Contractor at the other place or the Contractor's Representative

   be deemed to have been given to the Contractor.

f) Matters within the knowledge of the Contractor's Representative or any other employee or representative of the Contractor shall be deemed to be within the knowledge of the Contractor.

g) If the Administrator makes a reasonable objection to the appointment of a Contractor's Representative, the Contractor shall terminate the appointment and appoint another Contractor's Representative.

26 Control of Contractor's employees and Subcontractors

The Administrator may direct the Contractor to have removed from the Site or from any activity connected with the Work Under the Contract, within such time as the Administrator directs, any person employed in connection with the Work Under the Contract who, in the opinion of the Administrator, is guilty of misconduct or is incompetent or negligent. The person shall not thereafter be employed on the Site or on activities connected with the Work Under the Contract without the prior written approval of the Administrator.

27 Site

27.1 Possession of Site

a) The Principal shall on, or before, the expiration of the time stated in Item 24A, give the Contractor possession of the Site or sufficient of the Site to enable the Contractor to commence work, provided, however, that the Principal is not obliged to give possession of the Site if:

   i. the Contractor has not supplied to the Administrator proof of the implementation of the requirements stated in Item 24B.

   ii. the Contractor has not complied with the requirements of Clause 5.2, 21.1 or 33.3.

b) If the Principal has not given the Contractor possession of the whole Site, the Principal shall, from time to time, give the Contractor possession of such further parts of the Site as may be necessary to enable the Contractor to execute the Work Under the Contract in accordance with the requirements of the Contract. The Principal shall advise the Contractor in writing of the date upon which the Site or any part thereof will be available.

c) Possession of the Site shall confer on the Contractor a right to only such use and control as is necessary to enable the Contractor to execute the Work Under the Contract.

d) Except to the extent otherwise agreed in writing by the parties, the Contractor acknowledges and accepts that the public use of the Site must be fully maintained during the performance of the Work Under the Contract.

27.2 Access for the Principal and others

27.2.1 General

a) The Principal and the Principal's employees and agents may, at any time after reasonable notice to the Contractor, have access to any part of the Site for any purpose.

b) The Contractor shall permit the execution of work on the Site by persons engaged by the Principal and shall cooperate with them and coordinate the Contractor's work with their work.

c) If requested by the Contractor, the Principal shall provide to the Contractor the names of the persons so engaged.

d) The Contractor shall, at all reasonable times, give the Principal, the Administrator and inspectors appointed under Clause 22, and other persons authorised in writing by the Principal or by the Administrator, access to the Work Under the Contract at any place where the work is being carried out or materials are being prepared or stored.

e) The Principal shall ensure that the Contractor is not unreasonably impeded in the execution of the Contractor's work by any persons referred to in Clause 27.2.1(d) while exercising the right of access given by Clause 27.2.1(d).

f) The Contractor shall have no right to any Claim in connection with work or performance of other activities carried out pursuant to this Clause 27.2.1.

27.2.2 Adjoining work

a) The Contractor acknowledges that:

i. when it commences the Work Under the Contract, prior Contractors may not have completed their Works and may be doing so at the same time as the Contractor is executing the Work Under the Contract, and

ii. Contractors may be executing work on other Contracts which may interface with the Work Under the Contract.

b) The Contractor agrees that it will be responsible for coordination of its work with that of other Contractors so as not to disrupt, impede or adversely affect those other Contractors in the execution of their work and the Contractor shall indemnify the Principal for any liability the Principal may incur to other Contractors as a result of the Contractor's failure to comply with this Clause 27.2.2.

c) Notwithstanding any other provision of this Contract, the Contractor shall not be entitled to make any Claim against the Principal because of an act or omission of a separate Contractor unless the Contractor has fully complied with Clause 27.2.2.

27.2.3 Adjoining private land

a) In performing the Work Under the Contract, the Contractor shall not enter or permit any Constructional Plant to enter private land adjoining the Site without first obtaining the written approval of the land occupier and the land owner (where these are not the same person). The Contractor shall submit a copy of this written approval to the Administrator upon request.

b) Notwithstanding the granting of such approval of entry, the Contractor shall comply with the following conditions relating to private land adjoining the Site:

i. privacy of the land owner / occupier shall be paramount

ii. the land owner / occupier shall be notified in advance when entry onto private land is required for any purpose

iii. vehicles shall be driven at a maximum speed of 20 kilometres per hour when in close proximity to any dwellings, and

iv. where a permanent access structure to private land is to be constructed under this Contract, the Contractor shall maintain access for others across the Site at all times.

c) The Contractor shall, by the action of the entering on to the private land, be deemed to have indemnified the Principal against any Claims which may arise from or in connection with such entry or subsequent operations on the land.

d) Upon completion of work on private land, the Contractor shall forward to the Administrator a statement signed by the land owner / occupier to the effect that the land owner and occupier are satisfied that any damage to the land which may have arisen from or in connection with the Contractor's operations has been adequately repaired or otherwise compensated by the Contractor. All costs associated with work on private land shall be borne by the Contractor.

e) The Contractor shall develop and maintain a schedule of planned dates for temporary access and occupation of private land adjoining the Site. This schedule, and any subsequent updates, shall be reflected in any Construction Program submitted to the Principal.

f) The schedule of planned dates for temporary access and occupation of private land adjoining the Site shall be presented to and reviewed with the Administrator and the Principal during the Site Conferences.

g) The Contractor's obligations with respect to the safe performance of the Work Under the Contract shall apply to the Contractor's activities on the adjoining private land during the period of temporary access and occupation.

27.2.4 Notice of entry

a) For purposes of this Clause 27.2.4, the term 'notice of entry' means the Notice of Entry Form (Department of Transport and Main Roads Form M727 CFD), a copy of which is available on the Principal's website.

b) In the event that the Contractor fails to obtain written approval from the land occupier and land owner in accordance with Clause 27.2.3, then the Contractor shall issue a written notification to the Administrator specifying:

   i. the details of the land and the land occupier and land owner (as the case may be)

   ii. any potential adverse impacts on the performance of the Work Under the Contract, and

   iii. the alternative measures it proposes to take to mitigate the failure to obtain written approval from the land occupier or land owner (as the case may be) or confirming that no alternative measures have been identified and requesting the Principal issue a Notice of Entry to the land occupier and land owner in relation to the Contractor's proposed temporary access and occupation of a private land adjoining the Site.

c) The Contractor shall submit a written request to the Administrator under this Clause 27.2.4 for the Principal to issue a Notice of Entry at least 15 Business Days prior to the date the Contractor proposes to temporarily access and occupy private land adjoining the Site. The written notification shall include all necessary information and supporting documentation that address:

   i. the purpose of entry

   ii. details of proposed use of the land

   iii. the estimated commencement date

   iv. the period of occupation

   v. proposed safety measures for temporary access and occupation, and

   vi. any other proposed measures to guarantee the privacy of the land occupier.

d) The Contractor shall provide any other additional information or documentation that may be requested by the Administrator in considering the Contractor's request to issue a notice of entry.

e) The Contractor acknowledges and agrees that:

   i. the Principal may give or refuse to give a notice of entry in its absolute discretion, and

   ii. the issuance or non-issuance of a notice of entry by the Principal to any land occupier or land owner of private land adjoining the Site shall not relieve the Contractor of any obligations

under the Contract, including the obligation to execute the Work Under the Contract by the Date for Practical Completion.

27.3 Delivery of materials to and work on Site before possession

Until possession of the Site or part of the Site is given to the Contractor under Clause 27.1, the Contractor shall not deliver materials to or perform work on the Site or part of the Site, as the case may be, unless approval in writing is given by the Administrator.

27.4 Use of Site by Contractor

Unless the Contract otherwise provides, or the Administrator gives prior written approval, the Contractor shall not use the Site or allow it to be used for:

a) camping

b) residential purposes, or

c) any purpose not connected with the Work Under the Contract.

27.5 Finding of minerals, fossils and relics

a) Valuable minerals, fossils, articles or objects of antiquity or of anthropological or archaeological interest, treasure trove, coins and articles of value found on the Site shall as between the parties be and remain the property of the Principal. Immediately upon the discovery of these things, the Contractor shall take precautions to prevent their loss or removal or damage and shall notify the Administrator of the discovery.

b) If compliance with obligations under Clause 27.5 causes the Contractor to incur more or less cost than the Contractor could reasonably have anticipated at the time of tendering, the difference shall be valued under Clause 40.5.

27.6 Lane rentals and lane closures

a) Where any Work Under the Contract necessitates lane or shoulder closures, other than those at the locations and times specifically described in the Contract, the Contractor shall pay to the Principal the lane rental charges listed in Item 25A, for every hour or part thereof that the lane or shoulder remains closed.

b) Notwithstanding the application of lane rental charges by the Principal, the Contractor shall make every endeavour to ensure that traffic lanes and shoulders remain open to the safe passage of traffic at the posted speed at all times in accordance with the provisions of the Contract.

27.7 Public Utility Plant

27.7.1 Responsibilities

a) As from the Date of Acceptance of Tender, the Contractor shall:

   i. be responsible for arranging and coordinating all Work Under the Contract associated with the replacement or relocation of Public Utility Plant

   ii. ensure that the specific relocation and/or replacement requirements of each responsible Authority are met

   iii. establish and maintain, up to the Date of Practical Completion, reference markers identifying the type, size, alignment and depth of Public Utility Plant and emergency contact telephone number of the responsible Authority, and

iv. execute all other work items associated with affected Public Utility Plants as described and detailed in the Project Specific Specifications, Standard Specifications and Drawings as part of the Contractor's scope of Works.

b) If the Contractor incurs costs in respect of the coordination of the relocation and/or replacement of Public Utility Plant in excess of the costs that a competent and experienced Contractor could have been reasonably anticipated at the time of tendering:

i. a valuation of the costs incurred by the Contractor shall be made under Clause 40.5, and

ii. notwithstanding the provisions in Clause 40.5 such valuation shall not include the cost of the Contractor's supervision or overheads.

27.7.2 Public Utility Plant identified during the Contract

a) Where Public Utility Plant, additional to that stated in the Contractor's Tender, is identified during the Contract, the following procedure shall apply:

i. the Contractor shall within one Business Day advise the Administrator and the responsible Authority of the newly identified Public Utility Plant

ii. the Contractor shall request and obtain from the responsible Authority an estimate of cost to relocate the Public Utility Plant and a program for completion of the relocation

iii. the Principal will arrange for payment to the responsible Authority for the necessary relocation, and

iv. the Contractor shall revise its program of work to accommodate the program of the responsible Authority and shall coordinate completion of the relocation by the responsible Authority.

b) If the Contractor's compliance with the procedure set out in Clause 27.7.2(a) causes the Contractor to more or less cost than a competent and experienced Contractor could have reasonably anticipated at the time of tendering, a valuation shall be made under Clause 40.5.

c) Delay caused by the Contractor's compliance with the procedure set out in Clause 27.7.2(a) may justify an extension of time under Clause 35.5.

27.7.3 Damage and repair

a) The Contractor shall immediately notify the Administrator of any damage to any Public Utility Plant.

b) The Contractor shall be responsible for any damage to any Public Utility Plant caused by the Work Under the Contract, in which case the Contractor shall:

i. make good any such damage at its own cost

ii. make arrangements directly with the responsible Authority for any repairs which may be necessary to Public Utility Plant damaged by the Work Under the Contract, and

iii. have no Claim against the Principal for the damage to the Public Utility Plant or any associated delay to the completion of the Works.

c) The Contractor shall be responsible for any damage caused to the Work Under the Contract by any fault that develops in any Public Utility Plant during the term of the Contract.

27.7.4 Disruption to public

The Contractor shall take all reasonable steps to minimise disruption to individual land owners and/or occupiers in disconnecting, relocating and reconnecting public utilities, including by:

a) consulting with all affected land owners and/or occupiers to arrange for a mutually acceptable time for the carrying out of such Works, at least five Business Days before the anticipated event, and

b) identifying and consulting with any land owner and/or occupier with special requirements regarding continuity of supply of any public utility and taking all measures necessary to satisfy such requirements.

27.7.5 Contractor's negotiations

All negotiations between the Contractor and the responsible Authority shall be confirmed in writing by the Contractor and copies of all such correspondence to and from the responsible Authority shall be promptly forwarded to the Administrator by the Contractor.

27.7.6 Contractor's obligations

Nothing contained in Clause 27.7 shall in any way limit or exclude any of the Contractor's obligations or liabilities under the Contract.

27.8 Advertising on Site

27.8.1 Project signs

a) Within 20 Business Days after the Date of Acceptance of Tender, the Contractor shall supply and erect the number of project signs stated in Item 26A. The signs shall be of a size and/or type as stated in Item 26B, contain the words and graphics as shown on the Drawings or as directed by the Administrator and be located as directed by the Administrator.

b) Unless directed otherwise by the Administrator, the Contractor shall remove the project signs within 10 Business Days of the Date of Practical Completion and transport them to the location stated in Item 26C.

27.8.2 Contractor's advertising

a) If the Contractor wishes to erect a sign describing the names of the project and the Contractor, the Contractor shall submit details of the sign (size, wording, graphics and location) to the Administrator for consideration. The size of any such sign shall not be greater than 3 m x 2 m.

b) Any such sign approved by the Administrator shall be removed from the Site within 10 Business Days after the Date of Practical Completion or at such other time as directed by the Administrator.

c) All expenses incurred in the provision, erection, relocation (if necessary) and removal of such signs shall be borne by the Contractor.

27.8.3 Other advertising

Except as permitted under Clauses 27.8.1 and 27.8.2, no other advertising shall be permitted on the Site, other than the names of the manufacturer and/or owner painted on items of Constructional Plant.

27.9 Temporary filling of waterways

a) Unless otherwise stated in Item 27A, the Contractor shall not construct any temporary filling of any waterway during the carrying out of the Work Under the Contract.

b) Where Item 27A permits temporary filling of a waterway, the Contractor shall:

i. immediately after work has been completed in the area, restore any disturbance (not associated with the Works) of the banks of any waterway to a condition equivalent to that at the date the Contractor was granted possession of the Site, and

ii. prior to the Date of Practical Completion, remove from the waterway all materials used in the construction of any Temporary Works.

27.10 Cleaning up

The Contractor shall keep each Site and the work clean and tidy. The Contractor shall regularly remove rubbish and surplus material.

28 Not used

29 Materials, labour and Constructional Plant

29.1 Provision of materials, labour and Constructional Plant

Except to the extent that the Contract specifies Principal Supplied Material, the Contractor shall supply everything necessary for the proper performance of the Contractor's obligations and discharge of the Contractor's liabilities under the Contract.

29.2 Contractor's staff

29.2.1 General

a) The Contractor shall employ:

i. appropriately qualified, trained and experienced personnel to perform the Work Under the Contract. If labour hire is required, the Contractor shall only engage with labour hire providers licensed under the *Labour Hire Licensing Act* (Qld).

ii. appropriately qualified, trained and experienced personnel to fill the positions stated in Item 29A and if no such positions are stated, the Contractor shall employ an adequate number of appropriately qualified, trained and experienced staff as determined by the Administrator to be necessary to carry out the requirements of the Contract.

b) The personnel nominated by the Contractor to fill the positions stated in Item 29A shall be able to read, write and converse fluently in the English language.

c) If the Principal reasonably considers at any time that personnel employed by the Contractor to perform the Work Under the Contract (including the Contractor's key personnel under Clause 29.2.2) do not satisfy the requirements of Clause 29.2.1(a), it may, acting reasonably, request the Contractor remove such personnel and replace them with a suitably qualified replacement.

29.2.2 Key personnel

a) Those personnel specified in Item 29B shall be the Contractor's key personnel for the Contract.

b) The Contractor shall maintain its key personnel in the roles specified in Item 29B on the Work Under the Contract and shall not replace them unless the Administrator approves a substitute.

c) Any vacancy of key personnel shall be promptly filled by the Contractor with a person of at least equivalent ability, experience and expertise and who is approved by the Administrator. The

Administrator shall notify Prequalification and Contracts Unit (PCU) of any changes to Contractor's key personnel prior to approving the change and record them in the monthly contract performance reporting.

d) When a key personnel is replaced in accordance with this Clause 29.2.2, the Contractor shall ensure that there is a proper 'handover' which will require the person and his replacement working together for at least 10 Business Days.

e) A failure by the Contractor to comply with the requirements of this Clause 29.2.2 shall constitute a substantial breach for the purposes of Clause 44.2.

29.3 Training requirements

a) The *Queensland Government Building and Construction Training Policy* (the Training Policy) applies to Queensland Government building projects with a Contract Sum of $500,000 or greater (including GST) and civil construction projects with a Contract Sum of $3 million or greater (including GST) as identified in Item 30A.

b) For purposes of this Clause 29.3:

i. 'apprentice' and 'trainee' shall be a person who enters into a training Contract that has been executed in the formation of an apprenticeship or traineeship as provided for in the *Further Education and Training Act 2014*

ii. 'compliance plan' means the plan developed by the Contractor demonstrating how the Contractor will comply with its obligations under this clause and the Training Policy

iii. 'DESBT' means Department of Employment, Small Business and Training

iv. 'eligible project' means the work under this Contract if the Training Policy applies in accordance with Clause 29.3(a)

v. 'new entrant' shall be an apprentice or trainee who has not been continuously employed by the employer, detailed on the training Contract, for more than three months full-time, or 12 months casual or part-time, or a combination of both, immediately prior to the commencement date of the training Contract; this person shall remain a new entrant under the Training Policy until the person completes the apprenticeship or traineeship

vi. 'Practical Completion report' means the report prepared by the Contractor at project completion demonstrating its compliance with the requirements of Clause 29.3

vii. 'Training Policy' means the *Queensland Government Building and Construction Training Policy,* published by the Department of Employment, Small Business and Training and located at www.training.qld.gov.au/trainingpolicy, as amended from time to time

viii. 'TPAS' means the *Training Policy Administration System* – it is an electronic reporting system to report compliance with the Training Policy and is available on the website at https://tpa.csq.org.au and

ix. 'upskill workers' means upskilling existing workers in training that is delivered by registered training organisations which leads to nationally-recognised building or civil construction qualifications and upskilling existing workers in industry-recognised training, but does not include Site induction, toolbox talks or Site meetings.

c) The Contractor, in its execution of the Work Under the Contract, shall:

i. employ on the Site, either directly or indirectly through Subcontractors, apprentices and trainees, or

ii. employ on the Site, either directly or indirectly through Subcontractors, apprentices and trainees and upskill workers employed on the Site

for eligible projects up to $100 million in Contract Sum, the deemed hours for the training policy will be determined by the Contract Sum multiplied by 0.03 percent for civil construction projects.

d) In complying with this clause, not less than 60% of the required number of deemed hours shall be performed by new entrants.

e) The number of attributable deemed hours to upskill a worker shall be limited to the hours necessary to adequately present the educational material, in a classroom delivery mode, for the worker to achieve an identified competency or qualification.

f) On eligible projects over $100 million, there are additional requirements that have to be fulfilled relating to development and implementation of a skills development plan, training delivery linked to occupational outcomes and a training coordinator appointed to ensure implementation of the skills development plan.

g) The Contractor shall:

i. within 10 Business Days of the Date of Acceptance of Tender, submit to DESBT through TPAS, a completed Compliance Plan, and

ii. within 15 Business Days of the Date of Practical Completion, submit a Practical Completion report through TPAS.

h) The Contractor acknowledges that failure to comply in part or in whole with this Clause 29.3 will be a substantive factor that will be taken into account in the award of future Contracts by the Principal.

29.4 Removal of materials and Constructional Plant

From time to time, the Administrator may, by written notice to the Contractor, direct the Contractor not to remove from the Site Constructional Plant or materials. Thereafter, the Contractor shall not remove the materials or the Constructional Plant without the prior written approval of the Administrator.

29.5 Manufacture and supply of materials

The Administrator may direct the Contractor to supply particulars of:

a) the mode and place of manufacture

b) the source of supply

c) the performance capacities, and

d) other information,

in respect of any materials, machinery or equipment to be supplied by the Contractor under, or used in connection with, the Contract.

29.6 Use of proprietary, trade or brand names

The description in the Contract of any materials, plant, equipment, work or other items by a proprietary, trade or brand name, supplier's or manufacturer's name, model number or other specific means does not in any way relieve, limit or exclude any of the Contractor's obligations or liabilities under the Contract with

respect to the materials, plant, equipment, work or any other items (including obligations and liabilities under any warranties, performance guarantees or defects liability provisions of the Contract).

29.7 Material supplied by the Principal

a) The Principal shall supply the Principal Supplied Material.

b) The Contractor's Construction Program shall show the date(s) on which any Principal Supplied Material is required, together with the quantity of such Material. The Contractor shall provide the Administrator with at least 15 Business Days prior written notice of the exact date of the Principal Supplied Material is required and the quantity required on that date.

c) The Contractor shall:

   i. transport the Principal Supplied Material from the location stated in the Principal Supplied Material list to the Site

   ii. assume the risk in Principal Supplied Material

   iii. appropriately store and care for the Principal Supplied Material at all times so that it is not contaminated and does not deteriorate

   iv. take all necessary measures to reduce potential harm to the environment which might arise from the transport and storage of Principal Supplied Material

   v. comply with any relevant requirements in the Contract and all Legislative Requirements, Australian Standards and/or manufacturer's instructions in relation to the proper handling and care of any Principal Supplied Material

   vi. pay all costs associated with the inspection, storage, transportation and care of the Principal Supplied Material

   vii. allow the Principal reasonable access to and use of the Principal Supplied Material to the extent reasonably necessary for the conduct of the Principal's operations at the Site, including any inspection, maintenance and repair the Principal may wish to carry out in relation to the Principal Supplied Material

   viii. use and store the Principal Supplied Material in accordance with industry best practice and so as not to invalidate the terms of any warranty in respect of the Principal Supplied Material.

d) Upon the receipt of any Principal Supplied Material, the Contractor shall within three Business Days inspect the material and ensure that the specified quantity has been delivered and that the material is in a condition which complies with the relevant Specifications. Within one Business Day upon inspection, notify the Administrator of any damage to, or loss of, the Principal Supplied Material.

e) If, within five Business Days of receipt of the Principal Supplied Material, the Administrator has not received written notification of any deficiencies, then it shall be deemed that the specified quantity of Principal Supplied Material has been delivered to the Contractor in a condition which complies with the relevant Specifications.

f) Any Principal Supplied Material which, after delivery to the Contractor, is lost, destroyed, contaminated or altered in any way such that the material no longer complies with the relevant Specifications, shall be within three Business Days or as agreed with the Administrator replaced by the Contractor with material which complies with the relevant Specifications. The Contractor

shall notify the Administrator in writing of any lost, destroyed, contaminated or altered material within five Business Days of the Contractor becoming aware of such events.

g) Any Principal Supplied Material which is excess to the reasonable requirements of the Contract shall be returned to the point of return nominated in the Principal Supplied Material list. Any empty containers shall also be returned to the nominated location.

h) Nothing in this Clause 29.7 shall in any way limit or exclude in any way the Contractor's obligations or liabilities under Clause 16.

30 Materials and work

30.1 Quality of materials and work

The Contractor shall use the materials and standards of workmanship required by the Contract. In the absence of any requirement to the contrary, the Contractor shall use suitable new materials.

30.2 Quality assurance

a) The Contractor shall:

   i. plan, establish, implement and maintain a quality system which conforms to the requirements of this Contract (Quality System) as per Item 31A of the Annexure A

   ii. provide the Administrator with access to the Quality System of the Contractor and each of the Subcontractors to enable monitoring and quality auditing.

b) Failure by the Contractor to either establish, implement or maintain a Quality System in accordance with this Clause 30.2 shall constitute a substantial breach for the purposes of the operation of Clause 44.2.

c) The Contractor shall provide all records (including all test results and test report data) forming part of the Quality System (Quality Records) to the Administrator prior to the issue of the Final Certificate. Such records shall be provided in native electronic form or as directed by the Administrator.

d) The Contractor hereby grants to the Principal a non-exclusive, irrevocable, unconditional, worldwide, perpetual, royalty-free, transferable and sublicensable licence to exercise all intellectual property rights in all Quality Records (including all information contained within the Quality Records) provided by the Contractor to the Administrator under Clause 30.2(c) for any purpose including, but not limited to:

   i. informing best practice, safe, sustainable, value for money construction, maintenance and operation of other non-related projects, and

   ii. informing the Principal's supplier and product registration systems, asset management and technical policy improvements.

e) The Contractor represents and warrants that it has the right and authority to grant the licence under Clause 30.2(d), and that such licence grant and the use of the Quality Records by the Principal as contemplated by Clause 30.2(d) will not infringe the intellectual property rights of any third party.

f) The Contractor releases, discharges and indemnifies the Principal and its personnel from and against any loss, damage, liability, cost or expense (including legal expenses) suffered or incurred by any of them, whether in contract, tort (including negligence), or otherwise in

connection with any claim by a third party that the Quality Records or the use of the Quality Records by the Principal as contemplated by Clause 30.2(d) infringes the intellectual property rights of that third party.

g) The Contractor acknowledges that the licence referred to in Clause 30.2(d) will survive the breach, repudiation, rescission, frustration, cancellation, termination, completion or any other discharge of the Contract and any takeover of the whole or any part of the Work Under the Contract.

30.3 Quality Plan

a) The Contractor shall prepare and submit, as part of the Contract Plan, a Quality Plan to the Administrator in accordance with Clause 33.3.

b) The Quality Plan shall be consistent with the Standard Specifications and any Quality Plan outline submitted with the Contractor's Tender (except to the extent that if any Quality Plan outline is inconsistent with the Standard Specifications or any of the Other Documents comprising the Contract, then the Quality Plan shall be in accordance with the Standard Specifications and the Other Documents comprising the Contract).

c) The Contractor shall implement and maintain the Quality Plan while carrying out the Work Under the Contract.

d) The Contractor shall submit inspection and test procedures to the Administrator, for a direction as to their suitability in accordance with Clause 8.5, not later than five Business Days prior to the commencement of the applicable work.

30.4 Suspension of Works by the Administrator due to serious non-conformance

If, in the opinion of the Administrator, any process, procedure, test method, calculation, analysis and/or report has resulted or will result in a serious non-conformance, then the Administrator may, in its absolute discretion, in accordance with Clause 34, direct the Contractor in writing, to suspend the whole or part of the Work Under the Contract and the Contractor shall immediately carry out any corrective and/or remedial action.

30.5 Contractor's obligations unaffected

The Quality System (including the Quality Plan):

a) shall be used only as an aid to achieving compliance with the Contract and to document such compliance, and

b) will not relieve the Contractor of any responsibilities or obligations in respect of the Work Under the Contract and the Contractor will remain solely responsible despite:

   i. the obligation of the Contractor to implement and maintain a Quality System in accordance with this Contract, or

   ii. any comment or direction upon, review or acceptance of, approval to proceed with, or request to vary any part of the quality assurance system by the Administrator.

30.6 Defective materials or work

a) If the Administrator discovers material or work provided by the Contractor which is not in accordance with the Contract, the Administrator may direct the Contractor to:

   i. remove the material from the Site

ii. demolish the work

iii. reconstruct, replace or correct the material or work, or

iv. not to deliver the material or work to the Site.

b) The Administrator may direct the times within which the Contractor shall commence and complete the removal, demolition, reconstruction, replacement or correction.

c) If the Contractor fails to comply with a direction issued by the Administrator pursuant to Clause 30.6 within the time specified by the Administrator in the direction and provided the Administrator has given the Contractor notice in writing that after the expiry of five Business Days from the date on which the Contractor receives the notice the Principal intends to have the work carried out by other persons, the Principal may have the work of removal, demolition, replacement or correction carried out by other persons and the cost incurred by the Principal in having the work so carried out shall be a debt due from the Contractor to the Principal.

30.7 Variations due to defective materials or work

Instead of a direction under Clause 30.6, the Administrator may direct a variation pursuant to Clause 40. The variation shall be valued under Clause 40.5 and:

a) if the variation causes an increase or decrease in the value to the Principal of the Works, regard shall also be had to the increase or decrease, and

b) if the variation results in the Contractor incurring more or less cost than would reasonably have been incurred had the Contractor been given a direction under Clause 30.6, regard shall also be had to the difference.

30.8 Acceptance of defective material or work

Instead of a direction under Clause 30.6 or 30.7, the Administrator may notify the Contractor that the Principal elects to accept the material or work notwithstanding that it is not in accordance with the Contract. In that event the resulting decrease in the value of the Works to the Principal, and any other loss suffered by the Principal, shall be valued in accordance with the applicable provisions of the Specification dealing with such valuations, and in the absence of such provisions, at a relevant value as determined by the Administrator.

30.9 Generally

a) The Administrator shall give either a direction under Clause 30.6 or 30.7 or a notice under Clause 30.8 as soon as practicable after the Administrator becomes aware that material or work is not in accordance with the Contract. The Administrator may give the direction or notice at any time before the issue of the Final Certificate under Clause 42.8.

b) Except to the extent that to do so would be inconsistent with a direction under Clause 30.7 or a notice under Clause 30.8, and notwithstanding that the Administrator has not given a direction under Clause 30.6, the Contractor shall promptly remove, demolish, reconstruct, replace or correct material or work that is not in accordance with the Contract.

c) A payment, or a test or a failure by the Administrator or anyone else, to disapprove any material or work shall not prejudice the power of the Administrator to subsequently give a direction under Clauses 30.6 or 30.7 or a notice under Clause 30.8.

d) Nothing in Clause 30 shall prejudice any other right which the Principal may have against the Contractor arising out of the failure of the Contractor to provide material or work in accordance with the Contract.

e) The Administrator shall not be obliged to give a direction under Clause 30.7 or a notice under Clause 30.8 to assist the Contractor.

30.10 Suppliers' and manufacturers' warranties

a) The Contractor shall:

   i. in respect of each Item specified in Item 32A (Warranty Item), procure and deliver to the Principal, prior to the end of the Defects Liability Period, a completed and executed warranty in the form of Form C7858 from the supplier or manufacturer of the materials or goods

   ii. in respect of any other goods or materials incorporated into the Works, assign to the Principal the benefit of any warranty which applies after the end of the Defects Liability Period.

b) The provision of an executed warranty pursuant to Clause 30.10 shall not:

   i. affect the warranties given by the Contractor under the Contract

   ii. relieve, limit or exclude any of the Contractor's liabilities or obligations under the Contract

   iii. modify, limit or exclude any of the Principal's rights or remedies against the Contractor whether under the Contract or otherwise.

31 Examination and testing

31.1 Administrator may order tests

a) In Clause 31, 'test' includes examination and measurement, and may include laboratory or field based tests.

b) At any time prior to the issue of the Final Certificate, the Administrator may direct that any material or Work Under the Contract be tested. The Contractor shall provide such assistance and samples and make accessible such parts of the Work Under the Contract as may be required by the Administrator. On completion of the tests, the Contractor shall make good the Work Under the Contract so that it fully complies with the Contract.

31.2 Covering up of work

The Administrator may direct that any part of the Work Under the Contract shall not be covered up or made inaccessible without the Administrator’s prior approval.

31.3 Who conducts tests

Tests shall be conducted as provided in the Contract or by the Administrator or a person (which may include the Contractor) nominated by the Administrator.

31.4 Notice of tests

Before conducting a test under the Contract, the party conducting the test, being the Administrator or the Contractor, shall give reasonable notice in writing to the other of the time, date and place of the test. If the other does not then attend, the test may nevertheless proceed.

31.5 Procedure if tests delayed

Without prejudice to any other right, if the Contractor or the Administrator delays in conducting a test, the other, after giving reasonable notice in writing of intention to do so, may conduct the test.

31.6 Results of tests

Results of tests shall be promptly made available by each party to the other and to the Administrator.

31.7 Costs of testing

a) Costs of, and incidental to, testing shall be valued under Clause 40.5 and shall be borne by the Principal or paid by the Principal to the Contractor unless:

   i. the Contract provides that the Contractor shall bear the costs or the test is one which the Contractor was required to conduct other than pursuant to a direction under Clause 31.1

   ii. the test shows that the material or work is not in accordance with the Contract

   iii. the test is in respect of Work Under the Contract covered up or made inaccessible without the Administrator's prior approval where such was required

   iv. the test is consequent upon a failure of the Contractor to comply with a requirement of the Contract.

b) Where such costs are not to be borne by the Principal, they shall be borne by the Contractor or paid by the Contractor to the Principal.

31.8 Access for testing

If, during the Defects Liability Period:

a) the Principal or the Administrator asserts that material or work is not in accordance with the Contract, and

b) the Contractor requests permission to test the material or work,

the Principal shall not unreasonably refuse the Contractor access to test the material or work.

32 Working Hours

32.1 General

a) The Working Hours and Working Days shall be as stated in Item 33A and, if not so stated, as notified by the Contractor to the Administrator prior to commencement of work on Site and shall not be varied without the prior approval of the Administrator, except when in the interests of safety of the Work Under the Contract or to protect life or property, the Contractor finds it necessary to carry out work outside the Working Hours or on other than the Working Days stated in the Contract. In such cases, the Contractor shall notify the Administrator in writing of the circumstances as early as possible.

b) Notwithstanding Item 33A, the following days are not Working Days. No Work Under the Contract is permitted during these times without the prior written approval of the Administrator:

   i. all gazetted Queensland public holidays

   ii. local public holidays within the local government area in which the Site is located

   iii. the Day before Good Friday

   iv. the Days after the last Working Day prior to Christmas Day until New Year's Day inclusive

   v. any other Days listed in Item 33B.

c) The Contractor shall make due allowance for days that are not Working Days in its Construction Program and shall not be entitled to any Claim in respect of restrictions on carrying out the Work Under the Contract on these Days.

33 Progress and programming and planning of the Works

33.1 Rate of progress

a) The Contractor shall proceed with the Work Under the Contract with due expedition and without delay.

b) The Contractor shall not suspend the progress of the whole or any part of the Work Under the Contract except where the suspension is under Clause 44.9 or is directed or approved by the Administrator under Clause 34.

c) Without limiting the Contractor's obligations under Clause 29.7, the Contractor shall give the Administrator reasonable advance notice of when the Contractor requires any information, materials, documents or instructions from the Administrator or the Principal.

d) The Principal and the Administrator shall not be obliged to furnish any information, materials, documents or instructions earlier than the Principal or the Administrator, as the case may be, should reasonably have anticipated at the Date of Acceptance of Tender.

e) The Administrator may direct in what order, and at what time, the various stages or parts of the Work Under the Contract shall be performed. If the Contractor can reasonably comply with the direction, the Contractor shall do so. If the Contractor cannot reasonably comply, the Contractor shall notify the Administrator in writing, giving reasons. No direction by the Administrator shall constitute, or be regarded as, a direction under this Clause 33.1(e) unless the direction is in writing and expressly states that it is a direction under this Clause 33.1(e).

f) If the Contractor considers that compliance with the direction will cause the Contractor to incur more or less cost than otherwise would have been incurred had the Contractor not been given the direction, the Contractor shall within 10 Business Days of the receipt of the direction notify the Administrator that it considers the direction is a variation to the Work Under the Contract and details of why the Contractor considers it to be a variation. If the Administrator considers that the direction is a variation to the Work Under the Contract, it will within 10 Business Days of receiving the Contractor's notice confirm this in writing, in which event it will be valued under Clause 40.5.

g) Unless the Contractor has given notice strictly in compliance with Clause 33.1(f), the Contractor shall be barred from making any Claim against the Principal in respect of the work the subject of the direction.

33.2 Contractor's reports

33.2.1 Daily reports

a) If specified in Item 34A, the Contractor shall provide to the Administrator daily reports.

b) The daily report shall be an accurate written record of all Site activities and events. Daily reports shall include:

   i. a workforce report listing staff and labour personnel and the Current Program activities on which labour was used

   ii. a subcontract report listing subcontract staff and labour personnel and the Current Program activities on which labour was used

iii. a plant and equipment report listing all Constructional Plant and equipment utilised, the Current Program activities on which the Constructional Plant and equipment was used, and a listing of all idle Constructional Plant and equipment and reasons for it being idle

iv. deliveries and quantities of materials delivered

v. significant and unusual events.

c) Daily reports shall be submitted to the Administrator by 11.00 am on the following Business Day.

33.2.2 Weekly reports

a) If specified in Item 34A, the Contractor shall provide to the Administrator weekly reports.

b) The weekly report shall include summary of the Daily reports specified in Clause 33.2.1(b), or if the Daily Reports are not required, all of the content that would normally be included in the Daily Reports as specified in Clause 33.2.1(b) shall be included and summarised in the Weekly Report.

c) Weekly reports shall be submitted to the Administrator by 12 pm on Tuesday of the week following the period to which the report refers.

33.3 Contract Plan

33.3.1 General

a) The Contractor shall, within the time stated in Item 35A, prepare and submit a plan, which documents all of the systems, procedures and plans required to be implemented by the Contractor under the Contract (Contract Plan), to the Administrator for a direction as to its suitability in accordance with Clause 8.5.

b) The Contract Plan shall include the following plans, each of which shall comply with the relevant requirements in the Contract:

i. Construction Program

ii. Quality Plan

iii. Environmental Management Plan

iv. WHS Management Plan

v. Traffic Management Plan (where required)

vi. Community Liaison Plan (where required)

vii. Severe Weather Management Plan (where required)

viii. Utility Relocation Management Plan (where required)

c) The Contractor shall establish, review, maintain, update and implement the Contract Plan.

d) If the Contractor fails to comply strictly with the provisions of this Clause 33.3.1:

i. such failure will be a substantial breach of Contract for the purposes of Clause 44.2

ii. the Principal may, pursuant to Clause 27.1, refuse to give access to the Site until the Contractor has strictly complied with this Clause 33.3.1.

33.3.2 Interim plans

a) The Administrator may in its absolute discretion, as a condition of granting the Contractor access to the Site prior to a direction from the Administrator that the Contract Plan is suitable, require the

Contractor to submit interim versions of the following plans to the Administrator for a direction as to suitability in accordance with Clause 8.5:

i. Environmental Management Plan

ii. WHS Management Plan

iii. Traffic Management Plan (where required)

iv. Community Liaison Plan (where required)

v. Severe Weather Management Plan (where required).

b) The interim plans to be submitted by the Contractor under Clause 33.3.2(a) shall:

i. be submitted 10 Business Days before the Contractor proposes to commence work on the Site

ii. comply with the requirements set out in the Contract or the relevant Standard Specifications as appropriate

iii. contain sufficient particulars to demonstrate the Contractor's commitment to its obligations and the management of the environmental, safety, traffic and community liaison issues for the first two months of the term of the Contract.

33.3.3 Updating Contract Plans

If requested by the Administrator, which may be made at any time, and from time to time in its absolute discretion, or where an issue or deficiency arises in respect of any part of the Contract Plan, the Contractor shall submit an updated version of the relevant part of the Contract Plan to the Administrator for a direction as to its suitability in accordance with Clause 8.5.

33.3.4 Permission and compliance

a) The Contractor shall implement, and at all times comply with, all plans and procedures that form part of the Contract Plan.

b) Compliance with the Contract Plan does not relieve the Contractor from its general obligation to comply with this Contract and all Legislative Requirements.

c) Any direction as to the suitability or comment from the Administrator in respect of the Contract Plan does not relieve the Contractor of its responsibilities under this Contract or under the Contract Plan.

33.3.5 Audit of Contract Plan

The Principal may carry out audits of the Contract Plan and its implementation at any time and from time to time. During any audit, the Contractor shall provide the Principal and its Representatives with all documentation, access and assistance necessary for the audit. The Contractor is not entitled to any additional payment for providing any assistance during any audit of the Contract Plan.

33.4 Construction Program

33.4.1 General Program matters

a) The Contractor shall:

i. prepare, implement and maintain a Construction Program in accordance with this Clause 33.4

ii. within the time stated in Item 36A, prepare and submit its Construction Program to the Administrator for a direction as to its suitability in accordance with Clause 8.5

iii. be fully responsible for maintaining the progress of all Work Under the Contract in accordance with its Construction Program, including works carried out by the Contractor and by its Subcontractors.

b) The Contractor shall not, without reasonable cause, depart from:

i. a Construction Program included in the Contract, or

ii. a Construction Program furnished to the Administrator.

c) The content of, or furnishing of a Construction Program, or of a further Construction Program, shall not affect the rights and obligations under Clause 33.1, nor relieve the Contractor of any obligations under the Contract, including the obligation to not, without reasonable cause, depart from an earlier Construction Program.

d) The Construction Program shall:

i. take one of the following forms as stated in Item 36B:

a) a critical path network, in accordance with Clause 33.4.2, or

b) a bar chart in accordance with the requirements of Clause 33.4.3

ii. be consistent with the program which was submitted with the Contractor's Tender

iii. show the Contractor's bona fide planned work activities and sequences for bringing the Work Under the Contract to Practical Completion by the Date for Practical Completion, and

iv. not affect the time for performance by the Principal or the Administrator of any of their obligations or oblige either of them to do anything earlier than is necessary to enable the Contractor to bring the Work Under the Contract to Practical Completion on the Date for Practical Completion.

e) The Contractor may implement and revise, as necessary, its Construction Program while carrying out Work Under the Contract.

f) All activity durations will be no longer than 15 Working Days.

33.4.2 Critical path network program

a) Any critical path network program required to be prepared by the Contractor under the Contract shall be prepared on a computerised project management system approved by the Administrator. The Contractor's software shall be capable of exporting data in an electronic format which can be readily loaded into the Administrator’s project management software nominated in Item 36C.

b) The critical path network program shall include:

i. all significant key dates and milestones, including dates by which the Principal is required to supply information or materials, or is required to have done anything

ii. an appropriate number of activities, not less than the number stated in Item 36D

iii. activities identified by whole numbers, with sufficient gaps in the logical sequence to allow later insertion of additional activities should that be required

iv. the total float for each activity

v. a separate detailed activity listing showing coding, estimated durations and full logic links between activities

vi. one start activity (award of the Contract) and one end activity (Practical Completion), or if there are Separable Portions, one end activity for each Separable Portion

vii. one or more continuous paths of zero float from the start activity to the end activity or end activities

viii. all external constraints, including constraints on Working Days, Working Hours and traffic lane access

ix. any resource and/or logic restraints (non-zero lags shall only be shown where an engineering or resource requirement can be demonstrated)

x. at least two calendars, one for calendar days and one for Working Days

xi. activity weightings expressed as a percentage of the total cost of the Work Under the Contract

xii. projected progress of the Work Under the Contract, capable of being presented graphically

xiii. the estimated value of work programmed in each month throughout the Contract.

c) The Contractor shall provide the necessary input such that its computerised project management system is capable of providing reports showing personnel, plant and machinery resources for each activity in man hours, machine hours or by crews. The format and content of the report(s) shall be as agreed with the Administrator.

33.4.3 Bar chart program

a) A bar chart program shall be prepared in the Form of a bar chart, which shall comply with the requirements of Clause 33.4.2(b)(i), (ii), (iii), (v), (vii), (viii) and (xi).

b) Notwithstanding the provisions of this Clause 33.4.3, the Contractor may elect to provide a Construction Program in the Form of a critical path network in accordance with Clause 33.4.2.

33.4.4 Current Program

a) Once the Administrator gives a direction that a Construction Program is suitable, the Construction Program shall be designated the Current Program. No changes shall be made to the Current Program without the Administrator's prior written agreement.

b) Until such time as the Administrator gives direction that a Construction Program is suitable, the Administrator may have regard, as necessary, to the program submitted with the Contractor's Tender.

c) Where a critical path network program is specified, with each program submitted under Clause 33.4, any revised program submitted under Clause 33.4.7 and any rolling program submitted under Clause 33.4.9, the Contractor shall submit appropriate information in the electronic format stated in Clause 33.4.2.

33.4.5 Contractor's liabilities and obligations not relieved

No direction as to use of nor any other comment or direction by the Administrator regarding the suitability of or any change to any Construction Program submitted under Clause 33.4, any revised program submitted under Clause 33.4.7 or any rolling program submitted under Clause 33.4.9 shall:

a) relieve, limit or exclude any of the Contractor's liabilities or obligations under the Contract, including its obligation to ensure the Work Under the Contract reaches Practical Completion by the Date for Practical Completion and its responsibility for all planning, scheduling, sequences, methods and techniques necessary for the due performance of its obligations under the Contract

b) constitute a direction to accelerate, disrupt, prolong or vary any, or all, of the Contractor's activities or the Work Under the Contract or any part of the Work Under the Contract

c) constitute a direction under Clause 33.1(e)

d) constitute the granting of an extension of time or a determination in relation to any application of an extension of time to the Date for Practical Completion, or

e) affect the time for performance by the Principal or the Administrator of any of their obligations or oblige either of them to do anything earlier than is necessary to enable the Contractor to bring the Work Under the Contract to Practical Completion by the Date for Practical Completion.

33.4.6 Current Program not part of Contract

a) Under no circumstances does a direction by the Administrator regarding the suitability of, or any change to, any Construction Program submitted under Clause 33.4, nor any revised program submitted under Clause 33.4.7, or any rolling program submitted under Clause 33.4.9, confer any ownership whatsoever regarding any Construction Program, to the Principal.

b) The Current Program may be used by the Administrator to monitor the progress of the Work Under the Contract and assess Claims for extension of time.

33.4.7 Contractor's revisions of Current Program

a) If the actual progress of the Work Under the Contract varies significantly from that shown in the Current Program, the Contractor shall submit a revised program which shall (where possible) indicate how the Contractor proposes to accelerate the work in order to meet the Date for Practical Completion. A revised program shall comply with the provisions of Clause 33.4

b) Once the Administrator gives a direction that a revised program is suitable, that program shall be the Current Program.

33.4.8 Review of Current Program

At each Site Conference held in accordance with Clause 4.3, the Contractor shall provide to the Administrator a printed report which reviews the Current Program and highlights any significant impacts on the project for the period up to the next Site Conference.

33.4.9 Short-term rolling program

Where a critical path network program is specified, the Contractor shall each month prepare and submit to the Administrator a detailed short-term rolling program for the Work Under the Contract (the rolling program). The rolling program shall:

a) be drawn on a horizontal time scale

b) show all activities scheduled for the next two months

c) be statused at a date within five Business Days of the date of submission

d) be in sufficient detail to monitor the day-to-day progress of the Work Under the Contract

e) be accompanied by an updated projection of the estimated value of work programmed in each month for the remainder of the Contract.

33.4.10 Data for preparation of factual network

The Contractor shall maintain adequate records of its progress in a format agreed with the Administrator. The records may be examined by the Administrator at any time and, if the records are agreed to be accurate, signed by both the Contractor and the Administrator as a true record of the Contractor's performance.

33.5 Acceleration

a) Where the Contractor is entitled to an extension of time to the Date for Practical Completion under Clause 35.5, the Administrator may, instead of granting a reasonable extension of time under Clause 35.5, direct the Contractor in writing to accelerate the performance of the Work Under the Contract so as to overcome the whole or part of the delay which gave rise to the entitlement to an extension of time and the Contractor shall comply with that direction.

b) If the Administrator directs the Contractor under this Clause 33.5 to accelerate the performance of the Work Under the Contract so as to overcome the whole of the delay in question, the Contractor shall no longer be entitled to any extension of time for that delay.

c) If the Administrator directs the Contractor under this Clause 33.5 to accelerate the performance of the Work Under the Contract so as to overcome part only of the delay in question, the Contractor shall no longer be entitled to any extension of time for that part of the delay, but the Administrator shall grant a reasonable extension of time under Clause 35.5 for the balance of the delay.

d) No direction by the Administrator shall constitute, or be regarded as, a direction under this Clause 33.5 unless it is in writing and expressly states that it is a direction under Clause 33.5.

e) If compliance with a direction to accelerate given under Clause 33.5 causes the Contractor to incur more or less cost than otherwise would have been incurred had the Contractor not been given the direction, the difference shall be valued under Clause 40.5.

f) The Principal may prior to giving a direction under this Clause 33.5, provide a written notice of a proposed variation and in that case:

   i. the Contractor shall advise the Administrator whether the proposed variation can be effected and if the variation can be effected, the Contractor shall:

      a) advise the Administrator of the effect which the Contractor anticipates that the variation will have on the Construction Program and time for Practical Completion

      b) provide an estimate of the cost (including delay costs, if any) of the proposed variation

   ii. if the Contractor incurs additional costs in complying with the requirements of Clause 33.5(f), a valuation shall be made under Clause 40.5.

34 Suspension of the Works

34.1 Suspension by Administrator

If the Administrator considers in its absolute discretion that the suspension of the whole or part of the Work Under the Contract is necessary:

a) because of an act or omission of:

   i. the Principal, the Administrator or an employee, consultant or agent of the Principal

   ii. the Contractor, a Subcontractor or an employee or agent of either

b) for the protection or safety of any person or property

c) to comply with an order of a Court,

the Administrator shall direct the Contractor to suspend the progress of the whole or part of the Work Under the Contract for such time as the Administrator thinks fit.

34.2 Suspension by Contractor

If the Contractor wishes to suspend the whole or part of the Work Under the Contract, otherwise than under Clause 44.9, the Contractor shall obtain the prior written approval of the Administrator. The Administrator may approve of the suspension and may impose conditions of approval or reject the suspension in the Principal's absolute discretion.

34.3 Recommencement of work

a) As soon as the Administrator becomes aware that the reason for any suspension no longer exists, the Administrator shall direct the Contractor to recommence work on the whole or on the relevant part of the Work Under the Contract.

b) If work is suspended pursuant to Clause 34.2 or 44.9, the Contractor may recommence work at any time after reasonable advance notice to the Administrator.

34.4 Cost of suspension

Any cost incurred by the Contractor by reason of a suspension under Clause 34.1 or Clause 34.2 shall be borne by the Contractor, but if the suspension is due to an act or omission of the Principal, the Administrator or an employee, consultant or agent of the Principal, and the suspension causes the Contractor to incur more or less cost than otherwise would have been incurred but for the suspension, the difference shall be valued under Clause 40.5.

34.5 Effect of suspension

Suspension shall not affect the Date for Practical Completion, but the cause of suspension may be a ground for extension of time under Clause 35.5.

35 Times for commencement and Practical Completion

35.1 Time for commencement of work on the Site

a) The Contractor shall give the Administrator five Business Days' notice of the date upon which the Contractor proposes to commence work on the Site.

b) The Administrator may reduce the period of notice required.

c) The Contractor shall commence work on the Site within 10 Business Days after the Principal has given the Contractor possession of sufficient of the Site to enable the Contractor to commence work.

d) The Administrator may extend the time for commencement of work on the Site.

35.2 Date / time for Practical Completion

a) The Contractor shall execute the Work Under the Contract to Practical Completion by the Date for Practical Completion.

b) Upon the Date of Practical Completion, the Contractor shall give possession of the Site and the Works to the Principal.

c) The Contractor may, if it chooses, accelerate progress at its own cost and reach Practical Completion before the Date for Practical Completion, but if it does choose to accelerate, then:

i. neither the Principal, the Administrator, nor any other person for whom the Principal is responsible, will be obliged to do or refrain from doing anything to enable the Contractor to reach Practical Completion before the Date for Practical Completion

ii. the time for performance of the Principal's and the Administrator's obligations shall not be affected by the Contractor's decision to accelerate.

35.3 Separable Portions

a) The interpretations of:

i. Date for Practical Completion

ii. Date of Practical Completion

iii. Practical Completion,

and Clauses 5.8, 16, 35, 37, 38, 42.3 and 42.5 shall apply separately to each Separable Portion as identified in Item 37A and references therein to the Works and to Work Under the Contract shall mean so much of the Works and the Work Under the Contract as is comprised in the relevant Separable Portion.

b) If the Contract does not make provision for the amount of security, Retention Moneys, liquidated damages or bonus applicable to a Separable Portion, the respective amounts applicable shall be such proportion of the security, Retention Moneys, liquidated damages or bonus applicable to the whole of the Work Under the Contract as the value of the Separable Portion bears to the value of the whole of the Work Under the Contract.

35.4 Use of partly completed Works

a) If a part of the Works has reached a stage equivalent to that of Practical Completion, but another part of the Works has not reached such a stage and the parties cannot agree upon the creation of Separable Portions, the Administrator may, in its absolute discretion, determine that the respective parts shall be Separable Portions.

b) In using the Separable Portion that has reached Practical Completion, the Principal shall not hinder the Contractor in the performance of the Work Under the Contract.

35.5 Extension of time for Practical Completion

a) Within 10 Business Days of it becoming evident to the Contractor that anything, including an act or omission of the Principal, the Administrator or the Principal's employees, consultants, other Contractors or agents, may delay the Work Under the Contract, the Contractor shall notify the Administrator in writing with details of the possible delay and the cause. The notice shall be endorsed 'Contractor's Notice of Possible Delay Under Clause 35.5'.

b) Within 10 Business Days of it becoming evident to the Principal that anything which the Principal is obliged to do or provide under the Contract may be delayed, the Principal shall give notice to the Administrator who shall within a further three Business Days notify the Contractor in writing of the extent of the likely delay.

c) If the Contractor is, or will be delayed in, reaching Practical Completion by a cause described in Clause 35.5(d) and within 20 Business Days after the commencement of that cause the

Contractor gives the Administrator a written Claim for an extension of time for Practical Completion endorsed 'Contractor's Extension of Time Claim Under Clause 35.5' and setting out the facts on which the Claim is based supported by a compliant Current Program submitted in accordance with the requirements of Clause 33.4, the Contractor shall be entitled to an extension of time for Practical Completion.

d) The causes are:

i. events occurring on or before the Date for Practical Completion which are beyond the reasonable control of the Contractor, including:

a) Industrial Matters

b) inclement weather,

but not including a delay, breach, act or omission by any Subcontractor or any of the Contractor's employees

ii. any of the following events whether occurring before, on or after the Date for Practical Completion:

a) delays caused by:

i. the Principal

ii. the Administrator

iii. the Principal's employees, consultants, other Contractors or agents

b) actual quantities of work in the Schedule of Rates being greater than the quantities determined by reference to the upper limit of accuracy stated in Item 44C (otherwise than by reason of a variation directed under Clause 40)

c) Latent Conditions

d) variations directed under Clause 40

e) repudiation or abandonment by a Nominated Subcontractor

f) changes in a Legislative Requirement (which occurs after the Date of Acceptance of Tender and could not have been anticipated by an experienced and competent Contractor)

g) directions by any Authority, but not where the direction arose from the failure of the Contractor to comply with a legislative requirement

h) delays by any Authority not caused by the Contractor

i) delays arising as a result of the Contractor's compliance with Clause 27.7.2

j) Claims referred to in Clause 17.1(b)(iv)

k) any breach of the Contract by the Principal

l) any other cause which is expressly stated in the Contract to be a cause for extension of time for Practical Completion.

e) Where more than one event causes overlapping delays and the cause of at least one of those events, but not all of them, is not a cause referred to in Clause 35.5(d), then to the extent

that the delays overlap, the Contractor shall not be entitled to an extension of time for Practical Completion.

f) In determining whether the Contractor is, or will be, delayed in reaching Practical Completion regard shall not be had to:

   i. whether the Contractor can reach Practical Completion by the Date for Practical Completion without an extension of time

   ii. whether the Contractor can, by committing extra resources or incurring extra expenditure, make up the time lost.

g) With any Claim for an extension of time for Practical Completion, or as soon as practicable thereafter but not more than 20 Business Days, the Contractor shall give the Administrator written notice of the number of days' extension claimed.

h) The Contractor shall not be entitled to an extension of time for any delay in respect of which the Contractor has failed to comply strictly with the requirements of Clause 35.5(c).

i) If the Contractor is entitled to an extension of time for Practical Completion the Administrator shall, within 20 Business Days after receipt of the notice of the number of days' extension claimed, grant a reasonable extension of time. If within the 20 Business Days, the Administrator does not grant the full extension of time claimed, the Administrator shall, before the expiration of the 20 Business Days, give the Contractor notice in writing of the reason.

j) In determining a reasonable extension of time for an event causing delay, the Administrator shall have regard to whether the Contractor has taken all reasonable steps to preclude the occurrence of the cause and minimise the consequences of the delay.

k) Notwithstanding that the Contractor is not entitled to, or has not claimed an extension of time, the Administrator may, in its absolute discretion and without being under any obligation to do so, at any time and from time to time before the issue of the Final Certificate, by notice in writing to the Contractor, extend the time for Practical Completion for any reason.

l) Neither a delay caused by any one or more of the causes mentioned in Clauses 35.5(d)(ii)(a), 35.5(d)(ii)(d) or 35.5(d)(ii)(k), nor a failure by the Administrator to grant an extension of time or a reasonable extension of time under this Clause 35.5, or to do so within the time stated in this Clause 35.5, nor the giving of a direction to accelerate under Clause 35.5, shall:

   i. set the Date for Practical Completion at large, or

   ii. render Clause 35.6 unenforceable,

   and the legal principle known as the 'prevention principle' shall not apply where there has been such a delay or failure, but nothing in this Clause 35.5(l) shall prejudice any right of the Contractor to damages for breach of Contract.

35.6 Liquidated damages for delay in reaching Practical Completion

a) If the Contractor fails to reach Practical Completion by the Date for Practical Completion, the Contractor shall be indebted to the Principal for liquidated damages at the rate stated in Item 38A for every Day after the Date for Practical Completion to, and including, the Date of Practical Completion or the date that the Contract is terminated under Clause 44, whichever occurs first.

b) If after the Contractor has paid, or the Principal has deducted liquidated damages, the time for Practical Completion is extended, the Principal shall forthwith repay to the Contractor any liquidated damages paid or deducted in respect of the period up to and including the new Date for Practical Completion.

36 Delay costs

a) Where the Contractor has been granted an extension of time under Clause 35.5 for any delay caused by any of the events referred to in Clause 35.5(d)(ii)(a), the Principal shall pay to the Contractor such extra costs as are necessarily incurred by the Contractor by reason of the delay. The amount payable (if any) shall include the percentage margin for onsite and/or offsite overheads stated in Item 40A, as the case may be but shall not include profit or loss of profit.

b) Nothing in Clause 36 shall:

   i. oblige the Principal to pay extra costs for delay which have already been included in the value of a variation or any other payment under the Contract, or

   ii. limit the Principal's liability for damages for breach of the Contract.

37 Defects liability

a) The Defects Liability Period stated in Item 37A or 39A shall commence on the Date of Practical Completion. Where no period is stated in Item 37A or 39A, the Defects Liability Period shall be 90 days.

b) As soon as possible after the Date of Practical Completion, the Contractor shall rectify any defects or omissions in the Work Under the Contract existing at Practical Completion.

c) At any time prior to 10 Business Days after the expiration of the Defects Liability Period, the Administrator may direct the Contractor to rectify any omission or defect in the Work Under the Contract existing at the Date of Practical Completion or which becomes apparent prior to the expiration of the Defects Liability Period. The direction shall identify the omission or defect and state a date by which the Contractor shall complete the work of rectification and may state a date by which the work of rectification shall commence. The direction may provide that in respect of the work of rectification there shall be a separate Defects Liability Period of a stated duration not exceeding the period stated in Item 37A or 39A. The separate Defects Liability Period shall commence on the date the Contractor completes the work of rectification. Clause 37 shall apply in respect of the work of rectification and the Defects Liability Period for that work of rectification work.

d) If the work of rectification is not commenced or completed by the stated dates, the Principal may have the work of rectification carried out at the Contractor's expense, but without prejudice to any other rights that the Principal may have against the Contractor with respect to such omission or defect and the cost of the work of rectification incurred by the Principal shall be a debt due from the Contractor.

e) If it is necessary for the Contractor to carry out work of rectification, the Contractor shall do so at times and in a manner which cause as little inconvenience to the occupants or users of the Works as is reasonably possible.

38 Cleaning up

a) The Contractor shall keep the Site and the work clean and tidy. The Contractor shall regularly remove rubbish and surplus material.

b) Within 10 Business Days after the Date of Practical Completion, the Contractor shall remove Temporary Works and Constructional Plant.

c) The Administrator may extend the time for removal of Temporary Works or Constructional Plant necessary to enable the Contractor to perform remaining obligations.

d) Notwithstanding the provisions of Clause 44, if the Contractor fails to comply with any obligation imposed on the Contractor by Clause 38, the Administrator may, after the Administrator has given reasonable notice in writing to the Contractor, have the work of cleaning and tidying up carried out by other persons and the reasonable cost incurred by the Principal in having the work so carried out may be recovered by the Principal as a debt due from the Contractor to the Principal. The rights given by this Clause 38(d) are in addition to any other right.

39 Urgent protection

a) If urgent action is necessary to protect the Work Under the Contract, other property or people and the Contractor fails to take the action, the Principal may, in its absolute discretion, take the necessary action. If the action was action which the Contractor should have taken at the Contractor's cost, the cost incurred by the Principal shall be a debt due from the Contractor.

b) If time permits, the Administrator shall give the Contractor prior written notice of the Principal's intention to take action under Clause 39.

40 Variations

40.1 Authority to vary the work

a) The Administrator may, in its absolute discretion, direct the Contractor to:

   i. increase, decrease or omit any part of the Work Under the Contract

   ii. ensure that a particular hazard or risk is being managed effectively to prevent the exposure of a person to a serious risk to health or safety

   iii. change the character or quality of any material or work

   iv. change the levels, lines, positions or dimensions of any part of the Work Under the Contract

   v. execute additional work, and/or

   vi. demolish or remove material or work no longer required by the Principal.

b) The Contractor shall not vary the Work Under the Contract, except as directed by the Administrator or approved in writing by the Administrator under Clause 40.

c) The Contractor is bound only to execute a variation which is within the general scope of the Contract.

d) The Contractor shall not be bound to execute a variation directed after Practical Completion unless the variation is in respect of rectification work referred to in Clause 37.

e) Despite any provision of this Contract to the contrary no variation shall invalidate or amount to a repudiation of this Contract.

f) For the avoidance of doubt, the Principal shall be entitled to have any omitted work carried out by other contractors.

40.2 Contractor's obligations concerning proposed variations

a) Upon receipt of a notice in writing from the Administrator advising the Contractor of a proposed variation under Clause 40, the Contractor shall advise the Administrator whether the proposed variation can be effected. If the variation can be effected, the Contractor shall within a reasonable timeframe but not more than 5 Business Days:

   i. advise the Administrator of the effect which the Contractor anticipates that the variation will have on the Construction Program and time for Practical Completion, and

   ii. provide a realistic estimate of the cost (including delay costs, if any) of the proposed variation.

   iii. provide supporting document to substantiate the estimated cost and time impacts including an updated Current Program clearly showing the time impacts of the proposed variations, supplier quotations, measurements and any other relevant evidence of costs.

b) If the Contractor incurs additional costs in complying with the requirements of Clause 40.2, a valuation shall be made under Clause 40.5.

40.3 Direction to proceed with proposed variations

a) The Contractor and the Administrator shall make reasonable endeavours to agree on the cost and time impacts before the Administrator gives a direction to proceed with the variation.

b) If the Administrator and the Contractor fail to agree upon the price for a variation, the variation directed or approved by the Administrator under Clause 40.1 shall be valued under Clause 40.5 a) ii to iv.

c) The Administrator shall give a direction to the Contractor on whether to proceed with the variation within 5 Business Days of providing a realistic estimate of the cost. The direction shall include details of the agreed cost and time impacts, or failing agreement, the Administrator's valuation and assessment of the time impacts.

d) The Contractor shall proceed with the variation as directed even if agreement on the time and cost impacts has not been reached or the Contractor does not agree with the Administrator's valuation or assessment.

e) If the Contractor does not agree with the Administrator's valuation or assessment, the Contractor may issue a Notice of Dispute under Clause 47.1 while continuing to proceed with the directed variation.

40.4 Variations for the convenience of the Contractor

a) If the Contractor requests the Administrator to approve a variation for the convenience of the Contractor, the Administrator may, in its absolute discretion, do so in writing. The approval may be conditional.

b) Unless the Administrator otherwise directs in the notice approving the variation, the Contractor shall not be entitled to:

   i. an extension of time for Practical Completion, or

   ii. extra payment,

in respect of the variation or anything arising out of the variation which would not have arisen had the variation not been approved.

c) The Administrator shall not be obliged to approve a variation for the convenience of the Contractor.

40.5 Valuation

a) Where the Contract provides that a valuation shall be made under Clause 40.5, the Principal shall pay or allow the Contractor or the Contractor shall pay or allow the Principal as the case may require, an amount ascertained by the Administrator as follows:

   i. prior agreement between the Contractor and the Administrator

   ii. if Clause 40.5(a)(i) does not apply and the Contract prescribes specific rates or prices to be applied in determining the value, those rates or prices shall be used

   iii. if Clause 40.5(a)(i) or 40.5(a)(ii) do not apply, the rates or prices in a Schedule of Prices or Schedule of Rates shall be used to the extent that it is reasonable to use them

   iv. to the extent that neither Clause 40.5(a)(i) to 40.5(a)(iii) applies, reasonable rates or prices which are exclusive of GST shall be used in any valuation made by the Administrator.

b) Notwithstanding Clause 40.5(a), the following principles apply to the valuation of variations:

   i. in determining the deduction to be made for work which is taken out of the Contract, the deducted amount shall comprise the direct job costs, overheads and profit associated with the deducted component of the work, the amount of overheads to be deducted may be adjusted in favour of the Contractor if the Contractor can demonstrate that notwithstanding the deduction of the work, it has still incurred some or all of the overheads. In the case of a Schedule of Rates, Clause 3.6 of the Commercial Framework shall be taken into consideration with the limit of accuracy. In all cases, the Contractor shall not be entitled to any profit if the whole Item of work has been deducted.

      The percentages used for assessing the overheads and profit deductions shall be ascertained as follows:

      1 by agreement between the Contractor and the Administrator

      2 failing agreement under Clause 40.5(b)(i)(1) the percentages for profit, onsite overheads and offsite overheads stated in Item 40A may be used in determining the reasonable amount of such profit and overheads to be allowed or disallowed, as the case may be, in the cost of a variation or value of reduced quantities treated as a variation

   ii. if the valuation is of an increase or decrease in a fee or charge or is a new fee or charge by an Authority under Clause 14.2(b), the value shall be the actual increase or decrease or the actual amount of the new fee or charge without regard to overheads or profit

   iii. if the valuation relates to extra costs incurred by the Contractor for disruption, the valuation of the extra costs shall include the percentage margin for onsite and/or offsite overheads stated in Item 40A, as the case may be, but shall not include profit or loss of profit

   iv. if Clause 11 applies, the percentage referred to in Clause 11 shall be used for valuing the Contractor's profit and attendance

   v. Daywork shall be valued in accordance with Clause 41

vi. in respect of Clauses 40.5(b)(i) to (v), the percentages for profit, onsite overheads and/or offsite overheads stated in Item 40A, as the case may be, may be utilised in determining the reasonable amount of such profit and overheads to be allowed or disallowed, as the case may be, in the cost of a variation

vii. where applicable, the amount of GST in respect of the relevant supply or part being valued shall be added in accordance with Clause 42.11.

c) When under Clause 40.3, the Administrator directs the Contractor to support a variation with measurements and other evidence of cost, the Administrator shall allow the Contractor the reasonable cost of preparing the measurements or other evidence of cost that has been incurred over and above the reasonable overhead cost.

41 Daywork

a) The Administrator may, in its absolute discretion, direct that quantities greater than those determined by reference to the upper limit of accuracy referred to in Item 44C or variations directed by the Administrator under Clause 40.1 shall be carried out as Daywork. The Contractor shall thereafter each day record particulars of all resources used by the Contractor for the execution of the Daywork and each day furnish to the Administrator the particulars and copies of time sheets, wages sheets, invoices, receipts and Other Documents evidencing the cost of the Daywork. The Administrator may direct the manner in which matters are to be recorded.

b) In determining the value of Daywork regard shall be had to the rates and prices in the Daywork Schedules contained in the Tender. To the extent that the Daywork Schedules do not apply:

i. the amount of wages and allowances paid or payable by the Contractor at the rates obtaining on the Site at the time as established by the Contractor to the satisfaction of the Administrator or at such other rates as may be approved by the Administrator in its absolute discretion

ii. the amount paid or payable by the Contractor in accordance with any statute or award applicable to day labour additional to the wages paid or payable under Clause 41(b)(i)

iii. the amount of hire charges in respect of Constructional Plant approved by the Administrator for use on the work in accordance with such hiring rates and conditions as may be agreed between the Administrator and the Contractor or, in the absence of agreement, in accordance with such rates and conditions as may be determined by the Administrator in its absolute discretion

iv. the amounts paid for services, subcontracts and professional fees

v. the actual cost to the Contractor of all materials supplied and required for the work

vi. the charge stated in Item 40A or, if no charge is stated, a charge agreed between the Administrator and the Contractor to cover offsite overheads, administrative costs, establishment costs, attendance and profit, or, in the absence of agreement, a reasonable charge determined by the Administrator.

c) Amounts payable for Daywork shall not be subject to adjustment for rise and fall in costs notwithstanding that the Contract may provide for adjustment for rise and fall in costs.

42 Certificates and payments

42.1 Payment Claims, certificates, calculations and time for payment

42.1.1 Payment Claims

a) At the times for payment Claims stated in Item 41A, upon issue of a Certificate of Practical Completion and within the time prescribed by Clause 42.7, the Contractor may deliver to the Administrator a payment Claim. For the avoidance of doubt, a reference date under the *Payments Act* shall not arise during the period following the end of the month in which Practical Completion is reached until the time for making the Final Payment Claim under Clause 42.7

b) The payment Claim shall:

   i. be supported by evidence of the amount due to the Contractor, including a breakdown of the value of Work Under the Contract executed:

      a) since the commencement of the Contract

      b) since the previous payment Claim was made

   ii. include Conformance Report in relation to the Work Under the Contract the subject of the payment Claim

   iii. enclose a copy of a completed Form C7901 or Form C7902 to evidence compliance to the provisions of Clause 4.4, as if a Form C7901 or C7902 has not been completed pursuant to Clause 4.4, evidence that the Contractor has taken all reasonable steps to comply with Clause 4.4

   iv. enclose evidence of compliance with Clause 33.2 (if applicable), Clause 33.3 and Clause 33.4

   v. enclose a completed statutory declaration in accordance with Clause 43, and

   vi. include a supporting statement in accordance with the Payments Act (for guidance, supporting statement template is available at https://www.qbcc.qld.gov.au/protecting-your-payment-rights/supporting-statement).

c) A payment Claim shall include the value of work carried out by the Contractor in the performance of the Contract to that time together with all amounts then due to the Contractor arising out of or in connection with the Contract or for any alleged breach of the Contract. Each component of the Claim shall be assessed to determine if GST applies in accordance with Clause 42.11.

d) If the time for any payment Claim under Clause 42.1.1(a) falls on a day which is not a Business Day, the Contractor shall submit the Claim on the next Business Day.

42.1.2 Payment certificate

a) Within 10 Business Days after receipt of a payment Claim, the Administrator shall issue to the Principal and to the Contractor a payment certificate setting out:

   i. the amount of the payment which, in the opinion of the Administrator, is to be made by the Principal to the Contractor or by the Contractor to the Principal

   ii. the calculations employed to arrive at the amount and, if the amount is more or less than the amount claimed by the Contractor, the reasons for the difference.

b) The Administrator may allow in any payment certificate issued pursuant to this Clause 42.1 or any Final Certificate issued pursuant to Clause 42.8 or a Certificate issued pursuant to Clause 44.6, amounts paid under the Contract and amounts otherwise due from the Principal to the Contractor and/or due from the Contractor to the Principal arising out of or in connection with the Contract, including any amount due or to be credited under any provision of the Contract, but the Administrator shall not be required to include in any such certificate and the Principal shall not be obliged to pay for any work for which a Conformance Report has not been provided to the Administrator unless Indicative Conformance applies.

c) In instances where Indicative Conformance applies, where the Conformance Report has not been submitted due only to the normal delays involved in processing, testing, analysis and reporting, the Contractor may include that completed work for the Conformance Report will be submitted in the following month. In this case, the Contractor shall submit with its payment Claim, a statement which lists the relevant completed work and certifies that the Conformance Report will be presented to the Administrator no later than the end of the calendar month following the month of the relevant payment Claim.

d) If the Contractor fails to deliver a payment Claim under Clause 42.1, the Administrator may, nevertheless, issue a payment certificate.

e) Within two Business Days of the issue of the payment certificate by the Administrator, the Contractor shall issue to the Principal or the Principal shall issue to the Contractor, as the case may be, a tax invoice complying with the GST Legislation in respect of the relevant Supply.

42.1.3 Payment

a) Subject to the provisions of the Contract, within 20 Business Days after receipt by the Administrator of a payment Claim in accordance with Clause 42.1.1, provided that the requirements of Clause 42.1.2(e) have been met, the Principal shall pay to the Contractor or the Contractor shall pay to the Principal, as the case may be, an amount not less than the amount shown in the payment certificate as due to the Contractor or to the Principal as the case may be or if no payment certificate has been issued, the Principal shall pay the amount of the Contractor's Claim.

b) A payment made pursuant to this Clause 42.1.3 shall not prejudice the right of either party to dispute under Clause 47 whether the amount so paid is the amount properly due and payable and on determination (whether under Clause 47 or as otherwise agreed) of the amount so properly due and payable, the Principal or Contractor, as the case may be, shall be liable to pay the difference between the amount of such payment and the amount so properly due and payable.

c) Payment of moneys shall not be evidence of the value of work or an admission of liability or evidence that work has been executed satisfactorily but shall be a payment on account only, except as provided by Clause 42.8.

d) Upon payment to the Contractor of the amount which includes the value of the Item, the Item shall be the property of the Principal free of any lien or charge.

e) Except as provided in the Contract, the Principal shall not be obliged to pay for any Item of unfixed plant and materials which is not incorporated in the Works.

f) If any work for which payment has been made is found not to be in accordance with the Contract, the Administrator may take this into account in valuing any future certificate.

42.2 Correction of payment certificates

a) At any time and from time to time, the Administrator may by a further certificate correct any error which has been discovered in any previous certificate other than a Certificate of Practical Completion or Final Certificate.

b) Any correction must also correct the amount of GST in accordance with the GST Legislation.

42.3 Retention Moneys

The Principal may deduct Retention Moneys from moneys otherwise due to the Contractor as stated in Item 41B.

42.4 Unfixed materials, plant and equipment

The alternative applying for unfixed plant and materials is given in Item 41C.

Alternative 1

a) Notwithstanding Clause 42.1, the Contractor may not claim payment for, and the Principal is not obliged to pay for, any unfixed materials, plant or equipment that have not been incorporated in the Works unless:

   i. the materials, plant or equipment:

      a) have been manufactured solely for the purpose of incorporation in the Works and have not been manufactured before the date required by the Contract, and

      b) are of the type stated in Item 41D(a), and

      c) are properly stored either on the Site or at a suitable location off site (as determined by the Administrator), clearly marked the property of the Department of Transport and Main Roads and adequately protected and insured, and

      d) have been paid for in full by the Contractor and are the unencumbered property of the Contractor and proof of such payment and ownership is provided to the satisfaction of the Administrator, and

      e) the Contractor provides additional security in one of the forms provided by Clause 5.4 in an amount equal to the payment claimed for the materials, plant or equipment.

b) If pursuant to a payment certificate issued under Clause 42.1, the Principal pays the Contractor an amount which includes the value of any unfixed materials, plant or equipment that have not been incorporated in the Works, the materials, plant or equipment will become the property of the Principal, free of any lien, charge or any other encumbrance, at the time the payment is made.

Alternative 2

The Contractor shall not be entitled to payment for materials, plant or equipment not incorporated in the Works.

42.5 Certificate of Practical Completion

a) The Contractor shall give the Administrator at least 10 Business Days' notice of the date upon which the Contractor anticipates that Practical Completion will be reached.

b) When the Contractor is of the opinion that Practical Completion has been reached, the Contractor shall, in writing, request the Administrator to issue a Certificate of Practical Completion. Within 10 Business Days of the receipt of the request, the Administrator shall give to the Contractor and

to the Principal a Certificate of Practical Completion certifying the Date of Practical Completion or give the Contractor in writing the reasons for not issuing the Certificate.

c) When the Administrator is of the opinion that Practical Completion has been reached, the Administrator may issue a Certificate of Practical Completion whether or not the Contractor has made a request for its issue.

d) Within two months of Practical Completion, the Contractor shall hand over to the Administrator copies of all investigation reports undertaken by the Contractor or its agents, in connection with the Contract.

42.6 Effect of certificates

The issue of a payment certificate or a Certificate of Practical Completion shall not constitute approval of any work or other matter, nor shall it prejudice any Claim by the Principal or the Contractor.

42.7 Contractor's final payment Claim

a) Within 20 Business Days after the expiration of the Defects Liability Period, or where there is more than one, the last to expire, the Contractor shall lodge with the Administrator a final payment Claim and endorse it 'final payment Claim'.

b) The Contractor shall include in that Claim all moneys which the Contractor considers to be due from the Principal under or arising out of the Contract or any alleged breach thereof.

c) After the expiration of the period for lodging a final payment Claim, any Claim which the Contractor could have made against the Principal and has not been made shall be barred.

42.8 Final Certificate

a) Within 10 Business Days after receipt of the Contractor's final payment Claim or, where the Contractor fails to lodge such Claim, the expiration of the period specified in Clause 42.7 for the lodgement of the final payment Claim by the Contractor, the Administrator shall issue to the Contractor and to the Principal a final payment certificate endorsed 'Final Certificate', but the Administrator shall not be obliged to issue the Final Certificate until the Contractor has fulfilled all of its obligations under the Contract. In the final payment certificate, the Administrator shall certify the amount which in the Administrators opinion is finally due from the Principal to the Contractor or from the Contractor to the Principal under or arising out of the Contract or any alleged breach thereof.

b) Unless either party, either before the Final Certificate has been issued or not later than 10 Business Days after the issue thereof, serves a notice of dispute under Clause 47, the Final Certificate shall be evidence in any proceedings of whatsoever nature and whether under the Contract or otherwise between the parties arising out of the Contract, that the Works have been completed in accordance with the terms of the Contract and that any necessary effect has been given to all the terms of the Contract which require additions or deductions to be made to the Contract Sum, except in the case of:

   i. fraud, dishonesty or fraudulent concealment relating to the Works or any part thereof or to any matter dealt with in the said Certificate

   ii. any defect (including omission) in the Works or any part thereof which was not apparent at the end of the Defects Liability Period or which would not have been disclosed upon reasonable inspection at the time of the issue of the Final Certificate, or

iii. any accidental or erroneous inclusion or exclusion of any work, plant, materials or figures in any computation or any arithmetical error in any computation.

42.9 Interest on overdue payments

If any moneys due to either party remain unpaid after the date upon which or the expiration of the period within which they should have been paid then interest shall be payable thereon from, but excluding the date upon which or the expiration of the period within which they should have been paid to, and including, the date upon which the moneys are paid. The rate of interest shall be the rate stated in Item 41E. Interest shall be compounded at six monthly intervals.

42.10 Set offs by the Principal

a) Without limiting the Principal's rights under any other provision of the Contract and notwithstanding the provisions of Clauses 42.1 and 42.8 or the issue of any certificate by the Administrator under those Clauses, the Principal may deduct from any moneys due to the Contractor any debt due from the Contractor to the Principal and any Claim which the Principal may have against the Contractor:

   i. whether or not the debt or Claim arises by way of damages, debt, restitution or otherwise, and

   ii. whether or not the factual basis giving rise to the debt or Claim arises out of this Contract, any other Contract or is independent of any Contract.

b) If the moneys payable to the Contractor are insufficient to discharge the debt or Claim, the Principal may have recourse to:

   i. Retention Moneys, and

   ii. if Retention Moneys are insufficient, security provided under Clause 5.2, and

   iii. subject to Clause 5.1, if the Primary Security provided under Clause 5.2 is insufficient to the Subcontractor Payment Security provided under Clause 5.2.

c) Nothing in this Clause 42.10 shall affect the right of the Principal to recover from the Contractor the whole of the debt or Claim or any balance that remains owing. This Clause 42.10 shall survive the termination of the Contract.

42.11 Goods and Services Tax

42.11.1 Interpretation

Where applicable, terms used in this Clause 42.11 have the meaning given in the GST Legislation.

42.11.2 Consideration is Goods and Services Tax exclusive

a) Unless otherwise stated, any consideration to be paid or provided under this Contract does not include an amount on account of GST.

b) The Contractor shall be responsible (in the first instance) for determining if GST applies in accordance with the GST Legislation.

c) The parties agree to exchange such information as is reasonably necessary to enable each party to accurately assess its rights and obligations under the GST Legislation.

42.11.3 Gross up of consideration

To the extent that a party (Supplier) makes a Supply under or in connection with this Contract on which GST is imposed (not being a Supply the consideration for which is specifically described in this Contract as GST inclusive):

a) the consideration payable or to be provided for that Supply under this Contract, but for the application of this clause (GST exclusive consideration) is increased by, and the recipient of the Supply (Recipient) shall also pay to the Supplier, an amount equal to the GST payable on the Supply (GST amount)

b) subject to Clause 42.11.3(c) the GST amount shall be paid to the Supplier by the Recipient without set off, deduction or requirement for demand, at the same time as the GST exclusive consideration is payable or to be paid, and

c) the Recipient need not pay the GST amount in respect of a taxable Supply made under or in connection with this Contract until the Supplier has given the Recipient a tax invoice in respect of that taxable Supply.

42.11.4 Reimbursements and indemnity payments

If either party is entitled under this Contract to be reimbursed or indemnified by the other party for a cost or expense incurred in connection with this Contract, the reimbursement or indemnity amount will be reduced by the amount of any input tax credit that can be claimed by the party entitled to be reimbursed or indemnified, or by its Representative member (as the case may be).

42.11.5 Adjustments

If, as a result of:

a) an adjustment event

b) any amendment to the GST Legislation

c) the issue of a ruling or advice by the Commissioner of Taxation in relation to this Contract or a Supply made under or in connection with this Contract, or

d) a decision of any tribunal or Court in relation to this Contract or a supply made under or in connection with this Contract,

the GST amount differs from the amount of GST paid or payable by the Supplier to the Commissioner of Taxation in respect of a Supply under this Contract, then:

e) the Supplier shall issue an adjustment note to the Recipient that complies with the requirements of the GST Legislation within five Business Days of the relevant event occurring or, otherwise, as soon as it becomes aware of the relevant event, and

f) any difference shall be paid by or refunded to the Recipient (as the case may be) within 10 Business Days of the adjustment note being issued by the Supplier.

43 Payment of workers and Subcontractors

a) Upon entry into a subcontract the Contractor shall, in respect of that subcontract, establish a payment recording system for that Subcontractor set out in a format approved by the Principal.

b) The recording system shall record all details of transactions with a Subcontractor including, at least, details of Claims for payment, payments made, retention and securities held in unconditional undertakings or any other form.

c) The record of payment system shall be:

i. kept by the Contractor until the Final Certificate is issued by the Administrator

ii. provided to the Administrator for inspection and copying upon reasonable notice in writing.

d) The Contractor shall deliver to the Administrator with each payment Claim, a statutory declaration, in the form of Form C7850, sworn by the Contractor, or where the Contractor is a Corporation, by a Representative of the Contractor who is in a position to know the facts attested to, stating that all Subcontractors have been paid in accordance with the requirements of the Payments Act to such Subcontractors up to the date of submission by the Contractor of a payment Claim in respect of the Work Under the Contract and that all its employees who at any time have been engaged on Work Under the Contract by the Contractor have been paid all moneys due and payable to them (including in accordance with any Best Practice Principles commitments in the Contractor's Tender) up to the date of submission by the Contractor of a payment Claim, in respect of their employment on the Work Under the Contract. The Administrator may also request reasonable supporting documentary evidence of those matters.

e) Before the payment of any money to the Contractor by the Principal, the Administrator may also require the Contractor to deliver to the Administrator a statutory declaration, in the form of Form C7851, by any Subcontractor, or where the Subcontractor is a Corporation, by a representative of the Subcontractor who is in a position to know the facts attested to, stating that all Subcontractors of the Subcontractor have been paid in accordance with the requirements of the Payments Act to them up to the date of submission by the Contractor of a payment Claim in respect of the Work Under the Contract and that all employees who have been engaged by the Subcontractor have been paid all moneys due and payable to them (including in accordance with any Best Practice Principles commitments in the Subcontractor's tender) up to the date of submission by the Contractor of a payment Claim in respect of their engagement on the Work Under the Contract. The Administrator may also request reasonable supporting documentary evidence of those matters.

f) If the Contractor provides to the Administrator satisfactory proof of the maximum amount due and payable to workers and Subcontractors by the Contractor, the Principal shall not be entitled to withhold any amount in excess of the maximum amount.

g) At the written request of the Contractor and out of moneys payable to the Contractor, the Principal may, on behalf of the Contractor, make payments directly to any worker or Subcontractor.

h) If any worker or Subcontractor obtains a court order in respect of moneys referred to in Clause 43 and produces to the Principal the court order and a statutory declaration that it remains unpaid, the Principal may pay the amount of the order, and costs included in the order, to the worker or Subcontractor and the amount paid shall be a debt due from the Contractor to the Principal.

i) After the making of a sequestration order or a winding up order in respect of the Contractor, the Principal shall not make any payment to a worker or Subcontractor without the concurrence of the official receiver or trustee of the estate of the bankrupt or the liquidator as the case may be.

43A Payments Act

a) For the purposes of the *Payments Act*, the Administrator is authorised to receive payment Claims and issue payment schedules on behalf of the Principal.

b) If a Claim is a payment Claim under the *Payments Act*, the corresponding payment certificate will be deemed to be a payment schedule for the purposes of the Payments Act.

c) If an adjudicator makes a decision under the *Payments Act* with respect to a payment Claim which differs from the payment certificate in respect of that payment Claim, the Administrator shall promptly issue an amended payment certificate to adopt the decision of the adjudicator. Either party may dispute the amended payment certificate.

d) The Contractor shall ensure that within one Business Day after any notice (other than a payment Claim or payment schedule) under the *Payments Act* is given or received by the Contractor or any Subcontractor, a copy of that notice is given to both the Administrator and the Principal.

43B Subcontractors' Charges

a) Notwithstanding any other provision of this Contract, the Contractor shall:

   i. immediately give the Principal notice if the Contractor has been required to supply information to a Subcontractor under Section 119 of the *Payments Act*, together with a copy of the information provided, and

   ii. immediately notify the Principal if it becomes aware that a Subcontractor has claimed or intends to Claim a statutory Charge under Section 122 of the *Payments Act*.

b) The Contractor shall indemnify the Principal against any Claims against, or costs, losses or damages (including lawyers' fees and expenses on a solicitor / client basis) suffered or incurred by the Principal arising out of, or in any way in, connection with:

   i. a Notice of Claim being served on the Principal under Section 122 of the *Payments Act*, and

   ii. a failure by the Contractor to comply with its obligations under Clause 43B(a).

c) If the Principal makes a payment into court or to a Subcontractor or other person as a result of receiving a Notice of Claim under the *Payments Act*, for the purposes of calculating the Contract Sum finally payable by the Principal to the Contractor, that payment will be treated as though it was a payment made by the Principal to the Contractor.

44 Default or insolvency

44.1 Preservation of other rights

If a party breaches or repudiates the Contract, nothing in this Clause 44 shall prejudice the right of the other party to recover damages or exercise any other right.

44.2 Default by the Contractor

a) If the Contractor commits a substantial breach of Contract, and the Principal considers that damages may not be an adequate remedy, the Principal may, in its absolute discretion, give the Contractor a written notice to show cause.

b) Substantial breaches include:

   i. failing to lodge security in breach of Clause 5.2

   ii. failing to lodge a deed of guarantee, undertaking and substitution, in breach of Clause 5.11

   iii. failing to comply with requirements of Clause 8.6

   iv. failing to comply in any respect with Clause 9.2

v. failing to comply with the requirements of Clause 14.5.2

vi. failing to comply with the requirements of Clause 14.6

vii. failing to comply with the requirements of Clause 14.10

viii. failing to comply with the requirements of Clause 14.12 including refusing reasonable access for auditing by QGP Compliance Branch

ix. failing to comply with a Critical Incident Response Plan, or where the Critical Incident Response Plan fails to prevent further incidents of the same or a similar type

x. failing to comply with a Critical Systems Failure Response Plan, or where the Critical Systems Failure Response Plan fails to prevent or reduce incidents, inspection findings, or audit findings of the same or a similar type

xi. failing to provide evidence of insurance, in breach of Clause 21.1

xii. failing to comply with a direction of the Administrator under Clause 30.6 in breach of Clause 23

xiii. repeatedly failing to ensure the Contractor or the Contractor's Representative is present on the Site in accordance with Clause 25

xiv. failing to comply with the requirements of Clause 29.2.2

xv. failing to use the materials or standards of workmanship required by the Contract in breach of Clause 30.1

xvi. failing to either establish, implement or maintain a Quality System in accordance with Clause 30.2

xvii. suspension of work in breach of Clause 33.1

xviii. failing to proceed with due expedition and without delay in breach of Clause 33.1

xix. failing to comply with the provisions of Clause 33.3.1

xx. failing to deliver a statutory declaration or supporting documentary evidence in breach of Clause 43

xxi. failing to provide a supporting statement with a payment Claim required by the Payments Act

xxii. providing a statutory declaration pursuant to Clause 43 which is false, misleading or deceptive in any respect

xxiii. providing a supporting statement required by the Payments Act which is false or misleading, and/or

xxiv. any other breach identified by the Principal as a 'substantial breach'.

44.3 Requirements of a notice by the Principal to show cause

A notice under Clause 44.2 shall:

a) state that it is a notice under Clause 44 of the General Conditions of Contract

b) specify the alleged substantial breach

c) require the Contractor to show cause, in writing, why the Principal should not exercise a right referred to in Clause 44.4

d) specify the time and date by which the Contractor must show cause (which time shall not be less than five clear Business Days after the notice is given to the Contractor), and

e) specify the place at which cause must be shown.

44.4 Rights of the Principal

a) If the Contractor commits a substantial breach of Contract regardless of whether or not the Principal has served a notice under Clause 44.2, the Principal may, in its absolute discretion, by notice in writing to the Contractor:

   i. take out of the hands of the Contractor the whole or part of the work remaining to be completed, or

   ii. terminate the Contract.

b) If the Contractor commits a substantial breach of Contract regardless of whether or not the Principal has served a notice under Clause 44.2, the Principal may, in its absolute discretion, suspend payments to the Contractor until:

   i. the date upon which the Principal takes action under Clause 44.4(a)(i) or (ii).

c) If the Principal exercises the right under Clause 44.4(a)(i), the Contractor shall not be entitled to any further payment in respect of the work taken out of the hands of the Contractor unless a payment becomes due to the Contractor under Clause 44.6.

44.5 Procedure when the Principal takes over work

a) If the Principal takes work out of the hands of the Contractor under Clause 44.4(a)(i), the Principal shall complete that work and the Principal may, without payment of compensation, take possession of such of the Constructional Plant and other things on or in the vicinity of the Site as are owned by the Contractor and are reasonably required by the Principal to facilitate completion of the work.

b) If the Principal takes possession of Constructional Plant or other things, the Principal shall maintain the Constructional Plant and, subject to Clause 44.6, on completion of the work, the Principal shall return to the Contractor the Constructional Plant and any things taken under this Clause 44.5 which are surplus.

44.6 Adjustment on completion of the work taken out of the hands of the Contractor

a) When work taken out of the hands of the Contractor under Clause 44.4(a)(i) is completed, the Administrator shall ascertain the cost incurred by the Principal in completing the work and shall issue a certificate to the Principal and the Contractor certifying the amount of that cost.

b) If the cost incurred by the Principal is greater than the amount which would have been paid to the Contractor if the work had been completed by the Contractor, the difference shall be a debt due from the Contractor to the Principal. If the cost incurred by the Principal is less than the amount that would have been paid to the Contractor if the work had been completed by the Contractor, the difference shall be a debt due to the Contractor from the Principal. The Principal shall keep records of the cost in a similar manner to that prescribed in Clause 41.

c) If the Contractor is indebted to the Principal, the Principal may, in its absolute discretion, retain Constructional Plant or other things taken under Clause 44.5 until the debt is satisfied. If after reasonable notice, the Contractor fails to pay the debt, the Principal may sell the

Constructional Plant or other things and apply the proceeds to the satisfaction of the debt and the costs of sale. Any excess shall be paid to the Contractor.

44.7 Default of the Principal

a) If the Principal commits a substantial breach of Contract and the Contractor considers that damages may not be an adequate remedy, the Contractor may give the Principal a written notice to show cause.

b) Substantial breaches include:

   i. failing to make a payment in breach of Clause 42.1

   ii. failure by the Administrator to either issue a Certificate of Practical Completion or give the Contractor, in writing, the reasons for not issuing the Certificate within 10 Business Days of receipt of a request by the Contractor to issue the Certificate in breach of Clause 42.5

   iii. failing to produce evidence of insurance in breach of Clause 21.1, and/or

   iv. failing to give the Contractor possession of sufficient of the Site, in breach of Clause 27.1, but only if the failure continues for longer than the period stated in Item 42A.

44.8 Requirements of a notice by the Contractor to show cause

A notice under Clause 44.7 shall:

a) state that it is a notice under Clause 44 of the General Conditions of Contract

b) specify the alleged substantial breach

c) require the Principal to show cause in writing why the Contractor should not exercise a right referred to in Clause 44.9

d) specify the time and date by which the Principal must show cause (which shall not be less than five clear Business Days after the notice is given to the Principal), and

e) specify the place at which cause must be shown.

44.9 Rights of the Contractor

a) If by the time specified in a notice under Clause 44.7, the Principal fails to show reasonable cause why the Contractor should not exercise a right referred to in Clause 44.9, the Contractor may, by notice in writing to the Principal, suspend the whole or any part of the Work Under the Contract.

b) The Contractor shall lift the suspension if the Principal remedies the breach, but if within 20 Business Days after the date of suspension under Clause 44.9, the Principal fails to remedy the breach or, if the breach is not capable of remedy, fails to make other arrangements to the reasonable satisfaction of the Contractor, the Contractor may, by notice in writing to the Principal, terminate the Contract.

c) The Contractor shall be entitled to recover from the Principal any damages incurred by the Contractor by reason of the suspension.

44.10 Rights of the parties on termination

If the Contract is terminated under Clause 44.4(a)(ii) or Clause 44.9, the rights and liabilities of the parties shall be the same as they would have been at common law had the defaulting party repudiated the Contract and the other party elected to treat the Contract as at an end and recover damages.

44.11 Insolvency

a) If:

i. a party informs the other party in writing or creditors generally that the party is insolvent or is financially unable to proceed with the Contract

ii. execution is levied against a party by a creditor

iii. a party is an individual person or a partnership including an individual person and that person:

a) commits an act of bankruptcy

b) has a bankruptcy petition presented against the person or presents own petition

c) is made bankrupt

d) makes a proposal for a scheme of arrangement or a composition, or

e) has a deed of assignment or deed of arrangement made, accepts a composition, is required to present a debtor's petition, or has a sequestration order made, under Part X of the *Bankruptcy Act 1966* (Cth), or

iv. in relation to a party being a Corporation:

a) notice is given of a meeting of creditors with a view to the Corporation entering a deed of company arrangement

b) the party enters a deed of company arrangement with creditors

c) a controller or Administrator is appointed

d) an application is made to a court for the winding up of the party and not stayed within 10 Business Days

e) a winding up order is made in respect of the party

f) it resolves by special resolution that it be wound up voluntarily (other than for a members' voluntary winding-up)

g) a mortgagee of any property of the party takes possession of that property, or

h) a receiver or a receiver and manager is appointed in respect of any property or undertaking of the party,

then, where the other party is:

v. the Principal — the Principal may, in its absolute discretion, without giving a notice to show cause, exercise the right under Clause 44.4(a)(i) or Clause 44.4(a)(ii), or

vi. the Contractor — the Contractor may, without giving a notice to show cause, exercise the right under Clause 44.9.

b) The rights given by this Clause 44.11 are in addition to any other rights and may be exercised notwithstanding that there has been no breach of Contract.

45 Termination by frustration

If, under the law governing the Contract, the Contract is frustrated, the Principal shall pay the Contractor:

a) for work executed prior to the date of frustration, the amount which would have been payable if the Contract had not been frustrated and the Contractor had delivered a payment Claim on the date of frustration

b) the cost of materials reasonably ordered by the Contractor for the Work Under the Contract, which the Contractor is liable to accept, but only if the materials become the property of the Principal upon payment

c) costs reasonably incurred by the Contractor in the expectation of completing the whole of the Work Under the Contract and not included in any payment by the Principal

d) all retention moneys and security

e) the reasonable cost of removal of Constructional Plant, and

f) the reasonable cost of return to their place of recruitment of the Contractor's employees engaged in the Work Under the Contract at the date of frustration.

46 Time for notification of Claims and disputing Administrator's directions

46.1 Contractor's prescribed notice

a) In respect of any Claim by the Contractor, arising out of, a breach of the Contract, the Contractor shall provide a prescribed notice to the Administrator within 20 Business Days after the first day upon which the Contractor could reasonably have been aware of the breach.

b) The Contractor shall provide the Administrator with a prescribed notice:

   i. in respect of or arising out of any direction or approval by the Administrator (including a direction or approval which the Administrator did not expressly acknowledge to be a variation under Clause 40, but which the Contractor claims is a variation under that Clause 40)

   ii. under any provision of the Contract (including Clauses 34.4, 36 and 40.5)

   iii. in respect of, or arising out of, the subject matter of the Contract

   iv. in tort or under any statute

   v. upon a quantum meruit or for restitution based on unjust enrichment, or

   vi. for additional payment or compensation on any other legal or equitable basis,

   within 20 Business Days after the first day upon which the Contractor could reasonably have been aware of the act, omission, direction, approval or other event, fact, matter or circumstance on which the Claim is, or will be, based.

   If the Contractor fails to provide the prescribed notice required under Clauses 46.1 a) or b) within 20 Business Days, the Principal's liability may be reduced to the extent that the Principal or Administrator have been denied an opportunity to mitigate the liability.

c) A 'prescribed notice' is a notice in writing which shall be endorsed 'Prescribed Notice Under Clause 46.1' and includes particulars of all of the following:

   i. the breach, act, omission, direction, approval or circumstances on which the Claim is, or will be, based

   ii. the provision of the Contract or other basis for the Claim or proposed Claim, and

   iii. the quantum or likely quantum of the Claim.

d) This Clause 46.1 shall not have any application to:

i. any Claim for payment to the Contractor of an amount or amounts forming part of the original Contract Sum

ii. any Claim for payment for a variation directed by the Administrator in writing and expressly acknowledged by the Administrator to be a variation under Clause 40

iii. any Claim for payment for a valuation made pursuant to Clause 12.3, or

iv. any Claim for an extension of time for Practical Completion.

e) Nothing in this Clause 46.1 shall limit the operation or effect of any other notice provision, time-bar provision, condition precedent or limitation or exclusion clause in the Contract, nor waive the effect of any failure by the Contractor to comply with any such provision or requirement.

46.2 Time for disputing Administrator's directions

a) Where the Administrator has given:

i. a certificate or valuation under the Contact, or

ii. a determination with respect to a Claim by the Contractor, including a Claim:

a) for breach of the Contract by the Principal

b) of the type referred to in Clause 46.1(b)(i) to (vi)

c) for payment for a variation directed or approved under Clause 40, and

d) for an extension of time to the Date for Practical Completion

the Administrator may also give a notice under Clause 46.2 with respect to the certificate, valuation or determination.

b) The notice under Clause 46.2(a) may be given at the same time or after that the certificate, valuation or determination is given but must:

i. be in writing and endorsed 'Administrator's Notice under Clause 46.2'

ii. be given to the Principal and the Contractor

iii. identify the certificate, valuation or determination to which it relates, and

iv. state that the certificate, valuation or determination will be final and binding upon the parties and not subject to dispute unless either party, within 20 Business Days after receiving the Administrator's notice, gives a notice of dispute in accordance with Clause 47.1 disputing the certificate, valuation or determination.

c) If neither the Principal nor the Contractor gives a notice of dispute in accordance with Clause 47.1 within 20 Business Days after receipt of a Administrator's notice under this Clause 46.2, then the certificate, valuation or determination to which the Administrator's notice relates shall be final and binding upon the parties and not subject to dispute notwithstanding Clause 47.

d) Nothing in this Clause 46.2, nor the giving of a Administrator's notice under this Clause 46.2, shall limit the operation or effect of Clause 46.1 or any other notice provision, time-bar provision, condition precedent or limitation or exclusion clause in the Contract, nor waive the effect of any failure by the Contractor to comply with Clause 46.1 or with such other provision or requirement.

47 Dispute resolution

47.1 Notice of dispute

a) If a dispute between the Contractor and the Principal arises out of, or in connection with, the Contract, including a dispute concerning a direction given by the Administrator, then either party shall deliver by hand or send by registered post to the other party and to the Administrator a notice of dispute in writing adequately identifying and providing details of the dispute (notice of dispute).

b) Notwithstanding the existence of a dispute, the Principal and the Contractor shall continue to perform the Contract, and subject to Clause 44, the Contractor shall continue with the Work Under the Contract and the Principal and the Contractor shall continue to comply with Clause 42.1.

c) A Claim in tort, under statute or for restitution based on unjust enrichment or for rectification or frustration, may be included in an arbitration.

47.2 Meeting of representatives

Within five Business Days after the service of a notice of dispute, the Administrator and Contractor's Representative shall confer at least once to attempt to resolve the dispute.

47.3 Further steps required before proceedings

The alternative applying for dispute resolution is given in Item 43A.

Alternative 1A – issues resolution advisor (when required) (refer to 47.3.1 to 47.3.4)

47.3.1 Issues resolution advisor

Under this alternative, the Issues Resolution Advisor (IRA) shall be engaged when required only after notice of dispute is issued and to resolve specific and discrete disputes.

If the Administrator and Contractor's Representative fail to resolve the dispute within 10 Business Days after the service of a notice of dispute, the party may, by notice in writing to the other party, request that an IRA be engaged under Clause 49 and the dispute referred to the IRA.

47.3.2 Meeting of chief executive officers

If the IRA has not made a binding recommendation under Clause 49.9:

a) the chief executive officers of the parties, or

b) nominees of the chief executive officers who have not been directly involved in the management of the Contract and have the Authority to agree to a resolution of the dispute,

shall confer at least once to attempt to resolve the dispute. If a Contract Leadership Team has been established as nominated in Item 9A of Annexure A, the Contract Leadership Team may fulfil the obligations of the chief executive officers of the parties under this clause.

47.3.3 Referral of dispute

a) Either party may, by notice in writing delivered by hand or sent by registered post to the other party, refer such dispute to arbitration or litigation if:

   i. either:

      a) the dispute has not been resolved within 10 Business Days after the referral of the dispute to the chief executive officers of the parties under Clause 47.3.2, or

      b) a party convenes a meeting under either Clause 47.2, or 47.3.2 and the other party fails to attend that meeting, provided that 10 Business Days after the referral of the dispute to the chief executive officers have passed, and

   ii. that written notice is delivered within six months after an event in Clause 47.3.3(a)(i) occurs (or such longer period as agreed by the parties).

b) If a notice is not given within the timeframe in Clause 47.3.3(a)(ii), then:

   i. a party must not refer the relevant Dispute to arbitration or litigation

   ii. a party's failure to comply with Clause 47.3.3(a)(ii) may be pleaded as a bar to the commencement of any arbitration or litigation proceedings in relation to that Dispute, and

   iii. the subject of that Dispute must not be made the subject of further Dispute notice.

47.3.4 Privileged meetings

All aspects of any meetings held pursuant to Clause 47.2, 47.3.8 or 47.3.9 (or any other conferences between the parties for the purposes of resolving the dispute), except the fact of occurrence, shall be privileged.

Alternative 1B – issues resolution advisor full contract duration (refer to 47.3.5 to 47.3.8)

47.3.5 Issues resolution advisor

Under this alternative, the Issues Resolution Advisor (IRA) shall be engaged upon commencement of the Contract.

If the Administrator and Contractor's Representative fail to resolve the dispute within 10 Business Days after the service of a notice of dispute, the party may, by notice in writing to the other party, refer such dispute to the issues resolution advisor (IRA) appointed under Clause 49.

47.3.6 Meeting of chief executive officers

If the IRA has not made a binding recommendation under Clause 49.9:

a) the chief executive officers of the parties, or

b) nominees of the chief executive officers who have not been directly involved in the management of the Contract and have the Authority to agree to a resolution of the dispute,

shall confer at least once to attempt to resolve the dispute. If a Contract Leadership Team has been established as nominated in Item 9A of Annexure A, the Contract Leadership Team may fulfil the obligations of the chief executive officers of the parties under this clause.

47.3.7 Referral of dispute

Either party may, by notice in writing delivered by hand or sent by registered post to the other party, refer such dispute to arbitration or litigation if:

a) the dispute has not been resolved within 10 Business Days after the referral of the dispute to the chief executive officers of the parties under Clause 47.3.5, or

b) a party convenes a meeting under either Clause 47.2, 47.3.5 or 47.3.6 and the other party fails to attend that meeting provided that 10 Business Days after the referral of the dispute to the chief executive officers have passed.

47.3.8 Privileged meetings

All aspects of any meetings held pursuant to Clause 47.2, 47.3.5 or 47.3.6 (or any other conferences between the parties for the purposes of resolving the dispute), except the fact of occurrence, shall be privileged.

Alternative 2 – dispute resolution board (refer to 47.3.9 to 47.3.12)

47.3.9 Dispute resolution board

If the Administrator and Contractor's Representative fail to resolve the dispute within 10 Business Days after the service of a notice of dispute, the party may, by notice in writing to the other party, refer such dispute to the dispute resolution board (DRB) constituted under Clause 48.

47.3.10 Meeting of chief executive officers

If the DRB has not made a binding recommendation under Clause 48.10:

a) the chief executive officers of the parties, or

b) nominees of the chief executive officers, who have not been directly involved in the management of the Contract and have the Authority to agree to a resolution of the dispute,

shall confer at least once to attempt to resolve the dispute. If a Contract Leadership Team has been established as nominated in Item 9a of Annexure A, in the alternative, the Contract Leadership Team may fulfil the obligations of the chief executive officers of the parties under this clause.

47.3.11 Referral of dispute

Either party may, by notice in writing delivered by hand or sent by registered post to the other party, refer such dispute to arbitration or litigation if:

a) the dispute has not been resolved within 10 Business Days after the referral of the dispute to the chief executive officers of the parties under Clause 47.3.9, or

b) a party convenes a meeting under either Clause 47.2, 47.3.9 or 47.3.10 and the other party fails to attend that meeting provided that 10 Business Days after the referral of the dispute to the chief executive officers have passed.

47.3.12 Privileged meetings

All aspects of any meetings held pursuant to Clause 47.2, 47.3.9 or 47.3.10 (or any other conferences between the parties for the purposes of resolving the dispute), except the fact of occurrence, shall be privileged.

47.4 Arbitration

a) Arbitration shall be effected by a single arbitrator who shall be nominated by the Chairperson for the time being of the Queensland Chapter of the Resolution Institute. Such arbitration shall be held in Queensland.

b) Unless the parties agree in writing, any person agreed upon by the parties to resolve the dispute pursuant to Clause 47.3 shall not be appointed as an arbitrator, nor may that person be called as a witness by either party in any proceedings.

c) Notwithstanding Clause 42.9, the arbitrator may award whatever interest the arbitrator considers reasonable.

d) If one party has overpaid the other, whether pursuant to an Administrator's certificate or not and whether under a mistake of law or fact, the arbitrator may order repayment together with interest.

47.5 Summary or urgent relief

Nothing herein shall prejudice the right of a party to institute proceedings to enforce payment due under Clause 42 or to seek urgent injunctive or declaratory relief in respect of a dispute under Clause 47 or any matter arising under the Contract.

48 Dispute Resolution Board

48.1 Dispute Resolution Board

This Clause 48 only applies if 'Alternative 2' is selected in Item 43A as the alternative applying for dispute resolution pursuant to Clause 47.

48.2 Establishment and tenure of the Dispute Resolution Board

a) Within 10 Business Days after the appointment of the DRB Members in accordance with Clauses 48.5 and 48.6, the Principal and the Contractor shall procure the execution of the DRB Agreement.

b) The DRB will be established as of the date all the parties to the DRB Agreement execute the DRB Agreement and will continue until the later of:

   i. 10 Business Days after the date of the Final Certificate under Clause 42.8, or

   ii. resolution of a dispute the subject of a notice of dispute under Clause 42.8,

subject to the earlier termination of the Contract by either party or termination of the DRB Agreement by the Principal and the Contractor.

48.3 Membership of the Dispute Resolution Board

The DRB Members will be:

a) one DRB Member nominated by the Principal

b) one DRB Member nominated by the Contractor, and

c) a third DRB Member appointed in accordance with Clause 48.6.

48.4 Dispute Resolution Board Members' criteria and Disclosure Statements

a) Unless otherwise agreed in writing by the Principal and the Contractor, all DRB Members shall be experienced in works similar to the Works, interpretation of Contract documents and resolution of construction disputes.

b) DRB Members shall be neutral, act impartially and be free of any conflict of interest. For the purposes of this Clause 48.4, the term 'DRB Member' also includes that DRB Member's current primary full-time employer and 'involved' means having a contractual relationship with either party to the Contract or any other entity, such as a Subcontractor, design professional or consultant, having a role in relation to the Works.

c) A person is prohibited from being a DRB Member if the person or DRB Member:

   i. has an ownership interest in any entity involved in the Contract or a financial interest in the Work Under the Contract, except for payment for services on the DRB

   ii. was previously employed by, or had financial ties to, any party involved in the Work Under the Contract within a period of two years prior to award of the Contract, except for fee-based consulting services on other projects

   iii. has had a professional or personal relationship with any key member of any entity involved in the Work Under the Contract which, in the opinion of either party, could suggest partiality, or

   iv. has had prior involvement in the Work Under the Contract of a nature which, in the opinion of either party, could suggest partiality.

d) DRB Members shall be replaced if the person:

   i. is employed or engaged by any entity involved directly in the Work Under the Contract unless the written approval of both parties is given, or

   ii. discusses during the term of the Contract being employed or engaged by any entity involved in the Work Under the Contract after the Work Under the Contract is completed.

48.5 Nomination and approval of first two Dispute Resolution Board Members

a) The Principal and Contractor shall each nominate a proposed DRB Member and give the nominee's name and Disclosure Statement to the other party within five Business Days after the Date of Acceptance of Tender.

b) If the nominee is not rejected within seven Business Days after the Date of Acceptance of the Contractor's Tender the nominee is approved.

c) If a nominee is rejected, the nominating party shall request the Chairperson for the time being of Resolution Institute to nominate a person for appointment to the DRB. The party for whom

Resolution Institute nominated the person shall procure and give to the other party a Disclosure Statement for the nominee. The person nominated by Resolution Institute is appointed to the DRB if the person satisfies the criteria in Clause 48.4 and the person's Disclosure Statement has been given to the party other than the party for whom Resolution Institute nominated him or her.

48.6 Nomination and approval of third Dispute Resolution Board Member

a) Within five Business Days after the appointment of the first two DRB Member, the parties shall request the first two DRB Members to nominate a third DRB Member by giving to the Principal and the Contractor the third nominee's name and Disclosure Statement.

b) If the Principal or the Contractor do not notify the other party and the appointed DRB Members within five Business Days of receiving the name and Disclosure Statement of why the person nominated does not satisfy the criteria in Clause 48.4 the person nominated is deemed to be appointed a DRB Member.

c) If the first two appointed DRB Members cannot agree on the third DRB Member, or either or both of the Principal or Contractor reject the nominee of the DRB Members, the first DRB Member appointed by the Principal under Clause 48.5 shall request Resolution Institute to nominate a person for appointment to the DRB. The DRB Members shall procure and give to the parties a Disclosure Statement for the nominee. If that person satisfies the criteria in Clause 48.4 and the person's Disclosure Statement has been given to the parties the person nominated by Resolution Institute is deemed to be appointed a DRB Member.

48.7 Replacement

If a DRB Member becomes incapable of performing its functions on the DRB or does not continue to satisfy all of the criteria in Clause 48.4, or engages in any prohibited activity the party on whose behalf the DRB Member was appointed, or if the DRB Member was nominated by the DRB Members under Clause 48.6, the remaining DRB Members shall nominate a replacement DRB Member in accordance with the Contract acceptable to the remaining DRB Members and the parties. The parties shall request the remaining DRB Members to procure the execution of a further DRB Agreement by the new DRB Member and remaining DRB Members.

48.8 Meeting

a) Each party shall execute and shall ensure that the DRB Member nominated by the party or by Resolution Institute on the party's behalf, executes the DRB Agreement at the first DRB meeting.

b) The first DRB meeting shall be held at the place nominated by the Principal. During the first meeting, the DRB shall confirm the Principles of Process in Part 2 to the DRB Agreement for the conduct of its routine Site visits and its meetings on disputes. The conduct of the business of the DRB shall be based on the provisions of the Contract but procedures must be adaptable to changing the situations and, if requested by the Principal and the Contractor, the DRB shall initiate new procedures or modified procedures.

c) The DRB will visit the Site and meet with representatives of the parties at periodic intervals and at other times requested by the parties.

d) Each meeting with representatives of the parties shall consist of an informal discussion followed by a field observation of the progress of the Work Under the Contract. The discussion and field observation shall be attended by representatives of the Principal and the Contractor.

48.9 Review of Disputes

If a dispute is referred to the DRB under Clause 47.3, the DRB shall consider that dispute in accordance with the Principles of Process included in the DRB Agreement and provide its written recommendation to the parties. A recommendation shall be in writing, shall contain reasons for the recommendation and, where it is not a unanimous recommendation, shall include the recommendations of the majority and the minority of the DRB Members.

48.10 Recommendations

a) For the purposes of this Clause 48.10 and Clauses 48.9 and 48.11, a recommendation includes a recommendation of at least two of the DRB Members.

b) A recommendation of the DRB is binding on both parties only if:

   i. it is a recommendation in relation to a Claim for the payment of an amount of $500,000 or less unless agreed otherwise by the parties, or

   ii. it is a recommendation in any other case and within 10 Business Days of receiving the DRB's recommendation, or such longer time as is specified by the DRB in providing its recommendation, either the Principal or the Contractor fail to provide written notice to the other and to the DRB of the rejection of the recommendation.

48.11 Admissibility

If the DRB's recommendation is not binding on both parties, the DRB recommendation and any recommendation of a single DRB Member may be admitted to establish:

a) that the DRB considered the dispute

b) the qualification of the DRB Members, and

c) the DRB recommendation that resulted from the process

to the extent permitted by law in any subsequent dispute resolution proceedings or forum.

48.12 Payment

a) The fees and expenses of all three DRB Members shall be shared equally by the Principal and the Contractor.

b) The Contractor shall pay the invoices of the DRB Members after approval by the Principal and include in payment Claims under Clause 42.1, fifty percent of all invoices paid in accordance with this Clause 48.12(b).

c) The Contractor is not entitled to any payment for the participation of anyone on its behalf or for whom it is responsible, including any Subcontractor or designer in the DRB process.

49 Issue Resolution Advisor

49.1 Issues Resolution Advisor

This Clause 49 only applies if 'Alternative 1A or 1B' is selected in Item 43A as the alternative applying for dispute resolution pursuant to Clause 47.

49.2 Establishment and tenure of the Issues Resolution Advisor

a) Within 10 Business Days after the appointment of the IRA in accordance with Clause 49.5, the Principal and the Contractor shall procure the execution of the IRA Agreement.

b) The IRA will be established as of the date all the parties to the IRA Agreement execute the IRA Agreement. Where Alternative 1A of Item 43A applies, the appointment of the IRA will continue until 10 Business Days after the dispute has been resolved and the outcome formally agreed by the parties. Where Alternative 1B of Annexure A applies the appointment of the IRA will continue until 10 Business Days after the date of the Final Certificate under Clause 42.8. In either case, the establishment of the IRA is subject to the earlier termination of the Contract by either party, or termination of the IRA Agreement by the Principal and the Contractor.

c) It is expected that all issues will be resolved by the Date of Practical Completion.

49.3 Selection of Issues Resolution Advisor

The IRA will be a person appointed in accordance with Clause 49.5.

49.4 Issues Resolution Advisor criteria and Disclosure Statements

a) Unless otherwise agreed in writing by the Principal and the Contractor, the IRA shall be experienced in works similar to the Works, interpretation of Contract documents and resolution of construction disputes.

b) The IRA shall have expertise relevant to the nature of the dispute, or alternatively engage appropriate specialist advisors.

c) The IRA shall be neutral, act impartially and be free of any conflict of interest. For the purposes of this Clause 49.4, the term 'IRA' also includes the IRA's current primary full-time employer, and 'involved' means having a contractual relationship with either party to the Contract, or any other entity, such as a Subcontractor, design professional or consultant having a role in relation to the Works.

d) A person is prohibited from being an IRA if the person or IRA:

   i. has an ownership interest in any entity involved in the Contract, or a financial interest in the Work Under the Contract except for payment for services on the IRA

   ii. was previously employed by, or had financial ties to, any party involved in the Work Under the Contract within a period of two years prior to award of the Contract, except for fee-based consulting services on other projects

   iii. has had a professional or personal relationship with any key member of any entity involved in the Work Under the Contract which, in the opinion of either party, could suggest partiality, or

   iv. has had prior involvement in the Work Under the Contract of a nature which, in the opinion of either party, could suggest partiality.

e) The IRA shall be replaced if the person:

   i. is employed or engaged by any entity involved in the Work Under the Contract unless the written approval of both parties is given, or

   ii. discusses during the term of the Contract being employed or engaged by any entity involved in the Work Under the Contract after the Work Under the Contract is completed.

49.5 Nomination and approval of Issues Resolution Advisor

a) The Principal shall nominate a minimum of three proposed IRAs and give the nominees' names and Disclosure Statement to the Contractor within five Business Days after a party requests the engagement of an IRA under Alternative 1A of Item 43A or five Business Days after the Date of

Acceptance of Tender under Alternative 1B of Item 34A. The Contractor shall pick a person as the IRA from the list of nominees, within five Business Days of receiving the name and Disclosure Statement.

b) The IRA chosen shall be from Transport and Main Roads Contract Administration Services panel.

49.6 Replacement

If the IRA becomes incapable of performing its functions or does not continue to satisfy all of the criteria in Clause 49.4, or engages in any prohibited activity the party on whose behalf the IRA was appointed, or if the IRA was nominated under Clause 49.5, the Principal shall nominate a replacement IRA in accordance with the Contract acceptable to the Contractor. The parties shall request to procure the execution of a further IRA Agreement by the new IRA.

49.7 Meeting

a) Clauses 49.7 c) to e) are applicable to the engagement of the IRA under Alternative 1B of Item 43A.

b) Each party shall execute and shall ensure that the IRA nominated or by Resolution Institute on the parties' behalf, executes the IRA Agreement at the first IRA meeting.

c) The first IRA meeting shall be held at the place nominated by the Principal. During the first meeting, the IRA shall confirm the principles of process in the IRA Agreement for the conduct of its routine Site visits and its meetings on disputes. The conduct of the business of the IRA shall be based on the provisions of the Contract but procedures must be adaptable to changing the situations and, if requested by the Principal and the Contractor, the IRA shall initiate new procedures or modified procedures.

d) The IRA will visit the Site and meet with representatives of the parties at periodic intervals and at other times requested by the parties. Unless noted otherwise, the IRA shall attend all monthly Site meetings.

e) Each meeting with representatives of the parties shall consist of an informal discussion followed by a field observation of the progress of the Work Under the Contract. The discussion and field observation shall be attended by representatives of the Principal and the Contractor.

f) All communications in relation to IRA matters outside of meetings shall be copied to all parties to ensure the Principal, Contractor and IRA remain fully informed.

g) The IRA will be provided with:

   i. a copy of the signed Contract documentation, and

   ii. copies of the following documents:

      a) monthly reports

      b) minutes of meetings, and

      c) any Other Documents needed by the IRA to perform the role.

49.8 Review of disputes

If a dispute is referred to the IRA under Clause 47.3, the IRA shall consider that Dispute in accordance with the Principles of Process included in the IRA Agreement and provide its written recommendation to the parties. A recommendation shall be in writing and contain reasons for the recommendation.

49.9 Recommendations

A recommendation of the IRA is binding on both parties only if:

a) it is a recommendation in relation to a Claim for the payment of an amount of $100,000 or less unless agreed otherwise by the parties, or

b) it is a recommendation in any other case and within 10 Business Days of receiving the IRA's recommendation, or such longer time as is specified by the IRA in providing its recommendation, either the Principal or the Contractor fail to provide written notice to the other and to the IRA of rejection of the recommendation.

49.10 Admissibility

If the IRA's recommendation is not binding on both parties, the IRA recommendation may be admitted to establish:

a) that the IRA considered the Dispute

b) the qualification of the IRA, and

c) the IRA recommendation that resulted from the process

to the extent permitted by law in any subsequent dispute resolution proceedings or forum.

49.11 Payment

a) The fees and expenses of the IRA shall be shared equally by the Principal and the Contractor.

b) The Contractor shall pay the invoices of the IRA after approval by the Principal and include in payment Claims under Clause 42.1, 50 percent of all invoices paid in accordance with this Clause 49.11(b).

c) The Contractor is not entitled to any payment for the participation of anyone on its behalf or for whom it is responsible, including any Subcontractor or designer in the IRA process.

50 General

50.1 Warranties by joint venturers

Where the Contractor is two or more legal entities, the Contract shall be binding upon them jointly and severally and:

a) each joint venture warrants to the Principal:

   i. the joint venturers have entered into a valid and binding joint venture agreement, a copy of which has been provided to the Principal before the Date of Acceptance of Tender

   ii. it will promptly provide to the Principal a copy of any amendment to the joint venture agreement

   iii. it will fully comply with the terms of the joint venture agreement, and

   iv. it will give prompt notice to the Principal of any dispute between the joint venturers, of which formal notice has been given by one to the other

b) the receipt or review of, or any comment on, the joint venture agreement by the Principal shall not constitute a representation by the Principal that the agreement is suitable, workable or consistent with the terms of the Contract and shall not relieve the Contractor from the performance of, or compliance with, any term of this Contract.

50.2 Waiver of conditions

Except as provided at law or in equity or elsewhere in the Contract, none of the terms of the Contract shall be varied, waived, discharged or released, except with the prior consent in writing of the Principal in each instance.

99 Additional clauses

99.1 Clause Bank (C7836)

Additional (if applicable) project-specific clauses to these General Conditions of Contract are specified in the Clause Bank (C7836), provided in Part 5 Additional Contract Requirements.

C7836

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Checklist of applicable clauses

Further to Clause 99 of the General Conditions of Contract, the following additional clauses, if selected, shall apply under the Contract as if they were included in the General Conditions of Contract.

Number	Clauses	Yes	No
1	Independent Verifier	☐	☒
2	Use of explosives	☐	☒
3	Software licences	☒	☐
4	Bonus for early completion	☐	☒
5	Work on and adjacent to railways	☐	☒
6	*Queensland Building and Construction Commission Act 1991* (Qld)	☒	☐
7	NOT USED		
8	Mandatory Milestones	☐	☒
9	Supply of digital Information disclaimer	☒	☐
10	Not used		
11	Traffic management	☒	☐
12	Care of the work and reinstatement of damage	☒	☐
13	Training – Indigenous component	☒	☐
14	Physical security of ITS infrastructure facilities	☒	☐
15	Training Policy – Additional requirements for Contract Sum >$100 million	☒	☐
16	Indigenous Participation Framework	☒	☐
17	Drone service	☒	☐
99	Additional Clauses	☒	

Number	Notes (not meant to be comprehensive, seek advice if required)
1	Include this Clause if an Independent Verifier is used.
2	Include this Clause if blasting and explosives are involved.
3	Include this Clause if the Principal will be using software supplied by the Contractor.
4	Include this Clause if the Contractor is getting bonus for early completion of the Works.
5	Include this Clause if there is Works near railway.
6	Include this Clause if 'building work' as defined by the QBCC Act is being carried out.
7	Not used
8	Include this Clause if there is Mandatory Milestone. Note this is different to Separable Portion.
9	Include this Clause if 12D Design Strings and Digital Terrain Model (DTM) are provided.

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Number	Notes (not meant to be comprehensive, seek advice if required)
10	Not used
11	Include this Clause if there is excavation adjacent to road still being used by passing traffic.
12	Include this Clause if 'heavy vehicle' is involved. Include this clause for road/bridge projects.
13	Include this Clause if the Works are in an Indigenous community or a designed 'Indigenous Project'.
14	Include this Clause if relevant (for example, ITS forming part of the Works).
15	Include this Clause if Contract Sum is greater than $100 million
16	Include this Clause if Indigenous Participation Framework applies to this contract.
17	Include this Clause if drone is to be engaged as part of this contract. Attached project specific specification.
	Clause Bank Supplement
	Clause 4 — • If 'yes' is ☒ for Clause 4, please complete the following: • Bonus Amount = insert **Bonus Amount** • Bonus Completion Date = **insert Bonus Completion Date** • Eligible Works = insert **Eligible Works**
	Clause 8 — If 'yes' is ☒ for Clause 8, please complete the following: • Mandatory Milestone = **insert Mandatory Milestone** • Milestone Completion Date = insert **Milestone Completion Date** • **insert more Mandatory Milestone and Milestone Completion Date (if applicable)**

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Part A – Project-specific conditions

1 Independent Verifier

1.1 Independent Verifier

(a) The Contractor shall engage a person (the independent verifier) who:

i. is acceptable to the Principal (acting reasonably), and

ii. has appropriate qualifications and experience.

(b) To provide certificates in accordance with Clause 1.1(c) of the Clause Bank.

(c) At the time of submission of Drawings and Specifications, in accordance with Clause 8.6.8 of the General Conditions of Contract or the Scope of Works and Technical Criteria (SWTC), the Contractor shall provide to the Principal five copies of a certificate from the Independent Verifier confirming that the Drawings and Specifications comply with the requirements of the Contract.

(d) Without limiting Clause 8.6.8 of the General Conditions of Contract, the Contractor shall not commence construction of any part of the Works unless and until the certificates required under Clause 1.1(b) of the Clause Bank have been submitted for that part of the Works.

2 Use of explosives

2.1 Application

(a) For the purposes of this Clause 2, 'the Act' shall be the *Explosives Act 1999 (Qld)*.

(b) All work under the Contract which involves the use of explosives shall conform to the requirements of this Clause 2.

2.2 Compliance with laws and standards

(a) When using and handling explosives, the Contractor shall comply with the provisions of:

i. the Act and subordinate legislation

ii. the relevant local government By-laws (the By-laws)

iii. the current Standards Australia explosives standards, with the exception that parallel, parallel-series and series-parallel electric circuits shall not be used, and

iv. the National Association of Australian State Road Authorities (now Austroads) publication, *Explosives in Roadworks – Users' Guide* for guidance when developing explosive work procedures and processes.

(b) Where there is any ambiguity, discrepancy or inconsistency between the documents listed in paragraphs (a)(i) to (iv) of Clause 2.2 of the Clause Bank, the higher in the list shall be given the higher priority.

2.3 Contact with authorities

The Contractor shall contact the responsible Authority in order to ascertain its requirements in relation to the following matters in connection with the use of explosives:

(a) permit requirements

(b) permitted hours of blasting

(c) prohibited methods of blasting

(d) the type and maximum amount of explosive per blast

(e) supervision requirements

(f) flyrock control

(g) traffic control

(h) safety requirements

(i) misfire procedure, and

(j) Public liability insurance requirements.

2.4 Times for blasting

The Contractor shall not, without prior written approval of the Administrator, carry out any blasting before 7:30 am or after 5:00 pm Monday to Friday or at any time on Saturdays, Sundays and public holidays. This restriction shall apply irrespective of any extensions to the above times and days permitted by the By-Laws.

2.5 Traffic management

(a) Where the public will be permitted to pass through the blasting site, the Contractor shall prepare a Traffic Management Plan in accordance with Clause 15.5 of the General Conditions of Contract and include in that Traffic Management Plan:

   i. a traffic guidance scheme to be implemented during blasting operations, and

   ii. provision for emergency vehicles.

(b) No blasting operations shall be carried out until the Administrator has given a direction under the provisions of Clause 8.5 of the General Conditions of Contract that the Traffic Management Plan is suitable.

(c) Traffic shall be permitted to be stopped to allow for blasting operations on the following conditions:

   i. traffic shall only be stopped under Police control, and

   ii. the first vehicle stopped shall not be delayed for longer than 10 minutes, except in the case of a misfire or where Police decide to delay the traffic for safety reasons.

2.6 Environment

The Contractor shall:

(a) provide for the measurement of vibration and air blast at three separate locations at each blasting site

(b) minimise the effect of blasting by:

i. using the lowest charge appropriate to the task

ii. reducing the number of holes fired on the same delay

iii. delaying secondary blasts

iv. reducing the maximum instantaneous charge by using delays with sequential timing

v. optimising the length of sub-drilling by obtaining air blast and vibration data from the Site

vi. stemming blast holes with suitable material

vii. using low energy detonating cord, and

viii. taking into account the matters set out in Clause 9.4.6 of the National Association of Australian State Road Authorities publication, *Explosives in Roadworks – User Guide* in relation to minimising the effect of noise and airborne shock waves.

2.7 Safety precautions

(a) The Contractor shall take all precautions necessary to prevent injury to persons and/or damage to property occurring as a result of the use of explosives.

(b) The Contractor shall implement a procedure for dealing with a blasting accident.

2.8 Blasting mats

The Contractor shall employ blasting mats for all blasting operations.

2.9 Reporting

(a) The Contractor shall provide to the Administrator on a weekly basis a record of all blasting operations carried out on Site during the preceding week.

(b) The report required under Clause 2.9(a) of the Clause Bank shall include details of:

i. the date, time and location of the blast

ii. the blast design and actual charges used

iii. the measurement of vibration and air blast at all recorders

iv. any breach of safety or misfires, and

v. any other information considered necessary by the Administrator.

2.10 Hold Point

In the event of any single misfire event, blasting accident, delay to traffic of more than the period allowed under the Contract or if the performance criteria for construction noise, vibration or air quality which relate directly to blasting activities on Site are exceeded, the Contractor shall immediately cease blasting activities until such time as the Administrator has investigated the incident and provides the Contractor with permission to proceed.

2.11 Personnel

The Contractor shall, at all times during blasting operations, employ on the blasting site the necessary experienced personnel required by the Act.

3 Software licences

Without limiting anything in Clauses 8.6 or 13 of the General Conditions of Contract, the Contractor shall ensure that the Principal obtains (whether by way of assignment or otherwise), a licence enabling the Principal to use any computer software supplied to it under or in connection with the Contract (whether it be proprietary software or software created, customised, modified or extended under or for the purposes of the Contract).

4 Bonus for early completion

(a) In this Clause 4:

i. 'bonus amount' means the amount nominated in the Clause Bank Supplement which represents the bonus payment available for early completion of eligible Works

ii. 'bonus completion date' means the date nominated in the Clause Bank Supplement which represents the latest date by which the Contractor shall complete any eligible Works in order to claim the bonus amount

iii. 'eligible Works' means the description of the relevant part of the Works nominated in the Clause Bank Supplement to be the subject of a bonus for early completion.

(b) Notwithstanding any other requirements of the General Conditions of Contract, the Contractor shall be entitled to a bonus amount for achieving Practical Completion of any eligible Works by the bonus completion date.

(c) Under no circumstances will the bonus completion date be extended during the Contract.

(d) The Contractor shall have no Claim against the Principal for any loss of the bonus amount or for any compensation for loss of the opportunity to receive the bonus amount where a breach, act or omission of the Principal or the Administrator or their agents or employees prevents the Contractor from bringing the eligible Works to Practical Completion by the bonus completion date.

(e) Notwithstanding any other requirements of the General Conditions of Contract, any bonus amount payable to the Contractor shall not be subject to any adjustment pursuant to the Commercial Framework.

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5 Work on and adjacent to railways

(a) The Contractor shall comply with all requirements, conditions and directions of Queensland Rail in carrying out work on, over or adjacent to, any railway line and obtain any approvals or licenses required for such work.

(b) The Contractor shall procure any:

i. track possessions

ii. track isolations, and

iii. access to railway land

necessary for the construction of the Works.

(c) The Contractor indemnifies the Principal in respect of any Claim made by or liability to Queensland Rail arising out of or in connection with:

i. the performance of work on, over or near the railway lines, and

ii. the procurement or utilisation of a track possession or track isolation (including any postponement, improper use or delay in relinquishing such tracks to Queensland Rail).

6 Queensland Building and Construction Commission Act 1991 (Qld)

6.1 Amount of security under the QBCC Act

(a) The parties acknowledge that their rights and obligations under the Contract are subject to the provisions of the *Queensland Building and Construction Commission Act 1991 (Qld)* (QBCC Act) to the extent they apply, and where there is any inconsistency between the Contract and the QBCC Act, the QBCC Act prevails to the extent necessary to avoid the inconsistencies.

(b) The parties acknowledge that (unless the parties expressly agree otherwise) under the QBCC Act to the extent that it applies, Section 67K(2) of the QBCC Act makes this Contract subject to a condition that at any time before Practical Completion the total of all security held by the Principal under the Contract (other than those referred to in Section 67K(3) of the QBCC Act) is not to exceed 5% of the Contract Sum which under the QBCC Act includes adjustments for variations).

(c) The parties acknowledge that under the QBCC Act, by initialling the Contract in the space provided below, the parties have expressly agreed that the Contract is not subject to the conditions imposed by the above sections and explained above.

Parties to Initial Principal's initials ……...

Contractor's initials ……

d) Despite the terms of Clause 5.6 of the General Conditions of Contract, the parties acknowledge that the Principal must comply with the requirements of Section 67J of the QBCC Act in relation to having recourse to security.

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6.2 Certificates and payments

(i) Clause 42.1 of the General Conditions of Contract is amended by deleting Clause 42.1.2(a) and replacing it with the following:

'a) Within 10 Business Days after receipt of a payment Claim, the Administrator shall issue to the Principal and to the Contractor a payment certificate setting out:

i. the amount of the payment which, in the opinion of the Administrator, is to be made by the Principal to the Contractor or by the Contractor to the Principal and

ii. the calculations employed to arrive at the amount and, if the amount is more or less than the amount claimed by the Contractor, the reasons for the difference '

(ii) Clause 42.1 of the General Conditions of Contract is amended by deleting Clause 42.1.3(a) and replacing it with the following:

'(a) Subject to the provisions of the Contract, within 15 Business Days after receipt by the Administrator of a payment Claim in accordance with Clause 42.1.1, provided that the requirements of Clause 42.1.2(e) have been met, the Principal shall pay to the Contractor or the Contractor shall pay to the Principal, as the case may be, an amount not less than the amount shown in the payment certificate as due to the Contractor or to the Principal as the case may be, or if no payment certificate has been issued, the Principal shall pay the amount of the Contractor's Claim.'

(iii) Despite anything in the General Conditions of Contract to the contrary, for the purpose of Clause 42 of the General Conditions of Contract only, the term 'Business Day' shall have the meaning given to that term under the *Acts Interpretation Act 1901* (Cth).

6.3 Interest on overdue payments

a) Clause 42.9 is amended by deleting the final two sentences and replacing with:
'The rate of interest shall be calculated pursuant to Section 67P(3)(a) of the QBCC Act.'

b) Item 41E shall not apply to this Contract.

6.4 Non-conforming building products

a) In this clause, the terms 'person in the chain of responsibility', 'building product', 'Minister', 'non-conforming building product' and 'required information' each have the respective meanings given to those terms in the QBCC Act.

b) The Contractor acknowledges that, to the extent that the Contractor is a person in the chain of responsibility, it has obligations under Part 6AA of the QBCC Act in relation to non-conforming building products and:

i. warrants that no building products incorporated into the Works are non-conforming building products or the subject of a warning statement issued by the Minister

ii. must ensure that it, and its subcontractors, provide all required information for a building product incorporated into the Works to the Administrator upon installation of the building product into the Works

iii. must provide the Administrator with copies of all notices (including warning statements) issued and received in relation to the Works pursuant to the QBCC Act within 48 hours of dispatch or receipt by the Contractor of the relevant notice

iv. agrees to provide all required information and any other information relevant to a building product to the Principal and the Administrator within the timeframes requested by the Principal or the Administrator, and

v. indemnifies and shall keep indemnified the Principal against all loss, costs, liabilities. claims, damages or expense caused or contributed to any breach of its obligations under this Clause 6.4, or by any failure of the Contractor to comply with its obligations under the QBCC Act in relation to building products.

c) If the Contractor installs a building product without the required information, the Principal will be entitled to do either of the following in its sole and absolute discretion:

i. request the required information from the Contractor, in which case the Contractor will provide the required information as soon as reasonably practicable, or

ii. direct the Contractor to remove the building product from the Works and replaced with a building product that is not non-conforming pursuant to Clause 37 of the General Conditions of Contract.

d) The Contractor shall, as a precondition to achieving Practical Completion, provide to the Principal and the Administrator a signed statutory declaration confirming that all required information has been obtained and provided to the Principal and the Administrator and that no non-conforming building products have been installed or incorporated into the Works.

e) The Contractor shall indemnify and shall keep indemnified the Principal against any cost, loss, expense, liability, claim, or damage suffered or incurred by the Principal due to a building product incorporated into the Works being recalled or identified as a non-conforming building product.

f) For the avoidance of doubt, the indemnities contained in this Clause 6.4 survive the termination, cancellation, completion, expiration or otherwise merging of this Contract.

7 Not used

8 Mandatory Milestones

(a) The Principal may require that defined sections of the work under the Contract (Mandatory Milestones) be completed by dates which are earlier than the Date for Practical Completion (Milestone Completion Date). Mandatory Milestones are not Separable Portions.

(b) The Mandatory Milestones, together with the relevant Milestone Completion Date, applicable to this Contract are nominated in the Clause Bank Supplement.

(c) The Contractor shall include specific activities for all Mandatory Milestones in its Construction Program, submitted in accordance with Clause 33.4 of the General Conditions of Contract, and the completion dates for such activities shall be no later than the Milestone Completion Dates specified in Clause 8(b) of the Clause Bank.

(d) A Construction Program will not be deemed suitable unless all Mandatory Milestones have been included in accordance with Clause 8(c) of the Clause Bank.

(e) Without limiting or affecting the general operation of Clause 35.5 of the General Conditions of Contract, Clause 35.5 shall also apply to each Mandatory Milestone as though:

i. the expression 'the work under the Contract' in Clause 35.5 was a reference to each Mandatory Milestone

ii. the expressions 'time for Practical Completion' and 'Date for Practical Completion' were references to each Milestone Completion Date, and

iii. the expression 'Practical Completion' in Clause 35.5 was a reference to completion of a Mandatory Milestone.

(f) A Milestone Completion Date will not be extended except where the Contractor has complied with Clause 35.5 (as it applies to Mandatory Milestones) and is entitled to such an extension under that Clause 35.5.

(g) For the avoidance of doubt:

i. without limiting or affecting the general operation of Clauses 35.6, 36, 37 and 42.5 of the General Conditions of Contract, these Clauses do not apply separately to Mandatory Milestones or to extensions of the Milestone Completion Dates

ii. the Contractor is not obliged to give possession of a Mandatory Milestone to the Principal upon completion of the Mandatory Milestone and the Principal is not obliged to take possession of a Mandatory Milestone at that time

iii. the date of completion of any Mandatory Milestone is not to be regarded as the Date of Practical Completion for the purposes of any provision of the Contract, and

iv. the extension of a Milestone Completion Date does not necessarily mean that the Date for Practical Completion of the whole of the work under the Contract will be extended.

(h) Without prejudice to any other power, right or remedy of the Principal or the Administrator, if the Contractor fails to complete a Mandatory Milestone by the Milestone Completion Date, the Administrator may:

i. where the Principal has already paid for part of the work comprised in the Mandatory Milestone, deduct the amounts paid when calculating further payment certificates due after the Milestone Completion Date and withhold those amounts from payment certificates until such time as the Mandatory Milestone is completed, and

ii. not include any other amounts for the work comprised in the Mandatory Milestone in any payment certificates until such time as the Mandatory Milestone is completed.

(i) The value of the work comprised in a Mandatory Milestone shall be a reasonable amount determined by the Administrator.

9 Supply of digital information disclaimer

For the convenience of Tenderers/Contractors the Principal has provided Digital Information namely, the 12D Design Strings and/or the Digital Terrain Model (DTM).

Under the conditions of providing this data, the Principal acknowledges to the Tenderers/Contractors the following terms and conditions:

(a) This Digital Information is only provided for the Tenderer's/Contractor's internal consideration and use.

(b) This Digital Information may not be a true, accurate, current or certified representation of the corresponding hard copy document.

(c) The hard copy documents take precedence over any corresponding Digital Information.

(d) Translation of the Digital Information to another format may result in loss of information and/or other inaccuracies.

(e) The Principal is not responsible for any errors or omissions in or any misuse or misinterpretation of the Digital Information.

(f) The Digital Information is not to be used for the preparation of other design Drawings.

(g) The Digital Information shall only be used for information purposes only.

(h) Only the approved hardcopy format Drawings and documents received from the Principal shall be relied upon, and

(i) The Digital Information (or any part thereof) shall not be provided to any other parties without the Principal's express written consent (which the Principal may withhold in its sole and absolute discretion).

In electing to utilise this information, the Tenderer/Contractor indemnifies, releases and holds the Principal harmless from and against all Claims, loss, expense and liability, both direct and indirect, of whatsoever nature and however arising from or in connection with the Digital Information and any electronic or physical corruption to computer-generated or electronically remitted information, software or hardware associated with the use, dissemination or receipt of the Digital Information.

The Principal makes no warranty or representation of any kind, either expressed or implied, including (without limitation) any warranty of merchantability or fitness for purpose in relation to the Digital Information (or any part thereof including metadata) or software or hardware associated with the use, dissemination or receipt of the Digital Information.

Part B – Road specific conditions

10 Not used

11 Traffic management

11.1 Notification of traffic changes

The Contractor shall:

(a) Give the Administrator a minimum of 10 Business Days' written notice of changes in traffic movements necessary for the performance of work under the Contract.

(b) Be responsible for obtaining approval from the relevant Authority for road closures or traffic changes which affect it.

11.2 Public notification

(a) The Contractor shall ensure it disseminates information to the community regarding the nature and impact of the work under the Contract, including by:

i. publicly advertising changes to normal traffic movements and of any possible disruptions, and

ii. providing the community with as much notice as possible of changes or disruptions (but it shall not be less than 48 hours).

(b) The Contractor shall obtain the agreement of the Administrator as to the extent and nature of all publicity prior to implementation. The Principal reserves the right to take control of and/or to

incorporate publicity proposals by the Contractor into any project publicity arranged directly by the Principal.

12 Care of the work and reinstatement of damage

12.1 Amendments to the General Conditions of Contract

(a) Clause 16 of the General Conditions of Contract is amended by inserting the words 'except to the extent specified in Clause 12.4(c) of the Clause Bank' at the beginning of paragraph (a) of Clause 16.3.

(b) Clause 44.2 of the General Conditions of Contract is amended by including the following new paragraph (xviv):

'(xviv) failing to comply with Clause 12.2 of the Clause Bank.'

12.2 Vehicles with excess axle loads within the Site

(a) The Contractor shall:

i. only use or operate vehicles with excess axle loads for constructing sections of embankment and provided such vehicles are loaded within the Site only

ii. not use or operate vehicles with excess axle loads along or across any existing pavement or over any concrete structure without the prior approval of the Administrator in writing

iii. exercise caution in relation to the use or operation of vehicles with excess axle loads over drainage or other structures

iv. not use or operate vehicles with excess axle loads on sections of road under construction once trimming of the subgrade is complete, and

v. make good any damage which, in the opinion of the Administrator, has resulted from the operation of vehicles with excess axle loads.

(b) Nothing in this Clause 12.2 shall in any way limit or exclude the Contractor's obligations or liabilities under the Contract.

12.3 Protection of bituminous surfaces

The Contractor shall not carry out any of the following activities on any bituminous surface, including asphalt, or on any other surface on which bitumen is to be placed:

(a) the refuelling of plant

(b) the use of plant or equipment which leaks fuel or oil

(c) the mixing of cutter or flux oils with bitumen, or

(d) any other activity which may result in the spillage of any solvent.

12.4 Maintenance of existing and completed Works

(a) From the Date of Acceptance of Tender up to the Date of Practical Completion, the Contractor shall carry out the following maintenance activities:

i. maintain existing and new Site vegetation and plantings, including grassed areas by, without limitation, watering, weeding, mulching, spraying and fertilising

ii. mow any grassed areas within the Site within five Business Days of the height of such grass exceeding 200 mm and trim any trees or shrubs likely to cause a safety problem for road users

iii. ensure that all culverts, channels, table drains, catch drains and other waterways and subsoil drains within the Site are kept clear of any obstructions

iv. maintain the existing pavement within the Site to no lesser standard than that existing at the time possession of the Site was granted to the Contractor and ensure its safety for all road users

v. maintain the completed pavement that is part of the Works

vi. maintain existing and new route, ramp and intersection lighting within the Site, and

vii. maintain pavement markings within the Site.

(b) Where specific maintenance activities are specified elsewhere under the Contract, the provisions of those specific requirements shall take precedence over the maintenance activities described in Clause 12.4(a) of the Clause Bank.

(c) The Contractor shall not be responsible for repairs to road infrastructure required because of collateral road crash damage or vandalism.

(d) Notwithstanding the provisions of Clause 44 of the General Conditions of Contract, if the Contractor fails to comply with any obligation imposed on the Contractor by this Clause 12.4, the Administrator may, after the Administrator has given reasonable notice in writing to the Contractor, have the maintenance work carried out by other persons and the reasonable cost incurred by the Principal in having the work so carried out may be recovered by the Principal as a debt due from the Contractor to the Principal. The rights given by this Special Condition 12.4(d) are in addition to and without prejudice to any other right or remedy.

13 Training – Indigenous component

This Clause is to be read in conjunction with Clause 29.3, Training Requirements, within the General Conditions of Contract.

For the purposes of this Clause:

(a) 'Aboriginal or Torres Strait Islander' means a person of Aboriginal or Torres Strait Islander descent who identifies as an Aboriginal or Torres Strait Islander and is accepted as such by the community in which he or she lives.

(b) 'DATSIP' means the Department of Aboriginal and Torres Strait Islander Partnerships.

(c) 'Indigenous Economic Opportunities (IEO) Overview' means a document produced by the Principal and included within the Tender Documents to guide the Contractor with the preparation of the 'Indigenous Economic Opportunities Plan' that complies with the requirements of the Training Policy.

(d) 'Indigenous Economic Opportunities (IEO) Plan' means a plan that complies with the requirements of the Training Policy (template available via www.training.qld.gov.au/trainingpolicy) agreed to and signed by:

i. the Contractor

ii. the Principal, and

iii. the relevant Aboriginal or Torres Strait Islander council or Authority or where there is no relevant Aboriginal and Torres Strait Islander council or Authority, DATSIP.

(e) 'Indigenous Project' means:

i. an Eligible Project located in an Aboriginal or Torres Strait Islander community, or in the township of Weipa, or

ii. an Eligible Project located in a part of Queensland not referred to in paragraph (a) of this definition that is selected as an Indigenous Project by Queensland Government agencies or by the Director General of DATSIP

as further detailed in the Training Policy.

Compliance with Training Policy

Where the work under the Contract constitutes an Indigenous Project, the Contractor must, in addition to the requirements set out in Clause 29.3 Training Requirements, of the General Conditions of Contract:

1. Within 10 Business Days of the Date of Acceptance of Tender submit to DESBT via the TPAS, with a copy to the Administrator, a completed Indigenous Economic Opportunities Plan. This plan to be agreed and signed off by the Contractor, the Principal and an executive representative of the Aboriginal and Torres Strait Islander council or authority (Mayor / CEO).
2. Ensure that Aboriginal and Torres Strait Islander Apprentices and/or Trainees, and local Aboriginal and Torres Strait Islander workers, work the Deemed Hours applicable to the work under the Contract as set out in the Training Policy.
3. The Contractor must ensure, in addition to the requirements set out in this Clause, compliance with the Indigenous Economic Opportunities Plan such that 3% of the Contract Sum for building Works and 1.5% for civil construction Works (or as agreed following Tender approval) is allocated toward the agreed Indigenous Economic Opportunities Plan in carrying out the work under the Contract, and
4. Within 15 Business Days of the Date of Practical Completion, or if there is more than one the last occurring Date of Practical Completion, submit to DESBT via the TPAS, with a copy to the Principal's Representative, the achievement of outcomes against the Indigenous Economic Opportunities Plan in accordance with the Training Policy. The Contractor, the Principal and an executive representative of the Aboriginal and Torres Strait Islander council or authority (Mayor / CEO) review and sign off on the achievement of outcomes against the agreed IEO Plan. Where there is no council or authority, DATSIP will accept responsibility for negotiating sign off.

The Contractor acknowledges that failure to comply in part or in whole with the requirements of the Training Policy will be a substantive factor that will be taken into account in the process of awarding future Contracts to the Contractor by the Principal.

14 Physical security of ITS infrastructure facilities

Where the Contractor is required to install, maintain or otherwise access Intelligent Transportation System (ITS) and road lighting facility cabinets, including, but not limited to, traffic signal controller cabinets, ITS communications cabinets, electrical switchboards, dynamic signs or other control devices, the Contractor shall ensure that the facilities are physically secure.

Where the Principal has provided keys to the Contractor for use in accessing the facilities, the Contractor shall return the keys when required or at the completion of the Contract. Where keys have been lost or the Contractor fails to return the keys, the Principal may deduct the cost of the keys from the Contract.

Deductions shall be for the total replacement costs of the keys, including labour and materials. Where the keys and locks are electronic, the replacement costs shall include the reprogramming of the keys and locks.

15 Training Policy for Contract Sum greater than $100 million

Clause 29.3 of the General Conditions of Contract is amended by deleting Clause 29.3(c) and replacing it with the following:

'c) For eligible projects with a Contract Sum of $100 million or greater, the Contractor, in its execution of the Work Under the Contract, shall:

i. employ on the Site, either directly or indirectly through Subcontractors, apprentices and trainees, or

ii. employ on the Site, either directly or indirectly through Subcontractors, apprentices and trainees and upskill workers employed on the Site

The deemed hours for the training policy will be determined by the Contract Sum multiplied by 0.045 percent for civil construction projects'

16 Indigenous Participation Framework

The Contractor shall monitor their work on a regular basis such that the 'indigenous participation target' ('employment component', 'supplier-use component') and other requirements are met. The Principal is not obliged to assist the Contractor in any way to achieve this compliance.

The Contractor shall submit compliance reports to the Administrator every month until Practical Completion is reached. The 'Contractor Indigenous Participation Compliance and Reporting' template shall be used.

The Contractor shall complete all parts of the report to be submitted monthly and include all supporting evidence to include but not limited to confirmation of indigeneity. The Administrator may request further clarification and the Contractor shall comply.

Failure by the Contractor to meet the above requirements may be deemed as a substantial breach under Clause 44.2(xviii) of the General Conditions of Contract.

17 Drone Service Engagement

The Principal shall review the information on the departmental intranet site and provide relevant information to the Contractor.

https://intranet.tmr.qld.gov.au/teams/drones/Pages/default.aspx

The Contractor shall ensure the drone pilot reviews all information provided, including the *Queensland Government Drones Use Policy* and ensures the proposed flight complies with the Civil Aviation Safety Regulation (CASR Part 101 – Unmanned aircraft and rockets) related to Remotely Piloted Aircraft Systems.

The Contractor shall ensure the drone pilot complete and sign the RPA / drone operations checklist and obtain signatures of the Principal's Representative and District Director (or equivalent) prior to flying the drone. Failure to comply may be considered a substantial breach under the contract.

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99 Additional Clauses

99.1 Compliance with the Queensland Procurement Policy (QPP)

Local Business Participation.

The Principal expects the Contractor to support local businesses by sourcing equipment, materials and services from suppliers based locally to the Project. The Contractor shall give, and shall ensure that its subcontractors give, local subcontractors, vendors and suppliers a full, fair and reasonable opportunity to supply labour, services, materials, plant, machinery, equipment and other items for the Works. "Local" is defined by the Queensland Procurement Policy (QPP).

In addition to the reporting requirements stipulated in Clause 14.8 (ii) of the General Conditions of Contract, the Contractor shall compile and submit a report monthly, to the Principal via email address [redacted] with a copy to the Administrator, using the Project Outcome Reporting template (template available at https://www.tmr.qld.gov.au/business-industry/Technical-standards-publications/Infrastructure-Contract/Transport-Infrastructure-Contract/TIC-Construct-Only). This monthly report shall contain data relevant to the work completed up to and including the month (cumulative) to which the Contractor's progress claim relates, identifying businesses meeting the local requirements of the QPP.

99.2 Best Practice Principles

For eligible projects with a Contract Sum of $100 million or greater, the Contractor shall fulfil the commitments made in its offer/tender in respect of the best practice principles as part of the Queensland Procurement Policy. For further information, refer to the following link, http://www.hpw.qld.gov.au/SiteCollectionDocuments/QualitySafeWorkplaces.pdf

99.3 The Ethical Supplier Threshold and Ethical Supplier Mandate

a) In this clause 99.3,
   a. Ethical Supplier Mandate means the Queensland Government policy titled 'Ethical Supplier Mandate' or any policy that replaces that policy;
   b. Ethical Supplier Threshold means the Ethical Supplier Threshold in paragraph 2.3 of the Queensland Procurement Policy;
   c. Government Department or Instrumentality means any governmental regulator, including Work Health Safety Queensland, the Queensland Building and Construction Commission, the Fair Work Commission and the Australian Building and Construction Commission; and
   d. QPP Compliance Unit means the Queensland Procurement Policy (QPP) Compliance Unit, Office of the Chief Advisor – Procurement, Department of Housing and Public Works.

b) The Contractor shall comply with the Ethical Supplier Threshold.

c) The Principal may obtain information about the Contractor relevant to the Contractor's compliance with clause 99.3(b) that may be held by the QPP Compliance Unit or any Government Department or Instrumentality and take the information into account in assessing the offer.

d) The Contractor acknowledges that a failure to comply with the Principal's policies that apply to the work under the proposed contract or the Contractor's obligations under the proposed contract may result in the imposition of a demerit or sanction under the Ethical Supplier Mandate, in addition to any other remedies available to the Principal under this Contract.

e) Failing to comply with the requirements of this clause 99.3(b) is a substantial breach of Contract for the purpose of Clause 44.2(a) and (b)(xviii) of the General Conditions of Contract.

99.4 Contract Plan- Construction Digital Engineering Execution Plan

Clause 33.3.1 (b) of the General Conditions of Contract is amended by inserting the following clause:

viii Construction Digital Engineering Execution Plan (CDEEP).

The CDEEP must at a minimum address:

- Model protocols, collaboration and co-ordination procedures
- Quality control
- Software adopted
- As-constructed model structure and naming
- Model deliverables and proposed workflows

The CDEEP must comply with the requirements of the following documents:

- the Design Digital Engineering Execution Plan (DDEEP) (included in Part 7 of this Contract)
- the NATSPEC National BIM Guide (as amended from time to time)
- any Guideline issued by TMR on BIM, including the current 'Building Information Modelling (BIM) for Transport and Main Roads' dated May 2017, and
- any BIM policy issued by the Queensland Government, including the current 'Building Information Modelling – draft policy and principles for Queensland' dated February 2017.

99.5 Order of precedence documents

Clause 8.1 (b) of the General Conditions of Contract shall be deleted and replaced with the following:

Unless otherwise expressly stated in the Formal Instrument of Agreement or the Letter of Acceptance (as the case may be) or in a version of Form C7871 attached to the Formal Instrument of Agreement or Letter of Acceptance, the following order of precedence shall apply where there is any ambiguity, discrepancy or inconsistency between the documents comprising the Contract, with the higher in the list having a higher priority:

i. Formal Instrument of Agreement

ii. Letter of Acceptance, including any post-Tender correspondences and the Schedule of Deviations (if applicable) listed or referred to in the Letter of Acceptance

iii. Notices to Tenderers

iv. Special Conditions of Contract (Annexure D to these General Conditions of Contract) if any

v. these General Conditions of Contract, including:

a) Annexure A (Contract Details)

b) Annexure B (Commercial Framework)

c) Annexure C (Certification Functions of the Administrator), and

d) Clause Bank (C7836)

vi. Project Specific Specifications including MRTS Annexures

vii Project Specific Drawings

viii Design Models referred to in the Design Digital Engineering Execution Plan (DDEEP) and issued under the Contract as Binding

x. Standard Specifications

xi. Standard Drawings

xii. Conditions of Tendering and Annexure

xiii. Completed Tender Form and Tender Schedules

xiv. Other Contract Documents

99.6 Setting out the Works

Clause 28.1(b) of the General Conditions of Contract shall be deleted and replaced with the following:

Setting out of all control lines and associated survey lines shown on the Drawings or in Design Models referred to on drawings and issued under the Contract as Binding, or necessary for the setting out of the Work Under the Contract is the responsibility of the Contractor. Any existing survey lines on the Site or existing survey marks not listed in Item 28A shall not be relied upon by the Contractor. Where the Contractor establishes additional survey marks, full details of such marks shall be submitted to the Administrator.

99.7 Supply of Digital Information

99.7.1 Supply of Digital Information disclaimer

For the convenience of the Contractor the Principal has provided Digital Information namely, the Design Model(s), Utilities Model, Federated Model and/or the Digital Terrain Model (DTM).

Under the conditions of providing this data, the Contractor acknowledges to the Principal its acceptance of the following terms and conditions:

a. This Digital Information is only provided for the Contractor's internal consideration and use.

b. The hard copy documents take precedence over any corresponding Digital Information.

c. Translation of the Digital Information to another format may result in loss of information and/or other inaccuracies.

d. The Principal is not responsible for any errors or omissions in or any misuse or misinterpretation of the Digital Information.

e. The Digital Information is not to be used for the preparation of other design Drawings.

f. The Digital Information shall only be used for its defined status only, refer Clause 99.2.2

g. Only the approved hardcopy format Drawings, Digital Information issued under the Contract as Binding and documents received from the Principal shall be relied upon, and

h. The Digital Information (or any part thereof) shall not be provided to any other parties without the Principal's express written consent (which the Principal may withhold in its sole and absolute discretion).

In electing to utilise this information, the Contractor indemnifies, releases and holds the Principal harmless from and against all Claims, loss, expense and liability, both direct and indirect, of whatsoever nature and however arising from or in connection with the Digital Information and any electronic or physical corruption to computer-generated or electronically remitted information, software or hardware associated with the use, dissemination or receipt of the Digital Information.

The Principal makes no warranty or representation of any kind, either expressed or implied, including (without limitation) any warranty of merchantability or fitness for purpose in relation to the Digital Information (or any part thereof including metadata) or software or hardware associated with the use, dissemination or receipt of the Digital Information.

99.7.2 Status of Digital Information supplied under the Contract

The following definitions are used to define the status of Design Models:

(a) Binding: imposing a legal (contractual) obligation between the Principal and the Contractor. Used in this context to mean a Design Model that represents what has to be constructed under the terms of the Contract.

(b) Informational: a Design Model that conveys non-binding information relevant to the Contract that may be useful to the Contractor. No formal claims are made about its accuracy and it is provided on an 'as is' basis.

(c) Reference: a Design Model that is intended to be used for 'read-only' purposes such as recording model development at different stages of the Contract or clash detection. Once Design Models are designated 'Reference', they shall not be edited further. Reference Design Models can be used as the basis for bid preparation but do not form part of the Contract documents. A model has to be designated 'Binding' for this purpose. Reference models shall be sufficiently accurate for their intended purpose.

(d) Reuse: a Design Model authorised by its authors for modification or further development by its recipients.

99.8 Not Used

Annexure C (Certification Functions of the Administrator)
to the General Conditions of Contract

Queensland Government

C7833

Contract Number:	CN-13712

Clause	Clause headings	Description of certification functions
21.5	Settlement of Claims	Certify against the joint account for the cost of reinstatement following an insurance claim.
33.5	Acceleration	Clause 33.5(a): determining whether to issue a direction for the Contractor to accelerate the performance of the work instead of granting an extension of time.
35.3	Separable Portions	If the Contract does not make provision for the amount of security applicable to a Separable Portion, the Administrator shall certify the value of the work under the Contract as the value of the Separable Portion bears to the value of the whole of the work under the Contract.
35.5	Extension of Time for Practical Completion	Within 20 Business Days after receipt of a claim for an extension of time, grant a reasonable extension of time.
40.5	Valuation	Where the Contract provides that a valuation be made under this Clause, the Administrator shall determine the appropriate value.
41	Daywork	Value the Daywork in accordance with Clause 41.
42.1	Payment Claims, Certificates, Calculations and Time for Payment	Within 10 Business Days of receipt of a payment claim issue to the Principal and the Contractor a payment certificate stating the amount of payment which is to be made by the Principal to the Contractor or by the Contractor to the Principal. Shall set out in the payment certificate the calculations used to arrive at the amount and reasons for any difference in the amount. May issue a payment certificate even if the Contractor fails to make a payment claim.
42.5	Certificate of Practical Completion	Issue to the Contractor and Principal a Certificate of Practical Completion certifying the Date of Practical Completion within 10 Business Days of receipt of a written request for a Certificate of Practical Completion or give the Contractor in writing the reasons for not issuing the Certificate. The Administrator may issue a Certificate of Practical Completion when of the opinion that Practical Completion has been reached, whether or not the Contractor requests it be issued.
42.8	Final Certificate	Issue to the Contractor and Principal a final payment certificate endorsed 'Final Certificate' within 10 Business Days of the later of the receipt of the Contractor's Final Payment Claim (or the expiration of time for its lodgement) and the Contractor having completed making good of defects.
44.6	Adjustment on Completion of the Work Taken Out of the Hand of the Contractor	Ascertain the costs incurred by the Principal in completing the work taken out of the Contractor's hands under clause 44.4(a) and issue a certificate certifying the amount of that cost.