



Design and Construct Contract

(Commercial Building & Major Property Construction Works)

Formal Instrument of Agreement

Parties

Energy Queensland Limited (ABN 96 612 535 583)

(Principal)

A. Gabrielli Constructions Pty Ltd

(Contractor)

Contract No CW57972

Design and Construct Contract – Formal Instrument of Agreement



Date: 23 December 2022

Parties

Energy Queensland Limited (ABN 96 612 535 583) of PO Box 1090 Townsville QLD 4810
(Principal)

A. Gabrielli Constructions Pty Ltd (ABN 29 088 090 279) of 336 Woolcock Street, Garbutt QLD 4814 (Contractor)

Background

- A The Principal wishes to engage the Contractor to perform to the Contractor's Activities.
- B The Contractor has represented to the Principal that it has the requisite resources, knowledge, experience and techniques to perform the Contractor's Activities in accordance with the Contract.
- C The Principal has agreed to engage the Contractor as an independent contractor to perform the Contractor's Activities described in this Contract and the Contractor agrees to accept such appointment on the following terms and conditions.

Agreed terms

1 Performance and Payment

- (1) The Contractor must perform and complete the Contractor's Activities upon the terms and conditions set out in the Contract.
- (2) In consideration of the due performance and completion of the Contractor's Activities by the Contractor and the performance of its other obligations under the Contract, the Principal will pay the Contractor the Contract Price in accordance with the Contract.
- (3) The Contract Price is not subject to rise and fall in the costs of labour and materials and other items.
- (4) Each of the parties shall perform the obligations imposed on it by the Contract.

2 Contract Documents

The Contract comprises the following documents marked as follows:

Document Description	Where
This Formal Instrument of Agreement	This document
General Conditions for Design and Construct	Attached to this document (and including the schedules)

Design and Construct Contract – Formal Instrument of Agreement



3 Entire contract

The documents listed in clause 2 constitute the entire agreement between the parties in respect of the Contractor's Activities and the Contract supersedes all previous agreements, undertakings, and communications, whether written or oral, relating to the subject matter of the Contract.

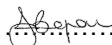
4 QBCC Act

This clause 4 applies if indicated in the Particulars.

Section 67K(2) of the QBCC Act provides that, unless the parties agree otherwise, the total value of retention moneys and security held under a building contract prior to practical completion (other than those referred to in section 67K(3) of the QBCC Act) is not to exceed 5% of the contract price for the building contract (as adjusted for variations). It is expressly agreed between the parties that, to the extent the QBCC Act is applicable to this Contract, this Contract is not subject to the condition mentioned in section 67K(2) of the QBCC Act.

Contractor's initials: 

Principal's initials: 

Witness initials: 

Witness initials:

Name of Witness: Jennifer Bojocan

Name of Witness:

Address of Witness: 336 Woolcock Street, Gabbutt QLD 4814

Address of Witness:

5 Parties to give effect to the Contract

The parties agree that they shall do everything reasonably necessary to give effect to the Contract.

6 Definitions

- (1) Terms which are defined in the General Conditions have the same meaning as they are given in the General Conditions where they appear in this Formal Instrument of Agreement, unless a contrary intention is expressed.
- (2) This Formal Instrument of Agreement is the 'Formal Instrument of Agreement' referred to in the General Conditions.

Design and Construct Contract – Formal Instrument of Agreement



Executed as an Agreement and delivered on the date shown on the first page.

Signed sealed and delivered for and on behalf of **Energy Queensland Limited (ABN 96 612 535 583)** by its authorised representative in the presence of:

A handwritten signature in black ink, appearing to read "Kylie Thorley".

Signature of authorised representative

Kylie Thorley

Name of authorised representative
(BLOCK LETTERS)

Executed by **A. Gabrielli Constructions Pty Ltd** ACN 088 090 279 in accordance with section 127 of the *Corporations Act 2001*:

A handwritten signature in black ink, appearing to read "Adrian Gabrielli".

Director/company secretary

Director

ADRIAN GABRIELLI

Name of director/company secretary
(BLOCK LETTERS)

Name of director
(BLOCK LETTERS)



General Conditions for Design and Construct

(Commercial Building & Major Property Construction Works)

Parties

Energy Queensland Limited (ABN 96 612 535 583)

(Principal)

A. Gabrielli Constructions Pty Ltd

(Contractor)

Contract No CW57972

Cairns OTHF (Data Centre) New Build Contents

1	Performance and Payment.....	1
2	Contract Documents.....	1
3	Entire contract.....	2
4	QBCC Act	2
5	Parties to give effect to the Contract	2
6	Definitions	2
1	Definitions and interpretation.....	1
2	Performance and payment	15
3	Contract Documents.....	15
4	Personnel.....	17
5	Directions, approvals and consents	21
6	Contractor's warranties, design obligations and certifications	22
7	Intellectual Property Rights.....	26
8	Confidential Information.....	28
9	Site.....	29
10	Latent conditions	34
11	Laws	36
12	Environmental obligations	39
13	Work health and safety.....	41
14	Subcontracting.....	45
15	Performance of the Contractor's Activities	47
16	Material containing Asbestos.....	51
17	Variations.....	54
18	Progress and programming of the Contractor's Activities	57
19	Times for commencement and Practical Completion	62
20	Suspension.....	67
21	Defects.....	68
22	Care of the Works.....	70
23	Indemnity by the Contractor	71
24	Insurance	72
25	Security.....	76
26	Personal Property Securities Act.....	78
27	Provisional Sum Work	78
28	Payment.....	82
29	Training Policy	86
30	Ring Fencing for Service Providers Policy	88
31	Queensland Code.....	88
32	Construction Industry Legislation	90
33	Goods and services tax	92
34	Force Majeure Event	93
35	Termination for Contractor's default	94
36	Termination other than for Contractor's default.....	97
37	Termination generally	99
38	Dispute resolution.....	99

39	Liability	101
40	Audit.....	103
41	Claim notification	104
42	Notices	104
43	Assignment and novation	105
44	General	106
45	Modern Slavery	108
46	Ethical Supplier	111
47	Supply of non-citizens	113
	Schedule 1 – Particulars	114
	Schedule 2 – Form of Performance Security	121
	Schedule 3 – Form of Parent Company Guarantee	122
	Schedule 4 – Contract Price Schedule	123
	Schedule 5 – Initial Construction Program	124
	Schedule 6 – – Moral rights consent	125
	Schedule 7 - Deed of Novation of Consultant	126
	Schedule 8 – Form of Subcontractor warranty.....	136
	Schedule 9 – Deeds of Release	141
	Part 1 – Deed of Release - Practical Completion.....	141
	Part 2 – Deed of Release – Final Completion.....	143
	Schedule 10 – Deed of Novation where Contract terminated	144
	Schedule 11 – Payment statutory declaration.....	151
	Schedule 12 – Ring Fencing Requirements for Service Providers	152
	Schedule 13 – Scope of Works	153
	Schedule 14 – Technical Specifications.....	154
	Schedule 15 – Technical Drawings	155
	Schedule 16 – Subcontractor Warranties	156
	Schedule 17 – Policies and Procedures	157

General Conditions for Design and Construct

1 Definitions and interpretation

1.1 Definitions

In the Contract:

- (1) **Acceleration Direction** has the meaning in clause 18.6(3);
- (2) **Acceleration Proposal** has the meaning in clause 18.6(1);
- (3) **Accreditation Entity** means an entity which is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement;
- (4) **Affected Party** has the meaning in clause 34.1(1);
- (5) **Approved Testing** means laboratory testing which is undertaken by a NATA Accredited Laboratory in accordance with Australian Standard AS4964-2004 – Method for the qualitative identification of asbestos in bulk samples;
- (6) **Asbestos Certification** means, in relation to:
 - (a) Prescribed Materials which are manufactured in Australia, certification from the supplier and/or manufacturer of the Prescribed Material that the relevant materials were manufactured by the party providing the certification in Australia; or
 - (b) Prescribed Materials which are not manufactured in Australia, certification from a NATA Accredited Laboratory located within Australia that:
 - (i) the laboratory has undertaken Approved Testing of the Prescribed Materials; and
 - (ii) the Prescribed Materials are not Asbestos Containing Materials,where such certification must include:
 - (c) details of the accreditation of the laboratory;
 - (d) an outline of the approved method utilised by the laboratory; and
 - (e) the signature of the approved identifier,and which, in either case, was issued no earlier than two (2) years prior to the date on which such certification is provided by the Contractor to the Principal in accordance with clause 16;
- (7) **Asbestos Containing Materials** means any material, object, product or debris that contains (in any quantity or percentage whatsoever) the asbestos form varieties of mineral silicates belonging to the serpentine or amphibole groups of rock forming minerals, including actinolite asbestos, grunerite (or amosite) asbestos (brown), anthophyllite asbestos, chrysotile asbestos (white), crocidolite asbestos (blue) and tremolite asbestos or a mixture of one or more of these minerals;
- (8) **Australian Standards** means standards published by Standards Australia Limited as amended from time to time;

- (9) **Author** means any person who is an author of the Copyright Material for the purposes of the *Copyright Act 1968* (Cth);
- (10) **Authorities** means all Commonwealth, State and local government councils, parliaments, departments, offices, bodies and instrumentalities and all public or statutory bodies, corporations, instrumentalities, courts, authorities, persons or entities which in any way govern, regulate, control or affect any aspect of the Contractor's Activities or the Site;
- (11) **Business Day** means a day other than:
- (a) a Saturday or Sunday; or
 - (b) a public holiday, special holiday or bank holiday in the place in which any relevant act is to be or may be done; or
 - (c) any day occurring within any of the following periods:
 - (i) 22 to 24 December;
 - (ii) 27 to 31 December;
 - (iii) 2 to 10 January;
- (12) **Certificate of Practical Completion** has the meaning given in clause 19.9(2);
- (13) **Compensable Event** means:
- (a) the events stated in clauses:
 - (i) 1.1(36)(a);
 - (ii) 1.1(36)(b); and
 - (iii) 1.1(36)(c); and
 - (b) those other Compensable Events stated in the Particulars, if any;
- (14) **Construction Plant** means all plant and equipment used by the Contractor in the execution of the Works but not forming part of the Works;
- (15) **Construction Program** means:
- (a) if a draft construction program has not been approved by the Principal's Representative under clause 18.2, the Initial Construction Program (if any); and
 - (b) if a draft construction program has been approved by the Principal's Representative under clause 18.2, the construction program approved by the Principal's Representative under clause 18.2(6), as updated (if at all) under clause 18.4(6);
- (16) **Consultant** means any entity or person engaged by the Contractor to perform consultancy services in connection with the Contractor's Activities;
- (17) **Contamination** means any condition of land, soil, gas or water (including groundwater), resulting from past or present Pollution or sharing any or all of the characteristics of Pollution;

- (18) **Contract** has the meaning given in clause 3.1;
- (19) **Contract Documents** has the meaning given in clause 2 of the Formal Instrument of Agreement;
- (20) **Contract Price** means:
- (a) where the Principal accepted a lump sum, the lump sum Contract Price set out in the Contract Price Schedule; or
 - (b) where the Principal accepted rates, the sum of the amounts ascertained by multiplying the rates by the corresponding quantities in the priced bill of quantities included in the Contract Price Schedule; or
 - (c) where the Principal accepted a lump sum and rates, the aggregate of the sums referred to in paragraphs (a) and (b);
- including Provisional Sums and excluding GST, as adjusted under the Contract;
- (21) **Contract Price Schedule** means the document set out Schedule 4;
- (22) **Contractor** means the person specified as the Contractor in the Particulars;
- (23) **Contractor's Activities** means the whole of the work which the Contractor must carry out in order to fulfil its obligations under the Contract, and includes the design and construction of the Works, the temporary works, Early Works (if any), rectification of Defects, provision and use of materials and Construction Plant, and Site clearing and cleaning-up;
- (24) **Contractor's Associates** means an employee, agent, Subcontractor (and the employees, agents and subcontractors of the Subcontractors), Consultant and any other party for whom the Contractor is responsible;
- (25) **Contractor's Design Obligations** means those obligations set out under clause 6.2;
- (26) **Contractor's Representative** means the person so specified in the Particulars or such other person appointed from time to time in accordance with clause 4.3;
- (27) **Copyright Material** means the Design Documents or any material relating to the Project in relation to which Moral Rights may subsist under the *Copyright Act 1968* (Cth);
- (28) **Core Work** means Generation Activities, Transmission Activities and Distribution Activities;
- (29) **Corporations Act** means the *Corporations Act 2001* (Cth);
- (30) **Date for Practical Completion** means the Date for Practical Completion specified in the Particulars, as adjusted in accordance with the Contract;
- (31) **Date of Practical Completion** means the date that Practical Completion is achieved, as certified under the Contract or determined by dispute resolution;
- (32) **Deed of Release – Practical Completion** means the deed of release in the form set out in Part 1 of Schedule 9;

- (33) **Deed of Release – Final Completion** means the deed of release in the form set out in Part 2 of Schedule 9;
- (34) **Defect** includes any defect, shrinkage, fault or omission in the Works (including the design) and any other aspect of the Works (including but not limited to the incorporation of any defective materials) which is not in accordance with the requirements of the Contract;
- (35) **Defects Correction Period** means:
- (a) the Defects Correction Period specified in the Particulars; and
 - (b) any further Defects Correction Period directed under clause 21;
- (36) **Delay Event** means:
- (a) an act or omission of the Principal or the Principal's Representative or their agents, but not including where the Principal or the Principal's Representative or their agents are acting in accordance with the Contract or a Law;
 - (b) a breach of the Contract by the Principal, the Principal's Representative or their agents;
 - (c) a direction by the Principal's Representative under clause 20.1 to suspend the Contractor's Activities, except to the extent the Principal's Representative's direction is required because of any breach of the Contract by the Contractor;
 - (d) a Force Majeure Event;
 - (e) a Variation directed under clause 17 other than a variation due to the Contractor's default or any defective work;
 - (f) where Alternative 2 in clause 10 applies, a Latent Condition; and
 - (g) those other Delay Events stated in the Particulars, if any;
- (37) **Design Consultants are:**
- (a) those Consultants listed in the Particulars which are required to provide design certification under clause 6.5; or
 - (b) if no Consultants are listed in the Particulars, a registered professional engineer holding the appropriate registration under the *Professional Engineers Act 2002* (Qld);
- (38) **Design Documents** means the drawings, specifications, schedules and other information, samples, models, patterns and the like required by the Contract and created (and including, where the context so requires, those to be created by the Contractor) for the construction of the Works, including those set out in the Scope of Works, Technical Specifications and Technical Drawings;
- (39) **Distribution Activities** means work which is directly associated with the operation, construction and routine maintenance (other than major overhauls) of substation plant, overhead mains, underground cabling and jointing, pole inspection and street lighting, customer emergency services (e.g. loss of supply, voltage complaints) and trimming and removal of trees within minimum approach distances

to energised conductors currently performed by employees, but this definition does not apply to work that is ancillary to this Contract or work of a specialist nature;

- (40) **Early Works** means any work carried out on the Site by the Contractor prior to the date of the Contract;
- (41) **Environment** means:
- (a) physical elements such as land, water and air; and
 - (b) biological elements and living things,
- and the existence and interaction of all such elements and things (including sounds, odours, tastes, and the social and aesthetic values of landscape) at, around, nearby or affecting the Site;
- (42) **Executive Negotiators** means the Executive Negotiators specified in the Particulars;
- (43) **Existing Facilities** means the existing facilities situated on or in the vicinity of the Site and includes:
- (a) all plant, equipment and buildings existing at the Site before commencement of the Contractor's Activities; and
 - (b) anything else specified by the Principal in the Particulars to be a part of Existing Facilities;
- (44) **Extension of Time** means an extension or reduction of the Date for Practical Completion determined by the Principal's Representative in accordance with clause 19 or by dispute resolution;
- (45) **Final Completion** means:
- (a) the Works have been completed in accordance with the Contract and are fit for their Intended Purpose;
 - (b) the last Defects Correction Period has expired; and
 - (c) all Defects identified during the Defects Correction Period have been rectified to the satisfaction of the Principal's Representative;
- (46) **Final Payment Claim** means the Contractor's final payment claim under clause 28.6;
- (47) **Final Payment Schedule** has the meaning given in clause 28.7;
- (48) **Force Majeure Event** means any of the following events, but only to the extent that such event is not within the control of the Affected Party, is not the fault of the Affected Party and which the Affected Party cannot overcome by use of its best endeavours and Industry Best Practice:
- (a) acts of god, lightning strikes, earthquakes, landslides, floods expected to occur less frequently than once every 25 years (but excluding normal seasonal flooding of creeks), typhoon, drought, cyclones, fire or any other natural disaster (not including rain);

- (b) rain occurring in a month in which the average monthly rain fall for the affected area exceeds historical levels by at least 50%, using the closest available records published by the Australian Bureau of Meteorology, save that the Contractor shall not be entitled to any suspension or other relief under clause 34.2 for the first 10 days of this Force Majeure Event which occur, in the aggregate, during the term of the Contract;
 - (c) war or other state of armed hostilities (whether war is declared or not), insurrection, riot, civil commotion, act of public enemies, terrorism, national emergency (whether in fact or in law) or declaration of martial law;
 - (d) epidemic, pandemic or quarantine restriction;
 - (e) ionising radiation or contamination by radioactivity from any nuclear waste or from combustion of nuclear fuel;
 - (f) confiscation, nationalisation, requisition, expropriation, prohibition, embargo, restraint or damage to property by or under the order of any Authority; or
 - (g) Australia or Queensland-wide strike, lock-out or industrial stoppage;
- (49) **Generation Activities** means operation, construction and routine maintenance work (other than major overhauls) currently performed by employees on the following power station plant, directly associated with the generation of electricity (i.e. boilers, turbo generations, renewable energy, unit auxiliary plant, chemical plant), but this definition does not apply to work that is ancillary to this Contract or work of a specialist nature;
- (50) **Gross Negligence** means an act or omission of a party, done or omitted to be done in respect of a serious and obvious risk and with wanton or reckless disregard for or indifference to the consequences of such act or omission;
- (51) **Industry Best Practice** means design and construction practices which optimise efficiency, durability and performance, minimise environmental impacts, and are consistent with internationally-recognised standards, methods, acts and the most up-to-date practices used by leading, highly skilled and experienced construction contractors and designers in performing work similar to the Works;
- (52) **Initial Construction Program** means the initial construction program included in Schedule 5 (if any);
- (53) **Insolvency Event** means any of the following events occurring in relation to a party (**Defaulting Party**):
- (a) execution or other process of a court or authority or distress is levied for an amount exceeding \$10,000 upon any of the Defaulting Party's property and is not satisfied, set aside or withdrawn within 7 days of its issue;
 - (b) an order for payment is made or judgment for an amount exceeding \$10,000 is entered or signed against the Defaulting Party which is not satisfied within 7 days;
 - (c) the Defaulting Party suspends payment of its debts;
 - (d) where the Defaulting Party is a body corporate:
 - (i) the Defaulting Party becomes an externally-administered body corporate under the Corporations Act;

- (ii) steps are taken by any person towards making the Defaulting Party an externally-administered body corporate (but not where the steps taken consist of making an application to a court and the application is withdrawn or dismissed within 14 days);
 - (iii) a controller (as defined in section 9 of the Corporations Act) is appointed of any of the property of the Defaulting Party or any steps are taken for the appointment of a controller (but not where the steps taken are reversed or abandoned within 14 days);
 - (iv) the Defaulting Party is taken to have failed to comply with a statutory demand within the meaning of section 459F of the Corporations Act; or
 - (v) a resolution is passed for the reduction of capital of the Defaulting Party or notice of intention to propose such a resolution is given, without the prior written consent of the other party;
 - (e) where the Defaulting Party is a natural person:
 - (i) the Defaulting Party authorises a registered trustee or solicitor to call a meeting of his or her creditors or proposes or enters into a deed of assignment or deed of arrangement or a composition with any of his or her creditors;
 - (ii) a person holding a security interest in assets of the Defaulting Party enters into possession of or takes control of any of those assets or takes any steps to enter into possession of or take control of any of those assets; or
 - (iii) the Defaulting Party commits an act of bankruptcy;
 - (f) the Defaulting Party disposes of the whole or part of its assets, operations or business other than in the ordinary course of business;
 - (g) the Defaulting Party ceases to carry on business;
 - (h) where the Defaulting Party is a partnership, any step is taken to dissolve that partnership or a partner dies; or
 - (i) an event happens analogous to an event specified in clauses 1.1(53)(a) to 1.1(53)(e) to which the Law of another jurisdiction applies and the event has an effect in that jurisdiction similar to the effect which the event would have had if the Law of Australia applied;
- (54) **Intellectual Property Right** includes any:
- (a) copyright;
 - (b) design, patent, trademark, semiconductor, circuit layout or plant breeder rights (whether registered, unregistered or applied for);
 - (c) trade, business, company or domain name;
 - (d) know-how, inventions, processes, confidential information (whether in writing or recorded in any form); and

- (e) other licences, proprietary rights or personal rights arising from intellectual activity in the business, industrial, scientific or artistic fields;
- (55) **Intended Purpose** means the purposes, functions and requirements:
 - (a) stated in the Contract; and
 - (b) as can be reasonably inferred from the Contract;
- (56) **Key Personnel** means the Key Personnel specified in the Particulars;
- (57) **Latent Condition** has the meaning given in clause 10;
- (58) **Law** means any law (including common law, principles of equity and Statutory Requirements) of, or applicable in, Australia or Queensland;
- (59) **Moral Rights** has the meaning given to that term in the *Copyright Act 1968* (Cth);
- (60) **Moral Rights Consent** means a consent in the form set out in Schedule 4;
- (61) **NATA Accredited Laboratory** means a laboratory which has been accredited by the National Association of Testing Authorities;
- (62) **No Claim** means no claim against the Principal or any Related Company of the Principal for any money, compensation or adjustment to the Contract Price or for any Extension of Time or for any cost, expense, loss or damage of any kind (including damages for breach of contract at law) on any basis whatsoever including:
 - (a) pursuant to the Contract;
 - (b) in tort (including negligence);
 - (c) under statute;
 - (d) on a quantum meruit;
 - (e) pursuant to quasi contract;
 - (f) for unjust enrichment;
 - (g) for rectification or frustration; or
 - (h) pursuant to any other principle of law or equity,to the extent to which it is possible to exclude any such claim at Law;
- (63) **Non-Contract Documents** means any documents provided to the Contractor prior to the date of the Contract and which do not form part of the Contract Documents, including any bill of quantities, schedule of prices, geotechnical or soil report, asbestos audit or existing conditions survey;
- (64) **Parent Company** means the entity required to execute the Parent Company Guarantee in accordance with clause 25.7;
- (65) **Parent Company Guarantee** means the guarantee in the form set out in Schedule 3 executed by the Parent Company;

- (66) **Performance Security** means security issued by a financial institution approved by the Principal:
- (a) in the form required in the Particulars;
 - (b) in the amount required in the Particulars; and
 - (c) on the terms set out in Schedule 2 unless otherwise agreed by the Principal;
- (67) **Personal Information** has the meaning given in the Privacy Act;
- (68) **Policies and Procedures** means the policies and procedures set out or otherwise referred to in Schedule 17, as updated from time to time by the Principal and made available to the Contractor;
- (69) **Pollution** means any solid, liquid, gas, odour, heat, sound, vibration, radiation, or substance (alone or in combination), other than those naturally present in a given segment of the Environment, which has potential to harm or harms the Environment;
- (70) **Post-Completion Documents** means the Post-Completion Documents specified in the Particulars;
- (71) **PPSA** means the *Personal Property Securities Act 2009* (Cth);
- (72) **PPS Law** means:
- (a) the PPSA and any regulations made under the PPSA, as amended from time to time; and
 - (b) any amendment made to any other legislation as a consequence of the PPSA or any regulations made under the PPSA, including, without limitation, amendments to the Corporations Act;
- (73) **Practical Completion** means:
- (a) the Works have been completed in accordance with the Contract except for minor Defects:
 - (i) which do not prevent the Works from being reasonably capable of being used for their Intended Purpose;
 - (ii) do not require immediate rectification;
 - (iii) the immediate rectification of which is not reasonably practicable;
 - (iv) the presence and rectification of which will not prejudice the convenient use of the Works; and
 - (v) which do not cause any legal or physical impediment to the use of the Works;
 - (b) the Works have successfully passed all tests and satisfied all commissioning requirements in accordance with the Contract;
 - (c) the Works are safe and suitable for use for their Intended Purpose and there is no lawful restriction on their use;

- (d) the Contractor has provided the Principal's Representative with the Practical Completion Documents;
 - (e) the Contractor has removed all rubbish, plant and surplus material from the Site, other than plant and equipment required for the carrying out of the Contractor's obligations in the Defects Correction Period;
 - (f) any conditions precedent or other requirements which are required to be completed under the Contract before Practical Completion can be achieved, have been satisfied or completed; and
 - (g) any other requirements of Practical Completion stated in the Particulars have been completed;
- (74) **Practical Completion Documents** means the Practical Completion Documents specified in the Particulars;
- (75) **Preliminary Design** means the design and related supplied by the Principal;
- (76) **Prescribed Materials** mean the materials identified in the Particulars that have been, or are proposed to be, supplied under the Contract;
- (77) **Principal** means the person specified as the Principal in the Particulars;
- (78) **Principal's Representative** means the person specified as the Principal's Representative in the Particulars, or as subsequently notified by the Principal to the Contractor;
- (79) **Principal Supplied Materials** has the meaning given in clause 27.1(4)(a);
- (80) **Privacy Act** means the *Privacy Act 1988* (Cth), including the Australian Privacy Principles;
- (81) **Privacy Laws** means all applicable Laws in any jurisdiction relating to privacy and/or the protection of Personal Information, including the Privacy Act;
- (82) **Project** means the project being carried out by or on behalf of the Principal on or near the Site, of which the Works form part;
- (83) **Project Works** means the activities carried out by the Separate Contractors in relation to the Project, whether or not contemporaneous with the Contractor's Activities;
- (84) **Provisional Sum** means the monetary sum, contingency sum and/ or prime cost item as listed in Schedule 4;
- (85) **Provisional Sum Work** means an item of work listed in Schedule 4;
- (86) **QBCC** means the Queensland Building and Construction Commission;
- (87) **QBCC Act** means the *Queensland Building and Construction Commission Act 1991* (Qld);
- (88) **Queensland Code** means the Queensland Code of Practice for the Building and Construction Industry (as published by the Department of Justice and Attorney-General) and as amended or updated from time to time. The Queensland Code is available at www.treasury.qld.gov.au;

- (89) **Related Company** means a related body corporate as defined in the Corporations Act;
- (90) **Safety Conditions** means the Principal's workplace health and safety and electrical safety and training requirements applying to the Contractor under the Technical Specifications, and any relevant Policies and Procedures;
- (91) **Safety Legislation** means:
- (a) any legislation applicable to work health and safety, dangerous goods and electricity safety;
 - (b) regulations made under that legislation; and
 - (c) any directions on safety or notices issued by any relevant Authority or any code of practice or compliance code applicable or relevant to the Contractor's Activities,
- including, but not limited to:
- (d) the *Work Health and Safety Act 2011* (Qld);
 - (e) the *Work Health and Safety Regulation 2011* (Qld);
 - (f) codes of practice and Ministerial notices made pursuant to the *Work Health and Safety Act 2011* (Qld);
 - (g) the *Electrical Safety Act 2002* (Qld);
 - (h) the *Electrical Safety Regulation 2013* (Qld);
 - (i) the *Electrical Safety Code of Practice 2010 – Working near overhead and underground electric lines*;
 - (j) any other applicable codes of practice made pursuant to the *Electrical Safety Act 2002* (Qld);
 - (k) the *Heavy Vehicle National Law Act 2012* (Qld) and
 - (l) the *Heavy Vehicle National Law Regulations 2014* (Qld)
- as amended from time to time;
- (92) **Safety Requirements** means the direction, instruction, request or requirement of:
- (a) any Authority;
 - (b) the Principal or the Principal's Representative; or
 - (c) where clause 13.9 does not apply, any principal contractor at the Site,
- relevant to or necessary for the Contractor's compliance with the Safety Legislation, the Safety Conditions and clause 13, and including any such matter of which the Contractor has been informed orally or in writing;
- (93) **Schedule of Rates** means the schedule of rates contained in Schedule 4, if any;

- (94) **Scope of Works** means the Principal's requirements for the Works described in the documents in Schedule 13;
- (95) **Security** means:
- (a) any Performance Security;
 - (b) any Unfixed Equipment Security; and
 - (c) any Variation Retention;
- (96) **Security of Payment Act** means the *Building Industry Fairness (Security of Payment) Act 2017* (Qld) and the regulations made under or in respect of the Security of Payment Act;
- (97) **Selected Subcontractor** means a Selected Subcontractor named in the Particulars;
- (98) **Selected Subcontract Work** means the work allocated to a Selected Subcontractor in the Particulars;
- (99) **Separable Portion** means a portion of the Works which is identified as such in the Contract or determined by the Principal's Representative under clause 19.11(1);
- (100) **Separate Contractors** means any design or construction contractors or consultants engaged by the Principal's Representative (other than the Contractor) in relation to the Project;
- (101) **Site** means the places identified as the Site in the Particulars and any other lands:
- (a) made available to the Contractor by the Principal; or
 - (b) used by the Contractor,
- for the Contractor's Activities;
- (102) **Start Date** means the Start Date specified in the Particulars, if any;
- (103) **Statutory Requirements** means:
- (a) Acts, ordinances, regulations, by-laws, orders, awards and proclamations of the Commonwealth and the State or Territory in which the Contractor's Activities or any part of them is being carried out;
 - (b) certificates, licences, consents, permits, approvals and requirements of Authorities; and
 - (c) fees and charges payable in connection with the subject matter of paragraphs (a) and (b) of this definition;
- (104) **Subcontract** means any contract or agreement between the Contractor and a Subcontractor;
- (105) **Subcontractor** means any subcontractor or supplier engaged by the Contractor in connection with the Contractor's Activities;
- (106) **Subcontractor Warranty** means:

- (a) the warranties obtained pursuant to clause 14.3(1); and
 - (b) the warranties obtained pursuant to clause 14.3(2),
- as applicable;
- (107) **Tax Invoice** has the meaning given to that expression under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
 - (108) **Technical Specifications** means the technical specifications included in Schedule 14;
 - (109) **Technical Drawings** means any technical drawings included in Schedule 15, and as issued or amended by the Principal or Principal's Representative;
 - (110) **Transmission Activities** means work which is directly associated with the operation, construction and routine maintenance work (other than major overhauls) of substation plant, control systems and associated in house communications and electronics, lines and cables and trimming and removal of trees within minimum approach distances to energised conductors currently performed by employees, but this definition does not apply to work that is ancillary to this Contract or work of a specialist nature;
 - (111) **Unfixed Equipment** includes any unfixed item of equipment, plant or material which is intended to form part of the Works;
 - (112) **Unfixed Equipment Security** means an unconditional undertaking in the form and for the amount stated in the Particulars and issued by a financial institution approved by the Principal;
 - (113) **Variation** means any material change in the Works including an addition or omission in the scope, quality or character of the Works;
 - (114) **Variation Retention** means the variation retention amount stated in the Particulars, if applicable, retained by the Principal's Representative in accordance with clauses 25.2 and 28.2;
 - (115) **Wilful Misconduct** means any wrongful act or omission of a party having harmful consequences, which is done or omitted to be done intentionally, and which a reasonable person in the position of the wrongdoer would understand to be likely to result in material and harmful consequences;
 - (116) **Working Days** has the meaning given in clause 15.2;
 - (117) **Works** means those parts of the Contractor's Activities which are required in accordance with the Contract to be completed and handed over to the Principal.

1.2 Interpretation

- (1) Reference to:
 - (a) one gender includes the others;
 - (b) the singular includes the plural and the plural includes the singular;
 - (c) a person includes a body corporate;

- (d) a party includes the party's executors, administrators, successors and permitted assigns;
 - (e) a thing includes the whole and each part of it separately;
 - (f) a statute, regulation, code or other law or a provision of any of them includes:
 - (i) any amendment or replacement of it; and
 - (ii) another regulation or other statutory instrument made under it, or made under it as amended or replaced; and
 - (g) dollars means Australian dollars unless otherwise stated.
- (2) "Including" and similar expressions are not words of limitation.
 - (3) 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.
 - (4) Headings and any table of contents or index are for convenience only and do not form part of the Contract or affect its interpretation.
 - (5) A provision of the Contract must 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.
 - (6) If an act must be done on a specified day which is not a Business Day, it must be done instead on the next Business Day.
 - (7) To the maximum extent permitted by Law, (and except as otherwise expressly provided to the contrary in the Contract), all terms, conditions, promises, undertakings, representations, warranties and statements (whether express, implied, written, oral, collateral, statutory or otherwise) which would be implied or incorporated into the Contract, are excluded and the Contractor will have No Claim in relation to any of them.
 - (8) The rights, powers and remedies of the Principal provided in the Contract are in addition to those provided by Law independently of the Contract and each right, power and remedy provided in the Contract (including any right of indemnity) is additional to and not exclusive of other rights, powers or remedies provided in the Contract.

1.3 Parties

- (1) If a party consists of more than 1 (one) person, the Contract binds each of them separately and any 2 (two) or more of them jointly.
- (2) An obligation, representation or warranty in favour of more than 1 (one) person is for the benefit of them separately and jointly.
- (3) A party which is a trustee is bound both personally and in its capacity as a trustee.

2 Performance and payment

2.1 Commencement and performance

The Contractor must promptly carry out and complete the Contractor's Activities and hand over the Works in accordance with the Contract.

2.2 Payment and pricing

- (1) In consideration of the Contractor's performance of the Contractor's Activities in accordance with the Contract, the Principal shall pay the Contractor the Contract Price in accordance with the Contract.
- (2) A breakdown of the Contract Price is included in Schedule 4 for the parties' reference.
- (3) Unless the Principal has accepted a priced bill of quantities as the basis of all or part of the Contract Price, any priced bill of quantities or schedule of rates included in the Contract are included only for the following purposes, where required by the Contract or otherwise at the Principal's Representative's discretion:
 - (a) for the purpose of the valuation of Variations; and
 - (b) for providing assistance in the assessment by the Principal's Representative of the Contractor's payment claims.
- (4) The Contract Price is inclusive of all taxes (except GST), duties, levies, charges, imposts and fees of any nature and all agreed and mandatory payments, benefits and entitlements regarding the engagement of the Contractor's employees in respect of the Contract.
- (5) The Contract Price is not subject to adjustment for rise and fall including in respect of any Site allowance or entitlement or by reason of fluctuations in exchange rates or changes in the costs of labour or materials or otherwise.
- (6) Items not expressly stated as being a requirement of the Contract but which are necessary for the due and proper completion and performance of the Contractor's Activities to achieve a standard of work and a level of finish consistent with the requirements of the Contract will be taken to be included as part of the Contractor's Activities and accounted for in the Contract Price.
- (7) Unless the Contract expressly provides otherwise, all of the Contractor's obligations under the Contract are to be discharged by the Contractor at its own cost and expense.

3 Contract Documents

3.1 Contract and Contract Documents

The **Contract** is the agreement between the parties, as set out in the Contract Documents listed in the Formal Instrument of Agreement.

3.2 Non-Contract Documents

- (1) The Contractor acknowledges and agrees that:

- (a) the Non-Contract Documents were furnished solely for the Contractor's convenience and are not guaranteed; and
 - (b) it has not relied on any information provided by the Principal to the Contractor before the date of the Contract which does not form part of the Contract Documents (including the Non-Contract Documents or the information contained in the Non-Contract Documents) and has used and relied on its own endeavours and efforts to verify the accuracy and sufficiency of that information.
- (2) The Contractor warrants that it is entering into the Contract:
 - (a) solely on the basis of its own investigations and determinations as to the obligations and liabilities assumed or to be assumed by the Contractor and risks involved in performing its obligations under the Contract; and
 - (b) without relying on any representation by the Principal or any other person purporting to represent the Principal, including any representation made in the Contract Documents.

3.3 Discrepancies

- (1) The Contract Documents are to be taken as mutually explanatory of one another.
- (2) In the event of any inconsistency, ambiguity or discrepancy in or between the Contract Documents (**Document Discrepancy**) the Contractor must give written notice to Principal's Representative who will direct the Contractor as to the interpretation to be followed.
- (3) Where any Document Discrepancy exists between figured and scaled dimensions, the figured dimensions shall prevail.
- (4) In the event of a Document Discrepancy relating to a requirement in respect of quality, quantity or cost of the Contractor's Activities:
 - (a) the highest quality or standard for product, workmanship or finish applies;
 - (b) the greatest quantity applies; and
 - (c) the highest cost applies.
- (5) Otherwise, in resolving any Document Discrepancy, the Principal's Representative shall interpret the relevant documents as having the following order of precedence:
 - (a) the Formal Instrument of Agreement;
 - (b) the Particulars;
 - (c) these General Conditions for Design and Construct (excluding the schedules);
 - (d) the Scope of Work;
 - (e) the Technical Specifications and Technical Drawings;
 - (f) the Policies and Procedures; and
 - (g) the other schedules.

- (6) The Contractor shall comply with any direction given by the Principal's Representative under and in accordance with this clause 3.3 at its own cost.

3.4 Supply of documents

- (1) The Principal's Representative must, if requested by the Contractor, supply the following documents to the Contractor in electronic format:
 - (a) Scope of Works; and
 - (b) Preliminary Design.
- (2) The Contractor must supply to the Principal's Representative the documents (and the number of copies) listed in the Scope of Works and the Preliminary Design. They must be provided to the Principal's Representative on request, in a form reasonably satisfactory to the Principal's Representative, and in any event not less than 10 Business Days before the work to which they relate is commenced.

3.5 Post-Completion Documents

- (1) Within 20 Business Days after the Date of Practical Completion, the Contractor must provide to the Principal's Representative three copies of the Post-Completion Documents in the following formats (or such other format as the parties may agree):
 - (a) 2 sets in printed form; and
 - (b) 1 set in electronic form on disc in native file format which for drawings must be an AutoCAD, PDF, DWG or DXF file;

certified by the relevant Consultant preparing the Post-Completion Documents as true and correct.
- (2) If the Contractor fails to provide the Post-Completion Documents in accordance with clause 3.5(1), the Principal may upon reasonable notice to the Contractor have this work performed by others and the cost will be a debt due and payable from the Contractor to the Principal.

4 Personnel

4.1 Principal's Representative

- (1) The Principal must appoint a Principal's Representative who may give directions to the Contractor in relation to the Contractor's Activities.
- (2) The appointment of a Principal's Representative does not prevent the exercise of any duty, discretion or power by the Principal and the Principal may cancel the appointment at any time the Principal may appoint another person as the Principal's Representative and must notify the Consultant of the appointment.
- (3) Any Principal's Representative appointed by the Principal is appointed as agent of the Principal and not as an independent assessor, valuer or certifier with any quasi-judicial or quasi-arbitral function.
- (4) For the avoidance of doubt, the Principal's Representative is authorised to act on behalf of the Principal under the Security of Payment Act.
- (5) The Contractor must:

- (a) give the Principal's Representative access to the Site and the Contractor's Activities (and any other place where Contractor's Activities are being carried out or materials are being prepared or stored); and
 - (b) promptly comply with any direction given by the Principal's Representative.
- (6) Except where the Contract otherwise provides, the Principal's Representative may give a direction orally, but must, as soon as practicable, confirm it in writing. If the Contractor in writing requests the Principal's Representative to confirm an oral direction, the Contractor shall not be bound to comply with the direction until the Principal's Representative confirms it in writing.

4.2 Delegates

- (1) The Principal's Representative may from time to time appoint individuals (**Delegates**) to exercise any functions of the Principal's Representative under the Contract, provided that not more than one Delegate may be delegated the same function at the same time.
- (2) The appointment of a Delegate does not prevent the Principal's Representative from exercising any function.
- (3) The Delegate shall have the benefit of all rights and powers of the Principal's Representative under the Contract to the extent necessary to exercise its delegated function.
- (4) The Principal's Representative must promptly notify the Contractor in writing of:
 - (a) the appointment and the name of any Delegates and the functions so delegated; and
 - (b) the termination of the appointment of a Delegate.

4.3 Contractor's Representative

- (1) The Contractor must appoint as its agent and ensure that at all times during performance of the Contractor's Activities there is a Contractor's Representative present on the Site (and any other place where the Contractor's Activities are being carried out) to personally superintend the execution of the Contractor's Activities.
- (2) A Contractor's Representative is authorised to:
 - (a) act on, receive and issue instructions on behalf of the Contractor;
 - (b) negotiate on behalf of the Contractor; and
 - (c) bind the Contractor,in connection with all aspects of the Contractor's Activities.
- (3) If the Principal reasonably objects to the appointment of a Contractor's Representative, the Contractor must terminate the appointment and appoint a new Contractor's Representative.
- (4) The Contractor must not remove or replace any Contractor's Representative without the Principal's prior written approval.

- (5) Any directions or notices given by the Principal or the Principal's Representative to the Contractor's Representative are deemed to also be given to the Contractor.
- (6) Anything within the Contractor's Representative's knowledge is deemed to be within the Contractor's knowledge.

4.4 Contractor's Associates

- (1) The Contractor is solely responsible for the Contractor's Associates and for their acts and omissions, and for the termination of any Subcontract and replacement of any Subcontractor.
- (2) The Contractor must ensure that the Contractor's Associates:
 - (a) at all times conduct and present themselves in a polite and respectful manner, and so as not to offend members of the public;
 - (b) complete those parts of the Contractor's Activities required of their roles specified in the Technical Specifications;
 - (c) carry out their responsibilities and attend and complete all necessary training as specified in the Technical Specifications; and
 - (d) are competent to perform the Contractor's Activities in accordance with the Contract and Industry Best Practice.
- (3) The Contractor must ensure that the Key Personnel:
 - (a) are employed in the roles specified in the Particulars;
 - (b) remain employed in those roles at all times until the Date of Practical Completion; and
 - (c) are available at all such times as may be necessary to duly and properly perform their roles as specified in the Particulars.
- (4) The Contractor warrants that the Key Personnel (and any replacement Key Personnel) have the experience and skill to perform the relevant roles specified in the Particulars.
- (5) The Contractor must immediately notify the Principal's Representative if any person who is Key Personnel becomes seriously ill, dies or resigns.
- (6) Subject to clause 4.4(7), the Contractor must not remove or replace any of the Key Personnel without the prior approval of the Principal's Representative.
- (7) Where removal of any of the Key Personnel is pursuant to a breach of the terms of employment existing between the Contractor and the Key Personnel, the removal may occur without the Principal's Representative's approval, but any replacement must be sourced immediately and approved by the Principal's Representative.
- (8) The Principal's Representative may direct the Contractor to remove from the Site any Contractor's Associates who:
 - (a) are incompetent, negligent or guilty of misconduct in the performance of their duties;

- (b) the Principal's Representative reasonably considers undesirable for the purpose of performing the Contractor's Activities; or
- (c) fails to submit to or satisfactorily pass the Principal's safety or security requirements (to the extent that they are required for the provision of the Contractor's Activities).

4.5 Industrial Relations

The Contractor must:

- (1) take all reasonable measures to prevent the occurrence and minimise the continuance and impact of industrial matters, disputes or action which could affect progress of the Contractor's Activities, whether on or off the Site;
- (2) ensure any Enterprise Agreements (as that term is defined under the *Fair Work Act 2009* (Cth)) are complied with and remain current for the duration of the Contractor's Activities;
- (3) participate in any meeting called by the Principal's Representative to deal with industrial relations issues which could affect progress of the Contractor's Activities;
- (4) cooperate with the Principal's Representative, Subcontractors and other contractors in relation to industrial matters, disputes or action which could affect progress of the Contractor's Activities;
- (5) promptly advise the Principal's Representative of and keep the Principal's Representative fully informed about any actual or potential industrial matter, dispute or action which could affect progress of the Contractor's Activities, whether on or off the Site, together with details of the measures the Contractor proposes implementing to ensure the Contractor's Activities are nevertheless carried out in accordance with the Contract; and
- (6) following the dismissal or removal from Site or Contractor's Activities of any Contractor's Associate, give prompt written notice to the Principal's Representative of the reasons for the dismissal or removal.

4.6 Payment of employment related entitlements

- (1) The Contractor is responsible for all employment related entitlements of its employees including remuneration, leave, superannuation and redundancy, as required by Law or any applicable award or Enterprise Agreement. Unless relevant long service leave Law provides otherwise, the Contractor is also required to make long service leave contributions for its employees.
- (2) The Contractor is responsible for the payment of any required PAYG tax, fringe benefit tax, payroll tax and other statutory charges and must deduct and remit tax to or regarding any of its employees who have at any time been employed by the Contractor to undertake Contractor's Activities.
- (3) In respect of any employees of the Contractor's Associates, the Contractor must also ensure that the relevant employer does the same.
- (4) Where Core Work is being carried out under this Contract, the Contractor must ensure that its employees and all employees of any Contractor's Associates undertaking Core Work are paid rates of pay and allowances that are no less in aggregate than those which would apply to employees of the Principal.

4.7 Project Control Group

- (1) This clause 4.7 applies if indicated in the Particulars.
- (2) The Principal's Representative must ensure that the Project Control Group is established at the commencement of the Contractor's Activities.
- (3) The function of the Project Control Group is to review the progress of the Contractor's Activities.
- (4) The Project Control Group must meet at least monthly and at any other times required by the Principal's Representative at the office of, or as otherwise notified by, the Principal's Representative.
- (5) The Principal's Representative must:
 - (a) convene and chair all meetings of the Project Control Group; and
 - (b) prepare and promptly provide minutes of the meetings of the Project Control Group to the Principal and the Contractor.
- (6) The Contractor must attend each Project Control Group meeting and provide a written report to the Project Control Group on:
 - (a) the progress of the Contractor's Activities; and
 - (b) any material issues that have arisen in respect of the performance of the Contractor's Activities.
- (7) If directed by the Principal's Representative, the Contractor must arrange for the Consultants and/or Subcontractors nominated by the Principal's Representative to also attend any Project Control Group meeting.
- (8) The parties must each meet all costs of their respective personnel and involvement in the Project Control Group.
- (9) The parties acknowledge that the minutes of meeting prepared under this clause 4.7 or matters stated or discussed at any Project Control Group meeting will not constitute instructions or directions to the Contractor for the purposes of the Contract.

5 Directions, approvals and consents

5.1 Directions by Principal's Representative

- (1) The Principal's Representative may give to the Contractor any direction (orally or in writing) which it considers is required in relation to the Contractor's Activities.
- (2) Where the Principal's Representative gives a direction orally, the Principal's Representative must confirm any oral direction in writing as soon as practicable.
- (3) The Contractor must promptly comply with any direction given by or on behalf of the Principal's Representative.
- (4) If the Contractor considers that any direction of the Principal's Representative (other than a direction in respect of a Variation or a purported Variation) is given in error or the Contractor has any objection of any kind to any direction, then the Contractor must promptly notify the Principal's Representative (as applicable) in

writing before complying with the direction. This notice must state the basis upon which the Contractor considers the direction was given in error or its other objection.

- (5) The Principal's Representative may request further information if it considers that the Contractor's notice under clause 5.1(4) is not sufficient to enable the Principal's Representative to properly understand the basis or extent of the Contractor's opinion. The Contractor must provide the further information within the time specified by the Principal's Representative, or if no time is specified, within 5 Business Days after the request is made.
- (6) Within 10 Business Days after the later of receipt by the Principal's Representative of:
 - (a) the notice from the Contractor under clause 5.1(4); and
 - (b) further information requested by the Principal's Representative under clause 5.1(5) (as applicable),

the Principal's Representative may withdraw or confirm the direction previously given by it. If the Principal's Representative confirms the direction, the Contractor must comply with that direction in accordance with the Contract. If the Principal's Representative does not confirm the direction within this period, the direction will be taken to be withdrawn.

- (7) If the Contractor does not notify the Principal's Representative in writing within 10 Business Days after receipt of any direction by the Principal's Representative, then the Contractor will be taken to have waived any objection to the direction and to have accepted it and will have No Claim arising out of or in any way connected with the direction or its subject matter.

5.2 Approvals and consents

- (1) The Principal's Representative may conditionally or unconditionally give or withhold its approval or consent in its absolute discretion unless the Contract expressly provides otherwise.
- (2) Any approval or consent given by the Principal's Representative under the Contract does not:
 - (a) diminish or extinguish any of the obligations of the Contractor under the Contract;
 - (b) affect any warranty given or required to be given by the Contractor under the Contract; or
 - (c) operate as a waiver by the Principal's Representative of any right of the Principal's Representative under the Contract or at Law.

6 Contractor's warranties, design obligations and certifications

6.1 Contractor's warranties

Without limiting the generality of clause 2, the Contractor warrants to the Principal that the Contractor:

- (1) is and will remain suitably qualified, licensed and experienced to carry out the Contractor's Activities;

- (2) will exercise due skill, care and diligence and use Industry Best Practice in the execution and completion of the Contractor's Activities;
- (3) will comply with the Queensland Code;
- (4) has reviewed and familiarised itself with, and will comply with, the Technical Specifications and all Policies and Procedures;
- (5) will only engage Subcontractors and Consultants who are suitably qualified, licensed and experienced and will coordinate the activities of the Subcontractors and Consultants so that the Contractor's Activities are performed and completed in accordance with Industry Best Practice;
- (6) has examined and carefully checked any Preliminary Design and that the Preliminary Design is accurate, suitable, appropriate and adequate for the Intended Purpose;
- (7) will execute and complete the Contractor's Design Obligations and produce the Design Documents to accord with the Scope of Works and, if clause 6.4 applies, accept the novation and retain the Consultants for any work the subject of a prior contract with the Principal;
- (8) will execute and complete the Contractor's Activities in accordance with the Design Documents so that the Works, when completed will:
 - (a) be fit for their Intended Purpose;
 - (b) comply with all the requirements of the Contract and all Laws;
 - (c) comply with all relevant Australian Standards to the extent that they are not inconsistent with the requirements of the Contract and Law; and
 - (d) be in accordance with Industry Best Practice;
- (9) has examined and carefully checked the documents contained in the Contract and is satisfied with their adequacy to enable the Contractor to perform its obligations under the Contract;
- (10) has examined the Site and its surroundings and informed itself by undertaking reasonable investigations of all relevant physical conditions above and below the surface of the Site and the climatic conditions at and near the Site and has satisfied itself as to the adequacy of and suitability of the Site and the Environment for the purpose of performing the Contractor's Activities in accordance with the requirements of the Contract;
- (11) has made its own interpretations as to the difficulties of executing the Contractor's Activities and made provision for those difficulties;
- (12) has informed and will keep itself informed of the nature of the work and materials and Construction Plant necessary for the execution of the Contractor's Activities and the Works, the facilities at the Site, the times permitted by the relevant Authorities for the construction of the Works, applicable or acceptable noise levels to be emitted from or in the vicinity of the Site, the means of access to and from the Site and transport facilities for deliveries to the Site and any applicable constraints, the availability of car parking and parking for other vehicles both on and off the Site and any parking restrictions;

- (13) has obtained, or will be able to obtain, all consents, permits or authorities necessary in order for it to carry out the Contractor's Activities in accordance with the requirements of the Contract;
- (14) has informed itself as to the availability of labour and all labour conditions and conditions of employment relevant to the execution of the Contractor's Activities both on and off the Site;
- (15) has satisfied itself that the Contract Price is sufficient for the performance of all its obligations under and in connection with the Contract including all things necessary for the proper performance of the Contractor's Activities and the completion of the Works;
- (16) has satisfied itself of the Laws relevant to the Contractor's Activities and the Works, including in relation to work health and safety;
- (17) subject to the express provisions of the Contract, has made proper allowance for all matters which might impact on its ability to complete the Works or to complete the Works within any particular time, cost or quality constraints;
- (18) is a GST registered entity;
- (19) is not insolvent within the meaning of section 95A of the Corporations Act or otherwise and there is no unfulfilled or unsatisfied judgment or court order outstanding against it; and
- (20) is responsible for and bears all risk in connection with both the design and construction of the Works, including the responsibility for the co-ordination, management and interface of the processes necessary to complete the design and construction of the Works in accordance with the Contract, overcoming any buildability or constructability issues and any additional time or cost consequences resulting from any of these matters.

6.2 Design obligations

The Contractor must complete the design and documentation of the Works and in doing so, must:

- (1) comply with the requirements of the Contract and, to the extent applicable, the Technical Specifications;
- (2) ensure the Design Documents are prepared by persons with appropriate professional qualifications and membership of appropriate professional associations; and
- (3) co-ordinate the activities necessary to complete such drawings, construction programs, specifications, plans and designs necessary to fully document and complete the Works in accordance with the Project Agreement.

6.3 Submission of documents

- (1) The Contractor shall supply to the Principal's Representative the documents and number of copies:
 - (a) at the times or stages stated the Scope of Works; or
 - (b) if not stated in the Scope of Works, as reasonably directed by the Principal's Representative,

and in any event the documents shall be provided not less than 14 days before the Work described in the documents is commenced and shall be in a form satisfactory to the Principal's Representative.

- (2) Following receipt of documents from the Contractor, any direction by the Principal's Representative to vary anything in the Design Documents shall be a Variation to the Works only to the extent that the Design Documents, before such Variation, complied, or would have complied, with the Scope of Works.
- (3) Any Direction given by the Principal's Representative in accordance with this clause 6.3 will not lessen or otherwise affect the Contractor's obligation to ensure that the Works will on Practical Completion fulfil the Principal's requirements and comply in all respects with the Contract.
- (4) Neither the Principal nor the Principal's Representative shall be bound to review or comment upon the Design Documents or to check the Design Documents for errors, omissions or compliance with the requirements of the Contract. The Principal's or the Principal's Representative's receipt of, or review of, or direction in respect of, or comment on, the Design Documents and any other documents provided by the Contractor, shall not relieve the Contractor from responsibility or liability for the design and construction of the Works, the Contractor's errors or omissions or departure from the Contractor's Design Obligations or warranties given or liabilities assumed by the Contractor or other requirements of the Contract.
- (5) If the Contract provides that the Contractor must obtain the Principal's Representative's direction whether documents are suitable or are not suitable then, within the time stated in the Scope of Works or, if no time is stated, within 14 days after receipt of the documents, the Principal's Representative shall notify the Contractor that the documents are suitable or are not suitable. If the Principal's Representative notifies the Contractor that the documents are not suitable, the Principal's Representative shall give reasons why the documents are not suitable, and the Contractor shall submit new or amended documents for the Principal's Representative's direction pursuant to this clause 6.3.

6.4 Novation of Consultants

- (1) Within 10 Business Days after the Engagement Date, or such later time as may be directed by the Principal's Representative, the Contractor must deliver to Ergon Energy an executed Deed of Novation with each of the Consultants nominated in the Particulars.
- (2) The Contractor confirms that:
 - (a) the Contract Price includes an allowance for the fees remaining to be paid to the Consultants novated under this clause 6.4 as set out in the Particulars; and
 - (b) it has No Claim in relation to the payment of monies to the Consultants novated under this clause 6.4.
- (3) The Contractor must procure finalisation of all necessary Design Documents by using the Consultants novated to the Contractor in accordance with this clause 6.4.

6.5 Design certification

As a condition precedent to Practical Completion, the Contractor must provide to the Principal's Representative certification from the Design Consultants for the benefit of and in

a form that is satisfactory to the Principal's Representative that the design of the Works and the design of the Works as constructed:

- (1) are fit for their Intended Purpose;
- (2) comply with all the requirements of the Contract and all Laws; and
- (3) comply with all relevant Australian Standards to the extent that they are not inconsistent with the requirements of the Contract and any Law.

6.6 Contractor's responsibility for design

The Contractor acknowledges that it is fully responsible for the design of the whole of the Works, notwithstanding any errors, inadequacies or other defects in the Preliminary Design and any other design work carried out by or on behalf of the Principal prior to the Engagement Date.

7 Intellectual Property Rights

7.1 Warranty and indemnity

- (1) The Contractor warrants that any design, materials, documents and methods of working provided by the Contractor will not infringe any Intellectual Property Right.
- (2) The Contractor indemnifies the Principal against all losses, damages, liabilities, claims and expenses (including legal costs on a full indemnity basis) arising out of or referable to any infringement of any Intellectual Property Right belonging to any third party, by the execution of the Contractor's Activities by the Contractor and the Contractor's Associates, except to the extent such losses, damages, liabilities, claims and expenses were caused by the Wilful Misconduct or Gross Negligence of the Principal, its employees, agents or subcontractors.

7.2 Project IP and Contractor's Background IP

- (1) All Intellectual Property Rights created, discovered or coming into existence as a result of, for the purposes of or in connection with, the tendering for or executing the Contractor's Activities vest in and are owned by the Principal from the time of their creation or discovery. The Contractor must do everything necessary to perfect such vesting.
- (2) the Principal shall grant to the Contractor a royalty-free, non-exclusive licence for the term of the Contract to use (and to copy and reproduce for use by the Contractor) Intellectual Property Rights that vest in the Principal pursuant to clause 7.2(1) for the sole purpose of performing the Contractor's Activities.
- (3) All Intellectual Property Rights which:
 - (a) were created prior to tendering for or entering into the Contract;
 - (b) do not vest with the Principal pursuant to clause 7.2(1); and
 - (c) are used by the Contractor for the purposes of or in connection with the execution of the Contractor's Activities,

shall, as between the parties, remained vested with the Contractor. The Contractor grants to the Principal, from the date of the Contract, an irrevocable, transferable, perpetual, non-exclusive, assignable, royalty free, worldwide licence to use such Intellectual Property Rights for any purpose associated with the Works, including

the construction, reconstruction, completion, maintenance, repair, adjustment, operation, use and/or modification of the Works.

7.3 Principal's Background IP

- (1) Any drawings and documents provided by the Principal to the Contractor (including the Intellectual Property Rights therein) and all other Intellectual Property Rights owned by the Principal as at the date of the Contract shall remain the sole property of the Principal.
- (2) The Contractor shall take reasonable care of such drawings and documents and return such drawings and documents together with all and any copies thereof to the Principal upon reasonable request provided that the Contractor shall be entitled to retain one copy for use solely in relation to any rectification work carried out during the Defects Correction Period.
- (3) The Principal grants to the Contractor a royalty free, non-exclusive licence to use the Principal's Intellectual Property Rights in the drawings and documents provided to the Contractor and to sub-licence in favour of Subcontractors for the sole purpose of the Contractor exercising its rights and performing its obligations under the Contract.

7.4 Use of the Principal's Intellectual Property Rights

- (1) The Contractor must not use any Intellectual Property Right owned or used by the Principal or any Related Company of the Principal for any purpose whatsoever except for the performance of its obligations under the Contract.
- (2) The Contractor must not contest the title to, or in any way take any action which detrimentally affects the title to, any Intellectual Property Right owned or used by the Principal or any Related Company of the Principal.
- (3) The Principal warrants that, unless otherwise provided in the Contract, design, materials, documents and methods of working, each specified in the Contract or provided or directed by the Principal or the Principal's Representative, will not infringe any Intellectual Property Right.
- (4) The Contractor must inform the Principal immediately upon becoming aware of any infringement or threatened infringement of any Intellectual Property Right owned or used by the Principal or any Related Company of the Principal.
- (5) The Principal will have the sole right to control any demand or action in respect of any such infringement or threatened infringement and the Contractor must co-operate with the Principal by doing all acts and things which the Principal may reasonably require in respect of the infringement or threatened infringement.

7.5 Moral Rights

- (1) The Contractor must obtain from each Author in connection with the Contractor's Activities (including itself if it is not a company) a duly completed and executed Moral Rights Consent on a progressive basis and in any event before completion of the Contractor's Activities and give a copy of each Moral Rights Consent to the Principal's Representative.
- (2) The Contractor must not apply duress to any Author to complete or execute a Moral Rights Consent. The Contractor must maintain an up to date record of the names and addresses of each Author and the Copyright Material in respect of which any Moral Rights Consent has been provided and make this record available, on request, to the Principal's Representative.

- (3) The Contractor warrants that it will not, and that it will take reasonable steps to ensure that its directors, employees, agents, Subcontractors and Consultants do not, sue, enforce any claim, bring any action or exercise any remedy in respect of a breach of any person's Moral Rights in respect of any Copyright Material by the Authorised Persons.

7.6 Marketing activities of the Principal

- (1) Subject to the consent of the Contractor, which shall not be unreasonably withheld or delayed, the Principal may use the Contractor's name, corporate logo and associated images in any information, publication, document or article for publication concerning the Project in any media.
- (2) If the Contractor gives its consent under clause 7.6(1), it must give the Principal a copy of its name, corporate logo and associated images in any form reasonably required by the Principal within 2 Business Days of receiving a written request by the Principal.

8 Confidential Information

8.1 Non-disclosure

Each party must keep confidential:

- (1) the contents of the Contract;
- (2) the nature, extent or scope of the Works to be performed under the Contract;
- (3) the methods, materials or equipment or processes to be included in or to form part of the Contractor's Activities; or
- (4) any information or data that is in, or comes into the possession of either party and concerns the operations of the other party in relation to the Contract and the Contractor's Activities or the operations of the other party generally,

(Confidential Information).

8.2 Permitted disclosure

Clause 8.1 does not apply to Confidential Information to the extent that that Confidential Information is:

- (1) generally available to the public (other than as a result of wrongful disclosure by the Contractor);
- (2) required to be disclosed by:
 - (a) any Law (in which case the party must comply with clause 8.3); or
 - (b) a stock exchange listing rule;
- (3) already known to the recipient party prior to being furnished under the Contract;
- (4) made available on a non-confidential basis by a third party who is not prohibited from providing the information to the recipient;

- (5) required to be disclosed to the Principal's shareholding ministers or the Queensland State Government in accordance with the Principal's obligations as a government-owned corporation; or
- (6) required to be disclosed to give effect to, or to obtain professional advice in connection with, the Contract (in which case the disclosing party shall require the recipient of Confidential Information to keep that information confidential).

8.3 Disclosure required by Law

If a party is required by any Law to disclose Confidential Information to a third party, that party must:

- (1) notify the other party before doing so;
- (2) give the other party a reasonable opportunity to take any steps that the party considers necessary to protect the confidentiality of that information; and
- (3) notify the third party recipient that the information is confidential.

8.4 Media

The Contractor must not disclose any information concerning the Contractor's Activities for distribution through any communications media without the prior written approval of the Principal. The Contractor must refer to the Principal any enquiries from any media concerning the Contractor's Activities.

8.5 Contractor's obligations

- (1) The Contractor must:
 - (a) ensure that the Contractor's Associates and the Contractor's Related Companies are bound by and observe the confidentiality obligations imposed upon the Contractor by this clause 8; and
 - (b) take all necessary steps to enforce the confidentiality obligations imposed or required to be imposed by this clause 8.
- (2) On the earlier of a request from the Principal or the termination or expiry of the Contract, the Contractor must deliver to the Principal all materials containing or embodying the information or data referred to in clause 8.1(4) and any copies of those materials.

8.6 Obligations survive termination

The obligations contained in this clause 8 survive termination or expiry of the Contract.

9 Site

9.1 Contractor's access to the Site

- (1) The Principal must:
 - (a) on or before the relevant date stated in the Particulars, provide the Contractor with access to the Site sufficient for the Contractor to carry out the Contractor's Design Obligations and

- (b) on or before the relevant date stated in the Particulars, commence the Contractor's Activities on the Site, subject always to the Contractor's compliance with clause 9.1(3).
- (2) If the Principal has not given the Contractor access to the whole of the Site by the time required in clause 9.1(1)(b), the Principal must from time to time give the Contractor access to further parts of the Site which are available and necessary to enable the Contractor to carry out the Contractor's Activities.
- (3) Despite clause 9.1(1)(b), it is a condition of Site access, and the Contractor's continued presence on the Site, that the Contractor must:
 - (a) comply with its obligations under clause 24.6 to provide evidence that insurance has been effected and maintained;
 - (b) comply with clauses 11, 12 and 13;
 - (c) obtain any necessary consents or approvals from all Authorities and private occupiers as required to have access to or commence the Works on the Site;
 - (d) comply with all restrictions and procedures governing access to land which apply to the Principal or its employees or agents under the *Electricity Act 1994* (Qld), including giving any notices otherwise required to be given by the Principal;
 - (e) ensure that private occupiers are not inconvenienced by the Works being performed;
 - (f) ensure that the Contractor's Associates on Site carry and produce upon request identification as employees of the Contractor and, if provided by the Principal, the Principal identification cards;
 - (g) ensure that any private vehicle being used on Site is identified by signs or similar as a Contractor's vehicle or, if required, has approved Principal signs attached; and
 - (h) arrange at its own cost any traffic control or traffic diversions on Site or as necessary to have access to the Site.
- (4) A failure of the Principal to provide the Contractor with access to the Site in accordance with clause 9.1 (except to the extent permitted by clause 9.1(3)) will:
 - (a) not be a breach of the Contract unless the failure continues for a period longer than the period stated in the Particulars; and
 - (b) entitle the Contractor to claim an Extension of Time under clause 19.4,and despite clause 19.8, the Contractor will otherwise have No Claim in connection with the failure to provide access to the Site.
- (5) The Contractor's right to access to the Site under this clause 9.1 is not a right of possession (either on an exclusive or non-exclusive basis) and the Contractor must share access to the Site with others.

9.2 Existing Facilities at the Site

- (1) The Contractor acknowledges that:

- (a) Existing Facilities may be present at the Site; and
 - (b) the Principal requires the continued operation and use of any Existing Facilities for the duration of the Contractor's Activities.
- (2) Subject to clause 9.3, the Contractor must:
- (a) take all available steps not to disrupt or interfere with the operations being undertaken on, from or within the Existing Facilities;
 - (b) without limiting paragraph (a), not interfere with the free movement of traffic (vehicular or pedestrian) into and out of, adjacent to, around on or about the Site or the Existing Facilities or block or impair access to any premises, car parks, loading bays, roadways, pedestrian ways or other facilities associated with the Existing Facilities;
 - (c) not use or allow any Subcontractor (or its agents or employees) to use, whether for parking or any other purpose, any part of the Existing Facilities other than as expressly allowed by the Contract or as directed by the Principal's Representative from time to time;
 - (d) comply with the Principal's Representative's directions as to:
 - (i) the times of day and days of the week that any particular Existing Facilities may be used or not used by the Contractor, Subcontractors or their agents or employees or when use of them is restricted; or
 - (ii) any part of the Existing Facilities the use of which is prohibited by the Contractor, Subcontractors or their agents or employees;
 - (e) if required by the Principal's Representative, and without prejudice to any other rights the Principal may have in respect of the damage to the Existing Facilities, immediately repair and make good at its own cost any damage to the Existing Facilities arising from or in connection with the Contractor's Activities to the Principal's Representative's satisfaction and in accordance with the Principal's Representative's requirements; and
 - (f) program and co-ordinate all Contractor's Activities so as to minimise the effect that the carrying out of the Contractor's Activities has on the Existing Facilities.

9.3 Interference with Existing Facilities

If interference with or disruption to operations at the Existing Facilities cannot be avoided, the Contractor must:

- (1) give the Principal's Representative forty-eight (48) hours prior written notice of any proposed interference with services to the Existing Facilities and must not carry out the Contractor's Activities likely to cause interference until authorised in writing by the Principal's Representative;
- (2) ensure that, where possible, any interference with services to the Existing Facilities takes place outside the trading or operating hours of the Existing Facilities;
- (3) provide at the Contractor's cost such alternative temporary services as are required to ensure that there is no disruption to the trading or operations of the Existing Facilities;

- (4) if required by the Principal's Representative, and without prejudice to any other rights the Principal may have in respect of the damage to the Existing Facilities, immediately repair and make good at its own cost any damage to the services to the Existing Facilities arising from or in connection with the Contractor's Activities, to the Principal's Representative's satisfaction and in accordance with the Principal's Representative's requirements, except to the extent that the relevant damage is caused by the Wilful Misconduct or negligent act or omission of the Principal, the Principal's Representative or their respective employees, agents or contractors.

9.4 Repair of Existing Facilities, including live power lines

- (1) Without prejudice to any other provision of the Contract, where the Contractor damages Existing Facilities carrying or capable of carrying live power, including but not limited to power lines, the Contractor must:
 - (a) immediately notify the Principal's Representative;
 - (b) obtain the Principal's Representative's instructions regarding the repair of such Existing Facilities; and
 - (c) where instructed to do so, engage a third party nominated by the Principal's Representative to repair the Existing Facilities capable of carrying live power.
- (2) All repairs in accordance with this clause 9.4 will be at the Contractor's cost.
- (3) If the Contractor fails to promptly comply with its obligations under clause 9.4(1), the Principal may engage others to carry out any necessary repair works, and any costs incurred by the Principal in doing so will be a debt due from the Contractor to the Principal.

9.5 Access to the Site for the Principal and others

The Principal, the Principal's Representative, and the Principal's employees, agents, consultants, Separate Contractors and independent contractors engaged by other parties may at any time have access to the Site for any purpose, including to carry out work other than the Contractor's Activities provided that the reasonable requirements of the Contractor in relation to safety and security are complied with while accessing the Site.

9.6 Coordination with Separate Contractors

- (1) The Contractor must, in executing the Contractor's Activities:
 - (a) consult, liaise and cooperate in good faith with the Separate Contractors, and agree such timing and interface protocols as are necessary so as to avoid delay or disruption to the Contractor's Activities or the Project Works;
 - (b) carry out the Contractor's Activities in accordance with any agreed protocols so as to avoid delay or disruption to the Contractor's Activities or the Project Works; and
 - (c) coordinate the Contractor's Activities with the Project Works, utilising Industry Best Practice, to ensure compliance with all applicable Laws.
- (2) The Contractor must:

- (a) supply promptly to the Principal's Representative all documents, drawings and information in the Contractor's possession or control relating to the coordination of the Contractor's Activities with the Project Works;
 - (b) promptly notify the Principal's Representative if it identifies any actual or potential conflict that may arise, or which has arisen, between the Contractor's Activities and the Project Works;
 - (c) attend all meetings necessary to devise solutions to achieve the coordination of the Contractor's Activities with the Project Works, including meetings convened by the Principal's Representative in relation to the Project Works;
 - (d) if and when required, provide access to the Separate Contractors to the Site and the Works to execute Project Works; and
 - (e) provide facilities, services and Site induction to the Separate Contractors to execute Project Works, to the extent stated in the Scope of Works.
- (3) The Contractor has No Claim in connection with any loss or delay caused by an act, default or omission of any of the Separate Contractors.

9.7 Work on Adjoining Property

- (1) In this clause 9.7 and clause 9.8, **Adjoining Property** means any land adjoining, neighbouring or in the vicinity of the Site, or so situated in relation to the Site as to be exposed to a significant risk of damage from the Contractor's Activities.
- (2) Where the nature of the Contractor's Activities requires that the Contractor execute work under, upon or to or in the airspace above an Adjoining Property, then the Contractor must:
- (a) at its own cost, obtain the appropriate permission, which may be subject to conditions as to working space, periods of time, hours of work or otherwise; and
 - (b) comply with all conditions attaching to the appropriate permission and, in any event, make good at its own cost and with the least possible delay (or, at the option of the owner of the Adjoining Property, meet the cost of making good) any damage to the Adjoining Property arising out of its operations.
- (3) Without limiting clause 9.7(2), the Contractor must immediately notify the occupiers and owners of an Adjoining Property of any damage to the Adjoining Property, or damage to any property or thing on the Adjoining Property, occurring in connection with the Contractor's Activities.

9.8 Access to Adjoining Property

The Contractor must make arrangements for any access to, over, under, upon or for use of any Adjoining Property (including any air space rights required in connection with the Contractor's Activities) which it may require for any purpose and accepts liability for and indemnifies the Principal in respect of any consequences of any failure of the Contractor to make the required arrangements, including any loss, expense or damage suffered or incurred by the Principal directly or indirectly, as a result of any:

- (1) use of any Adjoining Property;
- (2) failure on the part of the Contractor to make arrangements for access; or

- (3) any claim made against the Principal by any owner of Adjoining Property or other third party,

resulting from any of the Contractor's Activities.

9.9 Discovery of items on the Site

- (1) If the Contractor or the Contractor's Associates discovers any item of mineralogical, historical, anthropological or archaeological value, then, as between the parties, the item will be the property of the Principal.
- (2) The Contractor must:
 - (a) protect and secure the item;
 - (b) not move the item;
 - (c) notify the Principal's Representative immediately upon discovery.

10 Latent conditions

10.1 Alternative applying

The Alternative specified in the Particulars applies.

Alternative 1 – Contractor takes risk of Latent Conditions

10.2 Definition of Latent Condition

- (1) In this clause 10, where Alternative 1 applies, **Latent Conditions** are:
 - (a) physical conditions on the Site or its surroundings, including artificial things but excluding weather conditions and the effects thereof, which differ materially from the physical conditions which should have been anticipated by an experienced and competent contractor in the position of the Contractor at the date of the Contract if the contractor had:
 - (i) examined all information made available in writing by the Principal to the Contractor before the date of the Contract;
 - (ii) examined all information relevant to the risks, contingencies and other circumstances relating to the Site, its surroundings and the Contractor's Activities and obtainable by making of enquiries; and
 - (iii) inspected and carried out all possible investigations in relation to the Site and its surroundings; and
 - (b) any other conditions which the Particulars specifies to be Latent Conditions.

10.3 Notification

- (1) The Contractor, upon becoming aware of a Latent Condition while carrying out the Contractor's Activities, must immediately, and where possible before the Latent Condition is disturbed, give the Principal's Representative written notice of the general nature of the Latent Condition.

- (2) If required by the Principal's Representative, the Contractor must provide to the Principal's Representative a report on the Latent Condition, including its impact on the Contractor's Activities and the Contractor's plan for dealing with, removing or overcoming the Latent Condition and its effects.

10.4 Contractor's assumption of risk of Latent Conditions

- (1) The Contractor assumes the risk of, and must perform all work required to overcome the effects of, any Latent Condition encountered by the Contractor.
- (2) The Contractor has No Claim in connection with any delay to the Contractor's Activities or any increased cost, loss or expense caused by or arising out of:
 - (a) any Latent Condition encountered by the Contractor; or
 - (b) any omission or inaccuracy in the information made available by the Principal's Representative to the Contractor in relation to the Site and its surroundings before the date of the Contract.

Alternative 2 –Principal takes risk of Latent Conditions (subject to Contractor's due diligence)

10.5 Definition of Latent Condition

- (1) In this clause 10, where Alternative 2 applies, **Latent Conditions** are:
 - (a) physical conditions on the Site or its surroundings, including artificial things but excluding weather conditions and the effects thereof, which differ materially from the physical conditions which should have been anticipated by an experienced and competent contractor in the position of the Contractor at the date of the Contract if the contractor had:
 - (i) examined all information made available in writing by the Principal to the Contractor before the date of the Contract;
 - (ii) examined all information relevant to the risks, contingencies and other circumstances relating to the Site, its surroundings and the Contractor's Activities and obtainable by making of enquiries; and
 - (iii) inspected and carried out all possible investigations in relation to the Site and its surroundings; and
 - (b) any other conditions which the Particulars specifies to be Latent Conditions,

which cannot be overcome by the Contractor by engineering or other techniques in accordance Industry Best Practice.

10.6 Notification

- (1) Upon becoming aware of a condition that the Contractor believes to be a Latent Condition, the Contractor must immediately and where possible before the Latent Condition is disturbed, give the Principal's Representative written notice of the condition.
- (2) Within 5 Business Days of becoming aware of a condition that the Contractor believes to be a Latent Condition, the Contractor must provide to the Principal's Representative a report on the condition, specifying:

- (a) the condition encountered and why it is a Latent Condition;
 - (b) the additional work, resources, time and cost which the Contractor estimates to be necessary to deal with, remove or overcome the effects of the condition together with the steps the Contractor intends to take to deal with, remove or overcome the effects of the condition;
 - (c) the expected delay in achieving Practical Completion; and
 - (d) any other details required by the Principal's Representative.
- (3) If the Contractor fails to comply in time with the notification and reporting requirements in this clause 10.6 the Contractor has No Claim in any way connected with the Latent Condition and must perform all work required to overcome the effects of the Latent Condition at its own cost.

10.7 Extension of Time and cost

- (1) Delay caused by a Latent Condition may entitle the Contractor to an Extension of Time under clause 19.4.
- (2) If a Latent Condition necessarily causes the Contractor to carry out additional work which the Contractor could not reasonably have anticipated at the date of the Contract, a valuation shall be made under clause 17.3 in respect of all necessarily incurred direct cost excluding any amount for profit and attendance.
- (3) Where pursuant to this clause 10.7 a valuation is to be made under clause 17.3, regard shall not be had to the value of additional work carried out, Construction Plant used or cost incurred before the date on which the Contractor gave the written notice required under clause 10.6(1).

11 Laws

11.1 Compliance with Laws

- (1) The Contractor must, in carrying out the Contractor's Activities:
 - (a) comply with and satisfy all relevant Laws applicable to the Works or the performance of the Contractor's Activities, save for those expressly specified in the Particulars as being the responsibility of the Principal;
 - (b) ensure that the Contractor's Associates engaged in connection with the Contractor's Activities comply with and satisfy all Laws applicable to the Contractor's Activities; and
 - (c) not cause the Principal to be in breach of any Law.
- (2) Without limiting clause 11.1(1), the Contractor is responsible for obtaining and maintaining all consents, licences, permits or authorisations of Authorities required for or in connection with the execution of the Contractor's Activities, save for those expressly specified in the Particulars as being the responsibility of the Principal.
- (3) The Contractor must promptly provide to the Principal's Representative copies of all consents, licences, permits or authorisations obtained by the Contractor.
- (4) The Contractor must promptly notify the Principal's Representative in writing if:

- (a) the Works, the Contract or the requirements of the Project do not or will not comply with any Law; or
- (b) any necessary consents, licences, permits or authorisations have not been obtained or are delayed,

and must state in the notice what remedial action the Contractor recommends should be taken.

- (5) The Contractor must ensure that no director, employee or agent of the Contractor gives or accepts any commission, fee, rebate, gift or entertainment of significant value from or enter into any business agreement with any director, employee or agent of the Principal other than as a representative of the Principal or in the ordinary and proper course of business between any of those parties.

11.2 Changes in Law

If a new Law, a change in a Law, or a change in interpretation of a Law:

- (1) requires a change to the Works;
- (2) comes into effect after the date of the Contract;
- (3) despite the Contractor's best endeavours, causes the Contractor to incur more or less cost or time than otherwise would have been incurred or expended;
- (4) is not a Law imposing or amending a tax or a rate of tax; and
- (5) could not have been reasonably anticipated by the Contractor exercising Industry Best Practice as at the date of the Contract,

then the Contractor may claim a Variation by submitting a notice complying with clause 17.2, and by otherwise complying with clause 17.

11.3 Taxes, duties, levies

The Contractor must pay any fees, charges, levies, duties and taxes imposed by any Authority in connection with the Works (including, where applicable, for workplace health and safety loss in relation to the Works).

11.4 Privacy obligations

- (1) The Contractor must comply with the Privacy Laws in relation to any Personal Information disclosed to or collected or accessed by the Contractor in the course of performing the Contractor's Activities.
- (2) In addition to its obligations under Privacy Laws, the Contractor agrees to:
 - (a) process, use, disclose and allow access to the Personal Information only for the purposes of and to the extent required in performing the Contractor's Activities or otherwise on the written instructions of the Principal;
 - (b) not disclose or allow access to the Personal Information outside Australia, without the Principal's prior written consent;

- (c) comply with any privacy code or policy which has been adopted by the Principal and notified to the Contractor, to the extent that code or policy is not inconsistent with obligations under the Privacy Laws;
 - (d) comply with any reasonable directions or recommendations of the Principal in relation to privacy issues, to the extent that they are not inconsistent with obligations under the Privacy Laws;
 - (e) promptly notify the Principal in writing of any suspected or actual breach of any Privacy Law or of this clause 11.4 or 11.5 by the Contractor or any of its employees, Consultants or Subcontractors (including any misuse or unauthorised access to or disclosure of the Personal Information by any third party);
 - (f) ensure that any of the Contractor's employees, Consultants or Subcontractors who deal with Personal Information for the purposes of the Contract are made aware of and comply with the obligations of the Contractor set out in this clause 11.4 or 11.5; and
 - (g) ensure that any Subcontract contains provisions to ensure that the Consultant or Subcontractor has the same awareness and obligations as the Contractor has under this clause 11.4 or 11.5, including these requirements in relation to subcontracts.
- (3) This clause 11.4 will continue to apply after expiration or termination of this Contract.

11.5 Data security

- (1) The Contractor must:
- (a) do all things that a reasonable and prudent entity would do to ensure that the Personal Information disclosed to or collected or accessed by the Contractor in the course of performing the Contract is protected at all times from unauthorised access, disclosure or use by a third party or misuse, damage or destruction by any person;
 - (b) provide protective measures for the Personal Information that:
 - (i) are no less rigorous than accepted industry standards;
 - (ii) provide only authorised users access to the Personal Information; and
 - (iii) are designed to minimise the opportunity for unauthorised access to, or use, misuse or loss of, the Personal Information;
 - (c) comply with all security regulations or procedures or directions as are specified in the Contract or agreed in writing from time to time regarding any aspect of security of, or access to, the Personal Information.
- (2) Without limiting any other obligation of the Contractor under clause 11.4 or 11.5 the Contractor must notify the Principal promptly in writing of any suspected, threatened or actual vulnerability or defect arising in relation to any computer software, equipment or network used by the Contractor, or provided to the Principal, in connection with the performance of the Contract.
- (3) The Contractor must:

- (a) promptly provide written notice to the Principal as soon as it becomes aware of a breach or suspected breach of the Privacy Laws or any data breach or incident (or suspected data breach or incident) which may affect individuals to whom the Personal Information relates or which may require notification or some other action under the Privacy Laws (**Data Breach**), specifying the nature and details of the Data Breach, the type of Personal Information potentially affected and recommendations for any actions to be taken by the Principal and/or affected individuals in response to the Data Breach;
 - (b) carry out a reasonable and expeditious assessment, which must be completed within any timelines contemplated by the Privacy Laws and such that the Principal have a reasonable period of time to appropriately review and act on that assessment before being required to so act under the applicable Privacy Laws, of whether a breach or incident has actually occurred or there are reasonable grounds to believe the same;
 - (c) promptly discuss in good faith the results of the assessment with the Principal, keep the Principal updated if there are any changes to the facts, details, recommendations or assumptions previously provided to the Principal (including under clauses 11.5(3)(a) and 11.5(3)(b)) and otherwise comply with any directions issued by the Principal in respect of any preventative, remedial or other action to be taken by the Contractor, including as to whether the Contractor or the Principal will be the party responsible for notifying applicable regulators and the relevant affected individuals of the Data Breach;
 - (d) where the parties determine that the Contractor will be the party responsible for fulfilling any relevant notification requirements under the Privacy Laws (with the final decision to be at the Principal's sole discretion), comply with all such requirements;
 - (e) in any event, obtain the Principal's approval prior to issuing any notification statements to the applicable regulators and affected individuals in accordance with the Privacy Laws;
 - (f) promptly take appropriate remedial action to mitigate any loss or interference with privacy flowing from the Data Breach, prevent any further serious harm to affected individuals and protect the affected Personal Information from further unauthorised access, misuse, modification or disclosure; and
 - (g) without limiting clauses 11.5(3)(a) to 11.5(3)(f) (inclusive), cooperate with and provide all reasonable assistance to the Principal for the purpose of ensuring that the Principal complies with the Privacy Laws and complies with any directions or the requirements of any applicable regulator in dealing with the Data Breach.
- (4) This clause 11.5 will continue to apply after expiration or termination of this Contract.

12 Environmental obligations

12.1 Environmental protection

The Contractor must, and must ensure that all Contractor's Associates, in carrying out the Contractor's Activities:

- (1) comply with all Laws, all approvals and the requirements of Authorities and all other requirements of the Contract (including the Policies and Procedures) relating to or for the protection of the Environment;
- (2) not pollute, contaminate or otherwise damage the Environment; and
- (3) make good any Pollution, Contamination or damage to the Environment arising out of, or in any way connected with, the Contractor's Activities whether or not in compliance with all Laws, the requirements of Authorities or other requirements of the Contract relating to the Environment.

12.2 Environmental management plan

- (1) In this clause 12.2, **Approved Environmental Management Plan** means:
 - (a) an environmental management plan approved by the Principal during the tender process (if a tender process took place); or
 - (b) an environmental management plan approved by the Principal under clause 12.2(3).
- (2) Where an environmental management plan has not been approved prior to entering into the Contract, the Contractor must, prior to being given access to the Site, submit for approval by the Principal's Representative a draft environmental management plan which is compliant with the Principal's environmental management plan requirements in the Scope of Works.
- (3) The Principal's Representative must, within 5 Business Days after it is submitted, review the draft environmental management plan submitted by the Contractor and either notify the Contractor in writing of its approval or rejection, including its reasons for rejection (if applicable).
- (4) If the plan is rejected, the Contractor must submit a revised draft environmental management plan for approval within 10 Business Days after notification of rejection by the Principal's Representative.
- (5) The Principal's Representative may, in its absolute discretion, allow access to the Site whilst the draft environmental management plan is being finalised for approval under clause 12.2(2), but is under no obligation to do so, and may do so on conditions.
- (6) If the draft environmental management plan is not finalised and approved within 20 Business Days after first being submitted, the Principal's Representative may suspend the whole or any part of the Works upon giving written notice, and until such time as there is an Approved Environmental Management Plan. The Contractor shall have No Claim in connection with any such suspension.
- (7) The Contractor must, unless otherwise notified in writing by the Principal's Representative, comply at all times with the Approved Environmental Management Plan, and must ensure that all of its Subcontractors also comply with the Approved Environmental Management Plan.

13 Work health and safety

13.1 Concurrent work health and safety obligations of Contractor

The Contractor must, so far as is reasonably practicable, provide and maintain a working environment that is safe and without risk to health for persons carrying out or affected by the Contractor's Activities.

13.2 Health and safety compliance

- (1) Whilst performing the Contractor's Activities, the Contractor:
 - (a) must, and must ensure that the Contractor's Associates, comply with all relevant Safety Legislation, Safety Conditions and Safety Requirements;
 - (b) in the case of Safety Requirements, must ensure that they are complied with immediately upon receipt;
 - (c) warrants that it is familiar with and has the capability and resources to comply with all relevant Safety Legislation and Safety Conditions; and
 - (d) must perform all relevant functions and fulfil all relevant duties under all relevant Safety Legislation of an employer or as otherwise applicable to the role of the Contractor.
- (2) The Contractor must (and must ensure that all Contractor's Associates) at all times identify and exercise all necessary precautions for the health and safety of all persons including its employees, all Subcontractor's employees, the Principal's employees and members of the public who may be affected by the Contractor's Activities.
- (3) The Contractor must, immediately upon demand by the Principal's Representative, provide the Principal's Representative with access to the Site and all equipment and records in order for the Principal's Representative to undertake monitoring and inspection activities pursuant to the Safety Conditions.
- (4) If clause 13.9 does not apply, then the Contractor must provide the Principal's Representative with copies of all notices and correspondence of any nature concerning the Safety Legislation within five (5) Business Days of the dispatch and/or receipt by the Contractor of any such notice or correspondence.
- (5) All costs associated with complying with this clause 13, including but not limited to attending inductions, briefings and training, will be met by the Contractor. The Contractor acknowledges that such costs have been included in the Contract Price.
- (6) Without limiting or waiving any other rights of the Principal under the Contract, if the Contractor breaches any of the provisions in this clause 13:
 - (a) the Principal's Representative may require the Contractor to take immediate action to remedy the breach;
 - (b) the Contractor shall have No Claim in connection with the remedy of any such breach; and
 - (c) if for any reason the Contractor fails to remedy such a breach after reasonable notification by the Principal's Representative, the Principal may remedy the breach, or have others remedy the breach, and the cost

incurred by the Principal in doing so shall be a debt due and payable by the Contractor to the Principal.

- (7) The Principal's Representative may direct the Contractor to suspend the Works until such time as the Contractor satisfies the Principal's Representative that the Works will be resumed in conformance with the provisions set out in this clause, and the Contractor shall have No Claim in respect of any such suspension.
- (8) The Principal is not required to make any payments during the period of any suspension under clause 13.2(7).

13.3 Consultation, co-operation and co-ordination

The Contractor must, so far as is reasonably practicable, consult, co-operate and co-ordinate activities with the Principal, any suppliers or contractors or other persons engaged in or associated with the Project:

- (1) to achieve effective co-ordination of activities to ensure optimal health and safety risk management; and
- (2) to enable the Principal and the Contractor and other relevant parties to comply with their respective obligations under all relevant Safety Legislation.

13.4 Provision and maintenance of Construction Plant

The Contractor must supply all Construction Plant necessary to ensure that all the Contractor's Activities are carried out in a manner that is safe and without any risk to health. The Contractor must ensure that all Construction Plant supplied by it is maintained in a condition that is safe and without risk to any person.

13.5 Contractor's safety reporting and investigation obligations

The Contractor must:

- (1) immediately advise the Principal's Representative in writing of any act, fact or circumstance associated with the Contractor's Activities or any other person relevant to the ability of the Contractor to carry out the Contractor's Activities in a manner that is safe and without any risk to health;
- (2) immediately notify the Principal's Representative of any accident, injury, property or environmental damage which occurs during the carrying out of or is associated with any part of the Contractor's Activities, and, within two days of any such incident, provide a written report to the Principal's Representative containing complete details of the incident, including the result of any investigation into its cause and any recommendation or strategy for prevention of a recurrence;
- (3) provide the Principal's Representative with copies of all notices and correspondence of any nature concerning the Safety Legislation within 24 hours of the dispatch and/or receipt by the Contractor of any such notice or correspondence;
- (4) provide in writing, with each monthly report, the total hours worked during the previous month on the Site by its staff including supervisory and administrative staff and also separately by its Subcontractors; and
- (5) maintain records and make reports concerning the health, safety and welfare of people, and damage to property, as the Principal's Representative reasonably requires.

13.6 Investigations

- (1) Without limiting the Contractor's obligations under clause 13, the Principal may conduct an investigation into any incident notified to the Principal under clauses 13.5(1) and 13.5(2).
- (2) Where the Principal undertakes an investigation under clause 13.6(1), the Contractor must do all things necessary to facilitate the conduct of an investigation by the Principal, including:
 - (a) providing the Principal with access to the Site;
 - (b) to the extent permitted by Law, providing copies of all documents and records requested by the Principal relevant to the incident and ensure that its Consultants and Subcontractors do the same (including any correspondence with any Authorities); and
 - (c) taking all steps necessary to facilitate interviews or meetings with the Contractor's employees for the purposes of investigating the incident.

13.7 Contractor provision of information

- (1) The Contractor must, and must ensure that the Contractor's Associates:
 - (a) obtain and consider the implications of information regarding the safe use of, and the risk to health and safety of all persons from Construction Plant or substances supplied under the Contract or used for the Contractor's Activities;
 - (b) as far as its reasonably practicable, supply those persons using or exposed to such plant or substances with adequate health and safety information concerning the Construction Plant or substances; and
 - (c) ensure that any such Construction Plant or substances are safe when properly used or stored.
- (2) The Contractor must promptly notify the Principal's Representative of all relevant information which becomes known to the Contractor concerning the safe use, supply, maintenance or storing of the Construction Plant or substances, including as required by Safety Legislation.

13.8 Unsafe distances

- (1) Without limiting clause 13.2, the Contractor warrants that:
 - (a) it is aware of and has familiarised itself with the Principal's procedure for approving 'authorised persons' pursuant to the *Electrical Safety Regulation 2013* (Qld);
 - (b) sufficient employees of the Contractor or other of the Contractor's Associates (or the Contractor, where self-employed), have been approved as 'authorised persons' by the Principal pursuant to the *Electrical Safety Regulation 2013* (Qld) so that the Contractor may safely and efficiently carry out the Contractor's Activities in accordance with the Safety Legislation, and without causing the Principal to breach the Safety Legislation; and

- (c) it shall do all things within its control to ensure that no person, plant or thing comes within an unsafe distance of an overhead or underground electric line, as contemplated in section 68 of the *Electrical Safety Regulation 2013* (Qld), in the course of or as a result of the Contractor's Activities.
- (2) The Contractor must immediately notify the Principal if:
 - (a) any of the Contractor's Associates approved as 'authorised persons' by the Principal pursuant to the *Electrical Safety Regulation 2013* (Qld) are removed from or replaced in performing the Contractor's Activities; or
 - (b) any person comes within an unsafe distance of an overhead or underground electric line, as contemplated in section 68 of the *Electrical Safety Regulation 2013* (Qld).

Optional additional clauses – Contractor appointed principal contractor

Clauses 13.9 to 13.11 apply where indicated in the Particulars.

13.9 Appointment of the Contractor as principal contractor

- (1) Without limiting clause 13.2, the Principal:
 - (a) appoints the Contractor as principal contractor, pursuant to the Safety Legislation, for the Contractor's Activities; and
 - (b) authorises the Contractor to manage and control the Site to the extent necessary to enable the Contractor to discharge the responsibilities and duties imposed on a principal contractor under the relevant Safety Legislation.
- (2) The Contractor must:
 - (a) comply with all obligations owed by a principal contractor under the Safety Legislation; and
 - (b) attend to all Statutory Requirements to ensure it is and remains appointed as principal contractor.

13.10 Appointment unaffected

The Contractor acknowledges that it has the responsibility and authority for the management and control of the matters referred to in clause 13.11 and the Contractor's responsibility and authority remains unaffected despite any approval, authorisation, direction, instruction, order, permission, request or requirement of the Principal or the Principal's Representative or the operation of any other clause of the Contract.

13.11 Control and management of risks

- (1) The Contractor has, and must maintain, the sole management and control of:
 - (a) the Site (and must ensure that the Site and the means of entering and leaving the Site are at all times safe and without any risk to health);
 - (b) the manner in which the Contractor's Activities are carried out and completed; and

- (c) all matters arising from or connected with the carrying out and completion of the Contractor's Activities that give rise or may give rise to any risk to health or safety.
- (2) The Contractor must, before carrying out any of the Contractor's Activities:
 - (a) undertake an assessment of the risks associated with carrying out the Contractor's Activities and identify and implement appropriate measures to control all such risks; and
 - (b) provide details of the risk assessment and evidence of implementation of adequate risk control measures to the Principal's Representative, upon reasonable request by the Principal's Representative.

14 Subcontracting

14.1 Subcontracting

- (1) The Contractor must not engage any subcontractor in connection with the Contractor's Activities without first obtaining the prior written consent of the Principal's Representative (which may not be unreasonably withheld but may be conditional).
- (2) The subcontracting of any work pursuant to this clause 14 does not relieve the Contractor from any liability or obligation under the Contract.
- (3) The Contractor shall ensure that any subcontract entered into by the Contractor or a Subcontractor with a subcontractor for the carrying out of any work comprised in the Contractor's Activities includes:
 - (a) a requirement that the Subcontractor shall not assign the subcontract, nor allow further subcontracting, without the Contractor's written consent;
 - (b) provisions consistent with the terms of the Contract;
 - (c) provision that if the Subcontract is terminated, or the whole or part of the work remaining to be completed under the Contract is taken out of the hands of the Contractor by the Principal, the Contractor and the Subcontractor shall, after the Principal has done so, promptly execute a deed of novation in the form set out in Schedule 10. For the purpose of effecting such novation only, the Contractor hereby irrevocably appoints the Principal to be the Contractor's attorney with authority to execute such documents as are necessary to give effect to the novation and to bind the Contractor accordingly;
 - (d) provisions which oblige the Subcontractor to assign or novate to the Principal any other rights, warranties and commitments relating to the Works which the Subcontractor may have acquired in its dealing with third parties in connection with the Works (excluding the Contractor's rights to the benefit of those warranties and commitments);
 - (e) a provision that the Subcontractor will effect and maintain insurance on the same terms as are required of the Contractor under the Contract unless the Principal's Representative approves a reduced level of cover having regard to the nature and scope of the Work to be completed by the Subcontractor; and

- (f) a provision requiring the Subcontractor to comply with all Safety Legislation and Safety Requirements and each of the obligations of the Contractor under clause 13 relevant to the Subcontractor in connection with the Works.

14.2 Selected Subcontractors

- (1) The Contractor must promptly, and in any event within the time directed by the Principal's Representative, engage the Selected Subcontractors (if any) for the Selected Subcontract Work.
- (2) Selected Subcontractors must be engaged by the Contractor on the terms specified by the Principal, if provided in a schedule to the Contract, or otherwise in a manner consistent with clause 14.1(3).
- (3) The Contractor must give written notice to the Principal's Representative of each such engagement.
- (4) If the Contractor fails to engage a Selected Subcontractor for Selected Subcontract Work in accordance with this clause 14.2, or if no Selected Subcontractor will carry out the Selected Subcontract Work, then, without limiting any other rights of the Principal, the Principal's Representative may:
 - (a) direct that the Contractor prepare and provide to the Principal's Representative a list of other possible subcontractors for the Selected Subcontract Work in question; and/or
 - (b) direct that another subcontractor (which need not be on any list prepared by the Contractor) is the Principal's Selected Subcontractor for the Selected Subcontract Work, in which case the newly selected subcontractor shall be a Selected Subcontractor for the purposes of this clause 14.2.
- (5) The Contractor must not suspend, terminate or vary a Subcontract with any Selected Subcontractor without the Principal's Representative's prior written approval (which must not be unreasonably withheld).

14.3 Subcontractor Warranties

- (1) Before the Date of Practical Completion and as a condition precedent to Practical Completion, the Contractor must provide to the Principal's Representative completed and executed original Subcontractor Warranties from the appropriate Subcontractors in the form set out in Schedule 8 for the warranty items and durations listed in Schedule 16.
- (2) Where no specific warranty is required to be provided for a particular item, the Contractor must ensure that a warranty is provided which is similar in substance to those commonly provided or available for similar items, or as offered on a standard basis by the subcontractor or manufacturer.
- (3) The Contractor must ensure that each Subcontractor Warranty:
 - (a) includes the Principal (or such other entity as nominated by the Principal) as a named beneficiary; and
 - (b) is assigned or novated, as applicable, to the Principal (or such other entity as nominated by the Principal), or is obtained in the name of the Principal (or such other entity as nominated by the Principal) directly from the party from whom the warranty was obtained; and

- (c) permits the Principal (or such other entity as nominated by the Principal) to assign or otherwise deal with the warranty in its sole discretion.
- (4) Nothing in this clause 14.3 will relieve the Contractor of any of its obligations under the Contract.

14.4 Notice of Intention to Suspend

- (1) The Contractor must promptly give to the Principal's Representative a copy of any notice of intention to suspend work that the Contractor receives from any of its Subcontractors under the Security of Payment Act, where that work forms part of the Contractor's Activities.
- (2) If the Principal receives a copy of a notice of intention to suspend work or a Subcontractor otherwise suspends or threatens to suspend work, then the Principal may pay the Subcontractor the whole or any part of the money that it states that it is owed by the Contractor for its work and the amount of the payment made by the Principal shall be a debt due from the Contractor to the Principal.
- (3) Payment by the Principal of any amount under this clause 14.4 shall not relieve the Contractor of any of its obligations or liabilities under the Contract.
- (4) The Contractor indemnifies the Principal against all liabilities, damages, losses, costs and expenses (including legal costs on a full indemnity basis) incurred by the Principal arising from:
 - (a) a suspension by a Subcontractor under the Security of Payment Act, if the suspended work forms part of the Contractor's Activities;
 - (b) the Contractor's failure to pay an amount claimed by a Subcontractor (including as a result of any liens or charges (including charges lodged under Chapter 4 of the Security of Payment Act;
 - (c) an adjudication application issued by a Subcontractor under the Security of Payment Act;
 - (d) any failure of the Contractor to notify the Principal's Representative as required under clause 14.4(1); or
 - (e) an assignment under the Security of Payment Act of the Principal's obligation to pay money owed to the Contractor under the Contract to any Subcontractor.
- (5) The Contractor's liability under this clause 14.4 is in addition to the Contractor's liability under clause 19.10, to the extent that payments made in accordance with clause 19.10 are not sufficient to compensate the Principal for the liabilities, damages, losses, costs and expenses referred to in this clause 14.4.

15 Performance of the Contractor's Activities

15.1 Setting out the Works

The Contractor must set out the Works in accordance with the Contract. If the Contractor requires further information to enable it to set out the Works, it must promptly notify the Principal's Representative in writing. If the Contractor discovers an error in the position, level, dimensions or alignment in any part of Works, the Contractor must immediately notify the Principal's Representative in writing and unless otherwise directed by the Principal's

Representative, the Contractor must rectify the error at its own risk, including cost and time risk.

15.2 Working Days and hours

- (1) The working hours and Working Days for work on the Site are as specified in the Particulars or as otherwise notified by the Principal's Representative to the Contractor before the Contractor commences the Contractor's Activities.
- (2) The Contractor must only carry out work on the Site in working hours and on Working Days, except where necessary in the context of an emergency, or where the Principal's Representative otherwise consents to such work (which consent may be granted or withheld in the Principal's Representative's absolute discretion and may be conditional).
- (3) The Contractor assumes the risk of and responsibility for the working hours and Working Days being other than as specified in the Contract, whether as a consequence of a requirement of any Authority, adjoining owner or occupier or otherwise.

15.3 Protecting people and property

- (1) In the performance of the Contractor's Activities the Contractor must take all measures and provide all things reasonably necessary to protect people and property.
- (2) If repairs to the Site or other property are necessary from time to time to enable the Contractor's Activities to be performed, the Contractor must promptly notify the Principal's Representative of the requirement for such repairs.

15.4 Contractor's responsibility for noise and nuisance

- (1) Without limiting any other obligation under the Contract, the Contractor must perform the Contractor's Activities so as to avoid nuisance and to minimise disturbance or inconvenience to others (including neighbours), including by way of vibration, shock, dust and noise arising from construction activities.
- (2) The Contractor has No Claim arising out of or in connection with compliance with its obligations under this clause 15.4 including where such compliance requires the Contractor to carry out more work, use more Construction Plant or incur more cost.

15.5 Cleaning up the Site

- (1) The Contractor must keep the Site and the Works clean and tidy and must remove rubbish from the Site regularly or as directed by the Principal's Representative.
- (2) After any item of work has been completed, the Contractor must promptly remove from the Site all relevant Construction Plant and materials used by it to perform such work (to the extent no longer necessary). If the Principal's Representative has provided an area where the Contractor may store its Construction Plant and materials, then placing the Construction Plant and materials neatly in that storage area will satisfy the requirements of this clause 15.5(2).
- (3) Before the Date of Practical Completion, the Contractor must remove any temporary works, Construction Plant and equipment unless directed otherwise by the Principal's Representative.
- (4) If the Contractor fails to comply with clause 15.5, and subsequently a safety issue arises in connection with the Contractor's failure, the Principal's Representative

may immediately and without notice engage other contractors to carry out such work as is necessary to rectify the Contractor's default, and the Principal's costs incurred in doing so will be a debt due from the Contractor to the Principal.

15.6 Materials, Labour and Construction Plant

- (1) Except where the Contract otherwise provides, the Contractor must supply everything necessary for the proper performance of the Contractor's obligations and discharge of the Contractor's liabilities under the Contract.
- (2) In respect of any materials, machinery or equipment to be supplied by the Contractor in connection with the Contract, the Principal's Representative may direct the Contractor to:
 - (a) supply particulars of the mode and place of manufacture, the source of supply, performance capacities and other related information; and
 - (b) arrange reasonable inspection at such place or source by the Principal's Representative and persons authorised by the Principal's Representative.
- (3) If the Principal's Representative considers that any Construction Plant or materials to be used in connection with the performance of the Contractor's Activities is not being maintained in satisfactory working order, or otherwise represents a safety or security hazard, the Principal's Representative may direct that the Contractor remove such Construction Plant or materials from the Site.
- (4) The Principal's Representative may give the Contractor a written direction not to remove materials or Construction Plant from the Site without the Principal's Representative's prior written approval.

15.7 Quality

- (1) Unless otherwise provided in the Contract, the Contractor must use suitable new materials which are fit for the Intended Purpose.
- (2) The Contractor must:
 - (a) at all times maintain quality assurance certification under ISO 9001 (as updated or revised from time to time) and implement complying quality assurance plans in respect of the execution of the Contractor's Activities; and
 - (b) without prejudice to the foregoing, comply with the quality assurance requirements stated in the Technical Specifications.
- (3) The Contractor must, prior to commencing the Contractor's Activities, provide to the Principal's Representative copies of its quality assurance certificates and the quality assurance plans that will be used in the execution of the Contract.
- (4) The Principal's Representative may from time to time require the Contractor to provide copies of the quality assurance records produced by the Contractor in connection with the Contract.

15.8 Reports and records

- (1) The Principal's Representative may at any time direct the Contractor to submit a report or provide records in connection with the Contractor's Activities containing such information as is reasonably requested by the Principal's Representative.

- (2) Without limiting clause 15.8(1), as soon as possible (and in any event no later than 5 days) after the end of each month during which Contractor's Activities are carried out, the Contractor must promptly complete and provide to the Principal a monthly report in the form set out in the Contract (or otherwise required by the Principal) covering all work performed under the Contract during the preceding month.

15.9 Provision of Samples and Prototypes

- (1) The Principal's Representative may require samples of materials to be used in the Works or the construction of prototypes. The Contractor warrants that the Contract Price and the Date for Practical Completion make sufficient allowance for the Contractor to provide any samples or prototypes requested by the Principal's Representative.
- (2) If a sample or prototype is requested by the Principal's Representative, then the Contractor must not complete those parts of the Works in respect of which the sample or prototype has been requested unless, in respect of:
 - (a) a sample: the Contractor has given or shown to the Principal's Representative that sample at least 20 Business Days before the Contractor intends to order or otherwise arrange for the material to be incorporated into the Works; or
 - (b) an element of a prototype: the Contractor has constructed the element of the prototype (at a location approved by the Principal's Representative) at least 5 Business Days before the Contractor incorporates that element of the prototype into the Works.
- (3) If the Principal's Representative rejects any sample or prototype, then the Contractor must, without being entitled to any addition to the Contract Price or any Extension of Time, either resubmit a sample or reconstruct a prototype which does comply with the requirements of the Contract or complete those parts of the Works to which the sample or prototype relates with alternative materials or construction methods approved by the Principal's Representative.

15.10 Testing

- (1) At any time before Final Completion, the Principal's Representative may direct that any part of the work or materials comprising the Works be tested. If the direction requires the Contractor to perform the testing, the Principal's Representative may observe and must be promptly provided with the results of any test performed.
- (2) For all testing conducted on or before the Date of Practical Completion, the costs of and incidental to such testing are to be borne by the Contractor unless such testing:
 - (a) is expressly required by the Contract to be at the cost of the Principal; or
 - (b) is not required by the Contract, and the requirement for such testing cannot be reasonably inferred from the requirements of the Contract, and the testing reveals that all parts of the Works the subject of the testing (and any other parts of the Works discovered through the testing) are in accordance with all requirements of the Contract.
- (3) For all testing conducted after the Date of Practical Completion and before Final Completion, the reasonable, necessary and actual costs directly incurred by the Contractor in carrying out such testing shall be certified by the Principal's Representative and added to the Contract Price unless such testing:

- (a) is expressly required by the Contract, or the requirement for such testing can be reasonably inferred from the requirements of the Contract; or
- (b) reveals that any part of the Works the subject of the testing (or any other parts of the Works, as revealed through the testing) are not in accordance with all requirements of the Contract; or
- (c) is directed in connection with a failure, or alleged failure, of the Contractor to comply with the Contract, including:
 - (i) in order to determine whether, as a result of the Contractor's failure or alleged failure to comply with the Contract, the Works have not been carried out or completed in accordance with the Contract; and/or
 - (ii) where other testing after the Date of Practical Completion has revealed Defects in certain parts of the Works, in order to determine whether other parts of the Works bear the same or similar Defect, or a Defect resultant upon the first Defect.

15.11 Off Site inspection and tests

The Contractor must grant access to the Principal's Representative as directed by the Principal's Representative at all times to the Contractor's premises and those of its Subcontractors for the purpose of inspecting and testing work in progress and materials and components required for the Works, including all relevant documentation and certification. The Principal must give reasonable prior notice to the Contractor of the requirement for access to Subcontractors' premises.

15.12 The Principal's regulations

- (1) The Contractor must, in carrying out the Contractor's Activities, comply with any regulations, rules, schemes or plans issued by or on behalf of the Principal governing Site activities, industrial relations, construction, safety (including radiation protection) and the environment.
- (2) Without limiting clause 15.12(1), the Contractor must prepare and comply with all management plans required pursuant to the Technical Specifications and Policies and Procedures, unless directed otherwise by the Principal's Representative.

16 Material containing Asbestos

16.1 Alternative applying

The Alternative specified in the Particulars applies.

Alternative 1 – Material likely to contain Asbestos

16.2 Warranty

The Contractor warrants that no Asbestos Containing Materials will be supplied under the Contract. If the Contractor breaches this warranty, without limiting the Principal's rights pursuant to the Contract, the Principal may terminate the Contract with immediate effect by giving notice in writing to the Contractor.

16.3 Certification and Testing

- (1) The Contractor must, at its cost, provide to the Principal:

- (a) Asbestos Certifications for each of the Prescribed Materials within 10 Business Days of receipt of a request by the Principal, provided that the Principal must not request such certifications more than once in any two year rolling period; and
 - (b) if the supplier and/or manufacturer of any Prescribed Materials changes or there is a change in the manufacturing process relating to any Prescribed Materials, Asbestos Certifications for the affected Prescribed Material(s) within 5 Business Days of such change occurring.
- (2) If the Contractor is unable to provide Asbestos Certification for any Prescribed Materials in accordance with clause 16.3(1)(a), the Contractor must notify the Principal and may submit for the Principal's approval, certification from a laboratory approved by an Accreditation Entity, which certification must include:
 - (a) full accreditation details of the testing facility and the accreditation certifying entity; and
 - (b) details of any mutual recognition arrangements with other accreditation entities.

The Principal may approve or reject such certification in its absolute discretion.
- (3) If the Contractor fails to provide an Asbestos Certification in accordance with clause 16.3(1) and the Principal has not approved any other certification in accordance with clause 16.3(2), then without limiting the rights of the Principal pursuant to the Contract, the Principal may terminate the Contract with immediate effect by giving written notice to the Contractor.
- (4) The Principal may, at any time in its absolute discretion, require any materials that have been, or are proposed to be, supplied under the Contract (including any Prescribed Materials) to be subject to Approved Testing by a NATA Accredited Laboratory located within Australia by giving written notice to the Contractor.
- (5) If the Principal gives notice to the Contractor in accordance with clause 16.3(4), the Contractor must:
 - (a) provide assistance to coordinate such testing, including providing samples of the materials and providing its nominees with access to the materials; and
 - (b) if specified in the relevant notice, suspend the supply of such materials under the Contract until such time as the Approved Testing has been completed and the materials have been approved by the Principal for supply under the Contract.
- (6) If the Principal exercises its rights pursuant to clauses 16.3(4) and 16.3(5), the Contractor will have No Claim in connection with any delay or disruption caused by its compliance with this clause 16.
- (7) The Principal will undertake the Approved Testing referred to in clause 16.3(4) at its own cost, unless the results of the Approved Testing reveal that all or any part of the materials are Asbestos Containing Materials, in which case the cost of such testing will be a debt due and payable by the Contractor to the Principal and without limiting the Principal's rights pursuant to the Contract, the Principal may terminate the Contract, with immediate effect by giving written notice to the Contractor.

16.4 Indemnity

Without limiting any other provision of the Contract, the Contractor indemnifies the Principal against any action, claim, demand, cost, expense or other liability arising out of or as a consequence of a breach of the warranty in clause 16.2, including the cost of removing and replacing of the Asbestos Containing Material (including the decontamination of all surfaces and/or equipment deemed to be contaminated by the Asbestos Containing Material and disposal of such Asbestos Containing Material).

Alternative 2 – Material unlikely to contain Asbestos

16.5 Warranty

The Contractor warrants that no Asbestos Containing Materials will be supplied under the Contract. If the Contractor breaches this warranty without limiting the Contractor's rights pursuant to the Contract, the Principal may terminate the Contract with immediate effect by giving written notice to the Contractor.

16.6 Certification and Testing

- (1) The Principal may, at any time in its absolute discretion, require any materials that have been, or are proposed to be, supplied under the Contract to be subject to Approved Testing by a NATA Accredited Laboratory located within Australia by giving written notice to the Contractor.
- (2) If the Principal gives notice to the Contractor in accordance with clause 16.6(1), the Contractor must:
 - (a) provide assistance to coordinate such testing, including providing samples of the materials and providing its nominees with access to the materials; and
 - (b) if specified in the relevant notice, suspend the supply of such materials under the Contract until such time as the Approved Testing has been completed and the materials have been approved by the Principal for supply under the Contract.

If the Principal exercises its rights pursuant to clause 16.6(1) and 16.6(2), the Contractor will have No Claim in connection with any delay or disruption caused by its compliance with this clause 16.

- (3) The Principal will undertake the Approved Testing referred to in clause 16.6(1) at its own cost, unless the results of the Approved Testing reveal that all or any part of the materials are Asbestos Containing Materials, in which case the cost of such testing will be a debt due and payable by the Contractor to the Principal and without limiting the Principal's rights pursuant to the Contract, the Principal may terminate the Contract, with immediate effect by giving written notice to the Contractor.

16.7 Indemnity

Without limiting any other provision of the Contract, the Contractor indemnifies the Principal against any action, claim, demand, cost, expense or other liability arising out of or as a consequence of a breach of the warranty in clause 16.5, including the cost of removing and replacing of the Asbestos Containing Material (including the decontamination of all surfaces and/or equipment deemed to be contaminated by the Asbestos Containing Material and disposal of such Asbestos Containing Material).

17 Variations

17.1 Principal's Representative may direct Variations

- (1) The Contractor must not vary the Contractor's Activities unless it has received a written direction from the Principal's Representative to do so.
- (2) The Principal's Representative may:
 - (a) at any time before Practical Completion, direct a Variation; and
 - (b) after Practical Completion, direct a Variation provided it is in connection with Defects in the Works or the Contractor's Activities.
- (3) The Contractor must not carry out and complete each Variation as directed until agreement has been reached on the time or cost consequences of the Variation.
- (4) The Contractor shall not delay any work (not the subject of the Variation) while awaiting any information, assessment or direction required of the Principal's Representative under this clause 17.
- (5) The Principal's Representative may direct that any part of the Contractor's Activities be reduced or omitted by a Variation, and the Principal may retain or arrange for others to carry out the reduced or omitted parts of the Contractor's Activities. No such reduction or omission, or engagement of others, shall constitute grounds to allege that the Principal has repudiated the Contract.
- (6) No Variation will arise solely by reason of the development of any detailed drawings, specifications or the issue of directions necessary for the proper performance of the Contractor's Activities or otherwise in respect of any work which is necessary for the satisfactory and efficient carrying out by the Contractor of the Contractor's Activities.

17.2 Notification of effect of Variation

- (1) If the Principal's Representative at any time gives the Contractor any direction (written or otherwise) which:
 - (a) requires a Variation (which has not previously been the subject of a notice given by the Contractor under this clause 17.2); or
 - (b) identifies a proposed Variation which the Principal is considering,the Contractor must, within 5 Business Days after receiving the direction, submit a report containing:
 - (c) a detailed description of the proposed design and/or work to be performed, clearly identifying all work not included in the Principal's Representative's Variation or proposed Variation (if any);
 - (d) the Contractor's estimate of any necessary modifications to the programme and to the Date for Practical Completion;
 - (e) the Contractor's estimated lump sum price for carrying out the proposed Variation, including all direct construction costs and all indirect or consequential construction costs and delay costs, and annexing any third party quotes;

- (f) details of the effect of the proposed Variation on:
 - (i) Practical Completion; and
 - (ii) any functionality, operability or maintainability of any part of the Works; and
 - (g) any other relevant information related to the carrying out of the proposed Variation.
- (2) The Contractor must not give effect to any Variation referred to in the Principal's Representative's direction until the Principal's Representative has given the Contractor a further direction requiring that the Contractor give effect to the Variation.

17.3 Valuation of Variations

- (1) The value of any Variation under the Contract will be determined in accordance with this clause 17.3 and will be added to or deducted from the Contract Price as may be required.
- (2) The value of any Variation is the amount as agreed between the parties, or, if the parties fail to agree the value of the Variation, the amount determined by the Principal's Representative as follows:
 - (a) if Schedule 4 includes a schedule of rates for the purposes of valuing Variations, the Principal's Representative may apply those rates (to the extent applicable); or
 - (b) where clause 17.3(2)(a) does not apply, the Principal's Representative shall determine reasonable rates and values to be applied to the Variation (having regard to the Contractor's report under clause 17.2(1)), plus an allowance for profit and overheads as set out in the Particulars.
- (3) The order of precedence in clause 17.3(2) will apply to both positive and negative Variations.
- (4) Despite clause 17.3(2)(b), if the valuation is of an increase or decrease in a fee or charge or is a new fee or charge under clause 11.2 then no allowance will be made in the valuation for profit or overheads.
- (5) Despite clause 17.3(2)(b), if the valuation of a Variation includes extra costs for delay or disruption then any additional direct costs will be capped at the maximum amount per Working Day as stated in the Particulars and there will be no allowance for profit or overheads on these additional direct costs.

17.4 Conditions precedent

- (1) The Contractor has No Claim in connection with any Variation or alleged Variation except where:
 - (a) the Contractor has been instructed by the Principal's Representative in writing to perform the Variation; and
 - (b) the Contractor has strictly complied with clause 17.2 in the time required by clause 17.2.

17.5 Variation for Contractor's convenience

- (1) The Contractor may request the Principal's Representative to approve a Variation for the convenience of the Contractor.
- (2) The Principal's Representative is under no obligation to consider or approve any such request, but may, in its sole discretion:
 - (a) require the Contractor to prepare a report under clause 17.2(1) regarding the effects of the Variation; and
 - (b) may consent to the requested Variation and may impose conditions on its consent.
- (3) Save to the extent the Principal's Representative directs otherwise, a Variation approved under this clause 17.5 is at the sole risk of the Contractor, and the Contractor shall have No Claim in respect of the Variation, nor for anything arising out of or in connection with the Variation to the extent such thing would not have arisen had the Variation not been approved.

17.6 Emergency Works

- (1) Despite any other clause in this Contract, the Contractor must, at the Principal's Representative's direction, immediately perform all Works which the Principal reasonably considers are urgent, or required in the context of an emergency, in order to preserve safety at the Site and the Environment surrounding the Site or otherwise to restore and maintain the integrity of the Principal's network (**Emergency Works**).
- (2) Where the Contractor, pursuant to clause 17.6(1), carries out Emergency Works, the Contractor must, as soon as reasonably practicable, submit a notice complying with clause 17.2 and the Principal's Representative shall, as soon as is reasonably practicable, direct a Variation for the extent of the Emergency Works.

17.7 Contractor's obligation to request Variation

- (1) If the Contractor becomes aware of, or should reasonably have been aware of, the need for a Variation, for whatever reason, and the Principal's Representative has not directed a Variation under this clause 17, the Contractor must promptly, and in any event within 5 Business Days, request the Principal's Representative to direct a Variation.
- (2) If the Contractor fails to request a Variation as required by clause 17.7(1) within the time required by clause 17.7(1), the Principal may direct the Principal's Representative to treat the required Variation as one for the Contractor's convenience pursuant to clause 17.5, and the Contractor shall have No Claim in respect of such Variation.

17.8 Value engineering

- (1) The Contractor may submit, in writing to the Principal's Representative, a detailed proposal prepared at its own cost for changes to the Works which are likely to be of value to the Principal. The proposal must state that it is a proposal made pursuant to this clause 17.8 and must include:
 - (a) sufficient information to demonstrate that the proposed change and any consequential effects of the proposed change on the Works meet all Statutory Requirements, are suitable, appropriate and adequate for the

Intended Purpose and will have no further consequential effects on the Works that have not been addressed in the proposal;

- (b) details of the effect, if any, that the proposed change will have on the Construction Program and the Date for Practical Completion;
 - (c) an all-inclusive price for the performance of the proposed change, which may involve a deduction to the Contract Price; and
 - (d) any other information reasonably required by the Principal's Representative to assess the value of the proposed change to the Principal.
- (2) By submitting the proposal to the Principal's Representative, the Contractor warrants to the Principal that the proposed change and any consequential effects of the proposed change on the Works, meet all Statutory Requirements, are suitable, appropriate and adequate for the Intended Purpose and will have no further consequential effects on the Works that have not been addressed in the proposal.
- (3) The Principal's Representative may, at its sole discretion, in writing and within a reasonable time, accept the Contractor's proposal and issue a direction under clause 17.8 to carry out the proposed change, in which case the value of the Variation and any agreed adjustment to the Date for Practical Completion shall be in accordance with the accepted proposal, which shall be binding upon the parties.
- (4) The Contractor shall have No Claim against the Principal for the Principal's Representative's failure or refusal to accept the Contractor's proposal.
- (5) Notwithstanding anything else in this clause 17, if the Principal's Representative:
- (a) directs a Variation in order to achieve the benefit of any Contractor's proposal submitted to the Principal under clause 17 of this Contract; and
 - (b) determines that the Variation results in a saving to the Principal in connection with the Contract,

then the Principal's Representative must notify the Contractor of the amount saved by the Principal in connection with the Contract as a result of the Variation, and the Contractor shall be entitled to the proportion of the amount saved as stated in the Particulars.

18 Progress and programming of the Contractor's Activities

18.1 Notice for information

- (1) The Contractor must give the Principal reasonable prior notice of when the Contractor needs information, materials, documents or instructions from the Principal.
- (2) The Principal is not obliged to give any information, materials, documents or instructions earlier than the Principal may reasonably have anticipated at the date of the Contract.

18.2 Draft Construction Program

- (1) The Principal's Representative may direct that the Contractor prepare a draft construction program.

- (2) Within 20 Business Days after receiving the Principal's Representative's direction, the Contractor must give to the Principal's Representative a draft construction program in a form acceptable to the Principal's Representative and consistent with the Initial Construction Program (if any).
- (3) Without limitation, the Principal's Representative may direct that the draft construction program include, or comply with, any or all of the following:
 - (a) it shall include a critical path network analysis in a form acceptable to the Principal's Representative;
 - (b) it shall show all major activities which are required to complete the Contractor's Activities, the interrelationship between the activities and the float allowance for each activity and contingency allowance;
 - (c) it shall show the planned duration, start and finish dates for each activity and milestones (whether being performed by the Contractor or a Subcontractor or Consultant); and
 - (d) it shall be in hard copy and electronic native or original file format in which the draft construction program was created.
- (4) If the Principal's Representative has not agreed to the dates by which the Contractor requires delivery of any items of equipment to be provided to the Site by the Principal's Representative, then the Contractor must insert the dates as reasonably directed by the Principal's Representative in the draft construction program.
- (5) The Contractor must make its relevant staff available to discuss the draft construction program with the Principal's Representative.
- (6) If the Principal's Representative considers that any part of the draft construction program is unacceptable, the Contractor must revise and resubmit it to the Principal's Representative for its approval within 5 Business Days. Following approval by the Principal's Representative the draft construction program submitted by the Contractor becomes the Construction Program for the Contract.
- (7) Despite any other provision of the Contract, approval by the Principal's Representative of a draft construction program requested in accordance with clause 18.2(6) is a condition precedent to the Contractor's entitlement to submit a payment claim and to the Principal's Representative's obligation to make any payment to the Contractor in connection with the Contract.
- (8) The Contractor must bear all costs incurred in the preparation and submission of draft construction programs, and any revisions to approved construction programs, in accordance with this clause 18.

18.3 Compliance with Construction Program

- (1) The Contractor must not depart from the Construction Program without the Principal's Representative's prior written consent. The provision of a Construction Program (including any updated Construction Program) does not relieve the Contractor of any obligations under the Contract, including the obligation not to depart from any earlier Construction Program without reasonable cause.
- (2) The Construction Program does not form part of the Contract but can be referred to by the Principal's Representative for the purpose of monitoring the Contractor's rate of progress in executing the Contractor's Activities.

- (3) The Contractor is not relieved from its obligation to proceed with due expedition and without delay and to achieve Practical Completion by the Date for Practical Completion by the Principal's Representative's:
 - (a) review of, comments on or approval of; or
 - (b) failure to review, comment on or approve, any draft construction program.

18.4 Review of progress and updating of Construction Program

- (1) If directed by the Principal's Representative, the Contractor must:
 - (a) submit reports on the progress of the Contractor's Activities at the frequency and in the form reasonably required by the Principal's Representative or the Contract; and
 - (b) ensure the Contractor's Representative attends meetings arranged by the Principal's Representative or the Principal to review the progress of, or to discuss other issues, claims and matters related to, the Contractor's Activities.
- (2) Without limiting clause 18.4(1), if directed by the Principal's Representative, the Contractor must provide a monthly written report to the Principal's Representative on the competencies of the Contractor's Associates in accordance with the Technical Specifications.
- (3) The Principal's Representative may require that the Contractor's reports under clause 18.4(1) include details of:
 - (a) work completed in the time since the last report (or, in the case of the first report, since the date of the Contract);
 - (b) work scheduled to be completed in the forthcoming month;
 - (c) items awaiting the Principal's Representative's approval, together with the date by which approval is required so as not to delay or impede progress, provided that no such date will be any earlier than the Principal could reasonably have anticipated at the date of the Contract; and
 - (d) any current issues in relation to the Contractor's Activities.
- (4) After each progress review meeting, and at any other time as agreed by the parties, the Contractor must update the then approved Construction Program on the basis of the latest information on progress of work and must submit to the Principal's Representative for its approval:
 - (a) 1 copy of an updated Construction Program; and
 - (b) a report on changes made to the then approved Construction Program, which includes all changes in the scope of work, critical path, activities, methods, times or sequences of working and any extensions of time to the Date for Practical Completion granted by the Principal's Representative.
- (5) Notwithstanding the recording of the minutes of any progress review meeting, no resolution or communication at any progress review meeting (nor minutes

recording any resolution or communication) shall constitute a direction under the Contract unless and until a separate written direction is given to the Contractor.

- (6) If the Principal's Representative considers that any part of the updated Construction Program is unacceptable, the Contractor must revise and resubmit it to the Principal's Representative for its approval within the period specified by the Principal's Representative. Following approval by the Principal's Representative the updated Construction Program submitted by the Contractor becomes the Construction Program for the Contract and supersedes the previously approved Construction Program.
- (7) It is a condition precedent to the Contractor's entitlement to submit a payment claim that the Contractor provides an updated Construction Program as required by clause 18.4(4) and the Contractor is not entitled to receive further payment or interest on any overdue payment until it complies with its obligations under clause 18.4(4).

18.5 Directions as to progress of Contractor's Activities

- (1) The Principal's Representative may direct in what order and at what time the various stages or parts of the Contractor's Activities are to be performed. If the Contractor can reasonably comply with the direction the Contractor must do so. The Contractor must comply with the direction at its own cost and is not entitled to an adjustment to the Contract Price or to any other monetary compensation on account of the direction.
- (2) If the Contractor cannot reasonably comply with the Principal's Representative's direction given under this clause 18.5, the Contractor must notify the Principal's Representative in writing within 5 Business Days after receiving the direction, giving reasons. If the Contractor fails to notify the Principal's Representative within 5 Business Days after receiving the direction, the Contractor will be taken to have been able to comply with the direction.
- (3) The Principal's Representative may direct the Contractor to take specific remedial measures to ensure that delays caused or contributed to by the Contractor or the Contractor's Associates, specific or anticipated, do not affect Practical Completion of the whole or part of the Contractor's Activities.
- (4) The Contractor's compliance with any direction given by the Principal's Representative under clause 18.5(3) is a condition precedent to the Contractor's entitlement to submit a payment claim and to the Principal's obligation to make any payment to the Contractor in connection with the Contract.

18.6 Acceleration

- (1) Without prejudice to the Principal's other rights and remedies, the Principal's Representative may, at any time prior to the Date of Practical Completion direct the Contractor to accelerate the whole or any part of the Contractor's Activities (Acceleration Proposal) for any reason, including as an alternative to granting an Extension of Time.
- (2) The Contractor must, within 5 Business Days of receipt of an Acceleration Proposal, provide the Principal's Representative with the Contractor's written quotation for the Contractor to accelerate the Contractor's Activities. The quotation must detail:
 - (a) the addition or deduction required to the Contract Price which must take into account, amongst other things, any savings in cost to the Contractor for a reduction in time spent on the Site;

- (b) the measures the Contractor reasonably considers necessary to meet the requirements notified in the Acceleration Proposal;
 - (c) a program showing the effect of the direction to accelerate on the progress of the Contractor's Activities during the period of acceleration and whether Practical Completion can be achieved by the date specified in the Acceleration Proposal, or if not stated in the Acceleration Proposal, what the revised Date for Practical Completion would be if the Contractor were to proceed with the Acceleration Proposal; and
 - (d) if the Contractor cannot reasonably comply with the Acceleration Proposal, then it must give a written statement of reasons to the Principal's Representative within 2 Business Days after receipt of the Acceleration Proposal.
- (3) The Principal's Representative, following consideration of the quotation referred to in clause 18.6(2), may:
 - (a) by a written direction entitled "Acceleration Direction" expressly direct the Contractor to accelerate the whole or any part of the Contractor's Activities; or
 - (b) withdraw the Acceleration Proposal.
- (4) Any Acceleration Direction must specify whether it is being provided as an alternative to granting an Extension of Time and must either confirm acceptance of the Contractor's quotation or otherwise specify the Principal's Representative's reasonable assessment of the additional cost to accelerate the Contractor's Activities or part of that work and the revised Date for Practical Completion. The Contractor must comply with the Acceleration Direction and the Date for Practical Completion and the Contract Price will be adjusted in accordance with the Acceleration Direction.
- (5) Despite any other provision of the Contract, the Contractor will not be entitled to recover any costs resulting from an Acceleration Direction if and to the extent that, in the opinion of the Principal's Representative, the need for the direction was to overcome delay caused or contributed to by the Contractor or the Contractor's Associates, or in respect of which the Contractor was not entitled to receive an Extension of Time.
- (6) Where the Acceleration Direction is provided as an alternative to granting an Extension of Time, the Contractor accepts any entitlement it has or may have to recover costs resulting from the Acceleration Direction in accordance with this clause 18.6 as its sole remedy and the Contractor will not be entitled to any extensions of time to which the Contractor may otherwise have been entitled in respect of any delays which commenced or occurred up to and including the date of receipt by the Contractor of the Acceleration Proposal.
- (7) Other than in accordance with this clause 18.6, to the extent permitted by Law, the Contractor will have No Claim in connection with any direction to accelerate the Contractor's Activities (whether such direction is entitled "Acceleration Direction" or otherwise) or the acceleration of the Contractor's Activities.

19 Times for commencement and Practical Completion

19.1 Commencement and performance

- (1) The Contractor must promptly commence each part of the Contractor's Activities upon becoming entitled to do so under the Contract, and at all times carry out the Contractor's Activities with due expedition and without delay.
- (2) Without limiting clause 19.1(1), if the Particulars specifies a Start Date, the Contractor must commence and carry out the Contractor's Activities on and from the Start Date, and not earlier.

19.2 Time for Practical Completion

The Contractor must achieve Practical Completion of the Works by the Date for Practical Completion.

19.3 Notification of delay and reporting

- (1) The Contractor must immediately notify the Principal's Representative in writing of the occurrence of any event which delays, or is likely to delay, the Contractor's Activities.
- (2) The Principal's Representative may from time to time request that the Contractor provide a report setting out the details of all outstanding claims for an Extension of Time submitted by the Contractor under this clause 19.

19.4 Extension of Time

- (1) Subject to this clause 19.4, the Contractor bears all risk of delay under the Contract, and is only entitled to claim an Extension of Time to the Date for Practical Completion if:
 - (a) either:
 - (i) on or prior to the Date for Practical Completion, a Delay Event occurs which delays or will delay the Contractor in reaching Practical Completion by the Date for Practical Completion; or
 - (ii) after the Date for Practical Completion, a Compensable Event occurs which delays or will delay the Contractor in reaching Practical Completion;
 - (b) all of the following conditions are satisfied:
 - (i) the cause of the delay was not directly or indirectly caused by the Contractor failing to comply with its obligations under the Contract, or was not otherwise within the Contractor's reasonable control;
 - (ii) the Principal's Representative is satisfied that the delayed Contractor's Activities are on the critical path (for which purposes the Principal's Representative may have reference to the current Construction Program approved by the Principal's Representative under the Contract);
 - (iii) the Contractor has taken all reasonable steps to:
 - (A) preclude the occurrence of the cause of delay; and

- (B) minimise the consequences of the delay; and
 - (iv) no reprogramming or alteration of sequences of activities or available resources or other method could avoid the delay from occurring or minimise the effects of the delay; and
 - (v) the Contractor is not concurrently delayed by an event which is not a Delay Event; and
 - (c) the Contractor complies with the following notice provisions in the time required:
 - (i) the Contractor notifies the Principal's Representative in writing of the delay (or potential delay) and its cause immediately and in any event within 5 Business Days of the earlier of the cause of the delay arising and the commencement of the delay;
 - (ii) within 7 Business Days after giving the notice under clause 19.4(1)(c)(i), the Contractor gives the Principal's Representative a written claim for an Extension of Time to the Date for Practical Completion with all necessary supporting information, including:
 - (A) the cause of the delay;
 - (B) the date the cause of the delay arose;
 - (C) the date the delay commenced;
 - (D) the effect of the delay on achieving Practical Completion;
 - (E) in the case of a Compensable Event, the Contractor's estimate of the costs claimable under clause 19.8;
 - (F) whether the delay is continuing;
 - (G) the number of days claimed for the Extension of Time;
 - (H) the facts on which the claim is based; and
 - (I) the steps the Contractor has taken to preclude the occurrence of the cause of delay and minimise the consequences of the delay; and
 - (iii) for continuing delays, the Contractor has by subsequent notice in writing informed the Principal's Representative as to the actual extent of the delay (and, for Compensable Events, the costs claimable under clause 19.8) within 5 Business Days of the conclusion of that delay.
- (2) The Principal's Representative may request, and the Contractor must promptly provide, any information reasonably required by the Principal's Representative to assess the Contractor's claim (including in respect of costs).
 - (3) If the Contractor is entitled to claim an Extension of Time in accordance with clause 19.4, then, within 10 Business Days after receipt of both:

- (a) the written claim for an Extension of Time in accordance with clause 19.4(1)(c)(ii); and
- (b) the provision of all information required pursuant to clause 19.4(2) (if any),
the Principal's Representative shall assess the Contractor's claim and deliver to the Contractor and the Principal:
- (c) written notice of any Extension of Time granted and the new Date for Practical Completion; or
- (d) written notice of the rejection of the Contractor's claim for an Extension of Time,

and including reasons where the Principal's Representative's assessment of the Extension of Time differs from the Contractor's claim.

- (4) A delay or failure by the Principal's Representative to comply with clause 19.4(3) will not cause the Date for Practical Completion to be set at large but will not prejudice any right of the Contractor to damages.
- (5) In making the assessment in clause 19.4(3), the Principal's Representative may reduce the Contractor's entitlement to an Extension of Time to the extent that:
 - (a) the Contractor or the Contractor's Associates failed to take all reasonable steps to preclude the occurrence of the cause of delay and to minimise the consequences of the delay; and
 - (b) the Contractor, while delayed by a Delay Event, is concurrently delayed by an event which is not a Delay Event.

19.5 Reduction in time

Where a Variation directed or approved by the Principal's Representative under clause 17.1 results in or will result in a reduction in the time required by the Contractor to reach Practical Completion, the Principal's Representative must by notice in writing to the Contractor bring forward the Date for Practical Completion by the period of the reduction in time.

19.6 Disputed assessments

If the Contractor does not agree with the Principal's Representative's determination under clause 19.4(3) or clause 19.5, the Contractor must, within 5 Business Days after receiving notice of the assessment, refer the dispute for resolution pursuant to clause 38. If the Contractor fails to refer the dispute within the time required by this clause 19.6, then the Contractor shall be deemed to have accepted the Principal's Representative's determination and shall have No Claim in respect of any dispute regarding that determination.

19.7 Reserve power to extend time

The Principal or the Principal's Representative (as agent for the Principal) may at any time and for any reason extend the Date for Practical Completion, including in circumstances where the Contractor is not otherwise entitled to an Extension of Time. The power of the Principal and the Principal's Representative to extend the Date for Practical Completion under this clause 19.7 is for the Principal's benefit only, and neither the Principal nor the Principal's Representative are under any obligation to exercise it for the benefit of the Contractor.

19.8 Delay costs

- (1) If the Contractor has been granted an Extension of Time under clause 19.4 for delay caused by a Compensable Event, then:
 - (a) within 20 Business Days after the grant of an Extension of Time, the Principal's Representative must assess the Contractor's reasonable extra direct costs as are necessarily incurred by the Contractor as a direct result of the delay for each day for which an Extension of Time has been granted, subject to the limits in clause 19.8(2); and
 - (b) the Principal must pay to the Contractor the amount assessed by the Principal's Representative.
- (2) The Contractor's entitlement to payment of costs under this clause 19.8 is limited to and shall not exceed:
 - (a) for each day for which an Extension of Time has been granted, the maximum amount per day as stated in the Particulars; and
 - (b) in the aggregate, the percentage of the Contract Price stated in the Particulars.
- (3) The Contractor:
 - (a) must take all reasonable steps to minimise or avoid extra costs as a result of any delay; and
 - (b) to the extent it failed to take such reasonable steps, is not entitled to any payment of costs under this clause 19.8.
- (4) The Contractor confirms that:
 - (a) other than its entitlement under this clause 19.8, the Contractor assumes all risks of extra costs due to delays or disruption of any kind (including all Compensable Events) and in the event of any such delays, it will not be entitled to reimbursement of any costs incurred (including damages for breach of contract at law) as a result of delay or disruption in the progress of the Contractor's Activities, even if the cause is beyond the control of the Contractor;
 - (b) this clause 19.8 operates as a limitation on any entitlement that the Contractor might, but for this clause 19.8, otherwise have had to recover from the Principal damages for breach of contract resulting from any delay or disruption, or delay or disruption costs whether under the Contract or otherwise; and
 - (c) nothing in this clause 19.8 will oblige the Principal to pay extra costs for delay or disruption which have already been included in the value of a Variation or any other payment under the Contract.

19.9 Practical Completion

- (1) The Contractor must give the Principal's Representative written notice:
 - (a) two weeks' prior notice of the date on which the Contractor anticipates achieving Practical Completion; and

- (b) immediately when it considers it has achieved Practical Completion.
- (2) Within 10 Business Days of receiving the notice in clause 19.9(1)(b), the Principal's Representative must provide the Contractor with either:
 - (a) a certificate stating that the Works have achieved Practical Completion and the date on which Practical Completion was achieved (**Certificate of Practical Completion**); or
 - (b) written notice of its opinion that the Works have not achieved Practical Completion including, if reasonably practicable, a list of outstanding Defects.
- (3) If the Principal's Representative issues a notice pursuant to clause 19.9(2)(b), then the Contractor must:
 - (a) promptly take all steps to fulfil all of the requirements for Practical Completion, including rectification of any Defects notified by the Principal's Representative; and
 - (b) notify the Principal's Representative in writing when it considers it has achieved Practical Completion. This further notice will be taken to be a notice under clause 19.9(1)(b), and clauses 19.9(2) and 19.9(3) will then reapply until such time as the Principal's Representative issues a Certificate of Practical Completion in accordance with clause 19.9(2)(a).
- (4) At any time before Practical Completion, the Principal's Representative may, in its absolute discretion, give the Contractor a written notice referring to this clause 19.9(4) and directing the Contractor that any one or more requirements of Practical Completion may be completed within a specified time after Practical Completion.
- (5) If the Principal's Representative gives a notice under clause 19.9(4):
 - (a) the requirements detailed in the notice are taken not to be requirements of Practical Completion and may be completed after Practical Completion; and
 - (b) the Contractor must complete the requirements detailed in the notice by the times detailed in the notice.

19.10 Liquidated damages for failing to achieve Practical Completion

- (1) If the Contractor fails to bring the Works to Practical Completion by the Date for Practical Completion, then for every day after the Date for Practical Completion and up to and including the earlier of the Date of Practical Completion or the date that the Contract is terminated, the Contractor will be liable to the Principal for liquidated damages at the rate stated in the Particulars.
- (2) The Principal may recover the amount of liquidated damages:
 - (a) on demand from the Contractor;
 - (b) by deducting the amount from any amount certified by the Principal's Representative under clause 28.2; or
 - (c) from any Security,even though Practical Completion has not occurred.

- (3) The Contractor agrees that the rate of liquidated damages referred to in this clause 19.10 represents the Principal's genuine pre-estimate of the damages likely to be suffered by it if the Works do not reach Practical Completion by the Date for Practical Completion.
- (4) If the Contractor's liability to pay liquidated damages under this clause 19.10 is found to be void, voidable or unenforceable for any reason, the Principal is entitled to claim general damages at law for the Contractor's failure to achieve Practical Completion.
- (5) If, subsequent to the levying of liquidated damages, the Contractor is granted an Extension of Time, the Principal must repay to the Contractor any liquidated damages recovered by the Principal for days the subject of the Extension of Time.

19.11 Separable Portions

- (1) In addition to any Separable Portions identified in the Contract, the Principal's Representative may determine that any part of the Works (including any completed part of the Works) will be a Separable Portion. The Principal's Representative's direction must identify the Date for Practical Completion for the Separable Portions and the applicable amounts of the Contract Price, Security and liquidated damages.
- (2) The definitions of Practical Completion, Date for Practical Completion, Date of Practical Completion and Defects Correction Period will apply separately to each Separable Portion, and references in the Contract to the Contractor's Activities and the Works refer to so much of the Contractor's Activities and the Works as is included within the relevant Separable Portion.

19.12 Use of completed part of the Works

- (1) The Principal may have access to the whole or any part of the Works for the purposes of preparing to take possession of those Works, irrespective of whether that part or the whole of the Works have reached Practical Completion. In using the Works pursuant to this clause 19.12(1), the Principal must not unreasonably hinder the Contractor in the performance of the Contractor's Activities.
- (2) In using a Separable Portion that has reached Practical Completion, the Principal must not unreasonably hinder the Contractor's performance of the remainder of the Contractor's Activities.
- (3) If the Principal accesses and uses the whole or any part of the Works in accordance with clauses 19.12(1) or 19.12(2), then the Contractor will have No Claim in connection with such access or use. The Principal must comply with the Contractor's reasonable directions regarding safety and protection of the Works during such access and use of the Works.
- (4) Any use of the whole or any part of the Works by the Principal pursuant to clause 19.12(1) will not amount to a taking over of such Works by the Principal and will not affect the time for commencement of the Defects Correction Period.

20 Suspension

20.1 Principal's suspension

- (1) The Principal's Representative may at any time and for any reason suspend the whole or any part of the Contractor's Activities by written notice to the Contractor. On receipt of such notice, the Contractor must:

- (a) suspend the Contractor's Activities (subject to complying with any applicable Laws);
- (b) take all steps to protect and secure the Works; and
- (c) not recommence the Contractor's Activities until the Principal's Representative, by written notice, directs the Contractor to do so.

20.2 Contractor's suspension

- (1) If the Contractor wishes to suspend the whole or any part of the Works otherwise than:
 - (a) in accordance with section 67O of the QBCC Act;
 - (b) in accordance with the relevant provisions of the Security of Payment Act; or
 - (c) under clause 36,

the Contractor must, to the extent permitted by Law, obtain the Principal's Representative's prior written approval. The Principal's Representative may approve the suspension in its absolute discretion and may impose conditions of approval. The Contractor must recommence the Works as soon as the reason for such suspension no longer exists, or otherwise at the direction of the Principal's Representative.
- (2) The Contractor must bear the costs of any suspension under this clause 20.2.

20.3 Contractor's obligations during suspension

- (1) During a period of suspension, the Contractor must take all reasonable steps:
 - (a) to minimise extra costs incurred in connection with the suspension; and
 - (b) to minimise the effects of the suspension on the performance of the Contractor's Activities.
- (2) Notwithstanding clause 20.3(1), the Contractor must:
 - (a) during a period of suspension, not remove any Construction Plant or materials from the Site without the Principal's Representative's prior written consent; and
 - (b) if directed by the Principal's Representative, demobilise from the Site for the duration of the suspension.

21 Defects

21.1 Identification and rectification before Practical Completion

- (1) At any time up to and including the Date of Practical Completion, the Contractor must:
 - (a) promptly rectify any Defect that is found to exist in the Works; and
 - (b) when directed by the Principal's Representative to do so, rectify any Defect at the Contractor's risk and cost. The direction under this clause 21.1(1)(b)

may, without limitation, require the Contractor to remove material from the Site, demolish work, reconstruct, replace or correct the material or Works. The Principal's Representative may direct the times within which the Contractor must commence and complete rectification of a Defect.

- (2) The Contractor must notify the Principal's Representative when rectification of a Defect has been completed.

21.2 Defects Correction Period

- (1) The Defects Correction Period commences at 4.00pm on the Date of Practical Completion.
- (2) During the Defects Correction Period, the Contractor must promptly (and in any event immediately commence to) rectify any Defect that is found to exist in the Works.
- (3) At any time during the Defects Correction Period, the Principal's Representative may direct the Contractor to rectify any Defect. The Contractor must comply with that direction at the Contractor's risk and cost. The direction may, without limitation, require the Contractor to remove material from the Site, demolish work, reconstruct, replace or correct the material or Works. The Principal's Representative may direct the times within which the Contractor must commence and complete rectification of a Defect.
- (4) The Contractor must notify the Principal's Representative when rectification of a Defect has been completed.
- (5) The Contractor acknowledges that during the Defects Correction Period, an occupant, tenant or other user or any of their contractors may be in occupation of any part of the Works, and the Principal's Representative may direct the Contractor to carry out rectification work at times which will minimise inconvenience to them, including outside their normal business hours.

21.3 Method of rectification

Without limiting the Principal's Representative's ability to direct the Contractor as to the method of rectification of a Defect under clause 21.1(1)(b) or clause 21.2(3), the Contractor must ensure that the rectification of any Defect is carried out in a manner which prevents the Defect from re-occurring, without consideration of the cost to the Contractor.

21.4 Principal's Representative may direct further Defects Correction Period

The Principal's Representative may direct a further Defects Correction Period in respect of any item of work to be rectified under clause 21.2(3) which will commence on the date the rectification work is completed and have a duration specified by the Principal's Representative, provided that any such further period will expire on the earlier of:

- (1) the date 12 months after the date such rectification work is completed; or
- (2) the date on which a period which is double the length of the original Defects Correction Period expires.

21.5 Defects rectified by others

If the Contractor fails to rectify any Defect in accordance with clause 21.1 or clause 21.2, the Principal may have the Defect rectified by others and the costs incurred by the Principal in doing so will be a debt due from the Contractor to the Principal.

21.6 Acceptance of Defective material or work

Instead of a direction pursuant to clause 21.1 or clause 21.2, the Principal's Representative may direct the Contractor that the Principal elects to accept the Defect. In that event, the Principal's Representative will determine a reduction in the Contract Price and direct a Variation corresponding to the amount of the resulting decrease in the value of the Works to the Principal. Any other loss suffered by the Principal, including any likely increase in operation and maintenance costs which will be incurred if it accepts the Defect, as determined by the Principal's Representative is a debt due and payable from the Contractor to the Principal.

22 Care of the Works

22.1 Protection of work, plant and materials

- (1) Until Practical Completion, the Contractor is responsible for and must protect from damage or loss the Contractor's Activities, the Works and other things, plant, equipment and materials brought on to the Site by or for the Contractor along with the works, plant, equipment and materials of others including the Principal to the extent that the same may be impacted by the Contractor and the Contractor's Associates.
- (2) Until Final Completion, the Contractor is responsible for and must protect from damage or loss outstanding work and items to be removed from the Site by the Contractor.

22.2 Urgent protection

If urgent action is necessary to protect the Works, other property or people and the Contractor fails to take the action, the Principal may take the necessary action. If the action taken by the Principal was, in the opinion of the Principal's Representative, action which the Contractor should have taken at the Contractor's cost, the costs incurred by the Principal will be a debt due from the Contractor to the Principal.

22.3 Reinstatement

- (1) If damage or loss occurs for which the Contractor is responsible under clause 22.1, the Contractor must at its own cost promptly make good the damage or loss and fully and sufficiently reinstate and replace the things damaged or lost.
- (2) If the Contractor fails to make good the damage or loss in accordance with clause 22.3(1), the Principal's Representative may give the Contractor notice that the Principal intends to have that work carried out by others if the Contractor does not carry out the work within the period specified by the Principal's Representative in the notice. Upon expiry of that period the Principal may have that work carried out by others and the costs incurred will be a debt due from the Contractor to the Principal.

22.4 Extraordinary natural occurrences

- (1) If an event described in clause 1.1(48)(a) occurs or is anticipated at the Site, the Contractor must comply with all directions issued by the Principal's Representative in connection with preparing for and mitigating the effects of the event.
- (2) If the Contractor fails to comply with a direction of the Principal's Representative under clause 22.4(1), the Principal may take any action it considers necessary to prepare for the event, and the costs incurred by the Principal in doing so will be a debt due from the Contractor to the Principal.

23 Indemnity by the Contractor

23.1 Damage to persons and property

- (1) The Contractor shall indemnify the Principal against:
 - (a) loss or damage to the property of the Principal or of others (including owners of property adjacent to the Site and any project managers, contractors, subcontractors or suppliers engaged by the Principal in connection with the Project and their respective employees and agents); and
 - (b) claims in respect of personal injury, illness or death of any person;arising out of or in connection with the carrying out of the Contractor's Activities.
- (2) The Contractor's liability to indemnify the Principal under clause 23.1(1) is reduced proportionally to the extent that the Gross Negligence or Wilful Misconduct of the Principal, the Principal's Representative or their respective employees, agents or contractors caused or contributed to the loss, damage or claims.
- (3) Insofar as this clause 23.1 applies to property, it applies to property other than the Works.

23.2 General

- (1) The Contractor indemnifies the Principal against any claim, damage (including damages for breach of contract at law), loss, liability, cost or expense (including legal fees and expenses) which the Principal suffers or incurs (including any liability the Principal has to any third party) arising out of or in connection with:
 - (a) the Contractor failing to comply with any of its obligations under or arising out of the Contract;
 - (b) any negligent act, omission or default of the Contractor or the Contractor's Associates;
 - (c) any failure by the Contractor to comply with clause 13;
 - (d) any failure by the Contractor or the Contractor's Associates to comply with any Laws applicable to the Contractor's Activities;
 - (e) any alleged infringement or infringement of any Intellectual Property Rights by:
 - (i) the performance of the Contractor's Activities; or
 - (ii) the Design Documents or use of or other dealing with any Design Documents; or
 - (iii) the use of or other dealing with any equipment, software, machinery, plant, material or thing, system or method of using, fixing, working or arrangement; or
 - (f) interference, disruption or delay caused by the Contractor to Separate Contractors.

- (2) The indemnity under clause 23.2(1) extends to any cost incurred by the Principal in taking steps to ensure compliance by it or the Contractor or the Contractor's Associates with Safety Legislation or Safety Requirements, if those or equivalent steps should have been taken by the Contractor or Contractor's Associates in compliance with Safety Legislation or Safety Requirements.
- (3) The Contractor's liability to indemnify the Principal under clause 23.2(1) is reduced proportionally to the extent that the Gross Negligence or Wilful Misconduct of the Principal, the Principal's Representative, or their respective employees, agents or contractors contributed to the claim, damage, loss, liability, cost or expense.
- (4) At the Principal's request, the Contractor must at the Contractor's expense defend any action brought against the Principal for any alleged infringement or infringement of Intellectual Property Rights referred to in clause 23.2(1)(e).

24 Insurance

24.1 Public and products liability insurance

- (1) Before commencing the Contractor's Activities, the Contractor must effect public and products liability insurance:
 - (a) in the minimum amount stated in the Particulars; and
 - (b) in the joint names of the Principal and the Contractor which covers those parties and all Contractor's Associates for their respective rights and interests and liabilities to third parties, and as between the Principal and the Contractor, their liability to each other for death, personal injury, illness or loss or damage to property arising out of the Contractor's Activities.
- (2) The Contractor must maintain the public and products liability insurance until the expiry of 6 years from Final Completion.

24.2 Insurance of employees

- (1) Before commencing the Contractor's Activities, the Contractor must insure against liability for death or injury to persons employed by the Contractor including liability under Statutory Requirements and at common law.
- (2) Such insurance must comply with all Laws relating to workers compensation insurance.
- (3) The Contractor must maintain the insurance cover until Final Completion.
- (4) If permitted by Law, the insurance cover must be extended to indemnify the Principal for the Principal's statutory liability to persons employed by the Contractor.
- (5) The Contractor must ensure that employees of the Subcontractors are similarly insured.

24.3 Contract works insurance

- (1) The Alternative specified in the Particulars applies.

Alternative 1 –Principal to effect the Contract Works Insurance

- (2) Prior to the Contractor commencing the Contractor's Activities, the Principal must effect a contract works material damage insurance policy which covers the physical loss or damage to the Contractor's Activities (including any temporary works and materials supplied by the Principal). The Principal must maintain such insurance until Final Completion.

Alternative 2 – Contractor to effect the Contract Works Insurance

- (3) Before the Contractor commences the Works and until the Contractor ceases to be responsible for the Works, the Contractor shall effect and maintain an insurance policy which:
 - (a) covers the physical loss or damage to the Contractor's Activities (including any temporary works and materials supplied by the Principal); and
 - (b) is for an amount not less than the sum of the Contract Price;
- (4) The insurance policy shall be in the joint names of the Principal and the Contractor, and shall cover the Principal, the Contractor and all Consultants and Subcontractors employed from time to time in relation to the Contractor's Activities for their respective rights, interests and liabilities and, unless otherwise specified elsewhere in the Contract, shall be effected with an insurer and on terms both approved in writing by the Principal (which approvals shall not be unreasonably withheld).

24.4 Motor vehicle insurance

Before commencing the Contractor's Activities, the Contractor must effect and maintain for the duration of the Contractor's Activities:

- (1) motor vehicle third party property damage insurance for the minimum amount listed in the Particulars for liability for loss or damage to property caused by or arising out of the use of (on public roads or otherwise) all vehicles to be used by the Contractor (including the Construction Plant) in connection with the Contractor's Activities; and
- (2) compulsory statutory motor vehicle insurance for injury or death to any persons.

24.5 Contractor's plant and equipment insurance

The Contractor must effect and maintain for the duration of the Contractor's Activities a policy of insurance covering, for their market value, all facilities, equipment, machinery, tools, appliances, temporary works and other items of property provided by the Contractor to be used in the execution of the Works, and including coverage for:

- (1) all accessories and spare parts provided by the Contractor, whether or not attached to a Principal item of equipment;
- (2) damage following machinery breakdown;
- (3) recovery costs and expediting expenses;
- (4) costs of hiring alternative equipment and/or ongoing hire costs after leased equipment is damaged;
- (5) the difference between market value payment and the actual amount payable to a finance or leasing company as a result of a total loss; and

- (6) loss of revenue or other increased costs of working.

24.6 Asbestos and Pollution Liability Insurance

Before commencing the Contractor's Activities, the Contractor must effect and maintain until Final Completion, Asbestos and Pollution Liability insurance including coverage for:

- (1) Making good any Pollution, Contamination or damage to the Environment arising out of, or in any way connected with, the Contractor's Activities [whether or not in compliance with all Laws, the requirements of Authorities or other requirements of the Contract relating to the Environment.]

24.7 Copies of insurance policies

Before commencing the Contractor's Activities and at any other time upon request by the Principal's Representative, the Contractor must give the Principal's Representative evidence that the Contractor has effected and maintained the insurance required under this clause 24, including a copy of the relevant policy of insurance issued by the insurer itself, and an original or certified copy of the certificate of currency.

24.8 Insurance policy and notification requirements

- (1) All insurance policies effected and maintained by the Contractor in compliance with clause 24, other than the insurance referred to in clause 24.2:
 - (a) must be taken out and maintained with insurers approved by the Principal (not to be unreasonably withheld or delayed);
 - (b) must be on terms consistent with this clause 24 and otherwise as approved by the Principal (not to be unreasonably withheld or delayed);
 - (c) if the insurance has more than one named insured, must 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), and that any non-disclosure, breach of duty or act or omission by one insured does not prejudice the right of any other insured to claim under the insurance;
 - (d) must provide that notice of a claim by any insured will be accepted by the insurer as notice by all insureds;
 - (e) must require the insurer to notify the Principal's Representative in writing at the same time it gives a notice of cancellation or any other notice concerning the policy to the Contractor; and
 - (f) must require the insurer to notify the Principal's Representative immediately and before giving any notice of cancellation if the Contractor fails to renew a policy or pay a premium.
- (2) The Contractor must notify the Principal's Representative immediately if it receives a notice of cancellation or any other notice concerning any insurance required under this clause 24, or if it fails to renew a policy or pay a premium for such insurance.
- (3) The Contractor must:

- (a) pay all excesses and deductibles under a policy of insurance effected by the Principal or the Contractor pursuant to the Contract, unless the claim includes only loss, damage or claims for which the Contractor is not responsible; and
- (b) comply strictly with the terms of any policy of insurance effected by the Principal or the Contractor pursuant to the Contract.

24.9 Failure to provide proof of insurance

If after being requested in writing by the other party to do so, a party fails to produce evidence of compliance with insurance obligations under clause 24 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 will be a debt due from the party in default to the other party. The rights given by this clause 24.9 are in addition to any other right or remedy, whether under the Contract, at common law, or otherwise.

24.10 Notice of claims or likely claims

The Contractor must as soon as practicable inform the Principal's Representative in writing of any occurrence which it ought reasonably expect may give rise to a claim under an insurance policy required by the Contract. The Contractor must give all information and assistance requested by the Principal's Representative in respect of any such claim or possible claim.

24.11 Distribution of amounts recovered

- (1) For all insurance claims in which the Principal has a financial interest, the Contractor must ensure that any proceeds received are paid to compensate the Principal for any Loss covered by the policy as fully as possible, ahead of any other potential application of such proceeds.
- (2) If the Contractor has been directed by the Principal's Representative to reinstate Works destroyed or damaged, then, upon settlement of a claim under the contract works insurance policy referred to in clause 24.3:
 - (a) to the extent that reinstatement has been the subject of a payment or allowance by the Principal to the Contractor, if the Contractor has not completed such reinstatement, insurance moneys received must be paid into an agreed bank account in the joint names of the parties. As the Contractor reinstates the loss or damage, the Principal's Representative must certify against the joint account for the cost of reinstatement; and
 - (b) to the extent that reinstatement has not been the subject of a payment or allowance by the Principal to the Contractor, the Contractor will be entitled to receive from insurance moneys received by the Principal, the amount of such moneys so paid in relation to any loss suffered by the Contractor.

24.12 Subcontractors

The Contractor must ensure that its Subcontractors comply with all of the terms and conditions of the policies referred to in clauses 24.1, 24.3 and the requirements for notification of claims, and that they do not do or omit to do anything which may cause any of those policies of insurance to become void or voidable.

25 Security

25.1 Provision of Performance Security

- (1) If required under the Particulars, the Contractor must provide the Performance Security to the Principal within 5 Business Days after the date of the Contract, or such later date as may be agreed between the parties.
- (2) Despite any other provision of the Contract, it is a condition precedent to the Contractor's entitlement to submit a payment claim and to the Principal's obligation to make any payment to the Contractor in connection with the Contract that the Contractor has provided the Performance Security in accordance with clause 25.1(1), and the Contractor is not entitled to receive further payment or interest on any overdue payment until it complies with its obligations under clause 25.1(1).
- (3) The Performance Security is for the purpose of:
 - (a) ensuring the proper performance of the Contract (subject to clause 25.6), and so that as between the parties the Contractor bears the risk of being out of pocket during any unresolved dispute; and
 - (b) providing security of payment to subcontractors of the Contractor (as these terms are defined in Chapter 4 of the Security of Payment Act).

25.2 Variation Retention

If the Particulars indicates that a Variation Retention is to apply, the Principal may retain the Variation Retention from each progress payment in accordance with clause 28.2. The right to any interest accruing on the Variation Retention vests in the Principal.

25.3 Recourse to Security

- (1) For any Security not in the form of cash, the Principal may convert such Security into cash (in whole or in part) without notice and at any time.
- (2) The Principal may use the proceeds of the Security:
 - (a) to satisfy any amount the Principal asserts is payable by the Contractor arising out of or in connection with the Contract;
 - (b) to pay for any Loss that the Principal has incurred or suffered or that it considers that it will incur or suffer as a consequence of:
 - (i) any breach of the Contract by the Contractor;
 - (ii) a negligent act or omission or the Wilful Misconduct of the Contractor or the Contractor's Associates;
 - (iii) the termination of the Contract, or the Principal taking work out of the Contractor's hands, pursuant to clause 35;
 - (iv) the Contractor becoming insolvent; or
 - (c) to pay into court an amount for which a charge under the Security of Payment Act is found to exist against the Contractor and such amount paid by the Principal shall be offset against the Contract Price;

- (d) as may be otherwise provided for in the Contract.
- (3) The Contractor must not take any steps to injunct or otherwise restrain:
 - (a) the issuer of any Security from paying the Principal pursuant to the Security; or
 - (b) the Principal from demanding payment under any Security or using the proceeds received under any Security.
- (4) The Principal does not hold the Security or the proceeds of the Security on trust for the Contractor and is not obliged in any circumstances to pay the Contractor interest associated with the Security.

25.4 Reduction and Release of Security

- (1) Subject to the Contractor giving the Principal's Representative an executed Deed of Release – Practical Completion, the Principal must upon the issue of the Certificate of Practical Completion for the whole of the Works, reduce the amount of the Performance Security and any Variation Retention by the percentage in the Particulars. (For the purposes of this calculation, the amount of the Performance Security and any Variation Retention is not reduced by any amounts the Principal has used under clause 25.3).
- (2) Subject to the Contractor giving the Principal's Representative an executed Deed of Release – Final Completion, the Principal must upon the issue of the Final Payment Schedule, release the remaining Performance Security and any Variation Retention to the Contractor.
- (3) If the Contractor is required to provide Unfixed Equipment Security in accordance with clause 28.4, the Principal will release such Unfixed Equipment Security within 10 Business Days after the later of:
 - (a) receipt by the Principal's Representative of a claim by the Contractor for release of the Unfixed Equipment Security; and
 - (b) the Unfixed Equipment being incorporated into the Works.
- (4) Despite any other provision of the Contract, the Principal is not required to release any Security to the extent to which, at the time Security would otherwise be required to be released, any amount is claimed by the Principal from the Contractor, or the Principal reasonably believes an amount may become claimable from the Contractor, under or in connection with the Contract.

25.5 Limit on total amount of security under Contract

Where the parties have initialled the provision in clause 4 of the Formal Instrument of Agreement, this Contract is not subject to the condition mentioned in section 67K(2) of the QBCC Act.

25.6 Limit on amount of security after Practical Completion under Contract

The parties expressly acknowledge that to the extent that this Contract allows the Principal to hold Security in an amount exceeding 2.5% of the Contract Price after completion of the Contractor's Activities, the Principal does not hold the excess Security for the rectification of defects, but holds the excess security instead to secure the recovery of any costs, expenses, damages or liabilities which may become payable to the Principal under this Contract as a result of the Contractor's performance of the Contractor's Activities or any breach of contract by the Contractor.

25.7 Parent Company Guarantee

- (1) This clause 25.7 applies if indicated in the Particulars.
- (2) Within 5 Business Days of the date of the Contract, or such later time as may be directed by the Principal's Representative, the Contractor must provide to the Principal three copies of the Parent Company Guarantee duly executed by the Contractor and the Parent Company stated in the Particulars.
- (3) If the Parent Company is a company registered outside of Australia, the Contractor must provide with the Parent Company Guarantee, a legal opinion (in a form acceptable to the Principal) signed by an attorney lawfully practising in the country of the Parent Company's incorporation certifying:
 - (a) that the attorney is independent of the Parent Company; and
 - (b) that the Parent Company is empowered to enter into the Parent Company Guarantee and has validly done so.

26 Personal Property Securities Act

- (1) A term defined in the PPSA has the same meaning when used in this clause 26.
- (2) Subject to the Contract, the parties agree that neither of them will disclose any information of the kind mentioned in section 275(1) of the PPSA. The Contractor waives any right it has under section 275(7)(c) of the PPSA to authorise disclosure of such information. This clause 26 survives the termination of the Contract.
- (3) To the extent permitted by the PPSA, the Principal has no obligation to give, and the Contractor waives any rights to receive, any notice, statement (including a verification statement) or copies of any documents under the PPSA, whether the obligation to give that notice arises on or after the date of the Contract.
- (4) To the extent that Chapter 4 (Enforcement of Security Interests) of the PPSA would otherwise apply:
 - (a) the parties need not, to the extent permitted by the PPSA, comply with sections 121(4), 125, 130, 132(3)(d), and 132(4); and
 - (b) sections 142 and 143 are excluded.

27 Provisional Sum Work

27.1 Tendering for Provisional Sum Work

- (1) The Contractor must not carry out any Provisional Sum Work unless directed to do so by the Principal's Representative.
- (2) The Contractor acknowledges and agrees that the carrying out of Provisional Sum Work does not entitle it to any Extension of Time.
- (3) The Contract must comply with the Principal's Representative directions regarding the Provisional Sum Work.
- (4) The Principal may elect by notice in writing to the Contractor to either:

- (a) procure the Provisional Sum Work itself in accordance with clause 27.2 **Principal Supplied Materials**); or
 - (b) require the Contractor to carry out or subcontract the Provisional Sum Work in accordance with this clause 27.1.
- (5) If the Provisional Sum Work is to be subcontracted, the Principal's Representative may direct the Contractor:
 - (a) as to which subcontractor to engage (and at what price); or
 - (b) that the relevant subcontract be awarded through a tender process.
- (6) If the relevant subcontract is to be awarded through a tender process then, unless the Principal's Representative directs otherwise:
 - (a) the Contractor must invite tenders from at least 3 persons as approved by the Principal's Representative;
 - (b) the Contractor must give the Principal's Representative such details of each tender as the Principal's Representative may require;
 - (c) the Contractor must recommend to the Principal's Representative which tender it believes should be accepted and, if this tender is not the lowest priced tenderer, it must give reasons why the lowest price tenderer is not recommended;
 - (d) the Principal's Representative may attend all interviews and negotiations between the Contractor and tenderers;
 - (e) the Contractor must negotiate with the recommended tenderer to achieve the best possible price from that tenderer;
 - (f) the Contractor must then enter into a subcontract with that tenderer as instructed by the Principal's Representative; and
 - (g) the terms of the subcontract must contain similar terms to the Contract and be approved by the Principal's Representative.
- (7) If the Contractor is directed as to which subcontractor to engage the Contractor must enter into a subcontract with the subcontractor as instructed by the Principal's Representative and the terms of the subcontract must contain similar terms to the Contract and be approved by the Principal's Representative.
- (8) The Contractor is not relieved of any of its obligations under the Contract as a result of a Subcontractor performing Provisional Sum Work.

27.2 Principal Supplied Materials

- (1) If the Principal elects under clause 27.1(4)(a) to perform any Provisional Sum Work, the Principal must procure and provide, or cause to be provided, the Principal Supplied Materials to the Contractor, and the Contractor must take delivery of the Principal Supplied Materials at the times and in the manner specified in this clause 27.2.
- (2) The Contractor assumes the risk in Principal Supplied Materials after they are removed from the Principal's nominated storage area.

- (3) The Principal will supply the Principal Supplied Materials for use by the Contractor in performing the Contractor's Activities subject to the following conditions:
- (4) The Principal's responsibilities in respect of the supply and receipt of materials are to:
 - (a) nominate the point from which materials can be collected by the Contractor;
 - (b) provide suitable loading facilities;
 - (c) supply the Principal Supplied Materials at the times agreed by the Principal and the Contractor;
 - (d) promptly provide the Contractor with the necessary documentation during the issue of the Principal Supplied Materials; and
 - (e) promptly advise the Contractor of any Principal Supplied Materials delivery delays.
- (5) The Contractor's responsibilities in respect of Principal Supplied Materials will include the following:
 - (a) provide the Principal with at least two Business Days' notice of the required Principal Supplied Materials and the required timeframe for collection;
 - (b) promptly advise the Principal of any changes to Principal Supplied Materials requirements or timing;
 - (c) examine Principal Supplied Materials on receipt to ascertain completeness and proper type and detect transit damage;
 - (d) assume control of and all risk associated with Principal Supplied Materials once it has taken delivery of them from the Principal;
 - (e) promptly report to the Principal in writing any damage, loss, non-conformances or unsuitability for use;
- (6) Transport of Materials
 - (a) The Contractor must load all materials supplied from the Principal's store on to the Contractor's vehicles. The Principal will use reasonable endeavours to provide forklift facilities to lift any item on to the Contractor's vehicle where it cannot be handled safely by one person.
 - (b) The Contractor shall be responsible for all subsequent handling of materials including delivery to Site, any unloading and distribution at the Site.
 - (c) The issue of Principal Supplied Materials by the Principal will be made only during normal working hours.
 - (d) When viewing Principal Supplied Materials at the Principal's stores, the Contractor must inspect all Principal Supplied Materials to ensure they have not been damaged. The Contractor must notify the Principal of any damaged Principal Supplied Materials. The Contractor must sign a receipt before it removes any Principal Supplied Materials from the Principal's

storage area after which, the Principal Supplied Materials will become the full responsibility of the Contractor.

- (7) The Contractor must account for all Principal Supplied Materials supplied by the Principal either by use in the performance of the Services or returning them in good condition. Any Principal Supplied Materials which are not accounted for shall be paid for by the Contractor at the higher of its current replacement cost or the cost to the Principal of acquiring, storing and transferring those items.
- (8) Despite any other provision of the Contract the Principal at all times retains full ownership of any Principal Supplied Materials despite possession or control of the Principal Supplied Materials being given to the Contractor.

27.3 Payment for Provisional Sum Work

- (1) The Contractor must not carry out any Provisional Sum Work unless directed by the Principal's Representative.
- (2) A Provisional Sum included in the Contract Price is not itself payable by the Principal, but if the Contractor is directed to proceed with Provisional Sum Work then:
 - (a) for Provisional Sum Work performed by the Contractor, the Provisional Sum Work will be valued in accordance with clause 17.3 without any allowance for the Contractor's preliminaries, overheads and profit;
 - (b) for Provisional Sum Work performed by a Subcontractor, the Principal must pay the Contractor the amount payable to the Subcontractor for that work, disregarding any damages payable by the Contractor to the Subcontractor or vice versa;
 - (c) the Contract Price will be adjusted for any difference between the Provisional Sums and the amounts which the Principal is required to pay to the Contractor for the relevant Provisional Sum Work under clauses 27.3(2)(a) and 27.3(2)(b);
 - (d) if the total value of the Provisional Sum Work calculated under clauses 27.3(2)(a) and 27.3(2)(b) exceeds the total amount of the Provisional Sums set out in Schedule 4, then the Contract Price will be increased by an amount for preliminaries, overheads and profit, calculated by applying the percentage specified in the Particulars to the amount of the excess; and
 - (e) if the total value of the Provisional Sum Work calculated under clauses 27.3(2)(a) and 27.3(2)(b) is less than the total amount of the Provisional Sums set out in Schedule 4, then the Contract Price will be reduced by an amount for foregone preliminaries, overheads and profit, calculated by applying the percentage specified in the Particulars to the amount of the shortfall.
- (3) The amount payable to a Subcontractor under clause 27.3(2)(b) for materials or goods is taken to be the net cost to the Contractor (disregarding any cash discount for prompt payment).
- (4) For the avoidance of doubt, the Contractor's preliminaries, overheads and profit on the Provisional Sums set out in the Particulars are included in the Contract Price.

- (5) Where the Principal carries out any Provisional Sum Work under clause 27.2, the Provisional Sum for that Provisional Sum Work will not be included in the Contract Price.

28 Payment

28.1 Payment claim

- (1) For each month in which the Contractor carries out the Contractor's Activities, at the time stated in the Particulars, the Contractor must submit a payment claim to the Principal's Representative in respect of work performed by the Contractor to the date stated in the Particulars.
- (2) If the time stated in the Particulars falls due on a day which is not a Business Day, the Contractor may submit the payment claim either on the Business Day before or the Business Day after that date.
- (3) If the Contractor submits a payment claim early, the Contractor's payment claim is deemed to have been submitted at the time stated in the Particulars in that month.
- (4) If the Contractor submits a payment claim late, the Contractor's payment claim is deemed to have been submitted at the time stated in the Particulars in the following month.
- (5) For the avoidance of doubt, the dates referred to in clauses 28.1(1) to 28.1(4) are reference dates for the purposes of the Security of Payment Act.
- (6) Each payment claim must be in the form provided by the Principal or the Principal's Representative (if any), and in any event must include:
 - (a) the payment claim number, and the Principal's number for the Contract;
 - (b) the Contractor's opinion as to the value of the work performed by the Contractor to the date of the payment claim (at the level of detail directed by the Principal's Representative);
 - (c) sufficiently detailed evidence to enable the Principal's Representative to assess the payment claim;
 - (d) if indicated to be necessary in the Particulars, a statutory declaration in the form set out in Schedule 11 signed by a duly authorised representative of the Contractor who is in a position to know the facts declared; and
 - (e) any other information reasonably required by the Principal's Representative at any time.
- (7) Failure by the Contractor to comply with the requirements of clause 28.1(6) invalidates the payment claim. The Contractor is not entitled to a payment schedule or to any payment in respect of an invalid payment claim.
- (8) The Principal's Representative may request additional information in respect of any payment claim (valid or otherwise) and if so requested the Contractor must promptly provide that additional information and the payment claim is taken to have been given on the date the additional information is provided. This may include contact details for any Subcontractor, Consultant or employee to enable the Principal's Representative to confirm the accuracy of a statutory declaration provided by the Contractor under clause 28.1(6)(d). The provision of the additional information does not validate an invalid payment claim unless expressly confirmed

by the Principal's Representative (who is under no obligation to do so). An invalid payment claim that is validated by the Principal's Representative is deemed to have been submitted upon the next occurrence of the time stated in the Particulars following validation.

- (9) Despite any other provision in the Contract, the Contractor is not entitled to and must not include in any payment claim (other than in a final payment claim under clause 28.6), any claim for a Variation, Provisional Sum or any other claim under or in connection with the Contract or the Works which may result in an addition to the Contract Price or any claim for damages for a breach of contract, pursuant to quasi-contract, in tort (including negligence), for unjust enrichment, under quantum meruit or pursuant to any other principle of law or equity unless the Contractor has complied with all requirements under the Contract relating to such claims and the amount claimed has been agreed between the Contractor and the Principal or resolved in accordance with clause 38.

28.2 Payment schedule

- (1) Within 15 Business Days after the payment claim is served on the Principal, the Principal's Representative must assess the progress claim and provide to the Contractor a payment schedule identifying the payment claim to which the payment schedule relates and stating the amount the Principal's Representative considers is due to the Contractor or the Principal, as the case may be.
- (2) If the amount is more or less than the amount claimed by the Contractor, the Principal's Representative must set out the reasons for the difference, and if it is less because the Principal is withholding payment for any reason, the Principal's reasons for withholding payment.
- (3) The Principal's Representative may allow in any payment schedule adjustment for amounts paid under the Contract and amounts that otherwise may be retained, deducted, set-off or otherwise claimed by the Principal from the Contractor (whether or not there has been a final determination as to the amount claimed or the amount claimed is disputed) under or pursuant to the Contract.
- (4) In each payment schedule, the Principal's Representative must include:
- (a) the value of the work performed by the Contractor to the date of the payment claim;
 - (b) amounts paid under the Contract and amounts that otherwise may be retained, deducted or claimed by the Principal from the Contractor, in accordance with clause 28.2(3);
 - (c) Variation Retention previously deducted, if applicable, in respect to Variations;
 - (d) Variation Retention to be deducted, if applicable, in respect to Variations;
 - (e) amounts previously paid under the Contract; and
 - (f) the amount due to the Contractor or the Principal, as the case may be.
- (5) The Principal's Representative may at any time, by a further payment schedule, correct any error which has been discovered in any previous payment schedule, other than a Final Payment Schedule.
- (6) Notwithstanding this clause 28.2, the Principal's Representative may at any time (whether or not the Contractor has submitted a payment claim under the Contract)

issue to the Principal and the Contractor a payment schedule detailing its assessment of any amount it considers to be payable by the Principal to the Contractor or by the Contractor to the Principal, and, subject to clause 28.10, the amount stated in the payment schedule must be paid by the Principal or the Contractor to the other (as applicable) in accordance with clause 28.3.

28.3 Payment

- (1) If the payment schedule indicates an amount owing to the Contractor from the Principal, then, subject to the Contractor:

- (a) complying with clauses 24, 25 and 28.1; and
- (b) satisfying any pre-conditions to the Contractor's entitlement to make payment claims or receive payments,

the Principal must:

- (c) subject to paragraph (d), within 5 Business Days after a payment schedule is issued in response to a payment claim issued under the Security of Payment Act; or
- (d) where the payment claim is not issued in accordance with the Security of Payment Act or the time for payment under paragraph (c) above is void under the QBCC Act, no later than 15 Business Days after receipt by the Principal's Representative of the Contractor's payment claim,

pay to the Contractor the amount shown in the payment schedule as due to the Contractor or the Principal (as the case may be).

- (2) If the payment schedule indicates an amount owing to the Principal from the Contractor, the Contractor must pay the amount shown in the payment schedule to the Principal within 10 Business Days after receipt of the payment schedule.

28.4 Payment for Unfixed Equipment

The Contractor may only include the value of Unfixed Equipment in a payment claim under clause 28.1 if that Unfixed Equipment is listed in the Particulars and if the Contractor:

- (1) provides the Unfixed Equipment Security (where required by the Particulars);
- (2) shows evidence, to the satisfaction of the Principal's Representative:
 - (a) that clear title to the Unfixed Equipment will pass to the Principal upon payment;
 - (b) that the Unfixed Equipment is:
 - (i) free from defects;
 - (ii) securely stored and protected; and
 - (iii) labelled with the names of the Principal and the Contractor; and
 - (c) of the Unfixed Equipment being insured for its replacement value, with the Principal named as an insured party.

28.5 Interest rate on overdue payments

Where any payment under the Contract is overdue, the party responsible for making the payment must also pay interest on the overdue amount at the rate specified in the Particulars from the due date for payment until and including the date on which the money is paid.

28.6 Final payment claim

(1) Within 25 Business Days of the later of:

- (a) the rectification by the Contractor of all Defects in the Works; and
- (b) the expiry of the Defects Correction Period, or where there is more than one, the expiry of the last Defects Correction Period;

the Contractor must submit to the Principal's Representative a final payment claim entitled "Final Payment Claim".

(2) The Contractor must include in the Final Payment Claim:

- (a) all information required by clause 28.1(6); and
- (b) all claims for money which the Contractor considers to be due from the Principal arising out of any alleged breach of the Contract or otherwise in connection with the Contract or the Contractor's Activities.

(3) Despite any other provision of the Contract, from the end of the period for lodging the Final Payment Claim under clause 28.6(1), to the extent permitted by Law, any claim which the Contractor could have made against the Principal and has not made is barred. The Contractor has No Claim against the Principal in respect of any such claims.

28.7 Final Payment Schedule

(1) Within 10 Business Days of the receipt of the Contractor's Final Payment Claim under clause 28.6(1) the Principal's Representative must assess the Final Payment Claim and issue a final payment schedule entitled "Final Payment Schedule" to the Principal and the Contractor which:

- (a) identifies the Final Payment Claim to which the Final Payment Schedule relates; and
- (b) specifies the amount finally due to the Contractor or to the Principal, as the case may be.

(2) If the amount is more or less than the amount claimed by the Contractor, the Principal's Representative must set out the reasons for the difference and, if it is less because the Principal is withholding payment for any reason, the Principal's reasons for withholding payment.

(3) In the Final Payment Schedule, the Principal's Representative must also include the information required under clause 28.2(4) (where relevant to the Final Payment Schedule).

(4) Where the Final Payment Schedule specifies a balance owing by the Contractor to the Principal, the Contractor must pay that amount to the Principal within 10 Business Days after receipt of the Final Payment Schedule.

- (5) If the Contractor fails to make a Final Payment Claim under clause 28.6, the Principal's Representative may nevertheless issue the Final Payment Schedule.

28.8 Final payment

- (1) If the Final Payment Schedule indicates an amount owing to the Contractor from the Principal, then, subject to the Contractor:
- (a) complying with clauses 24, 25 and 28.1; and
 - (b) satisfying any pre-conditions to the Contractor's entitlement to make payment claims or receive payments,

the Principal must, within 15 Business Days of receipt by the Principal's Representative of the Final Payment Claim under clause 28.6, pay to the Contractor the amount shown in the Final Payment Schedule as due to the Contractor.

28.9 Effect of payment schedules, certificates and payment

The issue of a payment schedule, Certificate of Practical Completion or Final Payment Schedule by the Principal's Representative or any payment made by the Principal to the Contractor:

- (1) is not evidence that the Contractor's Activities have been satisfactorily completed;
- (2) will not constitute approval of any Contractor's Activities and will not prejudice any claim by the Principal; and
- (3) is deemed to be a payment on account only and is not evidence of the value of the Contractor's Activities.

28.10 Set off entitlement of the Principal

The Principal may at any time, and from time to time, deduct or set off from any money payable by the Principal to the Contractor under the Contract, any money due or claimed to be due from the Contractor to the Principal under or in connection with this Contract, including:

- (1) any amount payable to or allowable in favour of the Principal by way of liquidated damages;
- (2) any amount which the Contractor owes to the Principal (whether or not the amount is expressed to be a debt due from the Contractor to the Principal or is an amount in respect of which the Contractor indemnifies the Principal); and
- (3) any other loss, cost, expense or damage suffered or incurred by the Principal in respect of which the Contractor is or may be liable to the Principal.

29 Training Policy

29.1 Definitions

In this clause 29:

- (1) **New Entrant** has the meaning given in the Training Policy;

- (2) **Other Workforce Training** has the meaning given in the Training Policy and in the associated document entitled 'Frequently Asked Questions for Training Policy Compliance for Other Workforce Training';
- (3) **Training Policy** means the Queensland Government Building and Construction Training Policy issued by the Department of Education and Training, as amended from time to time; and
- (4) **SD Plan** means the skills development plan which the Contractor is required to submit in accordance with clause 29.5(1).

29.2 Training Policy for projects valued at least \$100 million

- (1) This clause applies to the Contract where the Contract Price (including GST) is at least \$100 million.
- (2) The Contractor must comply with the Training Policy and ensure that:
 - (a) at least 15% of the labour hours comprising the Contractor's Activities (such portion being calculated in accordance with the Training Policy and known as the **Deemed Hours**) must be performed:
 - (i) as to at least 60% of Deemed Hours – by a New Entrant undertaking an apprenticeship or traineeship as provided for in the *Further Education and Training Act 2014* (Qld); and
 - (ii) as to the balance – through Other Workforce Training;
 - (b) training delivered by the Contractor under any SD Plan achieves the occupational outcomes identified in the training packages referred to in the SD Plan; and
 - (c) the Contractor employs a training coordinator to implement the SD Plan.

29.3 Training Policy for projects valued at least \$20 million

- (1) This clause applies to the Contract where the Contract Price (including GST) is at least \$20 million but less than \$100 million.
- (2) The Contractor must comply with the Training Policy, including that at least 10% of the labour hours comprising the Contractor's Activities (such portion being calculated in accordance with the Training Policy and known as the **Deemed Hours**) must be performed:
 - (a) as to at least 60% of the Deemed Hours – by a New Entrant undertaking an apprenticeship or traineeship as provided for in the *Further Education and Training Act 2014* (Qld); and
 - (b) as to the balance – through Other Workforce Training.

29.4 Contractor's Activities in an Aboriginal or Torres Strait Islander community or in relation to an Indigenous project

Where the Contractor's Activities occur in an Aboriginal or Torres Strait Islander community (as defined in the Training Policy), or otherwise constitute Indigenous projects under the Training Policy, the Contractor must comply with the provisions of the Training Policy that relate to Indigenous projects.

29.5 Skills Development Plan and Reporting

Where clauses 29.2, 29.3 or 29.4 applies, the Contractor must:

- (1) within 10 Business Days of the date of the Contract, submit to the Principal's Representative a SD Plan which provides for the development of skills of existing workers and New Entrants in accordance with the Training Policy. The Principal's Representative must reject or approve the SD Plan within 10 Business Days of receipt. If the Principal's Representative rejects the SD Plan, the Principal's Representative must provide reasons for the rejection. Within 5 Business Days of receipt of the Principal's Representative's reasons, the Contractor must submit to the Principal's Representative a revised SD Plan for approval. This process will continue to apply until the SD Plan is approved. Once the SD Plan is approved, the Contractor must immediately implement the SD Plan; and
- (2) within 20 Business Days after the Date of Practical Completion, provide to the Principal's Representative a report detailing its compliance with this clause 29.

30 Ring Fencing for Service Providers Policy

- (1) If required by the Particulars, the Contractor must comply with the Principal requirements for Ring Fencing for Service Providers specified in Schedule 12.
- (2) Notwithstanding any other provision of this Contract, the Contractor must not engage in any conduct which, if undertaken by a distribution network service provider, would constitute a breach of the Australian Energy Regulator's Ring-Fencing Guideline - Electricity Distribution, as amended from time to time, and acknowledges and agrees that the Principal has not encouraged or incentivised the Contractor to engage in any such conduct.

31 Queensland Code

31.1 Queensland Code

In addition to terms defined in this Contract, terms used in this clause 31, have the same meaning as is attributed to them in the Queensland Code.

31.2 Primary Obligations

- (1) The Contractor must comply with, and meet any obligations imposed by, the Queensland Code.
- (2) The Contractor must notify the QBCC 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.
- (3) Where the Contractor is authorised to engage a Subcontractor or Consultant, and it does so, the Contractor must ensure that any Subcontract imposes equivalent obligations to those in this clause 31, including that the Subcontractor or Consultant must comply with, and meet any obligations imposed by, the Queensland Code.
- (4) The Contractor must not appoint or engage another party in relation to the Project where that appointment or engagement would breach a sanction imposed on the other party in relation to the Queensland Code.

31.3 Access and Information

- (1) The Contractor must maintain adequate records of compliance with the Queensland Code by it, its Subcontractors, Consultants and Related Companies.
- (2) The Contractor must allow, and take reasonable steps to facilitate, Queensland Government authorised personnel (including personnel of the QBCC) to:
 - (a) enter and have access to sites and premises controlled by the Contractor, including the Site;
 - (b) inspect any work, material, machinery, appliance, article or facility;
 - (c) access information and documents;
 - (d) inspect and copy any record relevant to the Contract;
 - (e) have access to personnel; and
 - (f) interview any person,as is necessary for the authorised personnel to monitor and investigate compliance with the Queensland Code, by the Contractor, its Subcontractors, Consultants and Related Companies.
- (3) The Contractor, and its Related Companies, must agree to, and comply with, a request from Queensland Government authorised personnel (including personnel of the QBCC) for the production of specified documents by a certain date, whether in person, by post or electronic means.

31.4 Sanctions

- (1) The Contractor warrants that at the time of entering into this Contract, neither it, nor any of its Related Companies, is 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.
- (2) If the Contractor does not comply with, or fails to meet any obligation imposed by, the Queensland Code, a sanction in connection with the Queensland Code or may be imposed against it in connection with the Queensland Code.
- (3) Where a sanction is imposed:
 - (a) it is without prejudice to any rights that would otherwise accrue to the parties; and
 - (b) the State of Queensland (through its agencies, Ministers and the QBCC) is entitled to:
 - (i) record and disclose details of non-compliance with the Queensland Code and the sanction;
 - (ii) take them into account in the evaluation of future expressions of interest or tender response that may be lodged by the Contractor, or its Related Companies, in respect of work to which the Queensland Code applies.

31.5 Compliance

- (1) The Contractor bears the cost of ensuring its compliance with the Queensland Code. The Contractor has No Claim in relation to its compliance with this clause 31.
- (2) Compliance with the Queensland Code does not relieve the Contractor from responsibility to perform the Works 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 compliance with the Queensland Code.
- (3) Where a change to the Contractor's Activities is proposed, and that change would, or would be likely to, affect compliance with the Queensland Code, the Contractor must immediately notify the Principal of the change, or likely change and specify:
 - (a) the circumstances of the proposed change;
 - (b) the extent to which compliance with the Queensland Code will, or is likely to be affected by the change;
 - (c) what steps the Contractor proposes to take to mitigate any adverse impact of the change (including any amendments it proposes to a workplace relations management plan),

and the Principal will direct the Contractor as to the course it must adopt within 5 Business Day of receiving notice.

32 Construction Industry Legislation

32.1 Security of Payment Act

Nothing in the Contract affects, restricts or limits the Contractor's right to:

- (1) make an adjudication application in relation to a payment dispute under section 79 of the Security of Payment Act; and
- (2) suspend the Contractor's Activities under section 98 of the Security of Payment Act.

32.2 Contractor to provide notice

- (1) Notwithstanding anything else in the Contract, the Contractor must:
 - (a) immediately give the Principal's Representative a copy of any notice the Contractor receives:
 - (i) from a Subcontractor:
 - (A) indicating an intention to suspend work; or
 - (B) under section 77, 78 or 92 of the Security of Payment Act; or
 - (ii) requiring the Contractor to supply information to a Subcontractor under section 119 of the Security of Payment Act;
 - (b) ensure that each Subcontractor immediately gives the Principal's Representative a copy of any notice that the Subcontractor receives from

another party under section 77, 78 or 92 of the Security of Payment Act;
and

- (c) immediately notify the Principal's Representative if it becomes aware that a Subcontractor intends to exercise a statutory charge under section 122 of the Security of Payment Act in respect of work done by the subcontractor forming part of the Contractor's Activities.
- (2) If the Contractor gives or serves on the Principal any notice which the Contractor is required or permitted to give or to serve on the Principal under the Security of Payment Act, the Contractor must also give to the Principal's Representative a copy of the notice at the same time that it is given to or served on the Principal.

32.3 Direct payment

- (1) If the Principal's Representative receives a notice of intention to suspend work or a Subcontractor otherwise suspends or threatens to suspend work, including under section 98 of the Security of Payment Act, the Principal may (at its absolute discretion) pay the Subcontractor the whole or any part of the money that it states that it is owed by the Contractor for its work, and any such amount paid by the Principal is recoverable from the Contractor as a debt due to the Principal.
- (2) Payment by the Principal of any amount under this clause 32.3 shall not relieve the Contractor of any of its obligations under the Contract.

32.4 Indemnity

The Contractor shall indemnify the Principal against all liabilities, damages, losses, costs and expenses (including legal costs on a full indemnity basis) incurred by the Principal arising from:

- (1) a suspension by a Subcontractor under the Security of Payment Act or the QBCC Act, if the suspended Work forms part of the Contractor's Activities;
- (2) a notice of claim of charge being served on the Principal under section 122 of the Security of Payment Act;
- (3) any failure of the Contractor to notify the Principal's Representative as required under clause 32.2; or
- (4) an assignment under the Security of Payment Act or the QBCC Act of the Principal's obligation to pay money owed to the Contractor under the Contract to any Subcontractor.

32.5 Project Bank Accounts

- (1) This clause only applies to the extent the relevant sections of the Security of Payment Act concerning project bank accounts apply to the Contract.
- (2) The Principal must give the Contractor:
 - (a) notice that a project bank account will be used for making payments to the Contractor under the Contract;
 - (b) details of the financial institution at which the trust accounts for the project bank account are to be held; and

- (c) if the Principal gives a financial institution an instruction about a payment to the Contractor from a trust account for a project bank account, a copy of the instruction.
- (3) The Contractor acknowledges and warrants that:
 - (a) it will comply with its obligations under the Security of Payment Act regarding the establishment of a project bank account (including the reporting requirements);
 - (b) any information it provides in respect of the project bank account will be complete, accurate and not misleading in any material respect; and
 - (c) it will maintain full and accurate data and records of all matters in connection with any project bank account.

33 Goods and services tax

33.1 Definitions / interpretation

In this clause 33:

- (1) **GST** means GST as defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) as amended (**GST Act**) or any replacement or other relevant legislation and regulations;
- (2) words or expressions used in this clause which have a particular meaning in the **GST law** (as defined in the GST Act), any applicable legislative determinations and Australian Taxation Office public rulings, have the same meaning, unless the context otherwise requires;
- (3) any reference to GST payable by a party includes any corresponding GST payable by the representative member of any GST group of which that party is a member;
- (4) any reference to an input tax credit entitlement by a party includes any corresponding input tax credit entitlement by the representative member of any GST group of which that party is a member; and
- (5) if the GST law treats part of a supply as a separate supply for the purpose of determining whether GST is payable on that part of the supply or for the purpose of determining the tax period to which that part of the supply is attributable, such part of the supply is to be treated as a separate supply.

33.2 Payment of GST

- (1) Unless expressly stated otherwise, consideration to be paid or provided under the Contract for any supply made under or in connection with the Contract does not include GST.
- (2) To the extent that any supply made under or in connection with the Contract is a taxable supply, the GST exclusive consideration to be paid or provided for that taxable supply is increased by the amount of any GST payable in respect of that taxable supply and that amount must be paid at the same time as the GST exclusive consideration is to be paid or provided.
- (3) To the extent that a party is required to reimburse or indemnify another party for a loss, cost or expense incurred by that other party, that loss, cost or expense does

not include any amount in respect of GST for which that other party is entitled to claim an input tax credit.

- (4) To the extent that any consideration payable to a party under the Contract is determined by reference to a cost incurred by a party, or to a price, value, sales, revenue or similar amount, the GST exclusive amount of that cost, price, value, sales, revenue or similar amount must be used.

34 Force Majeure Event

34.1 Notification of Force Majeure Event

- (1) If a party (**Affected Party**) is delayed or is likely to be delayed in performing any of its obligations under the Contract by a Force Majeure Event, it must give notice to the other party within 10 Business Days after the commencement of the Force Majeure Event setting out full particulars of the Force Majeure Event, the impact on and estimated delay in performance resulting from the Force Majeure Event and the steps (if any) that the Affected Party intends to take to overcome or mitigate such impact and delay.
- (2) If a Force Majeure Event occurs, the Affected Party must:
 - (a) use its best endeavours and Industry Best Practice to mitigate and, to the extent possible, remove the cause of, and the impact of, the Force Majeure Event;
 - (b) not cause or contribute to the Force Majeure Event;
 - (c) continue to perform any obligations not affected by the Force Majeure Event; and
 - (d) resume full performance of its obligations under the Contract as soon as possible.
- (3) Despite clause 34.1(2), the Affected Party is not obliged to settle any strike, lock-out or industrial stoppage which amounts to a Force Majeure Event on terms contrary to its reasonable wishes.

34.2 Suspension for Force Majeure Event

- (1) Provided the Affected Party has given the notice under clause 34.1(1), and is not in breach of clause 34.1(2), then, to the extent the Affected Party is prevented or delayed in performing any of its obligation under the Contract as a result of a Force Majeure Event, that obligation is suspended and the Affected Party will not be liable to the other party for its failure or inability to perform such obligation to the extent that such performance is prevented or delayed due to the Force Majeure Event.
- (2) During any period of suspension under clause 34.2(1), the parties must consult with each other upon request, with a view to agreeing to vary, reprogram or cancel the suspended obligations under the Contract if and where necessary.

34.3 Termination for Force Majeure Event

- (1) If, in the aggregate, any parts of the Contractor's Activities have been suspended under clause 34.2(1) for more than 180 days, the Principal may terminate the Contract immediately by written notice to the Contractor.

- (2) If the Contract is terminated pursuant to clause 34.3(1), the Contractor is entitled to be paid:
 - (a) the amount due to the Contractor in any unpaid payment schedule;
 - (b) for work executed prior to the date of termination, the amount which would have been payable if the Contract had not been terminated and the Contractor had been entitled to and made a payment claim on the date of termination; and
 - (c) the cost of materials reasonably ordered by the Contractor to perform the Contractor's Activities which the Contractor is legally liable to accept, but only if the materials become the property of the Principal upon payment,less any sums due to the Principal from the Contractor.
- (3) The Contractor must take all reasonable steps to minimise any costs otherwise payable to it under clause 34.3(2).
- (4) The amount payable under clause 34.3(2) is the Contractor's sole entitlement in connection with the termination of the Contract under this clause 34. The Contractor releases the Principal from all other claims, demands and liabilities whatsoever which the Contractor or the Contractor's Associates may otherwise have against the Principal arising out of the termination of the Contract under this clause 34.

34.4 Parties to bear own costs

Subject to clause 34.3, each party shall bear its own costs in connection with any Force Majeure Event.

35 Termination for Contractor's default

35.1 Procedure on breach by the Contractor

- (1) If the Contractor is in breach of any provision of the Contract then, without limiting any other rights the Principal may have, the Principal may give the Contractor a written notice to rectify the breach, or, where the breach is not capable of remedy, show cause within the time specified in the notice. The notice must state:
 - (a) that it is a notice issued under this clause 35.1;
 - (b) the alleged breach (where applicable); and
 - (c) either:
 - (i) if the breach is capable of remedy, the time by which the Contractor must remedy the breach (which must be not less than 5 Business Days after the notice is given to the Contractor); or
 - (ii) if the breach is not capable of remedy, the time by which the Contractor must show cause (which must be not less than 5 Business Days after the notice is given to the Contractor).
- (2) If the Principal issues a notice under this clause 35.1, then, until the breach is rectified or the Contractor has shown cause:
 - (a) the Contractor is not entitled to claim for payment; and

- (b) the Principal may suspend payments to the Contractor,
to the extent those payments relate to the breach the subject of the notice.

35.2 Rights of the Principal

If the Contractor fails to rectify the breach or show cause (as applicable) to the Principal's Representative's satisfaction within the time specified in the notice under clause 35.1, the Principal may by written notice to the Contractor, and without limiting any other right or remedy it may have, either:

- (1) take out of the Contractor's hands the whole or any part of the Contractor's Activities remaining to be completed and suspend payment until it becomes due and payable pursuant to clause 35.6; or
- (2) immediately terminate the Contract.

35.3 Termination for insolvency

- (1) To the extent permitted by Law, if the Contractor suffers an Insolvency Event, the Principal may, by written notice to the Contractor (and without needing to issue a notice to rectify or show cause):
 - (a) take out of the Contractor's hands the whole or any part of the Contractor's Activities remaining to be completed and suspend payment until it becomes due and payable pursuant to clause 35.6; or
 - (b) immediately terminate the Contract.
- (2) The rights granted to the Principal under this clause 35.3 are in addition to and not limited by clause 35.1.

35.4 Termination for safety breach

- (1) If the Contractor breaches:
 - (a) clause 13;
 - (b) the Safety Conditions; or
 - (c) any of the Contractor's obligations under the Safety Legislation,then the Principal may immediately terminate the Contract upon giving written notice to the Contractor, and the rights of the parties shall be the same as if the Principal had terminated the Contract for the Contractor's breach under clause 35.2.
- (2) The rights granted to the Principal under this clause 35.4 are in addition to and not limited by clause 35.1.

35.5 Procedure on take out or termination

- (1) If the Principal takes Contractor's Activities out of the Contractor's hands or terminates the Contract (or is deemed to have terminated the Contract) under this clause 35, the Contractor must:
 - (a) immediately cease all further work (except any work directed by the Principal's Representative in order to protect the Works);

- (b) at the Principal's Representative's direction, immediately:
 - (i) make available for collection; or
 - (ii) deliver to the Site,

any plant or materials not incorporated into the Contractor's Activities regardless of whether they are located on or off the Site;
 - (c) deliver to the Principal's Representative the Design Documents and any other documents produced by the Contractor which are required by the Principal to facilitate completion of the Contractor's Activities;
 - (d) protect and make available for the Principal's use or otherwise remove (as directed) all Construction Plant, materials, equipment and other things on or in the vicinity of the Site;
 - (e) at the Principal's election, assign or novate to the Principal, or any other party nominated by the Principal:
 - (i) those agreements made between the Contractor and any Contractor's Associates as required by the Principal; and/or
 - (ii) any other rights, titles, warranties and commitments relating to the Contractor's Activities which the Contractor has acquired in its dealings with third parties in connection with the Contractor's Activities; and/or
 - (f) take any other action reasonably required by the Principal or the Principal's Representative concerning either the Contractor's Activities taken out or the termination of the Contract (as the case may be) to facilitate completion of the Contractor's Activities.
- (2) The Principal must maintain any items it takes possession of under clause 35.5(1)(b) or 35.5(1)(c) and, subject to clause 35.6, on completion of the Contractor's Activities, must return such of them as are surplus.
 - (3) The Principal's Representative must keep records of the cost of completing the Contractor's Activities.
 - (4) For the purposes of effecting the assignments or novations referred to in this clause 35.5, the Contractor hereby irrevocably appoints the Principal to be the true and lawful attorney of the Contractor with full power and authority to execute the assignment or novation on behalf of the Contractor and to bind the Contractor accordingly.

35.6 Adjustment on completion of Contractor's Activities taken out

- (1) Where the Principal has exercised the right under clauses 35.2(1) or 35.3(1)(a), then upon completion of the Contractor's Activities taken out, the Principal's Representative must assess the costs incurred by the Principal in completing that work and any other losses, expenses or damages (including damages for breach of contract at law) incurred by the Principal in completing that work (including amounts paid or allowed to the Contractor).
- (2) The Principal's Representative must issue a payment schedule for the difference between the amount assessed by the Principal's Representative under clause 35.6(1) and the amount the Principal would have incurred had the Contractor's Activities not been taken out of the Contractor's hands.

- (3) If the amount assessed by the Principal's Representative under clause 35.6(1) exceeds the amount the Principal would have incurred had the Contractor's Activities not been taken out of the Contractor's hands, the difference will be a debt due and payable from the Contractor to the Principal.
- (4) If the amount assessed by the Principal's Representative under clause 35.6(1) is less than the amount the Principal would have incurred had the Contractor's Activities not been taken out of the Contractor's hands, the difference will be a debt due and payable from the Principal to the Contractor.
- (5) If the Contractor owes any amount to the Principal under this clause 35.6, the Principal may keep the Construction Plant or any other things taken under clause 35.5 until the Contractor pays the amount owed. If after reasonable notice, the Contractor fails to pay the amount owed to the Principal, the Principal may sell such Construction Plant or any other things taken under clause 35.5 and apply the proceeds of sale to the satisfaction of the whole or any part of the debt (including the costs of sale). Any proceeds that are surplus must be paid to the Contractor.
- (6) For the purpose of this clause 35.6, the cost incurred by the Principal includes:
 - (a) legal costs (on a solicitor own client basis) in obtaining advice arising out of or in connection with taking the Contractor's Activities out of the Contractor's hands;
 - (b) amounts paid to consultants (including any consultant employed to perform the role of the Principal) to provide assistance to the Principal;
 - (c) damages payable by the Principal to any third party as a result of taking the Contractor's Activities out of Contractor's hands; and
 - (d) additional internal costs incurred by the Principal including any costs associated with the hiring of additional employees to deal with the increased work load.

35.7 Rights of the Principal

If the Contract is terminated by the Principal under clause 35, the rights and entitlements of the parties will be the same as they would have been at common law had the Contractor repudiated the Contract and the Principal elected to treat the Contract as at an end and recover damages.

36 Termination other than for Contractor's default

36.1 Default by the Principal

- (1) If the Principal defaults in making payment to the Contractor for longer than 14 days (to the extent the payment is not the subject of a Notice of Dispute), then the Contractor may issue a written notice to the Principal to rectify the default within the time specified in the notice.
- (2) The Contractor's notice under clause 36.1(1) must state:
 - (a) that it is a notice issued under this clause 36.1;
 - (b) the details of the default; and
 - (c) the time by which the Principal must rectify the default (which must be not less than 20 Business Days).

36.2 Contractor's rights if the Principal fails to rectify default

- (1) If the Principal fails to rectify the default within the time specified in the Contractor's notice under clause 36.1, the Contractor may suspend the whole or any part of the Contractor's Activities by giving the Principal's Representative a further 10 Business Days' written notice. The Contractor must immediately resume the Contractor's Activities if the Principal rectifies the default.
- (2) If the Principal fails to rectify the default or make other arrangements to the reasonable satisfaction of the Contractor within 10 Business Days after the date of suspension, the Contractor may by written notice to the Principal, immediately terminate the Contract.
- (3) If the Contract is terminated under clause 36.2(2) then the rights and entitlements of the parties will be the same as they would have been at common law had the Principal repudiated the Contract and the Contractor elected to treat the Contract as at an end and recover damages. For the avoidance of doubt, the Contractor will not be entitled to a quantum meruit but will be entitled to damages.

36.3 The Principal's right to terminate for convenience

- (1) the Principal may, at any time and in its absolute discretion, terminate the Contract for its convenience by giving not less than 5 Business Days' written notice to the Contractor.
- (2) The termination will be effective from the time specified in the Principal's notice under clause 36.3(1) (or, if no time is specified, upon the expiry of 5 Business Days after receipt of the notice).
- (3) From the time specified in the Principal's written notice to terminate (or immediately on receipt if no time is specified) the Contractor must cease performance of Contractor's Activities in accordance with the notice and comply with any directions of the Principal.
- (4) The Principal may then either itself or by engaging other contractors complete any of the Contractor's Activities remaining to be completed.

36.4 Payment

- (1) If the Contract is terminated pursuant to clauses 36.2(2) or 36.3(1), the Contractor is entitled to be paid:
 - (a) the amount due to the Contractor in any unpaid payment schedule;
 - (b) for work executed prior to the date of termination, the amount which would have been payable if the Contract had not been terminated and the Contractor had been entitled to and made a payment claim on the date of termination;
 - (c) the cost of materials reasonably ordered by the Contractor to perform the Contractor's Activities which the Contractor is legally liable to accept, but only if the materials become the property of the Principal upon payment;
 - (d) the Contractor's reasonable costs, where necessarily and properly incurred, in terminating or otherwise dealing with Subcontracts entered into prior to the date of termination;
 - (e) the Contractor's reasonable costs of demobilisation;

- (f) subject to the Principal's right to have recourse to the Security, any Security then held by the Principal,

less any sums due to the Principal from the Contractor.

- (2) The Contractor must take all reasonable steps to minimise any costs otherwise payable to it under this clause 36.4.
- (3) The amount payable under this clause 36.4 is the Contractor's sole entitlement in connection with the termination of the Contract under this clause 36. The Contractor releases the Principal from all other claims, demands and liabilities whatsoever which the Contractor or the Contractor's Associates may otherwise have against the Principal arising out of the termination of the Contract under this clause 36.

37 Termination generally

37.1 Termination under the Contract

Termination by either party under clauses 34, 35 or 36 is without prejudice to any other rights or remedies which may be exercised by that party under the Contract.

37.2 Termination generally

Termination of the Contract for any reason does not affect the rights and obligations of the parties under the Contract which accrued prior to the date of termination.

37.3 Principal Supplied Materials

- (1) If any item(s) of Principal Supplied Materials have not been installed at the Site at the date of termination, the Contractor must return those items to the custody of the Principal and, if directed to do so, return those items to a location nominated by the Principal.
- (2) If for any reason, any uninstalled items of Principal Supplied Materials are not returned to the Principal as required by clause 37.3(1), the value of those Principal Supplied Materials as reasonably determined by the Principal will be a debt due and payable from the Contractor to the Principal and payable within 10 Business Days of demand by the Principal.

38 Dispute resolution

38.1 Application of procedure

All disputes or differences between the parties in connection with the Contract must be resolved in accordance with this clause 38.

38.2 Notice of Dispute

- (1) If a dispute or difference between the parties arises out of or in connection with the Contract or the subject matter thereof (**Dispute**), then either party may deliver a Notice in accordance with clause 42 to the other party in writing adequately identifying and providing details of the Dispute and endorse it 'Notice of Dispute' (**Notice of Dispute**).
- (2) Notwithstanding the existence of a Dispute, the Contractor must continue to perform the Contractor's Activities and without limitation, subject to either party's

rights under the Contract to terminate or suspend, the Contractor must continue to perform the Contract.

38.3 Notice to other party

A party served with a Notice of Dispute may give a written response to the notice to the other party within 20 Business Days of its receipt of the Notice of Dispute.

38.4 Compulsory Conferences

- (1) If a party is dissatisfied with the response of the other party under clause 38.3 or if the other party fails to give a written response to the Notice of Dispute within the time required under clause 38.3, the parties, by their respective Executive Negotiators, must meet within 10 Business Days of the date of receipt of the response or within 10 Business Days of the date upon which the response should have been given.
- (2) At the meeting of the Executive Negotiators referred to in clause 38.4(1), the parties will use their best endeavours to attempt to resolve the Dispute or to agree on methods of resolving the Dispute by other means. At any such meeting, the Executive Negotiators must have authority to agree to a resolution of the Dispute.
- (3) Meetings referred to in this clause 38.4 will take place in Brisbane unless otherwise agreed in writing by both parties.

38.5 Mediation

- (1) If the Executive Negotiators fail to resolve the Dispute or to agree on methods to resolve the Dispute by other means under clause 38.4, the parties must within 10 Business Days of when the Executive Negotiator's meeting under clause 38.4(1) occurred or should have occurred:
 - (a) submit the Dispute to mediation (**Mediation**) in accordance with, and subject to, the latest version of the Resolution Institute Mediation Rules (whether or not that version was in force at the time of execution of this Contract); and
 - (b) have their respective chief executive officer or their appointed delegate (**CEO**) attend at and participate in the Mediation.
- (2) If the identity of the mediator is not agreed by the parties within 10 Business Days of when the Dispute was or ought to have been referred to Mediation under clause 38.5(1), the mediator must be appointed by the President of the Resolution Institute, Queensland Chapter.
- (3) For the purposes of the Mediation, each party must within 5 Business Days from the date of submission of the Dispute to Mediation under clause 38.5(1), prepare and exchange with the other party, a statement setting out its own position on the Dispute and its reasons for adopting that position (**Statement**).
- (4) Within 10 Business Days after the date the Statements are due to be exchanged, the CEO of each party (or their authorised delegate) must attend at and participate in the Mediation and use their best endeavours to resolve the Dispute, each having full authority to do so.
- (5) The Mediation must be held on a 'without prejudice' basis. Except to the extent that may be necessary to demonstrate that a Mediation was, under the Contract, required to proceed and that it did or did not proceed and the reasons for such circumstances having arisen, no dealings in respect to the subject matter of the

Mediation (including the Statements) may be later disclosed or relied on by a party in any subsequent steps in respect to resolution of the Dispute in accordance with this clause 38.

- (6) Unless the parties otherwise agree, the Mediation must be held in Brisbane.

38.6 Litigation

- (1) If the Dispute is not resolved under clause 38.5 within 20 Business Days of the agreement or appointment of the mediator, either party may then commence legal proceedings concerning the Dispute in an appropriate court of law (**Litigation**) in Queensland.
- (2) Compliance by a party with the procedures in clause 38 is a condition precedent to that party being entitled to commence Litigation in respect of any Dispute.

38.7 Costs

Except for the costs of any Litigation concerning the Dispute, each party must pay:

- (1) its own expenses in respect of the Dispute resolution processes under this clause 38, including any expenses incurred prior to the termination of the Dispute resolution process under clause 38.5; and
- (2) an equal proportion of any mediator's costs in respect of any Mediation.

38.8 General

Despite anything else in this clause 38, a party at any time may commence Litigation in respect of a Dispute where that party seeks urgent interlocutory relief.

38.9 Performance of obligations pending resolution of dispute

Except the extent expressly permitted under the Contract, and without limiting clause 38.2(2), the Contractor must continue to perform its obligations under the Contract, despite the existence of a Dispute and despite any steps taken under this clause 38.

38.10 Information to be used for no other purpose

The parties agree that except to the extent that the Contract, including this clause 38, otherwise provides, neither of them may use information provided or exchanged under this clause 38 for any purpose other than to resolve the Dispute between them.

38.11 No arbitration

This clause 38 is not an arbitration agreement within the meaning of the *Commercial Arbitration Act 2013* (Qld).

39 Liability

39.1 Liability for Consequential Loss

- (1) Subject to the exceptions set out in clause 39.3:
- (a) the Contractor's maximum aggregate liability to the Principal; and
- (b) the Principal's maximum aggregate liability to the Contractor,

for Consequential Loss arising out of or in connection with the Contract (whether for breach of contract, under an indemnity, for tort including negligence, for vicarious or strict liability, for breach of statutory duty or on any other legal, equitable or statutory basis) is limited to the amount of \$10 (ten dollars) for each party.

(2) In this clause, "Consequential Loss" means:

- (a) loss of opportunity;
- (b) loss of revenue;
- (c) loss of profit;
- (d) loss of contract;
- (e) loss of goodwill;
- (f) loss arising from business interruption; or
- (g) loss of production,

but expressly excludes any such amount which is included in the calculation of:

- (h) any liquidated damages payable by the Contractor to the Principal under the Contract or if those liquidated damages are unenforceable, any damages for breach of contract which are found to apply; or
- (i) the Contract Price.

39.2 Aggregate Limit of Liability

Subject to the exceptions set out in clause 39.3, the Contractor's maximum aggregate liability under or in connection with the Contract (whether for breach of contract, under an indemnity, for tort including negligence, for vicarious or strict liability, for breach of statutory duty or on any other legal, equitable or statutory basis) is limited to the greater of:

- (1) \$20,000,000 (twenty million dollars); or
- (2) 100% of the Contract Sum,

unless otherwise indicated in the Particulars.

39.3 Exclusions from Limit of Liability

Clauses 39.1 and 39.2 do not apply to or limit any of the following liabilities of the Contractor:

- (1) liability for fraud or criminal conduct;
- (2) liability for Gross Negligence or Wilful Misconduct;
- (3) liability to the extent the Contractor is paid or indemnified for the liability by an insurer under an insurance policy (whether required by the Contract or otherwise), or is entitled to be paid or indemnified for the liability by such an insurer;
- (4) liability to the extent the Contractor would have been entitled to be paid or indemnified for the liability by an insurer under an insurance policy required by the

Contract, but for a failure by the Contractor to effect and maintain the insurance policy as required by the Contract;

- (5) liability to the extent the Contractor recovers compensation for its liability to the Principal from another person (including any Subcontractor and whether by way of indemnity or otherwise) which compensation will be net of the costs of recovery incurred in the recovery action; or
- (6) liability to the Principal in connection with liability of the Principal to a third party, or any claims by a third party against the Principal for:
 - (a) injury to or death of any person;
 - (b) third party property damage;
 - (c) breach of the third party's Intellectual Property Rights; and
 - (d) breach of confidentiality,

caused by or arising out of or in any way in connection with the Contractor's Activities, the Works or any act or omission (including negligence) of the Contractor.

40 Audit

40.1 Contractor to keep records

The Contractor must keep accurate records detailing its performance of the Contractor's Activities, including records of calculations, progress, diary records of daily tasks, manning and equipment records, quality assurance records and reports, time records, any consultant's reports and opinions obtained by the Contractor and all necessary supporting records and financial statements.

40.2 Right to audit

During the period from the date of the Contract until the expiry of the last Defects Correction Period, the Principal may, at any time, carry out an inspection and audit to determine whether the Contractor has properly complied with its obligations under the Contract and has accurately completed all reports the Contractor is required to provide to the Principal under the Contract.

40.3 Inspection of records

The Contractor must, if given at least 5 Business Days' prior written notice of the Principal's desire to carry out an inspection and audit under clause 40.2, provide the Principal, its representatives and professional advisers with reasonable access during normal business hours to all relevant books, books of account, computer and electronic records and other documents necessary to enable the Principal to carry out the inspection and audit. The Contractor must ensure that its personnel co-operate fully with the Principal and its representatives and promptly provide to the Principal and its representatives an explanation of any matter reasonably required by them in connection with the inspection and audit.

40.4 Costs of inspection and audit

- (1) Subject to clause 40.4(2), the Principal and the Contractor must bear their own costs associated with conducting an inspection or audit or complying with its obligations under this clause.

- (2) If an inspection or audit reveals a material breach by the Contractor of the Contract, which includes an error in a payment claim of more than 5%, the full cost incurred by the Principal in connection with the inspection and audit must be paid by the Contractor.

41 Claim notification

41.1 Communication of claims

- (1) Without creating any additional rights in the Contractor and without extending any other time period stipulated under the Contract for the giving of any notice, within 10 Business Days after the Contractor could reasonably have become aware of any claim in connection with the Contract or its subject matter, the Contractor must give to the Principal's Representative a written notice setting out detailed particulars of the basis for and the quantification of the claim sufficient to enable the Principal's Representative to make an informed assessment of the merits of the claim.
- (2) Clause 41.1 does not apply to any claim, including a claim for payment, the communication of which is required by another provision of the Contract within a prescribed time.

41.2 Time bar

If the Contractor fails to comply with clause 41.1 or any other time or notification requirement for the making of a claim under the Contract, to the extent permitted by Law, the Contractor will have No Claim in respect of such claim or its subject matter and will be absolutely barred from making such claim.

42 Notices

42.1 Form of Notice

- (1) All notices, demands, certificates, consents, approvals, waivers and other communication connected with this Contract (Notices) must be given in writing and signed by the sender (if an individual) or an authorised representative of the sender.
- (2) Any Notice by a party may be given and may be signed by its solicitor.

42.2 How to give a Notice and when Notice is received

- (1) A Notice must be given using one of the methods set out in the table below.
- (2) If the Contractor gives a Notice to the Principal under the Security of Payment Act, the Contractor must give Principal's Representative a copy of the Notice on the same day as it gives the Notice to the Principal.
- (3) Subject to clause 42.2(4), a Notice will be treated as having been given to and received by the addressee at the time set out in the table below. However, if that time is after 5pm on a Business Day or is not on a Business Day, then the Notice will be treated as having been given to and received by the addressee on the next Business Day.

Method of giving Notice	When Notice will be treated as having been given and received
By hand at the address of the addressee set out in the Particulars or last notified in writing.	Upon delivery.
By prepaid post from an address in Australia to the address of the addressee set out in the Particulars or last notified in writing.	On the third Business Day (at the address to which it is posted) after posting.
By email to the email address of the addressee set out in the Particulars or last notified in writing. The email must attach the Notice in the form of a PDF file (with or without any other attachments).	On the day it is sent, unless the sender receives an automated message that delivery failed.

- (4) A Notice under clauses 20, 34, 35, 36 or 38 must be given by hand or prepaid post, together with a copy given by email on the same day, in accordance with clause 42.2(3). A Notice referred to in this clause 42.2(4) will be treated as having been given to and received by the addressee at the time set out in clause 42.2(3) for giving the Notice by hand or prepaid post (as applicable).
- (5) A Notice given in a manner provided by clause 42.2 will be treated as validly given to and received by the addressee even if:
- (a) the addressee has been liquidated or deregistered or is absent from the place at which the Notice is delivered or to which it is sent; or
 - (b) the Notice is returned unclaimed.

43 Assignment and novation

43.1 Contractor must not assign or novate without consent

The Contractor must not:

- (1) assign or novate the Contract or any right, benefit, obligation or interest under the Contract; or
- (2) allow a Subcontractor to assign or novate a Subcontract or any payment or any other right, benefit or interest thereunder,

without the prior written consent of the Principal. If such consent is given, it may be subject to terms specified by the Principal.

43.2 Principal may assign or novate

The Principal may assign, novate or otherwise deal with all or any part of the Contract or any right, benefit, obligation or interest under the Contract at any time and without consent from the Contractor, and the Contractor must promptly, upon request by the Principal, execute all documents required by the Principal to give effect to any such assignment, novation or other dealing.

44 General

44.1 Continuing obligations

All indemnities and warranties are continuing indemnities and warranties and inure in favour of the Principal despite any final payment or the achievement of Practical Completion or Final Completion of the Contractor's Activities or the termination of the Contract. It is not necessary for the Principal to incur expense or to make any payment before enforcing a right of indemnity.

44.2 Retrospectivity

- (1) This Contract applies to all Contractor's Activities performed by the Contractor for the Principal and any preliminary work in relation to the subject matter of the Contract performed by the Contractor, including any preliminary work performed by the Contractor before the date of the Contract.
- (2) The parties acknowledge and agree that all payments made by the Principal to the Contractor before the date of the Contract have been paid on account of the liability of the Principal to pay the Contract Price.

44.3 Further assurance

Each party must promptly at its own cost do all things (including executing and, if necessary, delivering all documents) necessary or desirable to give full effect to the Contract.

44.4 Amendment to Contract

An amendment to the Contract is not effective unless it is in writing and signed by the parties.

44.5 Severability

If any provision in the Contract is unenforceable, illegal or void or makes the Contract or any part of it unenforceable, illegal or void, then that provision is severed, and the rest of the Contract remains in force.

44.6 Waiver

- (1) A party's failure or delay to exercise a power or right does not operate as a waiver of that power or right.
- (2) The exercise of a power or right does not preclude either its exercise in the future or the exercise of any other power or right.
- (3) A waiver is not effective unless it is in writing.
- (4) Waiver of a power or right is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.

44.7 Costs and outlays

Each party must pay its own costs and outlays connected with the negotiation, preparation and execution of the Contract.

44.8 No other relationship

Nothing contained in the Contract is to be construed as constituting a joint venture, agency or partnership between the Contractor and the Principal.

44.9 Governing Law

The Law of Queensland governs the Contract, and the parties submit to the exclusive jurisdiction of the courts of Queensland and of the Commonwealth of Australia and agree that any lawsuit must be heard in those courts.

44.10 Counterparts

This Contract may be executed in any number of counterparts. All counterparts taken together will be deemed to constitute the one document.

44.11 Electronic Execution

- (1) The parties agree and consent to the electronic execution of this Contract.
- (2) The parties agree and consent to be bound by this Contract electronically executed.
- (3) The parties agree and consent to the following method of electronic execution, unless otherwise directed by the Principal:
 - (a) the Principal will provide the Contractor, by email to the email address of the Contractor set out in this Contract or last notified in writing to the Principal, with a copy of the entire Contract, and a separate PDF copy of the relevant pages for execution;
 - (b) the Contractor will print and execute the execution pages;
 - (c) the Contractor will return the executed execution pages by email to the email address of the Principal set out in this Contract or as otherwise notified by the Principal, and confirm in writing:
 - (i) that the Contractor's authorised signatory has executed the execution pages;
 - (ii) the Contractor's intention to be bound by this Contract; and
 - (iii) that this Contract will become binding from the date signed by the Principal unless expressly stated otherwise;
 - (d) the Contractor must promptly provide the original executed execution pages to the Principal;
 - (e) once received, the Principal may separately execute the execution pages;
 - (f) the Principal will insert each of the executed execution pages into a single copy of the final execution copy of the Contract; and
 - (g) the Principal will be entitled to keep a record of these documents.

44.12 Survival of clauses

Any provision intended to survive termination or expiry or required to give effect to termination will survive termination or expiry of the Contract (including each indemnity in the Contract, with each indemnity being a continuing obligation separate and independent from the parties' other obligations).

45 Modern Slavery

45.1 Definitions

In this clause:

Authority means any governmental, semi-governmental, administrative, fiscal, judicial or quasi-judicial body, government or regulatory department, commission, body, instrumentality, minister, tribunal or court, agency or other authority.

Modern Slavery means internationally recognised exploitative practices including human trafficking, slavery, slavery-like practices, servitude, forced labour, forced marriage, debt bondage, the worst forms of child labour, deceptive recruiting for labour services.

Modern Slavery Law means:

- (1) any law, rule or other legally binding measure of any jurisdiction that creates a reporting or due diligence obligation in connection with Modern Slavery; and
- (2) any law that criminalises or imposes a penalty for Modern Slavery.

Notifiable Event means a breach of Modern Slavery Law by the Contractor, any of the Personnel or a Supply Chain Participant in connection with this Contract.

Personnel means:

- (1) the directors, officers, employees, secondees, consultants, agents, contractors, subcontractors, representatives and Related Bodies Corporate of the Contractor; and
- (2) other person engaged directly or indirectly through another entity by any of the Personnel in paragraph (1) of this definition including Supply Chain Participants,

but excludes the Principal and any of its personnel.

Related Bodies Corporate has the meaning given to that term in section 50 of the Corporations Act.

Related Entity has the meaning given to that term in section 9 of the Corporations Act.

Relevant Policy means all published codes of conduct, policies, procedures and specifications of the Principal or its Related Bodies Corporate, as amended from time to time, which are notified to the Contractor as being relevant to the Services Agreement.

Supply Chain Participant means any organisation or individual involved in the chain of production and provision of particular goods or services to the Contractor's business.

45.2 Modern Slavery Law Compliance

- (1) Without prejudice, and in addition, to any other obligation of the Contractor under this Contract, the Contractor undertakes that in the performance of its obligations under, and connection with, this Contract, it will:
 - (a) comply with the Relevant Policies;
 - (b) comply with Modern Slavery Laws;
 - (c) use reasonable efforts to procure that the Personnel and Supply Chain Participants comply with the Relevant Policies and Modern Slavery Laws;
 - (d) include in its contracts with Supply Chain Participants, provisions that are at least as onerous as those set out in this clause 0 ;and
 - (e) promptly provide the Principal with, and procure that the Personnel promptly provide the Principal with, such access, information and documentation as it reasonably requests to permit the Principal to:
 - (i) undertake due diligence on its supply chain; and
 - (ii) report to any relevant Authority or any other person, in relation to Modern Slavery and protections in its operations and supply chains, including pursuant to any Modern Slavery Law.
- (2) The Principal will give notice in writing to the Contractor of any amendment of the Relevant Policies.
- (3) At its cost, the Contractor must and procure that the Personnel comply with the Relevant Policies as amended, within 14 days of the date that notice is taken to be received under clause 42.

45.3 Adequate procedures

- (1) The Contractor warrants and represents on a continuing basis to and for the benefit of the Principal that it has in place and will have, and maintain in place at all times, adequate and reasonable policies, controls, procedures and training designed to prevent, detect, assess, manage and remedy (as appropriate) Modern Slavery in its operations or supply chains.
- (2) The Contractor will only contract with labour hire providers that have been licensed or accredited, where licensing or accreditation is available in the jurisdiction in which the labour is provided, for example pursuant to the *Labour Hire Licensing Act 2017* (Qld).
- (3) The Contractor will notify, at least annually, the Personnel of the existence of the Contractor's whistleblower process, if any.
- (4) The Contractor will make its whistleblower process, if any, available to the employees of its Supply Chain Participants and Modern Slavery must be reportable under that process.
- (5) The Contractor will maintain documents, books and records evidencing compliance with this clause 0.

45.4 Compliance history

The Contractor warrants and represents to and for the benefit of the Principal that:

- (1) no investigation, inquiry, proceeding, or claim has been initiated, is threatened or pending against the Contractor or any of the Personnel by any Authority or organisation in relation to any Modern Slavery Law;
- (2) the Contractor is not aware of any fact, situation or circumstance that might give rise to an investigation, proceeding or claim by any Authority or organisation in relation to any breach of Modern Slavery Law by:
 - (a) the Contractor;
 - (b) any of the Personnel; or
 - (c) any of the Supply Chain Participants; and
- (3) neither the Contractor nor, so far as the Contractor is aware, any of the Personnel, has at any time been:
 - (a) found by a court, tribunal or other judicial or quasi-judicial authority in any jurisdiction to have committed a breach of Modern Slavery Law; or
 - (b) the subject of any investigation, inquiry or enforcement proceedings regarding any offence or alleged offence of or in connection with Modern Slavery Law.

45.5 Notifiable Event

- (1) Without prejudice, and in addition, to any other obligation of the Contractor under this Contract, the Contractor must:
 - (a) notify the Principal promptly and in any event within 10 days of:
 - (i) becoming aware of any actual, alleged or suspected Notifiable Event; or
 - (ii) reasonably suspecting that a Notifiable Event has or may have occurred; and
 - (b) cooperate with and assist the Principal in relation to any investigation or legal proceedings in relation to the Notifiable Event.
- (2) The notice given under clause 45.5(1), must set out adequate particulars of the actual or suspected Notifiable Event and the ongoing steps that the Contractor is taking to investigate the actual or suspected Notifiable Event.

45.6 Investigation and audit rights

- (1) Without prejudice, and in addition, to any other obligation of the Contractor under this Contract, the Contractor will allow the Principal to conduct an audit of the Contractor's compliance with:
 - (a) the Contractor's obligations under this clause 0; and
 - (b) any actual, alleged or suspected Notifiable Event.

- (2) For the purposes of an audit under clause 45.6, the Contractor must promptly:
 - (a) make available to the Principal and its third-party representative such access to the Personnel, the operations, facilities, documents, books and records of the Contractor and the Personnel; and
 - (b) provide all such assistance and information,that the Principal reasonably requests in connection with any such audit.

45.7 Right to report

- (1) Without prejudice, and in addition, to any other right of the Principal under this Contract or at law, the Principal may, without prior notice to the Contractor, notify an actual, alleged or suspected Notifiable Event to:
 - (a) any Related Entity of the Principal
 - (b) any Authority; or
 - (c) the public.
- (2) The rights of the Principal under this clause 45.7 are not subject to the Principal's obligations under clause 8.

45.8 Costs

All costs of compliance with this clause 45 are for the Contractor's own account.

45.9 Termination by the Principal

The Principal may immediately terminate this Contract by giving written notice to the Contractor if:

- (1) the Contractor or any of the Personnel or Supply Chain Participants; or
 - (2) the Principal has reasonable cause to believe that the Contractor, the Personnel or any of the Contractor's Supply Chain Participants,
- have:
- (3) breached this clause 45;
 - (4) not complied with Human Rights reporting requirements or has published information that is not true and correct in relation to the risks of Human Rights in its operations or supply chain; or
 - (5) breached Modern Slavery Law.

46 Ethical Supplier

46.1 Definitions

In this clause:

Ethical Supplier Threshold means the Ethical Supplier Threshold described in paragraph 2.3 of the Queensland Procurement Policy (as amended from time to time).

Government Department or Instrumentality means any governmental regulator, and includes the Work Health Safety Queensland, the Queensland Building and Construction Commission, the Fair Work Commission and the Australian Building and Construction Commission.

46.2 Ethical Supplier Threshold

- (1) The Contractor must comply, and must ensure that any subcontractor complies, with the Ethical Supplier Threshold during the term of the Contract.
- (2) If the Principal reasonably suspects that the Contractor has failed to comply with the Ethical Supplier Threshold, the Principal may give the Contractor a notice (**Show Cause Notice**) stating the following:
 - (a) that the Principal reasonably suspects that the Contractor has failed to comply with the Ethical Supplier Threshold;
 - (b) the facts and circumstances forming the basis of that suspicion;
 - (c) that a failure to comply with the Ethical Supplier Threshold may be cause to terminate the Contract;
 - (d) that the Contractor is invited to make a submission to the Principal about why the Principal should not terminate the Contract; and
 - (e) the time by which any submission must be made, which must be not less than 10 Business Days from the date of the Show Cause Notice.
- (3) Any submission made by the Contractor in response to a Show Cause Notice must:
 - (a) be in writing signed by an authorised representative of the Contractor;
 - (b) be received by the Principal within the time period specified in the Show Cause Notice; and
 - (c) state the grounds of the submission and the facts and circumstances relied on in support of the grounds,

(Properly Made Submission).
- (4) If:
 - (a) the Contractor fails to give a Properly Made Submission; or
 - (b) after considering a Properly Made Submission, the Principal decides that the Contractor has failed to comply with the Ethical Supplier Threshold,

then the Principal may terminate the Contract to which it is a party with immediate effect upon giving written notice to the Contractor.
- (5) Upon termination of the Contract under this clause 46:
 - (a) the Principal agrees to pay the Contractor for the value rendered under the Contract to the date of termination as follows:
 - (i) in the case of payment being a lump sum or where the date of termination falls between points on any payment schedule, that part of the lump sum or payment that is reasonably estimated by

the Contractor and agreed by the Principal to apply to the completed services or goods supplied up to the date of termination; and

(ii) the cost of goods or materials reasonably ordered by the Contractor for which the Contractor is legally bound to pay provided that:

(A) the value of the goods or materials is not included in the amount payable under clause 46.2(5)(a)(i); and

(B) unencumbered title in the goods and materials will vest in the Principal upon payment; and

(b) The Principal shall have no other liability or obligation to the Contractor:

(i) under the Contract; or

(ii) in connection with the termination of the Contract.

(6) Despite anything else in the Contract, the Contractor agrees that the Principal may at any time disclose information about the Contractor to a Government Department or Instrumentality for the purpose of reporting and obtaining information about the Contractor's compliance with the Ethical Supplier Threshold. The rights of the Principal under this clause are not subject to the Principal's obligations under clause 8.

47 Supply of non-citizens

47.1 Non-citizen

In this clause 'non-citizen' means a person who is not an Australian citizen.

47.2 Labour supply

Where labour supplied under this Contract includes non-citizens:

(1) the Contractor must ensure that those non-citizens have the required permission to work in Australia in accordance with the *Migration Act 1958* (Cth); and

(2) the Contractor must have processes in place to demonstrate that it has undertaken reasonable steps at reasonable times to determine whether labour supplied under the Contract is in accordance with the *Migration Act 1958* (Cth).

47.3 Compliance

The Contractor may be required to demonstrate compliance with this clause by providing the Principal, upon request, a copy of the Contractor's processes referred to in clause 47.2(2).

Schedule 1 – Particulars

Item	Description	Details
1.	QBCC Act (clause 4 of Formal Instrument of Agreement)	Yes Unless stated otherwise, clause 4 of the Formal Instrument of Agreement applies where the QBCC Act applies and the aggregate amount of security and retention held by the Principal prior to practical completion exceeds 5% of the Contract Price.
2.	Brief description of the Contractor's Activities	The Contractor's Activities are D&C activities as more particularly described in the Scope of Work
3.	Start Date (clauses 1.1 and 19.1)	to be advised
4.	Site (clause 1.1)	32-38 Hartley Street, Cairns City QLD 4870
5.	Principal	Address PO Box 1090 TOWNSVILLE QLD 4810
6.	Principal's Representative's name and details (clause 1.1)	Name: Gilbert Badger Address: Cemetery Rd BG07 (S170) Mackay Phone: 0418 746 460 Email: gilbert.badger@energyq.com.au Principal Representative's Function: All Principal Representatives functions other than those delegated to the appointed Principal's Representative's Delegate.

Item	Description	Details
7.	Principal's Representative's Delegate name, details and function (clause 4.2)	Name: To be Advised Role: #insert# Address: #insert# Phone: #insert# Email: #insert# Principal's Representative's Delegates Function: • Managing the day to day operational requirements under the Agreement • Assess and manage variation claims by the Contractor. Seek approval from the Principals Representative prior to authorising any variation claims • Assess and manage payment claims • Issue certificates and deeds of release (in consultation with the Principals Representative prior to acceptance) • Receipt of completed Schedule 11 with each claim for payment • Assessment of quality and progress against the Construction Schedule Program • Coordinate and monitor program of works with the Contractor • Issuing EOT and validating Extension of time claims in consultation with the Principals Representative. • Perform site inspections and liaise with sub-consultants • Assessing and managing defect liabilities and warranties
8.	Contractor (clause 1.1)	A. Gabrielli Constructions Pty Ltd ACN/ABN: 29 088 090 279 Address: 336 Woolcock Street, Garbutt QLD 4814 Phone: 07 4725 1100 Email: bernie@gabrielliconstruction.com
9.	Contractor's Representative's name and details (clause 1.1)	Name: Bernard Travers Address: 336 Woolcock Street, Garbutt QLD 4814 Phone: 0412 556 116 Email: bernie@gabrielliconstruction.com
10.	Project Control Group – does clause 4.7 apply? (clause 4.7)	Yes

Item	Description	Details
11.	Date for Practical Completion (clause 1.1)	To be advised
12.	Additional requirements for Practical Completion (clause 1.1)	The following requirements must also be satisfied as a condition precedent to Practical Completion: 1. Building Occupancy Certificate 2. the Contractor has carried out all training required in connection with the operation and maintenance of the Works, and has supplied to the Principal's Representative evidence of completion of such training;
13.	Practical Completion Documents (clause 1.1)	1. all necessary certificates and approvals from all Authorities, to the extent such certificates and approvals are not expressly the Principal's responsibility under the Contract; 2. all warranties, guarantees, manuals and drawings required under the Contract or reasonably requested by the Principal's Representative in a format acceptable to the Principal's Representative, and any other warranties which are available from suppliers and manufacturers for the equipment, plant or materials used in or provided for the Works; 3. all documents and information which, in the Principal's Representative's opinion, are essential for the use, operation and maintenance of the Works; 4. draft as-built drawings and operation and maintenance manuals for the Works sufficient to allow the Works to be safely and efficiently used for their Intended Purpose; 5. a licensed surveyor's certificate stating that the Works have been constructed within the property boundaries of the Site; 6. all Subcontractor Warranties and other subcontractor and manufacturer warranties which are required to be provided to the Principal in accordance with clause 14.3; 7. 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; 8. Plant Maintenance Schedule

Item	Description	Details	
14.	Post-Completion Documents (clause 1.1)	1. finalised as-built drawings and operation and maintenance manuals for the Works;	
		2. Maintenance records during Defects Liability Period	
15.	Selected Subcontractors (clause 14.2)	Selected Subcontractor	Selected Subcontract Work
16.	Performance Security (clauses 1.1 and 25)	Form	Not Applicable
		Amount	
17.	Unfixed Equipment Security amount (clauses 1.1 and 28.4)	100% of the value of the Unfixed Equipment	
18.	Variation Retention (clauses 1.1 and 25.2)	Does this Item 16 apply?	No
		Amount:	0% of each payment claim.
19.	At Practical Completion, Security to be reduced by: (clause 25.4)	Not Applicable	
20.	Parent Company (clause 25.7)	Does clause 24.7 apply?	No
		If yes, the Parent Company is:	Not Applicable
21.	Provisional Sum Work - percentage for preliminaries, overheads and profit (clause 27.3)	TBA%	
22.	Key Personnel (clause 1.1)	<u>Name:</u>	<u>Job Description:</u>

Item	Description	Details	
23.	Laws which must be satisfied, and consents, licences, permits or authorisations of Authorities which must be obtained, by the Principal (clause 11.1)	Development Application	
24.	Work health and safety – do the optional additional clauses apply? (clause 13)	Yes, the optional additional clauses apply and the Contractor is appointed as principal contractor If not specified, "Yes".	
25.	Does a schedule of rates apply for the pricing of Variations? (clause 17.3(2)(a))	No	
26.	Latent Conditions (clause 10)	Alternative applying	Alternative 1 applies If not specified, Alternative 1 applies
		Conditions specified to be Latent Conditions	Not applicable
27.	Other Delay Events (clause 1.1)	There are no other Delay Events	
28.	Other Compensable Events (clause 1.1)	There are no other Compensable Events	
29.	Defects Correction Period (clauses 1.1 and 21)	12 months unless extended under clause 21.4	
30.	Public and products liability insurance – minimum amount of cover: (clause 24.1)	\$20M for each occurrence	
31.	Contract works insurance – Alternative applying (clause 24.3)	Alternative 2 applies If not specified, Alternative 2 applies	

Item	Description	Details
32.	Motor vehicle insurance – minimum amount of cover for third party property damage (clause 24.4)	\$20M for each occurrence
33.	Site access date (clause 9.1(1))	Within 14 days after the later of the date of the Contract or Start Date (where applicable)
34.	Period for which the Principal's failure to provide access to the Site will not be a breach: (clause 9.1(4))	60 Days
35.	Rate of liquidated damages per day: (clause 19.10(1))	500.00 per day to max value of 5% of contract value.
36.	Maximum delay costs rate per day: (clause 19.8)	Maximum amount per day \$500.00
		Aggregate cap as percentage of Contract Price 5%
37.	Variations (clause 17.3)	Amount for profit & Overheads: 10%
38.	Value engineering Variations – proportion of savings allowed to Contractor (clause 17.8)	Not Applicable
39.	Times for payment claims: (clause 28.1)	The 28 th day of the month for Contractor's Activities completed to the 25 th day of the month
40.	Must the Contractor provide a statutory declaration with payment claims? (clause 28.1(6)(d))	Yes If not specified, "Yes".
41.	Existing Facilities (clause 1.1)	No. This is a green field site

Item	Description	Details	
42.	Unfixed Equipment for which payment claims may be made: (clause 28.4)	None	
43.	Interest rate on overdue payments: (clause 28.5)	Westpac indicator lending rate	
44.	Contractor's limit of liability (clause 39.2)	As per clause 39.2	
45.	Executive Negotiators: (clause 1.1)	Principal:	GM Procurement & Supply
		Contractor:	Contractor's Representative
46.	Working Days and working hours for work on Site (clause 15.2)	Working Days	Monday to Friday excluding public holidays
		Working hours	An 8 hour period falling between 6am to 6pm Note: any period outside this provision must be approved by the Principals Representative prior to commencement.
47.	Ring Fencing for Services Providers Policy (clause 30)	Contractor required to comply with policy?	No
48.	Material containing Asbestos – Alternative applying (clause 16)	Alternative 1 applies If not specified, Alternative 1 applies	
49.	Prescribed Materials (clause 1.1)		

Schedule 2 – Form of Performance Security

Not Used

Schedule 3 – Form of Parent Company Guarantee

NOT USED

Schedule 4 – Contract Price Schedule

Cairns City South Communications Building Cnr Hartley & Sheridan Streets Cairns

Appendix L Free Issue Costs

**Cairns City South Communications Building
Cnr Hartley & Sheridan Streets Cairns
Pricing Schedule
21/12/22**

GENERAL NOTES:

The Cairns City South Communications Building (Cairns City OTHF) is located on the corner of Hartley and Sheridan street Cairns at the vacant portion of the EQL Cairns City Sub Station Building.

The new building is to house Communication Data Racks to service the requirements of EQL as a Central Hub for the Cairns City Region.

The site is relatively flat with limited existing landscaping on its boundaries. A soils investigation found the ground has limited bearing capacity and contained no contaminants. The site is subject to both storm and tidal surge flooding and the build height has been set by Cairns City Council. The design includes a raised suspended concrete floor to meet the Carin's City Council requirements

The work comprises the following:

1. Construction of new carparking and external graded turning circle area
2. Provide 2 x 100m dia LV lead in conduits from building switchboard to edge of new transformer pad capped at end for extension by Others
3. Construction of a new Communication Building being primarily of concrete and block construction. The Building contains 4 zones:

- Clean room
- UPS room
- Plant deck
- Communicaion (Comms) Room

Fit out of the new building includes (But not limited to); data racks, cable trays, communication cabling, DC Battery racks and rectifiers, split air-conditioning units, gas suppression systems including cylinders, generator.. Installation of boundary security fencing and landscape works

The project scope requires the building to be built as per the supplied and approved documents. However, the internal fitout is of a D&C nature with compliance required to the design intent. A D&C development phase will be undertaken for this portion of the work in co-ordination with EQL having hold points at 40%, 60%, 80% and 100% - issued/approved for construction commencement. Programming and sequencing of the works shall be undertaken by the successful contractor; All works must be coordinated with the Nominated ERGON Energy Site Officer.

The contractor shall be required to provide a Detailed GANT for the complete works with each section of the project clearly identified. All site supervision shall be the responsibility of the Contractor. All site Staff, trade contractors and the like shall be signed in to a daily attendance register when entering site. Normal site safety protocols and responsibilities will apply.

All State & Federal laws, regulatory and compliancy must be adhered to and meet. All Mechanical and Electrical Equipment supplied must be of known branding from a reliability, serviceability, operations and maintenance prospective. Ensuring the organisation which will carry out any O&M services have locally (in Australia) available spare parts and trained personnel to carry out ongoing operations and maintenance program, as well as to provide training program for EQL personnel as required.

The SUBSTATION Portion of the site is operational. This portion of the site is to be isolated from the Construction zone by Temporary fencing - NOTE THIS FENCE MUST BE EARTHED TO EQL STANDARDS.

PRICING SCHEDULE:

Tenderers shall refer to the FULL TENDER PACKAGE DOCUMENTS when completing the pricing schedule. The pricing schedule is provided to assist the contractor in the completion of any tender submission and is for the purpose of tender evaluation. **It is NOT intended to be read as the full scope of the works.** The Contractor shall undertake all necessary enquiry to ensure the Intent of the contract Specification, Drawings, Design brief and associated documents is met. The Pricing Schedule may be utilised as a Variation assessment and validation tool at the sole discretion of EQL.

RATES, ALLOWANCE AND EXTENSINOS FOR PRICING

Tenderers are to provide a FIXED PRICE to deliver the full scope of work. Prices should be shown as GST exclusive and be fully inclusive of all labour, materials, travel, accommodation expenses and all other costs to provide the design and construct in accordance with the requirements in the Scope.

APPROVALS:

All building approvals will be sought by EQL. The successful tenderer will be provided with a full set of BA approved documents.

Q&A:

All RFI requests to be addressed to Mr Neville Brigden: neville.brigden@energyq.com.au

Contractors are invited to participate in an OPEN tender EQL WEBEX meeting 'Query and Answer' session 26th October 2022 between 9.00am and 10.00am: via the following link:

<https://energyq.webex.com/energyq/j.php?MTID=m6934fdfae1898271765d91f4c0835456;>

Please confirm attendance with Mr Neville Brigden prior to meeting, thank you.

Item	SCOPE	\$ AUD Ex GST	Comments
Offsite Preliminary			
1	Builders offsite Project Management and Administration	\$ 345,000.00	
2	Travel and accommodation	\$ 37,500.00	Non Local Contractor to complete as applicable
3	Engage specialist services consultants and complete, rationalise and finalise design: Electrical, Comms, Mechanical, Gas Suppression, Fire services	\$ 255,000.00	
4	In House administration costs associated with item 3	\$ 15,000.00	
5	Council Approval fees		Paid by EQL

6	PLSL Fees/levy		Paid by EQL
7	Contractors All risk Insurance	\$ 27,500.00	
8	Provide As Built drawings, handover maintenance schedules, warranties and the like: <i>Hard copies of certificates & manuals, Electronic copy As Builts and test results</i>	\$ 15,000.00	
9	Allow for Defect Liability period maintenance equipment servicing	\$ 17,500.00	
	SECTION SUB TOTAL	\$ 712,500.00	
Onsite Preliminaries			
10	Site supervision	\$ 245,000.00	
11	Site accommodation - site shed	\$ 28,000.00	
12	Site toilets and staffing amenities	\$ 20,000.00	
13	Site temporary fencing	\$ 20,000.00	
14	Earth temporary site fencing adjacent substation to EQL Standards	\$ 2,000.00	
15	Site labourer	\$ 62,000.00	
16	Site Safety Management	\$ 10,000.00	
17	Complete prestart dilapidation report (digital photos) and provide a copy of same to EQL (1 x Hard copy, 1 x Digital copy PDF format)	\$ 15,000.00	
18	First aid	\$ 3,000.00	
19	Footpath hoarding	\$ 5,000.00	
20	Traffic control	\$ 22,500.00	
21	Temporary Services; (Water, Power etc): Power to be taken from Hartley and Sheridan Streets corner green pillar box: <i>Take care during build as permanent and lead-in service will cross through external perimeter strip footings and screw pile locations ; - make allowance to protect all conduits and cabling during build.</i>	\$ 10,000.00	
22	Site craneage and hoisting	\$ 80,000.00	
23	Provide concrete pumping to footings, core filled block work, suspended concrete slab and ground slabs	\$ 60,000.00	
24	Perimeter Scaffolding and edge protection	\$ 95,000.00	
25	Internal mobile scaffolding	\$ 10,000.00	
26	Site safety and identification signage	\$ 5,000.00	
27	Removal of site rubbish and debris	\$ 40,000.00	
28	Allow for Site walk through & equipment training at completion of work	\$ 5,000.00	
29	Allow to co-ordinate with OTHER WORKS - EQL TRANSFORMER INSTALLATION WORKS	\$ 12,000.00	
	SECTION SUB TOTAL	\$ 749,500.00	
External Works			
30	Grade site and remove excess spoil to achieve required RI's - pay all cartage and removal and dumping fees	\$ 60,000.00	
31	Excavate and lay to grade new civil stormwater drainage	\$ 60,000.00	
32	Construct 2 x stormwater field gully pits to surface including concrete surround to field gully pit located in existing yard zone	\$ 2,000.00	
33	Construct 1 x field gully pit adjacent building - collecting roof stormwater; direct to main central stormwater carpark line	\$ 1,000.00	
34	Reshape existing yard and grade to fall to the new stormwater field gullies	\$ 15,000.00	
35	Provide 100mm communications conduit joining to existing 50mm communications conduit located at end of existing concrete driveway adjacent substation run to new building with draw cable	\$ 2,500.00	
36	Provide 2 x 100 mm conduits for LV Transformer to Main Switchboard	\$ 5,000.00	
37	Provide feed-in communication conduits for new Pits installed by Contractor in footpath cut over existing conduits.	\$ 1,500.00	
38	Trim out, provide subgrade material, form, reo and pour internal concrete to carpark area adjacent Sheridan street; in front of new building	\$ 85,000.00	
39	Provide alternative gravel finish around transformer as noted	\$ 1,250.00	
40	Demolish existing concrete footpath and dispose of all debris, pay all dump charges and associated fees	\$ 10,000.00	
41	Construct new footpath to extent shown to meet Cairns City Council Design requirements	\$ 75,000.00	
42	Provide concrete edging to landscaping edging to landscape area adjacent existing yard zone	\$ 5,000.00	
43	Complete landscaping with landscape zone including, bedding solid, irrigation, garden mulch and planting	\$ 40,000.00	
44	Supply and Install irrigation system to Landscape zones, including RPZ valve and Irrigation Controller: Note; interlink required between garden beds.	\$ 15,000.00	
45	New LV Transformer will be supplied and installed by OTHERS		Completed by OTHERS
46	Clay pavers and concrete edging as shown to area surrounding new transformer will be completed by OTHERS:		Completed by OTHERS
47	Provide wheel stops to two carparking areas	\$ 1,000.00	
48	Provide loading zone and carpark line marking	\$ 3,000.00	
49	Provide and install all (Other) new conduits - Refer Conduits drawings CD-A0-03, CD-A1-04, CD-A4-06	\$ 5,000.00	
50	Demolish existing boundary fencing: NOTE: Existing block wall on boundary to north is to remain	\$ 15,000.00	
51	Provide powder coated aluminium security fence to site boundary	\$ 95,000.00	
52	Provide timber isolation panels to perimeter boundary fencing to extent shown (<i>adjacent existing Substation and at Sheridan Street Entry</i>)	\$ 5,000.00	
53	Provide double leaf entry gates to car park	\$ 20,000.00	
54	Provide single leaf entry gate	\$ 5,000.00	

55	provide new conduit pits to footpath including lead-in conduits	\$	2,000.00	
56	Make good to any damage or work on existing EQL or other property	\$	2,000.00	
	SECTION SUB TOTAL	\$	531,250.00	

New building - Structure

57	Establish site boundaries	\$	15,000.00	
58	Establish site datums and back sites	\$	3,500.00	
59	Set out building boundaries, peg and pin profiles etc	\$	3,500.00	
60	Trace and confirm ALL EXISTING services to footpath. Determine depths and document all services. Take ALL appropriate action as required to protect existing services throughout the build	\$	2,000.00	
61	Relocate existing PV sensor pole at cnr of Sheridan and Hartley Streets			Completed by OTHERS
62	Supply and install screw piles	\$	205,000.00	
63	Excavate, reo, pour strip footings	\$	80,000.00	
64	Construct core filled block wall to base/underside of suspended slab	\$	95,000.00	
65	Provide suspended slab formwork to suspended slab including temporary propping	\$	140,000.00	
66	Provide reinforcement and concrete to suspended, steel trowel finish	\$	100,000.00	
67	Construct core filled blockwork 200 series from suspended slab to parapet	\$	60,000.00	
68	Supply and install sub floor access gates below suspended slab; block work reveals	\$	5,000.00	
69	Supply and Install feature coloured block work to external walls - core filled	\$	40,000.00	
70	Supply and Install grey blockwork to external and internal walls- core filled	\$	125,000.00	
71	Supply and install timber trusses, including all tie down, Pole and seating plates connections and strapping.	\$	25,000.00	
72	Supply and install stiffening bracing / hanging plates to trusses to support cable trays and hanging rods	\$	5,000.00	
73	Supply and install Structural steel awnings frame to footpath, including all bolted connections to block wall face	\$	40,000.00	
74	Supply and install roof purlins over steel awning frames	\$	20,000.00	
75	Metal fascia and colorbond gutter	\$	15,000.00	
76	Supply and install custom orb metal roof including, battens, anticon insulation, box gutter, colorbond custom orb roof sheeting, barge and parapet capping's and flashings	\$	100,000.00	
77	Supply and install PVC downpipes connected to inground civil drainage	\$	10,000.00	
78	Supply and Install roof access landing ladder access frame. Proprietary brand certified by QBCC licenced installer	\$	20,000.00	
79	Supply and Install external feature wall claddings. Note cladding material is offset from block base in varying levels to a achieve stepped relief: <i>allow for All battens, claddings etc as required.</i>	\$	140,000.00	
80	Supply and install feature glass roof panelling to awning structure	\$	85,000.00	
81	Supply and install feature perforated metal screen (vertical panelling) to Awning façade	\$	100,000.00	
82	Provide fire rated plasterboard ceiling to Clean Room, UPS Rooms and Comms Data Hall.	\$	100,000.00	
83	Provide 6mm FC ceiling to Plant area and external patios	\$	50,000.00	
84	Allow to seal all ceiling and wall penetrations to required fire rating.	\$	50,000.00	
85	Provide and install metal door frames: <i>core filled at jambs</i>	\$	15,000.00	
86	Provide, hang and fit off doors: <i>refer architectural door and hardware schedule</i>	\$	5,000.00	
87	Provide and install door hardware: <i>refer architectural door and hardware schedule</i>	\$	15,000.00	
88	Complete render application to external block walls where required	\$	15,000.00	
89	Supply and install fire extinguisher with appropriate locality signage	\$	5,000.00	
90	Complete external painting as specified	\$	25,000.00	
91	Complete internal painting	\$	15,000.00	
92	Supply and Install anti static vinyl flooring - <i>VIN1</i>	\$	33,000.00	
93	Supply and Install HD galvanised stringer and concrete treads (externally rated) to stairs x 2	\$	10,000.00	
94	Supply and Install proprietary Webforge Handrail system including gates and balustrade to stairs and deck	\$	30,000.00	
95	Supply and install slatted screening to plant deck, including gates	\$	28,000.00	
96	Provide identification signage to all doors, equipment and hardware as per EQL standards.	\$	5,000.00	
	SECTION SUB TOTAL	\$	1,835,000.00	

New Building - Services - D&C Content

97	Allow to comply with All related Codes, Standards, Statutory Authority requirements and the Briefing Documents	\$	2,000.00	
98	Allow for stepped design approval process through planning and Design phase of 40%, 60% 80% and 100% with hold and approval points at each stage	\$	133,000.00	
99	Supply and Install BMS to control and to monitor the status of all mechanical plant and critical equipment being served in related areas - refer section 9.3 of the briefing document Appendix A: BMS System to be priced as a PROVISIONAL SUM ALLOWANCE	\$	246,000.00	

100	Design, supply and install interconnecting cabling from LV Transformer (<i>supplied by others</i>) to new Switch board	\$ 20,000.00	
101	Design, supply, install and wire new Mains switchboard located on plant deck - refer section 9.4.1 & 9.4.3 of the briefing document, Appendix A: Note: Automatic switchover from utility power to generator power shall be provided in case of a power outage. Remote management of all elements of the power supply and conditioning systems through remote panels is required	\$ 110,000.00	
102	Design, supply, install and wire new submain distribution boards off main Generator Switchboard: Note: Comms room distributions boards shall be fitted with high immunity type RCDs, i.e. Schneider Acti-9 A9D11832 RCBO. Submain circuit breakers shall be individually mounted with back connected load termination.	\$ 30,000.00	
103	Supply and install Lighting to Building to meet requirements of each area: Plant Deck, External Facade, External soffits, Clean room, UPS room and OTHF Comms Hall.	\$ 25,000.00	
104	Design, supply and install redundant 32A " Redundant 32A "A & B power feeds" with captive socket outlets with appropriate rated cabling will be installed on dedicated "power" overhead cable tray system above each of the equipment racks. (Orange and Grey)	\$ 18,000.00	
105	Design, supply and install 'A' & 'B' 32 Amp Switched Captive Socket Outlets (red colour) to be mounted to electrical cable tray above +21B7 Rack (P25) panel and cabled back to RCBO's in DC.A & DC.B panels in UPS Room.	\$ 32,000.00	
106	NOTE: The FACILITY area shall be backed up by one (1) diesel powered emergency standby generator. EQL "free issue" Atlas Copco QES 105 or similar will be supplied. Sized for max determine load capacity of the site, with 20% float capacity for future growth. Contractor's responsibility will be to take delivery of FREE ISSUE generator from Carins EQL Depot. Contractor to transport to site and install said generator. Ensuring a fully functional and maintainable generator set.		NOTE
107	INSTALL, TEST and COMMISSION Dual 48VDC Telco power supplies (incl. batteries & rectifiers) - rack mounted and located within the UPS room. 48VDC systems should be sized to maintain from day one, the capability of 48V DC racks fitted with redundant A' & 'B' Eaton DC Systems .	\$ 42,500.00	
108	Design, supply and install ventilation to DC Racks: Racks to be ventilated to external wall: All Ventilation is to be certified by RE PQ Mechanical engineer: Note, racks are directly ventilated.	\$ 12,500.00	
109	Design, supply and install power cabling as required refer section 9.4.6 of the briefing document	\$ 6,000.00	
110	Design, supply and install suspended cable trays system in tiered arrangement with Power tray closest to the ceiling and Comms offset and set lower.	\$ 34,000.00	
111	Design, supply and install earthing systems to ALL communications equipment sub-racks within a rack including any rack DC distribution panel which shall be earthed to the cubicle earth bar in accordance with the manufacturer's recommendations.	\$ 7,500.00	
112	Design, supply and install earthing systems to cable tray with earth strap (30mm x 3mm) or equivalent shall be run the entire length of the cable tray system and a bolted connection made to every cable tray section. This earth shall be connected directly to the internal service earth link bar/s as shown in accordance with Reference Appendix C. STMP004	\$ 14,000.00	
113	Design, Supply and Install building lighting protection system	\$ 45,000.00	
114	Design, Supply and Install wiring to DC distribution panels from each equipment rack which shall be by insulated stranded copper conductor to screw terminals or crimp lugs.	\$ 31,000.00	
115	Supply and Install 24 x 45 SRU (Standard Rack Unit), 800mm (wide) and 1050mm deep . All cabinet shall be fitted with vented front and back doors, top cover with provision for cable access, solid side panels. The DC system and battery racks in the UPS room are of a different size.	\$ 247,000.00	
116	Design, Supply and install Data Cabling to each rack and laid on overhead cable trays: tied neatly. Cabling pathways are designed to offer best maintainability and optimized for electromagnetic compatibility. NOTE: Copper and Fibre cables are to be run on the same 600mm Comms tray on separate paths, each starting from the outer edge of the tray moving inwards: refer section 9.5.1 of the briefing document Appendix A		

117	Design, Supply and install Structured fibre cabling to each rack. Note: Copper and Fibre cables are to be run on the same 600mm Comms tray on separate paths, each starting from the outer edge of the tray moving inwards refer section 9.5.1 of the briefing document Appendix A. All 'standard top of rack' structured copper cables installed to go between equipment rack will go via a "aggregation rack". Copper trunk will be terminated onto RJ45 Cat6a patch panel. Each trunk will be wired as T568 Type A straight Copper Install 24 port Cat6 RJ45 patch panels (Rexel SVDPPC624PC) in equipment panels +21A2, 3, 4, 5, 6, 7 & +21B2, 3, 4, 5, 6, 7 to achieve the following cabling arrangement using Cat6 UTP cables: 24 cables between +21A2 & +21B2. 24 cables between +21A2 & +21A3. 24 cables between +21A3 & +21B3. 24 cables between +21B2 & +21B3. 12 cables from +21A3 to +21A4, 5, 6, 7. 12 cables from +21B3 to +21B4, 5, 6, 7. 12 cables from +21B2 to +21B7. 4 cables from +21A3 panel to workstation/desk wall outlets in Clean Room. 2 cables from +21A3 panel to wall outlets above DC.A & DC.B panels in UPS Room	\$ 26,000.00	
118	Design, Supply and install Data RJ45 points: 4 Clean room - work desk 2 (1) at each battery charger in UPS room 2 (1) per future UPS In UPS room 1 Generator area 1 MSB area	\$ 13,000.00	
119	Design, supply and install a single vertical FIST installed at the far end of the Comms Room (+21W3). Supply and install FOMS modules in FIST cabinet within Comms Rooms and OFS900 OTPs in equipment racks (+21A2 - 11 & +21B2 - 11) to achieve the following cable arrangement using pre-terminated multi-core fibre patch leads: 3 x 12core SCA-DLC OS2 SMOF – FIST to +21A2. 1 x 12core DLC-DLC OS2 SMOF – +21A2 to +21B2. 3 x 12core SCA-DLC OS2 SMOF – FIST to +21B2. 3 x 12core SCA-DLC OS2 SMOF – FIST to +21A11. 1 x 12core DLC-DLC OS2 SMOF – +21A11 to +21B11. 3 x 12core SCA-DLC OS2 SMOF – FIST to +21B11.	\$ 70,000.00	
120	Design, supply and install condensate drainage including sealed tundishes all connected to civil stormwater drainage	\$ 30,000.00	
121	Design, Supply and install Fire detection and Suppression system: refer section 9.6.3 of the briefing Document, Appendix A.	\$ 115,000.00	
122	Design, supply and install MASDA with multiple stages of alarm and shall be connected back to a local building alarm panel located next to the main entry point to building	\$ 58,000.00	
123	Design, Supply and install cable entry Gland Plate shall be 6mm thick, removable aluminium plate.	\$ 1,000.00	
	SECTION SUB TOTAL	\$ 1,368,500.00	
PROVISIONAL & PRIME COST SUM ALLOWANCES			
124	PS - Design, Supply and Install Mechanical Split Air Conditioning system (N+1) to Clean Room, UPS room and OTHF Comms Hall to heat loads as noted in briefing document: All works to be certified by REPQ Mechanical Engineer. Allow as necessary.	\$ 255,000.00	
125	PS - Design, Supply and Install Dehumidifier system to Data Hall, UPS room and Clean room. All works to be certified by RPEQ Mechanical Engineer. DEHUMIDIFIER AIR CONDITIONING SYSTEMS to be priced as a PROVISIONAL SUM ALLOWANCE	\$ 44,000.00	
126	PS- Design, Supply and Install Mechanical ventilation to Comms room and UPS rooms to facilitate gas suppression barometric relief system shall be provided for the Comms Room and UPS room, with a further gas exhaust system to be manually operated in the event of gas discharge.	\$ 25,000.00	
127	PS - Design, Supply and Install Mechanical ventilation to UPS room to comply with Ventilation Standards. The hydrogen concentration by volume in a battery room or enclosure to be maintained below required rate, for example 2 % and in reference AS 2676.1 Guide to the installation, maintenance, testing and airflow calculations to be provided. Size of ventilation to be certified by REPQ Mechanical engineer	\$ 15,000.00	

128	PC - Supply ONLY Dual 48VDC Telco power supplies (incl. batteries & rectifiers) - rack mounted and located within the UPS room. 48VDC systems should be sized to maintain from day one, the capability of 48V DC racks fitted with redundant A' & 'B' Eaton DC Systems . <i>(From SCHEDULE "L" of the appendices)</i> - Century Yuasa Battery System - 48xUXL550-2 batteries, 2x enclosed racks (EA= 1800x850x500, 190kg), intershef links, labels and accessories - Item 14 +e item with enclosed rack - B&R iLINQ Cabinet 600x600x1800, configuration LBS15807, drawing XB-604009_2 - Eaton APS6-331 Subrack - -48VDC - SC300 - 16 x Load MCBs, 4x Battery MCBs - Covers - AC - - No Circuit Breakers (No Rectifiers Included) - Ready to Use -483mmW x 335mmD x 266.7mmH - 16kg (Similar to PowerOn Australia Part Number POA16085 but with Schneider MCBs) - Eaton APR48-3G Rectifier - 48V - 1800W - 3RU - 240V AC - 42mmW x 266mmDx 133mmH - 1.7kg (PowerOn Australia Part Number POA15193) - IRM 3500W 48V Inverter with External Earth Point - BLANK PLATE, 1RU HIGH, 19" RACK MOUNTING 2 HOLE - BLANK PLATE, 2RU HIGH, 19" RACK MOUNTING 2 HOLE - BLANK PLATE, 6RU HIGH, 19" RACK MOUNTING 2 HOLE - BLANK PLATE, 3RU HIGH, 19" RACK MOUNTING 2 HOLE	\$ 180,000.00	
OPTIONAL WORK			
129	The following work will be included within the contract scope at the discretion of EQL		NOTE
130	Design, Supply and install Security monitoring, detection systems and surveillance cameras as per Appendix E of the tender document package	\$ 162,500.00	
	SECTION SUB TOTAL	\$ 162,500.00	
	Scope not noted above - Add as applicable for tender assessment		
131	Admin / Site Establishment	\$ 40,000.00	
132	As Built Documentation	\$ 10,000.00	
133	Data Collection	\$ 6,000.00	
134	Seismic Trays	\$ 20,000.00	
135			
	Insert \$0.00 if no additional items added SECTION SUB TOTAL	\$ 76,000.00	
TOTAL (AUD ex GST)		\$ 5,435,250.00	

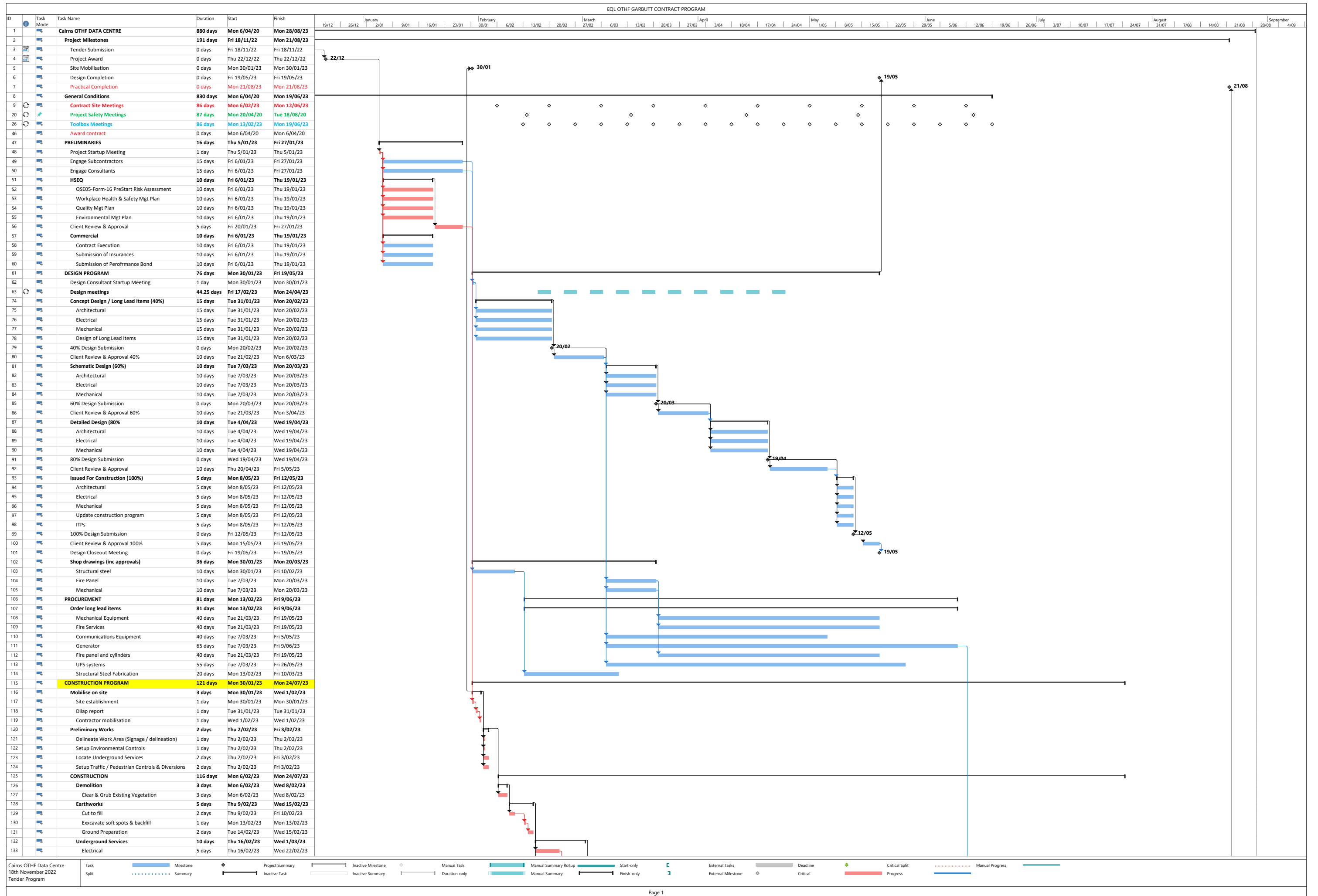
APPENDIX L - EQUIPMENT LIST

Rack	Item	Description / Type	Qty	EQL Stores Code	Estimated Lead Time	Part Number	Supplier	
+21W3	FIST	GR2 FIST with 2x300mm side ducts	1	N/A	90 Days	FIST-GR2-22-SN-CEMT-AU02 (CK1333-000)	Optical Fibre Systems	FIST Supply Total \$ 12,227.00 Price for the FIST panels and associated hardware Ex GST complete
+21W3	FIST	600mm Central door with Lock	1	N/A	90 Days	FIST-GR2-CD-2-600-L-LM (CK5160-000)	Optical Fibre Systems	
+21W3	FIST	Side duct door with locks	2	N/A	90 Days	FIST-GR2-DOOR 300MM WIDE+LO (8-1154998-8)	Optical Fibre Systems	
+21W3	FIST	FIST-GR2 600mm Back Panel - One back panel per pack	1	N/A	90 Days	1-1154999-4	Optical Fibre Systems	
+21W3	FIST	FIST-GR2 300mm Side Panels -Two 300mm side panels per pack	1	N/A	90 Days	8-1154999-9	Optical Fibre Systems	
+21W3	FIST	Cable entrance management tray	1	N/A	90 Days	FIST-GR3-CEMT-M (CZ5407-000)	Optical Fibre Systems	
+21W3	FIST	Pack of 10 drums	1	N/A	90 Days	FIST-GR2-DRM (276430-000)	Optical Fibre Systems	
+21W3	FIST	PA6 NW10 13.0 mm, OD Black nylon corrugated conduit, 50m Roll	1	N/A	90 Days	AEI200100/50	Optical Fibre Systems	
+21W3	FIST	Cable clamp for one cable 12-16mm, mounts into C-section channel; bag of 5, each clamp has CSM retention clip	1	N/A	90 Days	FIST-GR2-CAA-1-12/16-5	Optical Fibre Systems	
+21W3	FIST	Cable access plate	1	N/A	90 Days	FIST-GR2-CAP-300	Optical Fibre Systems	
+21W3	FIST	High Density Fiber patching only Panel, 48 SC/A, 1RU, 19 in, gray	4	N/A	90 Days	FOMS-FPS-HD-K-PNS2-48	Optical Fibre Systems	\$ 6,010.00 \$ 5,167.00 \$ 6,237.00 \$ 5,394.00
+21W3	FIST	1RU 19" - ETSI extension brackets (333858-000)	4	N/A	90 Days	FIST-MB-1HU-M	Optical Fibre Systems	
+21A2	OTP	OFS 900 fitted with 24 x DLC T/A, 3 x 12 fibre 15m LC-SC/APC Mil lead, 1 x 12 fibre 11m LC-LC Mil lead (external ends have 2.00 mm buffer tubes, internal fibres - 900 µm)	1	N/A	90 Days	OFS-Q23734-OTP1	Optical Fibre Systems	
+21B2	OTP	OFS 900 fitted with 24 x DLC T/A, 3 x 12 fibre 1 OFS-Q23734-OTP2 12m LC-SC/APC Mil lead, 1 (external ends have 2.00 mm buffer tubes, internal fibres - 900 µm)	1	N/A	90 Days	OFS-Q23734-OTP2	Optical Fibre Systems	
+21A11	OTP	OFS 900 fitted with 24 x DLC T/A, 3 x 12 fibre 21m LC-SC/APC Mil lead, 1 x 12 fibre 11m LC-LC Mil lead (external ends have 2.00 mm buffer tubes, internal fibres - 900 µm)	1	N/A	90 Days	OFS-Q23734-OTP3	Optical Fibre Systems	
+21B11	OTP	OFS 900 fitted with 24 x DLC T/A, 3 x 12 fibre 18m LC-SC/APC Mil lead, 1 (external ends have 2.00 mm buffer tubes, internal fibres - 900 µm)	1	N/A	90 Days	OFS-Q23734-OTP4	Optical Fibre Systems	
Equipment Panels	DCDB	RITTAL DISTRIBUTION BOX 19" PANEL MOUNTED	8	2443596	30 Days	DK7480.035	Rittal	\$ 4,392.00
Equipment Panels	DCDB	CIRCUIT BREAKER MCB, ACTI9 IC60N, 6A, 15kA (12-48VDC), 1 POLE, C-C	160	2486694	30 Days	A9F44106	SCHNEIDER	\$ 1,161.60
Equipment Panels	DCDB	ACTI9 BUSBAR COMB, 12 MODULE, 1 POLE, 100 AMP	16	2486710	30 Days	A9XP112	SCHNEIDER	\$ 265.60
Equipment Panels	DCDB	ACTI9 END CAPS, 10 PACK, 1 POLE	4	2486728	30 Days	A9XPE110	SCHNEIDER	\$ 37.36
Equipment Panels	DCDB	MARKER INSERT, MC612PA, PREPRINTED: 1->10 (X10), HORIZONTAL CA	2	30326	30 Days	1SNK 150 012 R0000	ABB	\$ 31.60
Equipment Panels	DCDB	MARKER INSERT, MC612PA, PREPRINTED: 11->20 (X10), HORIZONTAL C	2	30327	30 Days	1SNK 150 021 R0000	ABB	\$ 36.00
Equipment Panels	DCDB	MARKER INSERT, MC812PA, PREPRINTED: 1->10 (X10), HORIZONTAL CA	2	30415	30 Days	1SNK 160 011 R0000	ABB	\$ 41.10
Equipment Panels	DCDB	END PLATE, ES4, END SECTION, 2.2MM SPACING, DARK GREY FOR ZS4 T	32	30309	30 Days	1SNK 505 910 R0000	ABB	\$ 40.80
Equipment Panels	DCDB	TERMINAL BLOCK ZS6, STANDARD FEED-THROUGH, 6MM SPACING, 6M	320	30306	30 Days	1SNK 506 010 R0000	ABB	\$ 851.80
Equipment Panels	DCDB	TERMINAL BLOCK ZS10, STANDARD FEED-THROUGH, 8MM SPACING, 10	32	30401	30 Days	1SNK 508 010 R0000	ABB	\$ 166.40
Equipment Panels	DCDB	END STOP, BAM4, SCREW END STOP, 10MM SPACING, DARK GREY	64	000030308	30 Days	1SNK 900 001 R0000	ABB	\$ 81.66
Equipment Panels	DCDB	LABEL HOLDER, LH-R1, 19.5MM W, DARK GREY FOR MARKER INSERT	32	000030316	30 Days	1SNK 900 607 R0000	ABB	\$ 52.40
Equipment Panels	DCDB	DIN RAIL FOR MOUNTING ON REAR OF DCDB (2m)	2		30 Days		Electrical Wholesaler	\$ 14.96
Equipment Panels	Cat6	WIDEBAND TECHNOLOGIES CABLE MANAGEMENT	53	4144	30 Days	CM1RUMBK	Wideband	\$ 655.00
Equipment Panels	Cat6	24-WAY CAT6 PATCH PANEL	23	2474211	30 Days	SVDPPC624PC	Rexel	\$ 6,488.71
Equipment Panels	PDU	Enlogic Vertical PDU - 32A, 240V, 20xC13, 4xC19 IEC Sockets	4	N/A		EN2113	Enlogic	\$ 6,354.30
DC System Racks	Battery Racks	Century Yuasa battery system - 40x74x500-2 batteries, 2x enclosed racks (EA= 1800x850x500, 190kg), intershell links, labels and accessories - Item 14	1			Item 14 +e	Century Yuasa	refer Provisional sum item 128
DC System Racks	Rectifier Racks	B&R ILINQ Cabinet 600x600x1800, configuration LBS15807, drawing XB-604009_2	2	N/A	60 Days	LBS15807, drawing XB-604009_2	B&R Enclosures	Total for 2 x 48V DC powers systems
DC System Racks	48VDC Subracks	Eaton AP6-331 Subrack - 48VDC - 3C300 - 10 x Load MCBs, 4x Battery MCBs - Covers - AC - No Circuit Breakers (No Rectifiers Included) - Ready to Use -483mmW x 226mmD x 266mmH - 16kg (Circuit to PowerOn Australia Part Number Eaton AP6-331)	2	N/A	60 Days	APS6-331	Eaton	C/w Battery Cabinets and Inverters
DC System Racks	48VDC Subracks	Eaton APR48-3G Rectifier - 48V - 1800W - 3RU - 240V AC - 42mmW x 266mmDx 133mmH - 1.7kg (PowerOn Australia Part Number POA15193)	12	2453009	60 Days	APR48-3G	Eaton	All provided by PowerOn, Price includes commissioning
DC System Racks	48VDC Subracks	MCB ACTI9 IC60H 3P 40A D-CURVE 10KA	2	N/A	30 Days	A9F55340	SCHNEIDER	\$ 183.33
DC System Racks	48VDC Subracks	C120N 1P 125A C 10000A 240/415V MINIATUR	4	N/A	30 Days	A9N18359	SCHNEIDER	\$ 255.80
DC System Racks	48VDC Subracks	Schneider Aux Contact suit C120N MCB – A9N26924	4	N/A	30 Days	A9N26924	SCHNEIDER	\$ 222.00
DC System Racks	48VDC Subracks	MCB ACTI9 IC60N 1P 63A C-CURVE 6KA	4	N/A	30 Days	A9F44163	SCHNEIDER	\$ 35.80
DC System Racks	48VDC Subracks	MCB ACTI9 IC60N 1P 32A C-CURVE 6KA	24	N/A	30 Days	A9F44132	SCHNEIDER	\$ 203.00

[illegible]

Schedule 5 – Initial Construction Program

EQL OTHF Garbutt Contract Program



</

Schedule 6 – Moral rights consent

Not Used

Schedule 7 - Deed of Novation of Consultant

Deed dated

Parties

#Full name of Principal# # ACN if applicable# of #address# (Principal)# Full name of Contractor # # Contractor's ACN (if applicable) # of # address of Contractor # (Contractor)

Full name of Consultant # # Consultant's ACN (if applicable) # of # address of Consultant # (Consultant)

Introduction

- A. The Principal and Consultant have entered into the Consultancy Agreement.
- B. The Principal and Contractor entered into the Contract under which the Contractor is to complete the design and carry out the construction of the Project.
- C. The parties have agreed to the novation of the Consultancy Agreement from the Principal to the Contractor in accordance with this Deed.

It is agreed

1 Definitions and interpretation

1.1 Definitions

In this Deed:

- (1) **Business Day** means a day that is not a Saturday, Sunday or any other day which is a public holiday or a bank holiday in the place where an act is to be performed or a payment is to be made;
- (2) **Claim** includes a claim, damage, loss, cost, expense or liability incurred by or to be made or recovered by or against any person, however arising, whether present, unascertained, immediate, future or contingent, and whether made by a party to this Deed or a third person;
- (3) **Consultancy Agreement** means the agreement between the Principal and the Consultant to carry out Services dated **[insert date of Consultancy Agreement]**;
- (4) **Contract** means the contract for the design and construction of **[insert description of the works under the contract]** between the Outgoing Party and the Continuing Party dated **# date of Contract #**;

- (5) **Deed** means this document, including any schedule or annexure to it;
- (6) **Effective Date** means [insert the date on which the Contractor takes over the rights, obligations and liabilities of the Principal under this Deed];
- (7) **Jurisdiction** means Queensland;
- (8) **Project** means the works to be carried out by the Contractor under the Contract; and
- (9) **Services** means the work carried out, or to be carried out, by the Consultant under the Consultancy Agreement whether before or after the Effective Date.

2 Interpretation

2.1 Reference to:

- (1) the singular includes the plural and the plural includes the singular;
- (2) a person includes a body corporate;
- (3) a party includes the party's executors, administrators, successors and permitted assigns;
- (4) a thing includes the whole and each part of it separately;
- (5) a statute, regulation, code or other law or a provision of any of them includes:
 - (a) any amendment or replacement of it; and
 - (b) another regulation or other statutory instrument made under it, or made under it as amended or replaced; and
- (6) dollars means Australian dollars unless otherwise stated.

2.2 "Including" and similar expressions are not words of limitation.

2.3 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.

2.4 Headings and any table of contents or index are for convenience only and do not form part of this Deed or affect its interpretation.

2.5 A provision of this Deed must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of the Deed or the inclusion of the provision in the Deed.

2.6 If an act must be done on a specified day which is not a Business Day, it must be done instead on the next Business Day.

3 Novation

3.1 On and from the Effective Date:

- (1) the Principal novates to the Contractor all of its obligations, liabilities, rights, title and interest in and to the Consultancy Agreement;

- (2) the Contractor accepts the novation by the Principal;
- (3) the Consultant consents to the novation by the Principal to the Contractor;
- (4) the Contractor is bound by and will comply with the terms of the Consultancy Agreement, and adopts the rights, benefits, obligations and liabilities of the Principal, as if it was the original party to the Consultancy Agreement; and
- (5) a reference in the Consultancy Agreement to the Principal must be read as a reference to the Contractor.

4 Releases by Consultant and Principal

4.1 On and from the Effective Date, the Consultant releases the Principal from:

- (1) any obligations and/or liabilities under or in connection with the Consultancy Agreement, including all liabilities under contract, statute, in tort (for negligence or otherwise) or on any other basis in law or in equity; and
- (2) any action, Claim and demand it has, or but for this clause 4 would have had, against the Principal, under or in connection with the Consultancy Agreement.

4.2 The Consultant gives the release under clause 4.1 regardless of:

- (1) when the obligation, liability, action, Claim or demand arises or arose (including where it has arisen prior to the Effective Date); and
- (2) whether or not it is now or in the future aware of the facts and circumstances relevant to any obligation, liability, action, Claim or demand.

4.3 On and from the Effective Date, the Principal releases the Consultant from:

- (1) any obligations and/or liabilities under or in connection with the Consultancy Agreement, including all liabilities under contract, statute, in tort (for negligence or otherwise) or on any other basis in law or equity; and
- (2) any action, Claim and demand it has, or but for this clause 4 would have had, against the Consultant, under or in connection with the Consultancy Agreement,

to the extent that the release does not prejudice the Contractor's right to enforce against the Consultant such obligations, liabilities, actions, Claims or demands. The Consultant acknowledges that such obligations, liabilities, actions, Claims or demands are owed to, and exist in favour of, the Contractor as a result of the novation.

4.4 The Principal gives the release under clause 4.3 regardless of:

- (1) when the obligation, liability, action, Claim or demand arises or arose (including where it has arisen prior to the Effective Date); and
- (2) whether or not it is now or in the future aware of the facts and circumstances relevant to any obligation, liability, action, Claim or demand.

5 Services

5.1 The Consultant warrants and represents to the Contractor that:

- (1) it is not aware of, and has no notice of, any breach by the Principal of any of the Principal's obligations under the Consultancy Agreement;
- (2) it is completely satisfied with the Principal's performance of all of the Principal's obligations under the Consultancy Agreement;
- (3) the Principal has fully complied with all of its obligations under the Consultancy Agreement;
- (4) in carrying out the Services, as at the Effective Date, the Consultant has:
 - (a) fully complied with all of its obligations under the Consultancy Agreement; and
 - (b) carried out the said work with care and skill properly to be expected from professionals with requisite qualifications;
- (5) it will continue to carry out the Services with the care and skill properly to be expected from professionals with requisite qualifications; and
- (6) it will fully comply with all of its obligations under the Consultancy Agreement and this Deed.

6 Payment

6.1 The parties acknowledge that:

- (1) the Consultant has been paid the amount specified in Schedule 1 by the Principal under the Consultancy Agreement in respect of the Services; and
- (2) the amount which remains to be paid to the Consultant by the Contractor under the Consultancy Agreement is specified in Schedule 1.

6.2 The Principal acknowledges that there are no amounts owing to it under the Consultancy Agreement as at the Effective Date.

7 Termination of Consultancy Agreement

7.1 The Consultant and the Contractor cannot terminate, or bring to an end, whether by agreement or otherwise, the Consultancy Agreement unless that party obtains the Principal's consent under this clause 7.

7.2 If the Consultant or the Contractor acts in contravention of clause 7.1 then the Consultancy Agreement is not terminated, or brought to an end, and remains on foot.

7.3 The Consultant or the Contractor seeking to terminate the Consultancy Agreement must give a notice in writing to the Principal stating:

- (1) that the notice is a notice under this clause of the Deed;
- (2) that the party is seeking to terminate the Consultancy Agreement;

- (3) the grounds upon which the party relies to terminate the Consultancy Agreement;
 - (4) details of the events, acts or omission that the party relies upon to establish the grounds referred to in the preceding paragraph; and
 - (5) the clause or clauses, or term or terms, of the Consultancy Agreement, whether express or implied, which the party asserts have been breached.
- 7.4 Delivering the notice in clause 7.3 does not entitle that party delivering the notice to terminate the Consultancy Agreement unless the Principal consents in writing.
- 7.5 The Principal may decide, in its absolute discretion, for any reason whatsoever, not consent to the termination of the Consultancy Agreement subject to any conditions which the Principal considers appropriate. If the consent is subject to conditions the consent is not effective until all conditions have been fully met.
- 7.6 Any consent given under this clause 7 must be in writing.

8 Termination of the Contract – Novation Notice

- 8.1 If the Contract is terminated, or comes to an end, for any reason the Principal may serve a notice (**Novation Notice**) on the Consultant.
- 8.2 If the Principal gives the Consultant a Novation Notice then, as from the date of the notice:
- (1) the Consultancy Agreement takes effect:
 - (a) as an agreement between the Principal and the Consultant; and
 - (b) as if the novation under this Deed had never occurred;
 - (2) the Principal must punctually perform the obligations of the Contractor under the Consultancy Agreement as far as they are not performed as at the date of the Novation Notice, as if the provisions of the Consultancy Agreement were incorporated in this Deed; and
 - (3) the Consultant must punctually perform the obligations of the Consultant under the Consultancy Agreement, as far as they are not performed as at the date of the Novation Notice, as if the provisions of the Consultancy Agreement were incorporated in this Deed.
- 8.3 In giving a Novation Notice the Principal may nominate a third party to which the Consultancy Agreement will be novated in place of the Principal.
- 8.4 If in giving a Novation Notice the Principal does not nominate a third party to which the Consultancy Agreement will be novated in place of the Principal, the Principal may at any subsequent time give a further notice in which the Principal does nominate a third party to which the Consultancy Agreement will then be novated in place of the Principal.
- 8.5 Notwithstanding any provision in this Deed the Principal will not, following the service of a Novation Notice, become liable to the Consultant in relation to:
- (1) any failure of the Contractor to fulfil any obligation which it owed to the Consultant prior to the date of the Novation Notice;

(2) any act, default or omission of the Contractor irrespective of the date of that act, default or omission; or

(3) any Claim of the Consultant where the act, default, omission or event which gives rise to the claim occurred prior to the date of the Novation Notice.

8.6 Any novation to a third party made under this clause must be on the same terms as this Deed.

9 Reporting Obligations

9.1 In addition to any other rights the Principal may have, the Consultant and the Contractor each agree that the Principal may make enquiries directly of the Consultant in relation to the Services and the Project but the Principal may not give directions to the Consultant under the Consultancy Agreement. The Consultant must promptly provide copies to the Contractor of any written communications between the Principal and the Consultant in relation to the Services and the Project.

9.2 The Consultant must issue the Monthly Certificates and the Practical Completion Certificate required under the Consultancy Agreement to each of the Principal and the Contractor.

9.3 The Consultant must promptly provide a copy to the Principal of any notice of potential insurance claim given by the Consultant to the Contractor under the Consultancy Agreement.

9.4 The Consultant must promptly advise the Principal in writing if it becomes aware of:

(1) any act, omission or default of the Contractor in relation to the Project which may or will affect the quality of the Project or any element of the Project including, but not limited to, the design of the Project and the materials being utilised in the Project;

(2) any instruction or direction which it receives, or any work or services it becomes aware of, which in the reasonable opinion of the Consultant, is not in accordance with any provision of the Contract; and

(3) any non-conformity of any documentation produced pursuant to the Contract, or to the documentation in existence at the date of this Deed, upon becoming aware of the non-conformity.

10 No Variation of Deed or Consultancy Agreement

10.1 Any provision in the Consultancy Agreement cannot be waived or varied without the written consent of the Principal. Any variation or waiver not made in accordance with this clause 10.1 has no effect.

10.2 Any provision in this Deed cannot be waived or varied without the written consent of the parties. Any variation or waiver not made in accordance with this clause 10.2 has no effect.

11 Assignment

11.1 A party cannot assign, novate or otherwise transfer any of its rights or obligations under this Deed without the prior consent of each other party.

12 Further assurance

- 12.1 Each party must promptly at its own cost do all things (including executing and, if necessary, delivering all documents) necessary or desirable to give full effect to this Deed.

13 Entire understanding

- 13.1 This Deed:

- (1) is the entire agreement and understanding between the parties on everything connected with the subject matter of this Deed; and
- (2) supersedes any prior agreement or understanding on anything connected with that subject matter.

14 Waiver

- 14.1 A party's failure or delay to exercise a power or right does not operate as a waiver of that power or right.
- 14.2 The exercise of a power or right does not preclude either its exercise in the future or the exercise of any other power or right.
- 14.3 A waiver is not effective unless it is in writing.
- 14.4 Waiver of a power or right is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.

15 Costs and outlays

- 15.1 Each party must pay its own costs and outlays connected with the negotiation, preparation and execution of this Deed.

16 Notices

- 16.1 A notice or other communication connected with this Deed (Notice) has no legal effect unless it is in writing.
- 16.2 In addition to any other method of service provided by law, the Notice may be:
- (1) sent by prepaid post to the address of the addressee set out in this Deed or subsequently notified;
 - (2) sent by facsimile to the facsimile number of the addressee; or
 - (3) delivered at the address of the addressee set out in this Deed or subsequently notified.
- 16.3 If the Notice is sent or delivered in a manner provided by clause 16.2, it must be treated as given to and received by the party to which it is addressed:
- (1) if sent by post, on the 2nd Business Day (at the address to which it is posted) after posting;
 - (2) if sent by facsimile before 5pm on a Business Day at the place of receipt, on the day it is sent and otherwise on the next Business Day at the place of receipt; or

- (3) if otherwise delivered before 5pm on a Business Day at the place of delivery, upon delivery, and otherwise on the next Business Day at the place of delivery.

16.4 Despite clause 16.3(2):

- (1) a facsimile is not treated as given or received unless at the end of the transmission the sender's facsimile machine issues a report confirming the transmission of the number of pages in the Notice; and
- (2) a facsimile is not treated as given or received if it is not received in full and in legible form and the addressee notifies the sender of that fact within 3 hours after the transmission ends or by 12 noon on the Business Day on which it would otherwise be treated as given and received, whichever is later.

16.5 A Notice sent or delivered in a manner provided by clause 16.2 must be treated as validly given to and received by the party to which it is addressed even if:

- (1) the addressee has been liquidated or deregistered or is absent from the place at which the Notice is delivered or to which it is sent; or
- (2) the Notice is returned unclaimed.

17 **Governing law and jurisdiction**

- 17.1** The law of the Jurisdiction governs this Deed and the parties submit to the non-exclusive jurisdiction of the courts of the Jurisdiction and of the Commonwealth of Australia.

18 **Counterparts**

- 18.1** This Deed may be executed in any number of counterparts. All counterparts taken together will be deemed to constitute the one document.

Annexure 1 – Payments (clause 6)

To be advised

Executed as a deed and delivered on the date shown on the first page.

Signed sealed and delivered for and on
behalf of **# INSERT NAME OF
PRINCIPAL #** ACN **# insert #** by its
authorised representative in the presence
of:

Signature of witness

Signature of authorised representative

Name of witness
(BLOCK LETTERS)

Name of authorised representative
(BLOCK LETTERS)

Address of witness

Executed by **# INSERT NAME OF
CONTRACTOR PARTY #** ACN **# insert #**
in accordance with section 127 of the
Corporations Act 2001:

Director/company secretary

Director

Name of director/company secretary
(BLOCK LETTERS)

Name of director
(BLOCK LETTERS)

Executed by **# INSERT NAME OF
CONSULTANT PARTY #** ACN **# insert #**
in accordance with section 127 of the
Corporations Act 2001:

Director/company secretary

Director

Name of director/company secretary
(BLOCK LETTERS)

Name of director
(BLOCK LETTERS)

Schedule 8– Form of Subcontractor warranty

[Drafting Note: Deed to be signed as a Power of Attorney]

Deed dated

Parties Energy Queensland Limited (ABN 96 612 535 583) of PO Box 1090 Townsville QLD 4810 (Principal)

Full name of Subcontractor# # Subcontractor's ACN (if applicable)
of # address of Subcontractor#
(Subcontractor)

Introduction

- A** The Principal and the Contractor have entered into the Contract.
- B** The Contractor and the Subcontractor have entered into the Subcontract.
- C** The Subcontractor has agreed to give the warranties and indemnity described in this Deed in favour of the Principal and to undertake the rectification of Subcontract Works in accordance with the terms of this Deed.

It is agreed

1 Definitions and interpretation

1.1 Definitions

In this Deed:

- (1) **Business Day** means a day that is not a Saturday, Sunday or any other day which is a public holiday or a bank holiday in the place where an act is to be performed or a payment is to be made;
- (2) **Contract** means the contract between the Principal and the Contractor **#insert details#**;
- (3) **Contractor** means **#name of contractor#** ACN **#ACN of contractor#**;
- (4) **Subcontract** means the subcontract between the Contractor and the Subcontractor **#insert details#**;
- (5) **Subcontract Works** means the works to be performed or the goods to be supplied as described in the Subcontract; and

- (6) **Warranty Period** means the period of **#insert#** commencing on the expiration of the Defects Correction Period as that term is defined under the Contract.

1.2 Interpretation

- (1) Reference to:
- (a) one gender includes the others;
 - (b) the singular includes the plural and the plural includes the singular;
 - (c) a person includes a body corporate;
 - (d) a party includes the party's executors, administrators, successors and permitted assigns;
 - (e) a thing includes the whole and each part of it separately;
 - (f) a statute, regulation, code or other law or a provision of any of them includes:
 - (i) any amendment or replacement of it; and
 - (ii) another regulation or other statutory instrument made under it, or made under it as amended or replaced; and
 - (g) dollars means Australian dollars unless otherwise stated.
- (2) "Including" and similar expressions are not words of limitation.
- (3) 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.
- (4) Headings and any table of contents or index are for convenience only and do not form part of this Deed or affect its interpretation.
- (5) A provision of this Deed must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of the Deed or the inclusion of the provision in the Deed.
- (6) If an act must be done on a specified day which is not a Business Day, it must be done instead on the next Business Day.

1.3 Parties

- (1) If a party consists of more than 1 person, this Deed binds each of them separately and any 2 or more of them jointly.
- (2) An obligation, representation or warranty in favour of more than 1 person is for the benefit of them separately and jointly.
- (3) A party which is a trustee is bound both personally and in its capacity as a trustee.

2 Warranty

- 2.1 The Subcontractor warrants to the Principal that for the Warranty Period the Subcontract Works will be:

- (1) in accordance with the quality and standard required by the Subcontract, or to the extent that is not prescribed, a standard consistent with the best industry standards for the work of a nature similar to the Subcontract Works;
- (2) in accordance with all relevant legislation and Australian Standards produced by Standards Australia (to the extent that they are not inconsistent with the requirements of the Subcontract or any legislation); and
- (3) of merchantable quality and fit for the purpose for which the Subcontract Works are required (as set out in or determined from the Subcontract).

3 Rectification of Subcontract Works

3.1 Notice from the Principal

- (1) The Principal may give the Subcontractor written notice of any breach of the warranty set out in clause 2 during the Warranty Period, including where any part of the Subcontract Works show deterioration (on account of utility, performance, appearance or otherwise) to such extent that in the opinion of the Principal the Subcontract Works ought to be made good or replaced to achieve fitness for the purpose for which they are required
- (2) The notice must specify the breach and the time in Business Days within which the Subcontractor must rectify the breach.

3.2 Subcontractor to Rectify

The Subcontractor must, at no cost to the Principal, rectify the breach notified by the Principal under clause 3.1 in the manner directed by the Principal (which may involve reinstatement, replacement, repair or rectification as determined by the Principal) so that, to the reasonable satisfaction of the Principal, the Subcontract Works comply with the requirements of this Deed within the time stipulated by the Principal or if no time is stipulated, then promptly.

3.3 Principal may make good

- (1) If the Subcontractor fails to fully and properly carry out all of the work within the time required under clause 3.2, the Subcontractor is deemed to have relinquished any rights it may have had to do so and the Principal may arrange for the Subcontract Works to be reinstated, replaced, repaired or rectified as determined by the Principal.
- (2) The costs incurred by the Principal under clause 3.3(1) will be a debt due from the Subcontractor to the Principal.

4 Indemnity

The Subcontractor indemnifies the Principal against any direct, indirect or consequential loss, cost, expense or damages of any nature whatsoever incurred by the Principal arising directly or indirectly out of:

- (1) any breach of the warranty set out in clause 2 howsoever arising;
- (2) the making good of any Subcontract Works in accordance with clause 3.3; and
- (3) any act or omission (including any negligence, unlawful conduct or wilful misconduct) by the Subcontractor relating to this Deed.

5 Other Rights of the Principal

The provisions of this Deed shall be without prejudice to and shall not be deemed to be construed so as to limit or exclude any right or remedy which the Principal may have against the Subcontractor, whether under statute, warranty, in tort or otherwise.

6 Assignment

- (1) The Subcontractor must not assign or otherwise deal with this Deed without the prior written consent of the Principal. The Principal is not required to give consent or to justify the withholding of consent. Any purported dealing by the Subcontractor in breach of this clause 6 is of no effect.
- (2) The Principal may assign its interest in this Deed to any person at any time without notice to or the consent of the Subcontractor.

7 General

7.1 Amendment

An amendment or variation to this Deed is not effective unless it is in writing and signed by the parties.

7.2 Waiver

- (1) A party's failure or delay to exercise a power or right does not operate as a waiver of that power or right.
- (2) The exercise of a power or right does not preclude either its exercise in the future or the exercise of any other power or right.
- (3) A waiver is not effective unless it is in writing.
- (4) Waiver of a power or right is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.
- (5) No allowance of time by the Contractor under the Subcontract, nor any forbearance or forgiveness in respect of any matter under the Subcontract on the part of the Contractor, or anything that the Contractor may do or omit or neglect to do, shall in any way release the Subcontractor from liability under this Deed.

7.3 Conflict

If there is any inconsistency between the Subcontract and this Deed, this Deed prevails.

7.4 Further steps

Each party must promptly at its own cost do whatever any other party reasonably requires of it to give effect to this Deed and to perform its obligations under it.

7.5 Entire understanding

This Deed:

- (1) is the entire deed and understanding between the parties on everything connected with the subject matter of this Deed; and

- (2) supersedes any prior deed or understanding on anything connected with that subject matter.

7.6 Operation of this Deed

This Deed comes into operation in favour of the Principal as soon as it has been executed by the Subcontractor, even if it has not been or is not at any time executed by the Principal.

7.7 Governing Law and jurisdiction

- (1) The Law of Queensland governs this Deed.
- (2) The parties submit to the non-exclusive jurisdiction of the courts of Queensland and of the Commonwealth of Australia.

Executed as a deed on the date shown on the first page.

Executed by **#Subcontractor#** **#Insert**
ABN/ACN# in accordance with
section 127 of the *Corporations Act 2001*:

Director/company secretary

Director

Name of director/company secretary
(BLOCK LETTERS)

Name of director
(BLOCK LETTERS)

Signed sealed and delivered for and on
behalf of **the Principal** **#Insert**
ABN/ACN# by its authorised
representative in the presence of:

Signature of witness

Signature of authorised representative

Name of witness
(BLOCK LETTERS)

Name of authorised representative
(BLOCK LETTERS)

Address of witness

Schedule 9 – Deeds of Release

[Drafting Note: Deed to be signed as a Power of Attorney]

Part 1 – Deed of Release - Practical Completion

TO: Energy Queensland Limited (ABN 96 612 535 583) (Principal)

PROJECT: The design and construction of the **# insert description of the works #** as further described in the Contract.
(Contractor's Activities)

CONTRACTOR: **# insert #**
ACN **# insert #**
(Contractor)

CONTRACT dated **[insert]**
(Contract)

- 1 The Contractor agrees that, to the extent permitted by Law, except for the amounts specified in clause 2 below, the total of the monies now due or that may in the future become due arising out of or in any way connected with the Contract or the Contractor's Activities or any other works executed by the Contractor and/or its consultants, Subcontractors and suppliers on or about the Site of the Contractor's Activities is **\$# insert #** (the **Payment at Practical Completion**).
- 2 The Payment at Practical Completion does not include the following amounts:
 - 2.1 Retention and/or bank guarantee in the amount of **\$# insert #** (the **security**); or
 - 2.2 The following amounts which are the subject of a dispute notified under clause **###** prior to the issue by the Principal of a Certificate of Practical Completion:

\$	for
\$	for
\$	for
- 3 The Contractor acknowledges that, to the extent permitted by Law, payment by the Principal to the Contractor of the Payment at Practical Completion is acceptance by the Contractor of full and final payment to the Contractor of all amounts due and payable at Practical Completion of the Contractor's Activities except for the amounts described in clauses 2.1 or 2.2 above (if any).
- 4 In consideration of the promises contained in this Deed of Release and the payment by the Principal of the Payment at Practical Completion, to the extent permitted by Law, the Contractor waives, releases and forever discharges the Principal from all or any claims, actions, suits, proceedings, demands, costs and expenses and the like which the Contractor has now or might have against the Principal in the future whether arising under or in connection with the Contract or in any way connected with the execution of the Contractor's Activities or for the work performed or materials supplied at the Site (except for those described in clause 5 below) and further acknowledges that, subject to clause 5

below, this Deed of Release may be pleaded as a complete and unconditional bar to any proceedings of whatever nature sought to be instituted, filed or maintained against the Principal by the Contractor after the date of this Deed of Release.

- 5 Clause 4 does not apply to any claim, action, suit, proceeding or demand:
- 5.1 which may arise as a result of action of the Principal or an instruction of the Principal during the Defects Correction Period; or
- 5.2 in respect of the amounts described in clauses 2.1 or 2.2 above (if any).
- 6 The execution by the Contractor of this Deed of Release does not limit or in any way affect the Contractor's obligations and liabilities under the Contract.

EXECUTED by the Contractor as a Deed on the day of 20

The common seal of **# insert name of the Contractor** # ACN **# insert #** was affixed in accordance with its constitution in the presence of:

Director/company secretary

Director

Name of director/company secretary
(BLOCK LETTERS)

Name of director
(BLOCK LETTERS)

Part 2 – Deed of Release – Final Completion

TO: Energy Queensland Limited (ABN 96 612 535 583) of PO Box 1090 Townsville QLD 4810 (**Principal**)

PROJECT: The design and construction of **# insert description of the works #** as further described in the Contract.

(Contractor's Activities)

CONTRACTOR: **# insert #**

ACN **# insert #**

(Contractor)

CONTRACT dated **# insert #**

(Contract)

- 1 The Contractor agrees that, to the extent permitted by Law, the total of the monies now due or that may in the future become due arising out of or in any way connected with the Contract or the Contractor's Activities or any other works executed by the Contractor and/or its Consultants and Subcontractors (whether selected or otherwise) on or about the Site of the Contractor's Activities is \$**# insert #** (**the Final Payment**) plus retention and/or bank guarantee in the amount of \$**# insert #** (**the Security**).
- 2 The Contractor acknowledges that, to the extent permitted by Law, payment by the Principal to the Contractor of the Final Payment and release by the Principal of the Security is acceptance by the Contractor of full and final payment to the Contractor of all amounts due and payable now or in the future in connection with the Contract and the Contractor's Activities or any other works executed by the Contractor and/or its Consultants and Subcontractors (whether selected or otherwise) on or about the Site of the Contractor's Activities.
- 3 In consideration of the promises contained in this Deed of Release and the payment by the Principal of the Final Payment and the return or release of the Security to the Contractor, to the extent permitted by Law, the Contractor waives, releases and forever discharges the Principal from all or any claims, actions, suits, proceedings, demands and the like which the Contractor has now or might have against the Principal in the future whether arising under or in connection with the Contract or in any way connected with the execution of the Contractor's Activities or for the work performed or materials supplied at the Site and further acknowledges that this Deed of Release may be pleaded as a complete and unconditional bar to any proceedings of whatever nature sought to be instituted, filed or maintained against the Principal by the Contractor after the date of this Deed of Release.

Executed as a Deed on the day of 20

THE COMMON SEAL of **# INSERT NAME OF**)
CONTRACTOR # ABN # INSERT # was affixed)
in accordance with its constitution in the presence)
of:

Director/Company Secretary

Director

Name of Director/Company Secretary
(BLOCK LETTERS)

Name of Director
(BLOCK LETTERS)

Schedule 10 – Deed of Novation where Contract terminated

Dated

Deed of novation

Parties

Full name of Outgoing Party

Outgoing Party's ACN (if applicable)

Principal

#Contractor's ACN (if applicable) #

Full name of Continuing Party

Continuing Party's ACN (if applicable)

Deed dated

Parties

Full name of Outgoing Party # **# Outgoing Party's ACN (if applicable) #**
of **# address of Outgoing Party #**
(Outgoing Party)

#Full name of Incoming Party# **# Incoming Party's ACN (if applicable) #**
of **# address of Incoming Party #**
(Incoming Party)

Full name of Continuing Party # **# Continuing Party's ACN (if applicable) #**
of **# address of Continuing Party #**
(Continuing Party)

Introduction

- A. The Incoming Party and the Outgoing Party were parties to the Contract.
- B. The Contract has since been terminated.
- C. The Outgoing Party and the Continuing Party entered into the Subcontract in relation to the Project.
- D. The parties have agreed that the Outgoing Party shall novate the Subcontract to the Incoming Party in accordance with this Deed.

It is agreed

1 Definitions and interpretation

1.1 Definitions

In this Deed:

- (1) **Business Day** means a day that is not a Saturday, Sunday or any other day which is a public holiday or a bank holiday in the place where an act is to be performed or a payment is to be made;
- (2) **Claim** means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent, whether at law, in equity, under state or otherwise;
- (3) **Contract** means the contract for the design and construction of **[insert brief description of works under contract]** between the Outgoing Party and the Continuing Party dated **# date of Contract #**;
- (4) **Deed** means this document, including any schedule or annexure to it;
- (5) **Effective Date** means **#insert the date on which the Incoming Party takes over the rights, obligations and liabilities of the Outgoing Party under this Deed#**;
- (6) **Project** means the works as defined in the Contract;

- (7) **Subcontract** means the agreement between the Outgoing Party and the Continuing Party to carry out the works in connection with the Project.

1.2 Interpretation

- (1) Reference to:
- (a) the singular includes the plural and the plural includes the singular;
 - (b) a person includes a body corporate;
 - (c) a party includes the party's executors, administrators, successors and permitted assigns;
 - (d) a thing includes the whole and each part of it separately;
 - (e) a statute, regulation, code or other law or a provision of any of them includes:
 - (i) any amendment or replacement of it; and
 - (ii) another regulation or other statutory instrument made under it, or made under it as amended or replaced; and
 - (f) dollars means Australian dollars unless otherwise stated.
- (2) "Including" and similar expressions are not words of limitation.
- (3) 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.
- (4) Headings and any table of contents or index are for convenience only and do not form part of this Deed or affect its interpretation.
- (5) A provision of this Deed must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of the Deed or the inclusion of the provision in the Deed.
- (6) If an act must be done on a specified day which is not a Business Day, it must be done instead on the next Business Day.

1.3 Parties

- (1) If a party consists of more than 1 person, this Deed binds each of them separately and any 2 or more of them jointly.
- (2) An obligation, representation or warranty in favour of more than 1 person is for the benefit of them separately and jointly.
- (3) A party which is a trustee is bound both personally and in its capacity as a trustee.

2 Novation

2.1 On and from the Effective Date:

- (1) the Incoming Party is substituted for the Outgoing Party under the Subcontract;

- (2) a reference in the Subcontract to the Outgoing Party shall be read as a reference to the Incoming Party;
- (3) the Incoming Party is bound by the terms of the Subcontract as if it had been named the Outgoing Party in the Subcontract; and
- (4) the Incoming Party enjoys all rights and benefits of the Outgoing Party under the Subcontract.

3 Releases

3.1 On and from the Effective Date, the Continuing Party and the Outgoing Party mutually release one another from:

- (1) any obligation under or in connection with the Subcontract to be performed on or after the Effective Date; and
- (2) any action, Claim or demand against the one another, under or in connection with the Subcontract, which accrues on or after the Effective Date.

3.2 The parties acknowledge and agree that the Incoming Party shall not, upon novation, become liable to the Continuing Party in relation to:

- (1) any failure of the Outgoing Party to fulfil any obligation which it owed to the Continuing Party prior to the Effective Date; or
- (2) any act or omission or default of the Outgoing Party irrespective of the date of that act or omission or default.

3.3 The Continuing Party releases the Incoming Party from:

- (1) any Claim the Continuing Party has in relation to the Subcontract where the event giving rise to the Claim (including any act or omission or default of the Outgoing Party) occurred prior to the Effective Date; and
- (2) any Claim the Continuing Party has in connection with any act or omission of the Outgoing Party under or in connection with the Subcontract or the Subcontract Works whether arising or accruing before or after the Effective Date.

4 Indemnity

4.1 The Outgoing Party shall indemnify and keep indemnified the Incoming Party from and against any loss, damage, expense or cost in connection with the Subcontract to the extent such liability is caused or contributed to by any act or omission of the Outgoing Party prior to the Effective Date.

5 Accrued rights

The novation under clause 2 and release under clause 3 do not prejudice any accrued rights or obligations arising under the Subcontract in connection with the performance of the Subcontract before the Effective Date which the Outgoing Party and the Continuing Party may have against each other.

6 Performance of Subcontract

6.1 The Continuing Party warrants to the Incoming Party that:

- (1) in carrying out the work under the Subcontract, the Continuing Party has fully complied with all of its obligations under the Subcontract and has used all due care, skill and efficiency to be expected of experienced and competent professionals carrying out similar work; and
- (2) on and from the Effective Date:
 - (a) the Continuing Party continue to fully comply with all of its obligations under the Subcontract; and
 - (b) the Continuing Party will continue to carry out the work under the Subcontract with all due care, skill and efficiency to be expected of experienced and competent professionals carrying out similar work.

6.2 The Continuing Party must, notwithstanding any:

- (1) breach of the Subcontract by the Outgoing Party; or
 - (2) Claim the Continuing Party has or may have against the Outgoing Party,
- continue to diligently carry out its obligations under the Subcontract.

7 Subcontract Security

7.1 Within ten (10) Business Days after the Effective Date, and subject to any right of recourse it may have, the Outgoing Party must return any security held under the Subcontract (**Existing Security**) to the Continuing Party.

7.2 The Continuing Party shall procure the issue of new security in favour of the Incoming Party (**New Security**) within five (5) Business Days after the time for return of the Existing Security pursuant to clause 7.1 (notwithstanding that the Outgoing Party may not have returned the Existing Security).

7.3 The New Security must be in the form of an unconditional bank guarantee and equivalent in value to the full amount of the entitlement of the [principal or equivalent] under the Subcontract to hold security.

7.4 The Incoming Party shall be entitled to have recourse to the New Security as though it were security provided pursuant to clause [insert relevant clause number] of the Subcontract.

7.5 The Incoming Party agrees that the New Security will be returned to the Continuing Party [insert time for return of security].

8 Assignment

A party cannot assign, novate or otherwise transfer any of its rights or obligations under this Deed without the prior consent of each other party.

9 Further assurance

Each party must promptly at its own cost do all things (including executing and if necessary delivering all documents) necessary or desirable to give full effect to this Deed.

10 Entire understanding

10.1 This Deed:

- (1) is the entire agreement and understanding between the parties on everything connected with the subject matter of this Deed; and
- (2) supersedes any prior agreement or understanding on anything connected with that subject matter.

11 Variation

An amendment or variation to this Deed is not effective unless it is in writing and signed by the parties.

12 Waiver

12.1 A party's failure or delay to exercise a power or right does not operate as a waiver of that power or right.

12.2 The exercise of a power or right does not preclude either its exercise in the future or the exercise of any other power or right.

12.3 A waiver is not effective unless it is in writing.

12.4 Waiver of a power or right is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.

13 Costs and outlays

13.1 Each party must pay its own costs and outlays connected with the negotiation, preparation and execution of this Deed.

13.2 The Outgoing Party must pay all stamp duty and other government imposts payable in connection with this Deed and all other documents and matters referred to in this Deed when due or earlier if requested in writing by Incoming Party.

14 Governing Law and jurisdiction

The Law of Queensland governs this Deed and the parties submit to the non-exclusive jurisdiction of the courts of Queensland and of the Commonwealth of Australia.

15 Counterparts

This Deed may be executed in any number of counterparts. All counterparts taken together will be deemed to constitute the one document.

Executed as a deed and delivered on the date shown on the first page.

Executed by **# INSERT NAME OF
OUTGOING PARTY #** ACN **###** in
accordance with section 127 of the
Corporations Act 2001:

Director/company secretary

Director

Name of director/company secretary
(BLOCK LETTERS)

Name of director
(BLOCK LETTERS)

Signed sealed and delivered for and on
behalf of **the # INSERT NAME OF
INCOMING PARTY ##** Insert ABN/ACN#
by its authorised representative in the
presence of:

Signature of witness

Signature of authorised representative

Name of witness
(BLOCK LETTERS)

Name of authorised representative
(BLOCK LETTERS)

Address of witness

Executed by **# INSERT NAME OF
CONTINUING PARTY #** ACN **###** in
accordance with section 127 of the
Corporations Act 2001:

Director/company secretary

Director

Name of director/company secretary
(BLOCK LETTERS)

Name of director
(BLOCK LETTERS)

Schedule 11 – Payment statutory declaration

Contract: [insert description of contract] entered into with the Principal
ABN [Insert ABN of Principal]
[Insert address of Principal]

Contractor: [Insert name of Contractor] ABN [Insert ABN of Contractor]
[Insert address of Contractor]

I, [Insert full name of Declarant] of [Insert address of Declarant] do solemnly and sincerely declare that:

1. I hold the office of [Insert capacity of Declarant, eg managing director] and I am authorised to make this declaration.
2. I am in a position to know the facts attested to in this declaration.
3. To the best of my knowledge and belief, having made all reasonable enquiries:
 - (a) all employees of the Contractor who are or at any time have been engaged on the work under the Contract have been paid in full all amounts which have become payable to them by virtue of their employment on the work under the Contract as wages and allowances of every kind required to be paid by or under any statute, ordinance or subordinate legislation or by any relevant award, determination, judgement or order of any competent court, board, commission or other industrial tribunal or by any relevant industrial agreement that is in force in the state in which the work under the contract has been carried out and to the latest date at which such wages and allowances are payable;
 - (b) the Contractor has complied with all statutory obligations in relation to all employees of the Contractor engaged in performance of the work under the Contract including but not limited to all obligations to remit tax payments to the Australian Taxation Office and has paid all employee entitlements including superannuation and redundancy trust payments which were due for payment by the Contractor;
 - (c) all subcontractors and suppliers of material who are or at any time have been engaged on the work under the Contract have been paid all moneys which have become payable under the terms of each subcontract and supplier agreement;
 - (d) all workers who have been employed by a subcontractor have been paid in full all amounts which have become payable to them in respect of their employment on the work under the Contract; and
 - (e) all insurances required to be obtained and maintained by the Contractor under the Contract are current.

And I make this solemn declaration)
conscientiously believing the same to be true)
and by virtue of the provisions of the Oaths)
Act 1867 (Qld). **SUBSCRIBED AND**
DECLARED at [Insert place] on [Insert date]
Before me:

.....
[Insert name of declarant]

.....
Authorised Representative

Schedule 12– Ring Fencing Requirements for Service Providers

Not Used

Schedule 13 – Scope of Works

Refer Schedule 14 and 15

Schedule 14 – Technical Specifications

Specification

- 453a - 0. Contents (TENDER T1)
- 453a - 1. Preliminaries (TENDER T1)
- 453a - 2. General Requirements (TENDER T1)
- 453a - 3. Adhesives, Sealants, Fasteners & Firestop (TENDER T1)
- 453a - 4. Metals & Prefinishes (TENDER T1)
- 453a - 5. Termite Control (TENDER T1)
- 453a - 6. Building Access Systems (TENDER T1)
- 453a - 7. Demolition (TENDER T1)
- 453a - 14. Concrete Finishes (TENDER T1)
- 453a - 17. Block Construction (TENDER T1)
- 453a - 18. Insulation and Barriers (TENDER T1)
- 453a - 19. Roofing & Glass Awning (TENDER T1)
- 453a - 20. Cladding (TENDER T1)
- 453a - 21. Doors – RE-PRINTED Clarification 01
- 453a - 22. Linings (TENDER T1)
- 453a - 23. Ceilings (TENDER T1)
- 453a - 24. Metalwork (TENDER T1)
- 453a - 25. Miscellaneous Items, Joinery and FF&E (TENDER T1)
- 453a - 26. Plastering (TENDER T1)
- 453a - 27. Resilient Finishes (TENDER T1)
- 453a - 28. Painting (TENDER T1)
- 453a - 29. Architectural Schedules (TENDER T1)

Appendices

- Appendix A - Cairns City South Operational Telecom Hosting Facility Brief - PA10141022
- Appendix B - CACS CABLES v2.2
- Appendix C - Standard for Comm. Equip. Installation - STMP004 v1
- Appendix D - DC Distribution Subrack Layout and construction details
- Appendix E - EQL OTHF-Electronic Security Scope of Works
- Appendix G - Safe Entry to High Voltage Enclosures – 2888222
- Appendix J - CACSCS TOR PANEL LAYOUT DRAWINGS (17DWGS)
- Appendix K - Telecommunications Design Guide STNW3393 ver8
- Appendix L - WR1741507 Comms Materials List (Excel)
- Appendix M - Town Planning Decision Notice - CRC (19thAUG22)
- Appendix N - DP Soil Test Report - 216856.00.R.001.Rev0
- Appendix O - DP Contamination Test - 216856.00.L.001.Rev0
- Appendix P - EQL Handover Takeover Checklist
- Appendix Q - Asset Equipment Nameplate Data Collection
- Appendix R - Asset Data Collection Template (Excel)

Schedule 15 – Technical Drawings

1. Architectural

- 453A - Combined Dwgs set

Clarification 01 revision of drawings:

- 453A - CD - A1-01(A) SUB FLOOR PLAN
- 453A - CD - A1-02(A) GROUND FLOOR PLAN
- 453A - CD - A1-03(A) GROUND FLOOR SLAB PLAN
- 453A - CD - A1-04(A) REFLECTED CEILING PLANS
- 453A - CD - A1-05(A) ROOF PLAN
- 453A - CD - A2-01(A) ELEVATIONS
- 453A - CD - A2-02(A) ELEVATIONS – FINISHES
- 453A - CD - A3-01(A) SECTIONS
- 453A - CD - A3-07(A) & DETAILS
- 453A - CD - A4-01(A) ROOM LAYOUTS

2. Civil

- Q22035-CI-01_Rev 1 - GENERAL NOTES PLAN
- Q22035-CI-02_Rev 1 - CIVIL WORKS PLAN
- Q22035-CI-03_Rev 4 - POST DEVELOPMENT CATCHMENT PLAN
- Q22035-CI-04_Rev 4 - SOIL EROSION AND SEDIMENT CONTROL PLAN

3. Structural

- Q22270-ST-01-1 GENERAL CONSTRUCTION NOTES
- Q22270-ST-11-1 SCREW PILE PLAN AND DETAILS
- Q22270-ST-12-1 HARDSTAND PLAN
- Q22270-ST-13-1 SUB-FLOOR FOOTING AND WALL PLAN
- Q22270-ST-15-1 TYPICAL SLAB AND FOOTING DETAILS
- Q22270-ST-16-1 SLAB AND FOOTING DETAILS
- Q22270-ST-21-1 GROUND FLOOR SLAB AND WALL PLAN
- Q22270-ST-25-1 TYPICAL MASONRY BLOCKWORK DETAILS
- Q22270-ST-31-1 GROUND FLOOR SLAB REINFORCEMENT PLANS
- Q22270-ST-41-1 ROOF FRAMING PLAN
- Q22270-ST-45-1 TYPICAL TRUSS DETAILS
- Q22270-ST-46-1 ROOF FRAMING DETAILS
- Q22270-ST-47-1 ROOF FRAMING DETAILS
- Q22270-ST-48-1 ROOF FRAMING DETAILS
- Q22270-ST-49-1 ROOF FRAMING DETAILS

4. Hydraulic

- 22-0153_H-101 - Cover Sheet [02]
- 22-0153_H-102 - Site Plan [02]
- 22-0153_H-103 - Ground Floor Hydraulic Services [02]
- 22-0153_H-104 - Diagrammatics and Details[02]

5. Landscaping

- 2202-007-L1.01-03

6. Reference Drawings

- 1. 2150-01 = EQL Earthing Drawing
- 2. 31517-A1-MODEL1 rev c = EQL Standard Isolation Panel - SCAN
- 3. PS000003(A) = ROAD FRONTAGE FENCING - Except 2.4m high
- 4A. 2022-0068-01-C = Survey after UG Locator T-
- 4B. 2022 0345 F109 = Survey Report

Schedule 16 – Subcontractor Warranties

NO.	DESCRIPTION OF WORK/GOODS OR MATERIALS	PERIOD OF GUARANTEE OR WARRANTY

Schedule 17 – Policies and Procedures

- Work Health and Safety Conditions for Contracted Work
- Asbestos Management Policy P045 – 690754
- Cultural Heritage Identification Pocketbook R089 – 691635
- Environment and Cultural Heritage Conditions for Contracted Work R128 – 690515
- Health and Safety Policy P009 – 692225
- Standard for Fatigue Management S009 – 692143
- Standard for the Management of Alcohol and Other Drugs S008 - 690228

CW57972 - General Conditions Design and Construct (Major Works) - Signed AGC.pdf

Final Audit Report

2023-01-11

Created:	2023-01-10
By:	Marie Gammage (marie.gammage@energyq.com.au)
Status:	Signed
Transaction ID:	CBJCHBCAABAA9WC861BZVUGAPfwJ18d2frozMPsO7ard

"CW57972 - General Conditions Design and Construct (Major Works) - Signed AGC.pdf" History

-  Document created by Marie Gammage (marie.gammage@energyq.com.au)
2023-01-10 - 11:25:30 PM GMT- IP address: 24.239.138.26
-  Document emailed to Kylie Thorley (kylie.thorley@energyq.com.au) for signature
2023-01-10 - 11:27:56 PM GMT
-  Email viewed by Kylie Thorley (kylie.thorley@energyq.com.au)
2023-01-11 - 1:22:50 AM GMT- IP address: 24.239.138.27
-  Document e-signed by Kylie Thorley (kylie.thorley@energyq.com.au)
Signature Date: 2023-01-11 - 1:23:37 AM GMT - Time Source: server- IP address: 24.239.138.27
-  Agreement completed.
2023-01-11 - 1:23:37 AM GMT